

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

FORM S-1

REGISTRATION STATEMENT
Under
The Securities Act of 1933

ARCUTIS BIOTHERAPEUTICS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

2834
(Primary Standard Industrial
Classification Code Number)

81-2974255
(I.R.S. Employer
Identification Number)

2945 Townsgate Road, Suite 110
Westlake Village, California 91361
(805) 418-5006
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Todd Franklin Watanabe
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**Approximate date of commencement of proposed sale to the public:
As soon as practicable after the effective date of this registration statement.**

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or and "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	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price(1)(2)	Amount of Registration Fee
Common Stock, par value \$0.0001 per share	\$100,000,000	\$12,980

(1) Estimated solely for purposes of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.

(2) The proposed maximum aggregate offering price includes the offering price of additional shares that the underwriters have the option to purchase.

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

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The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities, and we are not soliciting offers to buy these securities in any jurisdiction where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED JANUARY 6, 2020

PRELIMINARY PROSPECTUS

Shares



Common Stock

This is an initial public offering of shares of common stock of Arcutis Biotherapeutics, Inc. All shares of common stock are being sold by the company.

Prior to this offering, there has been no public market for the common stock. The initial public offering price is expected to be between \$ and \$ per share. We intend to apply to list our common stock on the Nasdaq Global Select Market under the symbol "ARQT".

We are an "emerging growth company" as defined under the federal securities laws and, as such, may elect to comply with certain reduced public company reporting requirements for future filings.

Investing in our common stock involves a high degree of risk. See the section entitled "Risk Factors" beginning on page 15 to read about factors you should consider before buying shares of the common stock.

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

	Per Share	Total
Initial public offering price	\$	\$
Underwriting discounts and commissions(1)	\$	\$
Proceeds, before expenses, to us	\$	\$

(1) See "Underwriting" for additional information regarding compensation payable to the underwriters.

We have granted the underwriters a 30-day option to purchase up to additional shares of common stock from us at the initial public offering price, less the underwriting discounts and commissions.

The underwriters expect to deliver the shares against payment in New York, New York on , 2020.

Goldman Sachs & Co. LLC

Cowen

Guggenheim Securities

Cantor

Prospectus dated , 2020.

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We and the underwriters have not authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses we have prepared. We and the underwriters take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may provide you. We are offering to sell, and seeking offers to buy, shares of common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is current only as of its date.

For investors outside the United States: Neither we nor the underwriters have done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of common stock and the distribution of this prospectus outside the United States.

TRADEMARKS

The mark “Arcutis” and the Arcutis logo are our registered trademarks, and all product names are our common law trademarks. All other service marks, trademarks and trade names appearing in this prospectus are the property of their respective owners. Solely for convenience, the trademarks and tradenames referred to in this prospectus appear without the ® and ™ symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights, or the right of the applicable licensor to these trademarks and tradenames.

MARKET AND INDUSTRY DATA

This prospectus contains estimates, projections and other statistical data and information concerning our industry, our business and the markets for our product candidates. Some data and statistical information contained in this prospectus, including market size and opportunity figures for our product candidates, are based on management’s estimates and calculations, which are derived from our review and interpretation of the independent sources, our internal research and knowledge of the industry and market in which we operate. Some data and statistical information are based on independent reports from third parties, including DR/Decision Resources, LLC, or Decision Resources Group, and Adelphi Group Limited, or Adelphi Group, as well as reports that we commissioned from third parties. Decision Resources Group makes no representation or warranty as to the accuracy or completeness of the data, or DR Materials, set forth herein and shall have, and accept, no liability of any kind, whether in contract, tort (including negligence) or otherwise, to any third party arising from or related to use of the DR Materials by us. Any use which we or a third party makes of the DR Materials, or any reliance on it, or decisions to be made based on it, are the sole responsibilities of us and such third party. In no way shall any data appearing in the DR Materials amount to any form of prediction of future events or circumstances and no such reliance may be inferred or implied.

This information, to the extent it contains estimates or projections, involves a number of assumptions and limitations, and you are cautioned not to give undue weight to such estimates or projections. Industry publications and other reports we have obtained from independent parties generally state that the data contained in these publications or other reports have been obtained in good faith or from sources considered to be reliable, but they do not guarantee the accuracy or completeness of such data. The industry in which we operate is subject to risks and uncertainties due to a variety of factors, including those described in the section entitled “Risk Factors.” These and other factors could cause results to differ materially from those expressed in these publications and reports.

PROSPECTUS SUMMARY

This summary highlights selected information contained elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our common stock, you should carefully read this entire prospectus, including our financial statements and the related notes thereto and the information set forth under the sections entitled "Risk Factors," "Selected Financial Data" and "Management's Discussion and Analysis of Financial Condition and Results of Operations," in each case included in this prospectus. Some of the statements in this prospectus constitute forward-looking statements that involve risks and uncertainties. See the section entitled "Special Note Regarding Forward-Looking Statements." Unless the context otherwise requires, we use the terms "Arcutis Biotherapeutics," "company," "we," "us" and "our" in this prospectus to refer to Arcutis Biotherapeutics, Inc.

Overview

We are a late-stage biopharmaceutical company focused on developing and commercializing treatments for dermatological diseases with high unmet medical needs. Our current portfolio is comprised of topical treatments with significant potential to address immune-mediated dermatological diseases and conditions, or immuno-dermatology. Our strategy is to identify and develop treatments against validated biological targets in dermatology that deliver a differentiated clinical profile that addresses major shortcomings of existing therapies in our targeted indications. We believe this strategy uniquely positions us to rapidly progress towards our goal of bridging the treatment innovation gap in dermatology, while maximizing our probability of technical success and financial resources.

Our lead product candidate, ARQ-151, is in Phase 3 clinical trials in plaque psoriasis. ARQ-151 is a topical cream formulation of roflumilast, a highly potent and selective phosphodiesterase type 4, or PDE4, inhibitor, which we are developing for the treatment of plaque psoriasis, including psoriasis in intertriginous regions such as the groin, axillae and inframammary areas, as well as atopic dermatitis. PDE4 is an established biological target in dermatology with multiple PDE4 inhibitors approved by the U.S. Food and Drug Administration, or FDA. We have successfully completed a Phase 2b study of ARQ-151 in plaque psoriasis, and have treated more than 425 plaque psoriasis patients, demonstrating potential symptomatic improvement and favorable tolerability of ARQ-151 in this population. We have also completed enrollment in a long-term safety study of ARQ-151 in plaque psoriasis patients, and expect to report topline data in the first half of 2021. We held a positive End-of-Phase 2 Meeting with the FDA in October 2019, and have begun enrolling two Phase 3 trials in plaque psoriasis, with topline data expected in the first half of 2021. We also completed a Phase 2 proof of concept study of ARQ-151 in atopic dermatitis, and plan to initiate a Phase 2b study in the second half of 2020 with topline results expected in the second half of 2021. In addition, we are developing ARQ-154, a topical foam formulation of ARQ-151, and have initiated a Phase 2 proof of concept study in seborrheic dermatitis and a Phase 2b study in scalp psoriasis. We expect to report topline data in the second half of 2020 with respect to seborrheic dermatitis and in Q4 2020/Q1 2021 with respect to scalp psoriasis. Beyond this, in 2020 we also plan to initiate clinical studies of ARQ-252, a potent and highly selective topical janus kinase type 1, or JAK1, inhibitor for the treatment of hand eczema and vitiligo. Additionally, we have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin in order to potentially treat alopecia areata.

The Major Unmet Need Across Our Initial Targeted Indications

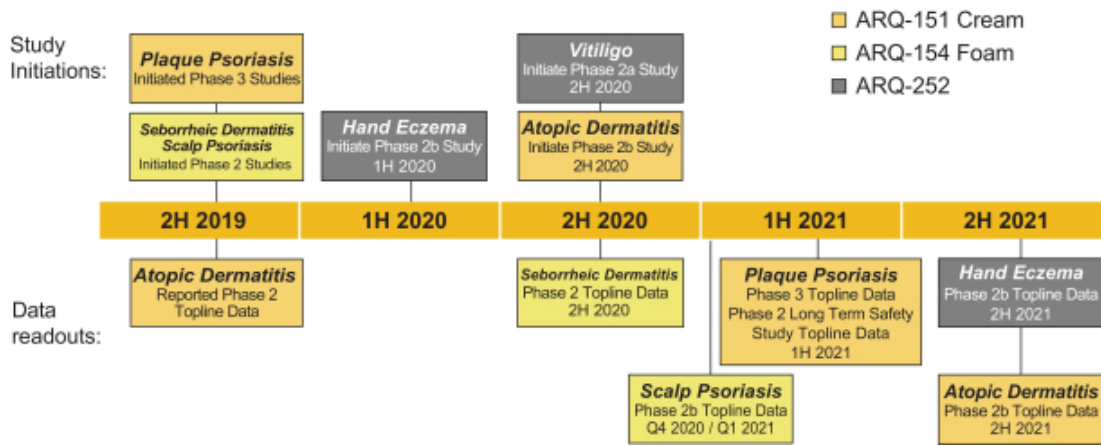
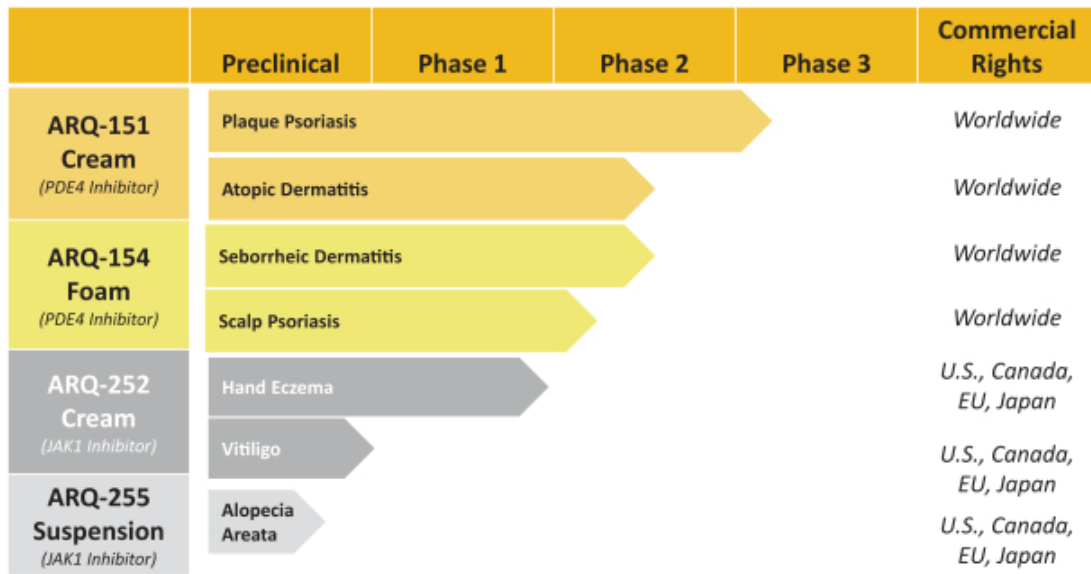
Dermatological diseases such as psoriasis, atopic dermatitis, seborrheic dermatitis, hand eczema, alopecia areata, and vitiligo affect hundreds of millions of people worldwide each year, impacting their quality of life, and physical, functional and emotional well-being. There are many approved treatments for these conditions, but a large opportunity remains due to issues with existing treatments. Topical treatments are used for nearly all patients, but are limited by one or more of the following: modest response rates, side effects, patient adherence, application site restrictions, and limits on duration of therapy. Topical corticosteroids, or TCS, are commonly used as the first-line therapy for the treatment of inflammatory skin conditions such as psoriasis and atopic dermatitis. While many patients see improvements, long term TCS treatment carries the risk of a variety of significant side effects. As a result, TCS are typically used intermittently, which can lead to disease flares. In psoriasis, vitamin D analogues have demonstrated lower response rates than TCS and are frequently irritating. In atopic dermatitis, topical calcineurin inhibitors, or TCIs, and Eucrisa have lower response rates than TCS and are associated with application site burning. TCIs also have a boxed warning for cancer risk.

Biologic and systemic therapies are also available, but are indicated for a small percentage of the affected population. Biologics for psoriasis and atopic dermatitis have shown impressive response rates but are only indicated for the minority of patients with moderate-to-severe forms of disease, are expensive, and often face reimbursement and access restrictions. Use of oral systemic therapies such as methotrexate and Otezla are also limited to more severe psoriasis patients and have significant side effect risks. Additionally, many patients on biologic and systemic therapies still require adjunctive topical therapy.

Given the limitations associated with TCS, other topical therapies, biologics, and systemic therapies, we believe patients with inflammatory skin conditions are dissatisfied with their current treatment options. We believe that there is a significant opportunity to leverage developments in other fields of medicine, particularly inflammation and immunology, to address the significant need for effective chronic treatments in immuno-dermatology. Our initial focus is to address patients' significant need for innovative topical treatments that directly target molecular mediators of disease, have the potential to show significant symptomatic improvement, maintain a low risk of toxicity or side effects, and are suitable for chronic use on all areas of the body.

Our Pipeline

The following charts summarize our product pipeline, including our lead product candidate, ARQ-151, and our upcoming anticipated milestones.



ARQ-151

Our lead product candidate, ARQ-151, is a topical cream containing roflumilast, a PDE4 inhibitor, that we are developing to treat plaque psoriasis, including intertriginous psoriasis, and atopic dermatitis. PDE4 is an intracellular enzyme that regulates the production of pro-inflammatory and anti-inflammatory cytokines and cell proliferation. Roflumilast is a potent PDE4 inhibitor that was approved by the FDA for systemic treatment to reduce the risk of exacerbations of chronic obstructive pulmonary disease, or COPD, in 2011, and has shown greater potency based on IC50 values (the concentration at which a biologic target's activity is inhibited by 50% and a non-clinical measure of a drug's potency)

than other PDE4 inhibitors, including the active ingredients in Eucrisa and Otezla. Based on the clinical data we have generated to date, we believe ARQ-151 has the potential to offer symptomatic improvement similar to high-potency steroids, a favorable tolerability profile, the ability to treat chronically, and little to none of the application site skin reactions associated with many existing treatments.

In July 2018, we executed a licensing agreement with AstraZeneca AB, or the AstraZeneca License Agreement, for exclusive worldwide rights to roflumilast, the PDE4 inhibitor used as the active pharmaceutical ingredient in ARQ-151, as a topical product in humans solely for dermatological indications. We have built our own intellectual property portfolio around topical uses of roflumilast, with issued and pending formulation and pharmacokinetic patents/applications in the United States and other jurisdictions from four distinct patent families, which should provide us with exclusivity at least through 2037 for the formulation that is intended to be marketed.

We have completed two randomized, double-blind, vehicle-controlled Phase 2 studies in plaque psoriasis with ARQ-151, including a 331 patient multinational, multi-center Phase 2b study and an 89 patient multinational, multi-center Phase 2a study. Both studies have demonstrated significant reductions in the signs of plaque psoriasis and ARQ-151 has been well-tolerated in this population. In our Phase 2b study, ARQ-151 also demonstrated significant reductions in the signs of psoriatic plaques in the intertriginous regions, as well as favorable tolerability in those areas. The table below summarizes results from the Phase 2b study.

		Phase 2b (ARQ-151-201)			
% of Patients		0.3% Dose (n = 109)	0.15% Dose (n = 113)(a)	Vehicle (n = 109)(b)	p-value (0.3% vs. vehicle)
Week 6	% IGA of Clear or Almost Clear	28.0	22.8	8.3	<0.001
Week 8	% IGA Success(c)	32.2	24.5	9.8	<0.001
	Mean % CFB in PASI	(53.7)	(53.5)	(18.8)	<0.001
	% PASI-75	31.3	23.0	13.2	0.002
	% PASI-90	16.9	7.4	6.0	0.015
	% Intertriginous IGA Success(d)	87.1	60.9	36.1	0.007
	% WI-NRS (4 pt Δ)(e)	64.6	58.2	42.3	0.01
TEAEs	% TEAE	38.5	27.3	29.9	—
	% Tx-Related TEAE	6.4	2.7	6.5	—
	% SAE	0.9	0.9	1.9	—
	% D/C due to TEAE	0.9	0.0	1.9	—

The abbreviations used in this table include the following: Change from baseline, or CFB; Investigator's Global Assessment, or IGA, a 5-point scale for evaluating plaque psoriasis severity; Psoriasis Area and Severity Index, or PASI; Treatment-Emergent Adverse Events, or TEAE; Serious Adverse Events, or SAE; discontinuation, or D/C.

(a) For safety analyses, n = 110.

(b) For safety analyses, n = 107.

(c) IGA Success was defined as IGA = 0 (clear) or 1 (almost clear) PLUS a 2 point change from baseline.

(d) Intertriginous IGA, or I-IGA, Success was defined as I-IGA = 0 (clear) or 1 (almost clear) PLUS a 2 point change from baseline. I-IGA Success analysis was performed in subjects with baseline I-IGA ³ 2.

(e) Represents % of patients with baseline Worst Itch-Numerical Rating Scale, or WI-NRS, ³ 6, who achieved at least a 4-point improvement on the WI-NRS.

We have initiated two Phase 3 clinical trials with topline data expected in the first half of 2021, and completed enrollment in a Phase 2 long-term safety study in plaque psoriasis, with topline data expected in the first half of 2021.

We have also completed one Phase 1 study and one Phase 2 proof of concept study of ARQ-151 in atopic dermatitis. Based on these results, we plan to initiate a Phase 2b study in atopic dermatitis in the second half of 2020 with topline results expected in the second half of 2021.

ARQ-154

We are also developing ARQ-154, a foam formulation of ARQ-151, for treatment of seborrheic dermatitis and scalp psoriasis. We designed ARQ-154 as a topical foam version of ARQ-151 to overcome the challenges of delivering topical drugs in hair-bearing areas of the body. Based on the results of our Phase 2 studies with ARQ-151, we believe that ARQ-154 has the potential to be well-suited for treatment of scalp psoriasis and seborrheic dermatitis and will be similarly well-tolerated in these populations. We have initiated a Phase 2 proof of concept study in seborrheic dermatitis and a Phase 2b study in scalp psoriasis. We believe that ARQ-154 will offer physicians and patients a highly differentiated clinical profile that is ideally suited to address unmet needs in the topical treatment of scalp psoriasis and seborrheic dermatitis.

ARQ-252

ARQ-252 is a potent and highly selective topical small molecule inhibitor of JAK1 that we are developing for hand eczema and other inflammatory dermatoses. JAK1 is one of the janus family of non-receptor protein tyrosine kinases, or JAKs, including JAK1, janus kinase type 2, or JAK2, janus kinase type 3, or JAK3, and tyrosine kinase type 2, or Tyk2. Collectively, these kinases are involved in cell growth, survival, development, and differentiation of a variety of cells. We believe that due to its high selectivity for JAK1 over JAK2, ARQ-252 has the potential to treat inflammatory diseases without causing the hematopoietic adverse effects, such as anemia, thrombocytopenia, and neutropenia, associated with JAK2 inhibition.

In January 2018, we executed an exclusive option and license agreement, or the Hengrui License Agreement, with Jiangsu Hengrui Medicine Co., Ltd. of China, or Hengrui, for the active pharmaceutical ingredient in ARQ-252 for all topical dermatological uses in the United States, Europe and Japan. We exercised our exclusive option in December 2019 and also contemporaneously amended the agreement to expand the territory to additionally include Canada. The Hengrui License Agreement includes composition of matter patents in the United States, and these patents do not begin to expire until 2033. We believe there is the potential to obtain additional protection for ARQ-252 through possible future formulation patents and other intellectual property.

We intend to initiate a Phase 2b study in adult patients with hand eczema in the first half of 2020, with topline data expected in the second half of 2021. We also plan to initiate a Phase 2a study in vitiligo in the second half of 2020.

ARQ-255

We believe that topical JAK inhibitor therapy for alopecia areata requires the drug to be delivered to the site of the inflammation, deep in the skin at the base (bulb) of the hair follicle. We have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin to the postulated site of inflammation in alopecia areata. If those formulation efforts are successful, we plan to enter the clinic with ARQ-255 as a potential treatment for alopecia areata.

Our Market Opportunity

We believe there are significant market opportunities to capture in each of our addressable markets.

Product Candidate	Mechanism of Action	Formulation	Indication	Primary U.S. Addressable Market Opportunity
ARQ-151	PDE4 Inhibitor	Topical Cream	Psoriasis	Approximately 2.0 million patients treated by dermatologists with topical prescription therapies
			Atopic Dermatitis	Approximately 1.0 million patients treated by dermatologists with topical prescription therapies
ARQ-154	PDE4 Inhibitor	Topical Foam	Seborrheic Dermatitis	Approximately 360,000 patients treated by dermatologists that have an inadequate response to first line treatments
			Scalp Psoriasis	Approximately 850,000 patients treated by dermatologists with topical prescription therapies
ARQ-252	JAK1 Inhibitor	Topical Cream	Hand Eczema	Approximately 8.3 million patients
			Vitiligo	Approximately 2.6 million patients
ARQ-255	JAK1 Inhibitor	Topical Suspension	Alopecia Areata	Approximately 6.2 million patients

Our Team

In order to capitalize on our opportunity, we have assembled a management team with deep development, formulation and commercialization expertise for dermatology products. Our management team has held key roles in numerous biotechnology and pharmaceutical companies with a dermatology focus, including Pfizer Inc., Amgen Inc., Gilead Sciences, Inc., Kythera Biopharmaceuticals, Inc., Verrica Pharmaceuticals Inc., and Fougera Pharmaceuticals Inc. Through these roles, our management team was integrally involved in the development, approval and/or commercialization of more than fifty FDA-approved products (including eighteen topical products) such as Enbrel, Jublia, CeraVe, Aczone and Xeljanz. This extensive experience provides us with unique insights and capabilities in dermatology drug development and commercialization.

Our Competitive Strengths

Our competitive strengths are key differentiating factors that form the foundation of our business strategy. We believe that leveraging these strengths will allow us to realize our vision of becoming a leading dermatology company. Our competitive strengths include:

- ***Harnessing the benefits of clinically validated targets in dermatology.*** We are focused on identifying, developing and commercializing best-in-class molecules against biological targets that have been clinically demonstrated to directly affect dermatological diseases. We believe this approach enables us to advance potentially transformative treatments over shorter development timelines, at lower cost, and in a manner that improves their probability of technical success.
- ***Late-stage lead product candidate with a highly differentiated clinical profile.*** Our lead product candidate, ARQ-151, is a topical cream formulation of roflumilast, a highly potent and

selective PDE4 inhibitor that was approved by the FDA for systemic treatment to reduce the risk of exacerbations of COPD in 2011. PDE4 inhibition is a well-established mechanism in dermatology, as supported by the PDE4 inhibitors approved by the FDA, including Eucrisa for the topical treatment of atopic dermatitis and Otezla for the systemic treatment of plaque psoriasis. ARQ-151 has generated what we believe is promising data in multiple clinical trials to date. We have initiated Phase 3 clinical trials with ARQ-151 in plaque psoriasis. We also have completed a Phase 2 proof of concept study of ARQ-151 in atopic dermatitis and plan to initiate a Phase 2b study in the second half of 2020. We believe that ARQ-151 will offer physicians and patients a highly differentiated clinical profile to address the significant unmet need in the treatment of plaque psoriasis and atopic dermatitis.

- **Diversified, multi-asset pipeline addressing major shortcomings of existing dermatologic treatments.** In addition to ARQ-151, we are advancing a portfolio of topically-administered product candidates addressing multiple immuno-dermatological indications with significant market opportunities, including seborrheic dermatitis, scalp psoriasis, hand eczema, vitiligo and alopecia areata. We have initiated a Phase 2 proof of concept study in seborrheic dermatitis and a Phase 2b study in scalp psoriasis using ARQ-154, a foam formulation of ARQ-151, that is designed to overcome the challenges of delivering topical drugs in hair-bearing areas of the body. Additionally, with ARQ-252, a potent and highly selective topical JAK1 inhibitor, we plan to initiate a Phase 2b study in hand eczema in the first half of 2020 and a Phase 2a study in vitiligo in the second half of 2020. We also have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin in order to potentially treat alopecia areata. We believe that due to their high selectivity for JAK1 over JAK2, ARQ-252 and ARQ-255 have the potential to treat inflammatory diseases without causing the hematopoietic adverse effects associated with JAK2 inhibition.
- **Strong intellectual property.** As of December 12, 2019, we own or have an exclusive license to 15 issued or pending U.S. patents, 22 issued or pending foreign patents and two international applications filed under the Patent Cooperation Treaty, providing comprehensive protection for our product candidates. For ARQ-151 and ARQ-154, we have built our own intellectual property portfolio around topical uses of roflumilast, with issued and pending formulation and pharmacokinetic patents/applications in the United States and other jurisdictions from four distinct patent families, which begin to expire in 2037. Our patent protection includes an exclusive license to five issued U.S. patents and five issued foreign patents providing protection for the active ingredient in ARQ-252 and ARQ-255, which do not begin to expire until 2033 with potential additional protection through possible future formulation patents and other intellectual property.
- **Proven leadership team, with differentiated formulation expertise.** Our management team has extensive expertise in the development and commercialization of dermatology products, having held key leadership roles at a number of leading dermatology companies and collectively, has successfully developed and/or commercialized more than fifty FDA-approved products. In addition, we have unique expertise with developing differentiated and proprietary topical formulations of compounds in order to optimize their performance in dermatology applications. We believe that the breadth of experience and successful track record of our management team, combined with our broad network of established relationships with leaders in the industry and medical community, uniquely positions us to build a leading, fully-integrated dermatology company.

Our Strategy

Our strategy is to leverage recent innovations in inflammation and immunology to identify molecules against validated biological targets in dermatology, and to develop and commercialize best-in-class products that address significant unmet needs in immuno-dermatology. Key elements of our strategy include:

- **Rapidly develop and commercialize our lead product candidate ARQ-151 for the treatment of patients with plaque psoriasis and atopic dermatitis.** We have initiated two Phase 3 studies in plaque psoriasis and completed a Phase 2 proof of concept study in atopic dermatitis in December 2019, with a Phase 2b study in atopic dermatitis planned for the second half of 2020.
- **Expand our addressable market with ARQ-154.** ARQ-154 allows us to treat patients with certain dermatological diseases in hair-bearing areas of the body like the scalp where a cream is not suitable. We believe ARQ-154 has the potential to offer patients symptomatic improvement similar to high-potency steroids in scalp psoriasis and may be superior to standard of care treatments for seborrheic dermatitis, while potentially maintaining a low risk of side effects and favorable tolerability. We have initiated a Phase 2 proof of concept study in seborrheic dermatitis and a Phase 2b study in scalp psoriasis.
- **Continue to innovate and develop our product pipeline of therapeutics, which we believe has the potential to be best-in-class in immuno-dermatology.** We plan to develop ARQ-252, a JAK1 inhibitor with a high relative selectivity to JAK1 over JAK2, giving it the potential to be best-in-class, for the treatment of hand eczema and vitiligo. We plan to initiate our Phase 2b study in hand eczema in the first half of 2020 and our Phase 2a study in vitiligo in the second half of 2020. Additionally, we have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin in order to potentially treat alopecia areata.
- **Establish an integrated development and commercial organization.** We believe the concentrated prescriber base of the U.S. dermatology segment provides us with the opportunity to build a fully integrated commercial organization and targeted sales force for the commercialization of our product candidates among dermatology specialists. To further enhance the value of our product candidates, we may selectively seek partners to commercialize our products outside of the dermatology specialist segment, and to develop and commercialize our products outside of the U.S. market.
- **Evaluate strategic opportunities to in-license best-in-class dermatology assets consistent with our core strategy.** We will continue to explore opportunities to in-license assets and develop them to address unmet medical needs in dermatology.

Risks Affecting Our Business

Our business is subject to a number of risks, including risks that may prevent us from achieving our business objectives or may adversely affect our business, financial condition, results of operations, cash flows and prospects that you should consider before making a decision to invest in our common stock. These risks are discussed more fully in the section titled "Risk Factors" beginning on page 15 of this prospectus, and include the following:

- We are a late-stage biopharmaceutical company with a limited operating history and no products approved for commercial sale, and we have incurred significant losses since our inception. We anticipate that we will continue to incur losses for the foreseeable future, which, together with our limited operating history, makes it difficult to assess our future viability.

- Even if this offering is successful, we will require substantial additional financing to achieve our goals, and a failure to obtain this necessary capital when needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our product development, other operations or commercialization efforts.
- Our operating results may fluctuate significantly, which makes our future operating results difficult to predict and could cause our future operating results to fall below expectations.
- Our business is dependent on the development, regulatory approval and commercialization of our current product candidates.
- Clinical drug development involves a lengthy and expensive process, with an uncertain outcome. We may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of our product candidates.
- We may be unable to obtain regulatory approval for our product candidates under applicable regulatory requirements. The denial or delay of any such approval would delay commercialization of our product candidates and adversely impact our potential to generate revenue, our business and our results of operations.
- Our estimated market opportunities for our product candidates are subject to numerous uncertainties and may prove to be inaccurate. If we have overestimated the size of our market opportunities, our future growth may be limited.
- We face significant competition from other biotechnology and pharmaceutical companies targeting medical dermatological indications, and our operating results will suffer if we fail to compete effectively.
- We currently rely on single source third-party suppliers to manufacture preclinical and clinical supplies of our product candidates and we intend to rely on third parties to produce commercial supplies of any approved product candidate. The loss of these suppliers, or their failure to provide us with sufficient quantities at acceptable quality levels or prices, or at all, would materially and adversely affect our business.
- We may not be able to obtain, maintain or enforce patent rights or other intellectual property rights that cover our product candidates and technologies that are of sufficient breadth to prevent third parties from competing against us.
- We may become subject to claims alleging infringement of third parties' patents or proprietary rights and/or claims seeking to invalidate our patents, which would be costly, time consuming and, if successfully asserted against us, delay or prevent the development and commercialization of ARQ-151, ARQ-154, ARQ-252, ARQ-255 or any future product candidates.

Implications of Being an Emerging Growth Company

As a company with less than \$1.07 billion in revenue during our last fiscal year, we qualify as an "emerging growth company" as defined in the Jumpstart Our Business Startups Act of 2012, or JOBS Act. An emerging growth company may take advantage of reduced reporting requirements that are otherwise applicable to public companies. These provisions include, but are not limited to:

- being permitted to present only two years of audited financial statements and only two years of related Management's Discussion and Analysis of Financial Condition and Results of Operations in this prospectus;

- not being required to comply with the auditor attestation requirements on the effectiveness of our internal controls over financial reporting;
- not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements (auditor discussion and analysis);
- reduced disclosure obligations regarding executive compensation arrangements; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

We may use these provisions until the last day of our fiscal year following the fifth anniversary of the completion of this offering. However, if certain events occur prior to the end of such five-year period, including if we become a "large accelerated filer," our annual gross revenues exceed \$1.07 billion or we issue more than \$1.0 billion of non-convertible debt in any three-year period, we will cease to be an emerging growth company prior to the end of such five-year period.

We have elected to take advantage of certain of the reduced disclosure obligations in the registration statement of which this prospectus is a part and may elect to take advantage of other reduced reporting requirements in future filings. As a result, the information that we provide to our stockholders may be different than you might receive from other public reporting companies in which you hold equity interests.

The JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This provision allows an emerging growth company to delay the adoption of some accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this exemption and, therefore, we will not be subject to the same new or revised accounting standards as other public companies that are not "emerging growth companies."

Corporate Information

We were formed under the laws of the State of Delaware in June 2016 under the name Arcutis, Inc. and changed our name to Arcutis Biotherapeutics, Inc. in October 2019. Our principal executive offices are located at 2945 Townsgate Road, Suite 110, Westlake Village, California 91361, and our telephone number is (805) 418-5006. Our website address is www.arcutis.com. The information contained on, or that can be accessed through, our website is not incorporated by reference into this prospectus and should not be considered a part of this prospectus.

THE OFFERING

Common stock offered	shares
Option to purchase additional shares	shares
Common stock to be outstanding immediately after this offering	shares (or shares if the underwriters exercise their option to purchase additional shares in full).
Use of proceeds	<p>We estimate that the net proceeds from this offering will be approximately \$ million (or approximately \$ million if the underwriters exercise their option to purchase additional shares in full), based upon the assumed initial public offering price of \$ per share, which is the midpoint of the estimated price range set forth on the cover of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.</p> <p>We intend to use the net proceeds from this offering to fund the further development of ARQ-151, ARQ-154 and ARQ-252, for working capital and general corporate purposes. See the section entitled "Use of Proceeds."</p>
Risk factors	You should read the section entitled "Risk Factors" in this prospectus for a discussion of factors to consider carefully before deciding to invest in shares of our common stock.
Proposed Nasdaq Global Select Market symbol	"ARQT"

The number of shares of our common stock to be outstanding after this offering is based on 54,522,960 shares of our common stock outstanding as of September 30, 2019, including 1,777,301 shares of unvested common stock subject to repurchase, assuming the conversion of all our outstanding shares of convertible preferred stock, including 16,251,628 shares of Series C convertible preferred stock issued in October 2019, into an aggregate of 48,787,895 shares of our common stock immediately prior to the completion of this offering, and excludes:

- 3,147,770 shares of common stock issuable upon the exercise of options outstanding as of September 30, 2019 under our 2017 Equity Incentive Plan, with an average exercise price of \$0.80 per share;
- shares of common stock issuable upon the exercise of options outstanding that were granted after September 30, 2019 under our 2017 Equity Incentive Plan, with an average exercise price of \$ per share;
- 2,191,014 shares of common stock reserved for future issuance under our 2017 Equity Incentive Plan as of September 30, 2019, which will cease to be available for issuance at the time that our 2020 Equity Incentive Plan becomes effective;
- 2,823,831 additional shares of common stock reserved for future issuance under our 2017 Equity Incentive Plan after September 30, 2019 in connection with the sale of Series C

convertible preferred stock in October 2019, which will cease to be available for issuance at the time that our 2020 Equity Incentive Plan becomes effective;

- shares of common stock that will become available for future issuance under our 2020 Equity Incentive Plan upon the effectiveness of the registration statement of which this prospectus forms a part; and shares of common stock that will become available for future issuance under our 2020 Employee Stock Purchase Plan upon the effectiveness of the registration statement of which this prospectus forms a part. Upon completion of this offering, any remaining shares available for issuance under our 2017 Equity Incentive Plan will be added to the shares reserved under our 2020 Equity Incentive Plan and we will cease granting awards under our 2017 Equity Incentive Plan. Our 2020 Equity Incentive Plan and 2020 Employee Stock Purchase Plan also provide for automatic annual increases in the number of shares reserved under the plans each year, as more fully described in “Executive Compensation—Equity Compensation Plans and Other Benefit Plans.”

Except as otherwise indicated, all information in this prospectus reflects or assumes the following:

- the effectiveness of our restated certificate of incorporation and restated bylaws in connection with the completion of this offering;
- the conversion of all of our outstanding shares of convertible preferred stock, including 16,251,628 shares of Series C convertible preferred stock issued in October 2019, into an aggregate of 48,787,895 shares of common stock immediately prior to completion of this offering;
- a -for- reverse stock split, which will become effective prior to the completion of this offering;
- no exercise of outstanding options after September 30, 2019; and
- no exercise of the underwriters' option to purchase additional shares of our common stock in this offering.

SUMMARY FINANCIAL DATA

The following tables set forth our summary statements of operations and balance sheet data. The summary statements of operations data for the years ended December 31, 2017 and 2018 have been derived from our audited financial statements and related notes thereto included elsewhere in this prospectus. We have derived the summary statements of operations data for the nine months ended September 30, 2018 and 2019, and the summary balance sheet data as of September 30, 2019, from our unaudited interim condensed financial statements and related notes thereto included elsewhere in this prospectus. Our unaudited interim condensed financial statements have been prepared in accordance with U.S. generally accepted accounting principles on the same basis as our audited annual financial statements and, in the opinion of management, reflect all adjustments, consisting only of normal, recurring adjustments, that are necessary for the fair statement of our financial position as of September 30, 2019 and our results of operations for the nine months ended September 30, 2018 and 2019. The following summary financial data should be read in conjunction with "Selected Financial Data," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes thereto included elsewhere in this prospectus. Our historical results are not necessarily indicative of the results that may be expected in any future period. The summary financial data in this section are not intended to replace the financial statements and are qualified in their entirety by the financial statements and related notes included elsewhere in this prospectus.

	Year Ended December 31,		Nine Months Ended September 30,	
	2017	2018	2018	2019
	(unaudited)			
	(in thousands, except share and per share data)			
Statements of operations data:				
Operating expenses:				
Research and development	\$ 3,411	\$ 17,940	\$ 12,593	\$ 25,765
General and administrative	695	1,795	1,189	4,373
Total operating expenses	4,106	19,735	13,782	30,138
Loss from operations	(4,106)	(19,735)	(13,782)	(30,138)
Other income (expense), net	(872)	480	128	710
Net loss	\$ (4,978)	\$ (19,255)	\$ (13,654)	\$ (29,428)
Net loss per share, basic and diluted(1)	\$ (3.58)	\$ (7.76)	\$ (5.92)	\$ (8.30)
Weighted-average shares used in computing net loss per share, basic and diluted(1)	1,391,097	2,480,246	2,305,932	3,547,292
Pro forma net loss per share, basic and diluted (unaudited)(1)		\$		\$
Weighted-average shares used in computing pro forma net loss per share, basic and diluted (unaudited)(1)		_____		_____

(1) See Notes 2, 11 and 12 to our audited financial statements and Notes 2, 10 and 11 to our unaudited interim condensed financial statements included elsewhere in this prospectus for a description of how we compute basic and diluted net loss per share and basic and diluted pro forma net loss per share, and the weighted-average number of shares used in the computation of these per share amounts.

The table below presents our balance sheet data as of September 30, 2019:

- on an actual basis;
- on a pro forma basis to give effect to: (i) the issuance of 16,251,628 shares of Series C convertible preferred stock for gross cash proceeds of \$94.5 million in October 2019 and (ii) the conversion of all of our outstanding shares of convertible preferred stock into an aggregate of 48,787,895 shares of our common stock, which includes our Series C convertible preferred stock issued in October 2019, immediately prior to the completion of this offering; and
- on a pro forma as adjusted basis, giving effect to: (i) the pro forma adjustments set forth above and (ii) our receipt of estimated net proceeds from the sale and issuance of _____ shares of our common stock in this offering at an assumed initial public offering price of _____ per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting the underwriting discounts and commissions and estimated offering expenses payable by us.

	As of September 30, 2019		
	Actual	Pro Forma (unaudited) (in thousands)	Pro Forma As Adjusted(1)
Balance sheet data:			
Cash, cash equivalents and marketable securities	\$ 25,177	\$	\$
Working capital(2)	19,172		
Total assets	28,303		
Convertible preferred stock	72,252		
Accumulated deficit	(53,704)		
Total stockholders' (deficit) equity	(52,950)		

- (1) Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ _____ per share, the midpoint of the price range set forth on the cover of this prospectus, would increase (decrease) the pro forma as adjusted amount of each of cash, cash equivalents and marketable securities, working capital, total assets and total stockholders' equity by \$ _____ million, assuming that the number of shares offered by us, as set forth on the cover of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase (decrease) of 1.0 million in the number of shares offered by us in this offering would increase (decrease) the pro forma as adjusted amount of each of cash, cash equivalents and marketable securities, working capital, total assets and total stockholders' equity by \$ _____ million, assuming the initial offering price remains the same and after deducting estimated underwriting discounts commissions and estimated offering expenses payable by us.
- (2) We define working capital as current assets less current liabilities. See our audited financial statements and related notes and unaudited interim condensed financial statements and related notes appearing at the end of this prospectus for further details regarding our current assets and current liabilities.

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should carefully consider the risks described below, as well as the other information in this prospectus, including our financial statements and the related notes and "Management's Discussion and Analysis of Financial Condition and Results of Operations," before deciding whether to invest in our common stock. The occurrence of any of the events or developments described below could have a material adverse effect on our business, results of operations, financial condition, prospects and stock price. In such an event, the market price of our common stock could decline, and you may lose all or part of your investment. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also impair our business operations.

Risks Related to Our Limited Operating History, Financial Condition and Capital Requirements

We are a late-stage biopharmaceutical company with a limited operating history and no products approved for commercial sale, and we have incurred significant losses since our inception. We anticipate that we will continue to incur losses for the foreseeable future, which, together with our limited operating history, makes it difficult to assess our future viability.

We are a late-stage biopharmaceutical company with a limited operating history. Biopharmaceutical product development is a highly speculative undertaking and involves a substantial degree of risk. We have no products approved for commercial sale and have not generated any revenue from product sales and have incurred losses in each year since our inception in June 2016. We have a limited operating history upon which you can evaluate our business and prospects, and have not yet demonstrated an ability to successfully overcome many of the risks and uncertainties frequently encountered by companies in new and rapidly evolving fields. Our operations to date have been limited to organizing and staffing our company, business planning, raising capital, identifying potential product candidates, establishing licensing arrangements, undertaking various research and preclinical studies and conducting clinical trials for our product candidates.

We have never generated any revenue from product sales and have incurred losses in each year since our inception in June 2016. We have not yet demonstrated our ability to successfully complete later-stage clinical trials, obtain regulatory approvals, manufacture a drug on a commercial scale, or arrange for a third party to do so on our behalf, or conduct sales and marketing activities necessary for successful commercialization.

Our net loss for the years ended December 31, 2017 and 2018 was approximately \$5.0 million and \$19.3 million, respectively, and for the nine months ended September 30, 2018 and 2019 was approximately \$13.7 million and \$29.4 million, respectively. As of September 30, 2019, we had an accumulated deficit of \$53.7 million. We expect to continue to incur losses for the foreseeable future, and we anticipate these losses will increase as we continue to develop our product candidates, conduct clinical trials and pursue research and development activities. We may never achieve profitability and, even if we do, we may not be able to sustain profitability in subsequent periods. We will continue to incur significant research and development and other expenses related to our ongoing operations and the development of our product candidates. Our prior losses, combined with expected future losses, have had and will continue to have an adverse effect on our stockholders' equity and working capital.

We may encounter unforeseen expenses, difficulties, complications, delays and other known or unknown factors in achieving our business objectives. We will need to transition at some point from a company with a development focus to a company capable of supporting commercial activities. We may not be successful in such a transition.

Even if this offering is successful, we will require substantial additional financing to achieve our goals, and a failure to obtain this necessary capital when needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our product development, other operations or commercialization efforts.

Since our inception, we have invested substantially all of our efforts and financial resources in research and development activities, and we expect to continue to expend substantial resources for the foreseeable future in connection with the development of our current product candidates, ARQ-151, ARQ-154, ARQ-252 and ARQ-255, the development or acquisition of additional product candidates and the maintenance and expansion of our business operations and capabilities. These expenditures will include costs associated with conducting preclinical studies and clinical trials, obtaining regulatory approvals, and securing manufacturing and supply of product candidates, and marketing and selling any products approved for sale. These expenditures may also include costs associated with in-licensing dermatology assets consistent with our core strategy. In addition, other unanticipated costs may arise. Because the outcome of any preclinical study or clinical trial is highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully complete the development and commercialization of our lead product candidates and any future product candidates.

As of September 30, 2019, we had capital resources consisting of cash, cash equivalents and marketable securities of \$25.2 million. We raised an additional \$94.5 million in gross cash proceeds from the sale of Series C convertible preferred stock in October 2019. Based on our planned operations, we believe that the net proceeds from this offering, together with our existing cash, cash equivalents and marketable securities will be sufficient to fund our operations for at least 12 months after the date that our financial statements were issued without raising additional capital. However, our operating plans may change as a result of many factors currently unknown to us, and we may need to seek additional funds sooner than planned, through public or private equity or debt financings or other sources, such as strategic collaborations. Such financing may result in dilution to stockholders, imposition of burdensome debt covenants and repayment obligations, or other restrictions that may affect our business. In addition, we may seek additional capital due to favorable market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans.

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

- the scope, progress, results and costs of researching and developing our lead product candidates or any future product candidates, and conducting preclinical studies and clinical trials, in particular our currently ongoing Phase 3 clinical trials of ARQ-151 in plaque psoriasis, our planned Phase 2b study of ARQ-151 in atopic dermatitis, our ongoing Phase 2 proof of concept study of ARQ-154 in seborrheic dermatitis, our currently ongoing Phase 2b study of ARQ-154 in scalp psoriasis, our planned Phase 2b study of ARQ-252 in hand eczema, our planned Phase 2a study of ARQ-252 in vitiligo and our formulation and preclinical efforts for ARQ-255 in alopecia areata;
- the number and scope of clinical programs we decide to pursue;
- the cost, timing and outcome of regulatory review of our product candidates;
- the cost of manufacturing our product candidates and any products we commercialize, including costs associated with building out our supply chain;
- the cost of commercialization activities if any of our product candidates are approved for sale, including marketing, sales and distribution costs;
- the cost of building a sales force in anticipation of product commercialization;
- our ability to establish and maintain strategic collaborations, licensing or other arrangements and the financial terms of any such agreements that we may enter into;

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- the timing and amount of milestone payments due to AstraZeneca, Jiangsu Hengrui Medicine Co., Ltd., or Hengrui, or any future collaboration or licensing partners upon the achievement of negotiated milestones;
- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company; and
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing our intellectual property portfolio; and
- the timing, receipt and amount of sales of any future approved products, if any.

Adequate additional funds may not be available when we need them, on terms that are acceptable to us, or at all. If adequate funds are not available to us on a timely basis or on attractive terms, we may be required to reduce our workforce, delay, limit, reduce or terminate our research and development activities, preclinical studies, clinical trials or other development activities and future commercialization efforts, or grant rights to develop and market product candidates, such as ARQ-151, that we would otherwise develop and market ourselves.

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

Our operations to date have been primarily limited to researching and developing our product candidates and undertaking preclinical studies and clinical trials of our product candidates. We have not yet obtained regulatory approvals for any of our product candidates. Furthermore, our operating results may fluctuate due to a variety of factors, many of which are outside of our control and may be difficult to predict, including the following:

- delays in the commencement, enrollment and the timing of clinical testing for our product candidates;
- the timing and success or failure of clinical trials for our product candidates or competing product candidates, or any other change in the competitive landscape of our industry, including consolidation among our competitors or partners;
- any delays in regulatory review and approval of product candidates in clinical development, or failure to obtain such approvals;
- the timing and cost of, and level of investment in, research and development activities relating to our product candidates, which may change from time to time;
- the cost of manufacturing our product candidates, which may vary depending on U.S. Food and Drug Administration, or FDA, guidelines and requirements, and the quantity of production;
- our ability to obtain additional funding to develop our product candidates;
- expenditures that we will or may incur to acquire or develop additional product candidates and technologies, which may include obligations to make significant upfront and milestone payments;
- the level of demand for our product candidates, should they receive approval, which may vary significantly;
- potential side effects of our product candidates that could delay or prevent commercialization or cause an approved drug to be taken off the market;
- the ability of patients or healthcare providers to obtain coverage of or sufficient reimbursement for our product candidates, if approved;

- our dependency on CROs and third-party manufacturers to supply or manufacture our product candidates;
- our ability to establish an effective sales, marketing and distribution infrastructure in a timely manner;
- market acceptance of our product candidates, if approved, and our ability to forecast demand for those product candidates;
- our ability to receive approval and commercialize our product candidates both within and outside of the United States;
- our ability to establish and maintain collaborations, licensing or other arrangements with respect to our product candidates;
- our ability to maintain and enforce our intellectual property position;
- costs related to and outcomes of potential litigation or other disputes in respect of our product candidates and our business;
- our ability to adequately support future growth;
- our ability to attract and retain key personnel to manage our business effectively;
- potential liabilities associated with hazardous materials;
- our ability to maintain adequate insurance policies; and
- future accounting pronouncements or changes in our accounting policies.

In addition, we measure compensation cost for stock-based awards made to employees at the grant date of the award, based on the fair value of the award as determined by our board of directors, and recognize the cost as an expense over the employee's requisite service period. As the variables that we use as a basis for valuing these awards change over time, including our underlying stock price and stock price volatility, the magnitude of the expense that we must recognize may vary significantly.

Our estimated market opportunities for our product candidates are subject to numerous uncertainties and may prove to be inaccurate. If we have overestimated the size of our market opportunities, our future growth may be limited.

Our estimated addressable markets and market opportunities for our product candidates are based on a variety of inputs, including data published by third parties, our own market insights and internal market intelligence, and internally generated data and assumptions. We have not independently verified any third-party information and cannot assure you of its accuracy or completeness. Market opportunity estimates, whether obtained or derived from third-party sources or developed internally, are subject to significant uncertainty and are based on assumptions and estimates that may not prove to be accurate. While we believe our market opportunity estimates are reasonable, such information is inherently imprecise. In addition, our assumptions and estimates of market opportunities are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including but not limited to those described in this prospectus. If this third-party or internally generated data prove to be inaccurate or we make errors in our assumptions based on that data, our actual market may be more limited than our estimates. In addition, these inaccuracies or errors may cause us to misallocate capital and other critical business resources, which could harm our business. The estimates of our market opportunities included in this prospectus should not be taken as indicative of our ability to grow our business. For more information regarding the estimates of market opportunities and the forecasts included in this prospectus, see the sections titled "Market and Industry Data", "Business—ARQ-151—Our Market Opportunity" and "Business—ARQ-154—Our Market Opportunity."

Risks Related to Development and Commercialization

Our business is dependent on the development, regulatory approval and commercialization of our current product candidates.

We currently have no products that are approved for commercial sale. Our current portfolio includes our lead product candidate ARQ-151, a potent PDE4 inhibitor topical cream for the treatment of plaque psoriasis and atopic dermatitis, and our additional product candidates ARQ-154, a topical foam formulation of ARQ-151 for the treatment of scalp psoriasis and seborrheic dermatitis, and ARQ-252, a potent and highly selective topical JAK1 inhibitor for the treatment of hand eczema. We currently do not have a drug discovery or research and development effort to discover new product candidates, and we have no intention to develop one. The success of our business, including our ability to finance our company and generate any revenue in the future, will primarily depend on the successful development, regulatory approval and commercialization of these current product candidates. We expect to conduct most of our clinical trials in the United States and Canada, with current limited plans for clinical trials in Australia and the European Union. We currently anticipate seeking regulatory approvals in the United States and Canada, but may in the future be subject to additional foreign regulatory authorities and may out-license our product candidates or approved products, if any, in additional foreign markets. In the future, we may also become dependent on other product candidates that we may acquire or in-license. The clinical and commercial success of our product candidates will depend on a number of factors, including the following:

- the ability to raise any additional required capital on acceptable terms, or at all;
- timely completion of our preclinical studies and clinical trials, which may be significantly slower or cost more than we currently anticipate and will depend substantially upon the performance of third-party contractors;
- whether we are required by the FDA or similar foreign regulatory authorities to conduct additional clinical trials or other studies beyond those planned to support the approval and commercialization of our product candidates or any future product candidates;
- acceptance of our proposed indications and primary and secondary endpoint assessments relating to the proposed indications of our product candidates by the FDA and similar foreign regulatory authorities;
- the prevalence, duration and severity of potential side effects or other safety issues experienced with our product candidates or future approved products, if any;
- the timely receipt of necessary marketing approvals from the FDA and similar foreign regulatory authorities;
- achieving and maintaining, and, where applicable, ensuring that our third-party contractors achieve and maintain, compliance with our contractual obligations and with all regulatory requirements applicable to our lead product candidates or any future product candidates or approved products, if any;
- the willingness of physicians and patients to utilize or adopt our product candidates;
- the ability of third parties upon which we rely to manufacture clinical trial and commercial supplies of our product candidates or any future product candidates to remain in good standing with relevant regulatory authorities and to develop, validate and maintain commercially viable manufacturing processes that are compliant with current good manufacturing practices, or cGMP;
- our ability to successfully develop a commercial strategy and thereafter commercialize our product candidates or any future product candidates in the United States and internationally, if approved for marketing, reimbursement, sale and distribution in such countries and territories, whether alone or in collaboration with others;

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- acceptance by physicians, payors and patients of the benefits, safety and efficacy of our product candidates or any future product candidates, if approved, including relative to alternative and competing treatments;
- patient demand for our product candidates, if approved;
- our ability to establish and enforce intellectual property rights in and to our product candidates or any future product candidates; and
- our ability to avoid third-party patent interference, intellectual property challenges or intellectual property infringement claims.

Furthermore, because each of our product candidates targets one or more indications in the medical dermatology field, if any of our product candidates encounter safety or efficacy problems, developmental delays, regulatory issues, supply issues, or other problems, our development plans for the affected product candidate and some or all of our other product candidates could be significantly harmed, which would harm our business. Further, competitors who are developing products in the dermatology field or that target the same indications as us with products that have a similar mechanism of action may experience problems with their products that could indicate or result in class-wide problems or additional requirements that would potentially harm our business.

The factors outlined above, many of which are beyond our control, could cause us to experience significant delays or an inability to obtain regulatory approvals or commercialize our product candidates. Accordingly, we cannot provide assurances that we will be able to generate sufficient revenue through the sale of our product candidates or any future product candidates to continue our business.

Clinical drug development involves a lengthy and expensive process, with an uncertain outcome. We may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of our product candidates.

The risk of failure for our product candidates is high. It is impossible to predict when or if any of our product candidates will prove effective or safe in humans or will receive regulatory approval. Before obtaining marketing approval from regulatory authorities for the sale of any product candidate, we must complete preclinical development and then conduct extensive clinical trials to demonstrate the safety and efficacy of our product candidates in humans. Clinical testing is expensive, difficult to design and implement, can take many years to complete and is inherently uncertain as to outcome. A failure of one or more clinical trials can occur at any stage of testing. The outcome of preclinical testing and early clinical trials may not be predictive of the success of later clinical trials, and interim results of a clinical trial do not necessarily predict final results. For example, our Phase 2 proof of concept study in atopic dermatitis had a limited number of patients and it did not reach statistical significance for the primary endpoint or the secondary endpoint of IGA Success, which we expect will be the primary endpoint in any registrational trial, but did show nominal significance in certain secondary endpoints. While we believe this is evidence of the ability of ARQ-151 to treat the signs and symptoms of atopic dermatitis, these results may not be replicated or improved in later studies. Moreover, preclinical and clinical data are often susceptible to varying interpretations and analyses, and many companies that have believed their product candidates performed satisfactorily in preclinical studies and clinical trials have nonetheless failed to obtain marketing approval of their drugs. For example, we are developing ARQ-154, including ongoing Phase 2 clinical trials in patients with seborrheic dermatitis and in patients with scalp psoriasis, based on our clinical experience with ARQ-151 in psoriasis. Despite our observations of ARQ-151 in a similar dermatological indication, ARQ-154 may not demonstrate comparable results in seborrheic dermatitis or scalp psoriasis. In addition, given its different formulation there is a risk that we select an incorrect dose for ARQ-154, as the clinical effect of ARQ-154 may differ from ARQ-151 at a similar dosing level or we may observe unexpected side effects not previously observed with ARQ-151.

We may experience numerous unforeseen events during or as a result of clinical trials that could delay or prevent our ability to receive marketing approval or commercialize our product candidates, including:

- regulators or institutional review boards may not authorize us or our investigators to commence a clinical trial or conduct a clinical trial at a prospective trial site;
- we may experience delays in reaching, or fail to reach, agreement on acceptable clinical trial contracts or clinical trial protocols with prospective trial sites or prospective CROs, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites;
- clinical trials of our product candidates may produce negative or inconclusive results, including failure to demonstrate statistical significance, and we may decide, or regulators may require us, to conduct additional clinical trials or abandon drug development programs;
- the number of patients required for clinical trials of our product candidates may be larger than we anticipate, enrollment in these clinical trials may be slower than we anticipate or participants may drop out of these clinical trials or fail to return for post-treatment follow-up at a higher rate than we anticipate;
- our product candidates may have undesirable side effects or other unexpected characteristics, causing us or our investigators, regulators or institutional review boards to suspend or terminate the trials;
- our third-party contractors may fail to comply with regulatory requirements or meet their contractual obligations to us in a timely manner, or at all;
- regulators or institutional review boards may require that we or our investigators suspend or terminate clinical development for various reasons, including noncompliance with regulatory requirements or a finding that the participants are being exposed to unacceptable health risks;
- the cost of clinical trials of our product candidates may be greater than we anticipate; and
- the supply or quality of our product candidates or other materials necessary to conduct clinical trials of our product candidates may be insufficient or inadequate.

We could also encounter delays if a clinical trial is suspended or terminated by us, by the institutional review boards of the institutions in which such trials are being conducted, by the data safety monitoring board for such trial or by the FDA or other regulatory authorities. Such authorities may impose such a suspension or termination due to a number of factors, including failure to conduct the clinical trial in accordance with regulatory requirements or our clinical protocols, inspection of the clinical trial operations or trial site by the FDA or other regulatory authorities resulting in the imposition of a clinical hold, unforeseen safety issues or side effects, failure to demonstrate a benefit from using a drug, changes in governmental regulations or administrative actions or lack of adequate funding to continue the clinical trial.

If we experience delays in the completion of, or termination of, any clinical trial of our product candidates, the commercial prospects of our product candidates will be harmed, and our ability to generate product revenues from any of these product candidates will be delayed. In addition, any delays in completing our clinical trials will increase our costs, slow down our product candidate development and approval process and jeopardize our ability to commence product sales and generate revenues. Any of these occurrences may harm our business, financial condition and prospects significantly.

We may be unable to obtain regulatory approval for our product candidates under applicable regulatory requirements. The denial or delay of any such approval would delay commercialization of our product candidates and adversely impact our potential to generate revenue, our business and our results of operations.

To gain approval to market our product candidates, we must provide the FDA and foreign regulatory authorities with preclinical and clinical data that adequately demonstrate the safety and efficacy of the product for the intended indication applied for in the applicable regulatory filing. Product development is long, expensive and uncertain processes, and delay or failure can occur at any stage of any of our preclinical and clinical development programs. A number of companies in the biotechnology and pharmaceutical industries have suffered significant setbacks in clinical trials, even after promising results in earlier preclinical or clinical studies. These setbacks have been caused by, among other things, preclinical findings made while clinical studies were underway and safety or efficacy observations made in clinical studies, including previously unreported adverse events. Success in preclinical testing and early clinical trials does not ensure that later clinical trials will be successful, and the results of clinical trials by other parties may not be indicative of the results in trials we may conduct.

Our lead product candidate ARQ-151, and ARQ-154, its foam formulation, are currently in clinical development. Our product candidate ARQ-252 will soon enter clinical development for hand eczema and vitiligo. ARQ-255 is in formulation and preclinical development for the potential treatment of alopecia areata. We currently have no products approved for sale, and we may never obtain regulatory approval to commercialize our lead product candidates. The research, testing, manufacturing, labeling, approval, sale, marketing and distribution of drug products are subject to extensive regulation by the FDA and other regulatory authorities in the United States and other countries, and such regulations differ from country to country. We are not permitted to market our product candidates in the United States or in any foreign countries until they receive the requisite approval from the applicable regulatory authorities of such jurisdictions, including pricing approval in the European Union.

The FDA or any foreign regulatory authorities can delay, limit or deny approval of our product candidates for many reasons, including:

- our inability to demonstrate to the satisfaction of the FDA or the applicable foreign regulatory authority that any of our product candidates is safe and effective for the requested indication;
- the FDA or other relevant foreign regulatory authorities may disagree with the number, design, size, conduct or implementation of our clinical trials, including the design of our Phase 3 clinical trials of ARQ-151 for the treatment of plaque psoriasis;
- the FDA or other relevant foreign regulatory authorities may not find the data from preclinical studies or clinical trials sufficient to demonstrate that the clinical and other benefits of these products candidates outweigh their safety risks or that there is an acceptable risk-benefit profile;
- the results of our clinical trials may not meet the level of statistical significance or clinical meaningfulness required by the FDA or other relevant foreign regulatory authorities for marketing approval;
- the FDA's or the applicable foreign regulatory authority's requirement for additional preclinical studies or clinical trials which would increase our costs and prolong our development timelines;
- the FDA or other relevant foreign regulatory authorities may disagree with our interpretation of data or significance of results from the preclinical studies and clinical trials of any product candidate, or may require that we conduct additional studies;
- the FDA or other relevant foreign regulatory authorities may not accept data generated from our clinical trial sites;

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- the contract research organizations, or CROs, that we retain to conduct clinical trials may take actions outside of our control, or otherwise commit errors or breaches of protocols, that adversely impact our clinical trials and ability to obtain market approvals;
- if our NDA or other foreign application is reviewed by an advisory committee, the FDA or other relevant foreign regulatory authority, as the case may be, may have difficulties scheduling an advisory committee meeting in a timely manner or the advisory committee may recommend against approval of our application or may recommend that the FDA or other relevant foreign regulatory authority, as the case may be, require, as a condition of approval, additional preclinical studies or clinical trials, limitations on approved labeling or distribution and use restrictions;
- the FDA or other relevant foreign regulatory authorities may require development of a risk evaluation and mitigation strategy, or REMS, or its equivalent, as a condition of approval;
- the FDA or other relevant foreign regulatory authorities may require additional post-marketing studies and/or a patient registry, which would be costly;
- the FDA or other relevant foreign regulatory authorities may find the chemistry, manufacturing and controls data insufficient to support the quality of our product candidates;
- the FDA or other relevant foreign regulatory authorities may identify deficiencies in the manufacturing processes or facilities of our third-party manufacturers; or
- the FDA or other relevant foreign regulatory authorities may change their approval policies or adopt new regulations.
- the FDA's or the applicable foreign regulatory authority's non-approval of the formulation, dosing, labeling or specifications;
- the FDA's or the applicable foreign regulatory authority's failure to approve the manufacturing processes of third-party manufacturers upon which we rely or the failure of the facilities of our third-party manufacturers to maintain a compliance status acceptable to the FDA or the applicable foreign regulatory authority; or
- the potential for approval policies or regulations of the FDA or the applicable foreign regulatory authorities to significantly change in a manner rendering our clinical data insufficient for approval.

Of the large number of biopharmaceutical products in development, only a small percentage successfully complete the FDA or other regulatory approval processes and are commercialized.

Even if we eventually complete clinical testing and receive approval from the FDA or applicable foreign agencies for any of our product candidates, the FDA or the applicable foreign regulatory authority may grant approval contingent on the performance of costly additional clinical trials which may be required after approval. The FDA or the applicable foreign regulatory authority also may approve our lead product candidates for a more limited indication or a narrower patient population than we originally requested, and the FDA, or applicable foreign regulatory authority, may not approve our product candidates with the labeling that we believe is necessary or desirable, or may approve them with labeling that includes warnings or precautions or limitations of use that may not be desirable, for the successful commercialization of such product candidates. Any delay in obtaining, or inability to obtain, applicable regulatory approval would delay or prevent commercialization of our product candidates and would materially adversely impact our business and prospects.

Interim, topline or preliminary data from our clinical trials that we announce or publish from time to time may change as more patient data become available and are subject to audit and verification procedures that could result in material changes in the final data.

From time to time, we may publicly disclose interim, topline, or preliminary data from our clinical trials, which is based on a preliminary analysis of then-available data, and the results and related findings and conclusions are subject to change following a full analyses of all data related to the particular trial. We also make assumptions, estimations, calculations and conclusions as part of our analyses of data, and we may not have received or had the opportunity to fully and carefully evaluate all data. As a result, the interim, topline, or preliminary results that we report may differ from future results of the same trials, or different conclusions or considerations may qualify such results, once additional data have been received and fully evaluated. Topline data also remain subject to audit and verification procedures that may result in the final data being materially different from the preliminary data we previously published. As a result, topline data should be viewed with caution until the final data are available. We may also disclose interim data from our clinical trials. Interim data from clinical trials that we may complete are subject to the risk that one or more of the clinical outcomes may materially change as patient enrollment continues and more patient data become available. Adverse differences between interim, topline, or preliminary data and final data could significantly harm our business prospects.

Further, others, including regulatory agencies, may not accept or agree with our assumptions, estimates, calculations, conclusions or analyses or may interpret or weigh the importance of data differently, which could impact the value of the particular program, the approvability or commercialization of the particular product candidate or product and our business in general. In addition, the information we choose to publicly disclose regarding a particular study or clinical trial is based on what is typically extensive information, and you or others may not agree with what we determine is the material or otherwise appropriate information to include in our disclosure, and any information we determine not to disclose may ultimately be deemed significant with respect to future decisions, conclusions, views, activities or otherwise regarding a particular drug, product candidate or our business. If the interim, topline, or preliminary data that we report differ from actual results, or if others, including regulatory authorities, disagree with the conclusions reached, our ability to obtain approval for and commercialize our product candidates, our business, operating results, prospects or financial condition may be harmed.

Certain of the endpoints in our planned clinical trials rely on a subjective assessment of the effect of the product candidate in the subject by either the physician or patient, and may prove difficult to meet in patients with more severe disease, which exposes us to a variety of risks for the successful completion of our clinical trials.

Certain of our primary and secondary endpoints in our clinical trials, including our currently ongoing Phase 3 clinical trials of ARQ-151 in plaque psoriasis, involve subjective assessments by physician and patients, which can increase the uncertainty of clinical trial outcomes. For example, one of the secondary endpoints requires patients to report pruritus (itching) as measured by the Worst Itch – Numeric Rating Scale and complete or deliver patient or caregiver reported outcomes over the course of our clinical trials. This and other assessments are inherently subjective, which can increase the variability of clinical results across clinical trials and create a significant degree of uncertainty in determining overall clinical benefit. Such assessments can be influenced by factors outside of our control, and can vary widely from day-to-day for a particular patient, and from patient-to-patient and site-to-site within a clinical trial. In addition, frequent reporting requirements may lead to rating fatigue and a loss of accuracy and reliability of the data resulting from our clinical trials. Further, the FDA or comparable foreign regulatory authority may not accept such patient or caregiver reported outcomes as sufficiently validated. Accordingly, these subjective assessments can complicate clinical trial design,

adversely impact the ability of a study to show a statistically significant improvement and generally adversely impact a clinical development program by introducing additional uncertainties.

Patient reported outcome instruments, their use in our Phase 3 clinical trials of ARQ-151 and the inclusion of such data in the product labeling will depend on, but is not limited to, the FDA's review of the following:

- the relevance and importance of the concept(s) of interest to the target patient population;
- the strengths and limitations of the instrument within the given context of use;
- the design and conduct of the trials;
- the adequacy of the submitted data, for example, rigorous data collection and methods to handle missing data; and
- the magnitude of the statistically significant treatment effect should be meaningful to patients.

Further, different results may be achieved depending upon the characteristics of the population enrolled in our studies and which analysis population is used to analyze results. For example, the primary endpoint in our Phase 3 clinical trials of ARQ-151 in plaque psoriasis is based on the percentage of patients achieving a score of "clear" or "almost clear" plus at least a 2-grade improvement from baseline on the 5 point Investigator's Global Assessment (or IGA) scale, referred to as "IGA Success". Success in our Phase 3 clinical trials, or other clinical trials with these or similar endpoints, requires the enrollment of patients with conditions that are severe enough to facilitate a two-grade improvement in the IGA scale, but not so severe that they cannot achieve a "clear" or "almost clear" in IGA score in light of the severity of their disease. It is therefore possible that we enroll patients with conditions so severe that they do not or are unable to realize an IGA of 0 (clear) or 1 (almost clear) during the period covered by the clinical trial. As a result, there is no guarantee that our Phase 3 clinical trials will produce the same statistically significant results in "IGA Success", which will serve as the primary endpoint, as our Phase 2b clinical trial, and there can be no guarantee that the characteristics of the population enrolled in our Phase 3 clinical trials does not adversely impact the results reported for such trial, any of which could have an adverse effect on our ability to secure regulatory approval for our product candidates.

Enrollment and retention of subjects in clinical trials is expensive and time consuming and may result in additional costs and delays in our product development activities, or in the failure of such activities.

We may not be able to initiate or continue clinical trials for ARQ-151 or our other product candidates if we are unable to locate and enroll a sufficient number of eligible patients to participate in these trials as required by the FDA or similar regulatory authorities outside the United States. In addition, some of our competitors are currently conducting clinical trials for product candidates that treat the same indications as ARQ-151, ARQ-154, ARQ-252 and ARQ-255, and patients who are otherwise eligible for our clinical trials may instead enroll in clinical trials of our competitors' product candidates.

Patient enrollment is affected by other factors including:

- the severity of the disease under investigation;
- the selection of the patient population required for analysis of the trial's primary endpoints;
- the eligibility criteria for the study in question;
- the frequency and extent of clinical trial site visits and study assessments;

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- the perceived risks and benefits of the product candidate under study;
- the efforts to facilitate timely enrollment in clinical trials;
- the patient referral practices of physicians;
- the ability to monitor patients adequately during and after treatment; and
- the proximity and availability of clinical trial sites for prospective patients.

Furthermore, any negative results that we may report in preclinical studies or clinical trials of our product candidates may make it difficult or impossible to recruit and retain subjects in other clinical trials of that same or any similar product candidate. Our inability to enroll a sufficient number of patients for our clinical trials would result in significant delays, could require us to abandon one or more clinical trials altogether and could delay or prevent our receipt of necessary regulatory approvals. Enrollment delays in our clinical trials may result in increased development costs for our product candidates, which would cause the value of our company to decline and impede our ability to obtain additional financing.

Serious adverse or unacceptable side effects may be identified during the development of our product candidates, which could prevent or delay regulatory approval and commercialization, increase our costs or necessitate the abandonment or limitation of the development of some of our product candidates.

As we continue our development of our product candidates and initiate additional preclinical studies or clinical trials of these or future product candidates, if any, serious adverse events, unacceptable levels of toxicity, undesirable side effects or unexpected characteristics may emerge, causing us to abandon these product candidates or limit their development to more narrow uses, lower potency levels or subpopulations in which the serious adverse events, unacceptable levels of toxicity, undesirable side effects or other characteristics are less prevalent, less severe or more acceptable from a risk/benefit perspective.

If our product candidates are associated with adverse effects in clinical trials or have characteristics that are unexpected, we may need to abandon their development, institute burdensome monitoring programs, or limit development to more narrow uses or lower or less frequent dosing in which the side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective. The FDA or an institutional review board, or similar regulatory authorities outside the United States, may also require that we suspend, discontinue, or limit our clinical trials based on safety information. Such findings could further result in regulatory authorities failing to provide marketing authorization for our product candidates. Many product candidates that initially showed promise in early stage testing have later been found to cause side effects that prevented further development of the product candidate.

Additionally, if one or more of our product candidates receives marketing approval, and we or others identify undesirable side effects caused by such products, a number of potentially significant negative consequences could result, including:

- regulatory authorities may withdraw approvals of such product;
- regulatory authorities may require additional warnings on the labels;
- we may be required to create a medication guide outlining the risks of such side effects for distribution to patients;
- we may be required to implement a risk evaluation and mitigation strategy, or REMS;
- we may be required to conduct Phase 4 clinical trials as postmarketing requirements, or PMRs;

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- we could be sued and held liable for harm caused to patients; and
- our reputation and physician or patient acceptance of our products may suffer.

Any of these events could prevent us from achieving or maintaining market acceptance of the particular product candidate, if approved, and could significantly harm our business, results of operations and prospects.

As a company, we have never completed a Phase 3 program or obtained marketing approval for any product candidate and we may be unable to successfully do so in a timely manner, if at all, for any of our product candidates.

Conducting Phase 3 clinical trials and preparing, and obtaining marketing approval for, a product candidate is a complicated process. Although members of our management team have participated in pivotal trials and obtained marketing approvals for product candidates in the past while employed at other companies, we as a company have not done so. As a result, these activities may require more time and cost more than we anticipate, and we may be unable to successfully complete them for any of our product candidates.

To date, we have completed two Phase 2 studies in plaque psoriasis and a Phase 2 proof of concept study in atopic dermatitis in ARQ-151, and have initiated a Phase 3 program in plaque psoriasis, which includes two registrational Phase 3 studies. We also anticipate commencing more advanced clinical trials of ARQ-151 in the treatment of atopic dermatitis. Failure to successfully complete, or delays in, our pivotal trials or related regulatory submissions would prevent us from or delay us in obtaining regulatory approval for our product candidates. In addition, it is possible that the FDA may refuse to accept for substantive review any NDAs that we submit for our product candidates or may conclude after review of our applications that they are insufficient to obtain marketing approval of our product candidates. If the FDA does not accept our applications or issue marketing authorizations for our product candidates, it may require that we conduct additional clinical, preclinical or manufacturing validation studies and submit that data before it will reconsider our applications. Depending on the extent of these or any other FDA-required studies, approval of any NDA for any other applications that we submit may be delayed by several years, or may require us to expend more resources than we have available. It is also possible that additional studies, if performed and completed, may not be considered sufficient by the FDA to approve our NDAs. Additionally, similar risks could apply to receipt of marketing authorizations by comparable regulatory authorities in foreign jurisdictions.

Any delay in obtaining, or an inability to obtain, marketing approvals would prevent us from commercializing our product candidates, generating revenues and achieving and sustaining profitability. If any of these outcomes occur, we may be forced to abandon our development efforts for our product candidates, which could significantly harm our business.

Even if our lead product candidate or our other product candidates receive marketing approval, they may fail to achieve market acceptance by physicians, patients, third-party payors or others in the medical community necessary for commercial success.

Even if our lead product candidate or our other product candidates receive marketing approval, they may nonetheless fail to gain sufficient market acceptance by physicians, patients, third-party payors and others in the medical community. If our product candidates do not achieve an adequate level of acceptance, we may not generate adequate product revenue or become profitable. The degree of market acceptance of a product candidate, if approved for commercial sale, will depend on a number of factors, including but not limited to:

- the safety, efficacy, risk-benefit profile and potential advantages compared to alternative or existing treatments, such as steroids topical treatments, oral treatments, and biologic injections

- for the treatment of psoriasis, which physicians may perceive to be adequately effective for some or all patients;
- side effects that may be attributable to our product candidates and the difficulty of or costs associated with resolving such side effects;
 - limitations or warnings contained in the labeling approved for our product candidates by FDA or other applicable foreign regulatory authorities;
 - any restrictions on the use of our products, and the prevalence and severity of any side effects;
 - the content of the approved product label;
 - the effectiveness of sales and marketing efforts;
 - the cost of treatment in relation to alternative treatments, including any similar generic treatments and over-the-counter, or OTC treatments;
 - our ability to offer our products for sale at competitive prices;
 - the convenience and ease of administration compared to alternative treatments;
 - the willingness of the target patient population to try new therapies and of physicians to prescribe these therapies over existing therapies;
 - the strength of marketing and distribution support;
 - the availability of third-party coverage and adequate reimbursement at any given price level of each of our product candidates;
 - utilization controls imposed by third-party payors, such as prior authorizations and step edits; and
 - any restrictions on the use of any of our product candidates.

We cannot assure you that our current or future product candidates, if approved, will achieve market acceptance among physicians, patients, third-party payors or others in the medical community necessary for commercial success. Any failure by our product candidates that obtain regulatory approval to achieve market acceptance or commercial success would harm our results of operations.

We may choose not to continue developing or commercializing any of our product candidates at any time during development or after approval, which would reduce or eliminate our potential return on investment for those product candidates.

At any time, we may decide to discontinue the development or commercialization of any of our products or product candidates for a variety of reasons, including the appearance of new technologies that render our product obsolete, competition from a competing product or changes in or inability to comply with applicable regulatory requirements. If we terminate a program in which we have invested significant resources, we will not receive any return on our investment and we will have missed the opportunity to allocate those resources to potentially more productive uses.

If we are unable to achieve and maintain coverage and adequate levels of reimbursement for any of our product candidates for which we receive regulatory approval, or any future products we may seek to commercialize, their commercial success may be severely hindered.

As to any of our product candidates that become available by prescription only, our success will depend on the availability of coverage and adequate reimbursement for our product from third-party payors. Patients who are prescribed medicine for the treatment of their conditions generally rely on

third-party payors to reimburse all or part of the costs associated with their prescription drugs. The availability of coverage and adequate reimbursement from governmental healthcare programs, such as Medicare and Medicaid, and private third-party payors is critical to new product acceptance. Coverage decisions may depend upon clinical and economic standards that disfavor new drug products when more established or lower cost therapeutic alternatives are already available or subsequently become available. If any of our product candidates fail to demonstrate attractive efficacy profiles, they may not qualify for coverage and reimbursement. Even if we obtain coverage for a given product, the resulting reimbursement payment rates might not be adequate or may require co-payments that patients find unacceptably high. Patients are unlikely to use our prescription-only products unless coverage is provided and reimbursement is adequate to cover a significant portion of the cost of our products.

In addition, the market for certain of our product candidates will depend significantly on access to third-party payors' drug formularies, or lists of medications for which third-party payors provide coverage and reimbursement. The industry competition to be included in such formularies often leads to downward pricing pressures on pharmaceutical companies.

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

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

We currently have no sales, marketing or distribution capabilities and have no experience as a company in commercializing products.

To achieve commercial success for any product for which we obtain marketing approval, we will need a sales and marketing organization. We do not currently have any infrastructure for the sales, marketing, or distribution of any product, and the cost of establishing and maintaining such an organization may exceed the cost-effectiveness of doing so. In order to market any product that may be approved, we must build our sales, distribution, marketing, managerial and other nontechnical capabilities or make arrangements with third parties to perform these services.

We currently expect to build a dermatologist-focused sales, distribution and marketing infrastructure to market our product candidates in North America, if approved. There are significant expenses and risks involved with establishing our own sales, marketing and distribution capabilities, including our ability to hire, retain and appropriately incentivize qualified individuals, provide adequate training to sales and marketing personnel, and effectively manage geographically dispersed sales and marketing teams to generate sufficient demand. Any failure or delay in the development of our internal sales, marketing and distribution capabilities could delay any product launch, which would adversely impact its commercialization. If the commercial launch of any of our product candidates, if approved, for which we recruit a sales force and establish marketing capabilities is delayed or does not occur for any reason, we would have prematurely or unnecessarily incurred these commercialization expenses. This may be costly, and our investment would be lost if we cannot retain or reposition our sales and marketing personnel.

If we are unable to establish adequate sales, marketing, and distribution capabilities, either on our own or in collaboration with third parties, we will not be successful in commercializing any of our product candidates and may not become profitable. We will be competing with many companies that currently have extensive and well-funded marketing and sales operations. Without an internal team or the support of a third party to perform marketing and sales functions, we may be unable to compete successfully against these more established companies.

If we seek to market any products in our pipeline in countries other than the United States, we will need to comply with the regulations of each country in which we seek to market our products.

None of our product candidates are currently approved for sale by any government authority in any jurisdiction. If we fail to comply with regulatory requirements in any market we decide to enter, or to obtain and maintain required approvals, or if regulatory approvals in the relevant markets are delayed, our target market will be reduced and our ability to realize the full market potential of our product candidates will be harmed. Marketing approval in one jurisdiction, including the United States, does not ensure marketing approval in another, but a failure or delay in obtaining marketing approval in one jurisdiction may have a negative effect on the regulatory process in others. Failure to obtain a marketing approval in countries in which we seek to market our products or any delay or setback in obtaining such approval would impair our ability to develop foreign markets for any of our products.

Our license agreements obligate us to make certain milestone payments, some of which will be triggered prior to our commercialization of any of our product candidates.

Certain of the milestone payments payable by us to AstraZeneca and Hengrui, are due upon events that will occur prior to our planned commercialization of the applicable product candidates. Accordingly, we will be required to make such payments prior to the time at which we are able to generate revenue, if any, from sales of any of our product candidates, if approved.

For example, upon regulatory approval from the FDA to commercialize ARQ-151 in the United States, but prior to commencement of commercialization or sales of ARQ-151, we will be required to make certain milestone payments to AstraZeneca. We paid AstraZeneca the first milestone cash payment of \$2.0 million upon the completion of a Phase 2b study of ARQ-151 in plaque psoriasis in August 2019 for the achievement of positive Phase 2 data for an AZ-Licensed Product (as defined below). We have agreed to make additional cash payments to AstraZeneca of up to an aggregate of \$12.5 million upon the achievement of specified clinical development and regulatory approval milestones with respect to products containing roflumilast in topical forms, as well as delivery systems sold with or for the administration of roflumilast, or collectively, AZ-Licensed Products, and payments up to an additional aggregate amount of \$15.0 million upon the achievement of certain aggregate worldwide net sales milestones. With respect to any AZ-Licensed Products we commercialize under the agreement, we will pay AstraZeneca a low to high single-digit percentage royalty rate on our, our affiliates' and our sublicensees' net sales of such AZ-Licensed Products, until, as determined on an AZ-Licensed Product-by-AZ-Licensed Product and country-by-country basis, the later of the date of the expiration of the last-to-expire AstraZeneca-licensed patent right containing a valid claim in such country and ten years from the first commercial sale of such AZ-Licensed Product in such country.

In connection with the exercise of our exclusive option with Hengrui in December 2019, we made a \$1.5 million cash payment and also contemporaneously amended the agreement to expand the territory to additionally include Canada. In addition, we have agreed to make cash payments of up to an aggregate of \$20.5 million upon our achievement of specified clinical development and regulatory approval milestones with respect to the licensed products and cash payments of up to an additional \$200.0 million in sales-based milestones based on achieving certain aggregate annual net sales

volumes with respect to a licensed product. With respect to any products we commercialize under the agreement, we will pay tiered royalties to Hengrui on net sales of each licensed product by us, or our affiliates, or our sublicensees, ranging from mid single-digit to sub-teen percentage rates based on tiered annual net sales bands subject to specified reductions. We are obligated to pay royalties until the later of (1) the expiration of the last valid claim of the licensed patent rights covering such licensed product in such country and (2) the expiration of regulatory exclusivity for the relevant licensed product in the relevant country, on a licensed product-by-licensed product and country-by-country basis. Additionally, we are obligated to pay Hengrui a specified percentage, ranging from the low-thirties to the sub-teens, of certain non-royalty sublicensing income we receive from sublicensees of our rights to the licensed products, such percentage decreasing as the development stage of the licensed products advance.

There can be no assurance that we will have the funds necessary to make such payments, or be able to raise such funds when needed, on terms acceptable to us, or at all. Furthermore, if we are forced to raise additional funds, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts, or grant rights to develop and market product candidates that we would otherwise develop and market ourselves. If we are unable to raise additional funds or maintain sufficient liquidity to make our payment obligations if and when they become due, including payment obligations under the license agreement with AstraZeneca and under the option and license agreement with Hengrui, we may be in material breach of our agreements and our counterparties may seek legal action or remedies against us (including by seeking to terminate the relevant agreements), which would harm our business, financial condition, results of operations and prospects.

We face significant competition from other biotechnology and pharmaceutical companies targeting medical dermatological indications, and our operating results will suffer if we fail to compete effectively.

The markets for dermatological therapies are competitive and are characterized by significant technological development and new product introduction. For example, there are several large and small pharmaceutical companies focused on delivering therapeutics for our targeted inflammatory and medical dermatological indications. We anticipate that, if we obtain regulatory approval of our product candidates, we will face significant competition from other approved therapies or drugs that become available in the future for the treatment of our target indications. If approved, our product candidates may also compete with unregulated, unapproved and off-label treatments. Even if another branded or generic product or OTC product is less effective than our product candidates, a less effective branded, generic or OTC product may be more quickly adopted by physicians and patients than our competing product candidates based upon cost or convenience.

Certain of our product candidates, if approved, will have to compete with existing therapies, some of which are widely known and accepted by physicians and patients. To compete successfully in this market, we will have to demonstrate that the relative cost, safety and efficacy of our approved products, if any, provide an attractive alternative to existing and other new therapies to gain a share of some patients' discretionary budgets and for physicians' attention within their clinical practices. Some of the companies that offer competing products also have a broad range of other product offerings, large direct sales forces and long-term customer relationships with our target physicians, which could inhibit our market penetration efforts. Such competition could lead to reduced market share for our product candidates and contribute to downward pressure on the pricing of our product candidates, which could harm our business, financial condition, operating results and prospects.

We are aware of several companies that are working to develop drugs that would compete against our product candidates for the treatment of psoriasis, atopic dermatitis, hand eczema, vitiligo and alopecia areata.

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For psoriasis, our primary competitors include injected biologic therapies such as Humira, marketed by AbbVie Inc. and Eisai Co., Ltd., and Enbrel, marketed by Amgen Inc., Pfizer Inc., and Takeda Pharmaceutical Company Limited; non-injectable systemic therapies used to treat plaque psoriasis such as Otezla, marketed by Celgene Corporation; topical therapies such as branded and generic versions of clobetasol, such as Clobex, marketed by Galderma Laboratories, LP; and other treatments including various lasers and ultraviolet light-based therapies. In addition, there are several prescription product candidates under development that could potentially be used to treat psoriasis and compete with ARQ-151, including tapinarof, under development by Dermavant Sciences, Inc., and SNA-120, under development by Sienna Biosciences, Inc.

For atopic dermatitis, our primary competitors include topical therapies such as Eucrisa, marketed by Pfizer Inc., and generic and branded versions of low to mid-potency steroids such as hydrocortisone and betamethasone; and the injected biologic therapy Dupixent, marketed by Regeneron Pharmaceuticals, Inc. In addition, there are several prescription product candidates under development that could potentially be used to treat atopic dermatitis and compete with ARQ-151, including but not limited to: topical tapinarof and topical cerdulatinib, both under development by Dermavant Sciences, Inc., topical ruxolitinib, under development by Incyte Corporation, topical delgocitinib, under development by LEO Pharma A/S and Japan Tobacco, Inc., oral PF-04965842, under development by Pfizer Inc., oral upatacitinib, under development by AbbVie, Inc. and injectable lebrikizumab, under development by Dermira, Inc.

For hand eczema, our primary competitors include topical therapies such as branded and generic versions of clobetasol, such as Clobex, and generic versions of betamethasone dipropionate. The only other prescription product candidate we are aware of under development for the treatment of hand eczema that would compete with ARQ-252 is delgocitinib.

For vitiligo, our primary competitors include topical therapies such as generic and branded versions of calcineurin inhibitors, including Elidel, marketed by Bausch Health; branded and generic versions of high potency steroids, including Clobex, marketed by Galderma Laboratories, LP; and other treatments including various lasers and ultraviolet light-based therapies. In addition, there are several prescription product candidates under development that could potentially be used to treat vitiligo and compete with ARQ-252, including but not limited to: topical cerdulatinib, under development by Dermavant Sciences, Inc., topical ruxolitinib, under development by Incyte Corporation, and both PF-06651600 and PF06700841, under development by Pfizer Inc.

For alopecia areata, our primary competitors include topical therapies such as branded and generic versions of high potency steroids, including Clobex, marketed by Galderma Laboratories, LP; intralesional corticosteroid injections such as branded and generic versions of triamcinolone, including Kenalog, marketed by Bristol-Myers Squib; and systemic immunosuppressants including generic versions of systemic steroids such as prednisone, branded and generic versions of cyclosporine, including Sandimmune, marketed by Sandoz, and branded systemic JAK inhibitors, including Xeljanz, marketed by Pfizer, Inc. In addition, there are several prescription product candidates under development that could potentially be used to treat alopecia areata and compete with ARQ-255, including but not limited to: PF-06651600, under development by Pfizer, Inc., CTP-543, under development by Concert Pharmaceuticals, and baricitinib, under development by Eli Lilly and Company.

Many of our existing or potential competitors have substantially greater financial, technical and human resources than we do and significantly greater experience in the discovery and development of product candidates, as well as in obtaining regulatory approvals of those product candidates in the United States and in foreign countries. Many of our current and potential future competitors also have significantly more experience commercializing drugs that have been approved for marketing. Mergers

and acquisitions in the pharmaceutical and biotechnology industries could result in even more resources being concentrated among a smaller number of our competitors. Competition may reduce the number and types of patients available to us to participate in clinical trials, because some patients who might have opted to enroll in our trials may instead opt to enroll in a trial being conducted by one of our competitors.

Due to less stringent regulatory requirements in certain foreign countries, there are many more dermatological products and procedures available for use in those international markets than are approved for use in the United States. In certain international markets, there are also fewer limitations on the claims that our competitors can make about the effectiveness of their products and the manner in which they can market their products. As a result, we expect to face more competition in these markets than in the United States.

Our ability to compete successfully will depend largely on our ability to:

- develop and commercialize therapies that are superior to other products in the market;
- demonstrate through our clinical trials that our product candidates are differentiated from existing and future therapies;
- attract qualified scientific, product development and commercial personnel;
- obtain patent or other proprietary protection for our technologies and product;
- obtain required regulatory approvals, including approvals to market our product candidates in ways that are differentiated from existing and future therapies and OTC products and treatments;
- successfully commercialize our product candidates, if approved;
- obtain coverage and adequate reimbursement from, and negotiate competitive pricing with, third-party payors; and
- successfully collaborate with pharmaceutical companies in the discovery, development and commercialization of new therapies.

The availability of our competitors' products could limit the demand and the price we are able to charge for any product candidate we develop. The inability to compete with existing or subsequently introduced drugs or OTC treatments would have an adverse impact on our business, financial condition and prospects.

Risks Related to Our Business and Operations

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

As of December 31, 2019, we had 29 full-time employees. We will need to continue to expand our managerial, operational, finance and other resources in order to manage our operations and clinical trials, continue our development activities and commercialize our lead product candidates or any future product candidates.

Our management and personnel, systems and facilities currently in place are not adequate to support our future growth. In order to effectively execute our growth strategy, we will need to identify, recruit, retain, incentivize and integrate additional employees in order to expand our ability to:

- manage our clinical trials effectively;

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

If we are unable to successfully identify, recruit, retain, incentivize and integrate additional employees and otherwise expand our managerial, operational, finance and other resources, our business and operational performance will be materially and adversely affected.

If we are not successful in acquiring, developing, and commercializing additional product candidates, our ability to expand our business and achieve our strategic objectives would be impaired.

Although a substantial amount of our effort will focus on the continued preclinical and clinical testing and potential approval of our current product candidates, a key element of our strategy is to acquire, develop and commercialize a diverse portfolio of product candidates to serve the dermatology market. We do not currently intend to conduct drug discovery or research and development efforts to discover new product candidates, but rather we intend to acquire or in-license rights to existing molecules to develop for dermatological indications. In addition, while we believe that our strategy allows us to move more rapidly through clinical development and at a potentially lower cost, we may be unable to progress product candidates more quickly or at a lower cost.

Research programs to identify product candidates require substantial technical, financial and human resources, whether or not any product candidates are ultimately identified. Our research programs may initially show promise in identifying potential product candidates, yet fail to yield product candidates for clinical development for many reasons, including the following:

- the research methodology or technology platform used may not be successful in identifying potential product candidates;
- competitors may develop alternatives that render our product candidates obsolete or less attractive;
- product candidates we develop may nevertheless be covered by patents or other proprietary rights controlled by third parties;
- a product candidate may be shown to have harmful side effects or other characteristics that indicate it is unlikely to be effective or otherwise does not meet applicable regulatory criteria;
- a product candidate may not be capable of being produced in commercial quantities at an acceptable cost, or at all; and;
- a product candidate may not be accepted as safe and effective by patients, the medical community or third-party payors, if applicable.

In the event we seek to identify and acquire or in-license additional product candidates in the dermatology field, our process for doing so may be slow and may ultimately be unsuccessful for a number of reasons, including those discussed in these risk factors and also:

- potential product candidates may, upon further study, be shown to have harmful side effects or other characteristics that indicate that they are unlikely to be products that will receive marketing approval and achieve market acceptance;
- potential product candidates may not be effective in treating their targeted diseases; or
- the acquisition or in-licensing transactions can entail numerous operational and functional risks, including exposure to unknown liabilities, disruption of our business, or incurrence of substantial debt or dilutive issuances of equity securities to pay transaction consideration or costs, or higher than expected acquisition or integration costs.

We may choose to focus our efforts and resources on an in-licensing or acquiring a potential product candidate that ultimately proves to be unsuccessful. We also cannot be certain that, following an acquisition or in-licensing transaction, we will achieve the revenue or specific net income that justifies such transaction. If we are unable to identify and acquire suitable product candidates for clinical development, this would adversely impact our business strategy, our financial position and share price.

Any collaboration arrangements that we may enter into in the future may not be successful, which could adversely affect our ability to develop and commercialize future product candidates.

We may seek collaboration arrangements for the commercialization, or potentially for the development, of certain of our product candidates depending on the merits of retaining commercialization rights for ourselves as compared to entering into collaboration arrangements. We will face, to the extent that we decide to enter into collaboration agreements, significant competition in seeking appropriate collaborators. Moreover, collaboration arrangements are complex and time-consuming to negotiate, document, implement and maintain. We may not be successful in our efforts to establish and implement collaborations or other alternative arrangements should we so choose to enter into such arrangements. The terms of any collaborations or other arrangements that we may establish may not be favorable to us. Any future collaborations that we enter into may not be successful. The success of our collaboration arrangements will depend heavily on the efforts and activities of our collaborators. Collaborations are subject to numerous risks, which may include risks that:

- collaborators have significant discretion in determining the efforts and resources that they will apply to collaborations;
- collaborators may not pursue development and commercialization of our product candidates or may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in their strategic focus due to their acquisition of competitive products or their internal development of competitive products, availability of funding or other external factors, such as a business combination that diverts resources or creates competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial, abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing;
- collaborators could independently develop, or develop with third parties, products that compete directly or indirectly with our products or product candidates;

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- a collaborator with marketing, manufacturing and distribution rights to one or more products may not commit sufficient resources to or otherwise not perform satisfactorily in carrying out these activities;
- we could grant exclusive rights to our collaborators that would prevent us from collaborating with others;
- collaborators may not properly maintain or defend our intellectual property rights or may use our intellectual property or proprietary information in a way that gives rise to actual or threatened litigation that could jeopardize or invalidate our intellectual property or proprietary information or expose us to potential liability;
- disputes may arise between us and a collaborator that causes the delay or termination of the research, development or commercialization of our current or future product candidates or that results in costly litigation or arbitration that diverts management attention and resources;
- collaborations may be terminated, and, if terminated, this may result in a need for additional capital to pursue further development or commercialization of the applicable current or future product candidates;
- collaborators may own or co-own intellectual property covering products that results from our collaborating with them, and in such cases, we would not have the exclusive right to develop or commercialize such intellectual property;
- disputes may arise with respect to the ownership of any intellectual property developed pursuant to our collaborations; and
- a collaborator's sales and marketing activities or other operations may not be in compliance with applicable laws resulting in civil or criminal proceedings.

Furthermore, we cannot assure you that following any such collaboration, or other strategic transaction, we will achieve the expected synergies to justify the transaction. For example, such transactions may require us to incur non-recurring or other charges, increase our near- and long-term expenditures and pose significant integration or implementation challenges or disrupt our management or business. These transactions would entail numerous operational and financial risks, including exposure to unknown liabilities, disruption of our business and diversion of our management's time and attention in order to manage a collaboration or develop acquired products, product candidates or technologies, incurrence of substantial debt or dilutive issuances of equity securities to pay transaction consideration or costs, higher than expected collaboration, acquisition or integration costs, write-downs of assets or goodwill or impairment charges, increased amortization expenses, difficulty and cost in facilitating the collaboration or combining the operations and personnel of any acquired business, impairment of relationships with key suppliers, manufacturers or customers of any acquired business due to changes in management and ownership and the inability to retain key employees of any acquired business.

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

Our ability to compete in the highly competitive pharmaceuticals industry depends upon our ability to attract and retain highly qualified managerial, scientific, medical, sales and marketing and other personnel. We are highly dependent on our management and scientific personnel, including our Chief Executive Officer, Todd Franklin Watanabe and our Chief Technical Officer, David W. Osborne, Ph.D. The loss of the services of any of these individuals could impede, delay or prevent the successful development of our product pipeline, completion of our planned clinical trials, commercialization of our

products or in-licensing or acquisition of new assets and could negatively impact our ability to successfully implement our business plan. If we lose the services of any of these individuals, we might not be able to find suitable replacements on a timely basis or at all, and our business could be harmed as a result. We do not maintain "key man" insurance policies on the lives of these individuals or the lives of any of our other employees.

We employ all of our executive officers and key personnel on an at-will basis and their employment can be terminated by us or them at any time, for any reason and without notice. In order to retain valuable employees at our company, in addition to salary and cash incentives, we provide stock options that vest over time. The value to employees of stock options that vest over time will be significantly affected by movements in our stock price that are beyond our control, and may at any time be insufficient to counteract offers from other companies.

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

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

If product liability lawsuits are brought against us, we may incur substantial liabilities and may be required to limit commercialization of our current or future product candidates.

We face an inherent risk of product liability as a result of the clinical testing of our product candidates and will face an even greater risk if we commercialize any products. For example, we may be sued if any product we develop allegedly causes injury or is found to be otherwise unsuitable during product testing, manufacturing, marketing or sale. Any such product liability claims may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability, and a breach of warranty. Claims could also be asserted under state consumer protection acts. If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities or be required to limit commercialization of our product candidates. Even successful defense would require significant financial and management resources. Regardless of the merits or eventual outcome, liability claims may result in:

- decreased demand for our current or future product candidates;
- injury to our reputation;
- withdrawal of clinical trial participants;
- costs to defend the related litigation;
- a diversion of management's time and our resources;

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- substantial monetary awards to trial participants or patients;
- regulatory investigations, product recalls, withdrawals or labeling, marketing or promotional restrictions;
- loss of revenue; and
- the inability to commercialize our current or any future product candidates.

Our inability to obtain and maintain sufficient product liability insurance at an acceptable cost and scope of coverage to protect against potential product liability claims could prevent or inhibit the commercialization of our current or any future product candidates we develop. Although we currently carry product liability insurance covering our clinical trials, any claim that may be brought against us could result in a court judgment or settlement in an amount that is not covered, in whole or in part, by our insurance or that is in excess of the limits of our insurance coverage. Our insurance policies also have various exclusions and deductibles, and we may be subject to a product liability claim for which we have no coverage. We will have to pay any amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient funds to pay such amounts. Moreover, in the future, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses. If and when we obtain approval for marketing any of our product candidates, we intend to expand our insurance coverage to include the sale of such product candidate; however, we may be unable to obtain this liability insurance on commercially reasonable terms or at all.

We will incur significant costs as a result of operating as a public company, and our management will devote substantial time to new compliance initiatives. We may fail to comply with the rules that apply to public companies, including Section 404 of the Sarbanes-Oxley Act of 2002, which could result in sanctions or other penalties that would harm our business.

We will incur significant legal, accounting and other expenses as a public company, including costs resulting from public company reporting obligations under the Securities Exchange Act of 1934, as amended, or the Exchange Act, and regulations regarding corporate governance practices. The listing requirements of the Nasdaq Global Select Market and the rules of the Securities and Exchange Commission, or SEC, require that we satisfy certain corporate governance requirements relating to director independence, filing annual and interim reports, stockholder meetings, approvals and voting, soliciting proxies, conflicts of interest and a code of conduct. Our management and other personnel will need to devote a substantial amount of time to ensure that we comply with all of these requirements. Moreover, the reporting requirements, rules and regulations will increase our legal and financial compliance costs and will make some activities more time-consuming and costly. Any changes we make to comply with these obligations may not be sufficient to allow us to satisfy our obligations as a public company on a timely basis, or at all. These reporting requirements, rules and regulations, coupled with the increase in potential litigation exposure associated with being a public company, could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors or board committees or to serve as executive officers, or to obtain certain types of insurance, including directors' and officers' insurance, on acceptable terms.

After this offering, we will be subject to Section 404 of The Sarbanes-Oxley Act of 2002, or Section 404, and the related rules of the SEC, which generally require our management and independent registered public accounting firm to report on the effectiveness of our internal control over financial reporting. Beginning with the second annual report that we will be required to file with the SEC, Section 404 requires an annual management assessment of the effectiveness of our internal control over financial reporting. However, for so long as we remain an emerging growth company as defined in the JOBS Act, we intend to take advantage of certain exemptions from various reporting

requirements that are applicable to public companies that are not emerging growth companies, including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404. Once we are no longer an emerging growth company or, if prior to such date, we opt to no longer take advantage of the applicable exemption, we will be required to include an opinion from our independent registered public accounting firm on the effectiveness of our internal controls over financial reporting. We will remain an emerging growth company until the last day of our fiscal year following the fifth anniversary of the completion of this offering. However, if certain events occur prior to the end of such five-year period, including if we become a "large accelerated filer," our annual gross revenues exceed \$1.07 billion or we issue more than \$1.0 billion of non-convertible debt in any three-year period, we will cease to be an emerging growth company prior to the end of such five-year period.

In addition, we expect that we will need to implement an enterprise resource planning, or ERP, system for our company. An ERP system is intended to combine and streamline the management of our financial, accounting, human resources, sales and marketing and other functions, enabling us to manage operations and track performance more effectively. However, an ERP system would likely require us to complete many processes and procedures for the effective use of the system or to run our business using the system, which may result in substantial costs. Additionally, during the conversion process, we may be limited in our ability to convert any business that we acquire to the ERP. Any disruptions or difficulties in implementing or using an ERP system could adversely affect our controls and harm our business, including our ability to forecast or make sales and collect our receivables. Moreover, such disruption or difficulties could result in unanticipated costs and diversion of management attention.

To date, we have never conducted a review of our internal control for the purpose of providing the reports required by these rules. During the course of our review and testing, we may identify deficiencies and be unable to remediate them before we must provide the required reports. Furthermore, if we have a material weakness in our internal controls over financial reporting, we may not detect errors on a timely basis and our financial statements may be materially misstated. We or our independent registered public accounting firm may not be able to conclude on an ongoing basis that we have effective internal control over financial reporting, which could harm our operating results, cause investors to lose confidence in our reported financial information and cause the trading price of our stock to fall. In addition, as a public company we will be required to file accurate and timely quarterly and annual reports with the SEC under the Exchange Act. Any failure to report our financial results on an accurate and timely basis could result in sanctions, lawsuits, delisting of our shares from the Nasdaq Global Select Market or other adverse consequences that would materially harm to our business.

Unfavorable global economic or political conditions could adversely affect our business, financial condition or results of operations.

Our results of operations could be adversely affected by general conditions in the global economy and in the global financial markets. A global financial crisis or a global or regional political disruption could cause extreme volatility in the capital and credit markets. A severe or prolonged economic downturn or political disruption could result in a variety of risks to our business, including weakened demand for our lead product candidates or any future product candidates, if approved, and our ability to raise additional capital when needed on acceptable terms, if at all. A weak or declining economy or political disruption could also strain our manufacturers or suppliers, possibly resulting in supply disruption, or cause our customers to delay making payments for our services. Any of the foregoing could harm our business and we cannot anticipate all of the ways in which the political or economic climate and financial market conditions could adversely impact our business.

We or the third parties upon whom we depend may be adversely affected by earthquakes or other natural disasters and our business continuity and disaster recovery plans may not adequately protect us from a serious disaster.

Our corporate headquarters and other facilities are located in the Northern Los Angeles Area, which in the past has experienced both severe earthquakes and wildfires. We do not carry earthquake insurance. Earthquakes, wildfires or other natural disasters could severely disrupt our operations, and have a material adverse effect on our business, results of operations, financial condition and prospects.

If a natural disaster, power outage or other event occurred that prevented us from using all or a significant portion of our headquarters, that damaged critical infrastructure, or that otherwise disrupted operations, it may be difficult or, in certain cases, impossible, for us to continue our business for a substantial period of time. The disaster recovery and business continuity plans we have in place currently are limited and are unlikely to prove adequate in the event of a serious disaster or similar event. We may incur substantial expenses as a result of the limited nature of our disaster recovery and business continuity plans, which, particularly when taken together with our lack of earthquake insurance, could have a material adverse effect on our business.

Furthermore, our third-party manufacturers or suppliers are similarly vulnerable to natural disasters or other sudden, unforeseen and severe adverse events. If such an event were to affect our supply chain, it could have a material adverse effect on our business.

We depend on our information technology systems, and any failure of these systems, or those of our CROs or other contractors or consultants we may utilize, could harm our business. Security breaches, cyber-attacks, loss of data, and other disruptions could compromise sensitive information related to our business or prevent us from accessing critical information and expose us to liability, which could adversely affect our business, results of operations, financial condition and prospects.

We collect and maintain information in digital form that is necessary to conduct our business, and we are increasingly dependent on information technology systems and infrastructure to operate our business. In the ordinary course of our business, we collect, store and transmit large amounts of confidential information, including intellectual property, proprietary business information and personal information. It is critical that we do so in a secure manner to maintain the confidentiality and integrity of such confidential information. We have established physical, electronic, and organizational measures to safeguard and secure our systems to prevent a data compromise, and rely on commercially available systems, software, tools, and monitoring to provide security for our information technology systems and the processing, transmission and storage of digital information. We have also outsourced elements of our information technology infrastructure, and as a result a number of third-party vendors may or could have access to our confidential information. Our internal information technology systems and infrastructure, and those of our current and any future collaborators, contractors and consultants and other third parties on which we rely, are vulnerable to damage from computer viruses, malware, natural disasters, terrorism, war, telecommunication and electrical failures, cyber-attacks or cyber-intrusions over the Internet, attachments to emails, persons inside our organization, or persons with access to systems inside our organization.

The risk of a security breach or disruption, particularly through cyber-attacks or cyber intrusion, including by computer hackers, foreign governments, and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. In addition, the prevalent use of mobile devices that access confidential information increases the risk of data security breaches, which could lead to the loss of confidential information or

other intellectual property. The costs to us to mitigate network security problems, bugs, viruses, worms, malicious software programs and security vulnerabilities could be significant, and while we have implemented security measures to protect our data security and information technology systems, our efforts to address these problems may not be successful, and these problems could result in unexpected interruptions, delays, cessation of service and other harm to our business and our competitive position. If such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our product development programs. For example, the loss of clinical trial data from completed or ongoing or planned clinical trials could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. Moreover, if a computer security breach affects our systems or results in the unauthorized release of personally identifiable information, our reputation could be materially damaged. In addition, such a breach may require notification to governmental agencies, the media or individuals pursuant to various federal and state privacy and security laws (and other similar non-U.S. laws), if applicable, including the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Clinical Health Act of 2009, and its implementing rules and regulations, as well as regulations promulgated by the Federal Trade Commission and state breach notification laws. By way of example, on June 28, 2018, California enacted the California Consumer Privacy Act, or CCPA, which takes effect on January 1, 2020. The CCPA creates individual privacy rights for California consumers and increases the privacy and security obligations of entities handling certain personal information. The CCPA provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation. The CCPA may increase our compliance costs and potential liability, and similar laws have been proposed at the federal level and in other states as well as in non-U.S. jurisdictions. We would also be exposed to a risk of loss or litigation and potential liability, which could materially adversely affect our business, results of operations and financial condition.

Our future commercial partners, as well as our employees and independent contractors, including principal investigators, consultants, suppliers, service providers and other vendors may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements, which could have an adverse effect on our results of operations.

We are exposed to the risk that our future commercial partners, as well as our employees and independent contractors, including principal investigators, consultants, suppliers, service providers and other vendors may engage in misconduct or other illegal activity. Misconduct by these parties could include intentional, reckless and/or negligent conduct or other unauthorized activities that violate the laws and regulations of the FDA and other similar foreign regulatory authorities, including those laws that require the reporting of true, complete and accurate information to such foreign regulatory authorities; manufacturing standards; U.S. federal and state healthcare fraud and abuse, data privacy laws and other similar non-U.S. laws; or laws that require the true, complete and accurate reporting of financial information or data. Activities subject to these laws also involve the improper use or misrepresentation of information obtained in the course of clinical trials, the creation of fraudulent data in our preclinical studies or clinical trials, or illegal misappropriation of product, which could result in regulatory sanctions and cause serious harm to our reputation. It is not always possible to identify and deter misconduct by employees and other third-parties, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. In addition, we are subject to the risk that a person or government could allege such fraud or other misconduct, even if none occurred. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business and financial results, including, without limitation, the imposition of significant civil, criminal and administrative penalties, damages, monetary

finances, disgorgements, possible exclusion from participation in Medicare, Medicaid and other U.S. healthcare programs, individual imprisonment, other sanctions, contractual damages, reputational harm, diminished profits and future earnings and curtailment of our operations, any of which could adversely affect our ability to operate our business and our results of operations.

Our business involves the use of hazardous materials and we and our third-party manufacturers and suppliers must comply with environmental laws and regulations, which can be expensive and restrict how we do business.

Our research and development activities and our third-party manufacturers' and suppliers' activities involve the controlled storage, use and disposal of hazardous materials owned by us, including the components of our product and product candidates and other hazardous compounds. We and our manufacturers and suppliers are subject to laws and regulations governing the use, manufacture, storage, handling and disposal of these hazardous materials. In some cases, these hazardous materials and various wastes resulting from their use are stored at our and our manufacturers' facilities pending their use and disposal. We cannot eliminate the risk of contamination, which could cause an interruption of our commercialization efforts, research and development efforts and business operations, environmental damage resulting in costly clean-up and liabilities under applicable laws and regulations governing the use, storage, handling and disposal of these materials and specified waste products. Although we believe that the safety procedures utilized by our third-party manufacturers for handling and disposing of these materials generally comply with the standards prescribed by these laws and regulations, we cannot guarantee that this is the case or eliminate the risk of accidental contamination or injury from these materials. In such an event, we may be held liable for any resulting damages and such liability could exceed our resources and state or federal or other applicable authorities may curtail our use of certain materials and/or interrupt our business operations. Furthermore, environmental laws and regulations are complex, change frequently and have tended to become more stringent. We cannot predict the impact of such changes and cannot be certain of our future compliance. We do not currently carry biological or hazardous waste insurance coverage.

Risks Related to Our Reliance on Third Parties

We currently rely on single source third-party manufacturers to manufacture preclinical and clinical supplies of our product candidates and we intend to rely on third parties to produce commercial supplies of any approved product candidate. The loss of these manufacturers, or their failure to provide us with sufficient quantities at acceptable quality levels or prices, or at all, would materially and adversely affect our business.

We do not currently have nor do we plan to build or acquire the infrastructure or capability internally to manufacture supplies of our product candidates or the materials necessary to produce our product candidates for use in the conduct of our preclinical studies or clinical trials, and we lack the internal resources and the capability to manufacture any of our product candidates on a preclinical, clinical or commercial scale. Instead, we currently rely on single source third-party manufacturers to manufacture preclinical and clinical supplies of our product candidates and we intend to rely on third parties to produce commercial supplies of any approved product candidate.

We and the manufacturers of our products rely on suppliers of raw materials used in the production of our products. Some of these materials are available from only one source. Additionally, we have not yet engaged any manufacturer for the commercial supply of our product candidates. Although we intend to enter into such agreements prior to commercial launch of any of our product candidates, we may be unable to enter into any such agreement or do so on commercially reasonable terms, which could have a material adverse impact upon our business. Moreover, if there is a disruption to one or more of our third-party suppliers' relevant operations, or if we are unable to enter into arrangements for the commercial manufacture of our product candidates, we will have no other

means of producing our lead product candidates until they restore the affected facilities or we or they procure alternative manufacturing facilities or sources of supply. Our ability to progress our preclinical and clinical programs could be materially and adversely impacted if any of the third-party suppliers upon which we rely were to experience a significant business challenge, disruption or failure due to issues such as financial difficulties or bankruptcy, issues relating to other customers such as regulatory or quality compliance issues, or other financial, legal, regulatory or reputational issues. Additionally, any damage to or destruction of our third-party manufacturer's facilities or equipment may significantly impair our ability to manufacture our product candidates on a timely basis.

Furthermore, there are a limited number of suppliers for materials we use in our product candidates, which exposes us to the risk of disruption in the supply of the materials necessary to manufacture our product candidates for our preclinical studies and clinical trials, and if approved, ultimately for commercial sale. In the case of ARQ-252 and ARQ-255, we have an agreement with Hengrui for the supply of SHR0302 API for preclinical studies and clinical trials. We do not have any control over the process or timing of the acquisition or manufacture of materials by our manufacturers. In addition, any significant delay in, or quality control problems with respect to, the supply of a product candidate, or the raw material components thereof, for an ongoing study or trial could considerably delay completion of our preclinical studies or clinical trials, product testing and potential regulatory approval of our product candidates.

In addition, to manufacture our product candidates in the quantities that we believe would be required to meet anticipated market demand, our third-party manufacturers may need to increase manufacturing capacity and, in some cases, we plan to secure alternative sources of commercial supply, which could involve significant challenges and may require additional regulatory approvals. Neither we nor our third-party manufacturers may successfully complete any required increase to existing manufacturing capacity in a timely manner, or at all. If our manufacturers or we are unable to purchase the raw materials necessary for the manufacture of our product candidates on acceptable terms, at sufficient quality levels, or in adequate quantities, if at all, the commercial launch of our lead product candidates or any future product candidates would be delayed or there would be a shortage in supply, which would impair our ability to generate revenues from the sale of such product candidates, if approved.

The loss of these suppliers, or their failure to comply with applicable regulatory requirements or to provide us with sufficient quantities at acceptable quality levels or prices, or at all, would materially and adversely affect our business.

If our third-party manufacturers fail to comply with manufacturing or other regulations, our financial results and financial condition will be adversely affected.

If our contract manufacturers cannot successfully manufacture material that conforms to our specifications and the strict regulatory requirements of the FDA or comparable regulatory authorities in foreign jurisdictions, we may not be able to rely on their manufacturing facilities for the manufacture of our product candidates.

Before beginning commercial manufacture of ARQ-151, ARQ-154, ARQ-252 or ARQ-255, the process and systems used in the manufacture of ARQ-151, ARQ-154, ARQ-252 or ARQ-255 must be approved and each facility must have a compliance status that is acceptable to the FDA and other regulatory authorities. In addition, pharmaceutical manufacturing facilities are continuously subject to inspection by the FDA and foreign regulatory authorities, before and after product approval. Due to the complexity of the processes used to manufacture pharmaceutical products and product candidates, any potential third-party manufacturer may be unable to continue to pass or initially pass federal, state or international regulatory inspections. Furthermore, although we do not have day-to-day control over

the operations of our contract manufacturers, we are responsible for ensuring compliance with applicable laws and regulations, including cGMPs.

If a third-party manufacturer with whom we contract is unable to comply with applicable laws and regulations, including cGMPs, ARQ-151, ARQ-154, ARQ-252 or ARQ-255 may not be approved, or we may be subject to fines, unanticipated compliance expenses, recall or seizure of our products, total or partial suspension of production and/or enforcement actions, including injunctions, and criminal or civil prosecution. These possible sanctions would adversely affect our financial results and financial condition.

We rely on third parties to conduct our non-clinical studies and our clinical trials. If these third parties do not successfully carry out their contractual duties or meet expected deadlines, we may be unable to obtain regulatory approval for or commercialize ARQ-151, ARQ-154, ARQ-252, ARQ-255 or any future product candidates.

We do not have the ability to independently conduct non-clinical studies and clinical trials. We rely on third parties, such as CROs, to conduct preclinical studies and clinical trials of ARQ-151, ARQ-154, ARQ-252 and ARQ-255. The third parties with whom we contract for execution of our preclinical studies and clinical trials play a significant role in the conduct of these studies and trials and the subsequent collection and analysis of data. However, these third parties are not our employees, and except for contractual duties and obligations, we have limited ability to control the amount or timing of resources that they devote to our programs. These third parties may also have relationships with other commercial entities, some of which may compete with us. In some cases, these third parties could terminate their agreements with us without cause.

Although we rely on third parties to conduct our preclinical studies and clinical trials, we remain responsible for ensuring that each of our preclinical studies and clinical trials is conducted in accordance with its investigational plan and protocol. Moreover, the FDA and foreign regulatory authorities require us to comply with regulations and standards, including some regulations commonly referred to as good clinical practices, or GCPs, for conducting, monitoring, recording and reporting the results of clinical trials to ensure that the data and results are scientifically credible and accurate, and that appropriate human subjects protections are in place, including that the trial subjects are adequately informed of the potential risks and other consequences of participating in clinical trials.

In addition, the execution of non-clinical studies and clinical trials, and the subsequent compilation and analysis of the data produced, requires coordination among various parties. In order for these functions to be carried out effectively and efficiently, it is imperative that these parties communicate and coordinate with one another. If the third parties conducting our clinical trials do not perform their contractual duties or obligations, experience work stoppages, do not meet expected deadlines, terminate their agreements with us or need to be replaced, or if the quality or accuracy of the clinical data they obtain is compromised due to the failure to adhere to our clinical trial protocols or GCPs, or for any other reason, we may need to enter into new arrangements with alternative third parties, which could be difficult, costly or impossible, and our clinical trials may be extended, delayed or terminated or may need to be repeated, which would have a material adverse effect on our business.

Risks Related to Intellectual Property

We may not be able to obtain, maintain or enforce patent rights or other intellectual property rights that cover our product candidates and technologies that are of sufficient breadth to prevent third parties from competing against us.

Our success with respect to our product candidates and technologies will depend in part on our and our licensors' ability to obtain and maintain patent protection in both the United States and other

countries, to preserve our trade secrets and to prevent third parties from infringing upon our proprietary rights. Our ability to protect any of our product candidates from unauthorized or infringing use by third parties depends in substantial part on our ability to obtain and maintain valid and enforceable patents.

Our patent portfolio includes patents and patent applications in the United States and foreign jurisdictions where we believe there is a market opportunity for our products. The covered technology and the scope of coverage vary from country to country. For those countries where we do not have granted patents, we may not have any ability to prevent the unauthorized use of our technologies. Any patents that we may obtain may be narrow in scope and thus easily circumvented by competitors. Further, in countries where we do not have granted patents, third parties may be able to make, use or sell products identical to or substantially similar to, our product candidates.

The patent application process, also known as patent prosecution, is expensive and time-consuming, and we and our current licensors, or any future licensors or licensees may not be able to prepare, file and prosecute all necessary or desirable patent applications at a reasonable cost or in a timely manner. It is also possible that we or our current licensors, or any future licensors or licensees, will fail to identify patentable aspects of inventions made in the course of development and commercialization activities before it is too late to obtain patent protection on them. Therefore, our patents and applications may not be prosecuted, and as a result may not be able to be enforced in a manner consistent with the best interests of our business. It is possible that defects of form in the preparation or filing of our patents or patent applications may exist, or may arise in the future, such as with respect to proper priority claims, inventorship, claim scope or patent term adjustments. If there are material defects in the form or preparation of our patents or patent applications, such patents or applications may be invalid and unenforceable. Moreover, our competitors may independently develop equivalent knowledge, methods and know-how to our processes, methods, and know-how which we consider our trade secrets. Any of these outcomes could impair our ability to prevent competition from third parties, which may have an adverse impact on our business, financial condition and operating results.

Due to legal standards relating to patentability, validity, enforceability and claim scope of patents covering pharmaceutical inventions, our and our licensor's ability to obtain, maintain and enforce patents is uncertain and involves complex legal and factual questions. Accordingly, rights under our existing patents or any patents we might obtain or license may not cover our product candidates, or may not provide us with sufficient protection for our product candidates to afford a commercial advantage against competitive products or processes, including those from branded and generic pharmaceutical companies. In addition, we cannot guarantee that any patents will issue from any pending or future patent applications owned by or licensed to us. Even with respect to our patents that have issued or will issue, we cannot guarantee that the claims of these patents are or will be held valid or enforceable by the courts or will provide us with any significant protection against competitive products or otherwise be commercially valuable to us. Publications of discoveries in the scientific literature often lag behind the actual discoveries, and patent applications in the United States and other jurisdictions are typically not published until 18 months after filing, or in some cases not at all. Therefore, we cannot know with certainty whether we or our licensors were the first to make the inventions claimed in our patents or pending patent applications, or that we or our licensors were the first to file for patent protection of such inventions. As a result, the issuance, scope, validity, enforceability and commercial value of our patent rights are highly uncertain. Our pending and future patent applications may not result in patents being issued that protect our technology or drugs, in whole or in part, or which effectively prevent others from commercializing competitive technologies and drugs. Changes in either the patent laws or interpretation of the patent laws in the United States and other countries may diminish the value of our patents or narrow the scope of our patent protection.

Competitors in the field of dermatologic therapeutics have created a substantial amount of prior art, including scientific publications, patents and patent applications. Our ability to obtain and maintain

valid and enforceable patents depends on whether the differences between our technology and the prior art allow our technology to be patentable over the prior art. Although we believe that our technology includes certain inventions that are unique and not duplicative of any prior art, we do not have outstanding issued patents covering all of the recent developments in our technology and we are unsure of the patent protection that we will be successful in obtaining, if any, over such aspects of our technology. Even if patents do successfully issue covering such aspects of our technology, third parties may design around or challenge the validity, enforceability or scope of such issued patents or any other issued patents we own or license, which may result in such patents being narrowed, invalidated or held unenforceable. If the breadth or strength of protection provided by the patents we own or license respect to our product candidates is challenged, it could dissuade companies from collaborating with us to develop, or threaten our ability to commercialize, our product candidates. Even if the patent applications that we own or license issue as patents, they may not issue in a form that will provide us with any meaningful protection, prevent competitors from competing with us or otherwise provide us with any competitive advantage. Our competitors may be able to circumvent our patents by developing similar or alternative technologies or drugs in a non-infringing manner.

The laws of some foreign jurisdictions do not provide intellectual property rights to the same extent as in the United States and many companies have encountered significant difficulties in protecting and defending such rights in foreign jurisdictions. If we encounter such difficulties in protecting or are otherwise precluded from effectively protecting our intellectual property in foreign jurisdictions, our business prospects could be substantially harmed. The patent positions of pharmaceutical and biotechnology companies can be highly uncertain and involve complex legal and factual questions for which important legal principles remain unresolved. Changes in either the patent laws or in the interpretations of patent laws in the United States and other countries may diminish the value of our intellectual property. Accordingly, we cannot predict the breadth of claims that may be allowed or enforced in our patents or in third-party patents.

The degree of future protection of our proprietary rights is uncertain. Patent protection may be unavailable or severely limited in some cases and may not adequately protect our rights or permit us to gain or keep our competitive advantage. For example:

- we might not have been the first to invent or the first to file the inventions covered by each of our pending patent applications and issued patents;
- others may independently develop similar or alternative technologies or duplicate any of our technologies;
- the patents of others may have an adverse effect on our business;
- any patents we obtain or our licensors' issued patents may not encompass commercially viable products, may not provide us with any competitive advantages or may be challenged by third parties;
- for some product candidates, including ARQ-151 and ARQ-154, we expect that composition of matter patent protection for the active pharmaceutical ingredient will not be available at the time we expect to commercialize, and we will therefore need to rely on formulation, method of use and other forms of claims for patent protection;
- any patents we obtain or our in-licensed issued patents may not be valid or enforceable; and
- we may not develop additional proprietary technologies that are patentable.

Patents have a limited lifespan. In the United States, the natural expiration of a patent is generally 20 years after it is filed. Various extensions may be available; however, the life of a patent, and the protection it affords, is limited. Without patent protection for our product candidates, we may be open to

competition from generic versions of our product candidates. Further, the extensive period of time between patent filing and regulatory approval for a product candidate limits the time during which we can market a product candidate under patent protection, which may particularly affect the profitability of our early-stage product candidates. Our issued U.S. patents relating to ARQ-151 and ARQ-154 with claims directed to, among other things, formulating roflumilast in combination with hexylene glycol are currently projected to expire on June 7, 2037 and the issued U.S. patents which we have exclusive rights to from Hengrui as a result of the exercise of our exclusive option with Hengrui in December 2019 for the amount of \$1.5 million cash, related to the composition of matter of the active ingredient in ARQ-252 and ARQ-255 (or bisulfate or crystal forms thereof) are currently projected to expire between January 21, 2033 and October 15, 2035 unless a patent term extension is granted. Proprietary trade secrets and unpatented know-how are also very important to our business. Although we have taken steps to protect our trade secrets and unpatented know-how by entering into confidentiality agreements with third parties, and intellectual property protection agreements with certain employees, consultants and advisors, third parties may still obtain this information or we may be unable to protect our rights. We also have limited control over the protection of trade secrets used by our suppliers, manufacturers and other third parties. There can be no assurance that binding agreements will not be breached, that we would have adequate remedies for any breach or that our trade secrets and unpatented know-how will not otherwise become known or be independently discovered by our competitors. If trade secrets are independently discovered, we would not be able to prevent their use. Enforcing a claim that a third party illegally obtained and is using our trade secrets or unpatented know-how is expensive and time-consuming, and the outcome is unpredictable. In addition, courts outside the United States may be less willing to protect trade secret information.

We may become subject to claims alleging infringement of third parties' patents or proprietary rights and/or claims seeking to invalidate our patents, which would be costly, time consuming and, if successfully asserted against us, delay or prevent the development and commercialization of ARQ-151, ARQ-154, ARQ-252, ARQ-255 or any future product candidates.

There have been many lawsuits and other proceedings asserting patents and other intellectual property rights in the pharmaceutical and biotechnology industries. We cannot assure you that our exploitation of ARQ-151, ARQ-154, ARQ-252 or ARQ-255 will not infringe existing or future third-party patents. Because patent applications can take many years to issue and may be confidential for 18 months or more after filing, there may be applications now pending of which we are unaware and which may later result in issued patents that we may infringe by commercializing ARQ-151, ARQ-154, ARQ-252 or ARQ-255. Moreover, we may face claims from non-practicing entities that have no relevant product revenue and against whom our own patent portfolio may thus have no deterrent effect. We may be unaware of one or more issued patents that would be infringed by the manufacture, sale or use of ARQ-151, ARQ-154, ARQ-252 or ARQ-255.

We may be subject to third-party claims in the future against us or our collaborators that would cause us to incur substantial expenses and, if successful against us, could cause us to pay substantial damages, including treble damages and attorney's fees if we are found to be willfully infringing a third party's patents. We may be required to indemnify future collaborators against such claims. If a patent infringement suit were brought against us or our future collaborators, we or they could be forced to stop or delay research, development, manufacturing or sales of the product or product candidate that is the subject of the suit. As a result of patent infringement claims, or in order to avoid potential claims, we or our collaborators may choose to seek, or be required to seek, a license from the third-party and would most likely be required to pay license fees or royalties or both. These licenses may not be available on acceptable terms, or at all. Even if we or our future collaborators were able to obtain a license, the rights obtained may be nonexclusive, which would not confer a competitive advantage to us from an exclusivity perspective. Ultimately, we could be prevented from commercializing a product, or forced to redesign it, or to cease some aspect of our business operations if, as a result of actual or

threatened patent infringement claims, we or our collaborators are unable to enter into licenses on acceptable terms to necessary third party patent rights. Even if we are successful in defending against such claims, such litigation can be expensive and time consuming to litigate and would divert management's attention from our core business. Any of these events could harm our business significantly.

In addition to infringement claims against us, if third parties prepare and file patent applications in the United States that also claim technology similar or identical to ours, we may have to participate in interference or derivation proceedings in the United States Patent and Trademark Office, or the USPTO, to determine which party is entitled to a patent on the disputed invention. We may also become involved in similar opposition proceedings in the European Patent Office or similar offices in other jurisdictions regarding our intellectual property rights with respect to our products and technology. Since patent applications are confidential for a period of time after filing, we cannot be certain that we were the first to file any patent application related to our product candidates.

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

Many of our employees and our licensor's employees were previously employed at other biotechnology or pharmaceutical companies. Although we and our licensors try to ensure that our employees and our licensor's employees do not use the proprietary information or know-how of others in their work for us, including by contract, we or our licensors may be subject to claims that these employees, our licensors or we have used or disclosed intellectual property, including trade secrets or other proprietary information, of any such employee's former employer. Litigation may be necessary to defend against these claims.

In addition, while it is our policy to require our employees and contractors who may be involved in the development of intellectual property to execute agreements assigning such intellectual property to us, we may in the future be unsuccessful in executing such an agreement with each party who in fact develops intellectual property that we regard as our own. Our and their assignment agreements may not be self-executing or may be breached, and we may be forced to bring claims against third parties, or defend claims they may bring against us, to determine the ownership of what we regard as our intellectual property.

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

The validity, scope and enforceability of any patents listed in the Orange Book that cover ARQ-151, ARQ-154, ARQ-252 or ARQ-255 can be challenged by competitors.

If ARQ-151, ARQ-154, ARQ-252 or ARQ-255 is approved by the FDA, one or more third parties may challenge the patents covering ARQ-151, ARQ-154, ARQ-252 or ARQ-255, which could result in the invalidation of, or render unenforceable, some or all of the relevant patent claims or a finding of non-infringement. For example, if a third party files an abbreviated new drug application, or ANDA, for a generic drug bioequivalent to ARQ-151, ARQ-154, ARQ-252 or ARQ-255, and relies in whole or in part on studies conducted by or for us, the third party will be required to certify to the FDA that either: (1) there is no patent information listed in the FDA's Orange Book with respect to our NDA for the applicable approved drug candidate; (2) the patents listed in the Orange Book have expired; (3) the listed patents have not expired, but will expire on a particular date and approval is sought after patent

expiration; or (4) the listed patents are invalid or will not be infringed by the manufacture, use or sale of the third party's generic drug. A certification that the new drug will not infringe the Orange Book-listed patents for the applicable approved drug candidate, or that such patents are invalid, is called a paragraph IV certification. If the third party submits a paragraph IV certification to the FDA, a notice of the paragraph IV certification must also be sent to us once the third party's ANDA is accepted for filing by the FDA. We may then initiate a lawsuit to defend the patents identified in the notice. The filing of a patent infringement lawsuit within 45 days of receipt of the notice automatically prevents the FDA from approving the third party's ANDA until the earliest of 30 months or the date on which the patent expires, the lawsuit is settled, or the court reaches a decision in the infringement lawsuit in favor of the third party. If we do not file a patent infringement lawsuit within the required 45-day period, the third party's ANDA will not be subject to the 30-month stay of FDA approval. Litigation or other proceedings to enforce or defend intellectual property rights are often very complex in nature, may be very expensive and time-consuming, may divert our management's attention from our core business, and may result in unfavorable results that could limit our ability to prevent third parties from competing with our product candidates.

If we do not obtain protection under the Hatch-Waxman Amendments by extending the patent term for our product candidates, our business may be materially harmed.

Our commercial success will largely depend on our ability to obtain and maintain patent and other intellectual property in the United States and other countries with respect to our proprietary technology, product candidates and our target indications. Our issued U.S. patents, with claims directed to roflumilast formulations with reduced crystal growth, encompassing ARQ-151, are currently projected to expire on June 7, 2037. Certain issued U.S. patents that we have licensed from Hengrui relating to, among other things, treatment of several diseases or disorders, including various cancers, allograft rejection, graft versus host disease, rheumatoid arthritis, atopic dermatitis, and psoriasis with SHR0302, or bisulfate and crystal forms thereof, are currently projected to expire beginning in 2033. Given the amount of time required for the development, testing and regulatory review of new product candidates, patents protecting our product candidates might expire before or shortly after such candidates begin to be commercialized. We expect to seek extensions of patent terms in the United States and, if available, in other countries where we are prosecuting patents.

Depending upon the timing, duration and specifics of FDA marketing approval of our product candidates, one or more of the U.S. patents covering our product candidates may be eligible for limited patent term restoration under the Drug Price Competition and Patent Term Restoration Act of 1984, referred to as the Hatch-Waxman Amendments. The Hatch-Waxman Amendments permit a patent restoration term of up to five years beyond the normal expiration of the patent as compensation for patent term lost during development and the FDA regulatory review process, which is limited to the approved indication (or any additional indications approved during the period of extension). This extension is limited to only one patent that covers the approved product. However, the applicable authorities, including the FDA and the USPTO in the United States, and any equivalent regulatory authority in other countries, may not agree with our assessment of whether such extensions are available, and may refuse to grant extensions to our patents, or may grant more limited extensions than we request. We may not be granted an extension because of, for example, failing to apply within applicable deadlines, failing to apply prior to expiration of relevant patents or otherwise failing to satisfy applicable requirements. Moreover, the applicable time period or the scope of patent protection afforded could be less than we request.

If we are unable to extend the expiration date of our existing patents or obtain new patents with longer expiry dates, our competitors may be able to take advantage of our investment in development and clinical trials by referencing our clinical and preclinical data to obtain approval of competing products following our patent expiration and launch their product earlier than might otherwise be the case.

Our intellectual property agreements with third parties may be subject to disagreements over contract interpretation, which could narrow the scope of our rights to the relevant intellectual property or technology or increase our financial or other obligations to our licensors.

Certain provisions in our intellectual property agreements may be susceptible to multiple interpretations. The resolution of any contract interpretation disagreement that may arise could affect the scope of our rights to the relevant intellectual property or technology, or affect financial or other obligations under the relevant agreement, either of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

We may need to license additional intellectual property from third parties, and such licenses may not be available or may not be available on commercially reasonable terms.

Additional third parties, apart from our current licensors, may hold intellectual property, including patent rights, that are important or necessary to the development of our product candidates. It may be necessary for us to use the patented or proprietary technology of these third parties to commercialize our product candidates, in which case we would be required to obtain a license from these third parties on commercially reasonable terms. Such a license may not be available, or it may not be available on commercially reasonable terms, in which case our business would be harmed. The risks described elsewhere pertaining to our intellectual property rights also apply to the intellectual property rights that we in-license, and any failure by us or our licensors to obtain, maintain, defend and enforce these rights could harm our business. In some cases we may not have control over the prosecution, maintenance or enforcement of the patents that we license, and may not have sufficient ability to provide input into the patent prosecution, maintenance and defense process with respect to such patents, and our licensors may fail to take the steps that we believe are necessary or desirable in order to obtain, maintain, defend and enforce the licensed patents.

We may not be able to protect our intellectual property rights throughout the world.

Filing, prosecuting and defending patents on product candidates, including all of the licensed rights under our exclusive supply and license agreements with AstraZeneca and Hengrui, 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. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the United States. Consequently, we may not be able to prevent third parties from practicing our inventions in all countries outside the United States, or from selling or importing products made using our inventions in and into the United States or other jurisdictions. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop their own products and further, may export otherwise infringing products to territories where we have patent protection, but enforcement is not as strong as that in the United States. These products may compete with our products and our patents or other intellectual property rights may not be effective or sufficient to prevent them from competing.

Many companies have encountered significant problems in protecting and defending intellectual property rights in foreign jurisdictions. The legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents and other intellectual property protection, particularly those relating to biopharmaceuticals, which could make it difficult for us to stop the infringement of our patents or marketing of competing products in violation of our proprietary rights generally. Proceedings to enforce our patent rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business, could put our patents at risk of being invalidated or interpreted narrowly and our patent applications at risk of not issuing and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we

initiate and the damages or other remedies awarded, if any, may not be commercially meaningful. Accordingly, our efforts to enforce our intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop or license.

Changes in U.S. patent law or the patent law of other countries or jurisdictions could diminish the value of patents in general, thereby impairing our ability to protect our products.

The United States has enacted and implemented wide-ranging patent reform legislation, and that legislation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents. On September 16, 2011, the Leahy-Smith America Invents Act, or the Leahy-Smith Act, was signed into law. The Leahy-Smith Act includes a number of significant changes to United States patent law. These include provisions that affect the way patent applications are prosecuted and may also affect patent litigation. The United States Patent Office recently developed new regulations and procedures to govern administration of the Leahy-Smith Act, and many of the substantive changes to patent law associated with the Leahy-Smith Act, and in particular, the first to file provisions, only became effective on March 16, 2013. Accordingly, it is not clear what, if any, impact the Leahy-Smith Act will have on the operation of our business. However, the Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business and financial condition. In addition, patent reform legislation may pass in the future that could lead to additional uncertainties and increased costs surrounding the prosecution, enforcement and defense of our patents and pending patent applications.

The United States Supreme Court has ruled on several patent cases in recent years, either narrowing the scope of patent protection available in certain circumstances or weakening the rights of patent owners in certain situations. In addition to increasing uncertainty with regard to our ability to obtain patents in the future, this combination of events has created uncertainty with respect to the value of patents, once obtained. Depending on actions by the United States Congress, the federal courts and the USPTO, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce patents that we have licensed or that we might obtain in the future. Similarly, changes in patent law and regulations in other countries or jurisdictions or changes in the governmental bodies that enforce them or changes in how the relevant governmental authority enforces patent laws or regulations may weaken our ability to obtain new patents or to enforce patents that we have licensed or that we may obtain in the future. We cannot predict future changes in the interpretation of patent laws or changes to patent laws that might be enacted into law by United States and foreign legislative bodies. Those changes may materially affect our patents or patent applications and our ability to obtain additional patent protection in the future.

The United States federal government retains certain rights in inventions produced with its financial assistance under the Bayh-Dole Act. The federal government retains a "nonexclusive, nontransferable, irrevocable, paid-up license" for its own benefit. The Bayh-Dole Act also provides federal agencies with "march-in rights." March-in rights allow the government, in specified circumstances, to require the contractor or successors in title to the patent to grant a "nonexclusive, partially exclusive, or exclusive license" to a "responsible applicant or applicants." If the patent owner refuses to do so, the government may grant the license itself. Having a mandatory non-exclusive license grant may diminish the value of our patents as well as making it more difficult to protect our products.

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 noncompliance with these requirements.

Periodic maintenance fees on any issued patent are due to be paid to the USPTO and other foreign patent agencies in several stages over the lifetime of the patent. The USPTO and various foreign national or international patent agencies require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. While an inadvertent lapse can in many cases be cured by payment of a late fee or by other means in accordance with the applicable rules, there are situations in which noncompliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. Noncompliance events that could result in abandonment or lapse of patent rights include, but are not limited to, failure to timely file national and regional stage patent applications based on our international patent application, failure to respond to official actions within prescribed time limits, non-payment of fees and failure to properly legalize and submit formal documents. If we or our licensors fail to maintain the patents and patent applications covering any of our product candidates, our competitors might be able to enter the market earlier than anticipated, which would harm our business.

If our trademarks and trade names are not adequately protected, then we may not be able to build name recognition in our markets of interest and our business may be adversely affected.

Our registered or unregistered trademarks or trade names may be challenged, infringed, circumvented, declared generic or conflict with third-party rights. We may not be able to protect our rights to these trademarks and trade names, which we need to build name recognition by potential partners or customers in our markets of interest. In addition, third parties may file first for our trademarks in certain countries. If they succeeded in registering such trademarks, and if we were not successful in challenging such third-party rights, we may not be able to use these trademarks to market our products in those countries. In such cases, over the long term, if we are unable to establish name recognition based on our trademarks and trade names, then our marketing abilities may be impacted.

We have not yet registered trademarks for a commercial trade name for our lead candidates in the United States or foreign jurisdictions and failure to secure such registrations could adversely affect our business.

We have not yet registered trademarks for a commercial trade name for our lead product candidates in the United States or any foreign jurisdiction. During trademark registration proceedings, we may receive rejections. Although we are given an opportunity to respond to those rejections, we may be unable to overcome such rejections. In addition, in the USPTO and in comparable agencies in many foreign jurisdictions, third parties are given an opportunity to oppose pending trademark applications and to seek to cancel registered trademarks. Opposition or cancellation proceedings may be filed against our trademarks, and our trademarks may not survive such proceedings. Moreover, any name we propose to use with our product candidates in the United States must be approved by the FDA, regardless of whether we have registered it, or applied to register it, as a trademark. The FDA typically conducts a review of proposed product names, including an evaluation of potential for confusion with other product names. If the FDA objects to any of our proposed proprietary product names, we may be required to expend significant additional resources in an effort to identify a suitable substitute name that would qualify under applicable trademark laws, not infringe the existing rights of third parties and be acceptable to the FDA.

If we are unable to protect the confidentiality of our proprietary information and know-how, the value of our technology and products could be adversely affected.

We may not be able to protect our proprietary information and technology adequately. Although we use reasonable efforts to protect our proprietary information, technology, and know-how, our employees, consultants, contractors, outside scientific advisors, licensors or licensees may unintentionally or willfully disclose our information to competitors. Enforcing a claim that a third party illegally obtained and is using any of our proprietary information, technology or know-how is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect proprietary information, technology, and know-how. We rely, in part, on non-disclosure and confidentiality agreements with our employees, consultants and other parties to protect our proprietary information, technology, and know-how. These agreements may be breached and we may not have adequate remedies for any breach. Moreover, others may independently develop similar or equivalent proprietary information, and third parties may otherwise gain access to our proprietary knowledge.

If we fail to comply with our obligations under any license, collaboration or other agreements, we may be required to pay damages and could lose intellectual property rights that are necessary for developing and protecting our product candidates.

We have licensed or acquired certain intellectual property rights covering our current product candidates from third parties, including AstraZeneca and Hengrui. We are heavily dependent on our agreements with such third parties for our current product candidates. If, for any reason, one or more of our agreements with such third parties is terminated or we otherwise lose those rights, it could harm our business. Our license and other agreements impose, and any future collaboration agreements or license agreements we enter into are likely to impose various development, commercialization, funding, milestone, royalty, diligence, sublicensing, insurance, patent prosecution and enforcement or other obligations on us. If we breach any such material obligations, or use the intellectual property licensed to us in an unauthorized manner, we may be required to pay damages and the licensor may have the right to terminate the license, which could result in us being unable to develop, manufacture and sell products that are covered by the licensed technology, or having to negotiate new or reinstated licenses on less favorable terms, or enable a competitor to gain access to the licensed technology.

We may become involved in lawsuits to protect or enforce our patents or other intellectual property or the patents of our licensors, which could be expensive and time-consuming.

Competitors may infringe our intellectual property, including our patents or the patents of our licensors. As a result, we may be required to file infringement claims or inform and cooperate with our licensors to stop third-party infringement or unauthorized use. This can be expensive, particularly for a company of our size, and time-consuming. In addition, in an infringement proceeding, a court may decide that a patent of ours is not valid or is unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that our patent claims do not cover its technology or that the factors necessary to grant an injunction against an infringer are not satisfied. An adverse determination of any litigation or other proceedings could put one or more of our patents at risk of being invalidated, interpreted narrowly or amended such that they do not cover our product candidates. Moreover, such adverse determinations could put our patent applications at risk of not issuing, or issuing with limited and potentially inadequate scope to cover our product candidates or to prevent others from marketing similar products.

Interference, derivation or other proceedings brought at the USPTO may be necessary to determine the priority or patentability of inventions with respect to our patent applications or those of our licensors or potential partners. Litigation or USPTO proceedings brought by us may fail or may be

invoked against us by third parties. Even if we are successful, domestic or foreign litigation or USPTO or foreign patent office proceedings may result in substantial costs. We may not be able, alone or with our licensors or potential partners, 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.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation or other proceedings, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation or other proceedings. In addition, during the course of this kind of litigation or proceedings, there could be public announcements of the results of hearings, motions or other interim proceedings or developments or public access to related documents. If investors perceive these results to be negative, the market price for our common stock could be significantly harmed.

Third-party claims or litigation alleging infringement of patents or other proprietary rights, or seeking to invalidate patents or other proprietary rights, may delay or prevent the development and commercialization of any of our product candidates.

Our commercial success depends in part on our and our licensors avoiding infringement and other violations of the patents and proprietary rights of third parties. However, our research, development and commercialization activities may be subject to claims that we infringe or otherwise violate patents or other intellectual property rights owned or controlled by third parties. There is a substantial amount of litigation, both within and outside the United States, involving patent and other intellectual property rights in the biotechnology and pharmaceutical industries, including patent infringement lawsuits, interferences, derivation and administrative law proceedings, inter partes review and post-grant review before the USPTO, as well as oppositions and similar processes in foreign jurisdictions. Numerous United States and foreign issued patents and pending patent applications, which are owned by third parties, exist in the fields in which we and our collaborators are developing product candidates. As the biotechnology and pharmaceutical industries expand and more patents are issued, and as we gain greater visibility and market exposure as a public company, the risk increases that our product candidates or other business activities may be subject to claims of infringement of the patent and other proprietary rights of third parties. Third parties may assert that we are infringing their patents or employing their proprietary technology without authorization.

There may be third-party patents or patent applications with claims to materials, formulations, methods of manufacture or methods for treatment related to the use or manufacture of our product candidates. Because patent applications can take many years to issue, there may be currently pending patent applications that may later result in issued patents that our product candidates may infringe. In addition, third parties may obtain patents in the future and claim that use of our technologies infringes upon these patents. If any third-party patents were held by a court of competent jurisdiction to cover the manufacturing process of any of our product candidates, any molecules formed during the manufacturing process or any final product itself, the holders of any such patents may be able to block our ability to commercialize such product candidate unless we obtained a license under the applicable patents, or until such patents expire. Similarly, if any third-party patent was to be held by a court of competent jurisdiction to cover aspects of our formulations, processes for manufacture or methods of use, including combination therapy, the holders of any such patent may be able to block our ability to develop and commercialize the applicable product candidate unless we obtained a license or until such patent expires. In either case, such a license may not be available on commercially reasonable terms or at all. In addition, we may be subject to claims that we are infringing other intellectual property rights, such as trademarks or copyrights, or misappropriating the trade secrets of others, and to the extent that our employees, consultants or contractors use intellectual property or proprietary information owned by others in their work for us, disputes may arise as to the rights in related or resulting know-how and inventions.

Parties making claims against us may obtain injunctive or other equitable relief, which could effectively block our ability to further develop and commercialize one or more of our product candidates. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of employee resources from our business. In the event of a successful infringement or other intellectual property claim against us, we may have to pay substantial damages, including treble damages and attorneys' fees for willful infringement, obtain one or more licenses from third parties, pay royalties or redesign our affected products, which may be impossible or require substantial time and monetary expenditure. We cannot predict whether any such license would be available at all or whether it would be available on commercially reasonable terms. Furthermore, even in the absence of litigation, we may need to obtain licenses from third parties to advance our research or allow commercialization of our product candidates, and we have done so from time to time. We may fail to obtain any of these licenses at a reasonable cost or on reasonable terms, if at all. In that event, we would be unable to further develop and commercialize one or more of our product candidates, which could harm our business significantly. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar negative impact on our business.

Some of our competitors may be able to sustain the costs of complex intellectual property litigation more effectively than we can because they have substantially greater resources. In addition, intellectual property litigation, regardless of its outcome, may cause negative publicity, adversely impact prospective customers, cause product shipment delays, or prohibit us from manufacturing, marketing or otherwise commercializing our products, services and technology. Any uncertainties resulting from the initiation and continuation of any litigation could adversely impact our ability to raise additional funds or otherwise harm our business, results of operation, financial condition or cash flows.

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, which could adversely impact the price of our common shares. If securities analysts or investors perceive these results to be negative, it could adversely impact the price of our common shares. The occurrence of any of these events may harm our business, results of operation, financial condition or cash flows.

We cannot provide any assurances that third-party patents do not exist which might be enforced against our drugs or product candidates, resulting in either an injunction prohibiting our sales, or, with respect to our sales, an obligation on our part to pay royalties or other forms of compensation to third parties.

Intellectual property litigation could cause us to spend substantial resources and distract our personnel from their normal responsibilities, and have a harmful effect on the success of our business.

Even if resolved in our favor, litigation or other legal proceedings relating to intellectual property claims may cause us to incur significant expenses, and could distract our technical and management personnel from their normal responsibilities. In addition, there could be public announcements of the results of hearings, motions or other interim proceedings or developments, and if securities analysts or investors perceive these results to be negative, it could adversely impact the price of our common shares. Such litigation or proceedings could substantially increase our operating losses and reduce the resources available for development activities or any future sales, marketing or distribution activities. We may not have sufficient financial or other resources to conduct such litigation or proceedings adequately. Some of our competitors may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their greater financial resources. Accordingly, despite our

efforts, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property. In addition, the uncertainties associated with litigation could compromise our ability to raise the funds necessary to continue our clinical trials and internal research programs, or in-license needed technology or other product candidates. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could compromise our ability to compete in the marketplace, including compromising our ability to raise the funds necessary to continue our clinical trials, continue our research programs, license necessary technology from third parties, or enter into development collaborations that would help us commercialize our product candidates, if approved.

Risks Related to Government Regulation

Even if we receive regulatory approval of our product candidates, we will be subject to extensive and ongoing regulatory obligations and continued regulatory review, which may result in significant additional expense, and we may be subject to penalties if we fail to comply with regulatory requirements or experience unanticipated problems with our product candidates.

Any regulatory approvals or other marketing authorizations we obtain for our product candidates may be subject to limitations on the indicated uses for which the product may be marketed or the conditions of approval or marketing authorization, or contain requirements for potentially costly post-market testing and surveillance to monitor the safety and efficacy of the product candidate. The FDA may also require a REMS as a condition of approval of our drug product candidates, such as ARQ-151, ARQ-154, ARQ-252 and ARQ-255, which could include requirements for a medication guide, physician communication plans or additional elements to assure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. In addition, if the FDA or a comparable foreign regulatory authority authorizes our product candidates for marketing, the manufacturing processes, labeling, packaging, distribution, adverse event reporting, storage, advertising, promotion, import, export and recordkeeping for our product candidates will be subject to extensive and ongoing regulatory requirements. These requirements include submissions of safety and other post-marketing information and reports, registration, as well as continued compliance with cGMPs and GCP requirements for any clinical trials that we conduct post-approval. Later discovery of previously unknown problems with our product candidates, including adverse events of unanticipated severity or frequency, or with our third-party manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may result in, among other things:

- restrictions on the marketing or manufacturing of our product candidates, withdrawal of the product from the market, or voluntary or mandatory product recalls;
- fines, warning or untitled letters or holds on clinical trials;
- refusal by the FDA to accept new marketing applications or supplements, approve or otherwise authorize for marketing pending applications or supplements to applications filed by us or suspension or revocation of approvals or other marketing authorizations;
- product seizure or detention, or refusal to permit the import or export of our product candidates; and
- injunctions or the imposition of civil or criminal penalties.

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

In addition, we cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative or executive action, either in the United States or abroad. For example, certain policies of the current presidential administration may impact our business and industry. Namely, the current presidential administration has taken several executive actions, including the issuance of a number of Executive Orders, that could impose significant burdens on, or otherwise materially delay, the FDA's ability to engage in routine regulatory and oversight activities such as implementing statutes through rulemaking, issuance of guidance, and review and approval of marketing applications. It is difficult to predict how these requirements will be implemented, and the extent to which they will impact the FDA's ability to exercise its regulatory authority. If these executive actions impose constraints on the FDA's ability to engage in oversight and implementation activities in the normal course, our business may be negatively impacted.

Changes in funding for the FDA and other government agencies 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. 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 harm 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 harm our business.

Our product candidates, if authorized for marketing, may cause or contribute to adverse medical events that we are required to report to the FDA, and if we fail to do so, we would be subject to sanctions that could harm our reputation, business, financial condition and results of operations. The discovery of serious safety issues with our product candidates, or a recall of our products either voluntarily or at the direction of the FDA or another governmental authority, if such products are marketed, could have a negative impact on us.

With respect to any of our product candidates in clinical testing or approved by FDA, we will be subject to the FDA's safety reporting requirements. The timing of our obligation to report is triggered by the date we become aware of the adverse event as well as the nature of the event. We may fail to report adverse events of which we become aware within the prescribed timeframe. We may also fail to recognize that we have become aware of a reportable adverse event, especially if it is not reported to us as an adverse event or if it is an adverse event that is unexpected or removed in time from the use of the product. If we fail to comply with our reporting obligations, the FDA could take action, including warning letters, untitled letters, administrative actions, criminal prosecution, imposition of civil monetary penalties, revocation of our approval or delay in approval of future products.

We may choose to voluntarily recall a product if any material deficiency is found. A recall could occur as a result of an unacceptable risk to health, component failures, malfunctions, manufacturing defects, labeling or design deficiencies, packaging defects or other deficiencies or failures to comply with applicable regulations. Product defects or other errors may occur in the future. Recalls involving

our product candidates, if and when they are approved or otherwise authorized for marketing, could be particularly harmful to our business, financial condition and results of operations.

We may be subject to healthcare laws and regulations relating to our business, and could face substantial penalties if we are determined not to have fully complied with such laws, which would have an adverse impact on our business.

Our business operations and current and future arrangements with investigators, healthcare professionals, consultants, third-party payors, customers and patients, may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations. These laws may constrain the business or financial arrangements and relationships through which we conduct our operations, including how we research, market, sell and distribute any products for which we obtain marketing approval. Such laws include:

- the U.S. federal Anti-Kickback Statute, which prohibits, among other things, persons and entities from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce or reward, or in return for, 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 a U.S. healthcare program such as Medicare and Medicaid. A person or entity does not need to have actual knowledge of the U.S. federal Anti-Kickback Statute or specific intent to violate it in order to have committed a violation. In addition, the government may assert that a claim including items or services resulting from a violation of the U.S. federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the civil False Claims Act;
- U.S. federal civil and criminal false claims laws and civil monetary penalties laws, including the civil False Claims Act, which, among other things, impose criminal and civil penalties, including through civil whistleblower or qui tam actions, against individuals or entities for knowingly presenting, or causing to be presented, to the U.S. government, claims for payment or approval that are false or fraudulent, knowingly making, using or causing to be made or used, a false record or statement material to a false or fraudulent claim, or from knowingly making a false statement to avoid, decrease or conceal an obligation to pay money to the U.S. government;
- the U.S. Health Insurance Portability and Accountability Act of 1996, or HIPAA, which imposes criminal and civil liability for, among other things, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program, or knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false statement, in connection with the delivery of, or payment for, healthcare benefits, items or services. Similar to the U.S. federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, or HITECH, and its implementing regulations, which also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information without appropriate authorization by covered entities subject to the rule, such as health plans, healthcare clearinghouses and healthcare providers as well as their business associates that perform certain services for or on their behalf involving the use or disclosure of individually identifiable health information;
- the U.S. Physician Payments Sunshine Act, which requires certain manufacturers of drugs, devices, biologics and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program (with certain exceptions) to report annually to the government information related to payments or other "transfers of value" made

to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors) and teaching hospitals, (as well as certain other healthcare professionals beginning in 2022) and requires applicable manufacturers and group purchasing organizations to report annually to the government ownership and investment interests held by the physicians described above and their immediate family members;

- state privacy laws and regulations, such as those of California, that impose restrictive requirements regulating the use and disclosure of health information and other personally identifiable information (for example, in June 2018, California enacted the California Consumer Privacy Act (which will go into effect on January 1, 2020) that gives California residents expanded rights to access and delete their personal information, opt out of certain personal information sharing and receive detailed information about how their personal information is used, and provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation; resulting in increased compliance costs and potential liability);
- the U.S. Foreign Corrupt Practices Act of 1977, as amended, which prohibits, among other things, U.S. companies and their employees and agents from authorizing, promising, offering, or providing, directly or indirectly, corrupt or improper payments or anything else of value to foreign government officials, employees of public international organizations and foreign government owned or affiliated entities, candidates for foreign political office, and foreign political parties or officials thereof;
- federal consumer protection and unfair competition laws, which broadly regulate marketplace activities and activities that potentially harm consumers; and
- analogous state and non-U.S. laws and regulations, such as state anti-kickback and false claims laws, which may apply to our business practices, including, but not limited to, research, distribution, sales and marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers; state laws that require pharmaceutical and device companies to comply with the industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the U.S. government, or otherwise restrict payments that may be made to healthcare providers and other potential referral sources; state laws and regulations that require manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures and pricing information; and state and non-U.S. laws governing the privacy and security of health information in some circumstances, many of which differ from each other in significant ways and often are not preempted by HIPAA, thus complicating compliance efforts.

Efforts to ensure that our current and future business arrangements with third parties will comply with applicable healthcare laws and regulations will involve substantial costs. It is possible that governmental authorities may conclude that our business practices, including our consulting arrangements with and/or ownership interests by physicians and other healthcare providers, do not comply with current or future statutes, regulations, agency guidance or case law involving applicable healthcare laws. If our operations are found to be in violation of any of these or any other health regulatory laws that may apply to us, we may be subject to significant penalties, including the imposition of significant civil, criminal and administrative penalties, damages, monetary fines, disgorgement, individual imprisonment, possible exclusion from participation in Medicare, Medicaid and other U.S. healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, and curtailment or restructuring of our operations, any of which could adversely affect our ability to operate our business and our results of operations. Defending against any such actions can be costly, time-consuming and may require significant financial and personnel resources. Therefore, even if we are successful in defending against any such actions that may be brought

against us, our business may be impaired. If any of the above occur, it could adversely affect our ability to operate our business and our results of operations.

We have conducted and may in the future conduct clinical trials for our product candidates outside the United States and the FDA and applicable foreign regulatory authorities may not accept data from such trials.

We have conducted and may in the future choose to conduct one or more of our clinical trials outside the United States, including in Canada and Europe. Although the FDA or applicable foreign regulatory authority may accept data from clinical trials conducted outside the United States or the applicable jurisdiction, acceptance of such study data by the FDA or applicable foreign regulatory authority may be subject to certain conditions. Where data from foreign clinical trials are intended to serve as the basis for marketing approval in the United States, the FDA will not approve the application on the basis of foreign data alone unless those data are applicable to the U.S. population and U.S. medical practice; the studies were performed by clinical investigators of recognized competence; and the data are considered valid without the need for an on-site inspection by the FDA or, if the FDA considers such an inspection to be necessary, the FDA is able to validate the data through an on-site inspection or other appropriate means. Many foreign regulatory authorities have similar requirements. In addition, such foreign studies would be subject to the applicable local laws of the foreign jurisdictions where the studies are conducted. There can be no assurance the FDA or applicable foreign regulatory authority will accept data from trials conducted outside of the United States or the applicable jurisdiction. If the FDA or applicable foreign regulatory authority does not accept such data, it would likely result in the need for additional trials, which would be costly and time-consuming and delay aspects of our business plan.

Recently enacted and future legislation may increase the difficulty and cost for us to obtain marketing approval of and commercialize our product candidates and affect the prices we may obtain.

In the United States and some non-U.S. jurisdictions, there have been, and we expect there will continue to be, a number of legislative and regulatory changes and proposed changes regarding the healthcare system that could, among other things, prevent or delay marketing approval of our product candidates, restrict or regulate post-approval activities and affect our ability to profitably sell any product candidates for which we obtain marketing approval.

For example, in March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, collectively the Affordable Care Act, was enacted in the United States to broaden access to health insurance, reduce or constrain the growth of healthcare spending, enhance remedies against fraud and abuse, add new transparency requirements for healthcare and health insurance industries, impose new taxes and fees on the health industry and impose additional health policy reforms. The law has continued the downward pressure on the pricing of medical items and services, especially under the Medicare program, and increased the industry's regulatory burdens and operating costs. Among the provisions of the Affordable Care Act of importance to our potential product candidates are the following:

- an annual, nondeductible fee payable by any entity that manufactures or imports specified branded prescription drugs and biologic agents;
- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program;
- a new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for drugs that are inhaled, infused, instilled, implanted or injected;

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- a new Medicare Part D coverage gap discount program, in which manufacturers must agree to offer 70% point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs to be covered under Medicare Part D;
- extension of manufacturers' Medicaid rebate liability to individuals enrolled in Medicaid managed care organizations;
- expansion of eligibility criteria for Medicaid programs in certain states;
- expansion of the entities eligible for discounts under the Public Health Service pharmaceutical pricing program;
- a new requirement to annually report drug samples that manufacturers and distributors provide to physicians;
- a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research; and
- an independent payment advisory board that will submit recommendations to Congress to reduce Medicare spending if projected Medicare spending exceeds a specified growth rate.

Since its enactment, there have been judicial and Congressional challenges to certain aspects of the Affordable Care Act, and we expect there will be additional challenges and amendments to the Affordable Care Act in the future. The current presidential administration and U.S. Congress have sought and will likely continue to seek to modify, repeal, or otherwise invalidate all, or certain provisions of, the Affordable Care Act. For example, the Tax Cuts and Jobs Act of 2017, or TCJA, was enacted, which includes a provision that repealed, effective January 1, 2019, the tax-based shared responsibility payment imposed by the Affordable Care Act on certain individuals who fail to maintain qualifying health coverage for all or part of a year that is commonly referred to as the "individual mandate." On December 14, 2018, a U.S. District Court Judge in the Northern District of Texas ruled that the individual mandate is a critical and inseparable feature of the Affordable Care Act, and therefore, because it was repealed as part of the TCJA, the remaining provisions of the Affordable Care Act are invalid as well. While the Trump administration and CMS have both stated that the ruling will have no immediate effect, it is unclear how this decision, subsequent appeals, if any, and other efforts to repeal and replace the Affordable Care Act will impact the Affordable Care Act and our business. It is uncertain the extent to which any such changes may impact our business or financial condition.

In addition, other legislative changes have been proposed and adopted in the United States since the Affordable Care Act was enacted. These changes include the Budget Control Act of 2011, which, among other things, resulted in reductions to Medicare payments to providers of 2% per fiscal year and will remain in effect through 2029; the American Taxpayer Relief Act of 2012, which, among other things, further reduced Medicare payments to several types of providers and increased the statute of limitations period for the government to recover overpayments to providers from three to five years; and the Medicare Access and CHIP Reauthorization Act of 2015, which, among other things, ended the use of the sustainable growth rate formula and provides for a 0.5% update to physician payment rates for each calendar year through 2019, after which there will be a 0% annual update each year through 2025. More recently, there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several Congressional inquiries and proposed bills designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for pharmaceutical products.

Individual states in the United States have also become increasingly aggressive in passing legislation and implementing regulations designed to control pharmaceutical product pricing, including

price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. In addition, regional healthcare authorities and individual hospitals are increasingly using bidding procedures to determine what pharmaceutical products to purchase and which suppliers will be included in their prescription drug and other healthcare programs.

We expect that the Affordable Care Act, as well as other healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria, new payment methodologies and in additional downward pressure on the price that we receive for any approved product. Any reduction in reimbursement from Medicare or other government programs may result in a similar reduction in payments from private payors. We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative action, either in the United States or abroad. If we are slow or unable to adapt to new requirements or policies, or if we are not able to maintain regulatory compliance, our product candidates may lose any regulatory approval that may have been obtained and we may not achieve or sustain profitability, which would adversely affect our business.

If any of our product candidates are approved for marketing and we are found to have improperly promoted off-label uses, or if physicians misuse our products or use our products off-label, we may become subject to prohibitions on the sale or marketing of our products, product liability claims and significant fines, penalties and sanctions, and our brand and reputation could be harmed.

The FDA and other foreign regulatory authorities strictly regulate the marketing of and promotional claims that are made about drug products. In particular, a product may not be promoted for uses or indications that are not approved by the FDA or such other foreign regulatory authorities as reflected in the product's approved labeling. In addition, although we believe our product candidates may exhibit a lower risk of side effects or more favorable tolerability profile or better symptomatic improvement than other products for the indications we are studying, without head-to-head data, we will be unable to make comparative claims for our product candidates, if approved. If we receive regulatory approval for any of our products and are found to have promoted any of our products for off-label uses, we may become subject to significant liability, which would materially harm our business. Both federal and state governments have levied large civil and criminal fines against companies for alleged improper promotion and have enjoined several companies from engaging in off-label promotion. If we become the target of such an investigation or prosecution based on our marketing and promotional practices, we could face similar sanctions, which would materially harm our business. In addition, management's attention could be diverted from our business operations, significant legal expenses could be incurred, and our brand and reputation could be damaged. The FDA has also previously requested that companies enter into consent decrees or permanent injunctions under which specified promotional conduct is changed or curtailed. If we are deemed by the FDA to have engaged in the promotion of our products for off-label use, we could be subject to FDA regulatory or enforcement actions, including the issuance of an untitled letter, a warning letter, injunction, seizure, civil fine or criminal penalties. It is also possible that other federal, state or foreign enforcement authorities might take action if they determine our business activities constitute promotion of an off-label use, which could result in significant penalties, including criminal, civil or administrative penalties, damages, fines, disgorgement, exclusion from participation in government healthcare programs and the curtailment or restructuring of our operations.

We cannot, however, prevent a physician from using our product candidates in ways that fall outside the scope of the approved indications, as he or she may deem appropriate in his or her medical judgment. Physicians may also misuse our product candidates or use improper techniques,

which may lead to adverse results, side effects or injury and, potentially, subsequent product liability claims. Furthermore, the use of our product candidates for indications other than those approved by the FDA and/or other regulatory authorities may not effectively treat such conditions, which could harm our brand and reputation among both physicians and patients.

Risks Related to Our Common Stock and This Offering

There has been no established public market for our common stock, the stock price of our common stock may be volatile or may decline and you may not be able to resell your shares at or above the offering price.

Prior to this offering, no market for shares of our common stock existed and an active trading market for our shares may never develop or be sustained following this offering. The initial public offering price for our common stock will be determined through negotiations with the underwriters and the negotiated price may not be indicative of the market price of our common stock after this offering. The market value of our common stock may decrease from the initial public offering price. As a result of these and other factors, you may be unable to resell your shares of our common stock at or above the initial public offering price. The lack of an active market may impair your ability to sell your shares at the time you wish to sell them or at a price that you consider reasonable. The lack of an active market may also reduce the fair market value of your shares. Furthermore, an inactive market may also impair our ability to raise capital by selling shares of our common stock and may impair our ability to enter into strategic collaborations or acquire companies or products by using our shares of common stock as consideration.

The market price of our common stock may fluctuate significantly in response to numerous factors, many of which are beyond our control, including:

- limited daily trading volume resulting in the lack of a liquid market;
- the development status of our product candidates, including whether any of our product candidates receive regulatory approval;
- the performance of third parties on whom we rely for clinical trials, manufacturing, marketing, sales and distribution, including their ability to comply with regulatory requirements;
- regulatory or legal developments in the United States and foreign countries;
- the results of our clinical trials and preclinical studies;
- the clinical results of our competitors or potential competitors;
- the execution of our partnering and manufacturing arrangements;
- our execution of collaboration, co-promotion, licensing or other arrangements, and the timing of payments we may make or receive under these arrangements;
- variations in the level of expenses related to our preclinical and clinical development programs, including relating to the timing of invoices from, and other billing practices of, our CROs and clinical trial sites;
- variations in the level of expenses related to our commercialization activities, if any product candidates are approved;
- the success of, and fluctuations in, the commercial sales any product candidates approved for commercialization in the future;
- overall performance of the equity markets;

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- changes in operating performance and stock market valuations of other pharmaceutical companies;
- market conditions or trends in our industry or the economy as a whole;
- the public's response to press releases or other public announcements by us or third parties, including our filings with the SEC, and announcements relating to acquisitions, strategic transactions, licenses, joint ventures, capital commitments, intellectual property, litigation or other disputes impacting us or our business;
- developments with respect to intellectual property rights;
- our commencement of, or involvement in, litigation;
- FDA or foreign regulatory actions affecting us or our industry;
- changes in the structure of healthcare payment systems;
- the financial projections we may provide to the public, any changes in these projections or our failure to meet these projections;
- changes in financial estimates by any securities analysts who follow our common stock, our failure to meet these estimates or failure of those analysts to initiate or maintain coverage of our common stock;
- ratings downgrades by any securities analysts who follow our common stock;
- the development and sustainability of an active trading market for our common stock;
- the size of our market float;
- the expiration of market standoff or contractual lock-up agreements and future sales of our common stock by our officers, directors and significant stockholders;
- recruitment or departure of key personnel;
- changes in accounting principles;
- other events or factors, including those resulting from war, incidents of terrorism, natural disasters or responses to these events; and
- any other factors discussed in this prospectus.

In addition, the stock markets have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many pharmaceutical companies. Stock prices of many pharmaceutical companies have fluctuated in a manner unrelated or disproportionate to the operating performance of those companies. In the past, stockholders have instituted securities class action litigation following periods of market volatility. If we were involved in securities litigation, we could incur substantial costs and our resources and the attention of management could be diverted from our business.

If securities or industry analysts do not publish research or reports about our business, or if they issue an adverse or misleading opinion regarding our stock, our stock price and trading volume could decline.

The trading market for our common stock will be influenced by the research and reports that industry or securities analysts publish about us or our business. We do not currently have and may never obtain research coverage by securities and industry analysts. If no or few securities or industry analysts commence coverage of us, the trading price for our stock would be negatively impacted. In the event we obtain securities or industry analyst coverage, if any of the analysts who cover us issue

an adverse or misleading opinion regarding us, our business model, our intellectual property or our stock performance, or if our clinical trials and operating results fail to meet the expectations of analysts, our stock price would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline.

We qualify as an “emerging growth company” as defined in the JOBS Act and we have decided to avail ourselves of reduced disclosure requirements applicable to emerging growth companies, including delaying adopting new or revised accounting standards, which could make our common stock less attractive to investors.

We qualify as an “emerging growth company” as defined in the JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not “emerging growth companies” including certain reduced financial statement reporting obligations, reduced disclosure obligations about our executive compensation arrangements, exemptions from the requirement that we solicit non-binding advisory votes on executive compensation or golden parachute arrangements and exemption from the auditor’s attestation requirements of Section 404(b) of the Sarbanes-Oxley Act. We may take advantage of these reporting exemptions until we are no longer an “emerging growth company.” We will remain an emerging growth company until the last day of our fiscal year following the fifth anniversary of the completion of this offering. However, if certain events occur prior to the end of such five-year period, including if we become a “large accelerated filer,” our annual gross revenues exceed \$1.07 billion or we issue more than \$1.0 billion of non-convertible debt in any three-year period, we will cease to be an emerging growth company prior to the end of such five-year period.

Under the JOBS Act, emerging growth companies can also delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have elected to take advantage of the benefits of this extended transition period. Our financial statements may therefore not be comparable to those of companies that comply with such new or revised accounting standards. Until the date that we are no longer an “emerging growth company” or affirmatively and irrevocably opt out of the exemption provided by Section 7(a)(2)(B) of the Securities Act, upon issuance of a new or revised accounting standard that applies to our financial statements and that has a different effective date for public and private companies, we will disclose the date on which adoption is required for non-emerging growth companies and the date on which we will adopt the recently issued accounting standard.

Purchasers in this offering will experience immediate and substantial dilution in the book value of their investment.

The initial public offering price of our common stock is substantially higher than the pro forma net tangible book value per share of our common stock before giving effect to this offering. Accordingly, if you purchase our common stock in this offering, you will incur immediate substantial dilution of approximately \$ per share, based on the initial public offering price of \$ per share, which is the midpoint of the estimated price range set forth on the cover of this prospectus, and our pro forma net tangible book value as of September 30, 2019. In addition, following this offering, purchasers in this offering will have contributed approximately % of the total gross consideration paid by stockholders to us to purchase shares of our common stock, through September 30, 2019, but will own only approximately % of the shares of common stock outstanding immediately after this offering. Furthermore, if the underwriters exercise their option to purchase additional shares, or outstanding options are exercised, you could experience further dilution. For a further description of the dilution that you will experience immediately after this offering, see the section titled “Dilution.”

Raising additional funds by issuing securities may cause dilution to existing shareholders, raising additional funds through debt financings may involve restrictive covenants, and raising funds through lending and licensing arrangements may restrict our operations or require us to relinquish proprietary rights.

We expect that significant additional capital will be needed in the future to continue our planned operations. Until such time, if ever, that we can generate substantial product revenue, we expect to finance our cash needs through a combination of equity offerings, debt financings, strategic alliances and license and development agreements or other collaborations. To the extent that we raise additional capital by issuing equity securities, our existing shareholders' ownership may experience substantial dilution, and the terms of these securities may include liquidation or other preferences that could harm the rights of a common shareholder. Additionally, any agreements for future debt or preferred equity financings, if available, may involve covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends.

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

Our principal stockholders and management own a significant percentage of our stock and will be able to exert significant control over matters subject to stockholder approval.

Prior to this offering as of November 30, 2019, our executive officers, directors, holders of 5% or more of our capital stock and their respective affiliates beneficially owned approximately 75% of our voting stock and, upon the closing of this offering, that same group will hold approximately % of our outstanding voting stock (inclusive of shares of common stock purchased in this offering and assuming no exercise of the underwriters' option to purchase additional shares and no exercise of outstanding options). Therefore, even after this offering these stockholders will have the ability to influence us through this ownership position. These stockholders may be able to determine all matters requiring stockholder approval. For example, these stockholders may be able to control elections of directors, amendments of our organizational documents, or approval of any merger, sale of assets, or other major corporate transaction. This may prevent or discourage unsolicited acquisition proposals or offers for our common stock that you may feel are in your best interest as one of our stockholders.

Sales of a substantial number of shares of our common stock in the public market could cause our stock price to fall.

Based on shares outstanding as of September 30, 2019, upon completion of this offering, we will have outstanding a total of shares of common stock. Of these shares, only shares of common stock sold in this offering, or shares if the underwriters exercise their option to purchase additional shares in full, will be freely tradable, without restriction, in the public market immediately after this offering. Each of our officers, directors and certain of our stockholders have entered or will enter into lock-up agreements with the underwriters that restrict their ability to sell or transfer their shares. The lock-up agreements pertaining to this offering will expire 180 days from the date of this prospectus. However, our underwriters may, in their sole discretion, permit our officers, directors and other current stockholders who are subject to the contractual lock-up to sell shares prior to the expiration of the lock-up agreements. After the lock-up agreements expire, based on shares outstanding as of September 30, 2019, up to an additional shares of common stock will be

eligible for sale in the public market, approximately _____ of which are held by our officers, directors and their affiliated entities, and will be subject to volume limitations under Rule 144 under the Securities Act of 1933, as amended, or the Securities Act. In addition, _____ shares of our common stock that are subject to outstanding options as of September 30, 2019 and _____ shares of our common stock that are subject to options granted after September 30, 2019 will become eligible for sale in the public market to the extent permitted by the provisions of various vesting agreements, the lock-up agreements and Rules 144 and 701 under the Securities Act.

After this offering, the holders of an aggregate of _____ shares of our outstanding common stock as of September 30, 2019 will have rights, subject to some conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or our stockholders. We also intend to register shares of common stock that we may issue under our equity incentive plans. Once we register these shares, they will be able to be sold freely in the public market upon issuance, subject to the 180-day lock-up period under the lock-up agreements described above and in the section entitled "Underwriting."

We cannot predict what effect, if any, sales of our shares in the public market or the availability of shares for sale will have on the market price of our common stock. However, future sales of substantial amounts of our common stock in the public market, including shares issued upon exercise of our outstanding warrant or options, or the perception that such sales may occur, could adversely affect the market price of our common stock.

We also expect that significant additional capital may be needed in the future to continue our planned operations. To raise capital, we may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in a manner we determine from time to time. To the extent that additional capital is raised through the sale and issuance of shares or other securities convertible into shares, our stockholders will be diluted. These sales, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock.

We will have broad discretion in the use of proceeds from this offering and may invest or spend the proceeds in ways with which you do not agree and in ways that may not increase the value of your investment.

We will have broad discretion over the use of proceeds from this offering. You may not agree with our decisions, and our use of the proceeds may not yield any return on your investment. We expect to use the net proceeds to us from this offering, together with our existing cash, cash equivalents and marketable securities, to fund further development of our ARQ-151, ARQ-154 and ARQ-252 programs and for working capital and general corporate purposes. Our failure to apply the net proceeds from this offering effectively could compromise our ability to pursue our growth strategy and we might not be able to yield a significant return, if any, on our investment of these net proceeds. You will not have the opportunity to influence our decisions on how to use our net proceeds from this offering.

Our ability to utilize our net operating loss, or NOL, carryforwards and research and development income tax credit carryforwards may be limited.

As of December 31, 2018, we had NOL carryforwards available to reduce future taxable income, if any, for federal and California income tax purposes of \$17.2 million and \$18.1 million, respectively. If not utilized, California NOL carryforwards will expire beginning in 2036 of the federal NOL carryforwards, \$3.5 million originated before the 2018 tax year and will begin to expire in 2036 if not utilized. Under the Tax Act, the remaining \$13.6 million of federal NOL carryforwards generated after December 31, 2017 will carryforward indefinitely with utilization limited to 80% of taxable income. As of

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December 31, 2018, we had federal and California research and development tax credit carryforwards of \$751,000 and \$261,000, respectively. If not utilized, the federal research and development tax credit carryforwards will begin to expire in 2037. The California research and development tax credit carryforwards are available indefinitely.

Under Section 382 and 383 of the Internal Revenue Code of 1986, as amended, if a corporation undergoes an “ownership change,” generally defined as a greater than 50% change (by value) in its equity ownership by certain stockholders over a three year period, the corporation’s ability to use its pre-change NOL carryforwards and other pre-change tax attributes (such as research tax credits) to offset its post-change income or taxes may be limited. A formal study has not been completed to determine if a change in ownership, as defined by Section 382, has occurred. We believe that we may undergo an “ownership change” limitation as a result of this offering (some of which shifts are outside of our control). We may also experience additional ownership changes in the future as a result of subsequent shifts in our stock ownership. As a result, if we earn net taxable income, our ability to use our pre-change NOL carryforwards to offset U.S. federal taxable income may be subject to limitations, which could potentially result in increased future tax liability to us. In addition, at the state level, there may be periods during which the use of NOL carryforwards is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed.

Provisions in our corporate charter documents and under Delaware law may prevent or frustrate attempts by our stockholders to change our management and hinder efforts to acquire a controlling interest in us, and the market price of our common stock may be lower as a result.

Our restated certificate of incorporation and restated bylaws that will be in effect immediately prior to the completion of this offering will contain provisions that could delay or prevent changes in control or changes in our management without the consent of our board of directors. These provisions will include the following:

- 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;
- no cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates;
- 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;
- the ability of our board of directors to authorize the issuance of shares of 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 acquiror;
- the ability of our board of directors to alter our bylaws without obtaining stockholder approval;
- the required approval of a super-majority of the shares entitled to vote at an election of directors to adopt, amend or repeal our bylaws or repeal the provisions of our restated certificate of incorporation regarding the election and removal of directors;
- a prohibition on stockholder action by written consent, which forces stockholder action to be taken at an annual or special meeting of our stockholders;
- the requirement that a special meeting of stockholders may be called only by the chief executive officer or 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

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- 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 acquiror from conducting a solicitation of proxies to elect the acquiror's own slate of directors or otherwise attempting to obtain control of us.

In addition, these provisions would apply even if we were to receive an offer that some stockholders may consider beneficial.

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. For a description of our capital stock, see the section titled "Description of Capital 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 restated certificate of incorporation 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 restated bylaws to be effective immediately prior to the completion of this offering 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 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 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.
- We may not retroactively amend our restated bylaw provisions to reduce our indemnification obligations to directors, officers, employees and agents.

Our restated certificate of incorporation will provide that the Court of Chancery of the State of Delaware will be the exclusive forum for substantially all disputes between us and our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.

In addition, our restated certificate of incorporation, to the fullest extent permitted by law, will provide that the Court of Chancery of the State of Delaware will be the exclusive forum for: any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty; any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, or the DGCL, our restated certificate of incorporation, or our restated bylaws; or any action asserting a claim against us that is governed by the internal affairs doctrine. This exclusive forum provision does not apply to suits brought to enforce a duty or liability created by the Exchange Act. It could apply, however, to a suit that falls within one or more of the categories enumerated in the exclusive forum provision and asserts claims under the Securities Act, inasmuch as Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rule and regulations thereunder. There is uncertainty as to whether a court would enforce such provision with respect to claims under the Securities Act, and our stockholders will not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder.

This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, or other employees, which may discourage lawsuits with respect to such claims. Alternatively, if a court were to find the choice of forum provisions contained in our restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, results of operations and financial condition.

We do not currently intend to pay dividends on our common stock, and, consequently, your ability to achieve a return on your investment will depend on appreciation in the price of our common stock.

We do not currently intend to pay any cash dividends on our common stock for the foreseeable future. We currently intend to invest our future earnings, if any, to fund our growth. Therefore, you are not likely to receive any dividends on your common stock for the foreseeable future. Since we do not intend to pay dividends, your ability to receive a return on your investment will depend on any future appreciation in the market value of our common stock. There is no guarantee that our common stock will appreciate or even maintain the price at which our holders have purchased it.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

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

The forward-looking statements in this prospectus include, among other things, statements about:

- the success, cost and timing of our plans to develop and commercialize immune-dermatology drugs, including our current products, ARQ-151, ARQ-154, ARQ-252 and ARQ-255 for indications including psoriasis, atopic dermatitis, scalp psoriasis, seborrheic dermatitis, hand eczema, vitiligo and alopecia areata;
- our ability to obtain funding for our operations, including funding necessary to complete further development and commercialization of our product candidates;
- the timing of and our ability to obtain and maintain regulatory approvals for ARQ-151, ARQ-154, ARQ-252 and ARQ-255;
- future agreements, if any, with third parties in connection with the commercialization of our product candidates;
- the success, cost and timing of our product candidate development activities and planned clinical trials;
- the rate and degree of market acceptance and clinical utility of our product candidates;
- the potential market size and the size of the patient populations for our product candidates, if approved for commercial uses;
- our commercialization, marketing and manufacturing capabilities and strategy;
- the success of competing therapies that are or may become available;
- our ability to attract and retain key management and technical personnel;
- our expectations regarding our ability to obtain, maintain and enforce intellectual property protection for our product candidates;
- our use of the net proceeds from this offering; and
- our estimates regarding expenses, future revenue, capital requirements and needs for additional financing.

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

You should not rely upon forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot

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guarantee that the future results, levels of activity, performance or events and circumstances reflected in the forward-looking statements will be achieved or occur. We undertake no obligation to update publicly any forward-looking statements for any reason after the date of this prospectus to conform these statements to actual results or to changes in our expectations, except as required by law.

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

USE OF PROCEEDS

We estimate that we will receive net proceeds of approximately \$ [redacted] from the sale of shares of common stock in this offering, or approximately \$ [redacted] if the underwriters exercise their option to purchase additional shares in full, based on an assumed initial public offering price of \$ [redacted] per share, which is the midpoint of the estimated price range set forth on the cover of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ [redacted] per share, the midpoint of the price range set forth on the cover of this prospectus, would increase (decrease) the net proceeds to us from this offering by \$ [redacted] million, assuming that the number of shares offered by us, as set forth on the cover of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase (decrease) of 1.0 million in the number of shares offered by us in this offering would increase (decrease) the net proceeds that we receive from this offering by \$ [redacted] million, assuming the initial public offering price remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

We currently intend to use the net proceeds we receive from this offering, together with our existing cash, cash equivalents and marketable securities, as follows:

- approximately \$ [redacted] million to \$ [redacted] million to fund further development of our ARQ-151 programs through Phase 3 in psoriasis and into Phase 2b in atopic dermatitis;
- approximately \$ [redacted] million to \$ [redacted] million to fund further development of our ARQ-154 programs into Phase 3 in seborrheic dermatitis and scalp psoriasis;
- approximately \$ [redacted] million to \$ [redacted] million to fund further development of our ARQ-252 programs into Phase 2b in hand eczema; and
- any remaining amounts to fund working capital and general corporate purposes.

Based on our planned use of the net proceeds, we estimate such funds, together with our existing cash, cash equivalents and marketable securities, will be sufficient for us to fund our operating expenses and capital expenditure requirements through at least [redacted].

The expected use of the net proceeds from the offering represents our intentions based upon our current plans and business conditions. The amounts we actually expend in these areas, and the timing thereof, may vary significantly from our current intentions and will depend on a number of factors, including the success of research and product development efforts, cash generated from future operations and actual expenses to operate our business. We may use a portion of the net proceeds for the acquisition of, or investment in, businesses that complement our business, although we have no present commitments or agreements.

The amounts and timing of our preclinical and clinical expenditures and the extent of preclinical and clinical development may vary significantly depending on numerous factors, including the status, results and timing of our current clinical trials and clinical trials which we may commence in the future, the product approval process with the FDA and foreign regulatory authorities, any new collaborations we may enter into with third parties and any unforeseen cash needs. As a result, we cannot predict with any certainty all of the particular uses for the net proceeds or the amounts that we will actually spend on the uses set forth above. Accordingly, our management will have broad discretion in the application of the net proceeds, and investors will be relying on the judgment of our management regarding the application of the net proceeds of this offering.

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The expected net proceeds of this offering will not be sufficient for us to fund any of our product candidates through regulatory approval, and we will need to raise substantial additional capital to complete the development and commercialization of our product candidates.

Pending the uses described above, we intend to invest the net proceeds from this offering in short term, investment-grade interest-bearing securities such as money market accounts, certificates of deposit, commercial paper and guaranteed obligations of the U.S. government.

DIVIDEND POLICY

We have never declared or paid cash dividends on our common stock. We currently intend to retain all available funds and any future earnings for use in the operation of our business and do not anticipate paying any cash dividends on our common stock in the foreseeable future. Any future determination to declare dividends will be made at the discretion of our board of directors and will depend on our financial condition, operating results, capital requirements, general business conditions and other factors that our board of directors may deem relevant.

CAPITALIZATION

The following table sets forth our cash, cash equivalents and marketable securities and capitalization as of September 30, 2019:

- on an actual basis;
- on a pro forma basis to give effect to: (i) the issuance of 16,251,628 shares of Series C convertible preferred stock for gross cash proceeds of \$94.5 million in October 2019 and (ii) the conversion of all of our outstanding shares of convertible preferred stock into an aggregate of 48,787,895 shares of our common stock, which includes our Series C convertible preferred stock issued in October 2019, immediately prior to the completion of this offering and (iii) the filing and effectiveness of our restated certificate of incorporation, in each case immediately prior to this offering; and
- on a pro forma as adjusted basis, giving effect to: (i) the pro forma adjustments set forth above and (ii) our receipt of estimated net proceeds from the sale and issuance of shares of our common stock in this offering at an assumed initial public offering price of per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting the underwriting discounts and commissions and estimated offering expenses payable by us.

The information set forth in the table below is illustrative only and will be adjusted based on the actual initial public offering price and other terms of this offering as determined at pricing. You should read this table together with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our audited financial statements and related notes and unaudited interim condensed financial statements and related notes thereto included elsewhere in this prospectus.

	As of September 30, 2019		
	Actual	Pro Forma	Pro Forma As Adjusted(1)
	(in thousands, except share and per-share data) (unaudited)		
Cash, cash equivalents and marketable securities	\$ 25,177	\$	\$
Convertible preferred stock, \$0.0001 par value; 32,536,270 shares authorized, 32,536,267 shares issued and outstanding and aggregate liquidation preference of \$71,800, actual; no shares issued or outstanding, pro forma and pro forma as adjusted	\$ 72,252	\$	\$
Stockholders’ equity (deficit):			
Preferred stock, \$0.0001 par value: no shares authorized, issued or outstanding, actual; shares authorized, no shares issued or outstanding pro forma and pro forma as adjusted	—		
Common stock, \$0.0001 par value; 44,000,000 shares authorized, 5,735,065 shares issued and outstanding, actual; shares authorized, pro forma and pro forma as adjusted; shares issued and outstanding, pro forma; shares issued and outstanding, pro forma as adjusted	—		
Additional paid-in capital	754		
Accumulated other comprehensive income	—		
Accumulated deficit	(53,704)		
Total stockholders’ (deficit) equity	(52,950)		
Total capitalization	\$ 19,302	\$	\$

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- (1) Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ _____ per share, which is the midpoint of the price range set forth on the cover of this prospectus, would increase (decrease) each of our pro forma as adjusted cash, cash equivalents and marketable securities, additional paid-in-capital, total stockholders' equity and total capitalization by approximately \$ _____ million, assuming that the number of shares offered by us, as set forth on the cover of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase (decrease) of 1.0 million in the number of shares offered by us in this offering would increase (decrease) each of our pro forma as adjusted cash, cash equivalents and marketable securities, additional paid-in-capital, total stockholders' equity and total capitalization by approximately \$ _____ million, assuming the initial public offering price remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The number of shares of our common stock to be outstanding after this offering is based on 54,522,960 shares of our common stock outstanding as of September 30, 2019, including 1,777,301 shares of unvested common stock subject to repurchase, assuming the conversion of all our outstanding shares of convertible preferred stock, including 16,251,628 shares of Series C convertible preferred stock issued in October 2019, into an aggregate of 48,787,895 shares of our common stock immediately prior to completion of this offering, and excludes:

- 3,147,770 shares of common stock issuable upon the exercise of options outstanding as of September 30, 2019 under our 2017 Equity Incentive Plan, with an average exercise price of \$0.80 per share;
- _____ shares of common stock issuable upon the exercise of options outstanding that were granted after September 30, 2019 under our 2017 Equity Incentive Plan, with an average exercise price of \$ _____ per share;
- 2,191,014 shares of common stock reserved for future issuance under our 2017 Equity Incentive Plan as of September 30, 2019, which will cease to be available for issuance at the time that our 2020 Equity Incentive Plan becomes effective;
- 2,823,831 additional shares of common stock reserved for future issuance under our 2017 Equity Incentive Plan after September 30, 2019 in connection with the sale of Series C convertible preferred stock in October 2019, which will cease to be available for issuance at the time that our 2020 Equity Incentive Plan becomes effective;
- _____ shares of common stock that will become available for future issuance under our 2020 Equity Incentive Plan upon the effectiveness of the registration statement of which this prospectus forms a part; and _____ shares of common stock that will become available for future issuance under our 2020 Employee Stock Purchase Plan upon the effectiveness of the registration statement of which this prospectus forms a part. Upon completion of this offering, any remaining shares available for issuance under our 2017 Equity Incentive Plan will be added to the shares reserved under our 2020 Equity Incentive Plan and we will cease granting awards under our 2017 Equity Incentive Plan. Our 2020 Equity Incentive Plan and 2020 Employee Stock Purchase Plan also provide for automatic annual increases in the number of shares reserved under the plans each year, as more fully described in "Executive Compensation—Equity Compensation Plans and Other Benefit Plans."

DILUTION

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

Net tangible book value (deficit) per share is determined by dividing our total tangible assets (which excludes deferred offering costs) less our total liabilities and convertible preferred stock by the number of shares of common stock outstanding. Our historical net tangible book value (deficit) as of September 30, 2019 was \$(53.0) million, or \$(9.23) per share of our common stock, based on 5,735,065 shares of common stock outstanding as of September 30, 2019 including 1,777,301 shares of unvested common stock subject to repurchase.

Our pro forma net tangible book value as of September 30, 2019 was approximately \$ _____ million, or \$ _____ per share of common stock. Our pro forma net tangible book value per share represents the amount of our total tangible assets (which excludes deferred offering costs) reduced by the amount of our total liabilities and divided by the total number of shares of our common stock outstanding as of September 30, 2019, after giving effect to: (i) the issuance of 16,251,628 shares of Series C convertible preferred stock for gross cash proceeds of \$94.5 million in October 2019 and (ii) the conversion of all of our outstanding shares of convertible preferred stock into an aggregate of 48,787,895 shares of common stock, which includes our Series C convertible preferred stock issued in October 2019.

After giving effect to (i) the pro forma adjustments set forth above and (ii) our sale in this offering of _____ shares of our common stock at an assumed initial public offering price of \$ _____ per share, the midpoint of the estimated price range set forth on the cover of this prospectus, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of September 30, 2019 would have been approximately \$ _____ million, or \$ _____ per share of our common stock. This represents an immediate increase in pro forma net tangible book value of \$ _____ per share to our existing stockholders and an immediate dilution of \$ _____ per share to investors in this offering. Net tangible book value dilution per share to new investors in this offering represents the difference between the amount per share paid by purchasers of shares of common stock in this offering and the pro forma as adjusted net tangible book value per share of common stock immediately after completion of this offering. The following table illustrates this dilution on a per share basis:

Assumed initial public offering price, per share	\$
Historical net tangible book value (deficit) per share as of September 30, 2019	\$(9.23)
Increase attributable to pro forma adjustments	
Pro forma net tangible book value per share as of September 30, 2019	_____
Increase in pro forma net tangible book value per share attributable to new investors in this offering	_____
Pro forma as adjusted net tangible book value per share after this offering	_____
Dilution in pro forma as adjusted net tangible book value per share to new investors in this offering	\$ _____

The dilution information discussed above is illustrative only and may change based on the actual initial public offering price and other terms of this offering.

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Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ _____ per share, the midpoint of the price range set forth on the cover of this prospectus, would increase (decrease) our pro forma as adjusted net tangible book value by \$ _____ million, or \$ _____ per share and the dilution in pro forma as adjusted net tangible book value per share to new investors in this offering by \$ _____ per share, assuming the number of shares offered by us, as set forth on the cover of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase of 1.0 million in the number of shares offered by us in this offering would increase our pro forma as adjusted net tangible book value by approximately \$ _____ million, or approximately \$ _____ per share, and would decrease dilution per share to new investors in this offering by approximately \$ _____ per share, and each decrease of 1.0 million in the number of shares offered by us in this offering would decrease our pro forma as adjusted net tangible book value by approximately \$ _____ million, or approximately \$ _____ per share, and would increase dilution per share to new investors in this offering by approximately \$ _____ per share, in each case assuming the initial public offering price remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

If the underwriters exercise their option in full to purchase additional shares, the pro forma as adjusted net tangible book value per share after this offering would be \$ _____ per share, the increase in pro forma as adjusted net tangible book value per share to existing stockholders would be \$ _____ per share and the dilution to new investors in this offering would be \$ _____ per share.

The following table shows, as of September 30, 2019, on a pro forma as adjusted basis described above, the number of shares of our common stock, the total consideration and the average price per share (i) paid to us by existing stockholders and (ii) to be paid by new investors acquiring our common stock in this offering at an assumed initial public offering price of \$ _____ per share, the midpoint of the estimated price range set forth on the cover page of this prospectus, before deducting underwriting discounts and commission and estimated offering expenses payable by us:

	<u>Shares Purchased</u>		<u>Total Consideration</u>		<u>Average Price</u>
	<u>Number</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>	<u>Per Share</u>
Existing stockholders		%	\$	%	\$
New investors					\$
Total		100.0%	\$	100.0%	

Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ _____ per share, the midpoint of the estimated price range set forth on the cover of this prospectus, would increase (decrease) total consideration paid by new investors by approximately \$ _____ million, assuming that the number of shares offered by us, as set forth on the cover of this prospectus, remains the same and after deducting the underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase (decrease) of 1.0 million in the number of shares offered by us in this offering would increase (decrease) total consideration paid by new investors by approximately \$ _____ million, assuming the initial public offering price remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

Except as otherwise indicated, the above discussion and tables assume no exercise of the underwriters' option to purchase additional shares. If the underwriters exercise their option to purchase additional shares in full, our existing stockholders would own _____ % and our new investors would own _____ % of the total number of shares of our common stock outstanding upon the completion of this offering.

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The number of shares of our common stock to be outstanding after this offering is based on 54,522,960 shares of our common stock outstanding as of September 30, 2019, including 1,777,301 shares of unvested common stock subject to repurchase, assuming the conversion of all our outstanding shares of convertible preferred stock, including 16,251,628 shares of Series C convertible preferred stock issued in October 2019, into an aggregate of 48,787,895 shares of our common stock immediately prior to completion of this offering, and excludes:

- 3,147,770 shares of common stock issuable upon the exercise of options outstanding as of September 30, 2019 under our 2017 Equity Incentive Plan, with an average exercise price of \$0.80 per share;
- _____ shares of common stock issuable upon the exercise of options outstanding that were granted after September 30, 2019 under our 2017 Equity Incentive Plan, with an average exercise price of \$ _____ per share;
- 2,191,014 shares of common stock reserved for future issuance under our 2017 Equity Incentive Plan as of September 30, 2019, which will cease to be available for issuance at the time that our 2020 Equity Incentive Plan becomes effective;
- 2,823,831 additional shares of common stock reserved for future issuance under our 2017 Equity Incentive Plan after September 30, 2019 in connection with the sale of Series C convertible preferred stock in October 2019, which will cease to be available for issuance at the time that our 2020 Equity Incentive Plan becomes effective;
- _____ shares of common stock that will become available for future issuance under our 2020 Equity Incentive Plan upon the effectiveness of the registration statement of which this prospectus forms a part; and _____ shares of common stock that will become available for future issuance under our 2020 Employee Stock Purchase Plan upon the effectiveness of the registration statement of which this prospectus forms a part. Upon completion of this offering, any remaining shares available for issuance under our 2017 Equity Incentive Plan will be added to the shares reserved under our 2020 Equity Incentive Plan and we will cease granting awards under our 2017 Equity Incentive Plan. Our 2020 Equity Incentive Plan and 2020 Employee Stock Purchase Plan also provide for automatic annual increases in the number of shares reserved under the plans each year, as more fully described in “Executive Compensation—Equity Compensation Plans and Other Benefit Plans.”

In addition, to the extent that any outstanding options are exercised, investors in this offering will experience further dilution.

SELECTED FINANCIAL DATA

The following tables set forth our selected statements of operations and balance sheet data. The selected statements of operations data for the years ended December 31, 2017 and 2018, and the selected balance sheet data as of December 31, 2017 and 2018, are derived from our audited financial statements and the related notes thereto included elsewhere in this prospectus, which financial statements have been audited by our independent registered public accounting firm. We derived our summary statements of operations data for the nine months ended September 30, 2018 and 2019 and our summary balance sheet data as of September 30, 2019 from our unaudited interim condensed financial statements and the related notes thereto included elsewhere in this prospectus. Our unaudited interim condensed financial statements have been prepared in accordance with U.S. generally accepted accounting principles on the same basis as our audited annual financial statements and, in the opinion of management, reflect all adjustments, consisting only of normal, recurring adjustments, that are necessary for the fair statement of our financial position as of September 30, 2019 and our results of operations for the nine months ended September 30, 2018 and 2019. The following selected financial data below should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes included elsewhere in this prospectus. Our historical results are not necessarily indicative of the results that may be expected in any future period. The selected financial data in this section are not intended to replace the financial statements and are qualified in their entirety by the financial statements and related notes included elsewhere in this prospectus.

	Year Ended December 31,		Nine Months Ended September 30,	
	2017	2018	2018	2019
	(unaudited)			
	(in thousands, except share and per share data)			
Statements of operations data:				
Operating expenses:				
Research and development	\$ 3,411	\$ 17,940	\$ 12,593	\$ 25,765
General and administrative	695	1,795	1,189	4,373
Total operating expenses	4,106	19,735	13,782	30,138
Loss from operations	(4,106)	(19,735)	(13,782)	(30,138)
Other income (expense), net	(872)	480	128	710
Net loss	\$ (4,978)	\$ (19,255)	\$ (13,654)	\$ (29,428)
Net loss per share, basic and diluted(1)	\$ (3.58)	\$ (7.76)	\$ (5.92)	\$ (8.30)
Weighted-average shares used in computing net loss per share, basic and diluted(1)	1,391,097	2,480,246	2,305,932	3,547,292
Pro forma net loss per share, basic and diluted (unaudited)(1)		\$		\$
Weighted-average shares used in computing pro forma net loss per share, basic and diluted (unaudited)(1)		=====		=====

(1) See Notes 2, 11 and 12 to our audited financial statements and Notes 2, 10 and 11 to our unaudited interim condensed financial statements included elsewhere in this prospectus for a description of how we compute basic and diluted net loss per share and basic and diluted pro forma net loss per share, and the weighted-average number of shares used in the computation of these per share amounts.

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	<u>December 31,</u>		<u>September 30,</u>
	<u>2017</u>	<u>2018</u>	<u>2019</u>
			<u>(unaudited)</u>
	(in thousands)		
Balance sheet data:			
Cash, cash equivalents, and marketable securities	\$ 3,418	\$ 50,940	\$ 25,177
Working capital(1)	3,127	48,425	19,172
Total assets	3,819	51,098	28,303
Convertible preferred stock	7,154	72,252	72,252
Accumulated deficit	(5,021)	(24,276)	(53,704)
Total stockholders' deficit	(4,993)	(23,987)	(52,950)

(1) We define working capital as current assets less current liabilities. See our financial statements and related notes appearing at the end of this prospectus for further details regarding our current assets and current liabilities.

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

The following discussion and analysis of our financial condition and results of operations should be read together with our "Selected Financial Data" and our audited financial statements and related notes and unaudited interim condensed financial statements and related notes appearing elsewhere in this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans, objectives, expectations, projections and strategy for our business, includes forward-looking statements that involve risks and uncertainties. As a result of many factors, including those factors identified below and those set forth in the "Risk Factors" section of this prospectus, our actual results and the timing of selected events could differ materially from the forward-looking statements contained in the following discussion and analysis. Please also see the section entitled "Special Note Regarding Forward-Looking Statements."

Overview

We are a late-stage biopharmaceutical company focused on developing and commercializing treatments for dermatological diseases with high unmet medical needs. Our current portfolio is comprised of topical treatments with significant potential to address immune-mediated dermatological diseases and conditions, or immuno-dermatology. Our strategy is to identify and develop treatments against validated biological targets in dermatology that deliver a differentiated clinical profile that addresses major shortcomings of existing therapies in our targeted indications. We believe this strategy uniquely positions us to rapidly progress towards our goal of bridging the treatment innovation gap in dermatology, while maximizing our probability of technical success and financial resources.

Our lead product candidate, ARQ-151, is in Phase 3 clinical trials in plaque psoriasis. ARQ-151 is a topical cream formulation of roflumilast, a highly potent and selective phosphodiesterase type 4, or PDE4, inhibitor, which we are developing for the treatment of plaque psoriasis, including psoriasis in intertriginous regions such as the groin, axillae, and inframammary areas, as well as atopic dermatitis. In July 2018, we executed a licensing agreement with AstraZeneca AB, or AstraZeneca, for exclusive worldwide rights to all topical dermatological uses of roflumilast. We have successfully completed a Phase 2b study of ARQ-151 in plaque psoriasis, and, in August 2019, paid AstraZeneca the first milestone payment of \$2.0 million that was earned upon the achievement of positive Phase 2 data for any AZ-Licensed Product (as defined in "—License Agreements—AstraZeneca License Agreement"). We have also completed enrollment in a long-term safety study of ARQ-151 in plaque psoriasis patients, and expect to report topline data in the first half of 2021. We held a positive End-of-Phase 2 Meeting with the FDA in October 2019 and have initiated Phase 3 studies in plaque psoriasis, with topline data expected in the first half of 2021. We also completed a Phase 2 proof of concept study of ARQ-151 in atopic dermatitis and plan to initiate a Phase 2b study in the second half of 2020, with topline results expected in the second half of 2021. In addition, we are developing ARQ-154, a topical foam formulation of ARQ-151, and have initiated a Phase 2 proof of concept study in seborrheic dermatitis and a Phase 2b study in scalp psoriasis. We expect to report topline data in the second half of 2020 with respect to seborrheic dermatitis and in Q4 2020/Q1 2021 with respect to scalp psoriasis. Beyond this, in 2020, we also plan to initiate clinical studies of ARQ-252, a potent and highly selective topical janus kinase type 1, or JAK1, inhibitor for the treatment of hand eczema and vitiligo. Additionally, we have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin in order to potentially treat alopecia areata. In January 2018, we executed an exclusive option and license agreement with Jiangsu Hengrui Medicine Co., Ltd. of China, or Hengrui, to the active pharmaceutical ingredient in ARQ-252 and ARQ-255 for all topical formulations for dermatological uses in the United States, Europe and Japan. In December 2019, we exercised our exclusive option associated with this agreement, for which we made a \$1.5 million cash payment, and also contemporaneously amended the agreement to expand the territory to additionally include Canada.

Since our inception in 2016, we have invested a significant portion of our efforts and financial resources in research and development activities. We have not generated any revenue from product sales and, to date, have funded our operations primarily with \$68.3 million in net cash proceeds from private placements of our convertible preferred stock as of September 30, 2019. In October 2019, we received an additional \$94.5 million in gross cash proceeds by selling an aggregate of 16,251,628 shares of our Series C convertible preferred stock. We have incurred net losses in each year since inception, including net losses of \$5.0 million and \$19.3 million for the years ended December 31, 2017 and 2018, respectively, and \$13.7 million and \$29.4 million for the nine months ended September 30, 2018 and 2019, respectively. As of September 30, 2019, we had an accumulated deficit of \$53.7 million and cash, cash equivalents and marketable securities of \$25.2 million.

We expect to continue to incur losses for the foreseeable future and expect to incur increased expenses as we advance our product candidates through clinical trials and regulatory submissions. We do not expect to generate revenue from product sales unless, and until, we obtain regulatory approval or clearance from the FDA or other foreign regulatory authorities for our product candidates. If we obtain regulatory approval or clearance for our product candidates, we expect to incur significant commercialization expenses related to product sales, marketing, manufacturing and distribution. In addition, we expect that our expenses will increase substantially as we continue preclinical studies and clinical trials for, and research and development of, our product candidates and maintain, expand and protect our intellectual property portfolio and begin operating as a public company. As a result, we will need substantial additional funding to support our operating activities. Adequate funding may not be available to us on acceptable terms, or at all. We currently anticipate that we will seek to fund our operations through equity or debt financings or other sources, such as future potential collaboration agreements. Our failure to obtain sufficient funds on acceptable terms as and when needed could have a material adverse effect on our business, results of operations and financial condition. See “—Liquidity, Capital Resources and Requirements” below and Note 1 to the financial statements and interim condensed financial statements for additional information. Based on our current planned operations, we expect that the net proceeds from this offering, together with our existing cash, cash equivalent, and marketable securities, will be sufficient to fund our operations through at least the next 12 months.

We rely on third parties in the conduct of our preclinical studies and clinical trials and for manufacturing and supply of our product candidates. We have no internal manufacturing capabilities, and we will continue to rely on third parties, many of whom are single-source suppliers, for our preclinical and clinical trial materials, as well as the commercial supply of our products. In addition, we do not yet have a sales organization or commercial infrastructure. Accordingly, we will incur significant expenses to develop a sales organization or commercial infrastructure in advance of generating any product sales.

License Agreements

AstraZeneca License Agreement

In July 2018, we entered into an exclusive license agreement, or the AstraZeneca License Agreement, with AstraZeneca, granting us a worldwide exclusive license, with the right to sublicense through multiple tiers, under certain AstraZeneca-controlled patent rights, know-how and regulatory documentation, to research, develop, manufacture, commercialize and otherwise exploit products containing roflumilast in topical forms, as well as delivery systems sold with or for the administration of roflumilast, or collectively, the AZ-Licensed Products, for all diagnostic, prophylactic and therapeutic uses for human dermatological indications, or the Dermatology Field. Under this agreement, we have sole responsibility for development, regulatory, and commercialization activities for the AZ-Licensed Products in the Dermatology Field, at our expense, and we shall use commercially reasonable efforts

to develop, obtain and maintain regulatory approvals for, and commercialize the AZ-Licensed Products in the Dermatology Field in each of the United States, Italy, Spain, Germany, the United Kingdom, France, China, and Japan.

We paid AstraZeneca an upfront non-refundable cash payment of \$1.0 million and issued 969,117 shares of our Series B Preferred stock, valued at \$3.0 million on the date of the AstraZeneca License Agreement. We subsequently paid AstraZeneca the first milestone cash payment of \$2.0 million upon the completion of a Phase 2b study of ARQ-151 in plaque psoriasis in August 2019 for the achievement of positive Phase 2 data for an AZ-Licensed Product. We have agreed to make additional cash payments to AstraZeneca of up to an aggregate of \$12.5 million upon the achievement of specific clinical development and regulatory approval milestones with respect to the AZ-Licensed Products and payments up to an additional aggregate amount of \$15.0 million upon the achievement of certain aggregate worldwide net sales milestones. With respect to any AZ-Licensed Products we commercialize under the AstraZeneca License Agreement, we will pay AstraZeneca a low to high single-digit percentage royalty rate on our, our affiliates' and our sublicensees' net sales of such AZ-Licensed Products, until, as determined on an AZ-Licensed Product-by-AZ-Licensed Product and country-by-country basis, the later of the date of the expiration of the last-to-expire AstraZeneca-licensed patent right containing a valid claim in such country and ten years from the first commercial sale of such AZ-Licensed Product in such country. For more information, please see "Business—Exclusive License and Option Agreements."

Hengrui Exclusive Option and License Agreement

In January 2018, we entered into an exclusive option and license agreement, or Hengrui License Agreement, with Hengrui, whereby Hengrui granted us an exclusive option to obtain certain exclusive rights to research, develop and commercialize products containing the compound designated by Hengrui as SHR0302, a JAK inhibitor, in topical formulations for the treatment of skin diseases, disorders, and conditions in the United States, Japan, and the European Union (including for clarity the United Kingdom). We made a \$0.4 million upfront non-refundable cash payment to Hengrui upon execution of the Hengrui License Agreement. In December 2019, we exercised our exclusive option under the agreement, for which we made a \$1.5 million cash payment, and also contemporaneously amended the agreement to expand the territory to additionally include Canada. In addition, we have agreed to make cash payments of up to an aggregate of \$20.5 million upon our achievement of specified clinical development and regulatory approval milestones with respect to the licensed products and cash payments of up to an additional aggregate of \$200.0 million in sales-based milestones based on achieving certain aggregate annual net sales volumes with respect to a licensed product. With respect to any products we commercialize under the Hengrui License Agreement, we will pay tiered royalties to Hengrui on net sales of each licensed product by us, or our affiliates, or our sublicensees, ranging from mid single-digit to sub-teen percentage rates based on tiered annual net sales bands subject to specified reductions. We are obligated to pay royalties until the later of (1) expiration of the last valid claim of the licensed patent rights covering such licensed product in such country and (2) the expiration of regulatory exclusivity for the relevant licensed product in the relevant country, on a licensed product-by-licensed product and country-by-country basis. Additionally, we are obligated to pay Hengrui a specified percentage, ranging from the low-thirties to the sub-teens, of certain non-royalty sublicensing income we receive from sublicensees of our rights to the licensed products, such percentage decreasing as the development stage of the licensed products advance. For more information, please see "Business—Exclusive License and Option Agreements."

Hawkeye Collaboration Agreement

In June 2019, we entered into a collaboration agreement, or the Hawkeye Agreement, with Hawkeye Therapeutics, Inc., or Hawkeye, a related party with common ownership, to collaborate on

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the research and development of one or more new applications of roflumilast. The Hawkeye Agreement grants Hawkeye an exclusive license to certain intellectual property developed under the agreement as it relates to the applications. Under the terms of the Hawkeye Agreement, we are required to perform certain research and development activities that are fully funded by Hawkeye.

Contemporaneously with the execution of the Hawkeye Agreement, we entered into a stock purchase agreement, purchasing 995,000 shares of Hawkeye's common stock at \$0.0001 per share, representing 19.9% of the outstanding common stock of Hawkeye. The shares are subject to a right to repurchase by Hawkeye which vests monthly over the six-month term of the Hawkeye Agreement. See Note 6 to the interim condensed financial statements for additional information.

Components of Our Results of Operations

Revenue

We have not generated any revenue from the sale of our products, and we do not expect to generate any revenue unless and until we obtain regulatory clearance or approval of, and commercialize, our product candidates.

Operating Expenses

Research and Development Expenses

Since our inception, we have focused significant resources on our research and development activities, including conducting preclinical studies and clinical trials, manufacturing development efforts and activities related to regulatory filings for our product candidates. Research and development costs are expensed as incurred. These costs include direct program expenses, which are payments made to third parties that specifically relate to our research and development, such as payments to clinical research organizations, clinical investigators, manufacturing of clinical material, preclinical testing and consultants. In addition, employee costs, including salaries, payroll taxes, benefits, stock-based compensation and travel, for employees contributing to research and development activities are classified as research and development costs. We allocate direct external costs to our product candidates; internal costs are not allocated to specific product candidates.

We expect to continue to incur substantial research and development expenses in the future as we develop our product candidates. In particular, we expect to incur substantial research and development expenses for the Phase 3 trials of ARQ-151 for plaque psoriasis, including in the intertriginous regions, the preclinical studies and clinical trials for the continued development of ARQ-151 for atopic dermatitis, ARQ-154 for seborrheic dermatitis and scalp psoriasis, ARQ-252 for hand eczema and vitiligo, and ARQ-255 for alopecia areata.

We have entered, and may continue to enter, into license agreements to access and utilize certain molecules for the treatment of dermatological diseases and disorders. We evaluate if the license agreement is an acquisition of an asset or a business. To date, none of our license agreements have been considered to be an acquisition of a business. For asset acquisitions, the upfront payments to acquire such licenses, as well as any future milestone payments made before product approval, are immediately recognized as research and development expense when due, provided there is no alternative future use of the rights in other research and development projects.

The successful development of our product candidates is highly uncertain. At this time, we cannot reasonably estimate the nature, timing or costs required to complete the remaining development of ARQ-151, ARQ-154, ARQ-252 and ARQ-255 or any future product candidates. This is due to the

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numerous risks and uncertainties associated with the development of product candidates. See “Risk Factors” for a discussion of the risks and uncertainties associated with our research and development projects.

General and Administrative Expenses

Our general and administrative expenses consist primarily of salaries and related costs, including payroll taxes, benefits, stock-based compensation and travel. Other general and administrative expenses include legal costs of pursuing patent protection of our intellectual property, and professional services fees for auditing, tax and general legal services. We expect our general and administrative expenses to continue to increase in the future as we expand our operating activities and prepare for potential commercialization of our product candidates, increase our headcount and support our operations as a public company, including increased expenses related to legal, accounting, regulatory and tax-related services associated with maintaining compliance with exchange listing and Securities and Exchange Commission requirements, directors and officers liability insurance premiums and investor relations activities.

Other Income (Expense), Net

Other income (expense), net primarily consists of changes in the fair value of our convertible preferred stock liability and interest income earned on our marketable securities.

Results of Operations

Comparison of the Nine Months Ended September 30, 2018 and 2019

The following table sets forth our results of operations for the periods indicated:

	Nine Months Ended September 30,		Change
	2018	2019 (unaudited) (in thousands)	
Operating expenses:			
Research and development	\$ 12,593	\$ 25,765	\$ 13,172
General and administrative	1,189	4,373	3,184
Total operating expenses	13,782	30,138	16,356
Loss from operations	(13,782)	(30,138)	(16,356)
Other income, net	128	710	582
Net loss	<u>\$(13,654)</u>	<u>\$(29,428)</u>	<u>\$(15,774)</u>

Research and Development Expenses

	Nine Months Ended September 30,		Change
	2018	2019 (unaudited) (in thousands)	
Direct Costs:			
Preclinical and clinical	\$ 5,336	\$16,737	\$11,401
Manufacturing	1,064	2,574	1,510
Product milestones	4,400	2,000	(2,400)
Indirect Costs:			
Compensation and personnel-related	1,730	4,142	2,412
Other	63	312	249
Total research and development expense	<u>\$12,593</u>	<u>\$25,765</u>	<u>\$13,172</u>

Research and development expenses were \$25.8 million for the nine months ended September 30, 2019, compared to \$12.6 million for the nine months ended September 30, 2018. The increase of \$13.2 million was primarily due to an increase in clinical trial costs of \$11.4 million, an increase in compensation and personnel-related expenses of \$2.4 million and an increase in manufacturing costs of \$1.5 million, partially offset by a decrease in product milestone payments of \$2.4 million. The increases in clinical trial costs and manufacturing costs relate to the initiation of the Phase 2b and open label extension studies in ARQ-151 for plaque psoriasis in the second half of 2018 and the initiation of Phase 2 study in ARQ-151 in atopic dermatitis in early 2019. The increase in compensation and personnel-related expenses was primarily due to an increase in headcount, which includes stock compensation. Product milestones consisted of a \$4.0 million upfront payment to AstraZeneca in the nine months ended September 30, 2018, comprised of \$1.0 million paid in cash and the issuance of \$3.0 million in shares of our Series B Convertible preferred stock, a \$0.4 million cash payment made to Hengrui for the option to obtain a license in the nine months ended September 30, 2018, as well as a \$2.0 million cash milestone payment made to AstraZeneca in the nine months ended September 30, 2019.

General and Administrative Expenses

General and administrative expenses were \$4.4 million for the nine months ended September 30, 2019, compared to \$1.2 million for the nine months ended September 30, 2018. The increase of \$3.2 million was primarily due to an increase in professional services of \$1.8 million, which includes legal, tax, audit, recruiting, market research studies and various other administrative functions, as well as an increase of \$1.2 million in compensation and personnel-related expenses due to an increase in headcount, which includes stock compensation.

Other Income, Net

Other income, net was \$0.7 million for the nine months ended September 30, 2019, compared to \$0.1 million for the nine months ended September 30, 2018. The increase of \$0.6 million was primarily due to interest earned on our marketable securities from the funds received from the issuance of our Series B convertible preferred stock in the nine months ended September 30, 2018.

Comparison of the Years Ended December 31, 2017 and 2018

The following table sets forth our results of operations for the periods indicated:

	Year Ended December 31,		Change
	2017	2018	
	(in thousands)		
Operating expenses:			
Research and development	\$ 3,411	\$ 17,940	\$ 14,529
General and administrative	695	1,795	1,100
Total operating expenses	4,106	19,735	15,629
Loss from operations	(4,106)	(19,735)	(15,629)
Other income (expense), net	(872)	480	1,352
Net loss	<u>\$ (4,978)</u>	<u>\$ (19,255)</u>	<u>\$ (14,277)</u>

Research and Development Expenses

	Year Ended December 31,		Change
	2017	2018	
	(unaudited) (in thousands)		
Direct Costs:			
Preclinical and clinical	\$2,166	\$ 8,448	\$ 6,282
Manufacturing	271	2,493	2,222
Product milestones	—	4,400	4,400
Indirect Costs:			
Compensation and personnel-related	459	1,566	1,107
Other	515	1,033	518
Total research and development expense	<u>\$3,411</u>	<u>\$ 17,940</u>	<u>\$14,529</u>

Research and development expenses were \$17.9 million for the year ended December 31, 2018, compared to \$3.4 million for the year ended December 31, 2017. The increase of \$14.5 million was due to increases in clinical trial costs of \$6.3 million, product milestones of \$4.4 million, manufacturing costs of \$2.2 million, compensation and personnel-related expenses of \$1.1 million, and regulatory and clinical consulting costs of \$0.5 million. The increase in clinical trial and manufacturing costs were related to our Phase 2 proof of concept and Phase 2b clinical trials of ARQ-151 for the treatment of plaque psoriasis, which were initiated in 2018. Product milestones consisted of a \$4.0 million upfront payment to AstraZeneca, comprised of \$1.0 million paid in cash and the issuance of \$3.0 million in shares of our Series B convertible preferred stock during 2018, as well as a \$0.4 million cash payment made to Hengrui for the option to obtain a license. The increase in compensation and personnel-related expenses was due to an increase in headcount, which includes stock compensation.

General and Administrative Expenses

General and administrative expenses were \$1.8 million for the year ended December 31, 2018, compared to \$0.7 million for the year ended December 31, 2017. The increase of \$1.1 million was primarily due to an increase of \$0.6 million in compensation and personnel-related expenses due to an increase in headcount, which includes stock compensation. The increase was also driven by increases in professional services of \$0.5 million for legal, recruiting, market research studies and other administrative services.

Other Income (Expense), Net

Other income (expense), net was income of \$0.5 million for the year ended December 31, 2018, compared to expense of \$0.9 million for the year ended December 31, 2017. The change of \$1.4 million was due to an increase in interest income of \$0.4 million from interest earned on the funds received from the issuance of convertible preferred stock in 2018, and a decrease in expense of \$0.8 million primarily from the fair value remeasurement of the Series A convertible preferred stock liability and \$0.2 million from the fair value remeasurement of the derivative liability related to our promissory notes payable that converted into Series A convertible preferred stock in 2017.

Liquidity, Capital Resources and Requirements**Sources of Liquidity**

We have incurred operating losses since our inception and have an accumulated deficit as a result of ongoing efforts to develop our product candidates, including conducting preclinical and clinical trials and providing general and administrative support for these operations. As of September 30, 2019, we had cash, cash equivalents and marketable securities of \$25.2 million and an accumulated deficit of \$53.7 million. In October 2019, we received an additional \$94.5 million in gross cash proceeds by selling an aggregate of 16,251,628 shares of our Series C convertible preferred stock. We anticipate that operating losses and net cash used in operating activities will increase over the next several years as we further develop ARQ-151, ARQ-154, ARQ-252 and ARQ-255, move into later and more costly stages of product development, develop new product candidates, hire personnel and prepare for regulatory submissions and the commercialization of our product candidates.

We have historically financed our operations primarily through private placements of preferred stock and will continue to be dependent upon equity, debt financing or collaborations or other forms of capital at least until we are able to generate positive cash flows from our operations.

Cash Flows

The following table sets forth our cash flows for the periods indicated:

	Year Ended December 31,		Nine Months Ended September 30,	
	2017	2018	2018	2019
	(in thousands)			
Cash used in operating activities	\$(3,775)	\$(14,085)	\$ (8,247)	\$(26,039)
Cash (used in) provided by investing activities	—	(11,532)	—	9,674
Cash provided by financing activities	7,119	61,593	61,593	148
Net increase (decrease) in cash and cash equivalents	<u>\$ 3,344</u>	<u>\$ 35,976</u>	<u>\$53,346</u>	<u>\$(16,217)</u>

Net Cash Used in Operating Activities

During the nine months ended September 30, 2019, net cash used in operating activities was \$26.0 million which consisted of a net loss of \$29.4 million, adjusted by net non-cash charges of \$0.1 million and a change in net operating assets and liabilities of \$3.2 million. The change in net operating assets and liabilities was due to an increase of \$4.7 million in accounts payable and accrued liabilities due to our overall growth, increased research and development spending and timing of payments, partially offset by an increase of \$1.5 million in prepaid expenses and other current assets for advances made for clinical trial costs.

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During the nine months ended September 30, 2018, net cash used in operating activities was \$8.2 million which consisted of a net loss of \$13.7 million, adjusted by net non-cash charges of \$3.0 million and a change in net operating assets and liabilities of \$2.4 million. The net non-cash changes were primarily related to the issuance of convertible preferred stock in connection with the AstraZeneca License Agreement, which was expensed to research and development. The change in our net operating assets and liabilities was primarily due to an increase of \$2.4 million in accounts payable and accrued liabilities due to our overall growth, increased research and development spending and timing of payments.

During the year ended December 31, 2018, net cash used in operating activities was \$14.1 million and consisted primarily of a net loss of \$19.3 million adjusted by non-cash charges of \$3.1 million and a change of \$2.1 million in our net operating assets and liabilities. The non-cash charges were primarily related to the issuance of convertible preferred stock in connection with the AstraZeneca License Agreement, which was expensed to research and development. The change in our net operating assets and liabilities was primarily due to a net increase of \$1.9 million in accounts payable and accrued liabilities due to our overall growth, increased research and development spending and timing of payments.

During the year ended December 31, 2017, net cash used in operating activities was \$3.8 million and consisted primarily of a net loss of \$5.0 million, adjusted by non-cash charges of \$0.9 million and a change of \$0.3 million in our net operating assets and liabilities. The non-cash charges consisted of a loss from fair value remeasurement of our convertible preferred stock liability of \$0.7 million and a loss from fair value measurement of the derivative liability of \$0.2 million due to the conversion of our promissory notes payable into Series A convertible preferred stock. The change in our net operating assets and liabilities was primarily due to a net increase of \$0.7 million in accounts payable and accrued liabilities due to our overall growth, increased research and development spending and timing of payments. These changes were partially offset by an increase of \$0.4 million in prepaid expenses and other current assets for advances made for clinical trial costs.

Net Cash Used in Investing Activities

During the nine months ended September 30, 2019, net cash provided by investing activities was \$9.7 million and was comprised of proceeds from the maturities of marketable securities of \$32.8 million, partially offset by purchases of marketable securities of \$22.9 million and property and equipment of \$0.2 million.

During the year ended December 31, 2018, net cash used in investing activities was \$11.5 million, which represented the purchase of marketable securities.

Net Cash Provided by Financing Activities

During the nine months ended September 30, 2019, net cash provided by financing activities was \$0.1 million from the proceeds received from the exercise of stock options of \$0.3 million, partially offset by payments of financing costs associated with our Series C convertible preferred stock issuance of \$0.1 million.

During the nine months ended September 30, 2018, net cash provided by financing activities was \$61.6 million, which was comprised of \$61.2 million from proceeds received from the second closing of our Series A and our Series B convertible preferred stock financing as well as \$0.4 million from proceeds received from the exercise of stock options.

During the year ended December 31, 2018, net cash provided by financing activities was \$61.6 million, consisting of \$61.2 million in proceeds from the issuance of our Series A and Series B convertible preferred stock and \$0.4 million from proceeds received from the exercise of stock options.

During the year ended December 31, 2017, net cash provided by financing activities was \$7.1 million, primarily consisting of proceeds from the issuance of our Series A convertible preferred stock.

Funding Requirements

We have historically incurred significant losses and negative cash flows from operations since our inception and had an accumulated deficit of \$53.7 million as of September 30, 2019. We had cash, cash equivalents and marketable securities of \$25.2 million as of September 30, 2019. In October 2019, we received an additional \$94.5 million in gross cash proceeds by selling an aggregate of 16,251,628 shares of our Series C convertible preferred stock. Based on our current planned operations, we expect that our current cash, cash equivalents and marketable securities, including the cash proceeds received in connection with the issuance of our Series C convertible preferred stock, will be sufficient to fund our operations for at least 12 months after the date our most recent financial statements were issued. As noted in our 2018 audited financial statements, there were conditions that raised substantial doubt about our ability to continue as a going concern for a period of one year from the date of the issuance of our 2018 financial statements. Our ability to continue as a going concern is dependent upon our ability to successfully secure sources of financing and ultimately achieve profitable operations.

We will need to raise substantial additional capital to fund our operations through the sale of our equity securities, incurring debt, entering into licensing or collaboration agreements with partners, grants or other sources of financing. There can be no assurance that sufficient funds will be available to us at all or on attractive terms when needed from these sources. If we are unable to obtain additional funding from these or other sources when needed it may be necessary to significantly reduce our current rate of spending through reductions in staff and delaying, scaling back, or stopping certain research and development programs. Insufficient liquidity may also require us to relinquish rights to product candidates at an earlier stage of development or on less favorable terms than we would otherwise choose.

We have based our projections of operating capital requirements on assumptions that may prove to be incorrect and we may use all our available capital resources sooner than we expect. Because of the numerous risks and uncertainties associated with research, development and commercialization of pharmaceutical products, we are unable to estimate the exact amount of our operating capital requirements. Our future funding requirements will depend on many factors, including, but not limited to:

- the scope, progress, results and costs of researching and developing our lead product candidates or any future product candidates, and conducting preclinical studies and clinical trials, in particular our currently ongoing Phase 3 studies of ARQ-151 in plaque psoriasis, our planned Phase 2b study of ARQ-151 in atopic dermatitis, our ongoing Phase 2 proof of concept study of ARQ-154 in seborrheic dermatitis, our currently ongoing Phase 2b study of ARQ-154 in scalp psoriasis, our planned Phase 2b study of ARQ-252 in hand eczema, our planned Phase 2a study of ARQ-252 in vitiligo and our formulation and preclinical efforts for ARQ-255 for alopecia areata.
- the timing of, and the costs involved in, obtaining regulatory approvals for our lead product candidate or our other product candidates;
- the number and characteristics of any additional product candidates we develop or acquire;
- the cost of manufacturing our lead product candidates or any future product candidates and any products we successfully commercialize, including costs associated with building out our supply chain;

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- the cost of commercialization activities if our lead product candidates or any future product candidates are approved for sale, including marketing, sales and distribution costs;
- the cost of building a sales force in anticipation of product commercialization;
- our ability to establish and maintain strategic collaborations, licensing or other arrangements and the financial terms of any such agreements that we may enter into;
- the costs related to milestone payments to AstraZeneca or Hengrui, upon the achievement of predetermined milestones;
- any product liability or other lawsuits related to our products;
- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company;
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing patent claims, and the outcome of this and any other future patent litigation we may be involved in; and
- the timing, receipt and amount of sales of any future approved products, if any.

Contractual Obligations and Contingent Liabilities

We had no significant contractual obligations as of December 31, 2018. The following summarizes our significant contractual obligations as of September 30, 2019:

	<u>Total</u>	<u>Less than 1 Year</u>	<u>1-3 Years</u>	<u>3-5 Years</u>	<u>More than 5 Years</u>
			(in thousands)		
Operating leases	<u>\$371</u>	<u>\$ 191</u>	<u>\$180</u>	<u>\$ —</u>	<u>\$ —</u>
Total obligations	<u>\$371</u>	<u>\$ 191</u>	<u>\$180</u>	<u>\$ —</u>	<u>\$ —</u>

We entered into a lease agreement in January 2019 for our headquarters in Westlake Village, California. The term of the lease commenced in March 2019 and terminates in July 2021. The total estimated lease payments for this facility over the term of the lease is approximately \$0.5 million.

We are party to license agreements pursuant to which we have in-licensed various intellectual property rights. The license agreements obligate us to make certain milestone payments related to achievement of specified events, as well as royalties in the low-single digits based on sales of licensed products. None of these events had occurred as of September 30, 2019, and no royalties were due from the sales of licensed products. The table above does not include any milestone or royalty payments to the counterparties to these agreements as the amounts, timing and likelihood of such payments are not known. See Note 6 to our audited financial statements and Note 5 to our unaudited interim condensed financial statements for additional information.

We enter into contracts in the normal course of business with clinical research organizations for clinical trials and clinical supply manufacturing and with vendors for preclinical research studies, research supplies and other services and products for operating purposes. These contracts generally provide for termination on notice, and therefore we believe that our non-cancelable obligations under these agreements are not material.

Indemnification

In the normal course of business, we enter into contracts and agreements that contain a variety of representations and warranties and provide for general indemnifications. Our exposure under these

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agreements is unknown because it involves claims that may be made against us in the future, but have not yet been made. To date, we have not paid any claims or been required to defend any action related to our indemnification obligations. However, we may record charges in the future as a result of these indemnification obligations.

In accordance with our certificate of incorporation and bylaws, we have indemnification obligations to our officers and directors for specified events or occurrences, subject to some limits, while they are serving at our request in such capacities. There have been no claims to date, and we have director and officer insurance that may enable us to recover a portion of any amounts paid for future potential claims.

Off-Balance Sheet Arrangements

We did not have during the periods presented, and we do not currently have, any off-balance sheet arrangements, as defined under SEC rules.

Critical Accounting Policies and Use of Estimates

Our management's discussion and analysis of financial condition and results of operations is based on our financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States, or U.S. GAAP. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, as well as the reported expenses during the reporting periods. These items are monitored and analyzed by us for changes in facts and circumstances, and material changes in these estimates could occur in the future. We base our estimates on historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Changes in estimates are reflected in reported results for the period in which they become known. Actual results may differ materially from these estimates under different assumptions or conditions.

While our significant accounting policies are more fully described in the notes to our financial statements included elsewhere in this prospectus, we believe that the following accounting policies are critical to the process of making significant judgments and estimates in the preparation of our financial statements and understanding and evaluating our reported financial results.

Preclinical and Clinical Accruals and Costs

We record accrued liabilities for estimated costs of research and development activities conducted by third-party service providers, which include the conduct of preclinical studies, clinical studies, clinical trials and contract manufacturing activities. These costs are a significant component of our research and development expenses. Research and development costs are expensed as incurred unless there is an alternative future use in other research and development projects. We accrue for these costs based on factors such as estimates of the work completed and in accordance with agreements established with third-party service providers under the service agreements. As it relates to clinical trials, the financial terms of these contracts are subject to negotiations which vary from contract to contract and may result in payment flows that do not match the periods over which materials or services are provided under such contracts. Payments made prior to the receipt of goods or services to be used in research and development are capitalized until the goods or services are received. Such payments are evaluated for current or long-term classification based on when they will be realized. Our objective is to reflect the appropriate expense in our financial statements by matching

those expenses with the period in which the services and efforts are expended. We account for these expenses according to the progress of the trial as measured by patient progression and the timing of various aspects of the trial utilizing financial models taking into consideration discussions with applicable personnel and outside service providers. During the course of a clinical trial, we adjust the rate of clinical expense recognition if actual results differ from our estimates. We make significant judgments and estimates in determining the accrued liabilities balance in each reporting period. As actual costs become known, we adjust our accrued liabilities. We have not experienced any material differences between accrued costs as of December 31, 2017 and 2018 and September 30, 2019 and actual costs incurred.

Stock-Based Compensation

We account for share-based payments at fair value. For share-based awards that vest subject to the satisfaction of a service requirement, the fair value measurement date for such awards is the date of grant and the expense is recognized on a straight-line basis, over the expected vesting period. For share-based awards that vest subject to a performance condition, we recognize compensation cost for awards if and when we conclude that it is probable that the awards with a performance condition will be achieved on an accelerated attribution method. We account for forfeitures as they occur.

We calculate the fair value measurement of stock options using the Black-Scholes option pricing model and assumptions discussed below. Each of these inputs is subjective and generally requires significant judgement.

Fair value of common stock—see the subsection titled “Common Stock Valuations” below.

Expected Term—The expected term represents the period that we expect our stock-based awards to be outstanding. We used the simplified method (based on the mid-point between the vesting date and the end of the contractual term) to determine the expected term.

Expected Volatility—Since we are privately held and do not have any trading history for our common stock, the expected volatility was estimated based on the average historical volatilities for comparable publicly traded pharmaceutical companies over a period equal to the expected term of the stock option grants. The comparable companies were chosen based on their similar size, stage in the life cycle and area of specialty. We will continue to apply this process until a sufficient amount of historical information regarding the volatility of our stock price becomes available.

Risk-Free Interest Rate—The risk-free interest rate is based on the U.S. Treasury zero coupon issues in effect at the time of grant for periods corresponding with the expected term of option.

Dividend Yield—We have never paid dividends on common stock and have no plans to pay dividends on our common stock. Therefore, we used an expected dividend yield of zero.

See Note 9 to our audited financial statements and to our unaudited interim condensed financial statements included elsewhere in this prospectus for more information concerning certain of the specific assumptions we used in applying the Black-Scholes option pricing model to determine the estimated fair value of our stock options. Certain of such assumptions involve inherent uncertainties and the application of significant judgment. As a result, if factors or expected outcomes change and we use significantly different assumptions or estimates, our stock-based compensation could be materially different.

We recorded stock-based compensation expense of \$27,000 and \$151,000 for the years ended December 31, 2017 and 2018, respectively and \$95,000 and \$369,000 for the nine months ended

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September 30, 2018 and 2019, respectively. As of September 30, 2019, there was \$1.9 million of unrecognized compensation expense related to unvested options, which are expected to be recognized over a weighted-average period of approximately 3.5 years. We expect to continue to grant stock options and other equity-based awards in the future, and to the extent that we do, our stock-based compensation expense recognized in future periods will likely increase.

Based upon the assumed initial public offering price of \$ _____ per share, which is the midpoint of the estimated price range set forth on the cover of this prospectus, the aggregate intrinsic value of options outstanding as of September 30, 2019 was \$ _____ million, of which \$ _____ million related to vested options and \$ _____ million related to unvested options.

Common Stock Valuation

There are significant assumptions and estimates required in determining the fair value of our common stock. Due to the absence of an active market for our common stock, the fair value of our common stock was determined in good faith by our board of directors, with the assistance and upon the recommendation of management and valuations of our common stock prepared by an unrelated third-party valuation firm, based on a number of objective and subjective factors consistent with the methodologies outlined in the American Institute of Certified Public Accountants Practice Aid, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation*, referred to as the AICPA Practice Aid, including:

- contemporaneous valuations of our shares of common stock;
- the prices of each of our series of preferred stock sold by us to outside investors in arm's length transactions, and the rights, preferences and privileges of each of these series of preferred stock relative to our common stock;
- our results of operations, financial position and the status of our research and development efforts;
- the composition of our management team and board of directors;
- the material risks related to our business;
- the market performance of publicly traded companies in the life sciences and biotechnology sectors;
- the likelihood of achieving a liquidity event for the holders of our shares of common stock, such as a sale of the company or an initial public offering, given prevailing market conditions;
- the lack of marketability of our common stock; and
- external market conditions affecting the life sciences and biotechnology industry sectors.

Although it is reasonable to expect that the completion of our initial public offering will increase the value of our common stock as a result of increased liquidity and marketability and the elimination of the liquidation preferences of our convertible preferred stock, the amount of additional value cannot be measured with precision or certainty. If we had made different assumptions than those described below, the fair value of the underlying common stock and amount of our stock-based compensation expense, net loss and net loss per share amounts would have differed. Following the closing of our initial public offering, the fair value per share of our common stock for purposes of determining stock-based compensation will be the closing price of our common stock as reported on the applicable grant date.

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The following table summarizes the grant dates, number of underlying shares and related fair value of restricted stock and stock options granted to employees under the plan:

Date of Grant	Number of shares underlying restricted stock or option grants(1)	Exercise or purchase price per share (\$)	Per share estimated fair value of common stock (\$)
March 9, 2018	390,431	0.18	0.56
June 13, 2018	1,109,149	0.29	0.59
November 21, 2018	175,000	0.84	0.84
March 5, 2019	373,750	0.84	0.84
March 13, 2019	1,767,200	0.84	0.84
May 14, 2019	550,000	0.84	0.84
June 11, 2019	240,000	0.84	0.84
October 18, 2019	249,750	3.26	3.26
October 28, 2019	580,000	3.26	3.26
November 20, 2019	1,083,500	3.26	3.26
December 18, 2019(2)	26,500	0.29	3.26

(1) All grants are stock option grants unless otherwise indicated.

(2) Restricted stock grant.

Historically, for all periods prior to this offering, fair values of the shares of common stock underlying our share-based awards were estimated on each grant date by our board of directors. Our board of directors considered, among other things, valuations of our common stock which were prepared by an unrelated third-party valuation firm in accordance with the guidance provided by the American Institute of Certified Public Accountants 2013 Practice Aid, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation*. Prior to October 2019, we used the Backsolve Method to determine the fair value of our common stock. The Backsolve Method utilizes a recent equity financing, in our case, our Series A and Series B convertible preferred stock financings, to back into the implied equity value. The equity value was then allocated to the equity classes using an option pricing method and then reducing the implied common stock value by a discount for lack of marketability. The resulting fair value of our common stock as of our April 2017, March 2018 and August 2018 valuation dates was \$0.18, \$0.29, and \$0.84 per share, respectively. In October 2019, we utilized a hybrid approach to determine the fair value of our common stock, based on the Backsolve Method taking into consideration the implied equity value based on the recent Series C financing. Under the hybrid method, we probability weighted the value of our common stock, adjusted for discount for lack of marketability, under three distinct scenarios: (i) an initial public offering, (ii) a delayed initial public offering, and (iii) utilizing the option pricing method assuming a stay private with the possibility of exiting later. The resulting fair value of our common stock, as of October 2019, was determined to be \$3.26.

In 2019, we reassessed the determination of the fair value of the common shares underlying the grants made prior to August 2018 in connection with a valuation of the convertible preferred stock liability. This analysis revised our implied equity value, which was then allocated to each equity class using an option pricing method and the implied value of common stock was then reduced by a discount for lack of marketability. As a result of this reassessment, we determined that fair value of common stock increased to \$0.23, \$0.56 and \$0.59 per share as of April 2017, December 2017 and March 2018, respectively. The increase to both recognized and unrecognized share-based compensation expense due to these higher share prices was approximately \$86,000 and \$0.4 million, respectively, as of December 31, 2018.

Income Taxes

As of December 31, 2018, we had deferred tax assets of \$5.3 million. The deferred tax assets have been offset by a valuation allowance due to uncertainties surrounding our ability to realize these tax benefits. The deferred tax assets are primarily composed of net operating loss, or NOL, tax carryforwards. As of December 31, 2018, we had federal and state NOL carryforwards of \$17.2 million and \$18.1 million, respectively, available to potentially offset future taxable income. As of December 31, 2018, we also had federal and California research and development tax credit carryforwards of approximately \$0.8 million and \$0.3 million, respectively, available to potentially offset future federal income taxes. The federal research and development tax carryforwards, if not utilized, will expire beginning in 2037. The California research and development tax credit carryforwards are available indefinitely. Federal and California tax law impose significant restrictions on the utilization of net operating loss carryforwards in the event of a change in ownership, as defined by Internal Revenue Code Section 382 and 383. We have not completed a formal study to determine any limitations on our tax attributes due to changes in ownership and may have limitations on the utilization of net operating loss carryforwards, credit carryforwards, or other tax attributes due to ownership changes.

Recent Accounting Pronouncements

We adopted Accounting Standards Update, or ASU, No. 2016-02, *Leases (Topic 842)*, on January 1, 2019. As of December 31, 2018, we had not entered into any leases within the scope of the standard and there was no impact to our unaudited interim condensed financial statements upon adoption.

See Note 2 to our audited financial statements and unaudited interim condensed financial statements included elsewhere in this prospectus for more information.

Quantitative and Qualitative Disclosures about Market Risk

We are exposed to market risks in the ordinary course of our business. These risks primarily include interest rate sensitivities. As of September 30, 2019, we had cash and cash equivalents of \$23.2 million and marketable securities of \$2.0 million, which consist of bank deposits, money market funds, commercial paper and government securities. The primary objective of our investment activities is to preserve capital to fund our operations. We also seek to maximize income from our investments without assuming significant risk. Because our investments are primarily short-term in duration, we believe that our exposure to interest rate risk is not significant, and a 1% movement in market interest rates would not have a significant impact on the total value of our portfolio. We had no debt outstanding as of September 30, 2019.

Emerging Growth Company Status

We are an emerging growth company, as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. We have elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that we are (i) no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, these financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates. We early adopted ASU 2016-01, *Financial Instruments—Overall (Topic 825)—Recognition and Measurement of Financial*

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Assets and Financial Liabilities, ASU 2016-09, *Compensation—Stock Compensation (Topic 718)—Improvements to Employee Share Based Payment Accounting*, ASU No. 2018-07, *Compensation—Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting*, and ASU No. 2016-02, *Leases* as the JOBS Act does not preclude an emerging growth company from early adopting a new or revised accounting standard earlier than the time such standard applies to private companies. We expect to use the extended transition period for any other new or revised accounting standards during the period in which we remain an emerging growth company.

We will remain an emerging growth company until the last day of our fiscal year following the fifth anniversary of the completion of this offering. However, if certain events occur prior to the end of such five-year period, including if we become a “large accelerated filer,” our annual gross revenues exceed \$1.07 billion or we issue more than \$1.0 billion of non-convertible debt in any three-year period, we will cease to be an emerging growth company prior to the end of such five-year period.

BUSINESS

Overview

We are a late-stage biopharmaceutical company focused on developing and commercializing treatments for dermatological diseases with high unmet medical needs. Our current portfolio is comprised of topical treatments with significant potential to address immune-mediated dermatological diseases and conditions, or immuno-dermatology. Our strategy is to identify and develop treatments against validated biological targets in dermatology that deliver a differentiated clinical profile that addresses major shortcomings of existing therapies in our targeted indications. We believe this strategy uniquely positions us to rapidly progress towards our goal of bridging the treatment innovation gap in dermatology, while maximizing our probability of technical success and financial resources.

Our lead product candidate, ARQ-151, is in Phase 3 clinical trials in plaque psoriasis. ARQ-151 is a topical cream formulation of roflumilast, a highly potent and selective phosphodiesterase type 4, or PDE4, inhibitor, which we are developing for the treatment of plaque psoriasis, including psoriasis in intertriginous regions such as the groin, axillae, and inframammary areas, as well as atopic dermatitis. PDE4 is an established biological target in dermatology, with multiple PDE4 inhibitors approved by the U.S. Food and Drug Administration, or FDA. We have successfully completed a Phase 2b study of ARQ-151 in plaque psoriasis, and have treated more than 425 plaque psoriasis patients, demonstrating potential symptomatic improvement and favorable tolerability of ARQ-151 in this population. We have also completed enrollment in a long-term safety study of ARQ-151 in plaque psoriasis patients, and expect to report topline data in the first half of 2021. We held a positive End-of-Phase 2 Meeting with the FDA in October 2019 and have initiated two Phase 3 studies in plaque psoriasis, with topline data expected in the first half of 2021. We also completed a Phase 2 proof of concept study of ARQ-151 in atopic dermatitis and plan to initiate a Phase 2b study in the second half of 2020, with topline results expected in the second half of 2021. In addition, we are developing ARQ-154, a topical foam formulation of ARQ-151, and have initiated a Phase 2 proof of concept study in seborrheic dermatitis and a Phase 2b study in scalp psoriasis. We expect to report topline data in the second half of 2020 with respect to seborrheic dermatitis and in Q4 2020/Q1 2021 with respect to scalp psoriasis. Beyond this, in 2020 we also plan to initiate clinical studies of ARQ-252, a potent and highly selective topical janus kinase type 1, or JAK1, inhibitor for the treatment of hand eczema and vitiligo. Additionally, we have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin in order to potentially treat alopecia areata.

Dermatological diseases such as psoriasis, atopic dermatitis, seborrheic dermatitis, hand eczema, alopecia areata, and vitiligo affect hundreds of millions of people worldwide each year, impacting their quality of life, and physical, functional and emotional well-being. There are many approved treatments for these conditions, but a large opportunity remains due to issues with existing treatments. Topical treatments are used for nearly all patients, but are limited by one or more of the following: modest response rates, side effects, patient adherence, application site restrictions, and limits on duration of therapy. Topical corticosteroids, or TCS, are commonly used as the first-line therapy for the treatment of inflammatory skin conditions such as psoriasis and atopic dermatitis. While many patients see improvements, long term TCS treatment carries the risk of a variety of significant side effects. As a result, TCS are typically used intermittently, which can lead to disease flares. In psoriasis, vitamin D analogues have demonstrated lower response rates than TCS and are frequently irritating. In atopic dermatitis, topical calcineurin inhibitors, or TCIs, and Eucrisa have lower response rates than TCS and are associated with application site burning. TCIs also have a boxed warning for cancer risk.

Biologic and systemic therapies are also available, but are indicated for a small percentage of the affected population. Biologics for psoriasis and atopic dermatitis have shown impressive response rates but are only indicated for the minority of patients with moderate-to-severe forms of disease, are expensive, and often face reimbursement and access restrictions. Use of oral systemic therapies such as methotrexate and Otezla are also limited to more severe psoriasis patients and have significant side effect risks. Additionally, many patients on biologic and systemic therapies still require adjunctive topical therapy.

Given the limitations associated with TCS, other topical therapies, biologics, and systemic therapies, we believe patients with inflammatory skin conditions are dissatisfied with their current treatment options. We believe that there is a significant opportunity to leverage developments in other fields of medicine, particularly inflammation and immunology, to address the significant need for effective chronic treatments in immuno-dermatology. Our initial focus is to address patients' significant need for innovative topical treatments that directly target molecular mediators of disease, have the potential to show significant symptomatic improvement, maintain a low risk of toxicity or side effects, and are suitable for chronic use on all areas of the body.

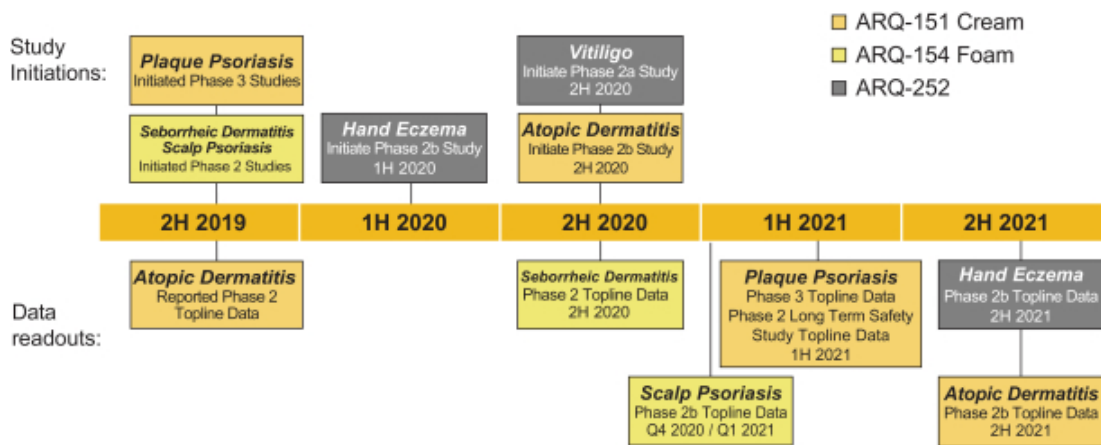
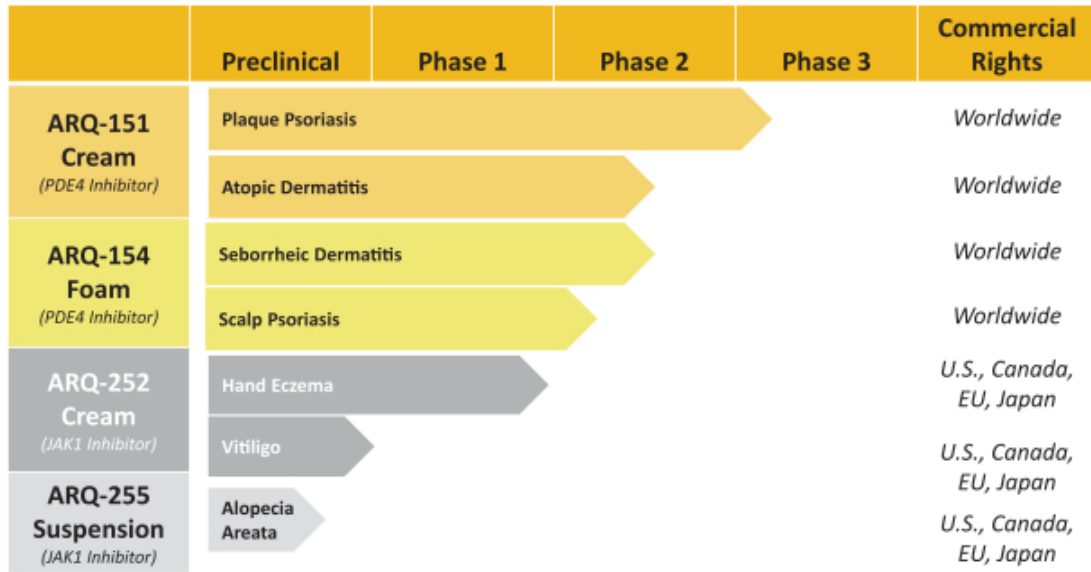
We are developing ARQ-151 for the treatment of plaque psoriasis and atopic dermatitis. High-potency steroids are the current standard of care for plaque psoriasis, and low- to mid-potency steroids are the current standard of care for atopic dermatitis, but steroids are associated with suppression of the hypothalamic-pituitary-adrenal axis, or HPA axis (one of the body's four neuroendocrine systems, playing a central role in regulating portions of the metabolic, cardiovascular, immune, reproductive and central nervous systems), skin atrophy (thinning), striae (stretch marks), and telangiectasias (spider veins), among other side effects. Furthermore, some of these side effects are irreversible, persisting even after therapy is discontinued. Based on market research and our internal estimates, we estimate the population of patients treated with prescribed topical therapies in the United States is approximately 2.5 million patients and 5.4 million patients for psoriasis and atopic dermatitis, respectively. We estimate our addressable market opportunity, which focuses on patients treated by dermatologists with topical therapies, for each of psoriasis and atopic dermatitis is 2.0 million patients and 1.0 million patients, respectively.

In order to capitalize on our opportunity, we have assembled a management team with deep development, formulation and commercialization expertise for dermatology products. Our management team has held key roles in numerous biotechnology and pharmaceutical companies with a dermatology focus, including Pfizer Inc., Amgen Inc., Gilead Sciences, Inc., Kythera Biopharmaceuticals, Inc., Verrica Pharmaceuticals Inc., and Fougera Pharmaceuticals Inc. Through these roles, our management team was integrally involved in the development, approval and/or commercialization of more than fifty FDA-approved products (including eighteen topical products) such as Enbrel, Jublia, Aczone, and Xeljanz. This extensive experience provides us with unique insights and capabilities in dermatology drug development and commercialization.

We are supported by our board of directors and scientific advisors, who have significant experience in dermatology as well as expertise in public companies and business development. Our key investors include funds managed by Bain Capital Life Sciences, BlackRock, Frazier Healthcare Partners, Goldman Sachs, HBM Healthcare Investments, Omega Funds, OrbiMed, Pivotal BioVentures, RA Capital, and Vivo Capital, among others.

Our Pipeline

The following charts summarize our product pipeline, including our lead product candidate, ARQ-151, and our upcoming anticipated milestones:



ARQ-151

Our lead product candidate, ARQ-151 is a topical cream containing roflumilast, a PDE4 inhibitor, that we are developing to treat plaque psoriasis, including intertriginous psoriasis, and atopic dermatitis. Based on the clinical data we have generated to date, we believe ARQ-151 has the potential to offer symptomatic improvement similar to a high-potency steroid, a favorable tolerability profile, the ability to treat chronically, and little to none of the application site skin reactions associated with many existing treatments.

In July 2018, we executed a licensing agreement with AstraZeneca AB, or the AstraZeneca License Agreement, for exclusive worldwide rights to roflumilast, the PDE4 inhibitor used as the active

pharmaceutical ingredient in ARQ-151 as a topical product in humans solely for dermatological indications. We have built our own intellectual property portfolio around topical uses of roflumilast, with issued and pending formulation and pharmacokinetic patents/applications in the United States and other jurisdictions from four distinct patent families, which should provide us with exclusivity at least through 2037 for the formulation that is intended to be marketed.

Mechanism of Action and Differentiation

ARQ-151 is a topical cream formulation of roflumilast, a highly potent and selective PDE4 inhibitor. Roflumilast was approved in 2011 for systemic treatment to reduce the risk of exacerbations of chronic obstructive pulmonary disease, or COPD, in patients with associated chronic bronchitis in 2011, with an estimated aggregate usage of over 1.0 million patient years to date.

PDE4 is an intracellular enzyme that increases the production of pro-inflammatory mediators and decreases production of anti-inflammatory mediators, and has been implicated in a wide range of inflammatory diseases including psoriasis, eczema, and COPD. PDE4 is an established biological target in dermatology. The FDA has approved a number of PDE4 inhibitors, including Eucrisa for the topical treatment of atopic dermatitis and Otezla for the systemic treatment of plaque psoriasis.

Roflumilast, the active component of ARQ-151, has demonstrated greater potency relative to the active ingredients in two approved PDE4 treatments based on IC50 values (the concentration at which a biologic target's activity is inhibited by 50% and a non-clinical measure of a drug's potency), and has not produced the harmful side effects frequently associated with other PDE4 treatments, such as the application site burning frequently associated with Eucrisa, or the gastro-intestinal side effects frequently associated with Otezla, an oral PDE4. Based on the potency of roflumilast and the clinical results of ARQ-151, as well as the prior failures of topical crisaborole (Eucrisa) and topical apremilast (Otezla) in psoriasis, we believe that it is likely that ARQ-151 will be the only topical PDE4 inhibitor approved for the treatment of psoriasis.

Clinical and Safety Data and Development Plan

Plaque Psoriasis

For our lead product candidate, ARQ-151, we have completed two randomized, double-blind, vehicle-controlled Phase 2 studies in plaque psoriasis, including a 331-patient multinational, multi-center Phase 2b study and an 89 patient multinational, multi-center Phase 2a study. Both studies have demonstrated significant reductions in the signs of plaque psoriasis and ARQ-151 has been well-tolerated in this population. In our Phase 2b study, ARQ-151 also demonstrated significant reductions in the signs of psoriatic plaques in the intertriginous regions, as well as favorable tolerability in those areas. We have also completed enrollment in a long-term safety study of ARQ-151 in plaque psoriasis patients, enrolling 333 patients to undergo 52 weeks of treatment, and expect to report topline data in the first half of 2021.

The following table summarizes the results from our Phase 2b study of ARQ-151 in plaque psoriasis:

		Phase 2b (ARQ-151-201)			
% of Patients		0.3% Dose (n = 109)	0.15% Dose (n = 113)(a)	Vehicle (n = 109)(b)	p-value (0.3% vs. vehicle)
Week 6	% IGA of Clear or Almost Clear	28.0	22.8	8.3	<0.001
Week 8	% IGA Success(c)	32.2	24.5	9.8	< 0.001
	Mean % CFB in PASI	(53.7)	(53.5)	(18.8)	< 0.001
	% PASI-75	31.3	23.0	13.2	0.002
	% PASI-90	16.9	7.4	6.0	0.015
	% Intertriginous IGA Success(d)	87.1	60.9	36.1	0.007
	% WI-NRS (4 pt Δ)(e)	64.6	58.2	42.3	0.01
TEAEs	% TEAE	38.5	27.3	29.9	—
	% Tx-Related TEAE	6.4	2.7	6.5	—
	% SAE	0.9	0.9	1.9	—
	% DIC due to TEAE	0.9	0.0	1.9	—

The abbreviations used in this table include the following: Change from baseline, or CFB; Investigator's Global Assessment, or IGA, a 5-point scale for evaluating plaque psoriasis severity; Psoriasis Area and Severity Index, or PASI; Treatment-Emergent Adverse Events, or TEAE; Serious Adverse Events, or SAE; discontinuation, or D/C.

P-values are an indication of statistical significance reflecting the probability of an observation occurring due to chance alone. A clinical trial result is statistically significant if it is unlikely to have occurred by chance. The statistical significance of clinical trial results is determined by a widely used statistical method that establishes the p-value of the results. Under this method, a p-value of 0.05 or less typically represents a 95% probability that the results did not occur by chance alone, and are generally considered statistically significant results.

(a) For safety analyses, n = 110.

(b) For safety analyses, n = 107.

(c) IGA Success was defined as IGA = 0 (clear) or 1 (almost clear) PLUS a 2 point change from baseline.

(d) Intertriginous IGA, or I-IGA, Success was defined as I-IGA = 0 (clear) or 1 (almost clear) PLUS a 2 point change from baseline. I-IGA Success analysis was performed in subjects with baseline I-IGA ≥ 2.

(e) Represents % of patients with baseline Worst Itch-Numerical Rating Scale, or WI-NRS, ≥ 6, who achieved at least a 4-point improvement on the WI-NRS.

Based on the clinical data we have generated to date, we believe that ARQ-151 is uniquely suited to address unmet needs in psoriasis and has the potential to treat this condition without the use of high-potency steroids, with a favorable tolerability profile, and with the ability to administer chronically and in all anatomical areas. We held a positive End-of-Phase 2 Meeting with the FDA in October 2019, and have initiated a Phase 3 program for ARQ-151, including two registrational Phase 3 studies in plaque psoriasis, including intertriginous psoriasis. We plan to develop ARQ-151 under the Section 505(b)(1) pathway for marketing approval.

Atopic Dermatitis

We have also completed one Phase 1 study and one Phase 2 study of ARQ-151 in atopic dermatitis. In our Phase 2 proof of concept study, 136 adolescents (ages 12 and above) and adults with mild to moderate atopic dermatitis involving between 1.5% and 35% body surface area, or BSA, were randomized to receive once daily topical applications for 4 weeks of: (1) ARQ-151 0.15% cream, or (2) ARQ-151 0.05% cream, or (3) vehicle. The goals of this small proof of concept study were to establish whether ARQ-151 provides a signal of potential symptomatic improvement in atopic dermatitis patients, as well as to gain an understanding of its tolerability. While neither dose reached statistical significance on the primary endpoint of mean change from baseline in the Eczema Area and

Severity Index Total Score, or EASI, at week 4, ARQ-151 0.15% showed a trend towards significance with mean improvement of 6.4 on the EASI score, compared to 4.8 in patients treated with the vehicle ($p = 0.097$). Additionally, statistical significance or a trend towards significance was met for secondary endpoints in both doses. ARQ-151 was well-tolerated by the subject population in the study. We believe the consistent evidence of symptomatic improvement demonstrated by both strengths of ARQ-151 across endpoints, as well as the improvement in atopic dermatitis demonstrated on both doses in this small proof-of-concept study provide compelling evidence of the ability of ARQ-151 to treat the signs and symptoms of atopic dermatitis. We plan to initiate a Phase 2b study in atopic dermatitis in the second half of 2020 with topline results in the second half of 2021.

ARQ-154

We are also developing ARQ-154, a foam formulation of ARQ-151, for treatment of seborrheic dermatitis and scalp psoriasis. We designed ARQ-154 as a topical foam version of ARQ-151 to overcome the challenges of delivering topical drugs in hair-bearing areas of the body. Based on the results of our Phase 2 studies with ARQ-151, we believe that ARQ-154 has the potential to show similar results for treatment of scalp psoriasis and seborrheic dermatitis. We have initiated a Phase 2 proof of concept study in seborrheic dermatitis and a Phase 2b study in scalp psoriasis. We plan to develop ARQ-154 under the Section 505(b)(1) pathway for marketing approval.

ARQ-252

ARQ-252 is a potent and highly selective topical small molecule inhibitor of JAK1 that we are developing for hand eczema and other inflammatory dermatoses. In January 2018, we executed an exclusive option and license agreement, or the Hengrui License Agreement, with Jiangsu Hengrui Medicine Co., Ltd. of China, or Hengrui, for the active pharmaceutical ingredient in ARQ-252 for all topical dermatological uses in the United States, Europe and Japan. We exercised our exclusive option in December 2019 for the amount of \$1.5 million cash and also contemporaneously amended the agreement to expand the territory to additionally include Canada. The Hengrui License Agreement includes composition of matter patents in the United States, and those patents do not begin to expire until 2033. We believe there is the potential to obtain additional protection for ARQ-252 through possible future formulation patents and other intellectual property.

Mechanism of Action

Many inflammatory cytokines and other signaling molecules rely on the JAK pathway, and specifically JAK1, which plays a central role in immune system function. Inhibition of JAK1 has been shown to treat a range of inflammatory diseases, including rheumatoid arthritis, psoriasis, Crohn's disease, and eczema. We believe that due to its high selectivity for JAK1 over JAK2, ARQ-252 has the potential to treat inflammatory diseases without causing the hematopoietic adverse effects, such as anemia, thrombocytopenia, and neutropenia, associated with JAK2 inhibition.

Clinical Data and Development Plan

We intend to initiate a Phase 2b study in adult patients with hand eczema in the first half 2020, with topline data expected in the second half of 2021. We also plan to initiate a Phase 2a study in vitiligo in the second half of 2020. In mid-2019, Hengrui completed a Phase 2b study in rheumatoid arthritis that used the same active pharmaceutical ingredient as in ARQ-252 but dosed orally. The results confirmed that this active pharmaceutical ingredient is a highly potent inhibitor of JAK1 based on the drug's impact on rheumatoid arthritis, and was generally well tolerated at exposures well above those expected with topical administration of ARQ-252. We plan to develop ARQ-252 under the Section 505(b)(1) pathway for marketing approval.

ARQ-255

We believe that topical JAK inhibitor therapy for alopecia areata requires the drug to be delivered to the site of the inflammation, deep in the skin at the base (bulb) of the hair follicle. We have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin to the postulated site of inflammation in alopecia areata. If those formulation efforts are successful, we plan to enter the clinic with ARQ-255 as a potential treatment for alopecia areata.

Our Competitive Strengths

Our competitive strengths are key differentiating factors that form the foundation of our business strategy. We believe that leveraging these strengths will allow us to realize our vision of becoming a leading dermatology company. Our competitive strengths include:

- **Harnessing the benefits of clinically validated targets in dermatology.** We are focused on identifying, developing and commercializing best-in-class molecules against biological targets that have been clinically demonstrated to directly affect dermatological diseases. We believe this approach enables us to advance potentially transformative treatments over shorter development timelines, at lower cost, and in a manner that improves their probability of technical success.
- **Late-stage lead product candidate with a highly differentiated clinical profile.** Our lead product candidate, ARQ-151, is a topical cream formulation of roflumilast, a highly potent and selective PDE4 inhibitor that was approved by the FDA for systemic treatment to prevent exacerbations of COPD in 2011. PDE4 inhibition is a well-established mechanism in dermatology, as supported by the PDE4 inhibitors approved by the FDA, including Eucrisa, for the topical treatment of atopic dermatitis and Otezla for the systemic treatment of plaque psoriasis. ARQ-151 has generated what we believe is promising data in multiple clinical trials to date. We have initiated two Phase 3 clinical trials with ARQ-151 in plaque psoriasis, and have completed enrollment in a long-term safety study of ARQ-151 in plaque psoriasis. We also completed a Phase 2 proof of concept study of ARQ-151 in atopic dermatitis, and plan to initiate a Phase 2b study in the second half of 2020. We believe that ARQ-151 has the potential to offer physicians and patients a highly differentiated clinical profile to address the significant unmet need in the treatment of plaque psoriasis and atopic dermatitis.
- **Diversified, multi-asset pipeline addressing major shortcomings of existing dermatologic treatments.** In addition to ARQ-151, we are advancing a portfolio of topically-administered product candidates addressing multiple immuno-dermatological indications with significant market opportunities, including seborrheic dermatitis, scalp psoriasis, hand eczema, vitiligo, and alopecia areata. We have initiated a Phase 2 proof of concept trial in seborrheic dermatitis and a Phase 2b trial in scalp psoriasis, both using ARQ-154, a foam formulation of ARQ-151, that is designed to overcome the challenges of delivering topical drugs in hair-bearing areas of the body. Additionally, with ARQ-252, a potent and highly selective topical JAK1 inhibitor, we plan to initiate a Phase 2b study in hand eczema in the first half of 2020 and a Phase 2a study in vitiligo in the second half of 2020. We also have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin in order to potentially treat alopecia areata. We believe that due to their high selectivity for JAK1 over JAK2, ARQ-252 and ARQ-255 have the potential to treat inflammatory diseases without causing the hematopoietic adverse effects associated with JAK2 inhibition.
- **Strong intellectual property.** As of December 12, 2019, we own or have an exclusive license to 15 issued or pending U.S. patents, 22 issued or pending foreign patents and two

international applications filed under the Patent Cooperation Treaty, providing comprehensive protection for our product candidates. For ARQ-151 and ARQ-154, we have built our own intellectual property portfolio around topical uses of roflumilast, with issued and pending formulation and pharmacokinetic patents/applications in the United States and other jurisdictions from four distinct patent families, which begin to expire in 2037. Our patent protection includes an exclusive license to five issued U.S. patents and five issued foreign patents providing protection for the active ingredient in ARQ-252 and ARQ-255, which do not begin to expire until 2033 with potential additional protection through possible future formulation patents and other intellectual property.

- **Proven leadership team with differentiated formulation expertise.** Our management team has extensive expertise in the development and commercialization of dermatology products, having held key leadership roles at a number of leading dermatology companies and, that collectively, has successfully developed and/or commercialized more than fifty FDA-approved products. In addition, we have unique expertise with developing differentiated and proprietary topical formulations of compounds in order to optimize their tolerability and efficacy in dermatology applications. We believe that the breadth of experience and successful track record of our management team, combined with our broad network of established relationships with leaders in the industry and medical community, uniquely positions us to build a leading, fully-integrated dermatology company.

Our Strategy

Our strategy is to leverage recent innovations in inflammation and immunology to identify molecules against validated biological targets in dermatology, to develop and commercialize best-in-class products that address significant unmet needs in immuno-dermatology. Key elements of our strategy include:

- **Rapidly develop and commercialize our lead product candidate ARQ-151 for the treatment of patients with plaque psoriasis and atopic dermatitis.** We plan to develop ARQ-151 for the treatment of plaque psoriasis and atopic dermatitis. Based on the clinical data generated to date, we believe ARQ-151 has the potential to be the best-in-class non-steroidal topical treatment with symptomatic improvement similar to high-potency steroids while potentially delivering a low risk of side effects and a favorable tolerability profile that enables chronic administration, including for pediatric patients. In plaque psoriasis, we have initiated two Phase 3 clinical trials and a long-term safety study of ARQ-151 with topline results expected in the first half of 2021. In atopic dermatitis, we completed a Phase 2 proof of concept study of ARQ-151 in December 2019 and plan to initiate a Phase 2b study in the second half of 2020, with topline results expected in the second half of 2021.
- **Expand our addressable market with ARQ-154.** ARQ-154 is a foam formulation of ARQ-151 for the treatment of scalp psoriasis and seborrheic dermatitis that we developed to treat hair-bearing areas of the body like the scalp where a cream is not suitable. Based on the results of our Phase 2 studies with ARQ-151, we believe ARQ-154 has the potential to offer patients symptomatic improvement similar to high-potency steroids in scalp psoriasis and may be superior to standard of care treatments for seborrheic dermatitis, while potentially maintaining a low risk of side effects and favorable tolerability. We have initiated a Phase 2 proof of concept study in seborrheic dermatitis and a Phase 2b study in scalp psoriasis.
- **Continue to innovate and develop our product pipeline of therapeutics which we believe have the potential to be best-in-class in immuno-dermatology.** We plan to develop ARQ-252, a JAK1 inhibitor with a high relative selectivity to JAK1 over JAK2, for the treatment of hand eczema and potentially vitiligo and alopecia areata. Given its high relative selectivity to

JAK1 over JAK2, we believe ARQ-252 has the potential to treat inflammatory diseases without causing the hematopoietic adverse effects associated with JAK2 inhibition, giving it the potential to be best-in-class. We plan to initiate our Phase 2b study in hand eczema in the first half of 2020 and our Phase 2a study in vitiligo in the second half of 2020. Additionally, we have formulation and preclinical efforts underway for ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin in order to potentially treat alopecia areata.

- **Establish an integrated development and commercial organization.** We believe the concentrated prescriber base of the U.S. dermatology segment provides us with the opportunity to build a fully integrated commercial organization and targeted sales force for the commercialization of our product candidates among dermatology specialists. To further enhance the value of our product candidates, we may selectively seek partners to commercialize our products outside of the dermatology specialist segment, and to develop and commercialize our products outside of the U.S. market.
- **Evaluate strategic opportunities to in-license best-in-class dermatology assets consistent with our core strategy.** Leveraging our deep expertise in identifying promising drug candidates in dermatology, we will continue to seek best-in-class assets across treatment modalities directed against validated targets. We will continue to explore opportunities to in-license assets and develop them to address unmet medical needs in dermatology.

Our Product Candidates

Product Candidate	Mechanism of Action	Formulation	Indication	Potential Clinical Profile Differentiation	Primary U.S. Addressable Market Opportunity
ARQ-151	PDE4 Inhibitor	Topical Cream	Psoriasis	<ul style="list-style-type: none"> Non-steroidal topical treatment with similar symptomatic improvement as high-potency steroids Low risk of side effects and favorable tolerability to enable chronic administration, including for pediatric patients Able to be used on any part of the body, including sensitive or difficult-to-treat areas, such as the face and intertriginous regions 	<ul style="list-style-type: none"> Approximately 2.0 million patients treated by dermatologists with topical prescription therapies Approximately 1.0 million patients treated by dermatologists with topical prescription therapies
			Atopic Dermatitis		
ARQ-154	PDE4 Inhibitor	Topical Foam	Seborrheic Dermatitis	<ul style="list-style-type: none"> Non-steroidal topical treatment with similar symptomatic improvement as high-potency steroids Low risk of side effects and favorable tolerability to enable chronic administration Designed for use in the peri-ocular area with low risk of side effects, and in a formulation that is convenient to use on hair-bearing areas of the scalp 	<ul style="list-style-type: none"> Approximately 360,000 patients treated by dermatologists that have an inadequate response to existing Rx therapies Approximately 850,000 patients treated by dermatologists with topical prescription therapies
			Scalp Psoriasis		
ARQ-252	JAK1 Inhibitor	Topical Cream	Hand Eczema	<ul style="list-style-type: none"> Non-steroidal topical treatment with similar symptomatic improvement as high-potency steroids Due to high selectivity for JAK1, uniquely positioned to treat skin inflammatory diseases without causing the hematopoietic adverse effects associated with JAK2 inhibition 	<ul style="list-style-type: none"> Approximately 8.3 million patients Approximately 2.6 million patients
			Vitiligo		
ARQ-255	JAK1 Inhibitor	Topical Suspension	Alopecia Areata	<ul style="list-style-type: none"> In addition to the ARQ-252 profile, deep dermal delivery of the JAK1 inhibitor to the site of inflammation causing alopecia areata. 	<ul style="list-style-type: none"> Approximately 6.2 million patients

ARQ-151

Overview

Our lead product candidate, ARQ-151, is a topical cream containing roflumilast, a PDE4 inhibitor, that potentially offers symptomatic improvement similar to a high-potency steroid, a favorable tolerability profile, the ability to treat chronically, and little to none of the application site reactions associated with many existing treatments. We are currently developing ARQ-151 for plaque psoriasis, including intertriginous psoriasis, as well as atopic dermatitis. We have successfully completed a Phase 2b study of ARQ-151 in plaque psoriasis. We held a positive End-of-Phase 2 meeting with the FDA in October 2019 and have initiated two Phase 3 clinical trials in plaque psoriasis. We have also completed enrollment in a long-term safety study of ARQ-151 in plaque psoriasis patients, and expect to report topline data in the first half of 2021. We also completed a Phase 2 proof of concept study of ARQ-151 in atopic dermatitis and plan to initiate a Phase 2b study in the second half of 2020, with topline results expected in the second half of 2021.

In July 2018, we executed a licensing agreement with AstraZeneca AB for exclusive worldwide rights to roflumilast, the PDE4 inhibitor used as the active pharmaceutical ingredient in ARQ-151 and ARQ-154, as a topical product in humans solely for dermatological indications. We have built our own intellectual property portfolio around topical uses of roflumilast, with issued and pending formulation and pharmacokinetic patents/applications in the United States and other jurisdictions from four distinct patent families, which should provide us with exclusivity for the formulation that is intended to be marketed at least through 2037. We estimate there are a total of 8.6 million patients suffering from psoriasis and 19.2 million patients suffering from atopic dermatitis in the United States. Based on market research and our internal estimates, we estimate the population of patients treated with prescribed topical therapies in the United States is approximately 2.5 million patients and 5.4 million patients for psoriasis and atopic dermatitis, respectively. We estimate our primary addressable market opportunity, which focuses on patients treated by dermatologists with topical therapies, for each of psoriasis and atopic dermatitis is 2.0 million patients and 1.0 million patients, respectively.

Mechanism of Action

PDE4 is an intracellular enzyme that regulates the production of pro-inflammatory and anti-inflammatory cytokines and cell proliferation via the degradation of cyclic AMP, or cAMP. PDE4 inhibition can inhibit inflammatory responses through, among other pathways, reductions in TNF- α , interferon- γ , interleukin-4 (IL-4), interleukin-13 (IL-13), interleukin-17 (IL-17) and interleukin-23 (IL-23). Moreover, PDE4 inhibition can also promote the barrier function of keratinocytes via suppression of inflammatory mediator production. PDE4 has been implicated in a wide range of inflammatory diseases including asthma, COPD, psoriasis, atopic dermatitis, inflammatory bowel diseases, rheumatoid arthritis and lupus.

Product Profile & Differentiation

ARQ-151 is a topical cream formulation of roflumilast, a highly potent and selective PDE4 inhibitor that was approved by the FDA for systemic treatment to reduce of the risk of exacerbations of COPD in 2011. ARQ-151 is designed for simple once-a-day application for chronic use, does not burn or sting on application, and can be used on any part of the body, including sensitive or difficult-to-treat areas, such as the face and intertriginous regions. It quickly and easily rubs into the skin without leaving a greasy residue, and does not stain clothing or bedding or have an unpleasant smell.

The table below shows the relative potency of roflumilast compared to the active ingredients in two FDA-approved PDE4 inhibitors, demonstrating a potency advantage of roflumilast of approximately 25x to in excess of 300x.

PDE4 Inhibitor Potency

A lower IC50 value (the concentration at which a biologic target's activity is inhibited by 50% and a non-clinical measure of a drug's potency), indicates a higher affinity of binding to the various PDE4 isoforms and thus greater potency.

IC50 (nM)	PDE4B	PDE4A1A	PDE4B1	PDE4C1	PDE4D7
Roflumilast	0.47	0.33	0.28	0.95	0.53
Crisaborole (Eucrisa)	75	55	61	340	170
Apremilast (Otezla)	39	9	16	48	12

We believe ARQ-151 addresses major unmet needs in the treatment of plaque psoriasis and atopic dermatitis and, based on the clinical data generated to date, has the potential to offer symptomatic improvement similar to high-potency steroids, a low risk of side effects, a favorable tolerability profile to enable chronic administration in all anatomical areas, and a convenient and patient-friendly topical formulation.

Plaque Psoriasis

Psoriasis Background

Psoriasis is an immune disease that occurs in about two percent of adults in western countries, representing approximately 8.6 million patients in the United States. About 90% of cases are plaque psoriasis, which is characterized by "plaques", or raised, red areas of skin covered with a silver or white layer of dead skin cells referred to as "scale" (see figures below). Psoriatic plaques can appear on any area of the body, but most often appear on the scalp, knees, elbows, trunk, and limbs, and the plaques are often itchy and sometimes painful. At least 40% of plaque psoriasis patients have plaques on their scalp, which presents a challenge for drug delivery, as the creams and ointments typically used to treat psoriasis on other body areas are not appropriate for use on the scalp. About 15% of plaque psoriasis patients have plaques in their intertriginous regions, which are particularly difficult to treat because these areas tend to have thinner, more easily irritated skin, and are more prone to steroid-related side effects, especially skin atrophy (thinning), striae (stretch marks) or telangiectasia (spider veins). Approximately 10% of plaque psoriasis patients have plaques on their face, which similarly has thinner, more easily irritated skin and greater vulnerability to side effects. Treatment of facial plaques is also complicated by proximity to the eyes, and the consequent heightened safety concerns, specifically increased risk for development of cataracts and glaucoma due to steroid exposure. One in three plaque psoriasis patients has plaques on their elbows and knees, which are frequently treatment resistant. Even with biologic therapies, plaques on the elbows and knees are often the last areas to resolve.

Psoriasis patients are generally characterized as mild, moderate, or severe, with approximately 75% experiencing a mild to moderate form of the disease and 25% experiencing a moderate to severe form of the disease.



*Figures: Plaque Psoriasis
Source: DermNet (right)*

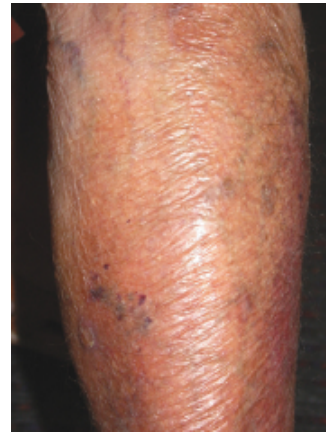
Pruritus or itching is a particularly common and bothersome symptom for patients. A recent chart review of U.S. psoriasis patients by Adelphi Group found nearly half of moderate to severe patients and one in five mild patients reported experiencing significant itching (as indicated by reports of at least a 4 on a 10-point scale) sometimes, usually or all of the time. Three quarters of moderate to severe patients with itch, and one third of mild patients with itch reported that the itching also disturbed their ability to sleep.

In addition to the direct clinical challenges of psoriasis, it has been documented that patients with plaque psoriasis suffer substantial psychosocial impacts from their disease, including: social stigmatization, feelings of rejection and shame, guilt, impaired sexual intimacy, discrimination in the workplace, difficulty finding employment or working outside the home, financial hardships, increased work absenteeism and reduced productivity. Patients with psoriasis also have a 50% greater chance of depression than the general population.

Current Psoriasis Treatment Landscape

The vast majority of psoriasis patients are treated with topical therapies, of which there have been no novel treatments approved in over 20 years. The Adelphi Group U.S. chart review discussed above found that 95% of all patients reviewed had received a topical treatment at some point in their therapy, 86% had received a topical as the first line therapy, and 71% continued to receive topical therapy, either alone or in combination with other treatments. Despite their widespread use, existing topical therapies all possess substantial shortcomings:

- **Topical steroids**, especially the high-potency topical steroids generally used to treat psoriasis, are associated with HPA axis suppression, skin atrophy (thinning), striae (stretch marks), and telangiectasia (spider veins), among other side effects. Furthermore, some of these side effects are irreversible, persisting even after therapy is discontinued. Consequently, high-potency topical steroids are not recommended for chronic use, and physicians generally will not prescribe them for treatment on the face or in the intertriginous regions. For example, the label for clobetasol propionate, the most commonly used high-potency steroid, limits use to two consecutive weeks and use on the face or intertriginous regions is contraindicated.



*Figures: Steroid-induced striae (left) and Steroid-induced skin atrophy (right)
Source: DermNet (right)*

- **Vitamin D3 analogs** such as calcipotriene, provide substantially less symptomatic improvement than high-potency steroids, and are frequently irritating. While they can be used chronically, tolerability issues with their use can be a challenge, and physicians generally will not prescribe them for use on the face or in the intertriginous regions.
- **Vitamin D3/steroid combinations** offer better symptomatic improvement than either of the two individual components alone, but still carry a risk of HPA axis suppression, and are limited in their duration of use. For example, Taclonex ointment is limited to 4 weeks of treatment.

Because high-potency steroids and combinations containing high-potency steroids provide robust symptomatic improvement for psoriasis patients, most physicians initiate treatment for nearly all patients on them. But due to the limitations on duration of treatment to between two and eight weeks, physicians are quickly confronted with a conundrum of how to manage their psoriasis patients chronically. Most will switch the patient to a low- to mid-potency steroid or to a vitamin D analog. These “step down” options provide less symptomatic improvement, and in the case of vitamin D, are often irritating. Also, rebound is a known challenge with steroids, where after steroid discontinuation, the psoriasis returns even worse than it was before steroid treatment was initiated. Thus, patients are constantly cycling between short courses of high-potency steroids and “step down” maintenance treatments.

While biologic therapies, including drugs such as Enbrel, Cosentyx, Humira, and Stelara, are available for treatment, their use remains highly restricted. In the United States, less than 20% of moderate-to-severe psoriasis patients, equivalent to 6% of all psoriasis patients, are on biologic therapy. The uptake of biologics has remained limited due to multiple factors, including the fact that they are indicated only for use in moderate to severe patients, their high cost, which can be as much as \$60,000 per year, consequent reimbursement and access restrictions, frequent high patient co-pays, perceived risk of side effects, and patient fear of injection.

Non-biologic systemic therapy options for psoriasis exist, but their use is also limited, according to Decision Resources Group, representing approximately 8% of patients worldwide, and 13% of patients in the United States. Methotrexate remains the most widely used systemic therapy, although its use continues to decline due to concerns about side effects and mandatory routine monitoring. Apremilast (Otezla), an oral PDE4 inhibitor, is another systemic option, but although it generated more than \$1 billion in sales in all indications in 2018, it has only achieved 1.2% patient share in psoriasis due to

limitations on its use to moderate-to-severe patients, modest symptomatic improvement, and frequent adverse events, or AEs.

Due to the shortcomings of existing topical therapies and the lack of options providing robust symptomatic improvement with chronic treatment, as well as the inherent challenges of treating psoriasis, the majority of patients continue to suffer from symptoms even when on treatment. Therefore, there remains a need for a non-steroidal topical treatment that is as effective as high-potency steroids, that can be used chronically, has a low risk of side effects and is well tolerated, and that can be used on all anatomical areas.

Atopic Dermatitis

Atopic Dermatitis Background

Atopic dermatitis is the most common type of eczema, occurring in approximately 6% of the population, representing approximately 19.2 million patients in the United States. Disease onset is most common by 5 years of age, and we estimate that approximately 60% of patients suffering from atopic dermatitis are pediatric patients. Atopic dermatitis is the most common skin disease among children, affecting approximately 15% to 20% of children.

Atopic dermatitis is characterized by a defect in the skin barrier, which allows allergens and other irritants to enter the skin, leading to an immune reaction and inflammation. This reaction produces a red, itchy rash, most frequently occurring on the face, arms and legs, and the rash can cover significant areas of the body (see figures below), in some cases half of the body or more. The rash causes significant pruritus (itching), which can lead to damage caused by scratching or rubbing and perpetuating an 'itch-scratch' cycle.



*Figures: Atopic Dermatitis Lesions
Source: DermNet*

Given most of the patients are pediatric, safety and tolerability of atopic dermatitis treatments is paramount and explains the predominance of topical treatments. Atopic dermatitis imposes a substantial burden on both the patient and, particularly in the case of pediatric patients, the parents and family. Pediatric patients with atopic dermatitis can suffer from sleep disturbances, behavioral problems, irritability, crying, interference with normal childhood activities, and social functioning. Parents and families of pediatric patients with atopic dermatitis can also be impacted by a lack of

sleep, emotional distress due to their child's suffering, and added workload caring for the atopic dermatitis patient. Adults with atopic dermatitis also frequently suffer from sleep disturbances, emotional impacts, and impaired social functioning. Adults with atopic dermatitis also appear to be at a significantly increased risk of anxiety, depression, and suicidal ideation compared to the general population.

Current Atopic Dermatitis Treatment Landscape

The vast majority of atopic dermatitis patients are being treated with topical therapies, particularly low- to mid-potency topical steroids and topical calcineurin inhibitors, or TCIs, and these two classes of drugs constituted 50% of atopic dermatitis prescription sales in 2017. While topical steroids are commonly used in atopic dermatitis, they are infrequently prescribed in patients with atopic dermatitis on the face or diaper/groin area. In lieu of steroids, or in response to parental concerns about steroid use, physicians frequently prescribe TCIs in patients with atopic dermatitis, especially for patients with lesions on the face or diaper/groin area. Biologic use for atopic dermatitis is currently limited. Dupixent, approved in early 2017, is the first biologic for atopic dermatitis for the treatment of adults and adolescents ages 12 and above with moderate-to-severe atopic dermatitis. Dupixent generated almost \$900 million in net sales in 2018. Despite these impressive sales results, Dupixent was used in less than 1% of atopic dermatitis patients.

Despite their widespread use, existing topical therapies for atopic dermatitis all possess substantial shortcomings:

- **Topical steroids** pose a particular concern in pediatric patients due to the risk of systemic absorption, and the consequent risk of HPA axis suppression and potential developmental problems. Consequently, chronic use of topical steroids in atopic dermatitis patients is generally avoided. Many physicians are also reluctant to use steroids to treat atopic dermatitis on the face due to the increased risk of glaucoma and cataracts, or the diaper/groin region due to risk of skin thinning. There is also considerable concern among many parents about treating their children with steroids, which can be an obstacle to treatment for physicians.
- **Topical calcineurin inhibitors** are generally seen as providing less symptomatic improvement than topical steroids and are also associated with some application site burning. Probably most significant, in 2005 the FDA placed a boxed warning on the labels of both TCIs regarding a potential increased risk of cancers, especially lymphomas, associated with their use. While some experts have expressed skepticism over the warning, TCI sales dropped 30% the year after the boxed warning and have not recovered since.
- **Eucrisa** is a topical non-steroidal PDE4 inhibitor approved by the FDA in 2016. Despite initial interest among the physician community to adopt the product, its growth has been hampered by modest symptomatic improvement, frequent occurrences of application site burning, and disadvantaged reimbursement status compared to other atopic dermatitis treatments.

Physicians are dissatisfied with current treatments due to overall suboptimal symptomatic improvement, ability to control itching, and impact on patient/parent quality of life. Patients with, or parents of patients with, atopic dermatitis are dissatisfied with overall suboptimal symptomatic improvement, sustained symptomatic improvement over time, and the inconvenience of many of the topical treatments, including the greasy residue, the amount of time required to apply, and the general messiness of treatments.

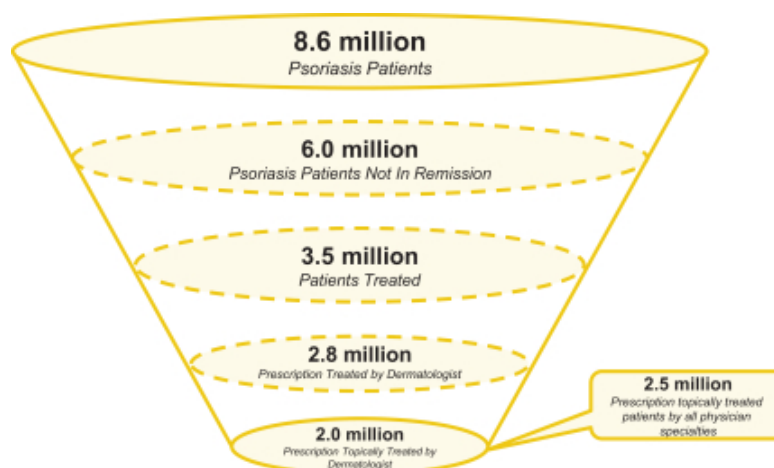
Therefore, there remains a need for a non-steroidal topical treatment that provides more symptomatic improvement than current topical treatments, has a low risk of side effects, is well tolerated, and can be used chronically in pediatric patients and on all areas of the body.

Our Market Opportunity

Plaque Psoriasis

The sales of prescription treatments for psoriasis are large and growing rapidly. According to Decision Resources Group, the worldwide market for psoriasis will grow from \$14.5 billion in 2018 (of which \$12.2 billion was in the United States) to \$22.7 billion in 2027, representing a 5% CAGR. The vast majority of prescription psoriasis sales are for biologic therapies, including drugs such as Enbrel, Cosentyx, Humira, and Stelara, which in 2018 represented \$12.1 billion (83%) of all worldwide sales and 85% of U.S. sales.

We believe there is a significant market opportunity for us to capture within plaque psoriasis. As depicted below, we estimate there are approximately 8.6 million psoriasis patients in the United States, of which approximately 6.0 million patients are not in remission and 3.5 million are seeking some form of treatment for the disease, of which approximately 82% are treated by dermatologists. We estimate that in the United States, 2.5 million patients are treated with prescription topical therapies, of which 2.0 million patients are treated with topical prescriptions by a dermatologist.

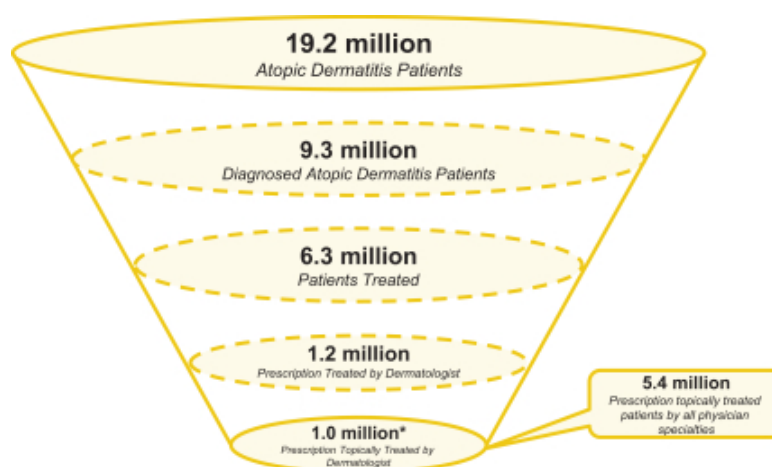


Atopic Dermatitis

While the current sales of prescription treatments for atopic dermatitis are considerably smaller than that for psoriasis, they are similarly expected to grow rapidly with the emergence of newer and better therapies. According to Decision Resources Group, the worldwide market in 2017 was \$1.4 billion, but is expected to grow to \$23 billion by 2027, representing a 32% CAGR.

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We believe there is a significant market opportunity for us to capture within atopic dermatitis. As depicted below, we estimate there are approximately 19.2 million atopic dermatitis patients in the United States, of which 9.3 million patients are diagnosed with atopic dermatitis. We estimate approximately 6.3 million atopic dermatitis patients are treated, of which 1.2 million patients are treated by dermatologists. We estimate that in the United States, 5.4 million patients are treated with prescription topical therapies, of which 1.0 million are treated with topical prescriptions by a dermatologist.



* Based on the percentage of pediatric patients with atopic dermatitis treated with topical prescriptions from dermatologists. A majority of patients suffering from atopic dermatitis are pediatric patients.

We believe ARQ-151 and ARQ-154 have the potential to address the limitations of current treatments for plaque psoriasis and atopic dermatitis.

ARQ-151 Clinical Development

Indication	Study Name	Phase	Number of Patients	Status
Plaque Psoriasis	151-101	Phase 1/2a	89	Completed
	151-201	Phase 2b	331	Completed
	151-202	Phase 2b	333	Ongoing
	151-301	Phase 3	~ 400 (Expected)	Ongoing
	151-302	Phase 3	~ 400 (Expected)	Ongoing
	151-306	Phase 3	~ 250 (Expected)	Upcoming
Atopic Dermatitis	151-102	Phase 1	16	Completed
	151-212	Phase 2 proof of concept	136	Completed
	151-105	Phase 1	~ 22 (Expected)	Ongoing

We have completed two Phase 2 clinical trials evaluating ARQ-151 in adults with plaque psoriasis, one Phase 2 clinical trial evaluating ARQ-151 in adolescents and adults with atopic dermatitis, and one Phase 1 clinical trial evaluating the pharmacokinetics of ARQ-151 in adults with atopic dermatitis. One Phase 2 clinical trial and two Phase 3 clinical trials are currently ongoing in plaque psoriasis. We plan to initiate a Phase 2b atopic dermatitis study in the second half of 2020.

Plaque Psoriasis

Completed Trials

ARQ-151-201 (Phase 2b Study)

The most recent study completed with ARQ-151 in plaque psoriasis was a multi-center, multi-national, double-blind, vehicle-controlled Phase 2b study, in which 331 adults with plaque psoriasis covering between 2% and 20% BSA were randomized to receive 12 weeks of: (1) ARQ-151 0.3% topical cream, (2) ARQ-151 0.15% topical cream, or (3) matching vehicle. At the end of the 12-week treatment period, patients were eligible to roll over into our ARQ-151-202 open label extension study for an additional 52 weeks. Completion rates for the study were 93.6% in the ARQ-151 0.3% arm, 92.0% in the ARQ-151 0.15% arm, and 78.9% in the vehicle arm.

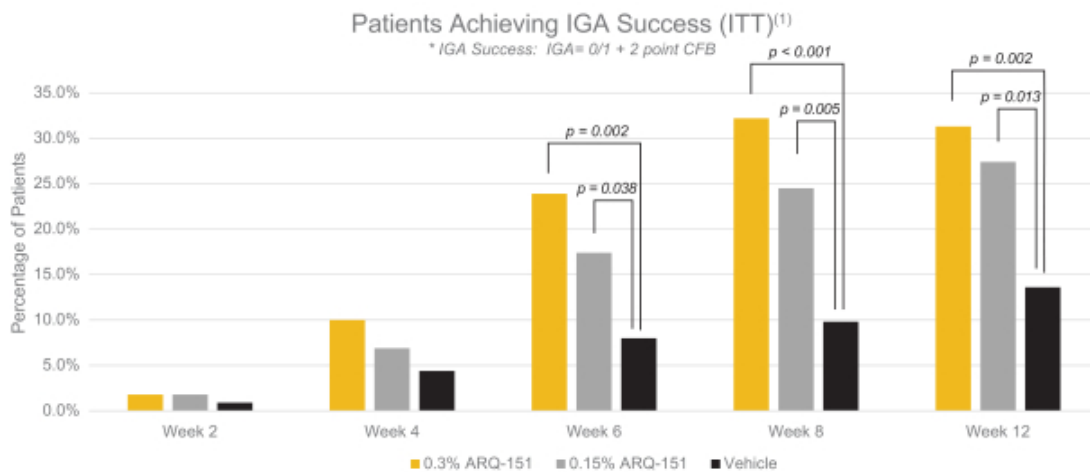
Primary Endpoint

The primary efficacy endpoint of our Phase 2b study was the percentage of subjects attaining a score of “clear” or “almost clear” on the IGA scale at week 6.

Both ARQ-151 0.3% and ARQ-151 0.15% separated from vehicle with statistical significance on the primary endpoint of percentage of patients achieving an IGA of “clear” or “almost clear” at week 6, with 28.0% of patients treated with ARQ-151 0.3% and 22.8% of patients treated with ARQ-151 0.15% achieving “clear” or “almost clear”, compared to 8.3% treated with vehicle (ARQ-151 0.3%: $p < 0.001$; ARQ-151 0.15%: $p = 0.004$).

Key Secondary Endpoint

The likely registrational endpoint for any topical psoriasis product is “IGA Success”, which is the percentage of patients attaining an IGA score of “clear” or “almost clear” PLUS a 2-grade improvement from baseline on the 5-point IGA scale. The results for this endpoint from the Phase 2b plaque psoriasis study are shown in the graph below:



(1) The intention to treat, or ITT, population includes all randomized patients. This clinical trial study population is intended to represent suitable patients and to be reflective of what might be seen if the treatment was used in clinical practice.

As shown in the graph above, both ARQ-151 0.3% and ARQ-151 0.15% separated from vehicle and demonstrated statistical significance on the percentage of patients achieving IGA Success at 8

weeks, with 32.2% of patients treated with ARQ-151 0.3% and 24.5% of patients treated with ARQ-151 0.15% achieving IGA Success, compared to 9.8% treated with vehicle.

Additional Secondary Endpoints

Additional secondary endpoints for our Phase 2b study included:

- The percentage of patients attaining a 75% or 90% reduction from baseline on their PASI score (PASI-75 and PASI-90) at weeks 4, 6, 8 and 12 compared to baseline;
- Among subjects with plaques in their intertriginous regions, an I-GA of “clear” or “almost clear” PLUS a 2-grade improvement from baseline at weeks 4, 6, 8 and 12.
- Among subjects with documented pruritus (itching) with a baseline WI-NRS pruritus score of ≥ 6 , at least a 4-point reduction from baseline at weeks 4, 6, 8 and 12.
- The mean change from baseline on a Patient Reported Outcomes, or PRO, assessment called the Psoriasis Symptom Diary, or PSD, at weeks 4, 6, 8 and 12.

The figure below includes photographs that are representative of patients of our Phase 2b study:

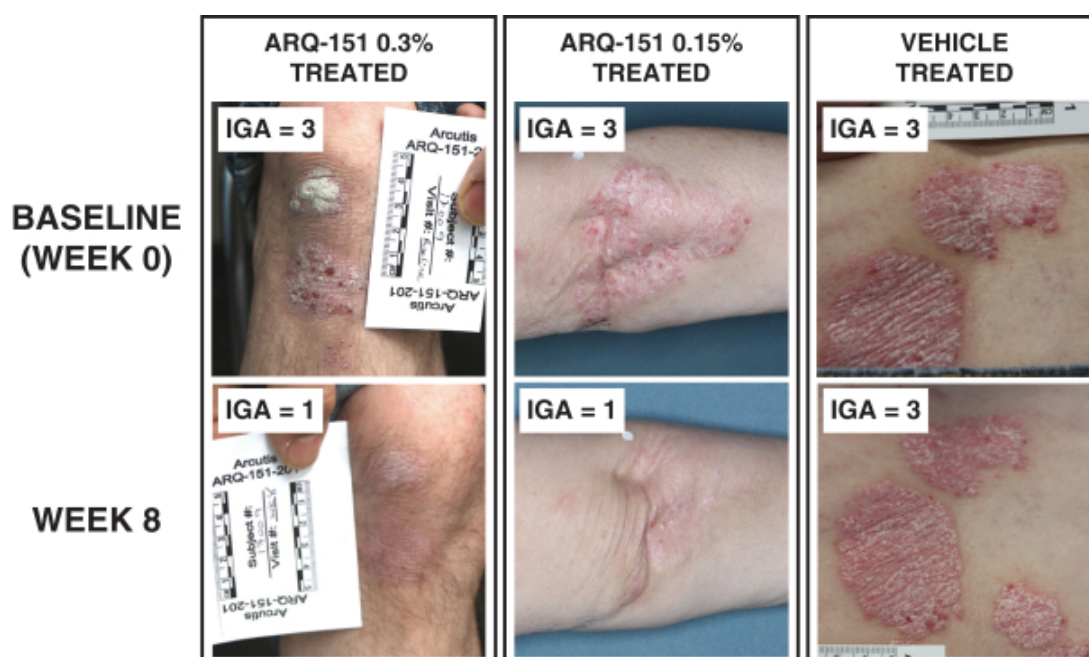


Figure: Representative Subject Photographs from Study ARQ-151-201

The upper row of photographs shows psoriatic plaques of individual study subjects in the ARQ-151 0.3% (left), ARQ-151 0.15% (middle) and vehicle (right) groups at baseline (Week 0). All 3 subjects were graded “moderate” (IGA 3) at baseline, as were 77.3% of all subjects enrolled in the study. The lower row of photographs shows those exact same psoriatic plaques of the exact same individual subjects after 8 weeks of treatment. The vehicle patient remained “moderate” (IGA 3). The subjects on both ARQ-151 0.15% and ARQ-151 0.3% achieved IGA Success – both subjects were IGA 1 at Week 8, improving 2 points from baseline. These two subjects are representative of the patients achieving IGA Success in the study.

In published data from third party clinical trials involving halobetasol and bethamethasone dipropionate (Class 1 ultra high- and high-potency steroids), halobetasol and betamethasone dipropionate demonstrated a mean IGA Success rate of 32.5% at 8 weeks. Based on a retrospective post-hoc cross-trial comparison that we compiled based on published data and our Phase 2b study, we believe that ARQ-151 is likely to demonstrate similar mean IGA Success to these Class 1 steroids. In data from our Phase 2b study of ARQ-151, ARQ-151 0.3% demonstrated an IGA Success rate of 32.2% at 8 weeks. The results of this retrospective post-hoc cross-trial comparison may not be directly comparable, as they are not from a single head-to-head clinical trial. Further, while we believe this data is useful in informing the design of future clinical trials and potential for ARQ-151, cross-trial comparisons involve the inherent bias of post-hoc manipulation of data and choice of analytical methods, as well as methodological issues surrounding heterogeneity among studies contributing to the analyses; therefore, it is important to view such results in light of the totality of all available information, such as individual study results on pre-specified analyses of endpoints. This cross-study comparison will not be used to support regulatory filings for ARQ-151.

The chart below shows a comparison of data across these separate clinical trials.

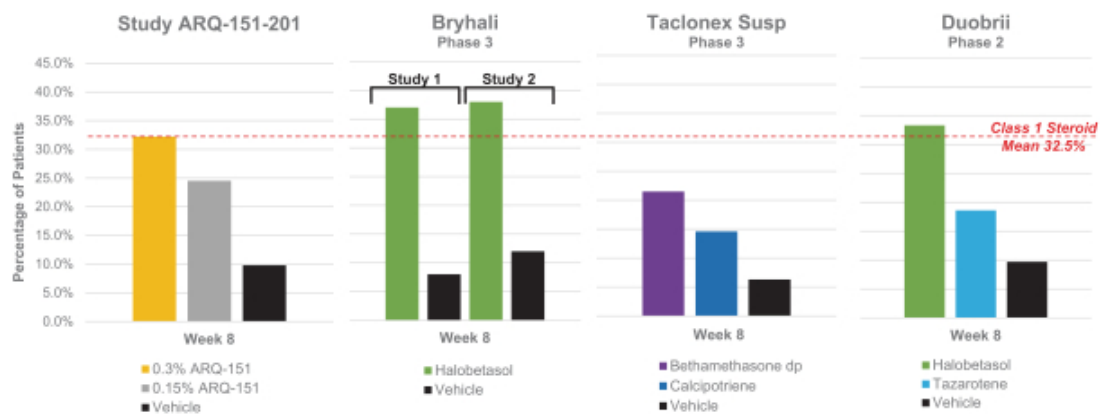


Figure: Comparison of IGA Success Rates Across Topical Psoriasis Trials

In our Phase 2b study, ARQ-151 0.3% also demonstrated promising results, based on percentage of patients achieving PASI-75 (31.3% in patients with moderate-to-severe psoriasis for ARQ-151 0.3% at week 8). Additionally, patients did not experience the frequent gastrointestinal side effects reported with certain other treatments. For example, ARQ-151 0.3% reported rates of diarrhea and nausea of 0.9% and 0.9%, respectively, in our Phase 2b study.

In Phase 3 studies, oral apremilast (Otezla) achieved response rates of 28.8% and 33.1% in their Phase 3 studies at 30 mg BID (twice a day) at week 16, compared to placebo response rates of 5.3% and 5.8%, in each trial, respectively. In Phase 3 studies, Otezla reported diarrhea and nausea rates of 18.8% and 15.7%, respectively.

Both ARQ-151 0.3% and ARQ-151 0.15% demonstrated rapid onset of effect, with both doses statistically separating from vehicle as early as week 2 on mean percent CFB in PASI. The chart below shows mean percent CFB in PASI over the course of the study.

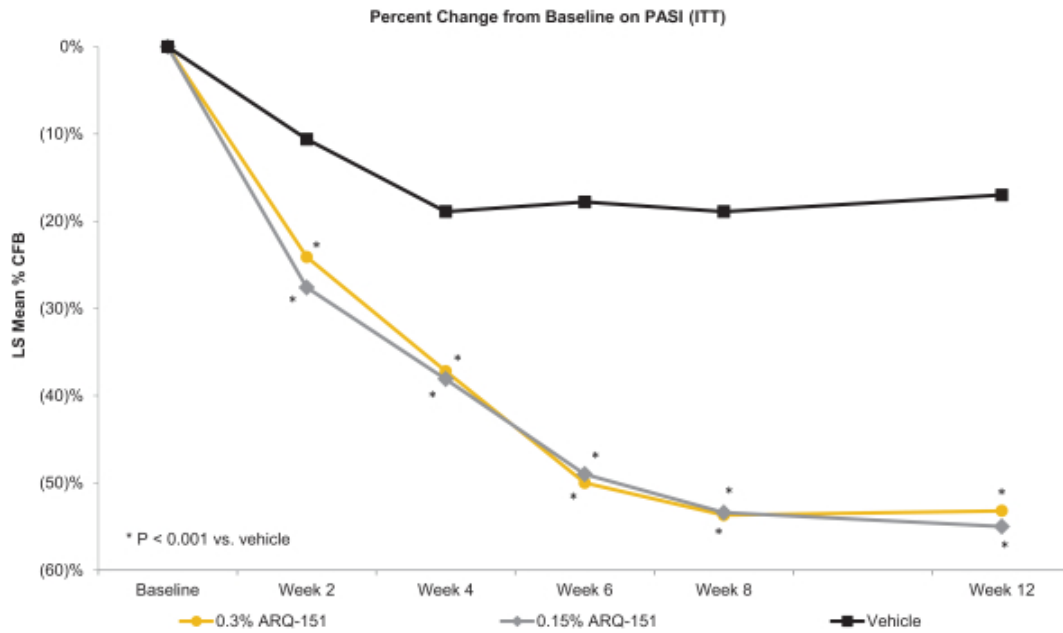


Figure: Percent Change from Baseline on PASI in Study ARQ-151-201

Additionally, statistically significantly more patients treated with ARQ-151 0.3% achieved a 75% improvement in PASI score (PASI-75) at 8 weeks than patients treated with vehicle (31.3% on ARQ-151 0.3% versus 13.2% on vehicle, $p = 0.002$), and more patients treated with ARQ-151 0.3% achieved a 90% improvement in PASI score (PASI-90) at 8 weeks than patients treated with vehicle (16.9% on ARQ-151 0.3% versus 6.0% on vehicle, $p = 0.015$).

As noted earlier, psoriatic plaques in the intertriginous regions are particularly challenging to treat. In this study, ARQ-151 demonstrated very strong results in the treatment of intertriginous plaques. In fact, 88.5% of patients treated with ARQ-151 0.3% who had intertriginous plaques at baseline achieved an I-IGA of “clear” (I-IGA = 0) by week 8, and 44.6% of patients treated with ARQ-151 0.15% who had intertriginous plaques at baseline achieved an I-IGA of “clear” (I-IGA = 0) by week 8 compared to 30.6% of vehicle patients achieving an I-IGA of “clear” (I-IGA = 0) by week 8 ($p = 0.003$).

Plaque psoriasis patients suffer from a number of symptoms associated with their disease, including itching, burning, stinging, skin cracking, and pain, in addition to the thickened, red and scaly plaques that are the hallmark of the disease. In Study ARQ-151-201, patients were asked to evaluate these symptoms using the PSD, a validated psoriasis PRO. Both doses of ARQ-151 demonstrated statistically significant (ARQ-151 0.3%: $p < 0.001$; ARQ-151 0.15%: $p < 0.001$) reductions in the total PSD score compared to vehicle at week 8, with statistical separation at week 2 (ARQ-151 0.15%) or week 4 (ARQ-151 0.3%). ARQ-151 0.3% also statistically separated from vehicle in reductions of itch as measured by WI-NRS, with 32.9% of patients with significant itching (baseline WI-NRS ≥ 6) treated with ARQ-151 0.3% experiencing at least a 40% reduction in their WI-NRS score at week 2 ($p = 0.034$), compared to 28.4% of patients treated with ARQ-151 0.15% and 16.7% of patients treated

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with vehicle. At week 8, 64.6% of patients with significant itching (baseline WI-NRS > 6) treated with ARQ-151 0.3% experienced at least a 40% reduction in their WI-NRS score at week 8, compared to 58.2% of patients treated with ARQ-151 0.15% and 42.3% treated with vehicle.

Safety

In Study ARQ-151-201, ARQ-151 was well-tolerated by the subject population. The table below summarizes TEAEs in the study.

Table: Treatment-Emergent Adverse Events in ARQ-151-201

	ARQ-151 Cr 0.3% (N=109)	ARQ-151 Cr 0.15% (N=110)	Vehicle (N=107)
Subjects with any TEAE	42 (38.5%)	30 (27.3%)	32 (29.9%)
Number of TEAEs	85	51	47
Subjects with any Tx-Related TEAE	7 (6.4%)	3 (2.7%)	7 (6.5%)
Number of Related TEAEs	15	3	8
Subjects with any SAE	1 (0.9%)(a)	1 (0.9%)(b)	2 (1.9%)(c)
Number of SAEs	1	1	2
Subjects who discontinued Study Drug due to AE	1 (0.9%)	0	3 (2.8%)
Subjects who discontinued Study due to AE	1 (0.9%)(d)	0	2 (1.9%)(e)

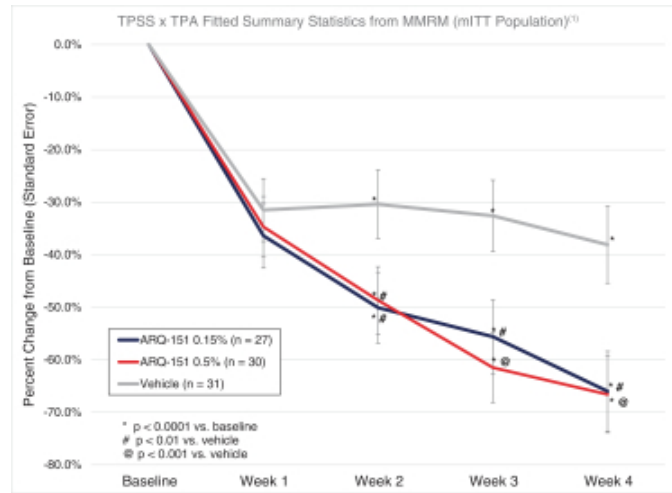
- (a) One subject in the ARQ-151 0.3% group experienced worsening of chest pain. The subject had a history of cardiovascular disease, and the investigator deemed the AE not to be treatment related.
- (b) One subject in the ARQ-151 0.15% group developed a 1.4 millimeter deep non-ulcerated Melanoma. The melanoma was not an area of treatment, and the investigator deemed the AE not to be treatment related.
- (c) One subject in the Vehicle group experienced an Acute Infarction of the Left Basal Ganglia deemed not to be treatment related by the investigator; another subject in the Vehicle group experienced a Spontaneous Miscarriage, deemed to be possibly treatment related by the investigator.
- (d) One subject in the ARQ-151 0.3% group discontinued from the study on day 18 due to an adverse event of "psoriasis".
- (e) Two subjects in the Vehicle group discontinued from the study due to AEs: one subject had an adverse event of "mood swings", the other subject had an adverse event of "contact dermatitis".

The incidence of AEs of special interest, such as the application site adverse reactions that are commonly associated with many other topical psoriasis treatments or the gastrointestinal side effects commonly seen with oral administration of roflumilast or other oral PDE4 inhibitors, was also low throughout this study:

- There was no evidence of burning or stinging at the site of application, as judged by either study subjects or investigators.
- Rates of gastrointestinal AEs were low and balanced across groups (ARQ-151 0.3% = 3.6%; ARQ-151 0.15% = 1.8%; Vehicle = 1.9%), none of those occurring in active-treated subjects led to study discontinuation, and only one subject experienced an AE (frequent bowel movements) which was deemed by the investigator to be likely, possibly, or probably related to treatment.
- Rates of psychiatric AEs were also low and balanced across groups (ARQ-151 0.3% = 2.8%; ARQ-151 0.15% = 1.8%; Vehicle = 2.8%), and none of those that occurred in active-treated subjects led to study discontinuation.
- Weight change during the study was uncommon, with weight loss of > 5% balanced across treatment groups, comparable rates of weight loss > 5% and weight gain > 5%, and no instances of weight loss > 10%.

ARQ-151-101 (Phase 1/2a Study)

We earlier conducted a multi-center, multi-national, double-blind, vehicle-controlled Phase 1/2a study of ARQ-151, in which 89 adults with plaque psoriasis were randomized to receive 4 weeks of: (1) 0.5% ARQ-151 topical cream, (2) 0.15% ARQ-151 topical cream, or (3) matching vehicle. Patients applied test article once daily to between one and three “target plaques” totaling no more than 5% BSA. The primary efficacy endpoint was the change from baseline in the product of the TPSS, measuring redness, thickness, and scaling of a target plaque, and the TPA of the target plaque(s). The results for this endpoint are shown in the following chart:



(1) Product of Target Plaque Severity Score, or TPSS, and Target Plaque Area, or TPA, fitted summary statistics from Mixed effect Model Repeat Measurement (modified ITT population).

Figure: Improvement in Plaque Psoriasis by ARQ-151 in Study ARQ-151-101

In Study ARQ-151-101, the percent change from baseline in the primary endpoint (TPSS x TPA) was statistically significantly different (ARQ-151 0.15%: p<0.01; ARQ-151 0.5%: p<0.01) from vehicle for both active doses of ARQ-151 after 2 weeks of treatment and the product of plaque area and severity was reduced by >65% from baseline for both active dose groups after 4 weeks of treatment.

Safety

The incidence of TEAEs was comparable to vehicle for both doses (40.0% of subjects treated with 0.5% ARQ 151 vs. 25.0% of subjects treated with 0.15% ARQ-151 vs. 35.5% of subjects treated with vehicle), and all TEAEs were predominantly mild or moderate in severity. There were no SAEs and no discontinuations due to TEAEs. There was also none of the application site adverse reactions that are commonly associated with many other topical psoriasis treatments, and no evidence of the gastrointestinal side effects commonly seen with oral administration of roflumilast or other oral PDE4 inhibitors.

While there were no adverse side effects or tolerability issues with ARQ-151 identified during study ARQ-151-101, systemic exposure seen in the study was higher than predicted by our pre-clinical pharmacokinetic experiments. We therefore elected to reduce the maximum concentration from 0.5% roflumilast to 0.3% roflumilast for subsequent development.

Ongoing and Upcoming Trials

ARQ-151-202 Study

Subjects who completed 12 weeks of double-blind treatment in the ARQ-151-201 study were eligible to roll over to an open label long-term safety study, which is ongoing. In this study, all subjects are receiving 0.3% ARQ-151 topical cream once daily for 52 weeks. 231 subjects from Study ARQ-151-201 elected to roll over to the ARQ-151-202 study. In addition, 102 new subjects, who had not participated in the ARQ-151-201 study, were enrolled in Study ARQ-151-202. The primary endpoints of this study are the occurrence of TEAEs and the occurrence of SAEs. Study ARQ-151-202 is fully enrolled and ongoing, with topline results expected in the first half of 2021. We believe this study will fulfill regulatory submission requirements for 12 month safety data.

Phase 3 Program: ARQ-151-301 (DERMIS-1) Study and ARQ-151-302 (DERMIS-2) Study

We are conducting a Phase 3 clinical program for ARQ-151 consisting of three trials, including two ongoing identical multi-national, multi-center, double-blind, vehicle-controlled Phase 3 clinical trials (ARQ-151-301 and ARQ-151-302) to support registration with the FDA. In these studies, which we refer to as the “Trial of **PDE4** inhibition with **Roflumilast** for the **Management of Plaque Psoriasis**” (DERMIS-1, DERMIS-2), we plan to enroll a total of 800 mild-to-severe plaque psoriasis patients (400 patients per study) for 8 weeks of once daily treatment with ARQ-151 0.3% cream or matching vehicle to demonstrate the superiority of ARQ-151 treatment compared to vehicle. Randomization will be in a 2:1 ratio of active drug to vehicle.

These two trials will randomize patients ages 12 and above with plaque psoriasis covering between 2% and 20% BSA. The primary efficacy endpoint is the percentage of subjects attaining IGA Success at week 8, defined as a score of “clear” or “almost clear” PLUS a two-point improvement from baseline on the IGA scale at week 8. Multiple secondary endpoints will also be evaluated, including PASI-75, PASI-90, I-IGA in subjects with intertriginous plaques, WI-NRS in subjects with pruritus, and PSD. At the end of the 8-week treatment period, a proportion of patients will be eligible to roll over into the ARQ-151-306 (DERMIS-OLE) study.

Based on our positive October 2019 End-of-Phase 2 meeting with the FDA, we believe the design of the DERMIS-1 and DERMIS-2 studies will support the NDA submission of ARQ-151 for plaque psoriasis. We believe that if the results from DERMIS-1 and DERMIS-2 are positive, we will have sufficient efficacy data for the registration with the FDA of ARQ-151 for the treatment of plaque psoriasis, including psoriasis in intertriginous regions. We intend to use the results from DERMIS-1 and DERMIS-2, supported by the chronic treatment results from the ARQ-151-202 and ARQ-151-306 studies to support recommendations for long-term use. Safety data from Study ARQ-151-202, supplemented with data from Studies ARQ-151-101, ARQ-151-201, ARQ-154-204, ARQ-151-301, ARQ-151-302, and ARQ-151-306, will form the basis for our Integrated Safety Summary that will be required by the FDA at the time of submission. Because we are collecting 12-month exposure data from Study ARQ-151-202, we do not believe we will need any additional long-term safety studies in Phase 3.

ARQ-151-306 (DERMIS-OLE) Study

A portion of subjects who complete 8 weeks of double-blind treatment in the DERMIS-1 and DERMIS-2 studies will be eligible to roll over to an open label extension study, DERMIS-OLE. In this study, all subjects will receive 0.3% ARQ-151 topical cream for 24 weeks. Up to 250 subjects from DERMIS-1 and DERMIS-2 will be eligible to enroll in DERMIS-OLE. The primary endpoints of this study will be the occurrence of TEAEs and the occurrence of SAEs.

Atopic Dermatitis

Completed Trials

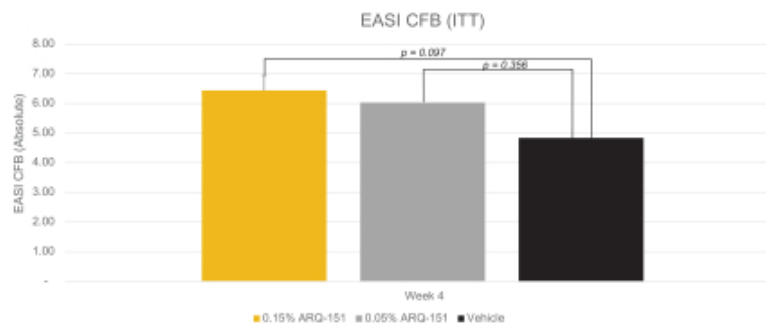
ARQ-151-212

The most recent study completed with ARQ-151 was a multi-center, double blind, vehicle-controlled proof of concept Phase 2 study, in which 136 adolescents (ages 12 and above) and adults with mild to moderate atopic dermatitis involving between 1.5% and 35% body surface area (BSA) were randomized to receive once daily topical applications for 4 weeks of: (1) ARQ-151 0.15% cream, or (2) ARQ-151 0.05% cream, or (3) vehicle. The goals of this small proof of concept study were to establish whether ARQ-151 provides a signal of potential symptomatic improvement in atopic dermatitis patients, as well as to gain an understanding of its tolerability. Completion rates for the study were 98% in the ARQ-151 0.15% arm, 91% in the ARQ-151 0.05% arm, and 93% in the vehicle arm.

Primary Endpoint

The primary efficacy endpoint of our Phase 2 proof of concept study was the mean change from baseline, or CFB, in the EASI Total Score at week 4.

As shown in the graph below, neither dose reached statistical significance on the primary endpoint of mean CFB in EASI at week 4, although ARQ-151 0.15% showed a trend towards significance, with a mean improvement of 6.4 on the EASI score compared to 4.8 in patients treated with vehicle ($p = 0.097$).

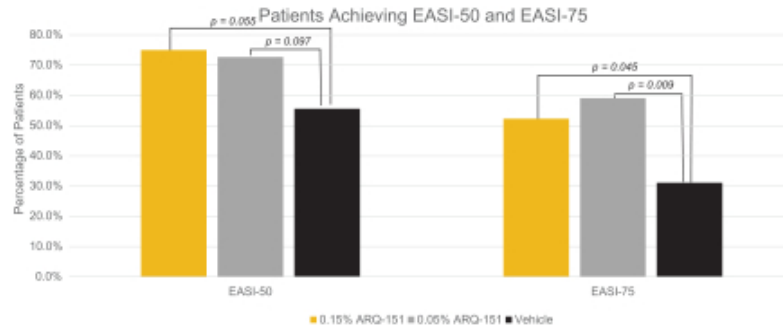


Secondary Endpoints

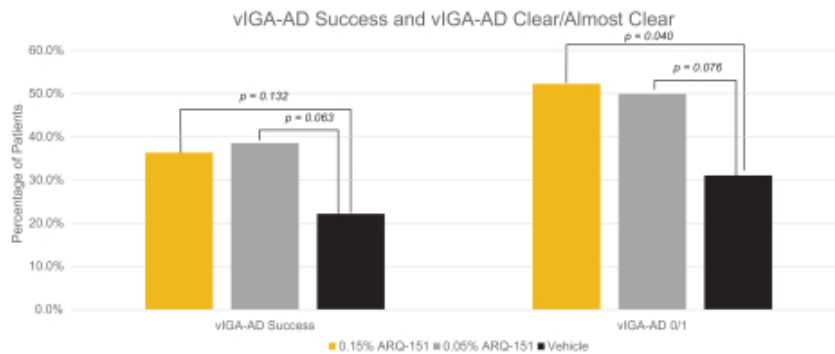
Secondary endpoints for our Phase 2 proof of concept study included:

- Percent change from baseline in EASI Total Score at weeks 1, 2 and 4; and
- The percentage of patients attaining a 50% or 75% reduction from baseline on their EASI score (EASI-50, EASI-75) at weeks 1, 2 and 4.

On the secondary endpoint of mean percent change from baseline on EASI, ARQ-151 0.15% demonstrated a statistically significant improvement versus vehicle at week 4 (72.3% versus 55.8%, $p = 0.049$), and ARQ-151 0.05% showed a trend toward significance at week 4 (69.4% versus 55.8%, $p = 0.164$). There was also a trend toward significance in the percentage of patients treated with both strengths who achieved a 50% improvement in EASI score (EASI-50) at 4 weeks compared to patients treated with vehicle (75% on ARQ-151 0.15% and 73% on ARQ-151 0.05% versus 56% on vehicle, $p = 0.055$ and $p = 0.097$ respectively), and more patients achieved a 75% improvement in EASI score (EASI-75) at 4 weeks (52% on ARQ-151 0.15% ($p = 0.045$) and 59% on ARQ-151 0.05% ($p = 0.009$) versus 31% on vehicle.



On the Validated Investigators Global Assessment – Atopic Dermatitis, or vIGA-AD, a pre-specified exploratory endpoint, ARQ-151 0.15% also demonstrated statistically significant improvement versus vehicle in the percentage of patients achieving clear or almost clear at weeks 2 and 4 (week 4: ARQ-151 0.15%: 52.3% versus vehicle: 31.1%; $p = 0.040$), and showed a trend towards significance on the likely registrational endpoint of vIGA Success, defined as clear or almost clear PLUS a two point change, with ARQ-151 0.15%: 36.4% versus vehicle: 22.2% ($p = 0.132$). ARQ-151 0.05% approached a statistically significant improvement versus vehicle on vIGA-AD Success at week 4 (38.6% versus 22.2%, $p = 0.063$), and showed a trend towards significance on vIGA-AD clear or almost clear at week 4 (50.0% versus 31.1%, $p = 0.076$).



In published data from third party clinical trials involving the approved PDE-4 inhibitor crisaborole (Eucrisa), the medium-potency steroid triamcinolone cream 0.1%, the developmental JAK inhibitors ruxolitinib and delgocitinib (JTE-052), and the developmental AHR agonist tapinarof, these drugs reported IGA Success rates in AD of 31% to 33%, 26%, 38%, 10% and 38%, respectively. Based on a retrospective post-hoc cross-trial comparison that we compiled based on published data and our Phase 2 proof of concept study, we believe that ARQ-151 is likely to demonstrate similar mean IGA

Success to these approved and in development AD therapies. The results of this retrospective post-hoc cross-trial comparison may not be directly comparable, as they are not from a single head-to-head clinical trial. Further, while we believe this data is useful in informing the design of future clinical trials and potential for ARQ-151, cross-trial comparisons involve the inherent bias of post-hoc manipulation of data and choice of analytical methods, as well as methodological issues surrounding heterogeneity among studies contributing to the analyses; therefore, it is important to view such results in light of the totality of all available information, such as individual study results on pre-specified analyses of endpoints. This cross-study comparison will not be used to support regulatory filings for ARQ-151.

Safety

In Study ARQ-151-212, ARQ-151 was well-tolerated by the subject population. The table below summarizes TEAEs in the study.

Table: Treatment-Emergent Adverse Events in ARQ-151-212

	ARQ-151 Cr 0.15% (N=45)	ARQ-151 Cr 0.05% (N=46)	Vehicle (N=45)
Subjects with any TEAE	12 (27%)	10 (22%)	6 (13%)
Number of TEAEs	16	16	8
Subjects with any Tx-Related TEAE	0	2 (4%)	2 (4%)
Number of Related TEAEs	0	2	2
Subjects with any SAE	0	1 (2%)(a)	0
Number of SAEs	0	1	0
Subjects who discontinued Study Drug due to AE	0	1 (2%)	1 (2%)
Subjects who discontinued Study due to AE	0	1 (2%)(b)	1 (2%)(c)

- (a) One subject in the ARQ-151 0.05% group experienced a spinal cord compression related to a motor vehicle accident. The investigator deemed the AE not to be treatment related.
- (b) One subject in the ARQ-151 0.05% group discontinued from the study due to an adverse event of "application site pain".
- (c) One subject in the vehicle group discontinued from the study due to an adverse event of "dermatitis atopic".

Consistent with our experience in psoriasis, the incidence of AEs of special interest, such as the application site adverse reactions that are commonly associated with many other topical atopic dermatitis treatments or the gastrointestinal side effects commonly seen with oral administration of roflumilast or other oral PDE4 inhibitors, was also low throughout this study:

- Adverse events at the site of application were rare, and were balanced across groups (ARQ-151 0.15% = 0%, ARQ-151 0.05% = 4%, vehicle 4%), and only one patient on active treatment discontinued due to application site reactions.
- Rates of gastrointestinal AEs were low and balanced across groups (ARQ-151 0.15% = 2%; ARQ-151 0.05% = 2%; Vehicle = 4%);
- There was no evidence of unintentional weight loss (one subject on ARQ-151 0.05% experienced > 5% weight loss, but this was intentional and associated with diet and a fitness plan).

We believe the consistent evidence of symptomatic improvement demonstrated by both strengths of ARQ-151 across endpoints, as well as the improvement in atopic dermatitis demonstrated on both doses in this small proof-of-concept study provide evidence of the ability of ARQ-151 to treat the signs and symptoms of atopic dermatitis. Additionally, this study provided valuable insights into the safety and tolerability of ARQ-151 in this population, an especially important consideration because the majority of AD sufferers are young children. While the study did not reach statistical significance on

every endpoint, the consistency of evidence for improvement in atopic dermatitis, coupled with favorable tolerability data, provides us with the confidence to continue the development of ARQ-151 in atopic dermatitis. We plan to initiate a Phase 2b study in children, adolescents and adults with atopic dermatitis in the second half of 2020, following the completion of the ongoing pediatric atopic dermatitis PK study (Study ARQ-151-105).

ARQ-151-102 (Phase 1 Study)

The ARQ-151-102 was a single-site, open label Phase 1 study of the pharmacokinetics and safety of ARQ-151 in atopic dermatitis, in which 16 adults with mild to moderate atopic dermatitis covering between 4% and 8% BSA were treated for 15 days with: (1) 0.15% ARQ-151 topical cream, or (2) 0.05% ARQ-151 topical cream once daily. The primary focus of the study was to evaluate pharmacokinetics, safety and tolerability. Change from baseline in area of atopic dermatitis lesions was also measured. The study found that systemic exposure upon topical application of ARQ-151 at the same concentration and over the same BSA was similar in atopic dermatitis subjects and in psoriasis subjects. This suggests that the side effect profile and tolerability of ARQ-151 in atopic dermatitis may be similar to that seen in psoriasis. This is an important finding, as the damaged skin barrier in atopic dermatitis patients may lead to increased systemic drug exposure with some therapies. In study ARQ 151-202, ARQ-151 was well-tolerated by the subject population, with no SAEs or discontinuations due to AEs during the study, and no evidence of irritation in any subject. The mean percent BSA involvement decreased from 6.1% in the 0.15% group and 5.8% in the 0.05% group at baseline to 3.1% and 2.6%, respectively, at Week 2, reflecting reductions of 49% and 55%. While there was no vehicle control in this study, we believe these results suggest that ARQ-151 may provide symptomatic improvement in the treatment of atopic dermatitis.

Ongoing and Upcoming Trials

ARQ-151-105 Study

The ARQ-151-105 study is a multi-center, open-label Phase 1 study of ARQ-151 in adolescent and pediatric subjects with mild to moderate atopic dermatitis, in which approximately 22 subjects between the ages of 2 and 17 years of age with atopic dermatitis covering between 1.5% and 35% BSA will receive ARQ-151 0.15% for 4 weeks. The primary endpoints of the study will be the pharmacokinetics of ARQ-151 as well as the safety and tolerability of ARQ-151 in this population. This study is designed to support the inclusion of pediatric and adolescent subjects in future clinical trials of ARQ-151 in atopic dermatitis.

ARQ-154

Overview

We are also developing ARQ-154, a foam formulation of ARQ-151 for the treatment of scalp psoriasis and seborrheic dermatitis. ARQ-154 contains roflumilast, the same highly potent and selective PDE4 inhibitor found in ARQ-151, and is nearly identical to ARQ-151, with all ingredients in ARQ-154 being the same as those in ARQ-151, other than reduced oil content and the addition of a propellant in the can to create the foam. We have initiated a Phase 2 proof of concept study for ARQ-154 in seborrheic dermatitis and a Phase 2b study in scalp psoriasis.

Product Profile and Differentiation

ARQ-154 is a light foam, similar to hair mousse, that has been designed to deliver the drug to the scalp while not leaving a greasy residue or disturbing hair style. The foam breaks easily upon agitation, creating a thin solution that can be rubbed easily into the scalp. Additionally, the product does not melt on the fingers prior to application. ARQ-154 will not stain clothing or bedding, and does not have an unpleasant smell. ARQ-154 is designed for simple once-a-day application and neither burns nor stings

on application. We believe that ARQ-154 has the potential to offer physicians and patients a highly differentiated clinical profile that is ideally suited to address unmet needs in the topical treatment of scalp psoriasis and seborrheic dermatitis.

Seborrheic Dermatitis

Seborrheic Dermatitis Background

Seborrheic dermatitis is a common skin disease that is estimated to occur in approximately 2% of the population. The disease causes red patches covered with large, greasy, flaking yellow-gray scales, and is frequently itchy. It appears most often on the scalp, face (especially on the nose, eyebrows, ears, and eyelids), upper chest, and back as depicted in the figure below. A milder variant of the disease is dandruff. While the pathogenesis of seborrheic dermatitis is not well understood, some experts believe a contributor is an overabundance of *Malassezia*, a naturally occurring yeast found on normal skin but found in excess numbers on skin with seborrheic dermatitis. There also is an immunological or inflammatory component, possibly as a result of the proliferation of the *Malassezia* yeast and its elaboration of substances that irritate the skin. Seborrheic dermatitis can occur in both adults and infants, and in infants is commonly referred to as “cradle cap”.



Figures: Seborrheic Dermatitis

Current Seborrheic Dermatitis Treatment Landscape

There are a number of widely used treatments for seborrheic dermatitis, including antifungal agents, lower potency steroids, and immunomodulators.

- **Antifungal agents**, particularly azoles such as ketoconazole, are the cornerstone of therapy for seborrheic dermatitis. These agents are available in a variety of formulations suitable for treating areas of the body affected by seborrheic dermatitis, including shampoos, foams, gels, and creams. Oral antifungals are occasionally used in very severe cases. Antifungals in the treatment of seborrheic dermatitis are generally well tolerated, although some patients experience irritant contact dermatitis, a burning or itching sensation, or dryness.
- **Topical steroids**, mostly low- to mid-potency, are often prescribed for patients suffering from seborrheic dermatitis because of the inflammatory component of the disease. Due to the risks associated with steroid use, particularly on the face, such as skin atrophy (thinning), telangiectasias (spider veins), folliculitis (inflammation of the hair follicle), and hypertrichosis (abnormal hair growth), physicians try to limit duration or avoid steroid therapy. The eyebrows and nasolabial folds are the most common sites of seborrheic dermatitis on the face. Their proximity to the eyes and the known association of steroid use with the development of

cataracts and glaucoma add to physicians' apprehension in prescribing topical steroids for seborrheic dermatitis.

- **TCIs** are also used off-label for the treatment of seborrheic dermatitis. These agents appear to provide symptomatic improvement in seborrheic dermatitis due to their anti-inflammatory effects. Many doctors are more comfortable using these drugs compared to steroids, especially on the face and around the eyes. As previously noted, TCIs carry a boxed warning for the potential increased risk of cancers, especially lymphomas, associated with their use, and physicians generally try to avoid long-term use in patients suffering from seborrheic dermatitis. Additionally, because TCIs are >800 Da in molecular weight, and since seborrheic dermatitis does not have a skin permeability defect, TCIs only provide symptomatic improvement in seborrheic dermatitis in areas of skin that are very thin and where the drug can penetrate (i.e., largely the periorcular areas only).

While physicians have a number of relatively inexpensive treatment options that provide symptomatic improvement for seborrheic dermatitis, the greatest unmet need relates to inadequate response to existing therapies in some patients, particularly in patients with more severe disease. Physicians report that up to one-third of severe patients suffering from seborrheic dermatitis, and a smaller percentage of mild- and moderate-severity patients, have an inadequate response to current seborrheic dermatitis treatments. This treatment resistant population represents a key opportunity for ARQ-154. Additionally, physicians are wary of using steroids on the face due to the risk of skin thinning, spider veins, folliculitis, and unnatural hair growth. Physicians are especially wary of using steroids near the eyes due to the potential increased risk of cataracts and glaucoma. Finally, many physicians are reluctant to treat chronically with steroids and TCIs, the main anti-inflammatory agents used in treatment of seborrheic dermatitis. Therefore, in addition to the opportunity in treatment resistant patients, we believe ARQ-154 may be an option for some patients as a first-line therapy, especially patients with involvement of the face.

We believe physicians are seeking new therapies for seborrheic dermatitis that provide more symptomatic improvement than the current treatment paradigm, especially in those patients with an inadequate response to existing therapies. Furthermore, we believe an unmet need exists for an agent that not only provides the ability to be used chronically with a low risk of side effects, but also the ability to use on the face and near the eyes with a low risk of ocular side effects. Given most patients suffering from seborrheic dermatitis have scalp involvement, we believe a formulation suitable for treating hair-bearing areas of the scalp is essential.

Scalp Psoriasis

Scalp Psoriasis Background

Scalp psoriasis is a manifestation of plaque psoriasis that occurs in nearly half of all psoriasis patients, characterized by plaques in the hair-bearing area of the scalp and sometimes extending to the forehead, back of the neck, or behind or inside the ears as depicted in the figure below. These psoriatic plaques are identical to plaques on other body areas, however topical treatment of these plaques is complicated by the difficulty of delivering topical drugs under hair-bearing areas. As with psoriatic plaques on other parts of the body, psoriasis on the scalp is often itchy and is sometimes painful. Scalp psoriasis can also be associated with hair loss, likely due to damage to the hair from excessive scratching, rubbing, or combing of the affected area.



Figures: Scalp Psoriasis
Source: DermNet (left)

Current Scalp Psoriasis Treatment Landscape

Scalp psoriasis treatments are similar to plaque psoriasis given the plaques are identical to the plaques in other body areas. Both biologics and systemic treatments will improve scalp psoriasis but suffer from the same limitations as in plaque psoriasis. Additionally, there is no evidence that adoption is greater in scalp psoriasis patients than other psoriasis patients.

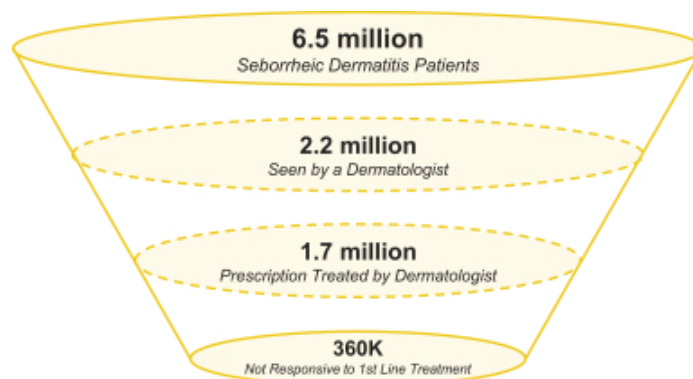
High-potency steroids and vitamin D3 analogs, topical agents that provide symptomatic improvement in plaque psoriasis, also provide symptomatic improvement in scalp psoriasis. However, due to the hair on most scalp psoriasis patients' scalps, lotions, creams and ointments are not appropriate for use on the scalp because of the difficulty of delivering the drug to the scalp. The negative impact on hair appearance can also affect patient compliance. A number of alternative formulations have been developed, such as solutions, suspensions, foams, or shampoos, containing high-potency steroids, vitamin D3 analogs, or a combination of the above. However, these formulations are also not ideal as the solutions and suspensions often run down patients' faces or into their ears, and some foam formulations are too greasy upon application. Other foam formulations melt upon application to the fingers before they can be applied to the scalp. More importantly, these formulations have the same risk of side effects and tolerability issues as their cream, ointment, and lotion counterparts. Physicians are especially concerned about the use of steroids to treat scalp psoriasis due to the potential for steroid exposure in the eye, and the resulting increased risk of cataracts and glaucoma.

We believe physicians are seeking a novel topical treatment for scalp psoriasis with the same characteristics as an ideal plaque psoriasis treatment (namely rapid onset, symptomatic improvement of a high-potency steroid, ability to use chronically with a low risk of side effects, no risk of rebound or tachyphylaxis, and ability to use in the periocular area with a low risk of side effects), but in a formulation that is convenient to use on hair-bearing areas of the scalp.

Our Market Opportunity

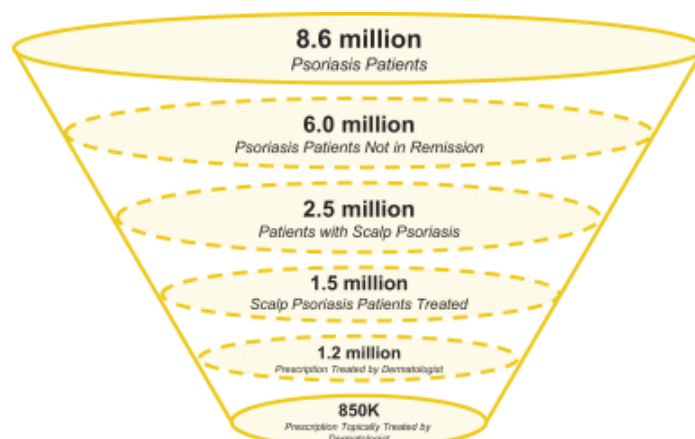
Seborrheic Dermatitis

We believe there is a significant market opportunity for us to capture within seborrheic dermatitis. As depicted below, we estimate there are approximately 6.5 million patients in the United States with seborrheic dermatitis, of which 2.2 million patients are treated by a dermatologist. Approximately 1.7 million patients receive prescription treatment for their seborrheic dermatitis from a dermatologist, and about 360,000 of those patients have an inadequate response to existing treatments, and thus would be the most likely candidates for a product like ARQ-154. We believe ARQ-154 may also be a first-line option for some of the other approximately 1.3 million patients treated by a dermatologist, especially due to concerns with steroid use in patients with involvement of the face. There is an even larger opportunity in the primary care setting that we may pursue through commercial partnerships.



Scalp Psoriasis

We believe there is a significant market opportunity for us to capture within scalp psoriasis. As depicted below, we estimate that of the 8.6 million psoriasis patients in the United States, approximately 2.5 million patients have active disease with involvement of the scalp. Of the population with scalp psoriasis, approximately 1.5 million patients are treated, with approximately 82% treated by dermatologists, and some 850,000 patients are treated with topical prescriptions from dermatologists.



ARQ-154 Clinical Development

We have initiated a Phase 2 proof of concept study for ARQ-154, in seborrheic dermatitis, and a Phase 2b study in scalp psoriasis.

Clinical Development Plan

ARQ-154-203 (Phase 2 Proof of Concept Study)

Study ARQ-154-203 is a multi-center, multi-national, double-blind, vehicle-controlled Phase 2 proof of concept study, in which approximately 150 adolescents (ages 12 and above) and adults with seborrheic dermatitis covering up to 20% BSA will be randomized to receive 8 weeks of (1) 0.3% ARQ-154 topical foam once daily, or (2) matching vehicle once daily. Randomization will be 2:1, active to vehicle. The primary efficacy endpoint will be the percentage of patients with an IGA score of "clear" or "almost clear" PLUS a 2-grade improvement from baseline at week 8. The ARQ-154-203 study began enrollment November 2019, and we expect results from this study by the second half of 2020. If the results from the ARQ-154-203 study are positive, we expect to continue the development of ARQ-154 for the topical treatment of seborrheic dermatitis.

ARQ-154-204 (Phase 2b Study)

Study ARQ-154-204 is a multi-center, multi-national, double-blind, vehicle-controlled Phase 2b study, in which approximately 300 adolescents (ages 12 and above) and adults with scalp psoriasis covering at least 10% of the total scalp and total psoriasis involvement in all body areas of up to 20% BSA will be randomized to receive 12 weeks of (1) 0.3% ARQ-154 topical foam once daily, or (2) matching vehicle once daily. Randomization will be 2:1, active to vehicle. The primary endpoints of the trial are achievement of an Investigator Global Assessment Scale score of "clear" or "almost clear" PLUS a 2-grade improvement from baseline on the scalp, S-IGA, and separately the attainment of "clear" or "almost clear" plus a 2-grade improvement on the body, B-IGA, both at week 8. Multiple secondary endpoints will also be evaluated. We expect to report topline results from this study Q4 2020/Q1 2021. If the results from the ARQ-154-204 study are positive, we expect to continue the development of ARQ-154 for the topical treatment of scalp psoriasis.

ARQ-252

Overview

ARQ-252 is our small molecule inhibitor of JAK1 that we are developing for hand eczema and vitiligo. We plan to initiate a Phase 2b study of ARQ-252 in adult patients with hand eczema in the first half of 2020, with topline data expected in second half of 2021. We also plan to initiate a Phase 2a study of ARQ-252 in vitiligo in the second half of 2020.

In January 2018, we signed the Hengrui License Agreement for an option to an exclusive license to the active pharmaceutical ingredient in ARQ-252 for all topical dermatological uses in the United States, Canada, Europe and Japan. We exercised our exclusive option in December 2019 and also contemporaneously amended the agreement to expand the territory to additionally include Canada. Hengrui is developing SHR-0302, the active ingredient in ARQ-252, for the oral treatment of various inflammatory and immunological disorders, including rheumatoid arthritis, Crohn's disease, and ulcerative colitis, and have completed a Phase 2b study in rheumatoid arthritis. Under our agreement, we have the right to reference their safety data, along with the systemic toxicology data supporting their program. Hengrui has built strong intellectual property protection around the active ingredient in ARQ-252, and holds U.S. composition of matter patents, including patents for the bisulfate form of the active ingredient that do not begin to expire until 2033. We believe there is the potential for additional intellectual property protection of ARQ-252 through possible future formulation and other patents.

Mechanism of Action

JAK1 is one of the janus family of non-receptor protein tyrosine kinases (JAKs), including JAK1, JAK2, and JAK3, and tyrosine kinase type 2, or Tyk2. Collectively, these kinases are involved in cell growth, survival, development, and differentiation of a variety of cells; specifically, JAK1, JAK3, and Tyk2 are critically important for immune cells and JAK2 is critically important for hematopoietic cells. JAK1, JAK3 and Tyk2 all play key roles in regulation of immune function and inflammation, and genetic mutations of these three kinases result in severe clinical immunodeficiencies such as severe combined immune-deficiency syndrome and autosomal recessive hyperimmuno-globulin E syndrome. Inhibitors of JAK1 and/or JAK3, and more recently Tyk2, have been shown to provide symptomatic improvement for a wide range of immunologically-driven diseases, including rheumatoid arthritis, psoriasis, psoriatic arthritis, Crohn's disease, ulcerative colitis, alopecia areata, and atopic dermatitis.

A wide range of receptors involved in hematopoietic cell development, including erythropoietin, thrombopoietin, and granulocyte-macrophage colony-stimulating factor, or GM-CSF, rely on JAK2 signaling. Unsurprisingly, genetic mutations of JAK2 result in myeloproliferative disorders, and JAK2 inhibition has been shown to provide symptomatic improvement as a therapeutic option for myelofibrosis, which often involves overexpression of JAK2, and other hematological diseases.

Topical JAK inhibitors have been shown to provide significant symptomatic improvement in the treatment of atopic dermatitis and eczema, and more recently, in vitiligo, although they are much less effective in psoriasis. The principal challenge with JAK treatment is the safety profile of JAK inhibitors. Inhibition of JAK2 may lead to neutropenia, thrombocytopenia, anemia, or increased thromboembolism. Inhibition of JAK1 may lead to serious or opportunistic infections, tuberculosis, or lymphoma and other malignancies. Topical administration may reduce these risks substantially compared to oral administration of JAK inhibitors due to the reduced systemic exposure through topical administration.

Product Profile and Differentiation

ARQ-252 is topical cream formulation of a potent and highly selective topical, small molecule inhibitor of JAK1. As seen in the table below, ARQ-252 has been observed in a preclinical study

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conducted by us to be highly selective to JAK1 over JAK2, in stark contrast to ruxolitinib, the furthest advanced topical JAK inhibitor in development for atopic dermatitis and vitiligo. In the table below, a lower IC50 value, a common measurement of drug potency, indicates a lesser amount is required to inhibit the various JAK subtypes. The ARQ-252 JAK1:JAK2 IC50 ratio is 23.5:1, compared to ruxolitinib's JAK1:JAK2 IC50 ratio of 2.6:1. We believe that due to its high selectivity for JAK1 over JAK2, ARQ-252 has the potential to treat inflammatory diseases without causing the hematopoietic adverse effects associated with JAK2 inhibition.

JAK Inhibitor Potency in Cell-based Assay System

IC50 (µM)	JAK1/3 Inhibition						JAK2 Inhibition
	IL-2		IL-4		IL-6		GM-CSF
	CD-4	CD-8	CD-4	CD-8	CD-4	CD-8	
ARQ-252	1.15	1.05	2.29	1.39	5.22	1.66	50*
Ruxolitinib	1.48	1.25	3.24	1.87	4.49	1.50	6.08

* A value of 50 µM was used as the IC50 value for the purpose of assigning a ratio, since 50% inhibition of JAK2 was not reached. The average percentage inhibition measured in the GM-CSF assay was 23.5% at 20 µM. While 50 µM was used, we believe that the IC50 value is greater than 50 µM, but likely < 100 µM.

Additionally, in mid-2019, Hengrui completed a Phase 2b study in rheumatoid arthritis that used the same active pharmaceutical ingredient as in ARQ-252 but dosed orally. The results from this study confirmed that this active pharmaceutical ingredient is a highly potent inhibitor of JAK1 based on the drug's impact on rheumatoid arthritis, and it was generally well tolerated at exposures well above those expected with topical administration of ARQ-252.

We believe that ARQ-252 could offer a best-in-class topical JAK inhibitor, with a more favorable tolerability profile than other topical JAK inhibitors due to its selectivity to JAK1 over JAK2, robust symptomatic improvement due to its high-potency against JAK1, and a convenient and patient-friendly cream formulation.

Hand Eczema

Hand Eczema Background

Eczema is a term used to describe a group of different diseases that cause the skin to become red, itchy and inflamed. There are multiple forms of eczema, including atopic dermatitis, contact dermatitis, hand eczema, dyshidrotic eczema, and seborrheic dermatitis. Eczema is very common, with some estimates that up to 30 million people in the United States may have some form of eczema.

Hand eczema is a common, predominantly inflammatory, skin disease. It is the most common skin disease affecting the hands, with prevalence estimated at up to 2.5% of the population. Hand eczema is characterized variously by redness, fluid filled blisters or bumps, scaling, cracking, itching and pain occurring on the hands, especially the palms (see figures below). It is a diverse syndrome, incorporating dyshidrotic eczema, an immune disease possibly related to atopic dermatitis; irritant contact dermatitis of the hands, which is caused by occupational irritants such as chemicals; allergic contact dermatitis of the hands, which is caused by an allergic reaction; atopic hand dermatitis, which is atopic dermatitis occurring on the hands, and hyperkeratotic hand dermatitis, which are thickened, scaly, red plaques, similar to psoriasis, on the hands. The impact of hand eczema on patients can be significant, leading to work absences or disability, social stigmatization, and psychosocial distress.



Figures: Hand Eczema

Current Hand Eczema Treatment Landscape

Hand eczema is a difficult disease to treat, particularly because it is more difficult to deliver drugs topically on the palms of the hand due to the thicker skin, which can be up to ten times thicker than skin from other body areas, which inhibits drug absorption. Hand eczema is typically treated with high-potency topical steroids, mostly due to the aforementioned skin barrier challenges. In some cases, physicians also will incorporate barrier creams to aid in hydration and to prevent the irritant effect caused by occupational exposure, a common cause of hand eczema. There are currently no FDA-approved treatments specifically for the indication of hand eczema.

Physicians report that a significant percentage of patients, including up to 40% of patients with severe dyshidrotic eczema (one type of hand eczema), have an inadequate response to currently available treatments. In those who respond to high-potency topical steroids, skin atrophy becomes a problem with chronic use, even on the thick skin of the palms. Because hand eczema is painful and can be debilitating, there is a high sense of urgency to treat effectively. Physicians and patients would like a new therapy that provides symptomatic improvement with a low risk of side effects and favorable tolerability profile.

Other Indications

Vitiligo

Vitiligo is a disfiguring disease that causes the complete loss of skin color in blotches or patches in a symmetrical distribution. The disease is caused by the localized complete destruction by the immune system of melanocytes, the skin cells that produce skin pigmenting melanin, resulting in

complete depigmentation in the affected area. We plan to initiate a Phase 2a clinical trial in the second half of 2020. Ruxolitinib, another topical JAK inhibitor, has shown some promising results in the treatment of vitiligo, although there are clearly opportunities to improve on the profile shown with that other agent thus far.

ARQ-252 Clinical Development

We are planning to initiate two clinical studies with ARQ-252 in 2020, one in hand eczema and one in vitiligo.

ARQ-252-205 Study (Phase 2b Study)

We plan to initiate our first study with ARQ-252, the ARQ-252-205 Study, in the first half of 2020. This study will be a multi-center, multi-national, double-blind, randomized, vehicle-controlled Phase 2b study, in which 245 adults with chronic hand eczema will be randomized to receive: (1) 0.1% ARQ-252 cream applied once daily, or (2) 0.3% ARQ-252 cream applied once daily, or (3) 0.3% ARQ-252 cream applied twice daily, or (4) matching vehicle cream applied once or twice daily, all for 12 weeks. The primary efficacy endpoint will be an IGA of “clear” or “almost clear” PLUS at least a 2-point improvement from baseline at week 12.

ARQ-252-213 Study (Phase 2a Study)

We are currently developing the protocol for a Phase 2a study, ARQ-252-213, to evaluate ARQ-252 for the topical treatment of vitiligo. JAK1 as a target for vitiligo has been validated by Incyte's recent results on topical ruxolitinib. Given the results of the ruxolitinib vitiligo study, this study will likely concentrate on vitiligo of the face, which causes psychosocial problems for the afflicted person, and is also generally the anatomic area of disease most responsive to treatment because of the proximity of hair follicles which help in the repigmentation process. This study will be a multi-center, multi-national, double-blind, randomized, vehicle controlled Phase 2a study in adults with vitiligo. The primary efficacy endpoint will be percent improvement from baseline in the Face Vitiligo Area Scoring Index (F-VASI) score. We plan to start this study in the second half of 2020. If the results of the ARQ-252-213 study are positive, we plan to continue the development of ARQ-252 for the topical treatment of vitiligo.

ARQ-255

Overview

We are also developing ARQ-255, an alternative topical formulation of ARQ-252 designed to reach deeper into the skin in order to potentially treat alopecia areata. Alopecia areata is an autoimmune disorder that causes the immune system to incorrectly attack the body's own cells, specifically the hair follicles, leading to loss of hair—usually in patches—on the scalp, face or sometimes other areas of the body. While oral JAK inhibitors have shown symptomatic improvement in the treatment of alopecia areata, multiple topically applied JAK inhibitors have failed to demonstrate symptomatic improvement in alopecia areata. It is our belief that this discrepancy is due to the site of inflammation driving alopecia areata, deep in the skin at the base (bulb) of the hair follicle. While oral JAK inhibitor administration can achieve required levels of drug at the site of inflammation, conventional topical applications are unlikely to deliver concentrations of JAK inhibitors to the site of inflammation adequate to treat alopecia areata. We have undertaken a formulation effort we refer to as Deep Dermal Drug Delivery (“4D” technology), that leverages some of the unique physical properties of the active pharmaceutical ingredient in ARQ-255, and which we believe may allow us to topically deliver sufficient concentrations of the drug to potentially treat alopecia areata via topical administration. Formulation and preclinical experiments are underway to develop a 4D version of ARQ-252, which we refer to as ARQ-255, and if those formulation efforts are successful, we plan to enter the clinic with ARQ-255 as a potential treatment for alopecia areata.

Competition

The biotechnology and pharmaceutical industry is highly competitive, and is characterized by rapid and significant changes, intense competition and a bias towards proprietary products. We will face competition from many different sources, including major pharmaceutical, specialty pharmaceutical and biotechnology companies, and generic drug companies. Any product candidate that we successfully develop and commercialize will compete with existing treatments, including those that may have achieved broad market acceptance, and any new treatment that may become available in the future.

Many of our competitors have greater financial, technical and human resources than we have. Mergers and acquisitions in the pharmaceutical and biotechnology industries may result in even more resources being concentrated among a smaller number of our competitors. Our commercial opportunity could be reduced or eliminated if our competitors develop or market products or other novel therapies that offer more symptomatic improvement, have a lower risk of side effects or are less costly than our current or future product candidates.

Our success will be based in part on our ability to identify, develop and commercialize a portfolio of product candidates that have a lower risk of side effects and/or provide more symptomatic improvement than competing products.

For psoriasis, our primary competitors include injected biologic therapies such as Humira, marketed by AbbVie Inc. and Eisai Co., Ltd., and Enbrel, marketed by Amgen Inc., Pfizer Inc., and Takeda Pharmaceutical Company Limited; non-injectable systemic therapies used to treat plaque psoriasis such as Otezla, marketed by Celgene Corporation; topical therapies such as branded and generic versions of clobetasol, such as Clobex, marketed by Galderma Laboratories, LP; and other treatments including various lasers and ultraviolet light-based therapies. In addition, there are several prescription product candidates under development that could potentially be used to treat psoriasis and compete with ARQ-151, including tapinarof, under development by Dermavant Sciences, Inc., and SNA-120, under development by Sienna Biosciences, Inc.

For atopic dermatitis, our primary competitors include topical therapies such as Eucrisa, marketed by Pfizer Inc., and generic and branded versions of low to mid-potency steroids such as hydrocortisone and betamethasone; and the injected biologic therapy Dupixent, marketed by Regeneron Pharmaceuticals, Inc. In addition, there are several prescription product candidates under development that could potentially be used to treat atopic dermatitis and compete with ARQ-151, including but not limited to: topical tapinarof and topical cerdulatinib, both under development by Dermavant Sciences, Inc., topical ruxolitinib, under development by Incyte Corporation, topical delgocitinib, under development by LEO Pharma A/S and Japan Tobacco, Inc., oral PF-04965842, under development by Pfizer Inc., oral upatacitinib, under development by AbbVie, Inc. and injectable lebrikizumab, under development by Dermira, Inc.

For hand eczema, our primary competitors include topical therapies such as branded and generic versions of clobetasol, such as Clobex, and generic versions of betamethasone dipropionate. The only other prescription product candidate we are aware of under development for the treatment of hand eczema that would compete with ARQ-252 is delgocitinib.

For vitiligo, our primary competitors include topical therapies such as generic and branded versions of calcineurin inhibitors, including Elidel, marketed by Bausch Health; branded and generic versions of high potency steroids, including Clobex, marketed by Galderma Laboratories, LP; and other treatments including various lasers and ultraviolet light-based therapies. In addition, there are several prescription product candidates under development that could potentially be used to treat vitiligo and

compete with ARQ-252, including but not limited to: topical cerdulatinib, under development by Dermavant Sciences, Inc., topical ruxolitinib, under development by Incyte Corporation, and both PF-06651600 and PF06700841, under development by Pfizer Inc.

For alopecia areata, our primary competitors include topical therapies such as branded and generic versions of high potency steroids, including Clobex, marketed by Galderma Laboratories, LP; intralesional corticosteroid injections such as branded and generic versions of triamcinolone, including Kenalog, marketed by Bristol-Myers Squib; and systemic immunosuppressants including generic versions of systemic steroids such as prednisone, branded and generic versions of cyclosporine, including Sandimmune, marketed by Sandoz, and branded systemic JAK inhibitors, including Xeljanz, marketed by Pfizer, Inc.. In addition, there are several prescription product candidates under development that could potentially be used to treat alopecia areata and compete with ARQ-255, including but not limited to: PF-06651600, under development by Pfizer, Inc., CTP-543, under development by Concert Pharmaceuticals, and baricitinib, under development by Eli Lilly and Company.

Commercial Operations

We intend to build our own commercial infrastructure in the United States and Canada to support the commercialization of our product candidates. We intend to begin building this commercial infrastructure if and when we believe that a regulatory approval of our first product candidate appears reasonably likely. We plan to build our own small specialty sales force targeted at dermatologists. We may seek partnerships that allow us to target pediatricians and primary care physicians if required to maximize the potential of our product candidates. We also plan to build the required sales management, marketing, access and reimbursement, sales support, and distribution capabilities to optimize our commercial success. To develop the required commercial infrastructure, we will have to invest substantial financial and management resources, some of which will be committed prior to any confirmation that our product candidates will be approved, and we could invest resources and then later learn that a particular product candidate is not being approved. We may also seek other partners to help us access other geographic markets.

Intellectual Property

Maintaining proprietary rights in our product candidates and technologies will assist in achieving the success of our business. One way in which we obtain and maintain such proprietary rights is by filing patent applications and maintaining patents covering our core technologies and product candidates. Our policy is to file such patent applications in the United States and select foreign countries to better protect our worldwide interests. We also seek to avoid infringing the proprietary rights of others. For this reason, we routinely monitor and evaluate third-party patents and publications, and, if necessary, take appropriate action based on that evaluation.

Patent term is based on the filing or grant date of the patent, as well as the governing law of the country in which the patent is obtained. In the United States, some pharmaceutical patents are also eligible for Patent Term Extension, or PTE, which can extend exclusivity for up to 5 additional years under certain conditions. The protection provided by a patent varies from country to country, and is dependent on the type of patent granted, the scope of the patent claims, and the legal remedies available in a given country.

As of December 12, 2019, we own or have an exclusive license to ten issued U.S. patents and seven issued foreign patents, which include granted European patent rights that have been validated in various EU member states, and five pending U.S. patent applications, 15 pending foreign patent

applications and two applications filed under the Patent Corporation Treaty. Of these patents and patent applications:

- **ARQ-151 & ARQ-154:** As of December 12, 2019, we own five issued U.S. patents, one issued Canadian patent, one issued Japanese patent, four pending U.S. patent applications and 12 pending foreign applications (one each in China, Hong Kong, Japan, Mexico, New Zealand, India, Australia, Europe, Israel, and Brazil, and two under the Patent Cooperation Treaty), relating to ARQ-151 and ARQ-154. The issued U.S. patent that we have licensed from AstraZeneca claiming composition of matter of roflumilast, the active pharmaceutical ingredient in ARQ-151 and ARQ-154 is set to expire on January 27, 2020. Our issued patents relating to ARQ-151 and ARQ-154 contain claims directed to, among other things, formulating roflumilast in combination with hexylene glycol, methods of making such formulations and methods of treatment using such formulations. These issued U.S. patents relating to ARQ-151 and ARQ-154 will expire not earlier than June 2037 (excluding any potential PTE).
- **ARQ-252 & ARQ-255:** As of December 12, 2019, we have an exclusive license from Hengrui to five issued U.S. patents, two issued Japanese patents, and three issued EU patents (validated in a number of EU member states, including Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Estonia, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxemburg, Monaco, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovenia, Slovakia, Spain, Sweden, Switzerland, Turkey, and the United Kingdom), one pending U.S. patent application, three pending Japanese patent applications, and two pending EU patent applications relating to SHR0302. These patents and patent applications contain claims directed towards the composition of matter of the SHR0302 compound and bisulfate and crystalline forms thereof, pharmaceutical compositions and treatment methods. The issued patents and pending applications, if issued, relating to SHR0302 will not begin to expire until 2033. We anticipate filing patent applications directed towards formulations, methods and other aspects of our technology relating to ARQ-252 and ARQ-255 which we may develop in the future.

Obtaining patent protection is not the only method that we employ to protect our proprietary rights. We also utilize other forms of intellectual property protection, including trademark, and trade secrets, when those other forms are better suited to protect a particular aspect of our intellectual property. Our belief is that our proprietary rights are strengthened by our comprehensive approach to intellectual property protection.

Maintaining the confidential nature of our non-publicly disclosed products and technologies is of paramount importance. For this reason, our employees, contractors, consultants and advisors are required to enter into nondisclosure and invention assignment agreements when their employment or engagement commences. Those individuals also enter into agreements that prohibit the communication or implementation of any third-party proprietary rights during the course of their employment with us. We also require any third-party that may receive our confidential information or materials to enter into confidentiality agreements prior to receipt of that information or material.

Exclusive License and Option Agreements

AstraZeneca AB

In July 2018, we entered into an exclusive license agreement, or the AstraZeneca License Agreement, with AstraZeneca AB, or AstraZeneca, pursuant to which we obtained a worldwide exclusive license, with the right to sublicense through multiple tiers, under certain AstraZeneca-controlled patent rights, know-how and regulatory documentation, to research, develop, manufacture, commercialize and otherwise exploit products containing roflumilast in topical forms, as well as delivery

systems sold with or for the administration of roflumilast, or collectively, the AZ-Licensed Products, for all diagnostic, prophylactic and therapeutic uses for human dermatological indications, or the Dermatology Field. We intend to develop topical formulations of roflumilast for the treatment of psoriasis and atopic dermatitis, as well as other dermatological conditions. Under this agreement, we have sole responsibility for development, regulatory, and commercialization activities for the AZ-Licensed Products in the Dermatology Field, at our expense, and we shall use commercially reasonable efforts to develop, obtain and maintain regulatory approvals for, and commercialize the AZ-Licensed Products in the Dermatology Field in each of the United States, Italy, Spain, Germany, the United Kingdom, France, China, and Japan. Pursuant to the agreement, AstraZeneca provided us with certain quantities of roflumilast at a negotiated price for development purposes.

We paid AstraZeneca an upfront non-refundable cash payment of \$1.0 million and issued 969,117 shares of our Series B Preferred stock, valued at \$3.0 million on the date of the AstraZeneca License Agreement. We subsequently paid AstraZeneca the first milestone cash payment of \$2.0 million upon the completion of a Phase 2b study of ARQ-151 in plaque psoriasis in August 2019 for the achievement of positive Phase 2 data for an AZ-Licensed Product. We have agreed to make additional cash payments to AstraZeneca of up to an aggregate of \$12.5 million upon the achievement of specific clinical development and regulatory approval milestones with respect to the AZ-Licensed Products and payments up to an additional aggregate amount of \$15.0 million upon the achievement of certain aggregate worldwide net sales milestones. With respect to any AZ-Licensed Products we commercialize under the AstraZeneca License Agreement, we will pay AstraZeneca a low to high single-digit percentage royalty rate on our, our affiliates' and our sublicensees' net sales of such AZ-Licensed Products, until, as determined on a AZ-Licensed Product-by-AZ-Licensed Product and country-by-country basis, the later of the date of the expiration of the last-to-expire AstraZeneca-licensed patent right containing a valid claim in such country and ten years from the first commercial sale of such AZ-Licensed Product in such country.

The agreement continues in effect until the expiration of all royalty obligations as described above, unless earlier terminated: (1) by either party upon written notice for the other party's material breach or insolvency event if such party fails to cure such breach or the insolvency event is not dismissed within specified time periods; (2) by AstraZeneca if we, our affiliates, or our sublicensees take actions to invalidate AstraZeneca-licensed patent rights, or if we permanently cease development of all AZ-Licensed Products, and an AZ-Licensed Product is not being commercialized by us; or (3) by us upon 120 days' written notice or in the event of certain adverse clinical trial or other regulatory outcomes. In the event the agreement is terminated, except by us for AstraZeneca's material breach or in the event of certain adverse clinical trial or other regulatory outcomes, we will be obligated to pay a termination fee in the amount of \$5.0 million or 3% of net sales of AZ-Licensed Products for the 3-year period following the first regulatory approval of an AZ-Licensed Product, whichever is greater.

Jiangsu Hengrui Medicine Co., Ltd

In January 2018, we entered into an exclusive option and license agreement, or the Hengrui License Agreement, with Jiangsu Hengrui Medicine Co., Ltd, or Hengrui, whereby Hengrui granted us an exclusive option to obtain certain exclusive rights to research, develop and commercialize products containing the compound designated by Hengrui as SHR0302, a JAK inhibitor, in topical formulations for the treatment of skin diseases, disorders, and conditions, or the Field, in the United States, Japan, and the European Union (including for clarity the United Kingdom), or the Territory.

In December 2019, we exercised our exclusive option, and also contemporaneously amended the agreement to expand the territory to additionally include Canada, and therefore now have a license from Hengrui under certain patent rights and know-how controlled by Hengrui to research, develop and commercialize products containing SHR0302 in the Field in the Territory. Such license is sublicensable through multiple tiers, exclusive as to the patent rights licensed from Hengrui and non-exclusive with

respect to the know-how licensed from Hengrui, and does not extend to patent rights for improvements to SHR0302 which Hengrui may come to control in the future unless otherwise mutually agreed by the parties. In addition, we have sole responsibility for development, regulatory, marketing and commercialization activities to be conducted for the licensed products in the Field and in the Territory, at our sole cost and discretion, and shall use commercially reasonable efforts to (1) develop at least one licensed product and to (2) commercialize the licensed products following regulatory approval thereof. Pursuant to the Hengrui License Agreement, a joint coordination committee reviews the progress of development and commercialization of each parties' products containing SHR0302 in their respective territories and fields.

During the term of the Hengrui License Agreement, if we acquire or develop certain JAK inhibitor products that are not controlled by Hengrui, or Competing Products, we must negotiate in good faith with Hengrui whether to terminate the agreement or license to Hengrui the right to develop and commercialize such Competing Product in China. During the term of the Hengrui License Agreement, Hengrui will not develop or commercialize SHR0302 or any licensed product in the Field in the Territory. Additionally, if Hengrui decides to develop or commercialize a non-topical formulation of SHR0302 for the treatment of certain dermatologic indications in the Territory, we have the first right to negotiate a co-development and/or co-commercialization agreement with Hengrui for the same. We also have the right of first refusal if Hengrui decides to out-license a non-topical formulation of SHR0302 for the treatment of certain dermatologic indications in the Territory to a third party during such period.

We made a \$0.4 million upfront non-refundable cash payment to Hengrui upon execution of the Hengrui License Agreement option and license agreement. We also made a \$1.5 million cash payment in connection with the exercise of our exclusive option. In addition, we have agreed to make cash payments of up to an aggregate of \$20.5 million upon our achievement of specified clinical development and regulatory approval milestones with respect to the licensed products and cash payments of up to an additional \$200.0 million in sales-based milestones based on achieving certain aggregate annual net sales volumes with respect to a licensed product. With respect to any products we commercialize under the agreement, we will pay tiered royalties to Hengrui on net sales of each licensed product by us, or our affiliates, or our sublicensees, ranging from mid single-digit to sub-teen percentage rates based on tiered annual net sales bands subject to specified reductions. We are obligated to pay royalties until the later of (1) the expiration of the last valid claim of the licensed patent rights covering such licensed product in such country and (2) the expiration of regulatory exclusivity for the relevant licensed product in the relevant country, on a licensed product-by-licensed product and country-by-country basis. Additionally, we are obligated to pay Hengrui a specified percentage, ranging from the low-thirties to the sub-teens, of certain non-royalty sublicensing income we receive from sublicensees of our rights to the licensed products, such percentage decreasing as the development stage of the licensed products advance.

The agreement continues in effect until the expiration of our obligation to pay royalties as described above, unless earlier terminated in accordance with the following: (1) by either party upon written notice for the other party's material breach or insolvency event if such party fails to cure such breach or the insolvency event is not dismissed within specified time periods; and (2) by us for convenience upon 90 days prior written notice to Hengrui and having discussed and consulted any potential cause or concern with Hengrui in good faith.

Government Regulation

Government authorities in the United States, at the federal, state and local level, and in other countries and jurisdictions extensively regulate, among other things, the research, development, testing, manufacture, quality control, approval, packaging, storage, recordkeeping, labeling,

advertising, promotion, distribution, marketing, post-approval monitoring and reporting, and import and export of pharmaceutical products. The processes for obtaining regulatory approvals in the United States and in foreign countries and jurisdictions, along with subsequent compliance with applicable statutes and regulations and other regulatory authorities, require the expenditure of substantial time and financial resources.

FDA Approval Process

In the United States, pharmaceutical products are subject to extensive regulation by the U.S. Food and Drug Administration, or FDA, and other governmental authorities. The Federal Food, Drug, and Cosmetic Act, or FDC Act, and its implementing regulations, and other federal and state statutes and regulations, govern, among other things, the research, development, testing, manufacture, storage, quality control, recordkeeping, approval, labeling, promotion and marketing, distribution, post-approval monitoring and reporting, sampling, and import and export of pharmaceutical products. Failure to comply with applicable U.S. requirements may subject a company to a variety of administrative or judicial sanctions, such as clinical hold, FDA refusal to approve pending new drug applications, or NDAs, warning or untitled letters, product recalls, product seizures, total or partial suspension of production or distribution, injunctions, fines, civil penalties, and criminal prosecution.

Pharmaceutical product development for a new product or certain changes to an approved product in the United States typically involves preclinical laboratory and animal tests, the submission to the FDA of an investigational new drug application, or IND, which must become effective before clinical testing may commence, and adequate and well-controlled clinical trials to establish the safety and effectiveness of the drug for each indication for which FDA approval is sought. Satisfaction of FDA pre-market approval requirements typically takes many years and the actual time required may vary substantially based upon the type, complexity, and novelty of the product or disease.

Preclinical tests include laboratory evaluation of product chemistry, formulation, and toxicity, as well as animal trials to assess the characteristics and potential safety and efficacy of the product. The conduct of the preclinical tests must comply with federal regulations and requirements, including good laboratory practices. The results of preclinical testing are submitted to the FDA as part of an IND along with other information, including information about product chemistry, manufacturing, and control, and a proposed clinical trial protocol. Long-term preclinical tests, such as animal tests of reproductive toxicity and carcinogenicity, may continue after the IND is submitted. An IND automatically becomes effective 30 days after receipt by the FDA, unless before that time the FDA raises concerns or questions related to one or more proposed clinical trials and places the clinical trial on a clinical hold. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before the clinical trial can begin. As a result, submission of an IND may not result in the FDA allowing clinical trials to commence.

Clinical trials involve the administration of the investigational new drug to healthy volunteers or patients under the supervision of a qualified investigator. Clinical trials must be conducted: (i) in compliance with federal regulations; (ii) in compliance with good clinical practice, or GCP, requirements, an international standard meant to protect the rights and health of patients and to define the roles of clinical trial sponsors, administrators, and monitors; as well as (iii) under protocols detailing, among other things, the objectives of the trial, the parameters to be used in monitoring safety, and the effectiveness criteria to be evaluated. Each protocol involving testing on U.S. patients and subsequent protocol amendments must be submitted to the FDA as part of the IND.

The FDA may order the temporary, or permanent, discontinuation of a clinical trial at any time, or impose other sanctions, if it believes that the clinical trial either is not being conducted in accordance with FDA requirements or presents an unacceptable risk to the clinical trial patients. The study protocol

and informed consent information for patients in clinical trials must also be submitted to an independent institutional review board, or IRB, for approval. An IRB may also require the clinical trial at the site to be halted, either temporarily or permanently, for failure to comply with the IRB's requirements, or may impose other conditions.

Clinical trials to support NDAs for marketing approval are typically conducted in three sequential phases, but the phases may overlap or be combined. In Phase 1, the initial introduction of the drug into healthy human subjects or patients, the drug is tested to assess metabolism, pharmacokinetics, pharmacological actions, side effects associated with increasing doses, and, if possible, early evidence on effectiveness. Phase 2 usually involves trials in a limited patient population to evaluate the efficacy of the drug for a particular indication, dosage tolerance, and optimum dosage, and to identify common adverse effects and safety risks. If a compound demonstrates evidence of efficacy and an acceptable safety profile in Phase 2 evaluations, Phase 3 trials are undertaken to obtain the additional information about clinical efficacy and safety in a larger number of patients, typically at geographically dispersed clinical trial sites, to permit the FDA to evaluate the overall benefit-risk profile of the drug and to provide adequate information for the labeling of the drug. In most cases, the FDA requires two adequate and well-controlled Phase 3 clinical trials to demonstrate the efficacy of the drug. A single Phase 3 trial with other confirmatory evidence may be sufficient in rare instances, such as where the study is a large multicenter trial demonstrating internal consistency and a statistically very persuasive finding of a clinically meaningful effect on mortality, irreversible morbidity or prevention of a disease with a potentially serious outcome and confirmation of the result in a second trial would be practically or ethically impossible.

The manufacturer of an investigational drug in a Phase 2 or 3 clinical trial for a serious or life-threatening disease is required to make available, such as by posting on its website, its policy on evaluating and responding to requests for expanded access.

Assuming successful completion of the required clinical testing, an NDA is prepared and submitted to the FDA. FDA approval of the NDA is required before marketing of the product may begin in the United States. The NDA must include the results of all preclinical, clinical, and other testing and a compilation of data relating to the product's pharmacology, chemistry, manufacture, and controls. The cost of preparing and submitting an NDA is substantial. The submission of most NDAs is additionally subject to a substantial application user fee, currently exceeding \$2,940,000 for Fiscal Year 2020. The manufacturer and/or sponsor under an approved NDA is also subject to an annual program fee, currently exceeding \$325,000 for each prescription drug product for 2020. These fees are typically increased annually.

The FDA has 60 days from its receipt of an NDA to determine whether the application will be accepted for filing based on the agency's threshold determination that it is sufficiently complete to permit substantive review. The FDA may refuse to file any NDA that it deems incomplete or not properly reviewable at the time of submission and may request additional information. In this event, the additional information must be included in any resubmitted NDA, which is subject to review before the FDA accepts it for filing. Once the submission is accepted for filing, the FDA begins an in-depth review. Under the Prescription Drug User Fee Act, or PDUFA, guidelines that are currently in effect, the FDA has a goal of ten months from the date of receipt of a standard NDA for a product that is not a new molecular entity, or NME, and six months from the date of receipt for an NDA for a non-NME subject to priority review, to review and act on the submission. In the case of an NME, the six and ten month review periods are measured from the date on which the FDA "files" the NDA rather than the date on which the NDA is received by the FDA. The review process for both standard and priority review may be extended by the FDA for three additional months to consider certain late-submitted information, or information intended to clarify information already provided in the submission.

The FDA may also refer applications for novel drug products, or drug products that present difficult questions of safety or efficacy, to an advisory committee—typically a panel that includes clinicians and other experts—for review, evaluation, and a recommendation as to whether the application should be approved. The FDA is not bound by the recommendation of an advisory committee, but it generally follows such recommendations.

Before approving an NDA, the FDA will typically inspect one or more clinical sites to assure compliance with GCP requirements. Additionally, the FDA will inspect the facility or the facilities at which the drug is manufactured. The FDA will not approve the product unless compliance with current good manufacturing practice, or cGMP, requirements is satisfactory and the NDA contains data that provide substantial evidence that the drug is safe and effective in the indication studied.

After the FDA evaluates the NDA and the manufacturing facilities, it issues either an approval letter or a complete response letter, which states that the application will not be approved in present form. A complete response letter generally outlines the deficiencies in the submission and may require substantial additional testing, or information, in order for the FDA to reconsider the application. If, or when, those deficiencies have been addressed to the FDA's satisfaction in a resubmission of the NDA, the FDA will typically issue an approval letter. The FDA has committed to reviewing such resubmissions in two or six months depending on the type of information included.

An approval letter authorizes commercial marketing of the drug with specific prescribing information for specific indications, and approved product labeling may contain certain contraindications, warnings, or precautions. As a condition of NDA approval, the FDA may require a risk evaluation and mitigation strategy, or REMS, to help ensure that the benefits of the drug outweigh the potential risks. REMS can include medication guides, communication plans for healthcare professionals, and elements to assure safe use, or ETASU. ETASU can include, but are not limited to, special training or certification for prescribing or dispensing, dispensing only under certain circumstances, special monitoring, and the use of patient registries. The requirement for a REMS can materially affect the potential market and profitability of the drug. Moreover, product approval may require substantial post-approval testing and surveillance to monitor the drug's safety or efficacy, including Phase 4 clinical trials to further assess a drug's safety after approval. Once granted, product approvals may be withdrawn if compliance with regulatory standards is not maintained or problems are identified following initial marketing.

Certain changes to some of the conditions established in an approved application, including changes in indications, labeling, or manufacturing processes or facilities, require submission and FDA approval of a new NDA or NDA supplement before the change can be implemented. An NDA supplement for a new indication typically requires clinical data similar to that in the original application, and the FDA uses the same procedures and actions in reviewing NDA supplements as it does in reviewing NDAs.

Disclosure of Clinical Trial Information

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

Pediatric Information

Under the Pediatric Research Equity Act as amended and reauthorized, certain NDAs or supplements to NDAs must contain data that are adequate to assess the safety and effectiveness of the drug for the claimed indications in all relevant pediatric subpopulations and to support dosing and administration for each pediatric subpopulation for which the drug is safe and effective. The FDA may grant full or partial waivers, or deferrals, for submission of data.

The Best Pharmaceuticals for Children Act, or BPCA, provides NDA holders a six-month extension of any exclusivity—patent or nonpatent—for a drug if certain conditions are met. Conditions for exclusivity include FDA's determination that information relating to the use of a new drug in the pediatric population may produce health benefits in that population, FDA making a written request for pediatric studies, and the applicant agreeing to perform, and reporting on, the requested studies within the statutory timeframe. Applications under the BPCA are treated as priority review applications, with all of the benefits that designation confers.

Post-Approval Requirements

Drugs manufactured or distributed pursuant to FDA approvals are subject to pervasive and continuing regulation by the FDA. For instance, the FDA closely regulates the post-approval labeling, marketing and promotion of drugs, including standards and regulations for direct-to-consumer advertising, off-label promotion, industry-sponsored scientific and educational activities and promotional activities involving the internet. Drugs may be marketed only for the approved indications and in accordance with the provisions of the approved labeling. There also are continuing, annual program fee requirements for any marketed products.

Adverse event reporting and submission of periodic reports is required following FDA approval of an NDA. The FDA also may require post-marketing Phase 4 testing, REMS, and surveillance to monitor the effects of an approved product, or the FDA may place conditions on an approval that could restrict the distribution or use of the product. In addition, quality control, drug manufacture, packaging, and labeling procedures must continue to conform to cGMPs after approval. Drug manufacturers and certain of their subcontractors are required to register their establishments with the FDA and certain state agencies. Registration with the FDA subjects entities to periodic unannounced inspections by the FDA, during which the agency inspects manufacturing facilities to assess compliance with cGMPs. Accordingly, manufacturers must continue to expend time, money, and effort in the areas of production and quality control to maintain compliance with cGMPs.

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

- restrictions on the marketing or manufacturing of the product, complete withdrawal of the product from the market or product recalls;
- safety alerts, Dear Healthcare Provider letters, press releases or other communications containing warning or other safety information about the product;
- fines, warning letters or holds on post-approval clinical trials;

- refusal of the FDA to approve pending NDAs or supplements to approved NDAs, or suspension or revocation of product approvals;
- product seizure or detention, or refusal to permit the import or export of products; or
- injunctions or the imposition of civil or criminal penalties.

Any distribution of prescription drug products and pharmaceutical samples must comply with the U.S. Prescription Drug Marketing Act, or PDMA. In addition, the Drug Supply Chain Security Act, or DSCSA, has imposed new “track and trace” requirements on the distribution of prescription drug products by manufacturers, distributors, and other entities in the drug supply chain. These requirements are being phased in over a ten-year period. The DSCSA requires product identifiers (i.e., serialization) on prescription drug products in order to establish an electronic interoperable prescription product system to identify and trace certain prescription drugs distributed in the United States. The DSCSA replaced the prior drug “pedigree” requirements under the PDMA and preempts existing state drug pedigree laws and regulations. The DSCSA also establishes new requirements for the licensing of wholesale distributors and third-party logistic providers. These licensing requirements preempt states from imposing licensing requirements that are inconsistent with, less stringent than, directly related to, or otherwise encompassed by standards established by FDA pursuant to the DSCSA. Until FDA promulgates regulations to address the DSCSA’s new national licensing standard, current state licensing requirements typically remain in effect.

The Hatch-Waxman Act

Section 505 of the FDCA describes three types of marketing applications that may be submitted to the FDA to request marketing authorization for a new drug. A Section 505(b)(1) NDA is an application that contains full reports of investigations of safety and efficacy. A Section 505(b)(2) NDA is an application that contains full reports of investigations of safety and efficacy but where at least some of the information required for approval comes from investigations that were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted. This regulatory pathway enables the applicant to rely, in part, on the FDA’s prior findings of safety and efficacy for an existing product, or published literature, in support of its application. However, a drug must meet certain criteria relative to the Listed Drug to be eligible to use the Section 505(b)(2) pathway as opposed to the abbreviated new drug application, or ANDA pathway, which is described below. Section 505(j) establishes an abbreviated approval process for a generic version of approved drug products through the submission of an ANDA. An ANDA generally provides for marketing of a generic drug product that has the same active ingredients, dosage form, strength, route of administration, labeling, performance characteristics and intended use, among other things, to a previously approved product. ANDAs are termed “abbreviated” because they are generally not required to include preclinical (animal) and clinical (human) data to establish safety and efficacy. Instead, generic applicants must scientifically demonstrate that their product is bioequivalent to, or performs in the same manner as, the innovator drug through in vitro, in vivo, or other testing. The generic version can often be substituted by pharmacists under prescriptions written for the reference listed drug.

Orange Book Listing

In seeking approval for a drug through an NDA, applicants are required to list with the FDA each patent whose claims cover the applicant’s product. Upon approval of a drug, each of the patents listed in the application for the drug is then published in the FDA’s Approved Drug Products with Therapeutic Equivalence Evaluations, commonly known as the Orange Book. Drugs listed in the Orange Book can, in turn, be cited by potential competitors in support of approval of an ANDA or a Section 505(b)(2) NDA.

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Upon submission of an ANDA or Section 505(b)(2) NDA, the applicant must certify to the FDA concerning any patents listed for the approved product in the FDA's Orange Book. Specifically, the applicant must certify that (i) the required patent information has not been filed; (ii) the listed patent has expired; (iii) the listed patent has not expired but will expire on a particular date and approval is sought after patent expiration; or (iv) the listed patent is invalid or will not be infringed by the new product. The applicant may also elect to submit a statement certifying that its proposed label does not contain (or carve out) any language regarding the patented method-of-use rather than certify to a listed method-of-use patent. If the applicant does not challenge the listed patents, the application will not be approved until all the listed patents claiming the referenced product have expired.

A certification that the new product will not infringe the already approved product's listed patents, or that such patents are invalid, is called a Paragraph IV certification. If the applicant has provided a Paragraph IV certification to the FDA, the applicant must also send notice of the Paragraph IV certification to the NDA and patent holders once the application has been accepted for filing by the FDA. The NDA and patent holders may then initiate a patent infringement lawsuit in response to the notice of the Paragraph IV certification. The filing of a patent infringement lawsuit within 45 days of the receipt of a Paragraph IV certification automatically prevents the FDA from approving the application until the earlier of 30 months, expiration of the patent, settlement of the lawsuit, or a decision in the infringement case that is favorable to the applicant.

The application also will not be approved until any applicable non-patent exclusivity listed in the Orange Book for the referenced product has expired.

Exclusivity

The Hatch-Waxman Act establishes period of regulatory exclusivity for certain approved drug products during which the FDA cannot approve (or in some cases accept for review) an ANDA or 505(b)(2) NDA that relies on the branded reference drug. For example, the holder of an NDA, including a 505(b)(2) NDA, may obtain five years of exclusivity upon NDA approval of a drug containing a new chemical entity, which is a drug that contains no active moiety that has been approved by the FDA in any other NDA. During the exclusivity period, the FDA may not accept for review an ANDA or a 505(b)(2) NDA submitted by another applicant that contains the previously approved active moiety. However, an ANDA or 505(b)(2) NDA may be submitted after four years if it contains a certification of patent invalidity or non-infringement.

The Hatch-Waxman Act also provides three years of marketing exclusivity to the holder of an NDA (including a 505(b)(2) NDA) for a particular condition of approval, or change to a marketed product, such as a new formulation for a previously approved product, if one or more new clinical studies (other than bioavailability or bioequivalence studies) was essential to the approval of the application and was conducted/sponsored by the applicant. This three-year exclusivity period protects against FDA approval of ANDAs and 505(b)(2) NDAs for the condition of the new drug's approval.

Five-year and three-year exclusivity will not delay the submission or approval of a full 505(b)(1) NDA; however, an applicant submitting a full NDA would be required to conduct or obtain a right of reference to all of the preclinical studies and adequate and well-controlled clinical trials necessary to demonstrate safety and efficacy.

Patent Term Extension

After NDA approval, owners of relevant drug patents may apply for up to a five-year patent extension. The allowable patent term extension is calculated as half of the drug's testing phase (the time between IND application and NDA submission) and all of the review phase (the time between

NDA submission and approval up to a maximum of five years). The time can be shortened if the FDA determines that the applicant did not pursue approval with due diligence. The total patent term after the extension may not exceed 14 years, and only one patent can be extended. For patents that might expire during the application phase, the patent owner may request an interim patent extension. An interim patent extension increases the patent term by one year and may be renewed up to four times. For each interim patent extension granted, the post-approval patent extension is reduced by one year. The director of the United States Patent and Trademark Office must determine that approval of the drug covered by the patent for which a patent extension is being sought is likely. Interim patent extensions are not available for a drug for which an NDA has not been submitted.

Other Healthcare Laws

In addition to FDA restrictions on marketing of pharmaceutical products, several other types of state and federal laws have been applied to restrict certain general business and marketing practices in the pharmaceutical industry in recent years. These laws include anti-kickback statutes, false claims statutes and other healthcare laws and regulations.

The federal Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration to induce, or in return for, purchasing, leasing, ordering or arranging for the purchase, lease or order of any healthcare item or service reimbursable under Medicare, Medicaid, or other federally financed healthcare programs. The ACA amended the intent element of the federal statute so that a person or entity no longer needs to have actual knowledge of the statute or specific intent to violate it in order to commit a violation. This statute has been interpreted to apply to arrangements between pharmaceutical manufacturers on the one hand and prescribers, purchasers and formulary managers on the other. Although there are a number of statutory exceptions and regulatory safe harbors protecting certain common activities from prosecution or other regulatory sanctions, the exceptions and safe harbors are drawn narrowly, and practices that involve remuneration intended to induce prescribing, purchases or recommendations may be subject to scrutiny if they do not qualify for an exception or safe harbor.

Federal civil and criminal false claims laws, including the federal civil False Claims Act, prohibit any person or entity from knowingly presenting, or causing to be presented, a false claim for payment to the federal government, or knowingly making, or causing to be made, a false statement to have a false claim paid. This includes claims made to programs where the federal government reimburses, such as Medicaid, as well as programs where the federal government is a direct purchaser, such as when it purchases off the Federal Supply Schedule. Recently, several pharmaceutical and other healthcare companies have been prosecuted under these laws for allegedly inflating drug prices they report to pricing services, which in turn were used by the government to set Medicare and Medicaid reimbursement rates, and for allegedly providing free product to customers with the expectation that the customers would bill federal programs for the product. In addition, certain marketing practices, including off-label promotion, may also violate false claims laws. Additionally, the ACA amended the federal Anti-Kickback Statute such that a violation of that statute can serve as a basis for liability under the federal False Claims Act. The majority of states also have statutes or regulations similar to the federal Anti-Kickback Statute and False Claims Act, which apply to items and services reimbursed under Medicaid and other state programs, or, in several states, apply regardless of the payor.

Other federal statutes pertaining to healthcare fraud and abuse include the civil monetary penalties statute, which prohibits, among other things, the offer or payment of remuneration to a Medicaid or Medicare beneficiary that the offerer or payor knows or should know is likely to influence the beneficiary to order a receive a reimbursable item or service from a particular supplier, and the additional federal criminal statutes created by HIPAA which prohibits, among other things, knowingly and willfully executing or attempting to execute a scheme to defraud any healthcare benefit program or

obtain by means of false or fraudulent pretenses, representations or promises any money or property owned by or under the control of any healthcare benefit program in connection with the delivery of or payment for healthcare benefits, items or services.

In addition, HIPAA, as amended by HITECH, and their respective implementing regulations, impose obligations on certain healthcare providers, health plans, and healthcare clearinghouses, known as covered entities, as well as their business associates that perform certain services involving the storage, use or disclosure of individually identifiable health information, including mandatory contractual terms, with respect to safeguarding the privacy, security, and transmission of individually identifiable health information, and require notification to affected individuals and regulatory authorities of certain breaches of security of individually identifiable health information. HITECH increased the civil and criminal penalties that may be imposed against covered entities, business associates and possibly other persons, and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce the federal HIPAA laws and seek attorney's fees and costs associated with pursuing federal civil actions. In addition, many state laws govern the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect.

Further, pursuant to the ACA, the CMS has issued a final rule that requires manufacturers of prescription drugs to collect and report information on certain payments or transfers of value to physicians and teaching hospitals, as well as investment interests held by physicians and their immediate family members. The first reports were due in 2014 and must be submitted on an annual basis. The reported data is made available in searchable form on a public website on an annual basis. Failure to submit required information may result in civil monetary penalties. Effective January 1, 2022, reporting on transfers of value to physician assistants, nurse practitioners or clinical nurse specialists, certified registered nurse anesthetists, and certified nurse-midwives will also be required.

In addition, several states now require prescription drug companies to report certain expenses relating to the marketing and promotion of drug products and to report gifts and payments to individual healthcare practitioners in these states. Other states prohibit various marketing-related activities, such as the provision of certain kinds of gifts or meals. Still other states require the posting of information relating to clinical studies and their outcomes. Some states require the reporting of certain pricing information, including information pertaining to and justifying price increases, or prohibit prescription drug price gouging. In addition, states such as California, Connecticut, Nevada, and Massachusetts require pharmaceutical companies to implement compliance programs and/or marketing codes. Several additional states are considering similar proposals. Certain states and local jurisdictions also require the registration of pharmaceutical sales representatives. Compliance with these laws is difficult and time consuming, and companies that do not comply with these state laws face civil penalties.

Efforts to ensure that business arrangements with third parties comply with applicable healthcare laws and regulations involve substantial costs. If a drug company's operations are found to be in violation of any such requirements, it may be subject to significant penalties, including civil, criminal and administrative penalties, damages, fines, disgorgement, imprisonment, the curtailment or restructuring of its operations, loss of eligibility to obtain approvals from the FDA, exclusion from participation in government contracting, healthcare reimbursement or other federal or state government healthcare programs, including Medicare and Medicaid, integrity oversight and reporting obligations, imprisonment, and reputational harm. Although effective compliance programs can mitigate the risk of investigation and prosecution for violations of these laws, these risks cannot be entirely eliminated. Any action for an alleged or suspected violation can cause a drug company to incur significant legal expenses and divert management's attention from the operation of the business, even if such action is successfully defended.

Coverage and Reimbursement

Significant uncertainty exists as to the coverage and reimbursement status of any new therapeutic product candidate. Sales in the United States will depend in part on the availability of sufficient coverage and adequate reimbursement from third-party payors, which include government health programs such as Medicare, Medicaid, TRICARE and the Veterans Administration, as well as managed care organizations and private health insurers. Prices at which reimbursement for therapeutic product candidates may be sought can be subject to challenge, reduction or denial by payors.

The regulations that govern coverage, pricing and reimbursement for new drugs and therapeutic biologics vary widely from country to country. Some countries require approval of the sale price of a drug or therapeutic biologic before it can be marketed. In many countries, the pricing review period begins after marketing approval is granted. In some foreign markets, prescription biopharmaceutical pricing remains subject to continuing governmental control even after initial approval is granted. As a result, a drug company can obtain regulatory approval for a product in a particular country, but then be subject to price regulations that delay commercial launch of that product.

A drug company's ability to commercialize any products successfully will also depend in part on the extent to which coverage and adequate reimbursement for these products and related treatments will be available from government authorities, private health insurers and other organizations. Even if one or more products are successfully brought to the market, these products may not be considered cost-effective, and the amount reimbursed for such products may be insufficient to allow them to be sold on a competitive basis. Increasingly, third-party payors who reimburse patients or healthcare providers, such as government and private insurance plans, are requiring that drug companies provide them with predetermined discounts from list prices, and are seeking to reduce the prices charged or the amounts reimbursed for biopharmaceutical products.

The process for determining whether a payor will provide coverage for a product is typically separate from the process for setting the reimbursement rate that the payor will pay for the product. A payor's decision to provide coverage for a product does not imply that an adequate reimbursement rate will be available. Significant delays can occur in obtaining reimbursement for newly-approved drugs or therapeutic biologics, and coverage may be more limited than the purposes for which the drug or therapeutic biologic is approved by the FDA or similar foreign regulatory authorities. Moreover, eligibility for reimbursement does not imply that any drug or therapeutic biologic will be reimbursed in all cases or at a rate that covers a drug company's costs, including research, development, manufacture, sale and distribution.

Third-party payors are increasingly challenging the price and examining the medical necessity and cost-effectiveness of medical products and services, in addition to their safety and efficacy. In order to obtain coverage and reimbursement for any product that might be approved for marketing, expensive studies in order to demonstrate the medical necessity and cost-effectiveness of any products, which would be in addition to the costs expended to obtain regulatory approvals, may need to be conducted. Third-party payors may not consider products to be medically necessary or cost-effective compared to other available therapies, or the rebate percentages required to secure favorable coverage may not yield an adequate margin over cost or may not enable maintenance of price levels sufficient to realize an appropriate return on a drug company's investment in drug development.

Interim reimbursement levels for new drugs, if applicable, may also be insufficient to cover a drug company's costs and may not be made permanent. Reimbursement rates may be based on payments allowed for lower cost drugs or therapeutic biologics that are already reimbursed, may be incorporated into existing payments for other services and may reflect budgetary constraints or imperfections in Medicare data. Net prices for drugs or therapeutic biologics may be reduced by mandatory discounts

or rebates required by government healthcare programs or private payors and by any future relaxation of laws that presently restrict imports of drugs or therapeutic biologics from countries where they may be sold at lower prices than in the United States. Further, no uniform policy for coverage and reimbursement exists in the United States. Third-party payors often rely upon Medicare coverage policy and payment limitations in setting their own reimbursement rates, but also have their own methods and approval process apart from Medicare determinations. Therefore, coverage and reimbursement can differ significantly from payor to payor.

U.S. Healthcare Reform

In the United States there have been, and continue to be, proposals by the federal government, state governments, regulators and third-party payors to control or manage the increased costs of health care and, more generally, to reform the U.S. healthcare system. The pharmaceutical industry has been a particular focus of these efforts and has been significantly affected by major legislative initiatives. For example, in March 2010, the ACA was enacted, which was intended to broaden access to health insurance, reduce or constrain the growth of healthcare spending, enhance remedies against fraud and abuse, add new transparency requirements for the healthcare and health insurance industries, impose new taxes and fees on the health industry and impose additional health policy reforms. The ACA substantially changed the way healthcare is financed by both governmental and private insurers, and significantly impacts the U.S. pharmaceutical industry. The ACA, among other things, (i) subjected therapeutic biologics to potential competition by lower-cost biosimilars by creating a licensure framework for follow-on biologic products, (ii) established a new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for drugs and therapeutic biologics that are inhaled, infused, instilled, implanted or injected, (iii) increased the minimum Medicaid rebates owed by manufacturers under the Medicaid Drug Rebate Program and extended the rebate program to individuals enrolled in Medicaid managed care organizations, (iv) established annual nondeductible fees and taxes on manufacturers of certain branded prescription drugs and therapeutic biologics, apportioned among these entities according to their market share in certain government healthcare programs, (v) established a new Medicare Part D coverage gap discount program, in which manufacturers must agree to offer 50% point-of-sale discounts off negotiated prices of applicable brand drugs and therapeutic biologics to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs and therapeutic biologics to be covered under Medicare Part D, which has since been increased to 70% by the BBA, (vi) expanded eligibility criteria for Medicaid programs by, among other things, allowing states to offer Medicaid coverage to additional individuals and by adding new mandatory eligibility categories for individuals with income at or below 133% of the federal poverty level, thereby potentially increasing manufacturers' Medicaid rebate liability, (vii) expanded the entities eligible for discounts under the Public Health program (viii) created a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research, and (ix) established a Center for Medicare Innovation at CMS to test innovative payment and service delivery models to lower Medicare and Medicaid spending, potentially including prescription drug spending.

Since its enactment, there have been judicial and Congressional challenges to certain aspects of the ACA, and we expect there will be additional challenges and amendments to the ACA in the future. The current presidential administration and U.S. Congress have sought and will likely continue to seek to modify, repeal, or otherwise invalidate all, or certain provisions of, the ACA. For example, the Tax Cuts and Jobs Act of 2017, or TCJA, was enacted, which includes a provision that repealed, effective January 1, 2019, the tax-based shared responsibility payment imposed by the ACA on certain individuals who fail to maintain qualifying health coverage for all or part of a year that is commonly referred to as the "individual mandate." On December 14, 2018, a U.S. District Court Judge in the Northern District of Texas ruled that the individual mandate is a critical and inseparable feature of the

ACA, and therefore, because it was repealed as part of the TCJA, the remaining provisions of the ACA are invalid as well. While the Trump administration and CMS have both stated that the ruling will have no immediate effect, it is unclear how this decision, subsequent appeals, if any, and other efforts to repeal and replace the ACA will impact the ACA and our business.

In addition, other legislative changes have been proposed and adopted in the United States since the ACA was enacted to reduce healthcare expenditures. U.S. federal government agencies also currently face potentially significant spending reductions, which may further impact healthcare expenditures. On August 2, 2011, the Budget Control Act of 2011 among other things, included aggregate reductions of Medicare payments to providers of 2% per fiscal year. These reductions went into effect on April 1, 2013 and, due to subsequent legislative amendments to the statute, including the BBA, will remain in effect through 2029 unless additional Congressional action is taken. Moreover, on January 2, 2013, the American Taxpayer Relief Act of 2012 was signed into law, which, among other things, further reduced Medicare payments to several types of providers, including hospitals, imaging centers and cancer treatment centers, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. If federal spending is further reduced, anticipated budgetary shortfalls may also impact the ability of relevant agencies, such as the FDA or the National Institutes of Health to continue to function at current levels. Amounts allocated to federal grants and contracts may be reduced or eliminated. These reductions may also impact the ability of relevant agencies to timely review and approve research and development, manufacturing, and marketing activities, which may delay our ability to develop, market and sell any products we may develop.

Moreover, payment methodologies may be subject to changes in healthcare legislation and regulatory initiatives. For example, the MMA changed the way Medicare covers and pays for pharmaceutical products. The legislation expanded Medicare coverage for drug purchases by the elderly and introduced a new reimbursement methodology based on average sales prices for physician-administered drugs. In addition, this legislation provided authority for limiting the number of drugs that will be covered in any therapeutic class. While the MMA only applies to drug benefits for Medicare beneficiaries, private payors often follow Medicare coverage policy and payment limitations in setting their own reimbursement rates. Therefore, any reduction in reimbursement that results from the MMA may result in a similar reduction in payments from private payors.

Recently there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drug products. At the federal level, the current U.S. presidential administration's budget proposal for fiscal year 2019 contains further drug price control measures that could be enacted during the 2019 budget process or in other future legislation, including, for example, measures to permit Medicare Part D plans to negotiate the price of certain drugs under Medicare Part B, to allow some states to negotiate drug prices under Medicaid, and to eliminate cost sharing for generic drugs for low-income patients. Additionally, on May 11, 2018, the current U.S. presidential administration laid out the administration's "Blueprint" to reduce the cost of prescription medications while preserving innovation and cures. While HHS is soliciting feedback on some of these measures, other actions may be immediately implemented by HHS under existing authority. Although a number of these, and other potential, proposals will require authorization through additional legislation to become effective, Congress and the current U.S. presidential administration have each indicated that it will continue to seek new legislative and/or administrative measures to control drug costs. At the state level, legislatures are increasingly passing legislation and implementing 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, designed to encourage importation from other countries and bulk purchasing.

Employees

As of December 31, 2019, we had 29 full-time employees. Of these full-time employees, 6 have an M.D., a Ph.D. or a Pharm. D. From time to time, we also retain independent contractors to support our organization. None of our employees are represented by a labor union or covered by collective bargaining agreements, and we believe our relationship with our employees is good.

Facilities

Our principal executive office is located in Westlake Village, California, where we lease a total of 4,741 square feet of office space that we use for our administrative, research and development and other activities. The lease expires in July 2021.

Legal Proceedings

From time to time, we may be involved in legal proceedings arising in the ordinary course of our business. We are not presently a party to any legal proceedings that, in the opinion of management, would have a material adverse effect on our business. Regardless of outcome, litigation can have an adverse impact on us due to defense and settlement costs, diversion of management resources, negative publicity and reputational harm, and other factors.

MANAGEMENT**Executive Officers, Key Employees and Directors**

The following table provides information regarding our executive officers, key employees and directors as of December 31, 2019:

Name	Age	Position(s)
Executive Officers		
Todd Franklin Watanabe	51	Director, President and Chief Executive Officer
John W. Smither	66	Chief Financial Officer
Howard G. Welgus, M.D.	67	Chief Medical Officer
David W. Osborne, Ph.D.	58	Chief Technical Officer
Kenneth A. Lock	46	Chief Commercial Officer
Patricia A. Turney	53	Senior Vice President, Manufacturing
Key Employees		
David Berk, M.D.	41	Vice President, Clinical Development
Scott L. Burrows	42	Vice President, Finance
Meg Elias	54	Vice President, Clinical Operations
Keith L. Klein, J.D.	56	General Counsel
Charlotte Merritt	57	Vice President, Regulatory Affairs
Lynn Navale	49	Vice President, Biometrics
Frank Pompilio, Pharm.D.	56	Vice President, Medical Affairs
Non-Employee Directors		
Patrick J. Heron(2)	49	Chairman, Director
Alexander G. Asam, Ph.D.(3)	54	Director
Bhaskar Chaudhuri, Ph.D.(1)(2)	65	Director
Daniel J. Estes, Ph.D.(1)(3)	39	Director
Jonathan T. Silverstein, J.D.(2)	52	Director
Ricky Sun, Ph.D.(1)(3)	46	Director
Joseph L. Turner(1)(4)	68	Director

(1) Member of the Audit Committee.

(2) Member of the Compensation Committee.

(3) Member of the Nominating and Governance Committee.

(4) Mr. Turner's appointment as a director and as Chairman of the Audit Committee will be effective upon the effectiveness of the registration statement of which this prospectus is a part.

Executive Officers

Todd Franklin Watanabe has served as our President and Chief Executive Officer since April 2017. Prior to joining Arcutis Biotherapeutics, he served as co-founder and Chief Operating Officer of Kanan Therapeutics, Inc., a cardiovascular drug development company from December 2015 to February 2018, and before that, he served as Vice President of Strategy and Corporate Development at Kythera Biopharmaceuticals Inc. from October 2013 to November 2015. Mr. Watanabe was an executive at Amgen, Inc. from 2005 to 2013, where he was involved in the development of Repatha for hyperlipidemia and Aimovig for migraine, and worked on the U.S. marketing of Enbrel in both dermatology and rheumatology. Previously, he was an executive with Eli Lilly and company, and an official in the U.S. Government. He was also a commissioned officer in the U.S. Navy Reserves for 25 years. Mr. Watanabe received his M.A. in National Security Studies, and his B.A. in International Relations, both from Georgetown University. We believe that Mr. Watanabe is qualified to serve on our board of directors because of his experience with biotechnology companies, including working with and serving in various executive positions in life sciences companies.

John W. Smither has served as our Chief Financial Officer since May 2019. Mr. Smither previously served as Chief Financial Officer for Sienna Biopharmaceuticals, Inc. from January 2016 to March 2017 and again from April 2018 to April 2019. From October 2017 to March 2018, he was interim Chief Financial Officer for Kite Pharma during its integration with Gilead Sciences, Inc., and prior to that, was Chief Financial Officer at Unity Biotechnology, Inc. from January 2016 to July 2017. Earlier, he served as Chief Financial Officer of Kythera Biopharmaceuticals, Inc. from November 2007, until it was acquired by Allergan plc in October 2015. From 1998 to 2007, Mr. Smither held various positions at Amgen Inc., including head of corporate accounting, vice president of finance and administration for Amgen's European Division and head of internal audit. Prior to joining Amgen, he served as audit partner at Ernst & Young LLP, a public accounting firm, and following his time at Ernst & Young served as Chief Financial Officer of several early stage companies. Mr. Smither currently serves on the board of directors of Achaogen, Inc. Previously, Mr. Smither served on the board of directors of Principia Biopharma Inc. He received a B.S. in Business Administration from California State University, Los Angeles. Mr. Smither is a Certified Public Accountant (inactive) and a member of the American Institute of Certified Public Accountants, the California Society of Certified Public Accountants and Financial Executives.

Howard G. Welgus, M.D. has served as our Chief Medical Officer since April 2017. From February 2016 to June 2018, Dr. Welgus served as the Chief Medical Officer at Verrica Pharmaceuticals Inc. Prior to joining Verrica, Dr. Welgus served as the Chief Medical Officer at Thesan Pharmaceuticals Inc. from September 2012 to November 2016 and served as the Chief Medical Officer at Nycomed US Inc. from May 2009 to November 2010. From 1999 to 2009, he served as the Vice President and head of the Dermatology and Inflammation therapeutic areas at Pfizer Inc. Prior to joining the private sector, Dr. Welgus was a faculty member at Washington University for 17 years. Dr. Welgus is a board-certified dermatologist and received a M.D. from Washington University School of Medicine in St. Louis and a B.A. in Biology from Rice University.

David W. Osborne, Ph.D. has served as our Chief Technical Officer since April 2017 and is one of our cofounders. From April 2008 to May 2016, Dr. Osborne held various positions at Tolmar Inc., including Chief Scientific Officer from December 2013 to May 2016. Prior to joining Tolmar, Dr. Osborne served as Vice President of Product Development at Dow Pharmaceutical Sciences, Inc. from September 2003 to March 2018 and at Atrix Laboratories, Inc. through its acquisition of ViroTex Corp. from 1999 to 2003. He started his career as a formulation group leader at The Upjohn Company and as a Group Leader, Skin Care at Calgon Vestal Laboratories, a subsidiary of Merck & Co., Inc. Dr. Osborne received a B.S. in Chemistry from Missouri State University and a Ph.D. in Physical Chemistry from Missouri University of Science and Technology.

Kenneth A. Lock has served as our Chief Commercial Officer since October 2019. Prior to joining Arcutis, he served as the Executive Director of Sales and Marketing at Gilead Sciences, concurrently leading the Inflammation and Pulmonary Hypertension U.S. commercial franchises from December 2013 to August 2019. Prior to Gilead, Mr. Lock was employed at Amgen, Inc. from March 2007 to November 2013, where he was involved in the prelaunch global development of Repatha for hyperlipidemia and also held U.S. brand marketing and sales leadership roles for Enbrel for Rheumatoid Arthritis and Psoriasis. From June 2003 to February 2007 Mr. Lock was at Wyeth Pharmaceuticals where he held various positions including Strategic Planning, International Commercial Operations, and Marketing for Enbrel in both Rheumatology and Dermatology. He started his career in process development and biologics manufacturing at IDEC Pharmaceuticals in 1996. Mr. Lock received both his B.S. in Biochemistry / Cell Biology and B.A. in Psychology from University of California, San Diego and completed his M.B.A at Cornell University.

Patricia A. Turney has served as our Senior Vice President of Manufacturing since November 2019. Prior to joining Arcutis, she was Vice President, External Supply for Amgen, Inc., where she was

responsible for the manufacture of over \$5B in annual product sales, more than 250 external suppliers, and 55 contract manufacturing sites spanning 10 countries. Previously, she led Amgen's Manufacturing Site Operations in The Netherlands, supplying patients in over 75 countries. Ms. Turney served with Amgen for more than 23 years, and held a wide variety of leadership roles with increasing responsibility within Manufacturing, Engineering, EH&S, R&D, and Quality. She received her B.S. in Mathematics and Engineering from the US Naval Academy, and her M.B.A. from UCLA's Anderson School of Management. Prior to her career at Amgen, Ms. Turney was a U.S. Naval Aviator and served in the US Navy in various locations around the world.

Key Employees

David Berk, M.D. has served as our Vice President, Clinical Development since January 2019. Prior to joining us, Dr. Berk was Executive Director and Section Head for Medical Dermatology at Allergan, Inc. from June 2012 to December 2018. Prior to that, he was in academic practice as an Assistant Professor at Washington University in St. Louis from 2009 to 2012. Dr. Berk is a board-certified Pediatric Dermatologist and completed his Dermatology residency at Washington University in St. Louis and his fellowship training in Pediatric Dermatology at Stanford University. Dr. Berk received a M.D. from Stanford University, and received a A.B. in Molecular Biology from Princeton University.

Scott L. Burrows has served as our Vice President, Finance since May 2019. From March 2018 to May 2019, he was the Head of International Investor Relations for Shire Plc in Zug, Switzerland. Prior to that, Mr. Burrows spent 15 years at Amgen in various Finance roles of increasing responsibility, including Financial Planning & Analysis, Treasury, and Investor Relations. Mr. Burrows started his career as a management consultant with Arthur Andersen in Los Angeles. He received both a B.A. in Business Economics and an M.B.A. from the University of California, Los Angeles and is a Certified Public Accountant (inactive).

Meg Elias has served as our Vice President, Clinical Operations since January 2019. From November 2014 to December 2018, she led the study management group within Clinical Operations at Kite Pharma, and served as the Clinical Operations lead on the pivotal Phase II study which resulted in U.S. and EU market approval of Yescarta. Prior to that, she worked in clinical operations at Amgen from 2003 to 2014 and GlaxoSmithKline from 2000 to 2002. She started her career in clinical nursing, and practiced for 10 years before joining industry. Ms. Elias received a Bachelor of Science in Nursing from Cedar Crest College.

Keith L. Klein, J.D. has served as our General Counsel since November 2019. From January 2016 to May 2017, he was General Counsel for Unity Biotechnology. From October 2006 to October 2015, he was General Counsel for Kythera Biopharmaceuticals, and handled legal matters associated with that firm's IPO and subsequent acquisition by Allergan in October 2015 for \$2.1 billion. From 1991 to 2006, he held increasingly senior legal positions at Amgen, Inc., culminating as Senior Associate General Counsel and lead counsel for Amgen's Global Commercial Organization. Prior to that, he was an associate with Cooley Godward LLP and Allen Matkins. He holds a Bachelor of Arts in Economics from University of California, Los Angeles and a Juris Doctorate from University of California, Davis.

Charlotte Merritt has served as our Vice President, Regulatory Affairs since March 2018. In 2014, she founded PharmaReg Consulting, LLC, where she supported smaller pharma and biotech companies with IND-stage development and preparation of NDAs and where she remains the principal. Previously, she spent more than 20 years at Merck & Co. where she contributed to the global registration of numerous therapies and led strategic and organizational transformation initiatives. Ms. Merritt received a B.S. in Biology from Albright College and an M.B.A. from the John M. Olin School of Business at Washington University in St. Louis.

Lynn Navale has served as our Vice President, Biometrics, since September 2019. From July 2014 to September 2019, she was the Vice President of Biometrics at Kite Pharma, where she developed and led the Biometrics function including biostatistics, statistical programming, and data management and served as the Biometrics team leader for the U.S. and EU regulatory approvals of Yescarta. Previously, from 2003 to 2014, she worked at Amgen in roles of increasing responsibility within Clinical Development Biostatistics. She began her career at Baxter BioScience and was the lead statistician for the trial that led to the U.S. regulatory approval of Advate. Ms. Navale has a B.S. in Math from the University of Michigan and an M.S. in Biostatistics from the University of California Los Angeles.

Frank Pompilio, Pharm.D. has served as our Vice President, Medical Affairs, since October 2019. From June 2016 to October 2019, he was Vice President, Medical Affairs at MannKind Corporation. From October 2014 to June 2016, he was Senior Director, Medical Affairs at Kythera Biopharmaceuticals, Inc. Prior to that, Dr. Pompilio was employed at Amgen, Inc. and Bristol-Myers Squibb, where he worked in medical science and scientific affairs functions from July 1996 to September 2014. While at Amgen, he held various leadership roles supporting the commercialization of Enbrel in both Rheumatology and Dermatology. He started his career as an Assistant Professor at the University of Southern California School of Pharmacy. Dr. Pompilio received a Pharm.D. from USC, a B.S. in Pharmacology from the University of California at Santa Barbara, and completed a clinical pharmacy residency at the University of Arizona.

Non-Employee Directors

Patrick J. Heron has served as the Chairman of our board of directors since December 2019, and has been a member of our board of directors since April 2017. Since September 1999, Mr. Heron has been a managing general partner with Frazier Healthcare Partners, where he has been active in company formations and initial investments in various biotechnology companies, including Marcadia Biotech Inc., Calixa Therapeutics, Inc. and VentiRx Pharmaceuticals, Inc. He also led Frazier's involvement in MedPointe Inc. Prior to joining Frazier, Mr. Heron helped develop McKinsey & Company's west coast biotechnology consulting practice. Mr. Heron currently serves on the board of directors of Mirum Pharmaceuticals, Inc. and Iterum Therapeutics plc. He previously served on the boards of directors of the Tobira Therapeutics, Inc. and Collegium Pharmaceuticals, Inc. Mr. Heron received a B.A. in Political Science from the University of North Carolina at Chapel Hill and an M.B.A. from Harvard Business School. We believe that Mr. Heron is qualified to serve on our board of directors because of his investing and operations experiences in the life sciences industry.

Alexander G. Asam, Ph.D. has served as a member of our board of directors since October 2019. Since 2007, Dr. Asam has been an Investment Advisor of HBM Partners, and brings more than 20 years of experience in the life sciences and private equity businesses. He was a former managing director and partner of Deutsche Venture Capital (DVC) / Deutsche Bank from 2001 to 2007 and held various positions at Hoechst AG, Aventis S.A. (now: Sanofi) and LION Bioscience AG, among others, as well as a member of the IPO Core Team (dual listing Germany and USA). Dr. Asam holds an MBA degree from Aston Business School, Birmingham and a MSc and PhD in chemistry from University of Heidelberg. He is a board member of APR Applied Pharma Research and Sublimity Therapeutics, as well as a board observer at Corvidia Therapeutics, Swixx Biopharma, and Vitaeris. We believe that Dr. Asam is qualified to serve on our board of directors because of his extensive experience in the life sciences industry, including as an investor and board member.

Bhaskar Chaudhuri, Ph.D. has served as a member of our board of directors since April 2016 and is one of our co-founders. Since June 2011, he has been the Operating Partner at Frazier Healthcare Ventures. Prior to that time, Dr. Chaudhuri served as President of Valeant Pharmaceuticals International, Inc. (currently Bausch Health) from January 2009 to September 2010. Prior to joining Valeant, Dr. Chaudhuri served for seven years as President and Chief Executive Officer of Dow

Pharmaceutical Sciences, Inc. and as a member of its board of directors from 2003 to 2008, at which time Dow was acquired by Valeant. Prior to that, Dr. Chaudhuri served as Executive Vice President of Scientific Affairs at Bertek Pharmaceuticals, Inc., a subsidiary of Mylan N.V., from September 2000 to March 2002. Prior to his position at Bertek, Dr. Chaudhuri served as the General Manager of the Dermatology Division of Mylan from September 1998 to August 2000. Dr. Chaudhuri joined Mylan through the acquisition of Penederm, Inc., where he worked from 1992 to 1998 in a number of senior positions before becoming the Vice President of Research and Development. Dr. Chaudhuri serves on the boards of directors of Teligent, Inc., and previously served on the board of directors of Corium International, Inc. He also serves on the Advisory Board of the Johns Hopkins Berman Institute of Bioethics. Dr. Chaudhuri received a B.S. in Pharmacy and a M.S. in Industrial Pharmacy from Jadavpur University and a Ph.D. in Pharmaceutics from the University of Louisiana. We believe Dr. Chaudhuri is qualified to serve on our board of directors because of his many years of experience in the pharmaceutical industry, including his prior positions in senior executive roles at major pharmaceutical companies.

Daniel J. Estes, Ph.D. has served as a member of our board of directors since April 2017. Since April 2011, Dr. Estes has been a member of the investment team and a partner with Frazier Healthcare Partners, where he focuses on investments in both development-stage and commercial-stage pharmaceutical companies. Prior to joining Frazier Healthcare Partners, Dr. Estes served as a management consultant with McKinsey & Company's healthcare practice between 2008 and 2011. Dr. Estes also served on the board of directors of Sierra Oncology, Inc. from April 2017 until November 2019. Dr. Estes received his Ph.D. in Biomedical Engineering from the University of Michigan and his B.S. in Electrical Engineering from Stanford University. We believe that Dr. Estes is qualified to serve on our board of directors based on his experience in the pharmaceutical and biotechnology industries.

Jonathan T. Silverstein, J.D. has served as a member of our board of directors since August 2018. Mr. Silverstein is currently a Managing Partner and a Co-Head of Global Private Equity at OrbiMed Advisors, a healthcare investment firm, where he has worked since December 1998. Previously, Mr. Silverstein was a director of life sciences in the investment banking department at Sumitomo Bank. Mr. Silverstein currently serves on the board of directors of resTORbio, Inc. and Avedro Inc. Mr. Silverstein has also previously served on the board of directors of Audentes Therapeutics, Inc., Ascendis Pharma A/S, Intercept Pharmaceuticals, Inc., Glaukos Corporation, scPharmaceuticals Inc., Rhythm Pharmaceuticals, Inc. and Sorrento Tech, Inc. (formerly known as Roka BioScience, Inc.). Mr. Silverstein received a B.A. from Denison University and a J.D. and M.B.A. from the University of San Diego. We believe that Mr. Silverstein's strategic development and capital markets experience qualifies him to serve on our board of directors.

Ricky Sun, Ph.D. has served as a member of our board of directors since August 2018. Dr. Sun has been a Partner with Bain Capital Life Sciences since August 2016. From August 2013 to July 2016, he held various positions at Biogen Inc., including Director of Corporate Development and Strategy from January 2015 to July 2016. Prior to Biogen, Dr. Sun served as a Vice President at BlackRock, Inc., as a member of the Fundamental Equity division of BlackRock's Alpha Strategies Group and senior analyst for BlackRock's Fundamental Large Cap Growth equity team, covering the health care sector. Prior to that, he was a senior healthcare analyst at Citadel LLC and Alyeska Investment Group, L.P., in Chicago and worked as a pharmaceuticals equity research analyst on Wall Street, spending time at Lehman Brothers and Morgan Stanley. Dr. Sun received a Ph.D. degree in Chemistry and Chemical Biology from Harvard University, an MBA from New York University Stern School of Business and a B.A. in Chemistry from Berea College. We believe that Dr. Sun's life sciences investment experience qualifies him to serve on our board of directors.

Joseph L. Turner, has been elected to become a member of our Board of Directors and Chairman of the Audit Committee upon the effectiveness of the registration statement of which this prospectus is a part. Mr. Turner currently serves on the board of directors and is the chair of the audit

committee of Miragen Therapeutics, Inc. Previously, Mr. Turner served as a director and chair of the audit committee of Sophiris Bio Inc., Corcept Therapeutics, Inc., Alexza Pharmaceuticals, Inc. and Kythera Biopharmaceuticals, Inc. Prior to retiring from active employment in 2006, Mr. Turner served as Chief Financial Officer at Myogen, Inc. from 1999 until it was acquired by Gilead Sciences, Inc. in 2006, and previously served as the Chief Financial Officer at Centaur Pharmaceuticals, Inc. and Chief Financial Officer and Vice President, Finance and Administration at Cortech, Inc. Mr Turner has an M.B.A. from the University of North Carolina at Chapel Hill, an M.A. in molecular biology from the University of Colorado, and a B.A. in chemistry from Swarthmore College. We believe that Mr. Turner possesses specific attributes that qualify him to serve as a member of our board of directors, including his years of experience in the biotech and pharmaceutical industries and his financial sophistication and expertise.

Election of Officers

Our executive officers are appointed by, and serve at the discretion of, our board of directors. There are no family relationships among any of our directors or executive officers.

Board Composition

Our board of directors currently consists of seven members. Six of our directors are independent within the meaning of the independent director guidelines of the Nasdaq Global Select Market, or Nasdaq. Upon the completion of this offering, our board of directors will consist of eight members, seven of whom will be independent within the meaning of the independent director guidelines of Nasdaq. Pursuant to our current voting agreement and certificate of incorporation, Todd Franklin Watanabe, Patrick J. Heron, Alexander G. Asam, Bhaskar Chaudhuri, Daniel J. Estes, Jonathan T. Silverstein and Ricky Sun have been designated to serve as members of our board. Jonathan T. Silverstein and Ricky Sun were elected by the holders of our Series B convertible preferred stock. Alexander G. Asam was elected by the holders of our Series C convertible preferred stock. Daniel J. Estes and Patrick J. Heron were elected by the holders of our Series A convertible preferred stock. Todd Franklin Watanabe and Bhaskar Chaudhuri were elected by the holders of our common stock.

The voting agreement and the provisions of our current certificate of incorporation that govern the election and designation of our directors will terminate in connection with this offering, after which no contractual obligations will concern the election of our directors. Each of our current directors will continue to serve until the election and qualification of his successor, or until his earlier death, resignation or removal.

Classified Board of Directors

Upon the completion of this offering, our board of directors will be divided into three staggered classes of directors. At each annual meeting of stockholders, a class of directors will be subject to re-election for a three-year term. As a result, only one class of directors will be elected at each annual meeting of our stockholders, with the other classes continuing for the remainder of their respective three-year terms. Our directors will be divided among the three classes as follows:

- the Class I directors will be Alexander Asam and Ricky Sun and their terms will expire at the first annual meeting of stockholders held following the completion of the offering;
- the Class II directors will be Bhaskar Chaudhuri, Dan Estes and Jonathan Silverstein and their terms will expire at the second annual meeting of stockholders held following the completion of the offering; and

- the Class III directors will be Patrick Heron, Joseph Turner, contingent upon the effectiveness of the registration statement of which this prospectus is a part, and Frank Watanabe and their terms will expire at the third annual meeting of stockholders held following the completion of the offering.

Each director's term continues until the election and qualification of his successor, or his earlier death, resignation or removal. Our restated certificate of incorporation and restated bylaws that will be in effect upon the completion of this offering authorize only our board of directors to fill vacancies on our board of directors. Any increase or decrease in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors. This classification of our board of directors may have the effect of delaying or preventing changes in control of our company. See the section entitled "Description of Capital Stock—Anti-Takeover Provisions—Restated Certificate of Incorporation and Restated Bylaw Provisions."

Director Independence

In connection with this offering, we intend to apply to have our common stock approved for listing on Nasdaq. Under the rules of Nasdaq, independent directors must comprise a majority of a listed company's board of directors within a specified period following the completion of this offering. In addition, the rules of Nasdaq require that, subject to specified exceptions, each member of a listed company's audit, compensation and nominating and governance committees be independent. Under the rules of Nasdaq, a director will only qualify as an "independent director" if, in the opinion of that company's board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

Audit committee members must also satisfy the independence criteria set forth in Rule 10A-3 under the Exchange Act. In order to be considered independent for purposes of Rule 10A-3, a member of an audit committee of a listed company may not, other than in his capacity as a member of the audit committee, the board of directors or any other board committee: (i) accept, directly or indirectly, any consulting, advisory or other compensatory fee from the listed company or any of its subsidiaries; or (ii) be an affiliated person of the listed company or any of its subsidiaries. We intend to satisfy the audit committee independence requirements of Rule 10A-3 as of the completion of this offering. Additionally, compensation committee members must not have a relationship with us that is material to the director's ability to be independent from management in connection with the duties of a compensation committee member.

Our board of directors has undertaken a review of the independence of each director and considered whether each director has a material relationship with us that could compromise his ability to exercise independent judgment in carrying out his responsibilities. As a result of this review, our board of directors determined that all of our directors, except for Todd Franklin Watanabe, are "independent directors" as defined under the applicable rules and regulations of the Securities and Exchange Commission, or SEC, and the listing requirements and rules of Nasdaq. In making these determinations, our board of directors reviewed and discussed information provided by the directors and us with regard to each director's business and personal activities and relationships as they may relate to us and our management, including the beneficial ownership of our capital stock by each non-employee director and the transactions involving them described in the section entitled "Certain Relationships and Related Party Transactions."

Committees of the Board of Directors

Our board of directors has an audit committee, a compensation committee and a nominating and governance committee, each of which will have the composition and responsibilities described below

as of the completion of this offering. Each of the below committees has a written charter approved by our board of directors. Upon completion of this offering, copies of each charter will be posted on the investor relations section of our website. Members serve on these committees will serve until their resignation or until otherwise determined by our board of directors.

Audit Committee

Our audit committee is comprised of Bhaskar Chaudhuri, Dan Estes, and Ricky Sun, with Ricky Sun as the chairman of our audit committee. Upon the effectiveness of the registration statement of which this prospectus is a part, our audit committee will be comprised of Joseph Turner, Bhaskar Chaudhuri, Dan Estes, and Ricky Sun, with Joseph Turner as the chairman of our audit committee. The composition of our audit committee meets the requirements for independence under the current Nasdaq and SEC rules and regulations. Each member of our audit committee is financially literate. In addition, our board of directors has determined that Bhaskar Chaudhuri is an “audit committee financial expert” as defined in Item 407(d)(5)(ii) of Regulation S-K promulgated under the Securities Act. This designation does not impose on him any duties, obligations or liabilities that are greater than are generally imposed on members of our audit committee and our board of directors. Our audit committee is directly responsible for, among other things:

- selecting and hiring our independent registered public accounting firm;
- the qualifications, independence and performance of our registered public accounting firm;
- the preparation of the audit committee report to be included in our annual proxy statement;
- our compliance with legal and regulatory requirements;
- our accounting and financial reporting processes, including our financial statement audits and the integrity of our financial statements; and
- reviewing and approving related-person transactions.

Compensation Committee

Our compensation committee is comprised of Bhaskar Chaudhuri, Patrick Heron, and Jonathan Silverstein, with Bhaskar Chaudhuri as the chairman of our compensation committee. Each member of our compensation committee is a non-employee director, as defined by Rule 16b-3 promulgated under the Exchange Act and meets the requirements for independence under the current Nasdaq listing standards and SEC rules and regulations. Our compensation committee is responsible for, among other things:

- evaluating, recommending, approving and reviewing executive officer compensation arrangements, plans, policies and programs;
- evaluating and recommending non-employee director compensation arrangements for determination by our board of directors;
- administering our cash-based and equity-based compensation plans; and
- overseeing our compliance with regulatory requirements associated with the compensation of directors, officers and employees.

Nominating and Governance Committee

Our nominating and governance committee is comprised of Alexander Asam, Dan Estes, and Ricky Sun, with Dan Estes as the chairman of our nominating and governance committee. Each member of our nominating and governance committee meets the requirements for independence

under the current Nasdaq listing standards. Our nominating and governance committee is responsible for, among other things:

- identifying, considering and recommending candidates for membership on our board of directors;
- overseeing the process of evaluating the performance of our board of directors; and
- advising our board of directors on other corporate governance matters.

Compensation Committee Interlocks and Insider Participation

None of the current members of our compensation committee has at any time been one of our officers or employees. None of our executive officers has served as a member of the board of directors, or as a member of the compensation or similar committee, of any entity that has one or more executive officers who served on our board of directors or compensation committee during the year ended December 31, 2018. Prior to establishing the compensation committee, our full board of directors made decisions relating to the compensation of our officers.

Scientific Advisory Board

We have established a scientific advisory board composed of leading academic and industry scientists. We seek advice and input from these scientists on an ad hoc basis, individually or as a group, to provide scientific and clinical feedback and advice related to our research and development platform and programs. The members of our advisory board consist of experts across a range of key disciplines relevant to our programs. Our advisors are not our employees or directors and have no decision-making authority over our activities. Our advisors may have commitments to, or consulting or advisory contracts with, other entities that may limit their availability to us. In addition, our advisors may have arrangements with other companies to assist those companies in developing products or technologies that may compete with ours. All of our advisors are affiliated with other entities and devote only a small portion of their time to us. Our advisors receive cash compensation based upon consulting services rendered.

Code of Business Conduct and Ethics

Prior to the completion of this offering, our board of directors will adopt a code of business conduct and ethics that applies to all of our employees, officers and directors, including our Chief Executive Officer and other executive and senior officers. The full text of our code of business conduct and ethics will be posted on the investor relations section of our website. The reference to our website address in this prospectus does not include or incorporate by reference the information on our website into this prospectus. We intend to disclose future amendments to certain provisions of our code of business conduct and ethics, or waivers of these provisions, on our website or in public filings to the extent required by the applicable rules.

Non-Employee Director Compensation

The following table presents the total compensation earned by each of our non-employee directors in the year ended December 31, 2019. Our President and Chief Executive Officer, Mr. Watanabe, receives no compensation for his service as a director. Other than as described below, none of our non-employee directors received any fees or reimbursement of any expenses (other than

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customary expenses in connection with the attendance of meetings of our board of directors) or any equity or non-equity awards in the year ended December 31, 2019.

Name	Fees Earned or Paid in Cash (\$)	Stock Awards (\$)(1)(2)	Option Awards (\$)(1)(2)	Total (\$)
Bhaskar Chaudhuri, Ph.D.	183,333(3)	—	109,306	292,639
Daniel Estes, Ph.D.	—	—	—	—
Patrick J. Heron	—	—	—	—
Jonathan T. Silverstein, J.D.	—	—	—	—
Ricky Sun, Ph.D.	—	—	—	—
Charlie Stiefel, J.D.(4)	—	78,705	—	78,705

- (1) The amounts reported in the Stock Awards and Option Awards column represent the grant date fair value of the restricted stock and stock options granted to the directors during the year ended December 31, 2019 as computed in accordance with ASC 718. The assumptions used in calculating the grant date fair value of the restricted stock and stock options reported in the Stock Awards and Option Awards column are set forth in Note 9 to the audited financial statements included in this prospectus. Note that the amounts reported in this column reflect the accounting cost for these restricted stock and stock options, and do not correspond to the actual economic value that may be received by the named executive officers from the restricted stock and options.
- (2) The following table sets forth the aggregate number of shares of our common stock subject to outstanding equity awards held by our non-employee directors as of December 31, 2019:

Director name	Number of unvested shares underlying stock awards held as of December 31, 2019	Number of vested shares underlying stock awards held as of December 31, 2019(A)	Number of shares underlying options held as of December 31, 2019(A)
Bhaskar Chaudhuri, Ph.D.	337,661(B)	202,597	200,000(C)
Daniel Estes, Ph.D.	—	—	—
Patrick J. Heron	—	—	—
Jonathan T. Silverstein, J.D.	—	—	—
Ricky Sun, Ph.D.	—	—	—
Charlie Stiefel, J.D.	—	26,500	—

- (A) All of the outstanding awards were granted under our 2017 Plan.
- (B) This amount reflects the unvested portion of stock awards vesting monthly over a four year period from June 11, 2018, issued upon the early exercise of an option award. 100% of the unvested portion of stock awards will vest upon a change of control.
- (C) The stock option vests monthly over a four year period beginning upon the achievement of certain company milestones, subject to the holder's continuous provision of services to us on each vesting date. This stock option contains an early-exercise provision and is exercisable as to the unvested shares, subject to our right of repurchase. 100% of the options will vest upon a change of control.
- (3) Pursuant to an agreement dated August 16, 2016 between us and Dr. Chaudhuri, we paid Dr. Chaudhuri \$200,000 to provide services to us as Chair of our board of directors. This agreement was terminated in December 2019 upon his resignation as chairman of our board of directors.
- (4) Mr. Stiefel resigned from our board of directors on September 5, 2019.

Prior to this offering, we did not have a formal policy to provide any cash or equity compensation to our non-employee directors for their service on our board of directors or committees of our board of directors. In August 2016, we entered into an agreement, or the Chaudhuri Agreement, with Bhaskar Chaudhuri to provide services to us as Chair of our board of directors. Pursuant to the Chaudhuri Agreement, we paid Dr. Chaudhuri an annualized fee of \$200,000 for his services as a director and chairman of our board of directors through December 2019. The Chaudhuri Agreement was terminated in December 2019 upon Dr. Chaudhuri's resignation as chairman of our board of directors.

In January 2020, our board of directors approved compensation for our non-employee directors, to be effective in connection with the consummation of this offering. Beginning after this offering, our non-employee directors will receive annual cash compensation of \$37,500 for service on the board,

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and additional cash compensation for the chairperson and committee members as set forth below. All cash payments will be made quarterly in arrears, and pro-rated for any partial quarters of service.

- Chair of the Board: \$30,000
- Audit Committee Chair: \$15,000
- Audit Committee Member (Non-Chair): \$7,500
- Compensation Committee Chair: \$10,000
- Compensation Committee Member (Non-Chair): \$5,000
- Nominating and Corporate Governance Committee Chair: \$8,000
- Nominating and Corporate Governance Committee Member (Non-Chair): \$4,000

In addition, each non-employee director who is elected or appointed to our board of directors after completion of this offering will be granted an option to purchase 75,000 shares of our common stock upon the director's initial appointment to our board of directors, referred to as the Initial Grant. The Initial Grant will vest in 3 equal installments on each anniversary of the date of grant, such that the Initial Grant will become fully vested and exercisable on the third anniversary of the date of grant, subject to the director's continued service on each applicable vesting date. If the non-employee director's service ends on the date of vesting, then the vesting will be deemed to have occurred.

Contingent upon Joseph Turner's appointment to our board of directors and effective upon the completion of this offering, Mr. Turner shall receive an Initial Grant.

Each non-employee director who is serving on our board of directors immediately prior to, and will continue to serve on the Board following, our annual meeting of stockholders, will be granted an option to purchase 37,500 shares of our common stock on the date of such annual meeting of stockholders, referred to as the Annual Grant. Each Annual Grant will vest on the earlier of (a) the next annual meeting of the Company's stockholders, or (b) the one-year anniversary of the grant date of the Annual Grant, subject to the director's continued service on the applicable vesting date. If the non-employee director's service ends on the date of vesting, then the vesting will be deemed to have occurred.

The non-employee director Initial Grants and Annual Grants will be made pursuant to the 2020 Plan, and will be subject to the terms and conditions set forth in the applicable stock option agreements under such plan. The Initial Grant and the Annual Grant will accelerate in full upon the consummation of a Corporate Transaction, as defined under the 2020 Plan.

EXECUTIVE COMPENSATION

The following tables and accompanying narrative disclosure set forth information about the compensation earned by our named executive officers during the year ended December 31, 2019. Our named executive officers, who are our principal executive officer and the two most highly-compensated executive officers (other than our principal executive officer) serving as executive officers as of December 31, 2019, were:

- Todd Franklin Watanabe, President and Chief Executive Officer;
- Kenneth A. Lock, Chief Commercial Officer; and
- Patricia A. Turney, Senior Vice President, Manufacturing.

Summary Compensation Table

The following table presents summary information regarding the total compensation for services rendered in all capacities that was awarded to and earned by our named executive officers during the year ended December 31, 2019.

<u>Name and Principal Position</u>	<u>Year</u>	<u>Salary (\$)</u>	<u>Option Awards (\$)(1)</u>	<u>Non-equity Incentive Plan Compensation (\$)(2)(3)</u>	<u>Total(\$)</u>
Todd Franklin Watanabe <i>President and Chief Executive Officer</i>	2019	390,000	580,546(4)	—	970,546
	2018	327,083	180,992(5)	126,000	634,075
Kenneth A. Lock <i>Chief Commercial Officer</i>	2019	66,932	674,797(6)	—	741,729
Patricia A. Turney <i>Senior Vice President, Manufacturing</i>	2019	34,375	666,834(7)	—	701,209

- (1) The amounts reported in the Option Awards column represent the grant date fair value of the stock options granted to the named executive officers during the year ended December 31, 2019 as computed in accordance with ASC 718. The assumptions used in calculating the grant date fair value of the stock options reported in the Option Awards column are set forth in Note 9 to the audited financial statements included in this prospectus. Note that the amounts reported in this column reflect the accounting cost for these stock options, and do not correspond to the actual economic value that may be received by the named executive officers from the options.
- (2) For additional information regarding the non-equity incentive plan compensation, see “—Non-equity Incentive Plan Awards.”
- (3) The amounts of the 2019 non-equity incentive plan compensation to be paid to each officer are not calculable as of the date of this filing. We anticipate that these amounts will be determined by February 2020.
- (4) Consists of 50,000 options which vest monthly over a four year period beginning on November 20, 2019 and 872,200 options which vest monthly over a four year period after completion of certain company milestones, subject to the optionee’s continuous provision of service to us through each such date. The option contains an early-exercise provision and is exercisable as to unvested shares, subject to our right of repurchase. In addition to the foregoing vesting arrangements, the option is subject to acceleration upon certain events as described in the section titled “—Employee Offer Letters—Potential Payments upon Termination or Change in Control.”
- (5) The option vests monthly over a four year period beginning March 1, 2018, subject to the optionee’s continuous provision of services to us through each such date. The option contains an early-exercise provision and is exercisable as to unvested shares, subject to our right of repurchase. In addition to the foregoing vesting arrangements, the option is subject to acceleration upon certain events as described in the section titled “—Employee Offer Letters—Potential Payments upon Termination or Change in Control.”
- (6) The option vests 1/4 after one year and monthly over a four year period beginning October 14, 2019, subject to the optionee’s continuous provision of services to us through each such date. The option contains an early-exercise provision and is exercisable as to unvested shares, subject to our right of repurchase. In addition to the foregoing vesting arrangements, the option is subject to acceleration upon certain events as described in the section titled “—Employee Offer Letters—Potential Payments upon Termination or Change in Control.”

- (7) The option vests 1/4 after one year and monthly over a four year period beginning November 14, 2019, subject to the optionee's continuous provision of services to us through each such date. The option contains an early-exercise provision and is exercisable as to unvested shares, subject to our right of repurchase. In addition to the foregoing vesting arrangements, the option is subject to acceleration upon certain events as described in the section titled "—Employee Offer Letters— Potential Payments upon Termination or Change in Control."

Non-equity Incentive Plan Awards

Annual bonuses for our executive officers are based on the achievement of corporate and, for all of the executive officers other than our Chief Executive Officer, individual performance objectives. For the 2019 bonuses to be paid by March 2020, the corporate performance objectives included advancing the ARQ-151, ARQ-154 and ARQ-252 programs, providing clinical supply to support planned studies, and the completion of a target level of financing. Our Compensation Committee will determine the level of achievement prior to March 2020. For the 2018 bonuses paid in March 2019, the corporate performance objectives included the delivery of a development candidate, the completion of a target level of financing, and the establishment of development infrastructure capable of supporting advancement of the development candidates into the clinic. In March 2019, based on the achievement of these corporate performance objectives and satisfaction of individual performance goals, our compensation committee determined to award bonuses equal for 2018 performance to 100% of target.

Outstanding Equity Awards at 2019 Fiscal Year-End Table

The following table presents information regarding outstanding equity awards held by our named executive officers as of December 31, 2019. All awards were granted under our 2017 Plan.

Name	Option Awards				Stock Awards	
	Number of Securities Underlying Unexercised Options Exercisable (#)(1)	Number of Securities Underlying Unexercised Options Unexercisable (#)	Option Exercise Price (\$)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested #(1)	Market Value of Shares or Units of Stock That Have Not Vested \$(2)
Todd Franklin Watanabe	—	—	—	—	243,748(3)	—
	—	—	—	—	219,617(4)	—
	872,200(5)	—	0.84	3/13/2029	—	—
	50,000(6)	—	3.26	11/20/2029	—	—
Kenneth A. Lock	320,000(7)	—	3.26	10/28/2029	—	—
Patricia A. Turney	320,000(8)	—	3.26	11/20/2029	—	—

- (1) Each award is subject to the acceleration of vesting provisions in each named executive officers' severance & change in control agreement, as set forth below in the section titled "—Employee Offer Letters."
- (2) Since we have not yet completed our initial public offering, the market value was computed using \$, which is the midpoint of the estimated price range set forth on the cover of this prospectus.
- (3) The restricted stock was acquired through the early exercise of a stock option at an exercise price of \$0.18 per share. The restricted stock vests monthly over a four year period beginning November 8, 2016, subject to the holder's continuous provision of services to us on each vesting date.
- (4) The restricted stock was acquired through the early exercise of a stock option at an exercise price of \$0.18 per share. The restricted stock vests monthly over a four year period beginning March 1, 2018, subject to the holder's continuous provision of services to us on each vesting date.
- (5) The stock option vests monthly over a four year period beginning upon the achievement of certain company milestones, subject to the holder's continuous provision of services to us on each vesting date. This stock option contains an early-exercise provision and is exercisable as to unvested shares, subject to our right of repurchase.
- (6) The stock option vests monthly over a four year period beginning November 20, 2019, subject to the holder's continuous provision of services to us on each vesting date. This stock option contains an early-exercise provision and is exercisable as to unvested shares, subject to our right of repurchase.
- (7) The stock option vests 1/4 on the one year anniversary and monthly thereafter over a four year period beginning October 14, 2019, subject to the holder's continuous provision of services to us on each vesting date. This stock option contains an early-exercise provision and is exercisable as to unvested shares, subject to our right of repurchase.

- (8) The stock option vests 1/4 on the one year anniversary and monthly thereafter over a four year period beginning November 14, 2019, subject to the holder's continuous provision of services to us on each vesting date. This stock option contains an early-exercise provision and is exercisable as to unvested shares, subject to our right of repurchase.

Employee Offer Letters

Employment Arrangements with our Named Executive Officers.

Each of our named executive officers will enter into an offer letter that provides for at-will employment and generally includes the named executive officer's initial base salary, an indication of eligibility for an annual cash incentive award opportunity, equity awards and employee benefit plan participation. In addition, each of our named executive officers has executed a form of our standard confidential information and invention assignment agreement. Any potential payments and benefits due upon a termination of employment in connection with a change in control of us are described below in "—Potential Payments upon Termination or Change in Control."

Potential Payments upon Termination or Change in Control

We will enter into severance & change in control agreements, or Severance & Change in Control Agreements, with each of our named executive officers.

These agreements provide for each of these named executive officers to receive the benefits described below upon either a termination by us of the named executive officer's employment without "cause" or a voluntarily resignation by the named executive officer from his or her employment for "good reason" (each, as defined in the Severance & Change in Control Agreement) either outside of a "change in control" (as defined in the Severance & Change in Control Agreements) or in connection with a change in control. We refer to either of these terminations as a "qualifying termination." These benefits are contingent upon the named executive officer executing a customary release of claims. The benefits under the Severance & Change in Control Agreements will supersede all other agreements and understandings between us and each of the named executive officers with respect to severance and vesting acceleration, if any.

In the event of a qualifying termination that occurs during the period from three months before a change in control to 18 months after a change in control (the "change in control period"), each of these named executive officers are entitled to: (1) payment equal to 12 months of base salary or, in the case of Mr. Watanabe, 18 months of base salary, (2) payment equal to 1.0 times, or, in the case of Mr. Watanabe, 1.5 times, the named executive officer's annual bonus for the then-current fiscal year, based on 100% of target performance, (3) continued coverage under our group-healthcare plans for a period ending on the earlier of (x) 12 months or, in the case of Mr. Watanabe, 18 months, following the termination date and (y) the date that the named executive officer and his or her covered dependents become eligible for coverage under another employer's plans and (4) acceleration of 100% of the vesting of each then-outstanding and unvested equity award, provided, that awards subject to the satisfaction of performance criteria may provide for alternative treatment and, absent any such treatment in such grant agreement, the vesting acceleration shall be deemed to have been met based on the achievement of the award at the greater of "at target" or, if determinable, actual performance. The vesting of any outstanding equity award that is not assumed by a successor company following a change in control of us will automatically accelerate in full without regard to the named executive officer's termination of service.

In the event of a qualifying termination that occurs outside of the change in control period, each of these named executive officers are entitled to (1) payment equal to 9 months of base salary or, in the case of Mr. Watanabe, 12 months of base salary and (2) continued coverage under our group-

healthcare plans for a period ending on the earlier of (x) 9 months or, in the case of Mr. Watanabe, 12 months, following the termination date and (y) the date that the named executive officer and his or her covered dependents become eligible for coverage under another employer's plans.

Employee Benefit Plans

We believe that our ability to grant equity-based awards is a valuable compensation tool that enables us to attract, retain, and motivate our employees, consultants, and directors by aligning their financial interests with those of our stockholders. The principal features of our equity incentive plans are summarized below. These summaries are qualified in their entirety by reference to the actual text of the plans, which are filed as exhibits to the registration statement of which this prospectus is a part.

2017 Equity Incentive Plan

We maintain our 2017 Equity Incentive Plan, as amended, or the 2017 Plan. The purposes of the 2017 Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to employees, directors and consultants and to promote the success of our business. The material terms of the 2017 Plan are summarized below:

Share Reserve. Subject to adjustment as provided in the 2017 Plan, the maximum number of shares of common stock which may be issued under the 2017 Plan is 7,679,110 shares. 2,191,014 shares remained available for grant under the 2017 Plan as of September 30, 2019. In October 2019, in connection with the issuance of our Series C convertible preferred stock, an additional 2,823,831 shares were authorized to be available for grant under the 2017 Plan. As of September 30, 2019, 2,340,326 options to purchase shares had been exercised and options to purchase 3,147,770 shares remained outstanding, with a weighted average exercise price of \$0.80 per share.

Administration. Our 2017 Plan is administered by our board of directors or a committee appointed by our board of directors. Subject to the terms of the 2017 Plan, our board of directors has the authority to, among other things, select the persons to whom awards will be granted, construe and interpret our 2017 Plan as well as to prescribe, amend and rescind rules and regulations relating to the 2017 Plan and awards granted thereunder.

Eligibility. Pursuant to the 2017 Plan, we may grant incentive stock options only to our employees (including officers and directors who are also employees). We may grant non-statutory stock options to our employees (including officers and directors who are also employees), non-employee directors and consultants.

Options. The 2017 Plan provides for the grant of both (i) incentive stock options, which are intended to qualify for tax treatment as set forth under Section 422 of the Internal Revenue Code, as amended, or the Code, and (ii) non-statutory stock options to purchase shares of our common stock, each at a stated exercise price. The exercise price of each stock option must be at least equal to the fair market value of our common stock on the date of grant, unless expressly determined by the board of directors or committee on the date of the grant. However, the exercise price of any incentive stock option granted to an individual who owns more than ten percent of the total combined voting power of all classes of our capital stock must be at least equal to 110% of the fair market value of our common stock on the date of grant.

The maximum permitted term of options granted under our 2017 Plan is ten years from the date of grant, except that the maximum permitted term of incentive stock options granted to an individual who owns more than ten percent of the total combined voting power of all classes of our capital stock is five years from the date of grant.

Restricted Stock, Restricted Stock Units and Stock Appreciation Rights. In addition, the 2017 Plan allows for the grant of restricted stock awards, restricted stock units and stock appreciation rights, with terms as generally determined by the administrator (in accordance with the 2017 Plan) and to be set forth in an award agreement. We have not granted any shares of restricted stock (other than in connection with the “early exercise” of stock options”), any restricted stock units or any stock appreciation rights under the 2017 Plan and it is not expected that any such awards will be granted prior to the offering.

Limited Transferability. Unless otherwise determined by our board of directors, awards under the 2017 Plan generally may not be transferred or assigned in any manner other than by will or the laws of descent and distribution, or certain gifts to family members.

Change of Control. In the event that we are subject to an “acquisition” or “other combination” (as defined in the 2017 Plan and generally meaning, collectively, a merger, a sale or transfer of more than 50% of the voting power of all of our outstanding securities, or a sale of all or substantially all of our assets), the 2017 Plan provides that awards will be subject to the agreement evidencing such acquisition or other combination, which agreement need not treat all awards in a similar manner. Such agreement may, without the participant’s consent, provide for the continuation of outstanding awards, the assumption or substitution of awards, the acceleration of vesting of awards, the settlement of awards (whether or not vested) in cash, securities or other consideration, or the cancellation of such awards for no consideration.

Adjustments. In the event of a stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification, or other change in our capital structure affecting the shares without consideration, the number and class of shares that may be delivered under 2017 Plan (including any share limits related thereto) and/or the number, class and price of shares covered by each outstanding award will (to the extent appropriate) be appropriately adjusted (subject to required action by the board), in order to prevent diminution or enlargement of benefits or potential benefits intended to be made available under the 2017 Plan or otherwise as required by applicable law.

Exchange, repricing and buyout of awards. The administrator may, with the consent of the respective participants, issue new awards in exchange for the surrender and cancelation of any or all outstanding awards. The administrator may also reduce the exercise price of options or stock appreciation rights or buy an award previously granted with payment in cash, shares or other consideration, in each case, subject to the terms of the 2017 Plan.

Amendment/termination. The board of directors may amend or terminate the 2017 Plan at any time and may terminate any and all outstanding options, stock appreciation rights or restricted stock units upon a dissolution or liquidation of us, provided that certain amendments will require shareholder approval. We expect to cease issuing awards under the 2017 Plan upon the effective date of our 2020 Equity Incentive Plan (described below), which is the date immediately prior to the date of the effectiveness of the registration statement of which this prospectus forms a part. Any outstanding awards granted under the 2017 Plan will remain outstanding following the offering, subject to the terms of our 2017 Plan and applicable award agreements, until such awards are exercised or until they terminate or expire by their terms.

2020 Equity Incentive Plan

We have adopted our 2020 Equity Incentive Plan, or the 2020 Plan, that will become effective on the date immediately prior to the date of the effectiveness of the registration of which this prospectus forms a part and will serve as the successor to our 2017 Plan. Our 2020 Plan provides for the award of stock options, restricted stock awards, or RSAs, stock appreciation rights, or SARs, restricted stock units, or RSUs, performance awards and stock bonus awards.

Share Reserve. We have initially reserved _____ shares of our common stock, plus any reserved shares not issued or subject to outstanding grants under the 2017 Plan on the effective date of the 2020 Plan, for issuance pursuant to awards granted under our 2020 Plan. The number of shares reserved for issuance under our 2020 Plan will increase automatically on January 1 of each of the first ten calendar years during the term of the 2020 Plan by the number of shares equal to the lesser of 4% of the aggregate number of outstanding shares of all classes of our common stock as of the immediately preceding December 31, or a number as may be determined by our board of directors.

In addition, the following shares will again be available for issuance pursuant to awards granted under our 2020 Plan:

- shares subject to options or SARs granted under our 2020 Plan that cease to be subject to the option or SAR for any reason other than exercise of the option or SAR;
- shares subject to awards granted under our 2020 Plan that are subsequently forfeited or repurchased by us at the original issue price;
- shares subject to awards granted under our 2020 Plan that otherwise terminate without such shares being issued;
- shares subject to awards granted under our 2020 Plan that are surrendered, cancelled or exchanged for cash or a different award (or combination thereof);
- shares used to pay the exercise price, or withheld to satisfy the tax withholding obligations related to an award, granted under our 2020 Plan;
- shares that are subject to stock options or other awards granted under the 2017 Plan that cease to be subject to such stock options or other awards by forfeiture or otherwise, after the termination of the 2017 Plan;
- shares issued under the 2017 Plan pursuant to the exercise of stock options that are forfeited or are repurchased by us at the original issue price, after the termination of the 2017 Plan; and
- shares that are subject to stock options or other awards under the 2017 Plan that are used to pay the exercise price of an option or withheld to satisfy the tax withholding obligations related to any award.

Administration. Our 2020 Plan will be administered by our compensation committee, or by our board of directors acting in place of our compensation committee. Subject to the terms and conditions of the 2020 Plan, the compensation committee will have the authority, among other things, to select the persons to whom awards may be granted, construe and interpret our 2020 Plan as well as to determine the terms of such awards and prescribe, amend and rescind the rules and regulations relating to the plan or any award granted thereunder, including for purposes of compliance with any applicable laws and regulations of any relevant jurisdictions outside the United States. The 2020 Plan provides that the board or compensation committee may delegate its authority, including the authority to grant awards, to a sub-committee or to one or more executive officers to the extent permitted by applicable law, provided that awards granted to non-employee directors may only be determined by our board of directors.

Eligibility. Our 2020 Plan provides for the grant of awards to our employees, directors, consultants, independent contractors and advisors. No non-employee director may receive awards under our 2020 Plan that, when combined with cash compensation received for services as a non-employee director, exceed \$750,000 in a calendar year or \$1,000,000 in the calendar year of his or her initial services as a non-employee director with us.

Options. The 2020 Plan provides for the grant of both incentive stock options intended to qualify under Section 422 of the Code, and non-statutory stock options to purchase shares of our common

stock at a stated exercise price. Incentive stock options may only be granted to employees, including officers and directors who are also employees. The exercise price of stock options granted under the 2020 Plan must be at least equal to the fair market value of our common stock on the date of grant. Incentive stock options granted to an individual who holds, directly or by attribution, more than ten percent of the total combined voting power of all classes of our capital stock must have an exercise price of at least 110% the fair market value of our common stock on the date of grant. Subject to stock splits, dividends, recapitalizations or similar events, no more than _____ shares may be issued pursuant to the exercise of incentive stock options granted under the 2020 Plan.

Options may vest based on service or achievement of performance conditions. Our compensation committee may provide for options to be exercised only as they vest or to be immediately exercisable, with any shares issued on exercise being subject to our right of repurchase that lapses as the shares vest. The maximum term of options granted under our 2020 Plan is ten years from the date of grant, except that the maximum permitted term of incentive stock options granted to an individual who holds, directly or by attribution, more than ten percent of the total combined voting power of all classes of our capital stock is five years from the date of grant.

Restricted Stock Awards. An RSA is an offer by us to sell shares of our common stock subject to restrictions, which may lapse based on the satisfaction of service or achievement of performance conditions. The price, if any, of an RSA will be determined by the compensation committee. Holders of RSAs, unlike holders of options, will have the right to vote and any dividends or stock distributions paid pursuant to RSAs will be accrued and paid when the restrictions on such shares lapse. Unless otherwise determined by the compensation committee at the time of award, vesting will cease on the date the participant no longer provides services to us and unvested shares may be forfeited to or repurchased by us.

Stock Appreciation Rights. A SAR provides for a payment, in cash or shares of our common stock (up to a specified maximum of shares, if determined by our compensation committee), to the holder based upon the difference between the fair market value of our common stock on the date of exercise and a predetermined exercise price, multiplied by the number of shares. The exercise price of a SAR must be at least the fair market value of a share of our common stock on the date of grant. SARs may vest based on service or achievement of performance conditions, and may not have a term that is longer than ten years from the date of grant.

Restricted Stock Units. RSUs represent the right to receive shares of our common stock at a specified date in the future, and may be subject to vesting based on service or achievement of performance conditions. Payment of earned RSUs will be made as soon as practicable on a date determined at the time of grant, and may be settled in cash, shares of our common stock or a combination of both. No RSU may have a term that is longer than ten years from the date of grant.

Performance Awards. Performance awards granted to pursuant to the 2020 Plan may be in the form of a cash bonus, or an award of performance shares or performance units denominated in shares of our common stock that may be settled in cash, property or by issuance of those shares subject to the satisfaction or achievement of specified performance conditions.

Stock Bonus Awards. A stock bonus award provides for payment in the form of cash, shares of our common stock or a combination thereof, based on the fair market value of shares subject such award as determined by our compensation committee. The awards may be granted as consideration for services already rendered, or at the discretion of the compensation committee, may be subject to vesting restrictions based on continued service or performance conditions.

Change of Control. In the event of a corporate transaction (as defined in the 2020 Plan), any or all outstanding awards may be (a) continued by the company, if the company is the successor entity; or

(b) assumed or substituted by the successor corporation, or a parent or subsidiary of the successor corporation, for substantially equivalent awards (including, but not limited to, a payment in cash or the right to acquire the same consideration paid to the stockholders of the company pursuant to the corporate transaction), in each case after taking into account appropriate adjustments for the number and kind of shares and exercise prices. The successor corporation may also issue, as replacement of outstanding shares of the company held by a participant, substantially similar shares or other property subject to repurchase restrictions no less favorable to the participant. In the event such successor corporation refuses to assume, substitute or replace any award, then each such award shall become fully vested and, as applicable, exercisable and any rights of repurchase or forfeiture restrictions thereon shall lapse, immediately prior to the consummation of the corporation transaction. Performance awards not assumed pursuant to the foregoing shall be deemed earned and vested at 100% of target level, unless otherwise indicated pursuant to the terms and conditions of the applicable award agreement. If an award vests in lieu of assumption or substitution in connection with a corporate transaction as provided above, the board or committee will notify the holder of such award in writing or electronically that such award will be exercisable for a period of time determined by the board or committee in its sole discretion, and such award will terminate upon the expiration of such period without consideration. Any determinations by the board or committee need not treat all outstanding awards in an identical manner, and shall be final and binding on each applicable participant.

The vesting of all awards granted to our non-employee directors shall accelerate in full in the event of a corporate transaction.

Adjustment. In the event of a change in the number of outstanding shares of our common stock without consideration by reason of a stock dividend, extraordinary dividend or distribution (whether in cash, shares or other property, other than a regular cash dividend), recapitalization, stock split, reverse stock split, subdivision, combination, consolidation reclassification, spin-off or similar change in our capital structure, appropriate proportional adjustments will be made to the number and class of shares reserved for issuance under our 2020 Plan; the exercise prices, number and class of shares subject to outstanding options or SARs; the number and class of shares subject to other outstanding awards; and any applicable maximum award limits with respect to incentive stock options.

Clawback; Transferability. All awards will be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy adopted by our board of directors or required by law during the term of service of the award holder, to the extent set forth in such policy or applicable agreement. Except in limited circumstances, awards granted under our 2020 Plan may generally not be transferred in any manner prior to vesting other than by will or by the laws of descent and distribution.

Amendment and Termination. Our board of directors may amend our 2020 Plan at any time, subject to stockholder approval as may be required. Our 2020 Plan will terminate ten years from the date our board of directors adopts the plan, unless it is terminated earlier by our board of directors. No termination or amendment of the 2020 Plan may adversely affect any then-outstanding award without the consent of the affected participant, except as is necessary to comply with applicable laws.

2020 Employee Stock Purchase Plan

We have adopted a 2020 Employee Stock Purchase Plan, or ESPP, that will become effective upon the effectiveness of the registration statement of which this prospectus forms a part in order to enable eligible employees to purchase shares of our common stock with accumulated payroll deductions. Our ESPP is intended to qualify under Section 423 of the Code.

Shares Available. We have initially reserved _____ shares of our common stock for sale under our ESPP. The aggregate number of shares reserved for sale under our ESPP will increase

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automatically on January 1st of each of the first ten calendar years after the first offering date by the number of shares equal to the lesser of 1.0% of the total outstanding shares of our common stock as of the immediately preceding December 31 (rounded to the nearest whole share) or a number of shares as may be determined by our board of directors in any particular year. The aggregate number of shares issued over the term of our ESPP, subject to stock-splits, recapitalizations or similar events, may not exceed _____ shares of our common stock.

Administration. Our ESPP will be administered by our compensation committee, or by our board of directors acting in place of our compensation committee, subject to the terms and conditions of the ESPP. Among other things, the compensation committee will have the authority to determine eligibility for participation in the ESPP, designate separate offerings under the plan, and construe, interpret and apply the terms of the plan.

Eligibility. Employees eligible to participate in any offering pursuant to the ESPP generally include any employee that is employed by us or certain of our designated subsidiaries at the beginning of the offering period. However, our compensation committee may determine that employees who are customarily employed for 20 hours or less per week or for five months or less in a calendar year, certain "highly compensated" employees or employees resident in a foreign jurisdiction whose participation is either prohibited under local law, or where compliance with local law would violate Section 423 of the Code, may not be eligible to participate in the ESPP. In addition, any employee who owns (or is deemed to own as a result of attribution) 5% or more of the total combined voting power or value of all classes of our capital stock, or the capital stock of one of our qualifying subsidiaries, or who will own such amount as a result of participation in the ESPP, will not be eligible to participate in the ESPP. The compensation committee may impose additional restrictions on eligibility from time to time.

Offerings. Under our ESPP, eligible employees will be offered the option to purchase shares of our common stock at a discount over a series of offering periods. Each offering period may itself consist of one or more purchase periods. No offering period may be longer than 27 months.

Participation. Participating employees will be able to purchase the offered shares of our common stock by accumulating funds through payroll deductions. Participants may select a rate of payroll deduction between 1% and 15% of their eligible compensation. However, a participant may not subscribe for more than \$25,000 in fair market value of shares of our common stock (determined as of the date the offering period commences) in any calendar year in which the offering is in effect. In addition, no participant will be permitted to purchase more than 4,000 shares during any one purchase period or such greater or lesser amount determined by our compensation committee, in its discretion.

The purchase price for shares of our common stock purchased under the ESPP will be 85% of the lesser of the fair market value of our common stock on (i) the first trading day of the applicable offering period or (ii) the last trading day of each purchase period in the applicable offering period.

Once an employee becomes a participant in an offering period, the participant will be automatically enrolled in each subsequent offering period at the same contribution level. A participant may reduce his or her contribution in accordance with procedures set forth by the compensation committee and may withdraw from participation in the ESPP at any time prior the end of an offering period, or such other time as may be specified by the compensation committee. Upon withdrawal, the accumulated payroll deductions will be returned to the participant without interest.

Adjustments upon Recapitalization. If the number of outstanding shares of our common stock is changed by stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification or similar change in our capital structure without consideration, then our compensation committee will proportionately adjust the number and class of common stock that is available under the

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ESPP, the purchase price and number of shares any participant has elected to purchase as well as the maximum number of shares which may be purchased by participants.

Change of Control. If we experience a change of control transaction, outstanding rights to purchase shares will be assumed or an equivalent option substituted by the successor corporation. In the event that the successor corporation refuses to assume or substitute for the purchase right, any offering period that commenced prior to the closing of the proposed change of control transaction will be shortened and terminated on a new purchase date. The new purchase date will occur on or prior to the closing of the proposed change of control transaction, and our ESPP will then terminate on the closing of the proposed change of control.

Transferability. A participant may not assign, transfer, pledge or otherwise dispose of payroll deductions credited to his or her account, or any rights with regard to an election to purchase shares pursuant to the ESPP other than by will or the laws of descent or distribution.

Amendment; Termination. The compensation committee may amend, suspend or terminate the ESPP at any time without stockholder consent, except as required by law. Our ESPP will continue until the earlier to occur of (a) termination of the ESPP by the Board, (b) issuance of all of the shares reserved for issuance under the ESPP, or (c) the tenth anniversary of the first purchase date under the ESPP.

401(k) Plan

We sponsor a retirement savings plan that is intended to qualify for favorable tax treatment under Section 401(a) of the Code, and contains a cash or deferred feature that is intended to meet the requirements of Section 401(k) of the Code. Participants may make pre-tax and certain after-tax (Roth) salary deferral contributions to the plan from their eligible earnings up to the statutorily prescribed annual limit under the Code. Participants who are 50 years of age or older may contribute additional amounts based on the statutory limits for catch-up contributions. Participant contributions are held in trust as required by law. No minimum benefit is provided under the plan. An employee's interest in his or her salary deferral contributions is 100% vested when contributed. We do not match contributions.

Other Benefits

Our named executive officers are eligible to participate in our employee benefit plans on the same basis as our other employees, including our health and welfare plans.

Limitations on Liability and Indemnification Matters

Our restated certificate of incorporation that will become effective in connection with the completion of this offering contains provisions that limit the liability of our directors for monetary damages to the fullest extent permitted by the Delaware General Corporation Law, or DGCL. Consequently, our directors will not be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duties as directors, except liability for:

- any breach of the director's duty of loyalty to us or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the DGCL; or
- any transaction from which the director derived an improper personal benefit.

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Our restated certificate of incorporation and our restated bylaws that will become effective in connection with the completion of this offering require us to indemnify our directors and officers to the maximum extent not prohibited by the DGCL and allow us to indemnify other employees and agents as set forth in the DGCL.

We have entered, and intend to continue to enter, into separate indemnification agreements with our directors, officers and certain of our key employees, in addition to the indemnification provided for in our restated certificate of incorporation and restated bylaws. These agreements, among other things, require us to indemnify our directors, officers and key employees for certain expenses, including attorneys' fees, judgments, penalties, fines and settlement amounts actually incurred by these individuals in any action or proceeding arising out of their service to us or any of our subsidiaries or any other company or enterprise to which these individuals provide services at our request. Subject to certain limitations, our indemnification agreements also require us to advance expenses incurred by our directors, officers and key employees for the defense of any action for which indemnification is required or permitted.

We believe that these indemnification provisions and agreements are necessary to attract and retain qualified directors, officers and key employees. We also maintain directors' and officers' liability insurance.

The limitation of liability and indemnification provisions in our restated certificate of incorporation and restated bylaws may discourage stockholders from bringing a lawsuit against our directors and officers for breach of their fiduciary duty. They may also reduce the likelihood of derivative litigation against our directors and officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder's investment may be adversely affected to the extent that we pay the costs of settlement and damage awards against directors and officers as required by these indemnification provisions.

At present, there is no pending litigation or proceeding involving any of our directors or executive officers as to which indemnification is required or permitted, and we are not aware of any threatened litigation or proceeding that may result in a claim for indemnification.

Insofar as indemnification for liabilities arising under the Securities Act, may be permitted to directors, executive officers or persons controlling us, we have been informed that, in the opinion of the Securities and Exchange Commission, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

In addition to the compensation arrangements, including employment agreements, with our directors and executive officers, including those discussed in the section entitled “Executive Compensation,” the following is a description of each transaction since January 1, 2017 and each currently proposed transaction in which:

- we have been or are to be a participant;
- the amounts involved exceeded or will exceed the lesser of \$120,000 and 1% of our total assets; and
- any of our directors, executive officers or holders of more than 5% of our capital stock, or an affiliate or immediate family member of the foregoing persons, had or will have a direct or indirect material interest.

Other than as described below, there have not been, nor are there any currently proposed, transactions or series of similar transactions to which we have been or will be a party other than compensation arrangements, which are described where required under the section entitled “Executive Compensation.”

Series C Convertible Preferred Stock Financing

In October 2019, we sold an aggregate of 16,251,628 shares of our Series C convertible preferred stock at a purchase price of \$5.8148 per share for an aggregate gross purchase price of approximately \$94.5 million. Each share of our Series C convertible preferred stock will convert automatically into one share of our common stock upon the completion of this offering.

The purchasers of our Series C convertible preferred stock are entitled to specified registration rights. For additional information, see “Description of Capital Stock—Registration Rights.” The following table summarizes the Series C convertible preferred stock purchased by members of our board of directors or their affiliates and holders of more than 5% of our outstanding capital stock. The terms of these purchases were the same for all purchasers of our Series C convertible preferred stock. Please refer to the section titled “Principal Stockholders” for more details regarding the shares held by these entities.

Name of Stockholder	Shares of Series C Convertible Preferred Stock	Total Purchase Price (\$)
Bain Capital Life Sciences Fund, L.P.(1)	1,560,062	9,071,449
BCIP Life Sciences Associates, LP(1)	159,687	928,548
Frazier Life Sciences VIII, L.P.(2)	2,149,687	12,500,000
OrbiMed Private Investments VII, LP(3)	1,719,749	9,999,996
OrbiMed Partners Master Fun, Ltd(3)	859,874	4,999,995
HBM Healthcare Investments (Cayman), Ltd.(4)	2,579,624	14,999,998

- (1) Ricky Sun, a member of our board of directors, is a Partner at Bain Capital Life Sciences Investors, LLC. The Bain entities hold an aggregate of more than 5% of our outstanding capital stock.
- (2) Daniel J. Estes and Patrick J. Heron, both members of our board of directors, is a Partner and the Managing General Partner, respectively, at Frazier Health Life Sciences. Frazier Life Sciences VIII, L.P. holds more than 5% of our outstanding capital stock.
- (3) Jonathan T. Silverstein, a member of our board of directors, is a Managing Partner and Co-Head of Global Private Equity at OrbiMed Advisors LLC. OrbiMed Private Investments VII, LP, or OPI VII, holds more than 5% of our outstanding capital stock. OrbiMed Capital GP VII LLC, or OrbiMed GP VII, is the general partner of OPI VII and OrbiMed Advisors LLC, or OrbiMed Advisors, a registered investment advisor under the Investment Advisors Act of 1940, as amended, is the managing member of OrbiMed GP VII. By virtue of such relationships, OrbiMed GP VII and OrbiMed Advisors may be

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deemed to have voting and investment power over the securities held by OPI VII and as a result may be deemed to have beneficial ownership over such securities. OrbiMed Partners Master Fund Limited, or OPMF, holds 859,874 of our outstanding capital stock. OrbiMed Capital LLC, or OrbiMed Capital, is the sole holder of manager shares and sole voting member of OPMF. OrbiMed Capital is a relying adviser of OrbiMed Advisors. OrbiMed Advisors and OrbiMed Capital exercise voting and investment power through a management committee comprised of Carl L. Gordon, Sven H. Borho, and Jonathan T. Silverstein, each of whom disclaims beneficial ownership of the shares held by OPI VII and OPMF.

- (4) Alexander G. Asam, a member of our board of directors, is an investment advisor to HBM Partners AG. HBM Partners AG acts as an investment advisor to HBM Healthcare Investments (Cayman) Ltd. Dr. Asam has no voting or investment power over the shares held by HBM Healthcare Investments (Cayman) Ltd. and disclaims beneficial ownership of such shares.

Series B Convertible Preferred Stock Financing

In September 2018, we sold an aggregate of 18,736,267 shares of our Series B convertible preferred stock at a purchase price of \$3.0956 per share for an aggregate purchase price of approximately \$58.0 million. Each share of our Series B convertible preferred stock will convert automatically into one share of our common stock upon the completion of this offering.

The purchasers of our Series B convertible preferred stock are entitled to specified registration rights. For additional information, see “Description of Capital Stock—Registration Rights.” The following table summarizes the Series B convertible preferred stock purchased by members of our board of directors or their affiliates and holders of more than 5% of our outstanding capital stock. The terms of these purchases were the same for all purchasers of our Series B convertible preferred stock. Please refer to the section titled “Principal Stockholders” for more details regarding the shares held by these entities.

Name of Stockholder	Shares of Series B Convertible Preferred Stock	Total Purchase Price (\$)
Bain Capital Life Sciences Fund, L.P.(1)	5,128,258	15,875,035
BCIP Life Sciences Associates, LP(1)	524,926	1,624,961
Frazier Life Sciences VIII, L.P.(2)	4,199,508	12,999,997
OrbiMed Private Investments VII, LP(3)	5,653,185	17,499,999

- (1) Ricky Sun, a member of our board of directors, is a Partner at Bain Capital Life Sciences Investors, LLC. The Bain entities hold an aggregate of more than 5% of our outstanding capital stock.
- (2) Daniel J. Estes and Patrick J. Heron, both members of our board of directors, is a Partner and the Managing General Partner, respectively, at Frazier Health Life Sciences. Frazier Life Sciences VIII, L.P. holds more than 5% of our outstanding capital stock.
- (3) Jonathan T. Silverstein, a member of our board of directors, is a Managing Partner and Co-Head of Global Private Equity at OrbiMed Advisors LLC. OrbiMed Private Investments VII, LP, or OPI VII, holds more than 5% of our outstanding capital stock. OrbiMed Capital GP VII LLC, or OrbiMed GP VII, is the general partner of OPI VII and OrbiMed Advisors LLC, or OrbiMed Advisors, a registered investment adviser under the Investment Advisors Act of 1940, as amended, is the managing member of OrbiMed GP VII. By virtue of such relationships, OrbiMed GP VII and OrbiMed Advisors may be deemed to have voting and investment power over the securities held by OPI VII and as a result may be deemed to have beneficial ownership over such securities. OrbiMed Advisors exercises voting and investment power through a management committee comprised of Carl L. Gordon, Sven H. Borho, and Jonathan T. Silverstein. Each of OrbiMed GP VII, OrbiMed Advisors, Carl L. Gordon, Sven H. Borho, and Jonathan T. Silverstein disclaims beneficial ownership of the shares held by OPI VII, except to the extent of its or his pecuniary interest therein if any.

Series A Convertible Preferred Stock Financing

In two closings in April 2017 and March 2018, we sold an aggregate of 13,500,000 shares of our Series A convertible preferred stock at a purchase price of \$1.00 per share for an aggregate purchase price of approximately \$13.5 million. In addition, we issued an aggregate of 300,000 shares of our Series A convertible preferred stock to certain holders of convertible promissory notes. Each share of our Series A convertible preferred stock will convert automatically into one share of our common stock upon the completion of this offering.

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The purchasers of our Series A convertible preferred stock are entitled to specified registration rights. For additional information, see “Description of Capital Stock—Registration Rights.” The following table summarizes the Series A convertible preferred stock purchased by members of our board of directors or their affiliates and holders of more than 5% of our outstanding capital stock. The terms of these purchases were the same for all purchasers of our Series A convertible preferred stock. Please refer to the section titled “Principal Stockholders” for more details regarding the shares held by these entities.

Name of Stockholder	Shares of Series A	
	Convertible Preferred Stock	Total Purchase Price (\$)
Bhaskar Chaudhuri(1)	75,000	37,500
Chaudhuri Family Trust(2)	100,000	100,000
David W. Osborne(3)	50,000	50,000
Frazier Life Sciences VIII, L.P.(4)	12,725,000	12,612,500
Todd Franklin Watanabe(5)	200,000	200,000
Watanabe Ventures, LLC(5)	100,000	100,000
Welgus Living Trust(6)	50,000	50,000

- (1) Bhaskar Chaudhuri is a member of our board of directors. Consists of 75,000 shares of Series A Preferred Stock from cancellation of indebtedness of a convertible promissory note held by Dr. Chaudhuri. Such shares are calculated by multiplying the dollar amount of the indebtedness cancelled by the discounted price of \$0.50 per share applicable to cancellation of indebtedness.
- (2) Bhaskar Chaudhuri is a member of our board of directors and is the trustee of the Chaudhuri Family Trust.
- (3) David W. Osborne is our Chief Technical Officer.
- (4) Daniel J. Estes, a member of our board of directors and Patrick J. Heron, the chairman of our board of directors, is a Partner and the Managing General Partner, respectively, at Frazier Health Life Sciences. Frazier Life Sciences VIII, L.P. holds more than 5% of our outstanding capital stock. Includes 225,000 shares of Series A Preferred Stock from cancellation of indebtedness of a convertible promissory note held by Frazier Life Sciences VIII, L.P. Such shares are calculated by multiplying the dollar amount of the indebtedness cancelled by the discounted price of \$0.50 per share applicable to cancellation of indebtedness.
- (5) Todd Franklin Watanabe is our President and Chief Executive Officer and a member of our board of directors. Mr. Watanabe is the Chief Operating Officer of Watanabe Ventures, LLC.
- (6) Howard G. Welgus is our Chief Medical Officer and a trustee of the Welgus Living Trust.

Convertible Note Financing

In August 2016, we issued convertible promissory notes to Bhaskar Chaudhuri and Frazier Life Sciences VIII, L.P. in an aggregate principal amount of \$150,000. In April 2017, the convertible promissory notes were extinguished and the entire principal amounts thereof were converted into an aggregate of 300,000 shares of our Series A convertible preferred stock.

Transactions with Hawkeye Therapeutics, Inc.

In June 2019, we entered into a collaboration agreement, or the Hawkeye Agreement, with Hawkeye Therapeutics, Inc., or Hawkeye, to collaborate on the research and development of one or more new applications of roflumilast. In consideration for their services to be performed under the Hawkeye Agreement, each of Arcutis Biotherapeutics, David W. Osborne, our Chief Technical Officer, and Bhaskar Chaudhuri, a member of our board of directors, purchased 995,000, 250,000 and 500,000 shares of common stock in Hawkeye, respectively, pursuant to a stock purchase agreement. Additionally, one of our stockholders, Frazier Life Sciences VIII, L.P., is a stockholder in Hawkeye, and Bhaskar Chaudhuri, Daniel J. Estes and Patrick J. Heron, each a member of our board of directors, are affiliated with Frazier Life Sciences VIII, L.P. For more information, please see Note 6 to the interim condensed financial statements.

Investors' Rights Agreement

We have entered into an amended and restated investors' rights agreement, dated October 8, 2019, with certain holders of our convertible preferred stock, including entities with which certain of our executive officers and directors are affiliated. These stockholders are entitled to rights with respect to the registration of their shares following this offering under the Securities Act. For a description of these registration rights, see the section entitled "Description of Capital Stock—Registration Rights."

Equity Grants to Executive Officers and Directors

We have granted stock options to our executive officers and certain directors, as more fully described in the sections entitled "Executive Compensation" and "Management—Non-Employee Director Compensation," respectively.

Director and Executive Officer Compensation

Please see the sections entitled "Management—Non-Employee Director Compensation" and "Executive Compensation" for information regarding the compensation of our directors and executive officers.

Employment Agreements

We intend to enter into amended and restated employment offer letters with our executive officers. For more information regarding these agreements, see the section entitled "Executive Compensation—Employee Offer Letters."

Indemnification Agreements

In connection with this offering, we intend to enter into new indemnification agreements with each of our directors and executive officers. The indemnification agreements, our restated certificate of incorporation and our restated bylaws will require us to indemnify our directors to the fullest extent not prohibited by Delaware law. Subject to certain limitations, our restated bylaws also require us to advance expenses incurred by our directors and officers. For more information regarding these agreements, see the section entitled "Executive Compensation—Limitations on Liability and Indemnification Matters" for information on our indemnification arrangements with our directors and executive officers.

Policies and Procedures for Related Party Transactions

In connection with this offering, we intend to adopt a written related person transactions policy that provides that our executive officers, directors, nominees for election as a director, beneficial owners of more than 5% of our common stock, and any members of the immediate family of and any entity affiliated with any of the foregoing persons, are not permitted to enter into a material related person transaction with us without the review and approval of our audit committee, or a committee composed solely of independent directors in the event it is inappropriate for our audit committee to review such transaction due to a conflict of interest. We expect the policy to provide that any request for us to enter into a transaction with an executive officer, director, nominee for election as a director, beneficial owner of more than 5% of our common stock or with any of their immediate family members or affiliates in which the amount involved exceeds \$120,000 will be presented to our audit committee

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(or the committee composed solely of independent directors, if applicable) for review, consideration and approval. In approving or rejecting any such proposal, we expect that our audit committee (or the committee composed solely of independent directors, if applicable) will consider the relevant facts and circumstances available and deemed relevant to the audit committee (or the committee composed solely of independent directors, if applicable), including, but not limited to, whether the transaction is on terms no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances and the extent of the related person's interest in the transaction.

PRINCIPAL STOCKHOLDERS

The following table and accompanying footnotes set forth certain information with respect to the beneficial ownership of our common stock at November 30, 2019, and as adjusted to reflect the shares of common stock to be issued and sold in this offering, for:

- each of our directors;
- each of our named executive officers;
- all of our current directors and executive officers as a group; and
- each person, or group of affiliated persons, who beneficially owned more than 5% of our outstanding shares of common stock.

We have determined beneficial ownership in accordance with the rules of the Securities and Exchange Commission, and the information is not necessarily indicative of beneficial ownership for any other purpose. Except as indicated by the footnotes below, we believe, based on information furnished to us, that the persons and entities named in the table below have sole voting and sole investment power with respect to all shares of common stock that they beneficially owned, subject to applicable community property laws.

Beneficial ownership prior to this offering is based on 54,522,960 shares of common stock outstanding as of November 30, 2019, including 1,597,506 shares of unvested common stock subject to repurchase, assuming the conversion of all outstanding shares of our convertible preferred stock, including 16,251,628 shares of Series C convertible preferred stock issued in October 2019, into 48,787,895 shares of our common stock. Beneficial ownership after this offering is based on _____ shares of common stock outstanding immediately after the completion of this offering, assuming no exercise by the underwriters of their option to purchase additional shares of common stock from us and assuming none of the holders listed therein have purchased shares in the offering.

In computing the number of shares of common stock beneficially owned by a person and the percentage ownership of that person, we deemed to be outstanding all shares of common stock subject to options held by that person or entity that are currently exercisable or that will become exercisable within 60 days of November 30, 2019. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person. Unless otherwise indicated, the address of each beneficial owner listed in the table below is c/o Arcutis Biotherapeutics, Inc., 2945 Townsgate Road, Suite 110, Westlake Village, CA 91361.

Name of Beneficial Owner	Beneficial Ownership Prior to this Offering		Beneficial Ownership After this Offering	
	Number	Percent	Number	Percent
Directors and Named Executive Officers:				
Todd Franklin Watanabe(1)	2,300,861	4.1%		%
Kenneth A. Lock(2)	320,000	*		
David W. Osborne, Ph.D.(3)	920,750	1.7		
John W. Smither(4)	580,000	1.1		
Patricia A. Turney(5)	320,000	*		
Howard G. Welgus, M.D.(6)	705,438	1.3		
Bhaskar Chaudhuri, Ph.D.(7)	2,103,417	3.8		
Daniel J. Estes, Ph.D.(8)	—	—		
Patrick J. Heron(9)	20,092,617	36.9		
Jonathan T. Silverstein, J.D.(10)	8,232,808	15.1		
Ricky Sun, Ph.D.(11)	—	—		
Alexander G. Asam, Ph.D.(12)	—	—		
All executive officers and directors as a group (12 persons)(13)	35,575,891	62.5		
5% or Greater Stockholders:				
Bain Capital Life Sciences Entities(14)	7,372,933	13.5		
Frazier Life Sciences VIII, L.P.(15)	20,092,617	36.9		
OrbiMed Private Investments VII, LP(16)	8,232,808	15.1		

- * Represents beneficial ownership of less than one percent.
- (1) Consists of (i) 1,207,233 shares of our common stock held of record by Todd Franklin Watanabe, (ii) 100,000 shares of our common stock held of record by Watanabe Ventures, LLC, (iii) 35,714 shares of our common stock held of record by The Anderson Prest Watanabe Irrevocable Trust dated 12 December 2006, (iv) 35,714 shares of our common stock held of record by The John Franklin Watanabe Trust dated 25 July 2001, and (v) 922,200 shares of our common stock subject to options that are exercisable within 60 days of November 30, 2019, 920,177 of which shares are unvested, but early exercisable.
- (2) Consists of 320,000 shares of our common stock subject to options that are exercisable within 60 days of November 30, 2019, of which all are unvested, but early exercisable.
- (3) Consists of (i) 540,750 shares of our common stock held of record by David W. Osborne, (ii) 125,000 shares of our common stock held of record by The Osborne Irrevocable Trust FBO John Osborne, dated July 1, 2019, (iii) 125,000 shares of our common stock held of record by The Osborne Irrevocable Trust FBO Sharon Osborne, dated July 1, 2019, and (iv) 130,000 shares of our common stock subject to options that are exercisable within 60 days of November 30, 2019, 128,750 of which are unvested, but early exercisable.
- (4) Consists of (i) 200,000 shares of our common stock held of record by John W. Smither and (ii) 380,000 shares of our common stock subject to options that are exercisable within 60 days of November 30, 2019, 378,750 of which are unvested, but early exercisable.
- (5) Consists of 320,000 shares of our common stock subject to options that are exercisable within 60 days of November 30, 2019, of which all are unvested, but early exercisable.
- (6) Consists of (i) 289,868 shares of our common stock held of record by Howard G. Welgus, (ii) 50,000 shares of our common stock held of record by the Welgus Living Trust, UA 02-15-2011, and (iii) 365,570 shares of our common stock subject to options that are exercisable within 60 days of November 30, 2019, of which 324,130 shares are unvested, but early exercisable.
- (7) Consists of (i) 1,803,417 shares of our common stock held of record by Bhaskar Chaudhuri, (ii) 100,000 shares of our common stock held of record by the Chaudhuri Family Trust Dated January 12, 2001, and (iii) 200,000 shares of our common stock subject to options that are exercisable within 60 days of November 30, 2019, all of which are unvested.
- (8) Does not include shares of common stock held by FLS LP (as defined below). Daniel J. Estes is a Partner at Frazier Healthcare Partners. See footnote 15. Dr. Estes disclaims beneficial ownership of the shares held by FLS LP.
- (9) Consists of 20,092,617 shares of our common stock held by Frazier Life Sciences VIII, LP, or FLS LP. The general partner of FLS LP is FHM Life Sciences VIII, LP, or FHM LP. The general partner of FHM LP is FHM Life Sciences VIII, LLC. James Topper and Patrick J. Heron are the sole managing members of FHM Life Sciences VIII, LLC and share voting and investment power with respect to such shares held by FLS LP. Dr. Topper and Mr. Heron disclaim beneficial ownership of such shares except to the extent of their pecuniary interest in such shares. The principal business address of FLS LP is Two Union Square, 601 Union Street, Suite 3200, Seattle, WA 98101.
- (10) Jonathan T. Silverstein is a member of OrbiMed Advisors LLC and a member of our board of directors. See footnote 16.
- (11) Does not include shares of common stock held by the Bain Capital Life Sciences Entities (as defined below). Ricky Sun is a Partner with Bain Capital Life Sciences Investors, LLC.
- (12) Does not include shares held by HBM Healthcare Investments (Cayman) Ltd. Alexander G. Asam is an investment advisor to HBM Partners AG. HBM Partners AG acts as an investment advisor to HBM Healthcare Investments (Cayman) Ltd. Dr. Asam has no voting or investment power over the shares held by HBM Healthcare Investments (Cayman) Ltd. and disclaims beneficial ownership of such shares.
- (13) Includes 2,637,770 shares subject to options held by all executive officers and directors that are exercisable within 60 days of November 30, 2019, of which 2,591,747 shares are unvested, but early exercisable.
- (14) Consists of (i) 6,688,320 shares of our common stock held by Bain Capital Life Sciences Fund, L.P., or BC LS, and (ii) 684,613 shares of our common stock held by BCIP Life Sciences Associates, LP, or BCIP LS, and together with BC LS, the Bain Capital Life Sciences Entities. Bain Capital Life Sciences Investors, LLC, whose managers are Jeffrey Schwartz and Adam Koppel, is the ultimate general partner of BC LS and governs the investment strategy and decision-making process with respect to investments held by BCIP LS. AS a result, each of Bain Capital Life Sciences Investors, LLC, Mr. Schwartz and Dr. Koppel may be deemed to share voting and dispositive power over the shares held by the Bain Capital Life Sciences Entities. The address of the Bain Capital Life Sciences Entities is c/o Bain Capital Life Sciences, LP, 200 Calerndon Street, Boston, MA 02116.
- (15) Consists of 20,092,617 shares of our common stock held by Frazier Life Sciences VIII, LP, or FLS LP. The general partner of FLS LP is FHM Life Sciences VIII, LP, or FHM LP. The general partner of FHM LP is FHM Life Sciences VIII, LLC. James Topper and Patrick J. Heron are the sole managing members of FHM Life Sciences VIII, LLC and share voting and investment power with respect to such shares held by FLS LP. Dr. Topper and Mr. Heron disclaim beneficial ownership of such shares except to the extent of their pecuniary interest in such shares. The principal business address of FLS LP is Two Union Square, 601 Union Street, Suite 3200, Seattle, WA 98101.
- (16) Consists of (i) 7,372,934 shares of our common stock held by OrbiMed Private Investments VII, LP, or OPI VII, and (ii) 859,874 shares of our common stock held by OrbiMed Partners Master Fund Limited, or OPMF. OrbiMed Capital GP VII LLC, or OrbiMed GP VII, is the general partner of OPI VII and OrbiMed Advisors LLC, or OrbiMed Advisors, a registered investment advisor under the Investment Advisors Act of 1940, as amended, is the managing member of OrbiMed GP VII. By virtue of such relationships, OrbiMed GP VII and OrbiMed Advisors may be deemed to have voting and investment power over the securities held by OPI VII and as a result may be deemed to have beneficial ownership over such securities. OrbiMed Capital LLC, or OrbiMed Capital, is the sole holder of manager shares and sole voting member of OPMF. OrbiMed Capital is a relying adviser of OrbiMed Advisors. OrbiMed Advisors and OrbiMed Capital exercise voting and investment power through a management committee comprised of Carl L. Gordon, Sven H. Borho, and Jonathan T. Silverstein, each of whom disclaims beneficial ownership of the shares held by OPI VII and OPMF. The business address of these entities is 601 Lexington Avenue, 54th Floor, New York, NY 10022.

DESCRIPTION OF CAPITAL STOCK

The following description summarizes the most important terms of our capital stock, as they will be in effect following this offering. Because it is only a summary, it does not contain all the information that may be important to you. We expect to adopt a restated certificate of incorporation and restated bylaws that will become effective upon the completion of this offering, and this description summarizes provisions that are expected to be included in these documents. For a complete description, you should refer to our restated certificate of incorporation and restated bylaws, which are included as exhibits to the registration statement of which this prospectus forms a part, and to the applicable provisions of Delaware law.

General

Upon the completion of this offering, our authorized capital stock will consist of 300,000,000 shares of common stock, \$0.0001 par value per share, and 10,000,000 shares of undesignated preferred stock, \$0.0001 par value per share.

Pursuant to the provisions of our current certificate of incorporation all of the outstanding convertible preferred stock will convert into common stock in connection with the completion of this offering. Our Series Seed Series A, Series B and Series C convertible preferred stock will each convert at a ratio of 1:1. Assuming the effectiveness of this conversion as of November 30, 2019, there were 54,522,960 shares of our common stock issued, held by approximately 30 stockholders of record, and no shares of our convertible preferred stock outstanding. Our board of directors is authorized, without stockholder approval, to issue additional shares of our capital stock.

Common Stock

Dividend Rights

Subject to preferences that may apply to any shares of preferred stock outstanding at the time, the holders of our common stock are entitled to receive dividends out of funds legally available if our board of directors, in its discretion, determines to issue dividends and then only at the times and in the amounts that our board of directors may determine. See the section entitled "Dividend Policy."

Voting Rights

Holders of our common stock are entitled to one vote for each share held on all matters submitted to a vote of stockholders. We have not provided for cumulative voting for the election of directors in our restated certificate of incorporation, which means that holders of a majority of the shares of our common stock will be able to elect all of our directors. Our restated certificate of incorporation will establish a classified board of directors, to be divided into three classes with staggered three-year terms. Only one class of directors will be elected at each annual meeting of our stockholders, with the other classes continuing for the remainder of their respective three-year terms.

No Preemptive or Similar Rights

Our common stock is not entitled to preemptive rights, and is not subject to conversion, redemption or sinking fund provisions.

Right to Receive Liquidation Distributions

Upon our liquidation, dissolution or winding-up, the assets legally available for distribution to our stockholders would be distributable ratably among the holders of our common stock and any

participating preferred stock outstanding at that time, subject to prior satisfaction of all outstanding debt and liabilities and the preferential rights of and the payment of liquidation preferences, if any, on any outstanding shares of preferred stock.

Preferred Stock

Immediately prior to the completion of this offering, each outstanding share of preferred stock will be converted into one share of common stock.

Following the completion of this offering, our board of directors will be authorized, subject to limitations prescribed by Delaware law, to issue preferred stock in one or more series, to establish from time to time the number of shares to be included in each series and to fix the designation, powers, preferences and rights of the shares of each series and any of their qualifications, limitations or restrictions, in each case without further vote or action by our stockholders. Our board of directors will also be able to increase or decrease the number of shares of any series of preferred stock, but not below the number of shares of that series then outstanding, without any further vote or action by our stockholders. Our board of directors may authorize the issuance of preferred stock with voting or conversion rights that could adversely affect the voting power or other rights of the holders of our common stock. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, have the effect of delaying, deferring or preventing a change in control of our company and might adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock. We have no current plan to issue any shares of preferred stock.

Stock Options

As of September 30, 2019, we had outstanding options to purchase an aggregate 3,147,770 shares of our common stock, with an average exercise price of \$0.80.

Registration Rights

Pursuant to the terms of our amended and restated investors' rights agreement, or IRA, immediately following this offering, the holders of shares of our common stock will be entitled to rights with respect to the registration of these shares under the Securities Act, as described below. We refer to these shares collectively as registrable securities.

Form S-1 Registration Rights

Beginning 180 days after the completion of this offering, the holders of at least 10% of the then-outstanding registrable securities may make a request to us for the registration under the Securities Act of registrable securities if the aggregate price to the public of the shares offered is at least \$10.0 million. Within ten (10) days following such request, we are obligated to provide notice of such request to all stockholders, other than the initiating holders, to file a registration statement under the Securities Act covering all registrable securities that the initiating holders requested to be registered and any additional registrable securities requested to be included in such registration by any other holders. We are only required to file two registration statements that are declared effective upon exercise of these demand registration rights. We may postpone taking action with respect to such filing not more than once during any 12-month period for a total period of not more than 90 days, if after receiving a request for registration, we furnish to the holders requesting such registration a certificate signed by our Chief Executive Officer stating that, in the good faith judgment of our board of directors, it would materially interfere with a corporate transaction, require premature disclosure of confidential information or render us unable to comply with the Securities Act or Exchange Act.

The underwriters of any underwritten offering will have the right to limit the number of shares registered by these holders if they determine that marketing factors require limitation, in which case the number of shares to be registered will be apportioned, in proportion (as nearly as practicable), to the number of registrable securities owned by each holder or in such other proportion as shall mutually be agreed to by all such selling holders. However, the number of shares to be registered by these holders cannot be reduced unless all other securities are first entirely excluded from the underwriting.

Form S-3 Registration Rights

Any holder or group of holders of at least 10% of then-outstanding registrable securities can request that we register all or part of their shares on Form S-3 if we are eligible to file a registration statement on Form S-3 and if the aggregate price to the public of the shares offered is at least \$1.0 million. The stockholders may only require us to effect two registration statements on Form S-3 in a 12-month period. We may postpone taking action with respect to such filing not more than once during any 12-month period for a total period of not more than 90 days, if after receiving a request for registration, we furnish to the holders requesting such registration a certificate signed by our Chief Executive Officer stating that, in the good faith judgment of our board of directors, it would materially interfere with a corporate transaction, require premature disclosure of confidential information or render us unable to comply with the Securities Act or Exchange Act.

The underwriters of any underwritten offering will have the right to limit the number of shares registered by these holders if they determine that marketing factors require limitation, in which case the number of shares to be registered will be apportioned, in proportion (as nearly as practicable), to the number of registrable securities owned by each holder or in such other proportion as shall mutually be agreed to by all such selling Holders. However, the number of shares to be registered by these holders cannot be reduced unless all other securities are first entirely excluded from the underwriting.

Piggyback Registration Rights

If we register any of our securities for public sale, holders of then-outstanding registrable securities or their permitted transferees will have the right to include their registrable securities in the registration statement. However, this right does not apply to a registration relating to any of our employee benefit plans, a corporate reorganization or transaction under Rule 145 of the Securities Act, a registration that requires information that is not substantially the same, or a registration in which the only common stock being registered is common stock issuable upon conversion of debt securities that are also being registered. In an underwritten offering, if the total number of securities requested by stockholders to be included in the offering exceeds the number of securities to be sold (other than by the us) that the underwriters determine in their reasonable discretion is compatible with the success of the offering, then we will be required to include only that number of securities that the underwriters and us, in our sole discretion, determine will not jeopardize the success of the offering. If the underwriters determine that less than all the securities requested to be registered can be included in the offering, the number of shares to be registered will be apportioned pro rata among the selling holders, according to the total number of registrable securities owned by each holder, or in a manner mutually agreed upon by all such selling holders. However, the number of shares to be registered by these holders cannot be reduced unless all other securities (other than the securities to be sold by us) are excluded entirely and may not be reduced below 30% of the total number of securities included in such offering, except for in connection with an initial public offering, in which case the underwriters may exclude these holders entirely.

Expenses of Registration Rights

We generally will pay all expenses, other than underwriting discounts, selling commissions and stock transfer taxes incurred in connection with each of the registrations described above, including the fees and disbursements, not to exceed \$50,000, of one counsel for the selling holders.

Expiration of Registration Rights

The registration rights described above will expire, with respect to any particular holder of these rights, on the earliest to occur of (a) the closing of a deemed liquidation event, as defined in our restated certificate of incorporation, (b) at such time that all of the holder's registrable securities can be sold without limitation in any three-month period without registration in compliance with Rule 144 or a similar exemption under the Securities Act and (c) seven years following the completion of this offering.

Anti-Takeover Provisions

The provisions of Delaware General Corporation Law, or DGCL, our restated certificate of incorporation and our restated bylaws, as we expect they will be in effect upon the completion of this offering, could have the effect of delaying, deferring or discouraging another person from acquiring control of our company. These provisions, which are summarized below, may have the effect of discouraging takeover bids. They are also designed, in part, to encourage persons seeking to acquire control of us to negotiate first with our board of directors. We believe that the benefits of increased protection of our potential ability to negotiate with an unfriendly or unsolicited acquirer outweigh the disadvantages of discouraging a proposal to acquire us because negotiation of these proposals could result in an improvement of their terms.

Delaware Law

We are subject to the provisions of Section 203 of the DGCL regulating corporate takeovers. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years following the date on which the person became an interested stockholder unless:

- prior to the date of the transaction, the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, but not the outstanding voting stock owned by the interested stockholder, (i) shares owned by persons who are directors and also officers and (ii) shares owned by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- at or subsequent to the date of the transaction, the business combination is approved by the board of directors of the corporation and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66.67% of the outstanding voting stock that is not owned by the interested stockholder.

Generally, a business combination includes a merger, asset or stock sale, or other transaction or series of transactions together resulting in a financial benefit to the interested stockholder. An interested stockholder is a person who, together with affiliates and associates, owns or, within three years prior to the determination of interested stockholder status, did own 15% or more of a corporation's outstanding voting stock. We expect the existence of this provision to have an anti-takeover effect with respect to transactions our board of directors does not approve in advance. We also anticipate that Section 203 may also discourage attempts that might result in a premium over the market price for the shares of common stock held by stockholders.

Restated Certificate of Incorporation and Restated Bylaw Provisions

Our restated certificate of incorporation and our restated bylaws, as we expect they will be in effect upon the completion of this offering, include a number of provisions that could deter hostile takeovers or delay or prevent changes in control of our company, including the following:

- **Board of Directors Vacancies.** Our restated certificate of incorporation and restated bylaws will authorize only our board of directors to fill vacant directorships, including newly created seats. In addition, the number of directors constituting our board of directors is permitted to be set only by a resolution adopted by a majority vote of our entire board of directors. These provisions would prevent a stockholder from increasing the size of our board of directors and then gaining control of our board of directors by filling the resulting vacancies with its own nominees. This makes it more difficult to change the composition of our board of directors but promotes continuity of management.
- **Classified Board.** Our restated certificate of incorporation and restated bylaws will provide that our board of directors is classified into three classes of directors, each with staggered three-year terms. A third party may be discouraged from making a tender offer or otherwise attempting to obtain control of us as it is more difficult and time consuming for stockholders to replace a majority of the directors on a classified board of directors. See the section entitled “Management—Board Composition.”
- **Stockholder Action; Special Meetings of Stockholders.** Our restated certificate of incorporation will provide that our stockholders may not take action by written consent, but may only take action at annual or special meetings of our stockholders. As a result, a holder controlling a majority of our capital stock would not be able to amend our restated bylaws or remove directors without holding a meeting of our stockholders called in accordance with our restated bylaws. Further, our restated bylaws will provide that special meetings of our stockholders may be called only by a majority of our board of directors, the chairman of our board of directors, our Chief Executive Officer or our President, thus prohibiting a stockholder from calling a special meeting. These provisions might delay the ability of our stockholders to force consideration of a proposal or for stockholders controlling a majority of our capital stock to take any action, including the removal of directors.
- **Advance Notice Requirements for Stockholder Proposals and Director Nominations.** Our restated bylaws will provide advance notice procedures for stockholders seeking to bring business before our annual meeting of stockholders or to nominate candidates for election as directors at our annual meeting of stockholders. Our restated bylaws also will specify certain requirements regarding the form and content of a stockholder’s notice. These provisions might preclude our stockholders from bringing matters before our annual meeting of stockholders or from making nominations for directors at our annual meeting of stockholders if the proper procedures are not followed. We expect that these provisions might also 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 our company.
- **No Cumulative Voting.** The DGCL provides that stockholders are not entitled to the right to cumulate votes in the election of directors unless a corporation’s certificate of incorporation provides otherwise. Our restated certificate of incorporation and restated bylaws will not provide for cumulative voting.
- **Directors Removed Only for Cause.** Our restated certificate of incorporation will provide that stockholders may remove directors only for cause and only by the affirmative vote of the holders of at least two-thirds of our outstanding common stock.
- **Amendment of Charter Provisions.** Any amendment of the above expected provisions in our restated certificate of incorporation would require approval by holders of at least two-thirds of our outstanding common stock.

- *Issuance of Undesignated Preferred Stock.* Our board of directors has the authority, without further action by the stockholders, to issue up to 10,000,000 shares of undesignated preferred stock with rights and preferences, including voting rights, designated from time to time by our board of directors. The existence of authorized but unissued shares of preferred stock would enable our board of directors to render more difficult or to discourage an attempt to obtain control of us by merger, tender offer, proxy contest or other means.
- *Choice of Forum.* Our restated certificate of incorporation will provide that, to the fullest extent permitted by law, the Court of Chancery of the State of Delaware will be the exclusive forum for any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty; any action asserting a claim against us arising pursuant to the DGCL, our restated certificate of incorporation or our restated bylaws; or any action asserting a claim against us that is governed by the internal affairs doctrine. The enforceability of similar choice of forum provisions in other companies' certificates of incorporation has been challenged in legal proceedings, and it is possible that a court could find these types of provisions to be inapplicable or unenforceable. This exclusive forum provision does not apply to suits brought to enforce a duty or liability created by the Exchange Act. It could apply, however, to a suit that falls within one or more of the categories enumerated in the exclusive forum provision and asserts claims under the Securities Act, inasmuch as Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder. There is uncertainty as to whether a court would enforce such provision with respect to claims under the Securities Act, and our stockholders will not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder.

Transfer Agent and Registrar

Upon the completion of this offering, the transfer agent and registrar for our common stock will be Equiniti Trust Company. The transfer agent's address is 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120-4101.

The Nasdaq Global Select Market Listing

We intend to apply to have our common stock approved for listing on the Nasdaq Global Select Market under the symbol "ARQT."

SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no public market for our common stock, and we cannot predict the effect, if any, that market sales of shares of our common stock or the availability of shares of our common stock for sale will have on the market price of our common stock prevailing from time to time. Nevertheless, sales of substantial amounts of our common stock, including shares issued upon exercise of outstanding options and warrants, in the public market following this offering could adversely affect market prices prevailing from time to time and could impair our ability to raise capital through the sale of our equity securities.

Upon the completion of this offering, we will have a total of _____ shares of our common stock outstanding, assuming (i) the conversion of all of our outstanding shares of convertible preferred stock into an aggregate of _____ shares of our common stock and (ii) the issuance of _____ shares of common stock in this offering. Of these outstanding shares, all of the shares of common stock sold in this offering will be freely tradable, except that any shares purchased in this offering by our affiliates, as that term is defined in Rule 144 under the Securities Act, can only be sold in compliance with the Rule 144 limitations described below or in compliance with the lock-up agreements.

The remaining outstanding shares of our common stock will be deemed “restricted securities” as defined in Rule 144. Restricted securities may be sold in the public market only if they are registered under the Securities Act or if they qualify for an exemption from registration under Rule 144 or Rule 701 promulgated under the Securities Act, which rules are summarized below. In addition, substantially all of our security holders have, or will have, entered into market standoff agreements with us or lock-up agreements with the underwriters under which they have agreed, subject to specific exceptions, not to sell any of our stock for at least 180 days following the date of this prospectus, as described below.

Lock-Up/Market Standoff Agreements

All of our directors and officers and substantially all of our security holders are, or will be, subject to lock-up agreements or market standoff provisions that prohibit them from offering for sale, selling, contracting to sell, granting any option for the sale of, transferring or otherwise disposing of any shares of our common stock, options or warrants to acquire shares of our common stock or any security or instrument related to our common stock, or entering into any swap, hedge or other arrangement that transfers any of the economic consequences of ownership of our common stock, for a period of 180 days following the date of this prospectus without the prior written consent of Goldman Sachs & Co. LLC and Cowen and Company, LLC, subject to certain exceptions. Goldman Sachs & Co. LLC and Cowen and Company, LLC may, in their sole discretion and at any time or from time to time before the termination of the 180-day period, release all or any portion of the securities subject to lock-up agreements. See the section entitled “Underwriting.”

Rule 144

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

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In general, under Rule 144, as currently in effect, our affiliates or persons selling shares on behalf of our affiliates are entitled to sell upon expiration of the lock-up and market standoff agreements described above, within any three-month period, a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately _____ shares immediately after this offering; or
- the average reported weekly trading volume of our common stock during the four calendar weeks preceding the filing of a notice on Form 144 with respect to that sale.

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

Rule 701

Rule 701 generally allows a stockholder who purchased shares of our common stock pursuant to a written compensatory plan or contract and who is not deemed to have been an affiliate of our company during the immediately preceding three months to sell these shares in reliance upon Rule 144, but without being required to comply with the public information, holding period, volume limitation or notice provisions of Rule 144. Rule 701 also permits affiliates of our company to sell their Rule 701 shares under Rule 144 without complying with the holding period requirements of Rule 144. All holders of Rule 701 shares, however, are required by that rule to wait until 90 days after the date of this prospectus before selling those shares pursuant to Rule 701 and are subject to the lock-up and market standoff agreements described above.

Form S-8 Registration Statement

In connection with this offering, we intend to file a registration statement on Form S-8 under the Securities Act covering all of the shares of our common stock subject to outstanding options and the shares of our common stock reserved for issuance under our stock plans. We expect to file this registration statement as soon as permitted under the Securities Act. However, the shares registered on Form S-8 may be subject to the volume limitations and the manner of sale, notice and public information requirements of Rule 144 and will not be eligible for resale until expiration of the lock-up and market standoff agreements to which they are subject.

Registration Rights

We have granted demand, piggyback and Form S-3 registration rights to certain of our stockholders to sell our common stock. Registration of the sale of these shares under the Securities Act would result in these shares becoming freely tradable without restriction under the Securities Act immediately upon the effectiveness of the registration, except for shares purchased by affiliates. For a further description of these rights, see the section entitled "Description of Capital Stock—Registration Rights."

MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS

The following summary describes the material U.S. federal income tax consequences of the acquisition, ownership and disposition of our common stock acquired in this offering by Non-U.S. Holders (as defined below). This discussion does not address all aspects of U.S. federal income taxes, does not discuss the potential application of the alternative minimum tax or Medicare Contribution tax on net investment income and does not deal with state or local taxes, U.S. federal gift and estate tax laws, except to the limited extent provided below, or any non-U.S. tax consequences that may be relevant to Non-U.S. Holders in light of their particular circumstances.

Special rules different from those described below may apply to certain Non-U.S. Holders that are subject to special treatment under the Internal Revenue Code of 1986, as amended, or the Code, such as:

- insurance companies, banks and other financial institutions;
- tax-exempt organizations (including private foundations) and tax-qualified retirement plans;
- foreign governments and international organizations;
- broker-dealers and traders in securities;
- U.S. expatriates and certain former citizens or long-term residents of the United States;
- persons required for U.S. federal income tax purposes to conform the timing of income accruals to their financial statements under Section 451(b) of the Code;
- persons that own, or are deemed to own, more than 5% of our common stock;
- “controlled foreign corporations,” “passive foreign investment companies” and corporations that accumulate earnings to avoid U.S. federal income tax;
- persons that hold our common stock as part of a “straddle,” “hedge,” “conversion transaction,” “synthetic security” or integrated investment or other risk reduction strategy;
- persons who do not hold our common stock as a capital asset within the meaning of Section 1221 of the Code (generally, for investment purposes); and
- partnerships and other pass-through entities, and investors in such pass-through entities (regardless of their places of organization or formation).

Such Non-U.S. Holders are urged to consult their own tax advisors to determine the U.S. federal, state, local and other tax consequences that may be relevant to them.

Furthermore, the discussion below is based upon the provisions of the Code, and U.S. Treasury Regulations, rulings and judicial decisions thereunder as of the date hereof, and such authorities may be repealed, revoked or modified, possibly retroactively, and are subject to differing interpretations which could result in U.S. federal income tax consequences different from those discussed below. We have not requested a ruling from the Internal Revenue Service, or the IRS, with respect to the statements made and the conclusions reached in the following summary, and there can be no assurance that the IRS will agree with such statements and conclusions or that the IRS will not take a contrary position regarding the tax consequences described herein, or that any such contrary position would not be sustained by a court.

EACH PROSPECTIVE INVESTOR SHOULD CONSULT ITS OWN TAX ADVISORS CONCERNING THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF ACQUIRING, OWNING AND DISPOSING OF OUR COMMON STOCK IN LIGHT OF THEIR PARTICULAR SITUATIONS, AS

WELL AS ANY TAX CONSEQUENCES ARISING UNDER THE LAWS OF ANY OTHER TAXING JURISDICTION, INCLUDING ANY STATE, LOCAL OR NON-U.S. TAX CONSEQUENCES OR ANY U.S. FEDERAL NON-INCOME TAX CONSEQUENCES, AND THE POSSIBLE APPLICATION OF TAX TREATIES. IN ADDITION, SIGNIFICANT CHANGES IN U.S. FEDERAL TAX LAWS WERE RECENTLY ENACTED.

For the purposes of this discussion, a “Non-U.S. Holder” is a beneficial owner of common stock that is not a U.S. Holder or a partnership for U.S. federal income tax purposes. A “U.S. Holder” means a beneficial owner of our common stock that is, for U.S. federal income tax purposes, (a) an individual citizen or resident of the United States, (b) a corporation (or other entity taxable as a corporation for U.S. federal income tax purposes), created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (c) an estate the income of which is subject to U.S. federal income taxation regardless of its source, or (d) a trust if it (1) is subject to the primary supervision of a court within the United States and one or more “United States persons” (within the meaning of Section 7701(a)(30) of the Code) have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a United States person.

If you are an individual non-U.S. citizen, you may, in some cases, be deemed to be a resident alien (as opposed to a nonresident alien) by virtue of being present in the United States for at least 31 days in the calendar year and for an aggregate of at least 183 days during a three-year period ending in the current calendar year. Generally, for this purpose, all the days present in the current year, one-third of the days present in the immediately preceding year, and one-sixth of the days present in the second preceding year, are counted.

Resident aliens are generally subject to U.S. federal income tax as if they were U.S. citizens. Individuals who are uncertain of their status as resident or nonresident aliens for U.S. federal income tax purposes are urged to consult their own tax advisors regarding the U.S. federal income tax consequences of the ownership or disposition of our common stock.

Distributions

We do not anticipate paying any cash dividends on our common stock in the foreseeable future. If we do make distributions on our common stock, however, such distributions made to a Non-U.S. Holder of our common stock will constitute dividends for U.S. tax purposes to the extent paid out of our current or accumulated earnings and profits (as determined under U.S. federal income tax principles). Distributions in excess of our current and accumulated earnings and profits will constitute a return of capital that is applied against and reduces, but not below zero, a Non-U.S. Holder’s adjusted tax basis in our common stock. Any remaining excess will be treated as gain realized on the sale or exchange of our common stock as described below under the section entitled “—Gain on Disposition of Our Common Stock.”

Any distribution on our common stock that is treated as a dividend paid to a Non-U.S. Holder that is not effectively connected with the holder’s conduct of a trade or business in the United States will generally be subject to withholding tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty between the United States and the Non-U.S. Holder’s country of residence. To obtain a reduced rate of withholding under a treaty, a Non-U.S. Holder generally will be required to provide the applicable withholding agent with a properly executed IRS Form W-8BEN, IRS Form W-8BEN-E or other appropriate form, certifying the Non-U.S. Holder’s entitlement to benefits under that treaty. Such form must be provided prior to the payment of dividends and must be updated periodically. If a Non-U.S. Holder holds stock through a financial institution or other agent acting on the

holder's behalf, the holder will be required to provide appropriate documentation to such agent. The holder's agent may then be required to provide certification to the applicable withholding agent, either directly or through other intermediaries. If you are eligible for a reduced rate of U.S. withholding tax under an income tax treaty, you should consult with your own tax advisor to determine if you are able to obtain a refund of any excess amounts withheld by timely filing an appropriate claim for a refund with the IRS.

We generally are not required to withhold tax on dividends paid to a Non-U.S. Holder that are effectively connected with the holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, are attributable to a permanent establishment that the holder maintains in the United States) if a properly executed IRS Form W-8ECI, stating that the dividends are so connected, is furnished to us (or, if stock is held through a financial institution or other agent, to the applicable withholding agent). In general, such effectively connected dividends will be subject to U.S. federal income tax on a net income basis at the regular graduated rates applicable to U.S. persons. A corporate Non-U.S. Holder receiving effectively connected dividends may also be subject to an additional "branch profits tax," which is imposed, under certain circumstances, at a rate of 30% (or such lower rate as may be specified by an applicable treaty) on the corporate Non-U.S. Holder's effectively connected earnings and profits, subject to certain adjustments.

See also the sections below entitled "—Backup Withholding and Information Reporting" and "—Foreign Accounts" for additional withholding rules that may apply to dividends paid to certain foreign financial institutions or non-financial foreign entities.

Gain on Disposition of Our Common Stock

Subject to the discussions below under the sections entitled "—Backup Withholding and Information Reporting" and "—Foreign Accounts," a Non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax with respect to gain realized on a sale or other disposition of our common stock unless (a) the gain is effectively connected with a trade or business of the holder in the United States (and, if required by an applicable income tax treaty, is attributable to a permanent establishment that the holder maintains in the United States), (b) the Non-U.S. Holder is a nonresident alien individual and is present in the United States for 183 or more days in the taxable year of the disposition and certain other conditions are met, or (c) we are or have been a "United States real property holding corporation" within the meaning of Code Section 897(c)(2) at any time within the shorter of the five-year period preceding such disposition or the holder's holding period in the common stock.

If you are a Non-U.S. Holder, gain described in (a) will be subject to tax on the net gain derived from the sale at the regular graduated U.S. federal income tax rates applicable to U.S. persons. If you are a corporate Non-U.S. Holder, gain described in (a) above may also be subject to the additional branch profits tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. If you are an individual Non-U.S. Holder described in (b) above, you will be required to pay a flat 30% tax on the gain derived from the sale, which gain may be offset by certain U.S. source capital losses (even though you are not considered a resident of the United States), provided you have timely filed U.S. federal income tax returns with respect to such losses. With respect to (c) above, in general, we would be a United States real property holding corporation if U.S. real property interests as defined in the Code and the U.S. Treasury Regulations comprised (by fair market value) at least half of our worldwide real property interests plus our other assets used or held for use in a trade or business. We believe that we are not, and do not anticipate becoming, a United States real property holding corporation. However, there can be no assurance that we will not become a United States real property holding corporation in the future. Even if we were to be treated as a U.S. real property holding

corporation, gain realized by a Non-U.S. Holder on a disposition of our common stock would not be subject to U.S. federal income tax so long as (1) the Non-U.S. Holder owned, directly, indirectly or constructively, no more than five percent of our common stock at all times within the shorter of (i) the five-year period preceding the disposition or (ii) the holder's holding period and (2) our common stock is regularly traded on an established securities market. There can be no assurance that our common stock will qualify as regularly traded on an established securities market.

U.S. Federal Estate Tax

The estates of nonresident alien individuals generally are subject to U.S. federal estate tax on property with a U.S. situs. Because we are a U.S. corporation, our common stock will be U.S. situs property and, therefore, will be included in the taxable estate of a nonresident alien decedent, unless an applicable estate tax treaty between the United States and the decedent's country of residence provides otherwise. The terms "resident" and "nonresident" are defined differently for U.S. federal estate tax purposes than for U.S. federal income tax purposes. Investors are urged to consult their own tax advisors regarding the U.S. federal estate tax consequences of the ownership or disposition of our common stock.

Backup Withholding and Information Reporting

Generally, we or an applicable withholding agent must report information to the IRS with respect to any dividends we pay on our common stock including the amount of any such dividends, the name and address of the recipient, and the amount, if any, of tax withheld. A similar report is sent to the holder to whom any such dividends are paid. Pursuant to tax treaties or certain other agreements, the IRS may make its reports available to tax authorities in the recipient's country of residence.

Dividends paid by us (or our paying agents) to a Non-U.S. Holder may also be subject to U.S. backup withholding. U.S. backup withholding generally will not apply to a Non-U.S. Holder who provides a properly executed IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, or otherwise establishes an exemption, provided that the applicable withholding agent does not have actual knowledge or reason to know the holder is a U.S. person.

Under current U.S. federal income tax law, U.S. information reporting and backup withholding requirements generally will apply to the proceeds of a disposition of our common stock effected by or through a U.S. office of any broker, U.S. or non-U.S., unless the Non-U.S. Holder provides a properly executed IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, or otherwise meets documentary evidence requirements for establishing non-U.S. person status or otherwise establishes an exemption. Generally, U.S. information reporting and backup withholding requirements will not apply to a payment of disposition proceeds to a Non-U.S. Holder where the transaction is effected outside the United States through a non-U.S. office of a non-U.S. broker. Information reporting and backup withholding requirements may, however, apply to a payment of disposition proceeds if the broker has actual knowledge, or reason to know, that the holder is, in fact, a U.S. person. For information reporting purposes, certain brokers with substantial U.S. ownership or operations will generally be treated in a manner similar to U.S. brokers.

Backup withholding is not an additional tax. If backup withholding is applied to you, you should consult with your own tax advisor to determine whether you have overpaid your U.S. federal income tax, and whether you are able to obtain a tax refund or credit of the overpaid amount.

Foreign Accounts

In addition, U.S. federal withholding taxes may apply under the Foreign Account Tax Compliance Act, or FATCA, on certain types of payments, including dividends paid to non-U.S. financial institutions

and certain other non-U.S. entities. Specifically, a 30% withholding tax may be imposed on dividends on our common stock paid to a “foreign financial institution” or a “non-financial foreign entity” (each as defined in the Code), unless (1) the foreign financial institution agrees to undertake certain diligence and reporting obligations, (2) the non-financial foreign entity either certifies it does not have any “substantial United States owners” (as defined in the Code) or furnishes identifying information regarding each substantial United States owner, or (3) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules. The 30% federal withholding tax described in this paragraph cannot be reduced under an income tax treaty with the United States. If the payee is a foreign financial institution and is subject to the diligence and reporting requirements in (1) above, it must enter into an agreement with the U.S. Department of the Treasury requiring, among other things, that it undertake to identify accounts held by certain “specified United States persons” or “United States-owned foreign entities” (each as defined in the Code), annually report certain information about such accounts, and withhold 30% on certain payments to non-compliant foreign financial institutions and certain other account holders. Foreign financial institutions located in jurisdictions that have an intergovernmental agreement with the United States governing FATCA may be subject to different rules.

Under the applicable Treasury Regulations and administrative guidance, withholding under FATCA generally would also apply to payments of gross proceeds from the sale or other disposition of common stock. Under recently proposed Treasury Regulations, however, no withholding will apply with respect to payments of gross proceeds. The preamble to the proposed Treasury Regulations specify that taxpayers are permitted to rely on such proposed Treasury Regulations pending finalization.

Prospective investors should consult their tax advisors regarding the potential application of withholding under FATCA to their investment in our common stock.

EACH PROSPECTIVE INVESTOR SHOULD CONSULT ITS OWN TAX ADVISOR REGARDING THE TAX CONSEQUENCES OF ACQUIRING, OWNING AND DISPOSING OF OUR COMMON STOCK, INCLUDING THE CONSEQUENCES OF ANY PROPOSED CHANGE IN APPLICABLE LAW, AS WELL AS TAX CONSEQUENCES ARISING UNDER ANY STATE, LOCAL, NON-U.S. OR U.S. FEDERAL NON-INCOME TAX LAWS SUCH AS ESTATE AND GIFT TAX, AND THE POSSIBLE APPLICATION OF TAX TREATIES.

UNDERWRITING

We and the underwriters named below have entered into an underwriting agreement with respect to the shares being offered. Subject to certain conditions, each underwriter has severally agreed to purchase the number of shares indicated in the following table. Goldman Sachs & Co. LLC and Cowen and Company, LLC are the representatives of the underwriters.

<u>Underwriters</u>	<u>Number of Shares</u>
Goldman Sachs & Co. LLC	
Cowen and Company, LLC	
Guggenheim Securities, LLC	
Cantor Fitzgerald & Co.	
Total	

The underwriters are committed to take and pay for all of the shares being offered, if any are taken, other than the shares covered by the option described below unless and until this option is exercised.

The underwriters have an option to buy up to an additional shares from us to cover sales by the underwriters of a greater number of shares than the total number set forth in the table above. They may exercise that option for 30 days from the date of this prospectus. If any shares are purchased pursuant to this option, the underwriters will severally purchase shares in approximately the same proportion as set forth in the table above.

The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters by the company. Such amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

Paid by the Company

	<u>No Exercise</u>	<u>Full Exercise</u>
Per Share	\$	\$
Total	\$	\$

We estimate that our total out of pocket expenses for this offering, excluding the underwriting discounts and commissions, will be approximately \$. We have also agreed to reimburse the underwriters certain of their expenses in an amount up to \$.

We have agreed to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act.

As part of the Series C convertible preferred stock financing in October 2019, Broad Street Principal Investments, L.L.C, or BSPI, an affiliate of Goldman Sachs & Co. LLC, purchased 343,949 shares of our Series C convertible preferred stock. These shares and the shares of our common stock received by BSPI upon conversion of the Series C convertible preferred stock are subject to the 180-day lock-up restrictions applicable to existing stockholders and described herein. These shares and the shares of our common stock received by BSPI upon conversion of the Series C convertible preferred stock are considered underwriting compensation and are therefore also subject to certain lock-up restrictions pursuant to FINRA Rule 5110(g). Pursuant to FINRA Rule 5110(g), BSPI has agreed that such shares of Series C convertible preferred stock and the shares of our common stock received by BSPI upon conversion of the Series C convertible preferred stock will not be sold during this offering,

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or sold, transferred, assigned, pledged, or hypothecated, or be the subject of any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of such shares of Series C convertible preferred stock or common stock by any person for a period of 180 days immediately following the date of effectiveness of the registration statement of which this prospectus is a part or commencement of sales of common stock in this offering, except as permitted by FINRA Rule 5110(g)(2).

Shares sold by the underwriters to the public will initially be offered at the initial public offering price set forth on the cover of this prospectus. Any shares sold by the underwriters to securities dealers may be sold at a discount of up to \$ per share from the initial public offering price. After the initial offering of the shares, the representatives may change the offering price and the other selling terms. The offering of the shares by the underwriters is subject to receipt and acceptance and subject to the underwriters' right to reject any order in whole or in part.

We have agreed that, subject to certain limited exceptions, we will not (i) offer, sell, contract to sell, pledge, lend, grant any option to purchase, make any short sale or otherwise transfer or dispose of, directly or indirectly, or file with or confidentially submit to the SEC a registration statement under the Securities Act relating to, any of our securities that are substantially similar to our shares of common stock, including but not limited to any options or warrants to purchase shares of common stock or any securities that are convertible into or exchangeable for, or that represent the right to receive, shares of common stock or any such substantially similar securities, or publicly disclose the intention to make any offer, sale, pledge, loan, disposition, confidential submission or filing or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of our shares of common stock or any such other securities (in either case, regardless of whether any of these transactions are to be settled by the delivery of shares of common stock or such other securities, in cash or otherwise), in each case without the prior written consent of the representatives for a period through and including the date that is 180 days after the date of this prospectus.

Our directors, executive officers and substantially all of our stockholders have entered into lock-up agreements with the underwriters, pursuant to which each of these persons or entities, subject to certain limited exceptions, for a period through and including the date that is 180 days after the date of this prospectus, agree that they will not, and shall not cause or direct any of their respective affiliates to, (i) offer, sell, contract to sell, pledge, grant any option to purchase, lend or otherwise transfer or dispose of, directly or indirectly, any shares of common stock, or any options or warrants to purchase any shares of common stock, or any securities convertible into, exchangeable for or that represent the right to receive shares of common stock, whether now owned or hereafter acquired, owned directly by each such person or entity (including holding as a custodian) or with respect to which such person or entity has beneficial ownership within the rules and regulations of the SEC, (ii) engage in any hedging or other transaction or arrangement (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) which is designed to or which reasonably could be expected to lead to or result in a sale, loan, pledge or other disposition (whether by such person or entity or someone other than such person or entity), or transfer of any of the economic consequences of ownership, in whole or in part, directly or indirectly, of the securities owned by such person or entity, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of common stock or other securities, in cash or otherwise, or (iii) otherwise publicly announce any intention to engage in or cause any action or activity described in clause (i) above or transaction or arrangement described in clause (ii) above.

Prior to the offering, there has been no public market for the shares. The initial public offering price has been negotiated among us and the representatives. Among the factors to be considered in

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determining the initial public offering price of the shares, in addition to prevailing market conditions, will be our historical performance, estimates of our business potential and earnings prospects, an assessment of our management and the consideration of the above factors in relation to market valuation of companies in related businesses.

We intend to apply to list our common stock on the Nasdaq Global Select Market under the symbol "ARQT".

In connection with the offering, the underwriters may purchase and sell shares of common stock in the open market. These transactions may include short sales, stabilizing transactions and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of shares than they are required to purchase in the offering, and a short position represents the amount of such sales that have not been covered by subsequent purchases. A "covered short position" is a short position that is not greater than the amount of additional shares for which the underwriters' option described above may be exercised. The underwriters may cover any covered short position by either exercising their option to purchase additional shares or purchasing shares in the open market. In determining the source of shares to cover the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase additional shares pursuant to the option described above. "Naked" short sales are any short sales that create a short position greater than the amount of additional shares for which the option described above may be exercised. The underwriters must cover any such naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of various bids for or purchases of common stock made by the underwriters in the open market prior to the completion of the offering.

The underwriters may also impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of such underwriter in stabilizing or short covering transactions.

Purchases to cover a short position and stabilizing transactions, as well as other purchases by the underwriters for their own accounts, may have the effect of preventing or retarding a decline in the market price of our stock, and together with the imposition of the penalty bid, may stabilize, maintain or otherwise affect the market price of the common stock. As a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. The underwriters are not required to engage in these activities and may end any of these activities at any time. These transactions may be effected on Nasdaq, in the over-the-counter market or otherwise.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Certain of the underwriters and their respective affiliates have provided, and may in the future provide, a variety of these services to us and to persons and entities with relationships with us, for which they received or will receive customary fees and expenses.

In the ordinary course of their various business activities, the underwriters and their respective affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such

investment and trading activities may involve or relate to assets, securities and/or instruments of the issuer (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with us. The underwriters and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

Notice to Prospective Investors in European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive, or each, a Relative Member State, an offer to the public of shares of our common stock may not be made in that Relevant Member State, except that an offer to the public in that Relevant Member State of shares of our common stock may be made at any time under the following exemptions under the Prospectus Directive:

- To any legal entity which is a qualified investor as defined in the Prospectus Directive;
- To fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive), subject to obtaining the prior consent of the Representatives for any such offer; or
- In any other circumstances falling within Article 3(2) of the Prospectus Directive;

provided that no such offer or shares of our common stock shall result in a requirement for the publication by us or any of the underwriters of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an “offer to public” in relation to shares of our common stock in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and shares of our common stock to be offered so as to enable an investor to decide to purchase shares of our common stock, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, the expression “Prospectus Directive” means Directive 2003/71/EC (as amended), including by Directive 2010/73/EU and includes any relevant implementing measure in the Relevant Member State.

This European Economic Area selling restriction is in addition to any other selling restrictions set out below.

Notice to Prospective Investors in United Kingdom

In the United Kingdom, this prospectus is only addressed to and directed as qualified investors who are (i) investment professionals falling within Article 19(5) of the Financial Services and Markets

Act 2000 (Financial Promotion) Order 2005 (the Order); or (ii) high net worth entities and other persons to whom it may lawfully be communicated, falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as “relevant persons”). Any investment or investment activity to which this prospectus relates is available only to relevant persons and will only be engaged with relevant persons. Any person who is not a relevant person should not act or rely on this prospectus or any of its contents.

Notice to Prospective Investors in Switzerland

The securities will not be offered, directly or indirectly, to the public in Switzerland and this prospectus does not constitute a public offering prospectus as that term is understood pursuant to article 652a or 1156 of the Swiss Federal Code of Obligations.

Notice to Prospective Investors in Canada

The securities may be sold in Canada only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions, and Ongoing Registrant Obligations. Any resale of the securities must be made in accordance with an exemption form, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser’s province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser’s province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

Notice to Prospective Investors in Hong Kong

The shares may not be offered or sold in Hong Kong by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32 of the Laws of Hong Kong), or Companies (Winding Up and Miscellaneous Provisions) Ordinance, or which do not constitute an invitation to the public within the meaning of the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong), or Securities and Futures Ordinance, or (ii) to “professional investors” as defined in the Securities and Futures Ordinance and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance, and no advertisement, invitation or document relating to the shares may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” in Hong Kong as defined in the Securities and Futures Ordinance and any rules made thereunder.

Notice to Prospective Investors in Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor (as defined under Section 4A of the Securities and Futures Act, Chapter 289 of Singapore, or the SFA) under Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA, in each case subject to conditions set forth in the SFA.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor, the securities (as defined in Section 239(1) of the SFA) of that corporation shall not be transferable for 6 months after that corporation has acquired the shares under Section 275 of the SFA except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), (2) where such transfer arises from an offer in that corporation's securities pursuant to Section 275(1A) of the SFA, (3) where no consideration is or will be given for the transfer, (4) where the transfer is by operation of law, (5) as specified in Section 276(7) of the SFA, or (6) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore, or Regulation 32.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is a trust (where the trustee is not an accredited investor (as defined in Section 4A of the SFA)) whose sole purpose is to hold investments and each beneficiary of the trust is an accredited investor, the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferable for 6 months after that trust has acquired the shares under Section 275 of the SFA except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), (2) where such transfer arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than S\$200,000 (or its equivalent in a foreign currency) for each transaction (whether such amount is to be paid for in cash or by exchange of securities or other assets), (3) where no consideration is or will be given for the transfer, (4) where the transfer is by operation of law, (5) as specified in Section 276(7) of the SFA, or (6) as specified in Regulation 32.

Notice to Prospective Investors in Japan

The securities have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948, as amended), or the FIEA. The securities may not be offered or sold, directly or indirectly, in Japan or to or for the benefit of any resident of Japan (including any person resident in Japan or any corporation or other entity organized under the laws of Japan) or to others for reoffering or resale, directly or indirectly, in Japan or to or for the benefit of any resident of Japan, except pursuant to an exemption from the registration requirements of the FIEA and otherwise in compliance with any relevant laws and regulations of Japan.

Notice to Prospective Investors in Israel

In the State of Israel this prospectus shall not be regarded as an offer to the public to purchase shares of common stock under the Israeli Securities Law, 5728—1968, which requires a prospectus to be published and authorized by the Israel Securities Authority, if it complies with certain provisions of Section 15 of the Israeli Securities Law, 5728—1968, including, inter alia, if: (i) the offer is made, distributed or directed to not more than 35 investors, subject to certain conditions (the “Addressed Investors”); or (ii) the offer is made, distributed or directed to certain qualified investors defined in the First Addendum of the Israeli Securities Law, 5728—1968, subject to certain conditions (the “Qualified Investors”). The Qualified Investors shall not be taken into account in the count of the Addressed Investors and may be offered to purchase securities in addition to the 35 Addressed Investors. The company has not and will not take any action that would require it to publish a prospectus in accordance with and subject to the Israeli Securities Law, 5728—1968. We have not and will not distribute this prospectus or make, distribute or direct an offer to subscribe for our common stock to any person within the State of Israel, other than to Qualified Investors and up to 35 Addressed Investors.

Qualified Investors may have to submit written evidence that they meet the definitions set out in of the First Addendum to the Israeli Securities Law, 5728—1968. In particular, we may request, as a condition to be offered common stock, that Qualified Investors will each represent, warrant and certify to us and/or to anyone acting on our behalf: (i) that it is an investor falling within one of the categories listed in the First Addendum to the Israeli Securities Law, 5728—1968; (ii) which of the categories listed in the First Addendum to the Israeli Securities Law, 5728—1968 regarding Qualified Investors is applicable to it; (iii) that it will abide by all provisions set forth in the Israeli Securities Law, 5728—1968 and the regulations promulgated thereunder in connection with the offer to be issued common stock; (iv) that the shares of common stock that it will be issued are, subject to exemptions available under the Israeli Securities Law, 5728—1968: (a) for its own account; (b) for investment purposes only; and (c) not issued with a view to resale within the State of Israel, other than in accordance with the provisions of the Israeli Securities Law, 5728—1968; and (v) that it is willing to provide further evidence of its Qualified Investor status. Addressed Investors may have to submit written evidence in respect of their identity and may have to sign and submit a declaration containing, inter alia, the Addressed Investor's name, address and passport number or Israeli identification number.

LEGAL MATTERS

The validity of the shares of common stock offered by this prospectus will be passed upon for us by Fenwick & West LLP, San Francisco, California. Certain legal matters relating to the offering will be passed upon for the underwriters by Latham & Watkins LLP, Menlo Park, California.

EXPERTS

Ernst & Young LLP, independent registered public accounting firm, has audited our financial statements at December 31, 2017 and 2018, and for each of the two years in the period ended December 31, 2018, as set forth in their report (which contains an explanatory paragraph describing conditions that raise substantial doubt about our ability to continue as a going concern as described in Note 1 to the financial statements). We have included our financial statements in the prospectus and elsewhere in the registration statement in reliance on Ernst & Young LLP's report, given on their authority as experts in accounting and auditing.

ADDITIONAL INFORMATION

We have filed with the Securities and Exchange Commission, or SEC, a registration statement on Form S-1 under the Securities Act of 1933, as amended, with respect to the shares of common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits filed therewith. For further information about us and the common stock offered hereby, reference is made to the registration statement and the exhibits filed therewith. Statements contained in this prospectus concerning the contents of any contract or any other document are not necessarily complete, please see the copy of the contract or document that has been filed for the complete contents of that contract or document. Each statement in this prospectus relating to a contract or document filed as an exhibit is qualified in all respects by the filed exhibit. The exhibits to the registration statement should be reviewed for the complete contents of these contracts and documents.

We currently do not file periodic reports with the SEC. Upon the completion of this offering, we will be required to file periodic reports, proxy statements and other information with the SEC pursuant to the Securities Exchange Act of 1934, as amended. The SEC maintains a website that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC. The address of the website is www.sec.gov.

We also maintain a website at www.arcutis.com. Upon completion of this offering, you may access these materials at our website free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained in, or that can be accessed through, our website is not a part of, and is not incorporated into, this prospectus.

ARCUTIS, INC.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Arcutis, Inc.

Opinion on the Financial Statements

We have audited the accompanying balance sheets of Arcutis, Inc. (the Company) as of December 31, 2017 and 2018, the related statements of operations, statements of convertible preferred stock and stockholders' deficit and cash flows for the years then ended, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2017 and 2018, and the results of its operations and its cash flows for the years then ended in conformity with U.S. generally accepted accounting principles.

The Company's Ability to Continue as a Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the financial statements, the Company has suffered recurring losses from operations, has a working capital deficiency, and has stated that substantial doubt exists about the Company's ability to continue as a going concern. Management's evaluation of the events and conditions and management's plans regarding these matters are also described in Note 1. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

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

Our audits include performing procedures to assess the risks of material misstatement on 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.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2019.

Los Angeles, California
September 9, 2019

ARCUTIS, INC.
Balance Sheets
(In thousands, except share and per share data)

	<u>December 31,</u>	
	<u>2017</u>	<u>2018</u>
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 3,418	\$ 39,394
Marketable securities	—	11,546
Prepaid expenses and other current assets	401	158
Total current assets	<u>3,819</u>	<u>51,098</u>
Total assets	<u>\$ 3,819</u>	<u>\$ 51,098</u>
LIABILITIES, CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' DEFICIT		
Current liabilities:		
Accounts payable	\$ 537	\$ 1,801
Accrued liabilities	155	872
Total current liabilities	<u>692</u>	<u>2,673</u>
Convertible preferred stock liability	966	—
Other long-term liabilities	—	160
Total liabilities	<u>1,658</u>	<u>2,833</u>
Commitments and contingencies (Note 7)		
Convertible preferred stock, \$0.0001 par value; 10,805,000 and 32,536,270 shares authorized at December 31, 2017 and 2018, respectively; 7,484,209 and 32,536,267 shares issued and outstanding at December 31, 2017 and 2018, respectively; aggregate liquidation preference of \$7,484 and \$71,800 at December 31, 2017 and 2018, respectively	7,154	72,252
Stockholders' deficit:		
Common stock, \$0.0001 par value; 17,850,000 and 44,000,000 shares authorized at December 31, 2017 and 2018, respectively; 3,394,739 and 5,233,154 shares issued at December 31, 2017 and 2018, respectively; 1,845,890 and 3,116,903 shares outstanding at December 31, 2017 and 2018, respectively	—	—
Additional paid-in capital	28	289
Accumulated deficit	<u>(5,021)</u>	<u>(24,276)</u>
Total stockholders' deficit	<u>(4,993)</u>	<u>(23,987)</u>
Total liabilities, convertible preferred stock and stockholders' deficit	<u>\$ 3,819</u>	<u>\$ 51,098</u>

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

ARCUTIS, INC.
Statements of Operations
(In thousands, except share and per share data)

	Year Ended December 31,	
	2017	2018
Operating expenses:		
Research and development	\$ 3,411	\$ 17,940
General and administrative	695	1,795
Total operating expenses	4,106	19,735
Loss from operations	(4,106)	(19,735)
Other income (expense), net	(872)	480
Net loss	\$ (4,978)	\$ (19,255)
Net loss per share, basic and diluted	\$ (3.58)	\$ (7.76)
Weighted-average shares used in computing net loss per share, basic and diluted	1,391,097	2,480,246
Pro forma net loss per share, basic and diluted (unaudited)		\$
Weighted-average shares used in computing pro forma net loss per share, basic and diluted (unaudited)		

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

ARCUTIS, INC.
Statements of Convertible Preferred Stock and Stockholders' Deficit
(In thousands, except share data)

	Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount			
Balance—December 31, 2016	—	\$ —	1,018,422	\$ —	\$ 1	\$ (43)	\$ (42)
Issuance of Series A convertible preferred stock, net of issuance costs of \$115 and convertible preferred stock liability of \$219	7,184,209	6,850	—	—	—	—	—
Issuance of Series A convertible preferred stock upon conversion of convertible promissory notes	300,000	304	—	—	—	—	—
Vesting of founder shares subject to repurchase	—	—	827,468	—	—	—	—
Stock-based compensation expense	—	—	—	—	27	—	27
Net loss	—	—	—	—	—	(4,978)	(4,978)
Balance—December 31, 2017	7,484,209	7,154	1,845,890	—	28	(5,021)	(4,993)
Issuance of Series A convertible preferred stock, net of issuance costs of \$21 and value of convertible preferred stock liability of \$891	6,315,791	7,186	—	—	—	—	—
Issuance of Series B convertible preferred stock, net of issuance costs of \$88	17,767,150	54,912	—	—	—	—	—
Issuance of Series B convertible preferred stock in connection with license agreement	969,117	3,000	—	—	—	—	—
Issuance of common stock upon the exercise of stock options	—	—	228,529	—	43	—	43
Vesting of founder shares subject to repurchase	—	—	721,382	—	—	—	—
Lapse of repurchase rights related to common stock issued pursuant to early exercises	—	—	321,102	—	67	—	67
Stock-based compensation expense	—	—	—	—	151	—	151
Net loss	—	—	—	—	—	(19,255)	(19,255)
Balance—December 31, 2018	<u>32,536,267</u>	<u>\$72,252</u>	<u>3,116,903</u>	<u>\$ —</u>	<u>\$ 289</u>	<u>\$ (24,276)</u>	<u>\$ (23,987)</u>

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

ARCUTIS, INC.
Statements of Cash Flows
(In thousands)

	Year Ended December 31,	
	2017	2018
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$(4,978)	\$(19,255)
Adjustments to reconcile net loss to net cash used in operating activities:		
Net amortization/accretion on marketable securities	—	(14)
Stock-based compensation	27	151
Issuance of convertible preferred stock in connection with license agreement	—	3,000
Change in fair value of convertible preferred stock liability	747	(75)
Change in fair value of derivative liability	150	—
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	(401)	243
Accounts payable	537	1,264
Accrued liabilities	143	601
Net cash used in operating activities	<u>(3,775)</u>	<u>(14,085)</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of marketable securities	—	(11,532)
Net cash used in investing activities	<u>—</u>	<u>(11,532)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from issuance of common stock upon exercise of stock options	—	386
Proceeds from issuance of Series A convertible preferred stock, net of issuance costs	7,069	6,295
Proceeds from issuance of Series B convertible preferred stock, net of issuance costs	—	54,912
Proceeds from issuance of convertible promissory note payable	50	—
Net cash provided by financing activities	<u>7,119</u>	<u>61,593</u>
Net increase in cash and cash equivalents	<u>3,344</u>	<u>35,976</u>
Cash and cash equivalents at beginning of period	74	3,418
Cash and cash equivalents at end of period	<u>\$ 3,418</u>	<u>\$ 39,394</u>
SUPPLEMENTAL DISCLOSURES OF NON-CASH INVESTING AND FINANCING INFORMATION:		
Conversion of convertible promissory notes payable into convertible preferred stock	<u>\$ 304</u>	<u>\$ —</u>
Convertible preferred stock liability recorded in connection with convertible preferred stock	<u>\$ 219</u>	<u>\$ —</u>
Convertible preferred stock issued in connection with license agreement	<u>\$ —</u>	<u>\$ 3,000</u>
Reclassification of convertible preferred stock liability to Series A convertible preferred stock	<u>\$ —</u>	<u>\$ 891</u>

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

ARCUTIS, INC.
Notes to Financial Statements

1. Organization and Description of Business

Arcutis, Inc., or the Company, is a late-stage biopharmaceutical company focused on developing and commercializing treatments for dermatological diseases with high unmet medical needs. The Company's current portfolio is comprised of topical treatments with significant promise in addressing immune-mediated dermatological diseases and conditions, or immuno-dermatology. The Company's strategy is to advance treatments that leverage validated biological targets in dermatology while delivering a clinical profile that addresses major shortcomings of existing therapies in its targeted indications. The Company believes this strategy uniquely positions it to rapidly advance its goal of bridging the treatment innovation gap in dermatology, all while maximizing our probability of technical success.

Liquidity and Going Concern

The Company has incurred significant losses and negative cash flows from operations since its inception and had an accumulated deficit of \$24.3 million as of December 31, 2018. The Company had cash, cash equivalents and marketable securities of \$50.9 million as of December 31, 2018. The Company has historically financed its operations primarily through the sale of its convertible preferred stock. Management expects operating losses to continue for the foreseeable future.

The Company does not believe that its existing capital resources will be sufficient to meet the projected operating requirements for at least 12 months from the date of issuance of its financial statements. The Company believes that this raises substantial doubt about its ability to continue as a going concern. As a result, the Company will be required to raise additional capital. However, no assurance can be given as to whether additional needed financing will be available on terms acceptable to the Company, if at all. If sufficient funds on acceptable terms are not available when needed, the Company may be required to curtail planned activities to significantly reduce its operating expenses. Failure to manage discretionary spending or raise additional financing, as needed, may adversely impact the Company's ability to achieve its intended business objectives and have an adverse effect on its results of operations and future prospects. The accompanying financial statements have been prepared assuming that the Company will continue as a going concern, which contemplates the realization of assets and the settlement of liabilities and commitments in the normal course of business. The accompanying financial statements do not reflect any adjustments relating to the recoverability and reclassifications of assets and liabilities that might be necessary if the Company is unable to continue as a going concern.

2. Summary of Significant Accounting Policies

Basis of Presentation

The Company's financial statements have been prepared in accordance with United States generally accepted accounting principles, or U.S. GAAP.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. On an ongoing basis, management evaluates such estimates and assumptions for continued reasonableness. In particular, management makes estimates with respect to accruals for

ARCUTIS, INC.

Notes to Financial Statements

research and development activities, fair value of common stock and convertible preferred stock, fair value of convertible preferred stock liability, stock-based compensation expense and income taxes. Appropriate adjustments, if any, to the estimates used are made prospectively based upon such periodic evaluation. Actual results could differ from those estimates.

Segments

To date, the Company has viewed its financial information on an aggregate basis for the purposes of evaluating financial performance and allocating the Company's resources. Accordingly, the Company has determined that it operates in one segment.

Cash and Cash Equivalents

The Company considers all highly liquid investments purchased with original maturities of three months or less from the purchase date to be cash equivalents. Cash equivalents consist primarily of money market funds, commercial paper, and government securities. The Company did not have any cash equivalents as of December 31, 2017.

Marketable Securities

Marketable securities consist of investment grade short to intermediate-term fixed income investments that have been classified as available-for-sale and are carried at estimated fair value as determined based upon quoted market prices or pricing models for similar securities. Management determines the appropriate classification of its investments in fixed income securities at the time of purchase. Available-for-sale securities with original maturities beyond three months at the date of purchase are classified as current based on their availability for use in current operations. The Company did not have any marketable securities as of December 31, 2017.

Unrealized gains and losses are excluded from earnings and are reported as a component of comprehensive loss. The Company periodically evaluates whether declines in fair values of its marketable securities below their book value are other-than-temporary. This evaluation consists of several qualitative and quantitative factors regarding the severity and duration of the unrealized loss as well as the Company's ability and intent to hold the marketable security until a forecasted recovery occurs. Additionally, the Company assesses whether it has plans to sell the security or it is more likely than not it will be required to sell any marketable securities before recovery of its amortized cost basis. Realized gains and losses and declines in fair value judged to be other than temporary, if any, on marketable securities are included in other income (expense), net. To date no such other than temporary declines in fair value have occurred or have been recorded. The cost of investments sold is based on the specific-identification method. There were no realized gains or losses on investments for the year ended December 31, 2018. Interest on marketable securities is included in other income (expense), net.

Concentration of Credit Risk and Other Risks and Uncertainties

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist primarily of cash and cash equivalents. The Company maintains deposits in federally insured financial institutions in excess of federally insured limits. The Company is exposed to credit risk in the event of a default by the financial institutions holding its cash to the extent recorded on the balance sheets.

ARCUTIS, INC.

Notes to Financial Statements

Management believes the Company is not exposed to significant credit risk due to the financial position of the depository institutions in which those deposits are held.

Fair Value Measurement

The Company's financial instruments, in addition to those presented in Note 3 *Fair Value Measurements*, include cash equivalents, accounts payable and accrued liabilities. The carrying amount of cash equivalents, accounts payable and accrued liabilities approximate their fair values due to their short maturities.

Assets and liabilities recorded at fair value on a recurring basis in the balance sheets are categorized based upon the level of judgment associated with the inputs used to measure their fair values. Fair value is defined as the exchange price that would be received for an asset or an exit price that would be paid to transfer a liability in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. The authoritative guidance on fair value measurements establishes a three-tier fair value hierarchy for disclosure of fair value measurements as follows:

Level 1—Observable inputs such as unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date;

Level 2—Inputs (other than quoted prices included in Level 1) are either directly or indirectly observable for the asset or liability. These include quoted prices for similar assets or liabilities in active markets and quoted prices for identical or similar assets or liabilities in markets that are not active;

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Preclinical and Clinical Accruals and Costs

The Company records accrued liabilities for estimated costs of research and development activities conducted by third-party service providers, which include the conduct of preclinical studies, clinical studies, clinical trials and contract manufacturing activities. These costs are a significant component of the Company's research and development expenses. The Company accrues for these costs based on factors such as estimates of the work completed and in accordance with agreements established with its third-party service providers under the service agreements. The Company makes significant judgments and estimates in determining the accrued liabilities balance in each reporting period. As actual costs become known, the Company adjusts its accrued liabilities. For the years ended December 31, 2017 and 2018, the Company has not experienced any material differences between accrued costs and actual costs incurred.

Convertible Preferred Stock

The Company classifies convertible preferred stock outside of stockholders' deficit on its balance sheets as the requirements of triggering a deemed liquidation event, as defined within its amended and restated certificate of incorporation, are not entirely within the Company's control. In the event of such a deemed liquidation event, the proceeds from the event are distributed in accordance with the liquidation preferences (see Note 8), provided that the holders of convertible preferred stock have not

ARCUTIS, INC.

Notes to Financial Statements

converted their shares into common stock. The Company records the issuance of convertible preferred stock at the issuance price less related issuance costs. The Company has not adjusted the carrying values of the convertible preferred stock to the liquidation preferences of such shares because of the uncertainty as to whether or when a deemed liquidation event may occur.

Convertible Preferred Stock Liability

The freestanding rights of Series A convertible preferred stockholders to purchase additional shares of the Company's Series A convertible preferred stock in a subsequent closing, contingent upon approval by the board of directors, at a fixed price per share, are accounted for as a liability at fair value as the shares underlying the right contain contingent redemption features outside the control of the Company. The liability was subject to re-measurement at each balance sheet date until settlement, with changes in fair value recognized as a component of other income (expense), net in the statements of operations. In March 2018, the convertible preferred stock liability was settled upon the issuance of the second tranche of Series A convertible preferred stock and the fair value of the liability was reclassified to the Series A convertible preferred stock.

Research and Development

Research and development expenses include costs directly attributable to the conduct of research and development programs, including the cost of salaries, payroll taxes, employee benefits, license fees, stock-based compensation expense, materials, supplies, and the cost of services provided by outside contractors. All costs associated with research and development are expensed as incurred. Payments made prior to the receipt of goods or services to be used in research and development are capitalized until the goods are received or services are rendered. Such payments are evaluated for current or long-term classification based on when they will be realized.

The Company has entered into and may continue to enter into, license agreements to access and utilize certain technology. In each case, the Company evaluates if the license agreement results in the acquisition of an asset or a business. To date none of the Company's license agreements have been considered an acquisition of a business. For asset acquisitions, the upfront payments to acquire such licenses, as well as any future milestone payments made before product approval that do not meet the definition of a derivative, are immediately recognized as research and development expense when paid or becomes payable, provided there is no alternative future use of the rights in other research and development projects.

Stock-Based Compensation

The Company accounts for share-based payments at fair value. The fair value of stock options is measured using the Black-Scholes option-pricing model. For share-based awards that vest subject to the satisfaction of a service requirement, the fair value measurement date for such awards is the date of grant and the expense is recognized on a straight-line basis, over the expected vesting period. For share-based awards that vest subject to a performance condition, the Company will recognize compensation cost for awards if and when the Company concludes that it is probable that the awards with a performance condition will be achieved on an accelerated attribution method. The Company accounts for forfeitures as they occur.

Income Taxes

Income taxes are accounted for using the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the

ARCUTIS, INC.

Notes to Financial Statements

financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using the enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period of enactment. The Company records a valuation allowance to reduce deferred tax assets to an amount for which realization is more likely than not. Due to the Company's historical operating performance and the recorded cumulative net losses in prior fiscal periods, the net deferred tax assets have been fully offset by a valuation allowance.

The Company recognizes the tax benefit from an uncertain tax position if it is more likely than not that the tax position will be sustained upon examination by the tax authorities, based on the merits of the position. The Company's policy is to recognize interest and penalties related to the underpayment of income taxes as a component of income tax expense or benefit. To date, there have been no interest or penalties charged in relation to the unrecognized tax benefits.

Net Loss Per Share

Basic net loss per share is calculated by dividing the net loss by the weighted-average number of shares of common stock outstanding for the period, without consideration for potential dilutive shares of common stock. Diluted net loss per share is computed by dividing the net loss by the weighted-average number of common share equivalents outstanding for the period determined using the treasury-stock method. Since the Company was in a loss position for all periods presented, basic net loss per share is the same as diluted net loss per share since the effects of potentially dilutive securities are antidilutive. Shares of common stock subject to repurchase are excluded from the weighted-average shares.

Unaudited Pro Forma Net Loss Per Share

The unaudited pro forma basic and diluted net loss per share has been computed to give effect to the conversion of all outstanding convertible preferred stock into shares of common stock upon either (i) the closing of a firm-commitment underwritten public offering at a per share price of at least \$4.6434, resulting in at least \$50.0 million in net proceeds, or Qualified Public Offering, or (ii) by vote or written consent of the holders of a majority of the then outstanding shares of Series A and B convertible preferred stock. The unaudited pro forma net loss per share does not include the shares expected to be sold and related proceeds to be received from the initial public offering, or IPO, of the Company's common stock. The unaudited pro forma net loss per share for the year ended December 31, 2018 was computed using the weighted-average number of shares of common stock outstanding, including the pro forma effect of the conversion of all outstanding shares of convertible preferred stock into shares of common stock, as if such conversion had occurred at the beginning of the period, or their issuance dates if later. The net loss has also been adjusted to reverse the gains or losses resulting from the remeasurement of the convertible preferred stock liability.

Comprehensive Loss

Comprehensive loss consists of net loss and other comprehensive income or loss. As of the latest balance sheet presented, the Company has not had any transactions that are required to be reported in comprehensive loss other than the net loss incurred from operations.

ARCUTIS, INC.

Notes to Financial Statements

Emerging Growth Company Status

The Company is an emerging growth company, as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. The Company has elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that it is (i) no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, these financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates.

Recently Issued Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board, or FASB, issued ASU No. 2016-02, *Leases (Topic 842) (ASC 842)*, which establishes a comprehensive new lease accounting model. The new standard: (a) clarifies the definition of a lease; (b) requires a dual approach to lease classification similar to current lease classifications; and (c) causes lessees to recognize leases on the balance sheet as a lease liability with a corresponding right-of-use asset for leases with a lease-term of more than 12 months. The new standard is effective for fiscal years beginning after December 15, 2019 and interim periods within fiscal years beginning after December 15, 2020, with early adoption permitted. A modified retrospective transition approach is required for leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. In July 2018, the FASB issued ASU No. 2018-11, *Leases (Topic 842): Targeted Improvements*, an update which provides another transition method, the prospective transition method, which allows entities to initially apply the new lease standard at the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. The Company adopted the standard on January 1, 2019. As of December 31, 2018, the Company had not entered into any leases within the scope of the standard.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, or ASU No. 2016-13. This update will require the measurement of all expected credit losses for financial assets held at the reporting date based on historical experience, current conditions, and reasonable and supportable forecasts. Financial institutions and other organizations will now include forward-looking information in the determination of their credit loss estimates. Many of the loss estimation techniques applied today will still be permitted, although the inputs to those techniques will change to reflect the full amount of expected credit losses. In addition, this update amends the accounting for credit losses on available-for-sale debt securities and purchased financial assets with credit deterioration. In November 2018, the FASB issued ASU No. 2018-19, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses*. This update clarified the effective date of ASU No. 2016-13 for nonpublic business entities to fiscal years, and interim periods within those fiscal years, beginning after December 15, 2021. Early application of ASU No. 2016-13 will be permitted for all organizations for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2018. The Company is currently evaluating the impact that the standard will have on its financial statements.

In August 2018, the FASB issued ASU No. 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement*, or ASU No. 2018-13, which removes, modifies, and adds various disclosure requirements on fair value measurements in Topic 820. ASU No. 2018-13 is effective for fiscal years and interim periods within

ARCUTIS, INC.**Notes to Financial Statements**

those fiscal years beginning after December 15, 2019. The amendments on changes in unrealized gains and losses, the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and the narrative description of measurement uncertainty should be applied prospectively for only the most recent interim or annual period presented in the initial fiscal year of adoption. All other amendments should be applied retrospectively to all periods presented upon their effective date. Early adoption is permitted upon issuance of this update. An entity is permitted to early adopt any removed or modified disclosures upon issuance of this update and delay adoption of the additional disclosures until their effective date. The Company does not expect a significant impact from adopting this update on its financial statements.

Recently Adopted Accounting Pronouncements

In January 2016, the FASB issued ASU 2016-01, *Financial Instruments—Overall (Topic 825)—Recognition and Measurement of Financial Assets and Financial Liabilities*, which amends the guidance in U.S. GAAP on the classification and measurement of financial instruments. The new standard revises an entity's accounting related to (i) the classification and measurement of investments in equity securities and (ii) the presentation of certain fair value changes for financial liabilities measured at fair value. The new standard also amends certain disclosure requirements associated with the fair value of financial instruments. The new standard is effective for fiscal years beginning after December 15, 2018 and interim periods within fiscal years beginning after December 15, 2019. Early adoption is permitted for all entities whose financial statements have not yet been issued or have not been made available for issuance with respect to certain changes made to ASC 825. The Company early adopted this guidance as of January 1, 2018. Refer to Note 3 for more information and disclosures related to this amended guidance.

In March 2016, the FASB issued ASU 2016-09, *Compensation—Stock Compensation (Topic 718)—Improvements to Employee Share Based Payment Accounting* as part of the FASB simplification initiative. The new standard provides for changes to accounting for stock compensation including (i) excess tax benefits and tax deficiencies related to share based payment awards will be recognized as income tax expense or benefit in the reporting period in which they occur; (ii) excess tax benefits will be classified as an operating activity in the statement of cash flows; (iii) the option to elect to estimate forfeitures or account for them when they occur; and (iv) increase of the tax withholding requirements threshold to qualify for equity classification. The standard is effective for fiscal years beginning after December 15, 2017 and interim periods within fiscal years beginning after December 15, 2018. The Company early adopted this guidance as of January 1, 2017 and the impact of its adoption on the Company's financial statements was not material. The Company elected a policy to account for forfeitures as they occur.

In June 2018, the FASB issued ASU No. 2018-07, *Compensation-Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting*. This standard is intended to reduce the cost and complexity and to improve financial reporting for nonemployee share-based payments. The ASU expands the scope of Topic 718, (which currently only includes share-based payments to employees) to include share-based payments issued to nonemployees for goods or services. Consequently, the accounting for share-based payments to nonemployees and employees will be substantially aligned. The standard is effective for fiscal years beginning after December 15, 2019 and interim periods within fiscal years beginning after December 15, 2020. Early adoption is permitted, but no earlier than a company's adoption date of Topic 606. The Company early adopted this standard on January 1, 2018 and the impact of its adoption on the Company's financial statements was not material.

ARCUTIS, INC.
Notes to Financial Statements

3. Fair Value Measurements

The following table sets forth the Company's financial instruments that were measured at fair value on a recurring basis by level within the fair value hierarchy (in thousands):

	December 31, 2017			Total
	Level 1	Level 2	Level 3	
Liabilities:				
Convertible preferred stock liability	\$ —	\$ —	\$ 966	\$ 966
Total liabilities	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 966</u>	<u>\$ 966</u>
	December 31, 2018			Total
	Level 1	Level 2	Level 3	
Assets:				
Money market funds(1)	\$20,509	\$ —	\$ —	\$20,509
Commercial paper	—	15,431	—	15,431
Government securities	15,000	—	—	15,000
Total assets	<u>\$35,509</u>	<u>\$15,431</u>	<u>\$ —</u>	<u>\$50,940</u>

(1) This balance includes cash requirements settled on a nightly basis.

There were no transfers between Levels 1, 2 or 3 for any of the periods presented. The Company did not have any financial assets measured at fair value as of December 31, 2017 or liabilities measured as of December 31, 2018.

The following table summarizes the estimated value of the Company's cash, cash equivalents and marketable securities and the gross unrealized holding gains and losses (in thousands):

	December 31, 2018			Estimated fair value
	Amortized cost	Unrealized gains	Unrealized losses	
Cash and cash equivalents:				
Commercial paper	\$ 3,885	—	—	\$ 3,885
Money market funds(1)	20,509	—	—	20,509
Government securities	15,000	—	—	15,000
Total cash and cash equivalents	<u>39,394</u>	<u>—</u>	<u>—</u>	<u>39,394</u>
Marketable securities:				
Commercial paper	11,546	—	—	11,546
Total marketable securities	<u>\$ 11,546</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 11,546</u>

(1) This balance includes cash requirements settled on a nightly basis.

ARCUTIS, INC.
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The following table summarizes the change in the fair value of the convertible preferred stock liability for the years ended December 31, 2017 and 2018 (in thousands):

	Year Ended December 31,	
	2017	2018
Beginning balance	\$ —	\$ 966
Fair value at issuance	219	—
Loss (gain) from changes in fair value	747	(75)
Recognition of fair value upon issuance of convertible preferred stock	—	(891)
Ending balance	<u>\$966</u>	<u>\$ —</u>

The fair value of the Company's convertible preferred stock liability is based on significant inputs not observed in the market, and thus represents a Level 3 measurement. The Company estimates the fair value of this liability using the Black-Scholes option pricing model based on the following assumptions:

	Year Ended December 31,	
	2017	2018
Expected term (in years)	1.0 – 4.0	4.1
Expected volatility	63.2 – 69.8%	65.4%
Risk-free interest rate	1.42 – 2.15%	2.53%
Dividend yield	—%	—%

The following table summarizes the change in the fair value of the derivative liability for the year ended December 31, 2017 (in thousands):

	Year Ended December 31,
	2017
Beginning balance	\$ —
Loss from changes in fair value	150
Reclassification to convertible preferred stock upon conversion of the convertible promissory notes	(150)
Ending balance	<u>\$ —</u>

The fair value of the Company's derivative liability is based on significant inputs not observed in the market, and thus represents a Level 3 measurement. Refer to Note 5 for further discussion on the derivative liability and related valuation.

ARCUTIS, INC.
Notes to Financial Statements

4. Balance Sheet Components**Prepaid Expenses and Other Current Assets**

Prepaid expenses and other current assets consist of the following (in thousands):

	December 31,	
	2017	2018
Prepaid clinical trial costs	\$221	\$ 40
Other prepaid expenses and current assets	180	118
Total prepaid expenses and other current assets	<u>\$401</u>	<u>\$158</u>

Accrued Liabilities

Accrued liabilities consist of the following (in thousands):

	December 31,	
	2017	2018
Accrued compensation	\$142	\$455
Clinical trial accruals	—	250
Early exercise liability, current	—	116
Accrued expenses and other current liabilities	13	51
Total accrued liabilities	<u>\$155</u>	<u>\$872</u>

5. Convertible Promissory Notes Payable to Related Parties

In August 2016, the Company entered into a Convertible Promissory Note Purchase Agreement, or the Purchase Agreement, with a founder and an investor, or the Holders, who are related parties. Under the terms of the Purchase Agreement, the Company could issue up to \$1.0 million of convertible promissory notes, or the Notes, with a one-year maturity. The Notes bear interest at a rate of 6.0% per annum, compounded annually, and payable at maturity. In the event of an equity financing with minimum proceeds in an amount approved by the Company's board of directors, the outstanding balance of the Notes is automatically converted into shares of stock issued in the equity financing based on a conversion price equal to 50% of the issuance price paid by investors in said financing.

The Company issued Notes in the amount of \$100,000 in August 2016 and \$50,000 in March 2017. The redemption of the Notes upon an equity financing was determined to be a contingent redemption feature that was not clearly and closely related to the Notes and was bifurcated and recognized as a derivative liability on the balance sheet. The fair value of the derivative liability was estimated to be insignificant on the issuance dates of August 2016 and March 2017.

In April 2017, the Company issued 7,184,209 shares of Series A convertible preferred stock to investors at \$1.00 per share for net proceeds of \$7.1 million. At the time of conversion, the value of the derivative liability was determined to be \$150,000 and the increase in fair value was recorded as other operating expense. Accordingly, the outstanding principal balance of \$150,000 of the Notes was automatically converted into 300,000 shares of Series A convertible preferred stock and the derivative liability was settled. The carrying value of the Notes of \$154,000 and the derivative liability of \$150,000 were reclassified to Series A convertible preferred stock.

ARCUTIS, INC.

Notes to Financial Statements

6. License Agreements

AstraZeneca License Agreement

In July 2018, the Company entered into an exclusive license agreement, or the AstraZeneca License Agreement, with AstraZeneca AB, or AstraZeneca, granting the Company a worldwide exclusive license, with the right to sublicense through multiple tiers, under certain AstraZeneca-controlled patent rights, know-how and regulatory documentation, to research, develop, manufacture, commercialize and otherwise exploit products containing roflumilast in topical forms, as well as delivery systems sold with or for the administration of roflumilast, or collectively, the AZ-Licensed Products, for all diagnostic, prophylactic and therapeutic uses for human dermatological indications, or the Dermatology Field. Under this agreement, the Company has sole responsibility for development, regulatory, and commercialization activities for the AZ-Licensed Products in the Dermatology Field, at its expense, and it shall use commercially reasonable efforts to develop, obtain and maintain regulatory approvals for, and commercialize the AZ-Licensed Products in the Dermatology Field in each of the United States, Italy, Spain, Germany, the United Kingdom, France, China, and Japan.

The Company paid AstraZeneca an upfront non-refundable cash payment of \$1.0 million and issued 969,117 shares of Series B preferred stock, valued at \$3.0 million on the date of the AstraZeneca License Agreement. In addition, the Company has agreed to make cash payments to AstraZeneca of up to an aggregate of \$14.5 million upon the achievement of specified clinical development and regulatory approval milestones with respect to the AZ-Licensed Products and payments up to an additional aggregate amount of \$15.0 million upon the achievement of certain aggregate worldwide net sales milestones. With respect to any AZ-Licensed Products the Company commercializes under the AstraZeneca License Agreement, it will pay AstraZeneca a low to high single-digit percentage royalty rate on the Company's, its affiliates' and its sublicensees' net sales of such AZ-Licensed Products, subject to specified reductions, until, as determined on an AZ-Licensed Product-by-AZ-Licensed Product and country-by-country basis, the later of the date of the expiration of the last-to-expire AstraZeneca-licensed patent right containing a valid claim in such country and ten years from the first commercial sale of such AZ-Licensed Product in such country. The first milestone payment of \$2.0 million became due in July 2019 upon the achievement of positive Phase 2 data and was subsequently paid in August 2019.

For the year ended December 31, 2018, the Company recorded research and development expense of \$4.0 million related to the upfront fee payment and the issuance of Series B convertible preferred stock.

Hengrui Exclusive Option and License Agreement

In January 2018, the Company entered into an exclusive option and license agreement, or the Hengrui License Agreement, with Jiangsu Hengrui Medicine Co., Ltd., or Hengrui, whereby Hengrui granted the Company an exclusive option to obtain certain exclusive rights to research, develop and commercialize products containing the compound designated by Hengrui as SHR0302, a JAK inhibitor, in topical formulations for the treatment of skin diseases, disorders, and conditions in the United States, Japan, and the European Union (including for clarity the United Kingdom). The initial option period under the agreement extended to June 2019, and was subsequently amended to extend until January 2020. The Company made a \$0.4 million upfront non-refundable cash payment to Hengrui upon execution of the Hengrui License Agreement which was recorded as research and development expense. If the Company exercises its exclusive option, it will pay Hengrui an additional \$1.5 million

ARCUTIS, INC.**Notes to Financial Statements**

option exercise cash payment. In addition, if exercised, the Company has agreed to make cash payments of up to an aggregate of \$20.5 million upon achievement of specified clinical development and regulatory approval milestones with respect to the licensed products and cash payments of up to an additional aggregate of \$200 million in sales-based milestones based on certain aggregate annual net sales volumes with respect to a licensed product. With respect to any products the Company commercializes under the Hengrui License Agreement, it will pay tiered royalties to Hengrui on net sales of each licensed product by the Company, or its affiliates, or its sublicensees, ranging from mid single-digit to sub-teen percentage rates based on tiered annual net sales bands subject to specified reductions. The Company is obligated to pay royalties until the later of (1) expiration of the last valid claim of the licensed patent rights covering such licensed product in such country and (2) expiration of regulatory exclusivity for the relevant licensed product in the relevant country, on a licensed product-by-licensed product and country-by-country basis. Additionally, the Company is obligated to pay Hengrui a specified percentage, ranging from the low-thirties to the sub-teens, of certain non-royalty sublicensing income it receives from sublicensees of its rights to the licensed products, such percentage decreasing as the development stage of the licensed products advance.

7. Commitments and Contingencies**Operating Lease**

As of December 31, 2018, the Company had not entered into any long-term operating lease agreements. The Company entered into a lease agreement in January 2019 as described in Note 13.

Indemnification

In the ordinary course of business, the Company enters into agreements that may include indemnification provisions. Pursuant to such agreements, the Company may indemnify, hold harmless and defend an indemnified party for losses suffered or incurred by the indemnified party. Some of the provisions will limit losses to those arising from third party actions. In some cases, the indemnification will continue after the termination of the agreement. The maximum potential amount of future payments the Company could be required to make under these provisions is not determinable. The Company has never incurred material costs to defend lawsuits or settle claims related to these indemnification provisions. The Company has also entered into indemnification agreements with its directors and officers that may require the Company to indemnify its directors and officers against liabilities that may arise by reason of their status or service as directors or officers to the fullest extent permitted by California corporate law. The Company currently has directors' and officers' insurance coverage that reduces its exposure and enables the Company to recover a portion of any future amounts paid. The Company believes the estimated fair value of these indemnification agreements in excess of applicable insurance coverage is minimal.

8. Convertible Preferred Stock and Stockholders' Deficit

Convertible preferred stock as of December 31, 2017 consisted of the following (in thousands, except share amounts):

Convertible Preferred Stock	Shares Authorized	Shares Issued and Outstanding	Net Carrying Value	Liquidation Preference
Series A	10,805,000	7,484,209	\$ 7,154	\$ 7,484
Total	10,805,000	7,484,209	\$ 7,154	\$ 7,484

ARCUTIS, INC.

Notes to Financial Statements

Convertible preferred stock as of December 31, 2018 consisted of the following (in thousands, except share amounts):

Convertible Preferred Stock	Shares Authorized	Shares Issued and Outstanding	Net Carrying Value	Liquidation Preference
Series A	13,800,000	13,800,000	\$ 14,340	\$ 13,800
Series B	18,736,270	18,736,267	57,912	58,000
Total	32,536,270	32,536,267	\$ 72,252	\$ 71,800

In April 2017, the Company entered into a Stock Purchase Agreement with investors, some of which were related parties, to issue 10,800,000 shares of Series A convertible preferred stock at \$1.00 per share in three tranches. The first tranche, consisting of 7,184,209 shares for net proceeds of \$7.1 million, was completed upon execution of the agreement. Additionally, the Company issued 300,000 shares of Series A convertible preferred stock as a result of the conversion of convertible promissory notes with an outstanding principal amount of \$154,000 and the settlement of the derivative liability of \$150,000 (see Note 5).

The Series A investors were also granted freestanding rights to participate in additional tranches to raise a minimum of \$3.3 million, upon election by the board of directors including at least one of the Series A directors, by purchasing 3,315,791 shares of Series A convertible preferred stock at \$1.00 per share in two tranches, provided such election occurs prior to April 2019. The two tranches consisted of 1,657,889 shares and 1,657,902 shares, respectively. The Company concluded that the investors' rights to purchase Series A convertible preferred shares met the definition of a freestanding financial instrument, as they were legally detachable and separately exercisable from the Series A convertible preferred stock, or the Series A Convertible Preferred Stock Liability. As the Series A Convertible Preferred Stock Liability was redeemable at the election of holders of the then-outstanding shares, it represented a liability to be accounted for at fair value and remeasured at each reporting period.

Changes in fair value are recognized as a gain or loss in other income (expense), net in the statement of operations. On the closing of the first tranche in April 2017, the Company recorded the initial fair value of the Series A Convertible Preferred Stock Liability of \$219,000 for the second and the third tranche participating rights by reducing the carrying value of Series A convertible preferred stock.

In March 2018, the Company completed the second tranche closing and issued 6,315,791 shares of Series A convertible preferred stock to the investors at \$1.00 per share for net proceeds of \$6.3 million. The Series A Convertible Preferred Stock Liability was remeasured to fair value just prior to settlement and the carrying value of the liability of \$891,000 was reclassified to Series A convertible preferred stock. Concurrently with the closing of the second tranche, the Company amended the Series A convertible preferred stock purchase agreement to merge the second and third tranches and increased the maximum number of shares to be issued in the second tranche to 6,315,791 shares. For the years ended December 31, 2017 and 2018, the Company recorded a net loss of \$747,000 and a gain of \$75,000, respectively, in the statements of operations for the change in fair value of the liability.

In September 2018, the Company issued 18,736,267 shares of Series B convertible preferred stock at \$3.0956 per share for total proceeds of \$57.9 million, some of which were to related parties.

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Notes to Financial Statements

Significant provisions of the Company's convertible preferred stock are as follows:

Conversion Rights

Each share of convertible preferred stock is convertible into shares of common stock determined by dividing the original issuance price by the conversion price. The conversion price is equal to the original issuance price, which is \$1.00 for Series A convertible preferred stock and \$3.0956 for Series B convertible preferred stock. All series of convertible preferred stock will convert into shares of common stock on a one-to-one basis. The conversion price will be adjusted for stock splits, distributions, dividends, noncash distributions, share purchase rights, and capital reorganizations. In addition, the conversion price for each series of convertible preferred stock will be reduced upon the issuance or sale by the Company of common shares or instruments convertible or exercisable into common shares, for consideration or with an exercise price that is less than the conversion price applicable to such series. Such reduction may result in recognition by the Company of a deemed dividend to convertible preferred stockholders, if the resulting conversion price is less than the fair value per share of common stock as of the date convertible preferred stock was issued.

Conversion can occur at any time at the option of each holder. In addition, all shares of convertible preferred stock will convert automatically upon (a) the closing of a Qualified Public Offering or (b) by vote or written consent of the holders of a majority of the then outstanding shares of Series A and B convertible preferred stock.

Liquidation Rights

In the event of any liquidation (including a change in control), dissolution, or winding up of the Company, either voluntary or involuntary, each stockholder of Series A and B convertible preferred stock will be entitled to receive, prior and in preference to any distribution of any assets or surplus funds to the holders of common stock, an amount per share equal to the applicable original issue price of \$1.00 and \$3.0956 per share for the Series A and B convertible preferred stock, respectively, in addition to all declared but unpaid dividends. If the full amount is not available for distribution the entire assets and funds legally available will be distributed ratably among the holders of Series B convertible preferred stock first, then if any amount is left preferential payments will be made to Series A convertible preferred stockholders. After the distributions described above have been paid in full, the remaining assets of the Company will be distributed among the common stockholders and convertible preferred stockholders pro rata based on the number of shares held by each holder on an as-converted to common stock on a one-to-one basis.

Voting Rights

Each share of Series A and B convertible preferred stock has the right to one vote for each share of common stock into which such convertible preferred stock could be converted and with respect to such vote, such holder will have full voting rights and powers equal to holders of common stock. With regard to the election of directors: (i) the holders of a majority of the Series B convertible preferred stock, voting as a separate class, are entitled to elect two directors; (ii) the holders of a majority of the Series A convertible preferred stock, voting as a separate class, are entitled to elect two directors; (iii) the holders of a majority of the common stock, voting as a

ARCUTIS, INC.**Notes to Financial Statements**

separate class, are entitled to elect two directors; and (iv) the holders of a majority of the shares of common stock and convertible preferred stock, exclusively and voting together as a single class, are entitled to elect the remaining directors. There is a total of seven members on the Company's Board of Directors.

Dividend Rights

Each stockholder of Series A and B convertible preferred stock is entitled to receive dividends when, as and if declared by the board of directors at the rate that is higher of (i) 6% of the original issue price per annum or (ii) pro rata dividend rate on an as-converted basis together with other convertible preferred stock and common stock. Dividends are noncumulative, and no cash dividends have been declared to date.

Redemption Rights

The Series A and B convertible preferred stocks are not currently redeemable. Upon certain change in control events that are outside of the Company's control, including liquidation, sale or transfer of control of the Company, the convertible preferred stock is contingently redeemable.

Common Stock

The holders of the Company's common stock have one vote for each share of common stock. Common stockholders are entitled to dividends when, as, and if declared by the Board of Directors, subject to the prior rights of the convertible preferred stockholders. The holders have no preemptive or other subscription rights and there are no redemption or sinking fund provisions with respect to such shares. As of December 31, 2018, no dividends had been declared by the Board of Directors.

The Company reserved the following shares of common stock for issuance as follows:

	December 31,	
	2017	2018
Convertible preferred stock outstanding	7,484,209	32,536,267
Options issued and outstanding	946,316	782,481
Options available for future grant	6,732,794	5,058,214
Total common stock reserved	<u>15,163,319</u>	<u>38,376,962</u>

9. Stock-Based Compensation

In April 2017, the Company adopted the 2017 Equity Incentive Plan, or the 2017 Plan. The 2017 Plan provides for the Company to sell or issue common stock or restricted common stock, or to grant incentive stock options or nonqualified stock options for the purchase of common stock, to employees, members of the board of directors and consultants of the Company under terms and provisions established by the board of directors. Under the terms of the 2017 Plan, options may be granted at an exercise price not less than fair market value. The Company generally grants stock-based awards with service conditions. Options granted typically vest over a four-year period but may be granted with different vesting terms.

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As of December 31, 2018, the Company had 5,058,214 shares available for future grant under the 2017 Plan.

Stock Option Activity

The following summarizes option activity under the 2017 Plan (in thousands, except share amounts):

	Number of Options	Weighted- Average Exercise Price	Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Balance—December 31, 2016	—	\$ —	—	\$ —
Granted	946,316	\$ 0.18		
Exercised	—			
Balance—December 31, 2017	946,316	\$ 0.18	9.40	\$ 360
Granted	1,674,580	\$ 0.32		
Exercised	(1,838,415)	\$ 0.21		
Balance—December 31, 2018	<u>782,481</u>	\$ 0.41	9.56	\$ 334
Exercisable—December 31, 2018	<u>477,481(1)</u>	\$ 0.29	9.46	\$ 263

(1) Options exercisable includes early exercisable options.

The aggregate intrinsic value is calculated as the difference between the exercise price of the options and the estimated fair value of the Company's common stock, as determined by the board of directors, as of December 31, 2018.

No options were exercised for the year ended December 31, 2017. The intrinsic value of options exercised for the year ended December 31, 2018 was \$678,000.

The total grant-date fair value of the options vested during 2017 and 2018 was \$25,000 and \$130,000, respectively. The weighted-average grant-date fair value of employee options granted during the years ended December 31, 2017 and 2018 was \$0.17 and \$0.46 per share, respectively.

Stock-Based Compensation Expense

Stock-based compensation expense recognized was as follows (in thousands):

	Year Ended December 31,	
	2017	2018
Research and development	\$ 8	\$ 44
General and administrative	19	107
Total stock-based compensation expense	<u>\$ 27</u>	<u>\$151</u>

As of December 31, 2018, there was \$759,000 of total unrecognized compensation cost related to unvested options that are expected to vest. The cost is expected to be recognized over a weighted-average period of 3.3 years.

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In determining the fair value of the stock options granted, the Company uses the Black-Scholes option-pricing model and assumptions discussed below. Each of these inputs is subjective and generally requires significant judgment.

Fair value of common stock—Given the absence of a public trading market, the Company's board of directors with input from management considered numerous objective and subjective factors to determine the fair value of common stock. The factors included, but were not limited to: (i) third-party valuations of the Company's common stock; (ii) the Company's stage of development; (iii) the status of research and development efforts; (iv) the rights, preferences and privileges of the Company's convertible preferred stock relative to those of the Company's common stock; (v) the Company's operating results and financial condition, including the Company's levels of available capital resources; and (vi) equity market conditions affecting comparable public companies; (vii) general U.S. market conditions; and (viii) the lack of marketability of the Company's common stock.

Expected Term—The Company's expected term represents the period that the Company's stock-based awards are expected to be outstanding. The Company used the simplified method (based on the mid-point between the vesting date and the end of the contractual term) to determine the expected term.

Expected Volatility—Since the Company is privately held and does not have any trading history for its common stock, the expected volatility was estimated based on the average historical volatilities for comparable publicly traded pharmaceutical companies over a period equal to the expected term of the stock option grants. The comparable companies were chosen based on their similar size, stage in the life cycle and area of specialty. The Company will continue to apply this process until a sufficient amount of historical information regarding the volatility of its own stock price becomes available.

Risk-Free Interest Rate—The risk-free interest rate is based on the U.S. Treasury zero coupon issues in effect at the time of grant for periods corresponding with the expected term of option.

Dividend Yield—The Company has never paid dividends on its common stock and has no plans to pay dividends on its common stock. Therefore, the Company used an expected dividend yield of zero.

The fair value of stock option awards granted was estimated at the date of grant using a Black-Scholes option-pricing model with the following assumptions:

	Year Ended December 31,	
	2017	2018
Expected term (in years)	6.0	5.9 – 6.1
Expected volatility	84.4 – 84.5%	68.2 – 72.4%
Risk-free interest rate	1.9%	2.7 – 2.9%
Dividend yield	—%	—%

Early Exercise of Employee Options

The terms of the 2017 Plan permit certain option holders to exercise options before their options are vested, subject to certain limitations. Upon early exercise, the awards become subject to a

ARCUTIS, INC.

Notes to Financial Statements

restricted stock agreement. The shares of restricted stock granted upon early exercise of the options are subject to the same vesting provisions in the original stock option awards. Shares issued as a result of early exercise that have not vested are subject to repurchase by the Company upon termination of the purchaser's employment, at the price paid by the purchaser. Such shares are not deemed to be issued for accounting purposes until they vest and are therefore excluded from shares outstanding and from basic and diluted net loss per share until the repurchase right lapses and the shares are no longer subject to the repurchase feature. The liability is reclassified into common stock and additional paid-in capital as the shares vest and the repurchase right lapses. Accordingly, the Company has recorded the unvested portion of the exercise proceeds of \$276,000 as a liability from the early exercise in the accompanying balance sheet. As of December 31, 2018, there were \$116,000 recorded in accrued liabilities and \$160,000 recorded in other long-term liabilities related to shares that were subject to repurchase.

Founder Awards

In August 2016, the Company issued 2,376,317 shares of restricted common stock to founders of which 2,206,579 shares vest under a service condition and 169,738 shares vest under a performance condition. The shares were issued under the terms of the respective restricted stock purchase agreements, or the Stock Purchase Agreement, and unvested shares are subject to repurchase by the Company at the original purchase price per share upon the holder's termination of his relationship with the Company. The restricted shares are not deemed to be issued for accounting purposes until they vest and are therefore excluded from shares outstanding and from basic and diluted net loss per share until the repurchase right lapses and the shares are no longer subject to the repurchase feature. One-fourth of the 2,206,579 shares of restricted common stock were vested on the first-anniversary date and the remaining 1,654,934 shares will vest on a monthly basis thereafter. In July 2018, performance conditions prescribed by the Stock Purchase Agreement were met and 169,738 shares of the restricted common stock were fully vested. During the years ended December 31, 2017 and 2018, 827,468 shares and 551,644 shares of restricted common stock were vested, respectively. As of December 31, 2018, 827,467 shares of restricted stock are unvested.

10. Income Taxes

No provision for income taxes was recorded for the years ended December 31, 2017 and December 31, 2018. The Company has incurred net operating losses only in the United States since its inception. The Company has not reflected any benefit of such net operating loss carryforwards in the financial statements.

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Notes to Financial Statements

Reconciliation of income tax computed at federal statutory rates to the reported provision for income taxes is as follows (in thousands):

	Year Ended December 31,	
	2017	2018
Tax provision at U.S. statutory rate	\$(1,692)	\$(4,043)
State income taxes, net of federal benefit	(224)	(1,224)
Tax credits	(68)	(265)
Change in valuation allowance	885	4,418
Uncertain tax positions	186	911
Permanent differences	124	219
Fair value adjustment	305	(16)
Change in federal statutory rate	484	—
Provision for income tax	<u>\$ —</u>	<u>\$ —</u>

Significant components of the Company's deferred income taxes at December 31, 2017 and 2018 are shown below (in thousands):

	December 31,	
	2017	2018
Deferred tax assets:		
Accruals and reserves	\$ 36	\$ 117
Net operating loss	739	3,606
Research and development credits and other credits	98	458
Intangibles	26	1,132
Stock-based compensation	1	6
Gross deferred tax assets	900	5,319
Less valuation allowance	(900)	(5,319)
Total deferred tax assets	<u>\$ —</u>	<u>\$ —</u>

On December 22, 2017, the U.S. government enacted comprehensive tax legislation, commonly known as the Tax Cuts and Jobs Act of 2017, or the Tax Act, which significantly reforms the Internal Revenue Code of 1986, as amended. The Tax Act contains broad and complex changes to corporate taxation, including in part, reduction of the U.S. federal corporate tax rate from 35% to 21%, requires companies to pay a one-time transition tax on earnings of certain foreign subsidiaries that were previously considered permanently reinvested, and creates new taxes on certain foreign sourced earnings. In December 2017, the SEC issued Staff Accounting Bulletin No. 118, or SAB 118, which provides guidance on accounting for the income tax effects of the Tax Act. SAB 118 provides a measurement period that should not extend beyond one year from the Tax Act enactment date for companies to complete the accounting relating to the Tax Act under Accounting Standards Codification Topic 740, *Income Taxes*, or ASC 740. In accordance with SAB 118, a company must reflect the income tax effects of those aspects of the Tax Act for which the accounting under ASC 740 is complete. The Company has completed its evaluation and there is no impact on its December 31, 2018 financial statements. As a result of the rate reduction, the Company has reduced the deferred tax asset balance as of December 31, 2017 by \$484,000. Due to the Company's full valuation allowance position, the Company has also reduced the valuation allowance by the same amount.

ARCUTIS, INC.**Notes to Financial Statements**

Realization of deferred tax assets is dependent upon future earnings, if any, the timing and amount of which are uncertain. Due to the lack of earnings history, the net deferred tax assets have been fully offset by a valuation allowance. The valuation allowance increased by approximately \$885,000 and \$4.4 million during the years ended December 31, 2017 and 2018, respectively.

The Company has net operating loss carryforwards for federal and state income tax purposes of approximately \$17.2 million and \$18.1 million, respectively, as of December 31, 2018. Of the federal net operating losses, \$3.5 million originated before the 2018 tax year and will expire beginning in 2036. Under the Tax Act, the remaining \$13.6 million of net operating losses generated after December 31, 2017 will be carried forward indefinitely with utilization limited to 80% of taxable income. The state net operating loss carryforwards, if not utilized, will expire beginning in 2036.

As of December 31, 2018, the Company also had federal and California research and development tax credit carryforwards of \$751,000 and \$261,000, respectively. The federal research and development tax credit carryforwards will begin to expire in 2037. The California research and development tax credit carryforwards are available indefinitely.

Federal and California tax laws impose significant restrictions on the utilization of net operating loss carryforwards in the event of a change in ownership of the Company, as defined by Internal Revenue Code Section 382 and 383. The Company has not completed a formal study to determine the limitations on their tax attributes due to change in ownership and may have limitations on the utilization of net operating loss carryforwards, credit carryforwards, or other tax attributes due to ownership changes.

Uncertain Tax Benefits

No liability related to uncertain tax positions is recorded on the financial statements related to uncertain tax positions. It is the Company's policy to include penalties and interest expense related to income taxes as a component of other income (expense), net, as necessary.

The following table summarizes the activity related to the unrecognized benefits (in thousands):

	Year Ended December 31,	
	2017	2018
Beginning balance	\$ —	\$ 441
Increases related to tax positions taken during a prior year	—	—
Increases related to tax positions taken during the current year	441	1,800
Ending balance	<u>\$441</u>	<u>\$2,241</u>

The reversal of the uncertain tax benefits would not affect the effective tax rate to the extent that the Company continues to maintain a full valuation allowance against its deferred tax assets. The Company does not anticipate any significant changes to unrecognized tax benefits over the next 12 months.

Income tax returns are filed in the U.S. and California. The Company is not currently under audit by the Internal Revenue Service or similar state or local authorities. The years 2016 and forward remain open to examination by the domestic taxing jurisdictions to which the Company is subject. Net operating losses generated on a tax return basis by the Company for 2016 and forward remain open to examination by the domestic taxing jurisdictions.

ARCUTIS, INC.
Notes to Financial Statements

11. Net Loss Per Share

The following outstanding potentially dilutive shares have been excluded from the calculation of diluted net loss per share for the periods presented due to their anti-dilutive effect:

	As of December 31,	
	2017	2018
Convertible preferred stock on an as-converted basis	7,484,209	32,536,267
Stock options to purchase common stock	946,316	782,481
Early exercised options subject to future vesting	—	1,288,784
Restricted stock subject to future vesting	1,548,849	827,467
Total	9,979,374	35,434,999

12. Unaudited Pro Forma Net Loss Per Share

The following table sets forth the computation of unaudited pro forma basic and diluted net loss per share during the year ended December 31, 2018 (in thousands, except share and per share data):

	Year Ended December 31, 2018 (unaudited)
Numerator	
Net loss	\$ (19,255)
Change in fair value of convertible preferred stock liability	(75)
Net loss used in computing pro forma net loss per share, basic and diluted	<u>\$ (19,330)</u>
Denominator	
Weighted-average shares of common stock used in computing net loss per share	2,480,246
Pro forma adjustment to reflect assumed conversion of convertible preferred stock	—
Weighted-average shares of common stock used in computing pro forma net loss per share, basic and diluted	<u>2,480,246</u>
Pro forma net loss per share, basic and diluted	<u>\$ (0.01)</u>

13. Subsequent Events

Subsequent events have been evaluated through September 9, 2019, which is the date that the financial statements were available to be issued.

Lease

In January 2019, the Company entered into a lease agreement for office space in Westlake Village, California, that expires in July 2021. The total future lease payments are \$465,000 for the 30 month term of the lease.

Hawkeye Collaboration Agreement

In June 2019, the Company entered into a collaboration agreement, or Hawkeye Agreement, with Hawkeye Therapeutics, Inc., or Hawkeye, a related party with common ownership, to collaborate on

ARCUTIS, INC.

Notes to Financial Statements

the research and development of one or more new applications of roflumilast. The Hawkeye Agreement grants Hawkeye an exclusive license to certain intellectual property developed under the agreement as it relates to the applications. Under the terms of the Hawkeye Agreement, the Company is required to perform certain research and development activities that are fully funded by Hawkeye.

Contemporaneously with the execution of the Hawkeye Agreement, the Company entered into a stock purchase agreement, purchasing 995,000 shares of Hawkeye's common stock at \$0.0001 per share, representing 19.9% of the outstanding common stock of Hawkeye. The shares are subject to a right to repurchase by Hawkeye. The right to repurchase lapses at a rate of one-sixth each month, vesting over the six-month term of the Hawkeye Agreement. In the event that Hawkeye issues shares of Series A preferred stock with proceeds over \$5.0 million, Hawkeye is required to issue to the Company a number of fully-paid fully-vested shares of common stock determined by dividing (i) \$2,000,000 by (ii) an amount equal to the cash price per share for Series A preferred stock.

AstraZeneca License Agreement

In July 2019, the Company achieved its first regulatory milestone of positive Phase 2 data for an AZ-Licensed Product under the AstraZeneca License Agreement resulting in a \$2.0 million cash milestone payment to AstraZeneca, which the Company paid in August 2019.

ARCUTIS BIOTHERAPEUTICS, INC.
Condensed Balance Sheets
(Unaudited)
(In thousands, except share and per share data)

	December 31, 2018 (Note 2)	September 30, 2019	Pro forma Stockholders' Equity as of September 30, 2019
ASSETS			
Current assets:			
Cash and cash equivalents	\$ 39,394	\$ 23,177	
Marketable securities	11,546	2,000	
Prepaid expenses and other current assets	158	2,594	
Total current assets	<u>51,098</u>	<u>27,771</u>	
Property, plant, and equipment	—	185	
Operating lease right-of-use asset	—	300	
Other assets	—	47	
Total assets	<u>\$ 51,098</u>	<u>\$ 28,303</u>	
LIABILITIES, CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' (DEFICIT) EQUITY			
Current liabilities:			
Accounts payable	\$ 1,801	\$ 3,159	
Accrued liabilities	872	5,267	
Operating lease liability	—	173	
Total current liabilities	<u>2,673</u>	<u>8,599</u>	
Operating lease liability, noncurrent	—	175	
Other long-term liabilities	160	227	
Total liabilities	<u>2,833</u>	<u>9,001</u>	
Commitments and contingencies (Note 7)			
Convertible preferred stock, \$0.0001 par value; 32,536,270 shares authorized at December 31, 2018 and September 30, 2019; 32,536,267 shares issued and outstanding at December 31, 2018 and September 30, 2019; actual, aggregate liquidation preference of \$71,800 at December 31, 2018 and September 30, 2019; no shares issued and outstanding as of September 30, 2019, pro forma			
	72,252	72,252	\$ —
Stockholders' (deficit) equity:			
Common stock, \$0.0001 par value; 44,000,000 shares authorized at December 31, 2018 and September 30, 2019; 5,233,154 and 5,735,065 shares issued at December 31, 2018 and September 30, 2019, respectively; 3,116,903 and 3,957,764 shares outstanding at December 31, 2018 and September 30, 2019, respectively; shares issued and outstanding as of September 30, 2019, pro forma			
	—	—	
Additional paid-in capital	289	754	
Accumulated other comprehensive income	—	—	
Accumulated deficit	(24,276)	(53,704)	
Total stockholders' (deficit) equity	<u>(23,987)</u>	<u>(52,950)</u>	<u>\$</u>
Total liabilities, convertible preferred stock and stockholders' deficit	<u>\$ 51,098</u>	<u>\$ 28,303</u>	

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

ARCUTIS BIOTHERAPEUTICS, INC.
Condensed Statements of Operations
(Unaudited)
(In thousands, except share and per share data)

	Nine Months Ended September 30,	
	2018	2019
Operating expenses:		
Research and development	\$ 12,593	\$ 25,765
General and administrative	1,189	4,373
Total operating expenses	<u>13,782</u>	<u>30,138</u>
Loss from operations	(13,782)	(30,138)
Other income, net	128	710
Net loss	<u>\$ (13,654)</u>	<u>\$ (29,428)</u>
Net loss per share, basic and diluted	<u>\$ (5.92)</u>	<u>\$ (8.30)</u>
Weighted-average shares used in computing net loss per share, basic and diluted	<u>2,305,932</u>	<u>3,547,292</u>
Pro forma net loss per share, basic and diluted		<u>\$</u>
Weighted-average shares used in computing pro forma net loss per share, basic and diluted		<u></u>

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

ARCUTIS BIOTHERAPEUTICS, INC.
Condensed Statements of Comprehensive Loss
(Unaudited)
(In thousands)

	Nine Months Ended September 30,	
	2018	2019
Net loss	\$(13,654)	\$(29,428)
Other comprehensive income:		
Unrealized gain on marketable securities, net of tax	—	—
Comprehensive loss	<u>\$(13,654)</u>	<u>\$(29,428)</u>

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

ARCUTIS BIOTHERAPEUTICS, INC.
**Condensed Statements of Convertible Preferred Stock and Stockholders' Deficit
(Unaudited)
(In thousands, except share data)**

	Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount				
Balance—December 31, 2017	7,484,209	\$ 7,154	1,845,890	\$ —	\$ 28	\$ —	\$ (5,021)	\$ (4,993)
Issuance of Series A convertible preferred stock, net of issuance costs of \$21 and value of convertible preferred stock liability of \$891	6,315,791	7,186	—	—	—	—	—	—
Issuance of Series B convertible preferred stock, net of issuance costs of \$88	17,767,150	54,912	—	—	—	—	—	—
Issuance of common stock upon the exercise of stock options	969,117	3,000	228,529	—	43	—	—	43
Vesting of founder shares subject to repurchase	—	—	583,471	—	—	—	—	—
Lapse of repurchase rights related to common stock issued pursuant to early exercises	—	—	189,322	—	38	—	—	38
Stock-based compensation	—	—	—	—	95	—	—	95
Net loss	—	—	—	—	—	—	(13,654)	(13,654)
Balance—September 30, 2018	<u>32,536,267</u>	<u>\$72,252</u>	<u>2,847,212</u>	<u>\$ —</u>	<u>\$ 204</u>	<u>\$ —</u>	<u>\$ (18,675)</u>	<u>\$ (18,471)</u>

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

ARCUTIS BIOTHERAPEUTICS, INC.

Condensed Statements of Convertible Preferred Stock and Stockholders' Deficit
(Unaudited)
(In thousands, except share data)

	Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount				
Balance—December 31, 2018	32,536,267	\$72,252	3,116,903	\$ —	\$ 289	\$ —	\$ (24,276)	\$ (23,987)
Issuance of common stock upon the exercise of stock options	—	—	31,782	—	9	—	—	9
Vesting of founder shares subject to repurchase	—	—	413,734	—	—	—	—	—
Lapse of repurchase rights related to common stock issued pursuant to early exercises	—	—	395,345	—	87	—	—	87
Stock-based compensation	—	—	—	—	369	—	—	369
Other comprehensive income	—	—	—	—	—	—	—	—
Net loss	—	—	—	—	—	—	(29,428)	(29,428)
Balance—September 30, 2019	<u>32,536,267</u>	<u>\$72,252</u>	<u>3,957,764</u>	<u>\$ —</u>	<u>\$ 754</u>	<u>\$ —</u>	<u>\$ (53,704)</u>	<u>\$ (52,950)</u>

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

ARCUTIS BIOTHERAPEUTICS, INC.
Condensed Statements of Cash Flows
(Unaudited)
(In thousands)

	Nine Months Ended September 30,	
	2018	2019
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$(13,654)	\$(29,428)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	—	44
Non-cash operating lease expense	—	91
Accretion of discounts and amortization of premiums on marketable securities	—	(357)
Issuance of convertible preferred shares in connection with license agreement	3,000	—
Stock-based compensation	95	369
Change in fair value of convertible preferred stock liability	(75)	—
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	(39)	(1,408)
Other assets	—	(47)
Accounts payable	2,146	889
Accrued liabilities	280	3,851
Operating lease liabilities	—	(43)
Net cash used in operating activities	<u>(8,247)</u>	<u>(26,039)</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of marketable securities	—	(22,897)
Proceeds from maturities of marketable securities	—	32,800
Purchases of property and equipment	—	(229)
Net cash used in investing activities	<u>—</u>	<u>9,674</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from issuance of common stock upon exercise of stock options	386	256
Proceeds from issuance of convertible preferred stock, net of issuance costs	61,207	—
Payment of financing costs	—	(108)
Net cash provided by financing activities	<u>61,593</u>	<u>148</u>
Net increase (decrease) in cash and cash equivalents	53,346	(16,217)
Cash and cash equivalents at beginning of period	3,418	39,394
Cash and cash equivalents at end of period	<u>\$ 56,764</u>	<u>\$ 23,177</u>
SUPPLEMENTAL DISCLOSURES OF NON-CASH INVESTING AND FINANCING INFORMATION:		
Reclassification of convertible preferred stock liability to Series A convertible preferred stock	\$ 891	\$ —
Deferred financing costs included in accounts payable and accrued liabilities	\$ —	\$ 920
Right-of-use asset obtained in exchange for lease liability	\$ —	\$ 391

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

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
(unaudited)

1. Organization and Description of Business

Arcutis Biotherapeutics, Inc., or the Company, is a late-stage biopharmaceutical company focused on developing and commercializing treatments for dermatological diseases with high unmet medical needs. In October 2019, the Company changed its name from Arcutis, Inc. to Arcutis Biotherapeutics, Inc. The Company's current portfolio is comprised of topical treatments with significant promise in addressing immune-mediated dermatological diseases and conditions, or immuno-dermatology. The Company's strategy is to advance treatments that leverage validated biological targets in dermatology while delivering a clinical profile that addresses major shortcomings of existing therapies in its targeted indications. The Company believes this strategy uniquely positions it to rapidly advance its goal of bridging the treatment innovation gap in dermatology, all while maximizing its probability of technical success.

Liquidity Risks

The Company has incurred significant losses and negative cash flows from operations since its inception and had an accumulated deficit of \$53.7 million as of September 30, 2019. The Company had cash and cash equivalents and marketable securities of \$25.2 million as of September 30, 2019. Additionally, in October 2019, the Company received \$94.5 million in gross cash proceeds from the sale of its Series C convertible preferred stock. See Note 12. The Company has historically financed its operations primarily through the sale of its convertible preferred stock. Management expects operating losses to continue for the foreseeable future.

The Company believes that its existing capital resources, including the cash proceeds received from the issuance of Series C convertible preferred stock, will be sufficient to meet the projected operating requirements for at least 12 months from the date of issuance of its financial statements. The Company will be required to raise additional capital to fund future operations. However, no assurance can be given as to whether additional needed financing will be available on terms acceptable to the Company, if at all. If sufficient funds on acceptable terms are not available when needed, the Company may be required to curtail planned activities to significantly reduce its operating expenses. Failure to manage discretionary spending or raise additional financing, as needed, may adversely impact the Company's ability to achieve its intended business objectives and have an adverse effect on its results of operations and future prospects.

2. Summary of Significant Accounting Policies

Basis of Presentation

The Company's financial statements have been prepared in accordance with United States generally accepted accounting principles, or U.S. GAAP.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. On an ongoing basis, management evaluates such estimates and assumptions for continued reasonableness. In particular, management makes estimates with respect to accruals for research and development activities, fair value of common stock and convertible preferred stock, fair value of convertible preferred stock liability, stock-based compensation expense and income taxes.

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
(unaudited)

Appropriate adjustments, if any, to the estimates used are made prospectively based upon such periodic evaluation. Actual results could differ from those estimates.

Unaudited Interim Condensed Financial Statements

The interim condensed balance sheet as of September 30, 2019, and the interim condensed statements of operations, comprehensive loss, changes in convertible preferred stock and stockholders' deficit and cash flows for the nine months ended September 30, 2018 and 2019 are unaudited. These unaudited interim condensed financial statements have been prepared on the same basis as the Company's annual financial statements and, in the opinion of management, reflect all adjustments (consisting only of normal recurring adjustments) that are necessary for a fair statement of the Company's financial information. The financial data and the other financial information disclosed in these notes to the condensed financial statements related to the nine-month periods are also unaudited. The condensed results of operations for the nine months ended September 30, 2019 are not necessarily indicative of the results to be expected for the year ending December 31, 2019 or for any other future annual or interim period. The condensed balance sheet as of December 31, 2018 included herein was derived from the audited financial statements as of that date. Certain information and footnote disclosures normally included in annual financial statements prepared in accordance with U.S. GAAP have been condensed or omitted. Therefore, these interim condensed financial statements should be read in conjunction with the Company's audited financial statements included elsewhere in this prospectus.

Unaudited Pro Forma Information

In contemplation of the Company's planned initial public offering, or IPO, the unaudited pro forma stockholders' equity in the condensed balance sheets reflects shares of the Company's common stock outstanding as of September 30, 2019 and assumes the conversion of all outstanding shares of convertible preferred stock into common stock upon either (i) the closing of a firm-commitment underwritten public offering at a per share price of at least \$4.6434, resulting in at least \$50.0 million in net proceeds, or Qualified Public Offering, or (ii) by vote or written consent of the holders of a majority of the then outstanding shares of Series A and B convertible preferred stock. The shares of common stock issuable and the proceeds expected to be received in the IPO are excluded from such pro forma information.

Marketable Securities

Marketable securities consist of investment grade short to intermediate-term fixed income investments that have been classified as available-for-sale and are carried at estimated fair value as determined based upon quoted market prices or pricing models for similar securities. Management determines the appropriate classification of its investments in fixed income securities at the time of purchase. Available-for-sale securities with original maturities beyond three months at the date of purchase are classified as current based on their availability for use in current operations.

Unrealized gains and losses are excluded from earnings and are reported as a component of comprehensive loss. The Company periodically evaluates whether declines in fair values of its marketable securities below their book value are other-than-temporary. This evaluation consists of several qualitative and quantitative factors regarding the severity and duration of the unrealized loss as well as the Company's ability and intent to hold the marketable security until a forecasted recovery occurs. Additionally, the Company assesses whether it has plans to sell the security or it is more likely than not it will be required to sell any marketable securities before recovery of its amortized cost basis.

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
(unaudited)

Realized gains and losses and declines in fair value judged to be other than temporary, if any, on marketable securities are included in other income (expense), net. To date no such other than temporary declines in fair value have occurred or have been recorded. The cost of investments sold is based on the specific-identification method. There were no realized gains or losses on investments for the nine months ended September 30, 2018 and 2019. Interest on marketable securities is included in other income, net.

Concentration of Credit Risk and Other Risks and Uncertainties

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist primarily of cash and cash equivalents. The Company maintains deposits in federally insured financial institutions in excess of federally insured limits. The Company is exposed to credit risk in the event of a default by the financial institutions holding its cash to the extent recorded on the balance sheets.

Management believes the Company is not exposed to significant credit risk due to the financial position of the depository institutions in which those deposits are held.

Fair Value Measurement

The Company's financial instruments, in addition to those presented in Note 3 *Fair Value Measurements*, include cash equivalents, accounts payable and accrued liabilities. The carrying amount of cash equivalents, accounts payable and accrued liabilities approximate their fair values due to their short maturities.

Assets and liabilities recorded at fair value on a recurring basis in the balance sheets are categorized based upon the level of judgment associated with the inputs used to measure their fair values. Fair value is defined as the exchange price that would be received for an asset or an exit price that would be paid to transfer a liability in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. The authoritative guidance on fair value measurements establishes a three-tier fair value hierarchy for disclosure of fair value measurements as follows:

Level 1—Observable inputs such as unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date;

Level 2—Inputs (other than quoted prices included in Level 1) are either directly or indirectly observable for the asset or liability. These include quoted prices for similar assets or liabilities in active markets and quoted prices for identical or similar assets or liabilities in markets that are not active;

Level 3— Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Leases

The Company leases a facility with a non-cancelable lease term of 30 months. The term of the lease includes a renewal option at the election of the Company to extend the lease for an additional term. The renewal option has not been considered in the determination of the right-of-use, or ROU, asset or lease liability as the Company did not consider it reasonably certain it would exercise this option.

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
(unaudited)

The Company determines if an arrangement is or contains a lease at inception. ROU assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. The classification of the Company's leases as operating or finance leases along with the initial measurement and recognition of the associated ROU assets and lease liabilities is performed at the lease commencement date. The measurement of lease liabilities is based on the present value of future lease payments over the lease term. The Company's uses its incremental borrowing rate, based on the information available at commencement date, to determine the present value of lease payments when its leases do not provide an implicit rate. The Company uses the implicit rate when readily determinable. The ROU asset is based on the measurement of the lease liability, includes any lease payments made prior to or on lease commencement and excludes lease incentives and initial direct costs incurred, as applicable. Lease expense for the Company's operating leases is recognized on a straight-line basis over the lease term. The Company considers a lease term to be the noncancelable period that it has the right to use the underlying asset, including any periods where it is reasonably assured the Company will exercise the option to extend the contract. Periods covered by an option to extend are included in the lease term if the lessor controls the exercise of that option.

The Company's lease agreement includes lease and non-lease components and the Company has elected to not separate such components. Further, the Company elected the short-term lease exception policy, permitting it to not apply the recognition requirements of this standard to leases with terms of 12 months or less (short-term leases) for all classes of assets.

Preclinical and Clinical Accruals and Costs

The Company records accrued liabilities for estimated costs of research and development activities conducted by third-party service providers, which include the conduct of preclinical studies, clinical studies, clinical trials and contract manufacturing activities. These costs are a significant component of the Company's research and development expenses. The Company accrues for these costs based on factors such as estimates of the work completed and in accordance with agreements established with its third-party service providers under the service agreements. The Company makes significant judgments and estimates in determining the accrued liabilities balance in each reporting period. As actual costs become known, the Company adjusts its accrued liabilities. The Company has not experienced any material differences between accrued costs as of December 31, 2018 and September 30, 2019 and actual costs incurred.

Convertible Preferred Stock

The Company classifies convertible preferred stock outside of stockholders' deficit on its balance sheets as the requirements of triggering a deemed liquidation event, as defined within its amended and restated certificate of incorporation, are not entirely within the Company's control. In the event of such a deemed liquidation event, the proceeds from the event are distributed in accordance with the liquidation preferences (see Note 8), provided that the holders of convertible preferred stock have not converted their shares into common stock. The Company records the issuance of convertible preferred stock at the issuance price less related issuance costs. The Company has not adjusted the carrying values of the convertible preferred stock to the liquidation preferences of such shares because of the uncertainty as to whether or when a deemed liquidation event may occur.

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
(unaudited)

Convertible Preferred Stock Liability

The freestanding rights of Series A convertible preferred stockholders to purchase additional shares of the Company's Series A convertible preferred stock in a subsequent closing, contingent upon approval by the board of directors, at a fixed price per share, are accounted for as a liability at fair value as the shares underlying the right contain contingent redemption features outside the control of the Company. The liability was subject to re-measurement at each balance sheet date until settlement, with changes in fair value recognized as a component of other income, net in the statement of operations and comprehensive loss. In March 2018, the convertible preferred stock liability was settled upon the issuance of the second tranche of Series A convertible preferred stock and the fair value of the liability was reclassified to the Series A convertible preferred stock.

Variable Interest Entities

The Company reviews agreements it enters into with third-party entities, pursuant to which the Company may have a variable interest in the entity, in order to determine if the entity is a variable interest entity, or VIE. If the entity is a VIE, the Company assesses whether or not it is the primary beneficiary of that entity. In determining whether the Company is the primary beneficiary of an entity, the Company applies a qualitative approach that determines whether it has both (i) the power to direct the economically significant activities of the entity and (ii) the obligation to absorb losses of, or the right to receive benefits from, the entity that could potentially be significant to that entity. If the Company determines it is the primary beneficiary of a VIE, it consolidates that VIE into the Company's financial statements. The Company's determination about whether it should consolidate such VIEs is made continuously as changes to existing relationships or future transactions may result in a consolidation or deconsolidation event.

Net Loss Per Share

Basic net loss per share is calculated by dividing the net loss by the weighted-average number of shares of common stock outstanding for the period, without consideration for potential dilutive shares of common stock. Diluted net loss per share is computed by dividing the net loss by the weighted-average number of common share equivalents outstanding for the period determined using the treasury-stock method. Since the Company was in a loss position for all periods presented, basic net loss per share is the same as diluted net loss per share since the effects of potentially dilutive securities are antidilutive. Shares of common stock subject to repurchase are excluded from the weighted-average shares.

Unaudited Pro Forma Net Loss Per Share

The unaudited pro forma information has been provided to the conversion of all outstanding convertible preferred stock into shares of common stock. The unaudited pro forma net loss per share does not include the shares expected to be sold and related proceeds to be received from the IPO of the Company's common stock. The unaudited pro forma net loss per share for the year ended September 30, 2019 was computed using the weighted-average number of shares of common stock outstanding, including the pro forma effect of the conversion of all outstanding shares of convertible preferred stock into shares of common stock, as if such conversion had occurred at the beginning of the period, or their issuance dates if later.

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
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Recently Adopted Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board, or FASB, issued ASU 2016-02, *Leases* (Topic 842), which establishes a comprehensive new lease accounting model. The new standard: (a) clarifies the definition of a lease; (b) requires a dual approach to lease classification similar to current lease classifications; and (c) causes lessees to recognize leases on the balance sheet as a lease liability with a corresponding right-of-use asset for leases with a lease-term of more than 12 months. The new standard is effective for fiscal years beginning after December 15, 2019 and interim periods within fiscal years beginning after December 15, 2020, with early adoption permitted. A modified retrospective transition approach is required for leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. In July 2018, the FASB issued ASU No. 2018-11, *Leases (Topic 842): Targeted Improvements*, an update which provides another transition method, the prospective transition method, which allows entities to initially apply the new lease standard at the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. The Company early adopted the standard on January 1, 2019. The adoption of the standard did not have a material impact on the Company's condensed financial statements as the Company did not have any outstanding leases as of the adoption date. Refer to Note 7 for more information and disclosures related to this amended guidance.

Emerging Growth Company Status

The Company is an emerging growth company, as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. The Company has elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that it is (i) no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, these financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates.

3. Fair Value Measurements

The following table sets forth the Company's financial instruments that were measured at fair value on a recurring basis by level within the fair value hierarchy (in thousands):

	December 31, 2018			Total
	Level 1	Level 2	Level 3	
Assets:				
Money market funds(1)	\$20,509	\$ —	\$ —	\$20,509
Commercial paper	—	15,431	—	15,431
Government securities	15,000	—	—	15,000
Total assets	<u>\$35,509</u>	<u>\$15,431</u>	<u>\$ —</u>	<u>\$50,940</u>

ARCUTIS BIOTHERAPEUTICS, INC.
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	September 30, 2019			Total
	Level 1	Level 2	Level 3	
Assets:				
Money market funds(1)	\$20,177	\$ —	\$ —	\$20,177
Government securities	5,000	—	—	5,000
Total assets	<u>\$25,177</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$25,177</u>

(1) This balance includes cash requirements settled on a nightly basis.

The Company measures the fair value of money market funds based on quoted prices in active markets for identical securities. Commercial paper and government securities are valued taking into consideration valuations obtained from third-party pricing services. The pricing services utilize industry standard valuation models, including both income and market-based approaches, for which all significant inputs are observable, either directly or indirectly, to estimate fair value. These inputs include reported trades of and broker/dealer quotes on the same or similar securities, issuer credit spreads; benchmark securities; prepayment/default projections based on historical data; and other observable inputs. There were no transfers between Levels 1, 2 or 3 for any of the periods presented.

The following tables summarize the estimated value of the Company's cash, cash equivalents and marketable securities and the gross unrealized holding gains and losses (in thousands):

	December 31, 2018			Estimated fair value
	Amortized cost	Unrealized gains	Unrealized losses	
Cash and cash equivalents:				
Commercial paper	\$ 3,885	—	—	\$ 3,885
Money market funds(1)	20,509	—	—	20,509
Government securities	15,000	—	—	15,000
Total cash and cash equivalents	<u>39,394</u>	<u>—</u>	<u>—</u>	<u>39,394</u>
Marketable securities:				
Commercial paper	11,546	—	—	11,546
Total marketable securities	<u>\$ 11,546</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 11,546</u>

(1) This balance includes cash requirements settled on a nightly basis.

ARCUTIS BIOTHERAPEUTICS, INC.
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	September 30, 2019			
	Amortized cost	Unrealized gains	Unrealized losses	Estimated fair value
Cash and cash equivalents:				
Money market funds(1)	\$ 20,177	—	—	\$ 20,177
Government securities	3,000	—	—	3,000
Total cash and cash equivalents	23,177	—	—	23,177
Marketable securities:				
Government securities	2,000	—	—	2,000
Total marketable securities	<u>\$ 25,177</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 25,177</u>

(1) This balance includes cash requirements settled on a nightly basis.

The following table summarizes the change in the fair value of the convertible preferred stock liability for the nine months ended September 30, 2018 (in thousands):

	September 30, 2018
Beginning balance	\$ 966
Gain from changes in fair value	(75)
Recognition of fair value upon issuance of convertible preferred stock	(891)
Ending balance	<u>\$ —</u>

The fair value of the Company's convertible preferred stock liability is based on significant inputs not observed in the market, and thus represents a Level 3 measurement. The Company estimated the fair value of this liability using the Black-Scholes option pricing model with an expected term of 4.1 years, volatility of 65.4% and risk-free interest rate of 2.53% during the nine months ended September 30, 2018.

4. Balance Sheet Components

Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consist of the following (in thousands):

	December 31, 2018	September 30, 2019
Prepaid clinical trial costs	\$ 40	\$ 1,278
Deferred financing costs	—	1,028
Other prepaid expenses and current assets	118	288
Total prepaid expenses and other current assets	<u>\$ 158</u>	<u>\$ 2,594</u>

ARCUTIS BIOTHERAPEUTICS, INC.
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Accrued Liabilities

Accrued liabilities consist of the following (in thousands):

	December 31, 2018	September 30, 2019
Clinical trial accruals	\$ 250	\$ 3,384
Accrued compensation	455	1,093
Early exercise liability, current	116	209
Accrued expenses and other current liabilities	51	581
Total accrued liabilities	<u>\$ 872</u>	<u>\$ 5,267</u>

5. License Agreements**AstraZeneca License Agreement**

In July 2018, the Company entered into an exclusive license agreement, or the AstraZeneca License Agreement, with AstraZeneca AB, or AstraZeneca, granting the Company a worldwide exclusive license, with the right to sublicense through multiple tiers, under certain AstraZeneca-controlled patent rights, know-how and regulatory documentation, to research, develop, manufacture, and commercialize and otherwise exploit products containing roflumilast in topical forms, as well as delivery systems sold with or for the administration of roflumilast, or collectively, AZ-Licensed Products, for all diagnostic, prophylactic and therapeutic uses for human dermatological indications, or the Dermatology Field. Under the AstraZeneca License Agreement, the Company has sole responsibility for development, regulatory, and commercialization activities for the AZ-Licensed Products in the Dermatology Field, at its expense, and it shall use commercially reasonable efforts to develop, obtain and maintain regulatory approvals for, and commercialize the AZ-Licensed Products in the Dermatology Field in each of the United States, Italy, Spain, Germany, the United Kingdom, France, China, and Japan.

The Company paid AstraZeneca an upfront non-refundable cash payment of \$1.0 million and issued 969,117 shares of Series B Preferred stock, valued at \$3.0 million on the date of the AstraZeneca License Agreement. The Company subsequently paid AstraZeneca the first milestone cash payment of \$2.0 million upon the completion of a Phase 2b study of ARQ-151 in plaque psoriasis in August 2019 for the achievement of positive Phase 2 data for an AZ-Licensed Product, which was recorded in research and development expense. The Company has agreed to make additional cash payments to AstraZeneca of up to an aggregate of \$12.5 million upon the achievement of specific clinical development and regulatory approval milestones with respect to the AZ-Licensed Products and payments up to an additional aggregate amount of \$15.0 million upon the achievement of certain aggregate worldwide net sales milestones. With respect to any AZ-Licensed Products the Company commercializes under the agreement, it will pay AstraZeneca a low to high single-digit percentage royalty rate on the Company's, its affiliates' and sublicensees' net sales of such AZ-Licensed Products, subject to specified reductions, until, as determined on an AZ-Licensed Product-by-AZ-Licensed Product and country-by-country basis, the later of the date of the expiration of the last-to-expire AstraZeneca-licensed patent right containing a valid claim in such country and ten years from the first commercial sale of such AZ-Licensed Product in such country.

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Hengrui Exclusive Option and License Agreement

In January 2018, the Company entered into an exclusive option and license agreement, or the Hengrui License Agreement, with Jiangsu Hengrui Medicine Co., Ltd., or Hengrui, whereby Hengrui granted the Company an exclusive option to obtain certain exclusive rights to research, develop and commercialize products containing the compound designated by Hengrui as SHR0302, a JAK inhibitor, in topical formulations for the treatment of skin diseases, disorders, and conditions in the United States, Japan, and the European Union (including for clarity the United Kingdom). The Company made a \$0.4 million upfront non-refundable cash payment to Hengrui upon execution of the Hengrui License Agreement which was recorded as research and development expense. The Company exercised its exclusive option in December 2019, for which it paid \$1.5 million cash, and also contemporaneously amended the agreement to expand the territory to additionally include Canada. See Note 12. In addition, the Company has agreed to make cash payments of up to an aggregate of \$20.5 million upon achievement of specified clinical development and regulatory approval milestones with respect to the licensed products and cash payments of up to an additional aggregate of \$200.0 million in sales-based milestones based on achieving certain aggregate annual net sales volumes with respect to a licensed product. With respect to any products the Company commercializes under the Hengrui License Agreement, it will pay tiered royalties to Hengrui on net sales of each licensed product by the Company, or its affiliates, or its sublicensees, ranging from mid single-digit to sub-teen percentage rates based on tiered annual net sales bands subject to specified reductions. The Company is obligated to pay royalties until the later of (1) expiration of the last valid claim of the licensed patent rights covering such licensed product in such country and (2) expiration of regulatory exclusivity for the relevant licensed product in the relevant country, on a licensed product-by-licensed product and country-by-country basis. Additionally, the Company is obligated to pay Hengrui a specified percentage, ranging from the low-thirties to the sub-teens, of certain non-royalty sublicensing income it receives from sublicensees of its rights to the licensed products, such percentage decreasing as the development stage of the licensed products advance.

6. Related Party Transactions

Hawkeye Collaboration Agreement

In June 2019, the Company entered into a collaboration agreement, or the Hawkeye Agreement, with Hawkeye Therapeutics, Inc., or Hawkeye, a related party with common ownership, to collaborate on the research and development of one or more new applications of roflumilast. The Hawkeye Agreement grants Hawkeye an exclusive license to certain intellectual property developed under the agreement as it relates to the applications. Under the terms of the Hawkeye Agreement, the Company is required to perform certain research and development activities that are fully funded by Hawkeye.

Contemporaneously with the execution of the Hawkeye Agreement, the Company entered into a stock purchase agreement, purchasing 995,000 shares of Hawkeye's common stock at \$0.0001 per share, representing 19.9% of the outstanding common stock of Hawkeye. The shares are subject to a right to repurchase by Hawkeye. The right to repurchase lapses at a rate of one-sixth each month, vesting over the six-month term of the Hawkeye Agreement. In the event that Hawkeye issues shares of Series A preferred stock with proceeds over \$5.0 million, Hawkeye is required to issue to the Company a number of fully-paid fully-vested shares of common stock determined by dividing (i) \$2.0 million by (ii) an amount equal to the cash price per share for Series A preferred stock. Other than the potential issuance of this common stock, there are no upfront payments, milestones or royalties pursuant to the Hawkeye Agreement. The Company determined that Hawkeye is a variable interest entity for which consolidation is not required as it is not the primary beneficiary.

ARCUTIS BIOTHERAPEUTICS, INC.
Notes to Condensed Financial Statements
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7. Commitments and Contingencies**Operating Lease**

The Company leases one facility in Westlake Village, California under an operating lease that commenced in February 2019 and has a non-cancelable lease term of 30 months, subject to fixed escalation increases. The lease contains an option to extend for an additional term, however, the Company is not reasonably certain to exercise the option for the lease.

The minimum annual rental payments of the Company's operating lease liability as of September 30, 2019 are as follows (in thousands):

	<u>Amounts</u>
2019 (remaining three months)	\$ 47
2020	192
2021	<u>132</u>
Total minimum lease payments	371
Less: Amounts representing interest	<u>23</u>
Present value of future minimum lease payments	<u>\$ 348</u>
Current portion operating lease liability	173
Operating lease liability, noncurrent	<u>175</u>
Total operating lease liability	<u>\$ 348</u>

Straight-line rent expense recognized for operating leases was \$109,000 for the nine months ended September 30, 2019. There were no variable lease payments, including non-lease components such as common area maintenance fees, recognized as rent expense for operating leases for the period of nine months ended September 30, 2019.

The following information represents supplemental disclosure for the condensed statement of cash flows related to the Company's operating lease (in thousands):

	<u>September 30, 2019</u>
Cash flows from operating activities	
Cash paid for amounts included in the measurement of lease liabilities	\$ 94

The following summarizes additional information related to the operating lease:

	<u>September 30, 2019</u>
Weighted-average remaining lease term (in years)	1.9
Weighted-average discount rate	7.0%

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8. Convertible Preferred Stock

Convertible preferred stock as of December 31, 2018 and September 30, 2019 consisted of the following (in thousands, except share amounts):

Convertible Preferred Stock	Shares Authorized	Shares Issued and Outstanding	Net Carrying Value	Liquidation Preference
Series A	13,800,000	13,800,000	\$ 14,340	\$ 13,800
Series B	18,736,270	18,736,267	57,912	58,000
Total	<u>32,536,270</u>	<u>32,536,267</u>	<u>\$ 72,252</u>	<u>\$ 71,800</u>

In October 2019, the Company sold an aggregate of 16,251,628 shares of its Series C convertible preferred stock at a purchase price of \$5.8148 per share for an aggregate gross purchase price of approximately \$94.5 million. See Note 12.

9. Stock-Based Compensation

In April 2017, the Company adopted the 2017 Equity Incentive Plan, or the 2017 Plan. The 2017 Plan provides for the Company to sell or issue common stock or restricted common stock, or to grant incentive stock options or nonqualified stock options for the purchase of common stock, to employees, members of the board of directors and consultants of the Company under terms and provisions established by the board of directors. Under the terms of the 2017 Plan, options may be granted at an exercise price not less than fair market value. The Company generally grants stock-based awards with service conditions. Options granted typically vest over a four-year period but may be granted with different vesting terms.

As of September 30, 2019, the Company had 2,191,014 shares available for future grant under the 2017 Plan. In October 2019, in connection with the issuance of the Series C convertible preferred stock, the Company effected an increase to the shares available for future grant under the 2017 Plan of 2,823,831 additional shares. See Note 12.

Stock Option Activity

The following summarizes option activity under the 2017 Plan (in thousands, except share amounts):

	Number of Options	Weighted-Average Exercise Price	Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Balance—December 31, 2018	782,481	\$ 0.41	9.56	\$ 334
Granted	2,930,950	\$ 0.84		
Exercised	(501,911)	\$ 0.51		
Fortified	(63,750)	\$ 0.29		
Balance—September 30, 2019	<u>3,147,770</u>	\$ 0.80	9.35	\$ 133
Exercisable—September 30, 2019	<u>1,981,626</u> (1)	\$ 0.80	9.31	\$ 83

(1) Options exercisable includes early exercisable options.

ARCUTIS BIOTHERAPEUTICS, INC.
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The aggregate intrinsic value is calculated as the difference between the exercise price of the options and the estimated fair value of the Company's common stock, as determined by the board of directors, as of September 30, 2019.

The intrinsic value of options exercised for the nine months ended September 30, 2019 was \$166,000.

For the nine months ended September 30, 2018 and 2019, the total grant-date fair value of the options vested was \$81,000 and \$203,000, respectively, and the estimated weighted-average grant-date fair value of employee options granted was \$0.45 and \$0.54 per share, respectively.

Stock-Based Compensation Expense

Stock-based compensation expense recognized was as follows (in thousands):

	Nine Months Ended September 30,	
	2018	2019
Research and development	\$ 25	\$ 146
General and administrative	70	223
Total stock-based compensation expense	<u>\$ 95</u>	<u>\$ 369</u>

As of September 30, 2019, there was \$1.9 million of total unrecognized compensation cost related to unvested options that are expected to vest. The cost is expected to be recognized over a weighted-average period of 3.5 years.

In determining the fair value of the stock options granted, the Company uses the Black-Scholes option-pricing model and assumptions discussed below. Each of these inputs is subjective and generally requires significant judgment.

Fair value of common stock—Given the absence of a public trading market, the Company's board of directors with input from management considered numerous objective and subjective factors to determine the fair value of common stock. The factors included, but were not limited to: (i) third-party valuations of the Company's common stock; (ii) the Company's stage of development; (iii) the status of research and development efforts; (iv) the rights, preferences and privileges of the Company's convertible preferred stock relative to those of the Company's common stock; (v) the Company's operating results and financial condition, including the Company's levels of available capital resources; (vi) equity market conditions affecting comparable public companies; (vii) general U.S. market conditions; and (viii) the lack of marketability of the Company's common stock.

Expected Term—The Company's expected term represents the period that the Company's stock-based awards are expected to be outstanding. The Company used the simplified method (based on the mid-point between the vesting date and the end of the contractual term) to determine the expected term.

Expected Volatility—Since the Company is privately held and does not have any trading history for its common stock, the expected volatility was estimated based on the average historical

ARCUTIS BIOTHERAPEUTICS, INC.
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volatilities for comparable publicly traded pharmaceutical companies over a period equal to the expected term of the stock option grants. The comparable companies were chosen based on their similar size, stage in the life cycle and area of specialty. The Company will continue to apply this process until a sufficient amount of historical information regarding the volatility of its own stock price becomes available.

Risk-Free Interest Rate—The risk-free interest rate is based on the U.S. Treasury zero coupon issues in effect at the time of grant for periods corresponding with the expected term of option.

Dividend Yield—The Company has never paid dividends on its common stock and has no plans to pay dividends on its common stock. Therefore, the Company used an expected dividend yield of zero.

The fair value of stock option awards granted was estimated at the date of grant using a Black-Scholes option-pricing model with the following assumptions:

	Nine Months Ended September 30,	
	2018	2019
Expected term (in years)	6.0 – 6.1	5.9 – 6.6
Expected volatility	70.3 – 72.4%	68.6 – 70.4%
Risk-free interest rate	2.7 – 2.9%	2.0 – 2.6%
Dividends yield	—%	—%

Early Exercise of Employee Options

The terms of the 2017 Plan permit certain option holders to exercise options before their options are vested, subject to certain limitations. Upon early exercise, the awards become subject to a restricted stock agreement. The shares of restricted stock granted upon early exercise of the options are subject to the same vesting provisions in the original stock option awards. Shares issued as a result of early exercise that have not vested are subject to repurchase by the Company upon termination of the purchaser's employment, at the price paid by the purchaser. Such shares are not deemed to be issued for accounting purposes until those related shares vest and are therefore excluded from shares outstanding and from basic and diluted net loss per share until the repurchase right lapses and the shares are no longer subject to the repurchase feature. Accordingly, the Company has recorded the unvested portion of the exercise proceeds of \$276,000 and \$436,000 as a liability as of December 31, 2018 and September 30, 2019, respectively, from the early exercise in the accompanying condensed balance sheet. The liability is reclassified into common stock and additional paid-in capital as the shares vest and the repurchase right lapses. As of December 31, 2018 and September 30, 2019, there were \$116,000 and \$209,000, respectively, recorded in accrued liabilities and \$160,000 and \$227,000 recorded in other long-term liabilities as of December 31, 2018 and September 30, 2019, respectively, related to shares that were subject to repurchase.

Founder Awards

In August 2016, the Company issued 2,376,317 shares of restricted common stock to founders of which 2,206,579 shares vest under a service condition and 169,738 shares vest under a performance condition. The shares were issued under the terms of the respective restricted stock purchase

ARCUTIS BIOTHERAPEUTICS, INC.
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agreements, or the Stock Purchase Agreement, and unvested shares are subject to repurchase by the Company at the original purchase price per share upon the holder's termination of his relationship with the Company. Such restricted shares are not deemed to be issued for accounting purposes until they vest and are therefore excluded from shares outstanding and from basic and diluted net loss per share until the repurchase right lapses and the shares are no longer subject to the repurchase feature. One-fourth of the 2,206,579 shares of restricted common stock were vested on the first-anniversary date and the remaining 1,654,934 shares will vest on a monthly basis thereafter. In July 2018, performance conditions prescribed by the Stock Purchase Agreement were met and 169,738 shares of the restricted common stock were fully vested. During the nine months ended September 30, 2019, 413,734 shares of restricted common stock were vested. As of September 30, 2019, 413,733 shares of restricted stock are unvested.

10. Net Loss Per Share

The following outstanding potentially dilutive shares have been excluded from the calculation of diluted net loss per share for the periods presented due to their anti-dilutive effect:

	Nine Months Ended September 30,	
	2018	2019
Convertible preferred stock on an as-converted basis	32,536,267	32,536,267
Stock options to purchase common stock	607,481	3,147,770
Early exercised options subject to future vesting	1,420,563	1,363,567
Restricted stock subject to future vesting	965,379	413,733
Total	35,529,690	37,461,337

11. Unaudited Pro Forma Net Loss Per Share

The following table sets forth the computation of unaudited pro forma basic and diluted net loss per share during the nine months ended September 30, 2019 (in thousands, except share and per share data):

	Year Ended September 30, 2019 (unaudited)
Numerator	
Net loss used in computing pro forma net loss per share, basic and diluted	\$ (29,428)
Denominator	
Weighted-average shares of common stock used in computing net loss per share	3,547,292
Pro forma adjustment to reflect assumed conversion of convertible preferred stock	—
Weighted-average shares of common stock used in computing pro forma net loss per share, basic and diluted	—
Pro forma net loss per share, basic and diluted	\$ —

12. Subsequent Events

Subsequent events have been evaluated through January 6, 2020, which is the date that the condensed financial statements were available to be issued.

ARCUTIS BIOTHERAPEUTICS, INC.
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Series C Convertible Preferred Stock Financing

In October 2019, the Company sold an aggregate of 16,251,628 shares of its Series C convertible preferred stock at a purchase price of \$5.8148 per share for an aggregate gross purchase price of approximately \$94.5 million. Each share of our Series C convertible preferred stock will convert automatically into one share of our common stock upon the completion of this offering. The rights and preferences of the Series C convertible preferred stock are similar to those of the Series A and Series B convertible preferred stock, except that (i) the Original Issue Price for Series C convertible preferred stock is \$5.8148 per share, (ii) the holders of the Series C convertible preferred stock have preference over the Series A and Series B convertible preferred stock in the instance of a liquidation event, and (iii) the holders of a majority of the Series C convertible preferred stock, voting as a separate class are entitled to elect one member to the Company's Board of Directors. Also in connection with the closing, the terms of a qualified public offering requiring the conversion of all shares of the Company's convertible preferred stock into common stock were changed to be net proceeds of not less than \$50 million and a price of not less than \$6.9777 per share, subject to appropriate adjustment for any stock dividend, stock split, combination or other similar recapitalization.

Increase in Authorized Shares of Common Stock and Preferred Stock

In October 2019, the Company effected an increase in the number of authorized shares of its common stock from 44,000,000 shares to 65,820,000 shares and an increase in the number of authorized shares of its preferred stock from 32,536,270 shares to 48,787,895 shares, of which 16,251,628 shares were designated as Series C convertible preferred stock.

Increase in Shares Reserved for Issuance under the 2017 Plan

In October 2019, the Company effected an increase in the number of shares of common stock reserved for issuance under the 2017 Plan from 7,679,110 shares to 10,502,941 shares.

Exercise of Hengrui Exclusive Option

In December 2019, the Company exercised its exclusive option under the Hengrui License Agreement, to obtain certain exclusive rights to research, develop and commercialize products containing the compound designated by Hengrui as SHR0302, a JAK inhibitor, in topical formulations for the treatment of skin diseases, disorders, and conditions in the United States, Japan, and the European Union (including for clarity the United Kingdom). The Company paid \$1.5 million in cash in association with the exercise of this option and also contemporaneously amended the agreement to expand the territory to additionally include Canada.

Shares

Arcutis Biotherapeutics, Inc.



Common Stock

PROSPECTUS

Goldman Sachs & Co. LLC

**Cowen
Cantor**

Guggenheim Securities

Through and including _____, 2020 (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to a dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The following table sets forth all costs and expenses, other than underwriting discounts and commissions, paid or payable by the Registrant in connection with the sale of the common stock being registered. All amounts shown are estimates except for the Securities and Exchange Commission, or SEC, registration fee, the Financial Industry Regulatory Approval, or FINRA, filing fee and the Nasdaq Global Select Market listing fee:

	Amount Paid or To Be Paid
SEC registration fee	\$ 12,980
FINRA filing fee	15,500
Nasdaq Global Select Market listing fee	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Blue Sky, qualification fees and expenses	*
Transfer agent and registrar fees and expenses	*
Miscellaneous expenses	*
Total	\$ *

* To be completed by amendment.

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Section 145 of the Delaware General Corporation Law, or DGCL, authorizes a court to award, or a corporation's board of directors to grant, indemnity to directors and officers under certain circumstances and subject to certain limitations. The terms of Section 145 of the DGCL are sufficiently broad to permit indemnification under certain circumstances for liabilities, including reimbursement of expenses incurred, arising under the Securities Act of 1933, as amended, or the Securities Act.

As permitted by the DGCL, the Registrant's restated certificate of incorporation to be effective in connection with the completion of this offering contains provisions that eliminate the personal liability of its directors for monetary damages for any breach of fiduciary duties as a director, except liability for the following:

- any breach of the director's duty of loyalty to the Registrant or its stockholders;
- acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- under Section 174 of the DGCL (regarding unlawful dividends and stock purchases); or
- any transaction from which the director derived an improper personal benefit.

As permitted by the DGCL, the Registrant's restated bylaws to be effective in connection with the completion of this offering, provide that:

- the Registrant is required to indemnify its directors and executive officers to the fullest extent permitted by the DGCL, subject to limited exceptions;

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- the Registrant may indemnify its other employees and agents as set forth in the DGCL;
- the Registrant is required to advance expenses, as incurred, to its directors and executive officers in connection with a legal proceeding to the fullest extent permitted by the DGCL, subject to limited exceptions; and
- the rights conferred in the restated bylaws are not exclusive.

Prior to the completion of this offering, the Registrant intends to enter into indemnification agreements with each of its current directors and executive officers to provide these directors and executive officers additional contractual assurances regarding the scope of the indemnification set forth in the Registrant's restated certificate of incorporation and restated bylaws and to provide additional procedural protections. There is no pending litigation or proceeding involving a director or executive officer of the Registrant for which indemnification is sought. Reference is also made to the underwriting agreement to be filed as Exhibit 1.1 to this registration statement, which provides for the indemnification of executive officers, directors and controlling persons of the Registrant against certain liabilities. The indemnification provisions in the Registrant's restated certificate of incorporation, restated bylaws and the indemnification agreements entered into or to be entered into between the Registrant and each of its directors and executive officers may be sufficiently broad to permit indemnification of the Registrant's directors and executive officers for liabilities arising under the Securities Act.

The Registrant maintains standard policies of directors' and officers' liability insurance under which coverage is provided to its directors and officers against loss rising from claims made by reason of breach of duty or other wrongful act.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES.

The following lists set forth information regarding all securities sold or granted by the Registrant from September 1, 2016 through January 6, 2020 that were not registered under the Securities Act, and the consideration, if any, received by the Registrant for such securities:

(a) Stock Option Grants

Since September 1, 2016 and through January 6, 2020, the Registrant has granted to its employees, directors, consultants and other service providers options to purchase an aggregate of 7,465,096 shares of common stock under the 2017 Plan, with an average exercise price of \$1.26 per share. The issuances of the securities described above were deemed to be exempt from registration pursuant to Section 4(a)(2) of the Securities Act or Rule 701 promulgated under the Securities Act as transactions pursuant to compensatory benefit plans. The shares of common stock issued upon the exercise of options are deemed to be restricted securities for purposes of the Securities Act.

(b) Preferred Stock

In October 2019, the Registrant issued and sold to eleven accredited investors an aggregate of 16,251,628 shares of Series C convertible preferred stock at a purchase price of \$5.8148 per share, for aggregate consideration of approximately \$94.5 million. In connection with the completion of this offering, these shares of Series C convertible preferred stock will convert into 16,251,628 shares of the Registrant's common stock. This transaction was exempt from the registration requirements of the Securities Act in reliance upon Section 4(a)(2) of the Securities Act or Regulation D promulgated under the Securities Act.

In September 2018, the Registrant issued and sold to eight accredited investors an aggregate of 18,736,267 shares of Series B convertible preferred stock at a purchase price of \$3.0956 per share, for

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aggregate consideration of approximately \$58.0 million. In connection with the completion of this offering, these shares of Series B convertible preferred stock will convert into 18,736,267 shares of the Registrant's common stock. This transaction was exempt from the registration requirements of the Securities Act in reliance upon Section 4(a)(2) of the Securities Act or Regulation D promulgated under the Securities Act.

In April 2017 and March 2018, the Registrant issued and sold to ten accredited investors an aggregate of 13,800,000 shares of Series A convertible preferred stock at a purchase price of \$1.00 per share, for aggregate consideration of approximately \$13.5 million. In connection with the completion of this offering, these shares of Series A convertible preferred stock will convert into 13,800,000 shares of the Registrant's common stock. This transaction was exempt from the registration requirements of the Securities Act in reliance upon Section 4(a)(2) of the Securities Act or Regulation D promulgated under the Securities Act.

None of the foregoing transactions involved any underwriters, underwriting discounts or commissions or any public offering, and the Registrant believes each transaction was exempt from the registration requirements of the Securities Act as stated above. All recipients of the foregoing transactions either received adequate information about the Registrant or had access, through their relationships with the Registrant, to such information. Furthermore, the Registrant affixed appropriate legends to the share certificates and instruments issued in each foregoing transaction setting forth that the securities had not been registered and the applicable restrictions on transfer.

ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.

(a) Exhibits.

<u>Exhibit Number</u>	<u>Description of Document</u>
1.1*	Form of Underwriting Agreement.
3.1	<u>Certificate of Incorporation, as amended to date, as currently in effect.</u>
3.2	<u>Form of Restated Certificate of Incorporation to be effective upon the completion of this offering.</u>
3.3	<u>Bylaws, as amended to date, as currently in effect.</u>
3.4	<u>Form of Restated Bylaws to be effective upon the completion of this offering.</u>
4.1*	Form of Common Stock Certificate.
4.2†	<u>Amended and Restated Investors' Rights Agreement, dated October 8, 2019, by and among the Registrant and certain of its stockholders.</u>
5.1*	Opinion of Fenwick & West LLP.
10.1	<u>Form of Indemnity Agreement.</u>
10.2	<u>2017 Stock Incentive Plan, and forms of award agreements.</u>
10.3	<u>2020 Equity Incentive Plan, to become effective on the date immediately prior to the date the registration statement is declared effective, and forms of award agreements.</u>
10.4	<u>2020 Employee Stock Purchase Plan, to become effective on the date the registration statement is declared effective, and forms of award agreements.</u>
10.5*	Offer Letter, dated _____, by and between the Registrant and Todd Franklin Watanabe, to become effective on the date immediately prior to the date the registration statement is declared effective.

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<u>Exhibit Number</u>	<u>Description of Document</u>
10.6*	Offer Letter, dated _____, by and between the Registrant and David W. Osborne, to become effective on the date immediately prior to the date the registration statement is declared effective.
10.7*	Offer Letter, dated _____, by and between the Registrant and Howard G. Welgus, M.D., to become effective on the date immediately prior to the date the registration statement is declared effective.
10.8*	Offer Letter, dated _____, by and between the Registrant and John W. Smither, to become effective on the date immediately prior to the date the registration statement is declared effective.
10.9*	Offer Letter, dated _____, by and between the Registrant and Kenneth A. Lock, to become effective on the date immediately prior to the date the registration statement is declared effective.
10.10*	Offer Letter, dated _____, by and between the Registrant and Patricia A. Turney, to become effective on the date immediately prior to the date the registration statement is declared effective.
10.11	Consulting Agreement, dated August 16, 2016, by and between Bhaskar Chaudhuri and the Registrant.
10.12†^	License Agreement, dated July 23, 2018, by and between AstraZeneca AB and the Registrant.
10.13†^	Exclusive Option and License Agreement, dated January 4, 2018, by and between Jiangsu Hengrui Medicine Co., Ltd. and the Registrant.
10.14†^	Collaboration Agreement, dated June 28, 2019, by and between Hawkeye Therapeutics, Inc. and the Registrant.
10.15	Transition and Amendment Agreement, dated December 13, 2019 by and between Bhaskar Chaudhuri and the Registrant.
10.16	Option Notice and Amendment No. 2 to Exclusive Option and License Agreement, dated December 5, 2019, by and between Jiangsu Hengrui Medicine Co., Ltd. and the Registrant.
10.17	Form of Severance & Change in Control Agreement.
23.1	Consent of Independent Registered Public Accounting Firm.
23.2*	Consent of Fenwick & West LLP (included in Exhibit 5.1).
24.1	Power of Attorney (included in the signature page to this registration statement).

* To be filed by amendment.

† Registrant has omitted portions of the exhibit as permitted under Item 601(b)(10) of Regulation S-K.

^ Registrant has omitted schedules and exhibits pursuant to Item 601(b)(2) of Regulation S-K. The Registrant agrees to furnish supplementally a copy of the omitted schedules and exhibits to the SEC upon request.

(b) Financial Statement Schedules.

No financial statement schedules are provided because the information called for is not required or is shown either in the financial statements or notes.

ITEM 17. UNDERTAKINGS.

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

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned Registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused this registration statement on Form S-1 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Westlake Village, State of California, on the 6th day of January, 2020.

ARCUTIS BIOTHERAPEUTICS, INC.

By: /s/ Todd Franklin Watanabe
Todd Franklin Watanabe
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Todd Franklin Watanabe and John W. Smither, and each of them, as his true and lawful attorneys-in-fact, proxies and agents, each with full power of substitution and resubstitution and full power to act without the other, for him in any and all capacities, to sign any and all amendments to this registration statement (including post-effective amendments or any abbreviated registration statement and any amendments thereto filed pursuant to Rule 462(b) increasing the number of securities for which registration is sought), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact, proxies and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact, proxies and agents, or their or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Todd Franklin Watanabe</u> Todd Franklin Watanabe	President, Chief Executive Officer and Director (Principal Executive Officer)	January 6, 2020
<u>/s/ John W. Smither</u> John W. Smither	Chief Financial Officer (Principal Accounting and Financial Officer)	January 6, 2020
<u>/s/ Patrick J. Heron</u> Patrick J. Heron	Director, Chairman	January 6, 2020
<u>/s/ Alexander G. Asam</u> Alexander G. Asam, Ph.D	Director	January 6, 2020
<u>/s/ Bhaskar Chaudhuri</u> Bhaskar Chaudhuri, Ph.D.	Director	January 6, 2020
<u>/s/ Daniel J. Estes</u> Daniel J. Estes, Ph.D.	Director	January 6, 2020
<u>/s/ Jonathan T. Silverstein</u> Jonathan T. Silverstein, J.D.	Director	January 6, 2020
<u>/s/ Ricky Sun</u> Ricky Sun, Ph.D.	Director	January 6, 2020

ARCUTIS, INC.
AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION

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

Arcutis, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the “**General Corporation Law**”), does hereby certify as follows:

1. The name of this corporation is Arcutis, Inc. This corporation was originally incorporated pursuant to the General Corporation Law on June 1, 2016 under the name Arcutis, Inc.

2. The Board of Directors of this corporation duly adopted resolutions proposing to amend and restate the Certificate of Incorporation of this corporation, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement is as follows.

RESOLVED, that the Certificate of Incorporation of this corporation be amended and restated in its entirety to read as set forth on Exhibit A attached hereto and incorporated herein by this reference.

Exhibit A referred to in the resolution above is attached hereto as Exhibit A and is hereby incorporated herein by this reference.

3. This Restated Certificate of Incorporation was approved by the holders of the requisite number of shares of this corporation in accordance with Section 228 of the General Corporation Law.

4. This Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of this corporation’s Certificate of Incorporation, has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law.

IN WITNESS WHEREOF, this Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 8th day of October, 2019.

By: /s/ Todd Franklin Watanabe
Todd Franklin Watanabe
President

Exhibit A

ARCUTIS BIOTHERAPEUTICS, INC.

RESTATED CERTIFICATE OF INCORPORATION

ARTICLE I: NAME.

The name of this corporation is Arcutis Biotherapeutics, Inc. (the "**Corporation**").

ARTICLE II: REGISTERED OFFICE.

The address of the registered office of the Corporation in the State of Delaware is 3500 South Dupont Highway, City of Dover, County of Kent, Delaware 19901. The name of its registered agent at such address is Incorporating Services, Ltd.

ARTICLE III: PURPOSE.

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

ARTICLE IV: AUTHORIZED SHARES.

The total number of shares of all classes of stock which the Corporation shall have authority to issue is (a) 65,820,000 shares of Common Stock, \$0.0001 par value per share ("**Common Stock**"), and (b) 48,787,895 shares of Preferred Stock, \$0.0001 par value per share ("**Preferred Stock**"). As of the effective date of this Restated Certificate of Incorporation (this "**Restated Certificate**"), (a) 13,800,000 shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series A Preferred Stock**", (b) 18,736,267 shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series B Preferred Stock**" (the Series B Preferred Stock, collectively with the Series A Preferred Stock are sometimes collectively referred to herein as the "**Junior Preferred Stock**"), and (c) 16,251,628 shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series C Preferred Stock**".

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

A. COMMON STOCK

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and privileges of the holders of the Preferred Stock set forth herein.

2. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings). Unless required by law, there shall be no cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of this Restated Certificate) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law and without a separate class vote of the holders of the Common Stock.

B. PREFERRED STOCK

The following rights, powers and privileges, and restrictions, qualifications and limitations, shall apply to the Preferred Stock. Unless otherwise indicated, references to “Sections” in this Part B of this Article IV refer to sections of this Part B.

1. Dividends.

1.1 Non-Cumulative Series C Preferred Stock Dividend Preference. The Corporation shall not pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock) in any calendar year unless (in addition to the obtaining of any consents required elsewhere in this Restated Certificate) the holders of the Series C Preferred Stock then outstanding shall first receive, or simultaneously receive, out of funds legally available therefor, prior and in preference to any declaration or payment of any dividend on the Series B Preferred Stock, Series A Preferred Stock, and Common Stock, a dividend on each outstanding share of Series C Preferred Stock in an amount equal to 6% of the Original Issue Price (as defined below) per share of such Preferred Stock. The foregoing dividends shall not be cumulative and shall be paid when, as and if declared by the corporation’s Board of Directors (the “**Board**”). The “**Original Issue Price**” for the Series C Preferred Stock shall mean \$5.8148 per share, subject to appropriate adjustment in the event of any stock splits and combinations of shares and for dividends paid on the Series C Preferred Stock in shares of such stock.

1.2 Non-Cumulative Series B Preferred Stock Dividend Preference. The Corporation shall not pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock) in any calendar year unless (in addition to the obtaining of any consents required elsewhere in this Restated Certificate), after payment of or setting apart for payment of any dividends in the full preferential amount pursuant to Section 1.1 in any calendar year of the Corporation, the holders of the Series B Preferred Stock then outstanding shall be entitled to receive, or simultaneously receive, out of funds legally available therefor, prior and in preference to any declaration or payment of any dividend on the Series A Preferred Stock and Common Stock, a dividend on each outstanding share of Series B Preferred Stock in an amount equal to 6% of the Original Issue Price (as defined below) per share of such Series B Preferred Stock. The foregoing dividends shall not be cumulative and shall be paid when, as and if declared by the Board. The “**Original Issue Price**” for the Series B Preferred Stock shall mean \$3.0956 per share, subject to appropriate adjustment in the event of any stock splits and combinations of shares and for dividends paid on the Series B Preferred Stock in shares of such stock.

1.3 Non-Cumulative Series A Preferred Stock Dividend Preference. The Corporation shall not pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock) in any calendar year unless (in addition to the obtaining of any consents required elsewhere in this Restated Certificate), after payment of or setting apart for payment of any dividends in the full preferential amount pursuant to Section 1.1 and Section 1.2 in any calendar year of the Corporation the holders of the Series A Preferred Stock then outstanding shall be entitled to receive, or simultaneously receive, out of funds legally available therefor, prior and in preference to any declaration or payment of any dividend on the Common Stock, a dividend on each outstanding share of Series A Preferred Stock in an amount equal to 6% of the Original Issue Price (as defined below) per share of such Series A Preferred Stock. The foregoing dividends shall not be cumulative and shall be paid when, as and if declared by the Board. The “**Original Issue Price**” for the Series A Preferred Stock shall mean \$1.00 per share, subject to appropriate adjustment in the event of any stock splits and combinations of shares and for dividends paid on the Series A Preferred Stock in shares of such stock.

1.4 Participation. If, after dividends in the full preferential amount specified in Section 1.1, Section 1.2 and Section 1.3 for the Preferred Stock have been paid or set apart for payment in any calendar year of the Corporation, the Board shall declare additional dividends out of funds legally available therefor in that calendar year, then such additional dividends shall be declared pro rata on the Common Stock and the Preferred Stock on a *pari passu* basis according to the number of shares of Common Stock held by such holders. For this purpose each holder of shares of Preferred Stock is to be treated as holding the greatest whole number of shares of Common Stock then issuable upon conversion of all shares of Preferred Stock held by such holder pursuant to Sections 4 and 5.

1.5 Non-Cash Dividends. Whenever a dividend provided for in this Section 1 shall be payable in property other than cash, the value of such dividend shall be deemed to be the fair market value of such property as determined in good faith by the Board.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1 Payments to Holders of Preferred Stock.

2.1.1 In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or any Deemed Liquidation Event (as defined below), before any payment shall be made to the holders of Junior Preferred Stock or Common Stock by reason of their ownership thereof, the holders of shares of the Series C Preferred Stock then outstanding shall be entitled to be paid out of the funds and assets available for distribution to its stockholders, an amount per share equal to the greater of (a) the Original Issue Price for the Series C Preferred Stock, plus any dividends declared but unpaid thereon, or (b) such amount per share as would have been payable had all shares of Series C Preferred Stock been converted into Common Stock pursuant to Sections 4 and 5 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event. The amount payable to holders of Series C Preferred Stock pursuant to the immediately preceding sentence is sometimes referred to herein as the “**Series C Liquidation Amount**”. If upon any such liquidation, dissolution, winding up or

Deemed Liquidation Event of the Corporation, the funds and assets available for distribution to the stockholders of the Corporation shall be insufficient to pay the holders of shares of Series C Preferred Stock the full amounts to which they are entitled under this Section 2.1.1, the holders of shares of Series C Preferred Stock shall share ratably in any distribution of the funds and assets available for distribution in proportion to the respective amounts that would otherwise be payable in respect of the shares of Series C Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.1.2 In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or any Deemed Liquidation Event, after the payment of the Series C Liquidation Amount and before any payment shall be made to the holders of Series A Preferred Stock or Common Stock by reason of their ownership thereof, the holders of shares of the Series B Preferred Stock then outstanding shall be entitled to be paid out of the funds and assets available for distribution to its stockholders, an amount per share equal to the greater of (a) the Original Issue Price for the Series B Preferred Stock, plus any dividends declared but unpaid thereon, or (b) such amount per share as would have been payable had all shares of Series B Preferred Stock been converted into Common Stock pursuant to Sections 4 and 5 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event. The amount payable to holders of Series B Preferred Stock pursuant to the immediately preceding sentence is sometimes referred to herein as the “**Series B Liquidation Amount**”. If upon any such liquidation, dissolution, winding up or Deemed Liquidation Event of the Corporation, the funds and assets available for distribution to the stockholders of the Corporation shall be insufficient to pay the holders of shares of Series B Preferred Stock the full amounts to which they are entitled under this Section 2.1.2, the holders of shares of Series B Preferred Stock shall share ratably in any distribution of the funds and assets available for distribution in proportion to the respective amounts that would otherwise be payable in respect of the shares of Series B Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.1.3 In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or any Deemed Liquidation Event, after the payment of the Series C Liquidation Amount and the Series B Liquidation Amount and before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, the holders of shares of the Series A Preferred Stock then outstanding shall be entitled to be paid out of the funds and assets available for distribution to its stockholders, an amount per share equal to the greater of (a) the Original Issue Price for the Series A Preferred Stock, plus any dividends declared but unpaid thereon, or (b) such amount per share as would have been payable had all shares of Series A Preferred Stock been converted into Common Stock pursuant to Sections 4 and 5 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event. The amount payable to holders of Series A Preferred Stock pursuant to the immediately preceding sentence is sometimes referred to herein as the “**Series A Liquidation Amount**”. If upon any such liquidation, dissolution, winding up or Deemed Liquidation Event of the Corporation, the funds and assets available for distribution to the stockholders of the Corporation shall be insufficient to pay the holders of shares of Series A Preferred Stock the full amounts to which they are entitled under this Section 2.1.3, the holders of shares of Series A Preferred Stock shall share ratably in any distribution of the funds and assets available for distribution in proportion to the respective amounts that would otherwise be payable in respect of the shares of Series A Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.2 Participating Distribution of Remaining Assets. In the event of any voluntary or involuntary liquidation, dissolution, winding up or Deemed Liquidation Event of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Preferred Stock as provided in Section 2.1, the remaining funds and assets available for distribution to the stockholders of the Corporation shall be distributed among the holders of the shares of Preferred Stock and Common Stock, pro rata based on the number of shares held by each such holder, treating for this purpose all shares of Preferred Stock as if they had been converted to Common Stock pursuant to the terms of this Restated Certificate immediately prior to such dissolution, liquidation, winding up or Deemed Liquidation Event of the Corporation; *provided, however*, that if the aggregate amount the holders of a series of Preferred Stock are entitled to receive under Section 2.1 as stated above and this Section 2.2 shall exceed two (2) times the Original Issue Price per share of such series of Preferred Stock (such amount equal to two (2) times such Original Issue Price, the “**Maximum Participation Amount**”), each holder of such series of Preferred Stock shall only be entitled to receive upon such liquidation, dissolution, winding up or Deemed Liquidation Event of the Corporation the greater of (a) the Maximum Participation Amount or (b) the amount such holder would have received if all shares of such series of Preferred Stock had been converted into Common Stock immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event of the Corporation.

2.3 Deemed Liquidation Events.

2.3.1 **Definition.** Each of the following events shall be considered a “**Deemed Liquidation Event**” unless the holders of at least a majority of the then-outstanding shares of Preferred Stock, consenting or voting together as a single class on an as-converted basis (the “**Requisite Preferred Majority**”), elect otherwise by written notice sent to the Corporation at least five days prior to the effective date of any such event:

(a) a merger or consolidation (each a “**Combination**”) in which (i) the Corporation is a constituent party or (ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such Combination, except any such Combination involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such Combination continue to represent, or are converted into or exchanged for equity securities that represent, immediately following such Combination, at least a majority, by voting power, of the equity securities of (1) the surviving or resulting party or (2) if the surviving or resulting party is a wholly owned subsidiary of another party immediately following such Combination, the parent of such surviving or resulting party; *provided* that, for the purpose of this Section 2.3.1, all shares of Common Stock issuable upon exercise of Options (as defined in Section 5.1 below) outstanding immediately prior to such Combination or upon conversion of Convertible Securities (as defined in Section 5.1 below) outstanding immediately prior to such Combination shall be deemed to be outstanding immediately prior to such Combination and, if applicable, deemed to be converted or exchanged in such Combination on the same terms as the actual outstanding shares of Common Stock are converted or exchanged; or

(b) the sale, lease, exclusive license, transfer or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary or subsidiaries of the Corporation, of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, including by way of exclusive licensing all or substantially all of the Corporation's intellectual property, (or, if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by one or more subsidiaries, the sale or disposition (whether by consolidation, merger, conversion or otherwise) of such subsidiaries of the Corporation), except where such sale, lease, license, transfer or other disposition is made to the Corporation or one or more wholly-owned subsidiaries of the Corporation (an "**Asset Disposition**").

2.3.2 Allocation of Escrow. In the event of a Deemed Liquidation Event and unless the Requisite Preferred Majority elect otherwise by written notice sent to the Corporation at least five days prior to the effective date of any such event, if any portion of the consideration payable to the stockholders of the Corporation is placed into escrow and/or is payable to the stockholders of the Corporation subject to contingencies, the definitive agreement or escrow agreement entered into in such Deemed Liquidation Event shall provide that (a) the portion of such consideration that is not placed in escrow and not subject to any contingencies (the "**Initial Consideration**") shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1 and 2.2 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event and (b) any additional consideration which becomes payable to the stockholders of the Corporation upon release from escrow or satisfaction of contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1 and 2.2 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the avoidance of doubt, the right of the holders of Preferred Stock to receive their liquidation preference in accordance with Sections 2.1 and 2.2 hereof shall not be abrogated or diminished in the event part of the consideration to be paid in connection with a Deemed Liquidation Event is subject to escrow.

2.3.3 Amount Deemed Paid or Distributed. The funds and assets deemed paid or distributed to the holders of capital stock of the Corporation upon any such Combination or Asset Disposition shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. If the amount deemed paid or distributed under this Section 2.3.3 is made in property other than in cash, the value of such distribution shall be the fair market value of such property, as determined in good faith by the Board; provided, however, that the following shall apply:

(a) For securities not subject to investment letters or other similar restrictions on free marketability:

(i) if traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the 30-day period ending three days prior to the closing of such transaction;

(ii) if actively traded over-the-counter, the value shall be deemed to be the average of the closing bid prices over the 30-day period ending three days prior to the closing of such transaction; or

(iii) if there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board.

(b) The method of valuation of securities subject to investment letters or other similar restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall take into account an appropriate discount (as determined in good faith by the Board) from the market value as determined pursuant to clause (a) above so as to reflect the approximate fair market value thereof.

The foregoing methods for valuing non-cash consideration to be distributed in connection with a Combination or Asset Disposition shall, with the appropriate approval of the definitive agreements governing such Combination or Asset Disposition by the stockholders under the General Corporation Law and Section 3.3, be superseded by the determination of such value set forth in the definitive agreements governing such Combination or Asset Disposition.

3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Fractional votes shall not be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward). Except as provided by law or by the other provisions of this Restated Certificate, holders of Preferred Stock shall vote together with the holders of Common Stock as a single class on an as-converted basis, shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation (the "**Bylaws**").

3.2 Election of Directors.

3.2.1 Election. For so long as at least 1,000,000 shares of Series A Preferred Stock remain outstanding (as such number is adjusted for stock splits and combinations of shares and for dividends paid on the Preferred Stock in shares of such stock), the holders of record of the shares of Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect two (2) directors of the Corporation (the "**Series A Directors**"). For so long as at least 3,500,000 shares of Series B Preferred Stock remain outstanding (as such number is adjusted for stock splits and combinations of shares and for dividends paid on the Preferred Stock in shares of such stock), the holders of record of the shares of Series B Preferred Stock,

exclusively and as a separate class, shall be entitled to elect two (2) directors of the Corporation (the “**Series B Directors**”). For so long as at least 3,500,000 shares of Series C Preferred Stock remain outstanding (as such number is adjusted for stock splits and combinations of shares and for dividends paid on the Preferred Stock in shares of such stock), the holders of record of the shares of Series C Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the “**Series C Director**” and collectively with the Series A Directors and the Series B Directors, the “**Preferred Directors**”). The holders of record of the shares of Common Stock, exclusively and as a separate class, shall be entitled to elect two (2) directors of the Corporation (the “**Common Directors**”). The holders of record of the shares of Common Stock and of every other class or series of voting stock (including the Preferred Stock), voting together as a single class on an as-converted basis, shall be entitled to elect the remaining number of directors of the Corporation (the “**Remaining Directors**”).

3.2.2 Vacancies. Notwithstanding the provisions of Section 223(a) of the General Corporation Law, any vacancy, including newly created directorships resulting from any increase in the authorized number of directors and vacancies created by removal or resignation of a director, may be filled (either contingently or otherwise) by the stockholders as specified in Section 3.2.1 or by at least a majority of the members of the Board then in office, although less than a quorum, or by a sole remaining member of the Board then in office, even if such directors or such sole remaining director were not elected by the holders of the class, classes or series that are entitled to elect a director or directors to office under the provisions of Section 3.2.1 (the “**Specified Stock**”), and such electing director or directors shall specify at the time of such election the specific vacant directorship being filled; provided, however, that where such vacancy occurs among the directors elected by the holders of Specified Stock, those holders of Specified Stocks may override the Board’s action to fill such vacancy by the affirmative vote of the holders of the shares of the Specified Stock entitled to elect such director given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of such stockholders.

3.2.3 Removal. Any director elected as provided in Sections 3.2.1 and 3.2.2 may be removed without cause by the affirmative vote of the holders of the shares of the Specified Stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of such stockholders.

3.2.4 Procedure. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the Specified Stock entitled to elect such director shall constitute a quorum for the purpose of electing such director and the candidate or candidates to be elected by such Specified Stock shall be those who receive the highest number of affirmative votes (on an as-converted basis) of the outstanding shares of such Specified Stock. In the case of an action taken by written consent without a meeting, the candidate or candidates to be elected by such Specified Stock shall be those who are elected by the written consent of the holders of a majority of such Specified Stock.

3.3 Preferred Stock Protective Provisions. For so long as at least 5,000,000 shares of Preferred Stock remain outstanding (as such number is adjusted for stock splits and combinations of shares and for dividends paid on the Preferred Stock in shares of such stock), the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or this Restated Certificate (including, without limitation, Sections 3.4, 3.5 and 3.6)) the written consent, or affirmative vote at a meeting or evidenced in writing, of the Requisite Preferred Majority:

(a) amend, waive or repeal any provision of this Restated Certificate or the Bylaws, including without limitation any such amendment, waiver or repeal that affects the rights, preferences or privileges of the Preferred Stock set forth in the certificate of incorporation or bylaws of the Corporation, as then in effect;

(b) increase or decrease the authorized number of any class or series of shares of capital stock;

(c) increase the number of shares of Common Stock or Preferred Stock subject to issuance under any stock plan or arrangement for the benefit of employees, consultants, directors or other service providers to the Corporation or any of its wholly-owned subsidiaries (collectively, “**Service Providers**”);

(d) authorize or create (whether by merger, reclassification, amendment or otherwise) any new class or series of capital stock, or authorize or create any security convertible into or exercisable for any such new class or series of capital stock if such securities would have rights, priorities, preferences or privileges senior to or *pari passu* with the rights, priorities, preferences or privileges of any series of Preferred Stock (excluding, for the avoidance of doubt, the sale and issuance of shares of the Series C Preferred Stock pursuant to that certain Series C Preferred Stock Purchase Agreement, dated on or about the Original Issue Date of the Series C Preferred Stock, the “**Series C Purchase Agreement**”);

(e) reclassify, alter or amend any existing security of the Corporation in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render such other security senior to or on parity with any series of Preferred Stock in respect of any such right, preference or privilege;

(f) liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any merger, consolidation, recapitalization, reorganization or Deemed Liquidation Event, or consent, agree or commit to any of the foregoing without conditioning such consent, agreement or commitment upon obtaining the approval required by this Section 3.3;

(g) increase or decrease the authorized number of directors constituting the Board;

(h) redeem or repurchase (or permit any subsidiary to redeem or repurchase) or pay or declare any dividend or make any distribution on, any shares of Common Stock or Preferred Stock, other than (i) pursuant to an agreement approved by the Board with a Service Provider giving the Corporation the right to repurchase shares at the lower of fair market value or original cost thereof upon the termination of services; (ii) an exercise of a right of first refusal in favor of the Corporation pursuant to an agreement with any Service Provider, which exercise has been approved by the Board including the affirmative approval of at least a majority of the Preferred Directors; or (iii) redemptions or dividends or distributions on shares of Preferred Stock;

(i) issue any debt security or incur any indebtedness for borrowed money, if the aggregate indebtedness of the Corporation and its wholly-owned subsidiaries for borrowed money (other than intercompany indebtedness or payables incurred in the ordinary course of business) following such issuance would exceed \$500,000 in the aggregate;

(j) create a non wholly-owned subsidiary of the Corporation; or

(k) take any of the foregoing actions by a subsidiary of the Corporation.

3.4 Series C Preferred Stock Protective Provisions. For so long as at least 2,500,000 shares of Series C Preferred Stock remain outstanding (as such number is adjusted for stock splits and combinations of shares and for dividends paid on the Series C Preferred Stock in shares of such stock), the Corporation shall not, nor shall it permit any subsidiary, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or this Restated Certificate) the written consent, or affirmative vote at a meeting or evidenced in writing, of the holders of at least a majority of the then-outstanding shares of Series C Preferred Stock, consenting or voting together as a separate class on an as-converted basis (the “**Requisite Series C Majority**”):

(a) waive, amend, alter or repeal any provision of this Restated Certificate or the Bylaws in a manner that would adversely alter or change the rights, preferences or privileges of the Series C Preferred Stock (including without limitation any consent rights contained in this Section 3.4); provided, however, that the authorization of a new class or series of equity securities, whether senior, *pari passu* or junior to the Series C Preferred Stock, shall not be deemed to alter or change the rights, preferences or privileges of the Series C Preferred Stock or otherwise require the affirmative vote or written consent of the holders of the Series C Preferred Stock pursuant to this paragraph;

(b) waive, amend, alter or repeal the right of the holders of Series C Preferred Stock to elect one member of the Board pursuant to Section 3.2;

(c) waive, amend or alter the Original Issue Price for the Series C Preferred Stock or the Conversion Price (including any anti-dilution rights with respect thereto) for the Series C Preferred Stock or the Series C Liquidation Amount;

(d) reclassify, alter or amend any shares of Series B Preferred Stock, Series A Preferred Stock or Common Stock in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render the Series B Preferred Stock, Series A Preferred Stock or Common Stock senior to or on parity with the Series C Preferred Stock in respect of any such right, preference or privilege;

(e) increase the authorized number of shares of Series C Preferred Stock; or

(f) waive, amend, alter or repeal (i) the definition of “Requisite Series C Majority” as defined in this Section 3.4, the definition of “Exempted Securities” or the use of such terms in this Restated Certificate or (ii) Section 7 of this Restated Certificate.

3.5 Series B Preferred Stock Protective Provisions. For so long as at least 3,500,000 shares of Series B Preferred Stock remain outstanding (as such number is adjusted for stock splits and combinations of shares and for dividends paid on the Series B Preferred Stock in shares of such stock), the Corporation shall not, nor shall it permit any subsidiary, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or this Restated Certificate) the written consent, or affirmative vote at a meeting or evidenced in writing, of the holders of at least a majority of the then-outstanding shares of Series B Preferred Stock, consenting or voting together as a separate class on an as-converted basis (the “**Requisite Series B Majority**”):

(a) waive, amend, alter or repeal any provision of this Restated Certificate or the Bylaws in a manner that would adversely alter or change the rights, preferences or privileges of the Series B Preferred Stock (including without limitation any consent rights contained in this Section 3.5); provided, however, that the authorization of a new class or series of equity securities, whether senior, *pari passu* or junior to the Series B Preferred Stock, shall not be deemed to alter or change the rights, preferences or privileges of the Series B Preferred Stock or otherwise require the affirmative vote or written consent of the holders of the Series B Preferred Stock pursuant to this paragraph;

(b) waive, amend, alter or repeal the right of the holders of Series B Preferred Stock to elect two members of the Board pursuant to Section 3.2;

(c) waive, amend or alter the Original Issue Price for the Series B Preferred Stock or the Conversion Price (including any anti-dilution rights with respect thereto) for the Series B Preferred Stock or the Series B Liquidation Amount;

(d) reclassify, alter or amend any shares of Series A Preferred Stock or Common Stock in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render the Series A Preferred Stock or Common Stock senior to or on parity with the Series B Preferred Stock in respect of any such right, preference or privilege;

(e) increase the authorized number of shares of Series B Preferred Stock; or

(f) waive, amend, alter or repeal (i) the definition of “Requisite Series B Majority” as defined in this Section 3.5, the definition of “Exempted Securities” or the use of such terms in this Restated Certificate or (ii) Section 7 of this Restated Certificate.

3.6 Series A Preferred Stock Protective Provisions. For so long as at least 1,000,000 shares of Series A Preferred Stock remain outstanding (as such number is adjusted for stock splits and combinations of shares and for dividends paid on the Series A Preferred Stock in shares of such stock), the Corporation shall not, nor shall it permit any subsidiary, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or this Restated Certificate) the written consent, or affirmative vote at a meeting or evidenced in writing, of the holders of at least a majority of the then-outstanding shares of Series A Preferred Stock, consenting or voting together as a separate class on an as-converted basis (the “**Requisite Series A Majority**”):

(a) waive, amend, alter or repeal any provision of this Restated Certificate or the Bylaws in a manner that would adversely alter or change the rights, preferences or privileges of the Series A Preferred Stock (including without limitation any consent rights contained in this Section 3.6); provided, however, that the authorization of a new class or series of equity securities, whether senior, *pari passu* or junior to the Series A Preferred Stock, shall not be deemed to alter or change the rights, preferences or privileges of the Series A Preferred Stock or otherwise require the affirmative vote or written consent of the holders of the Series A Preferred Stock pursuant to this paragraph;

(b) waive, amend, alter or repeal the right of the holders of Series A Preferred Stock to elect two members of the Board pursuant to Section 3.2;

(c) waive, amend or alter the Original Issue Price for the Series A Preferred Stock or the Conversion Price (including any anti-dilution rights with respect thereto) for the Series A Preferred Stock or the Series A Liquidation Amount;

(d) reclassify, alter or amend any shares of Series A Preferred Stock or Common Stock in respect of the distribution of assets on the liquidation, dissolution or winding up of the Corporation, the payment of dividends or rights of redemption, if such reclassification, alteration or amendment would render the Common Stock senior to or on parity with the Series A Preferred Stock in respect of any such right, preference or privilege;

(e) increase the authorized number of shares of Series A Preferred Stock; or

(f) waive, amend, alter or repeal (i) the definition of “Requisite Series A Majority” as defined in this Section 3.6, the definition of “Exempted Securities” or the use of such terms in this Restated Certificate or (ii) Section 7 of this Restated Certificate.

4. Conversion Rights.

4.1 Right to Convert. The holders of the Preferred Stock shall have conversion rights as follows (the “**Conversion Rights**”):

4.1.1 Conversion Ratio. Each share of a series of Preferred Stock shall be convertible, at the option of the holder thereof, at any time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Original Issue Price for such series of Preferred Stock by the Conversion Price (as defined below) for such series of Preferred Stock in effect at the time of conversion. The “**Conversion Price**” for each series of Preferred Stock shall initially mean the Original Issue Price for such series of Preferred Stock. Such initial Conversion Price, and the rate at which shares of Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided in Section 5.

4.1.2 Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Common Stock, such holder shall surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that any such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Preferred Stock represented by such certificate or certificates and, if applicable, any event on which such conversion is contingent (a “**Contingency Event**”). Such notice shall state such holder’s name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form reasonably satisfactory to the Corporation, duly executed by the registered holder or such holder’s attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such certificates (or lost certificate affidavit and agreement) and notice (or, if later, the date on which all Contingency Events have occurred) shall be the time of conversion (the “**Conversion Time**”), and the shares of Common Stock issuable upon conversion of the shares represented by such certificate shall be deemed to be outstanding of record as of such time. The Corporation shall, as soon as practicable after the Conversion Time, (a) issue and deliver to such holder of Preferred Stock, or to such holder’s nominee(s), a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, (b) pay in cash such amount as provided in Section 5.7.3 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and (c) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

4.1.3 Effect of Voluntary Conversion. All shares of Preferred Stock that shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Section 5.7.3 and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued.

4.2 Mandatory Conversion.

4.2.1 Automatic Conversion. Upon either (a) the closing of the sale of shares of Common Stock to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "**Securities Act**"), resulting in at least \$50,000,000 of gross proceeds to the Corporation at a price per share to the public of at least \$6.9777 (as adjusted for stock splits, stock dividends, recapitalizations or the like) (a "**Qualified Public Offering**") or (b) (i) for the Series C Preferred Stock, the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least a Requisite Series C Majority, or (ii) for the Junior Preferred Stock, the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least (x) a Requisite Preferred Majority and (y) at least a majority of the then-outstanding shares of Series B Preferred Stock, consenting or voting together as a separate class on an as-converted basis, (for clauses (i) and (ii), the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the "**Mandatory Conversion Time**"), (1) all outstanding shares of Preferred Stock shall automatically be converted into shares of Common Stock, at the applicable ratio described in Section 4.1.1 as the same may be adjusted from time to time in accordance with Section 5 and (2) such shares may not be reissued by the Corporation.

4.2.2 Mandatory Conversion Procedural Requirements.

(a) All holders of record of shares of Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to Sections 4.2.1 and 9. Unless otherwise provided in this Restated Certificate, such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Preferred Stock shall surrender such holder's certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice, and shall thereafter receive certificates for the number of shares of Common Stock to which such holder is entitled pursuant to this Section 4.2.

(b) If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form reasonably satisfactory to the Corporation, duly executed by the registered holder or by such holder's attorney duly authorized in writing. All rights with respect to the Preferred Stock converted pursuant to this Section 4.2, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender the certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of their certificate or certificates (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Section 4.2.2(b). As soon as practicable after the Mandatory Conversion Time and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation shall issue and deliver to such holder, or to such holder's nominee(s), a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in Section 5.7.3 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock (and the applicable series thereof) accordingly.

4.3 Termination of Conversion Rights. Subject to Section 4.1.2 in the case of a Contingency Event, in the event of a liquidation, dissolution or winding up of the Corporation, a Deemed Liquidation Event or a Qualified Public Offering, the Conversion Rights shall terminate at the close of business on the third day preceding the date fixed for the first payment of any funds and assets distributable on such event to the holders of Preferred Stock (or, in the case of a Qualified Public Offering, the third day preceding the effective date of the registration statement for the Qualified Public Offering).

5. Adjustments to Conversion Price.

5.1 Adjustments for Diluting Issuances.

5.1.1 Special Definitions. For purposes of this Article IV, the following definitions shall apply:

(a) "**Option**" shall mean any right, option or warrant to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities from the Corporation.

(b) "**Original Issue Date**" for a series of Preferred Stock shall mean the date on which the first share of such series of Preferred Stock was issued.

(c) "**Convertible Securities**" shall mean any evidences of indebtedness, shares or other securities issued by the Corporation that are directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(d) “**Additional Shares of Common Stock**” with respect to a series of Preferred Stock shall mean all shares of Common Stock issued (or, pursuant to Section 5.1.2 below, deemed to be issued) by the Corporation after the applicable Original Issue Date for such series of Preferred Stock, other than the following shares of Common Stock and shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (collectively as to all such shares and shares deemed issued, “**Exempted Securities**”):

(i) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options outstanding as of the Original Issue Date, or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities outstanding as of the Original Issue Date, in each case provided that such issuance is pursuant to the terms of such Option or Convertible Security;

(ii) shares of Common Stock or Options to acquire shares of Common Stock, including but not limited to stock appreciation rights payable in shares of Common Stock or in Options or Convertible Securities, issued to Service Providers pursuant to a plan, agreement or arrangement approved by the Board including the affirmative approval of a majority of the Preferred Directors;

(iii) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on the Preferred Stock;

(iv) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on or subdivision of shares of Common Stock that is covered by Section 5.2, 5.3, 5.4, 5.5 or 5.6;

(v) shares of Common Stock, Options or Convertible Securities issued in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or strategic partnerships approved by the Board including the affirmative approval of a majority of the Preferred Directors;

(vi) shares of Common Stock, Options or Convertible Securities issued to banks, equipment lessors or other financial institutions pursuant to a debt financing or equipment leasing transaction approved by the Board including the affirmative approval of a majority of the Preferred Directors;

(vii) shares of Common Stock issued in an offering to the public pursuant to a registration statement filed under the Securities Act with, and declared effective by, the Securities and Exchange Commission;

(viii) shares of Common Stock, Options or Convertible Securities issued pursuant to a bona fide acquisition of another entity by the Corporation by merger or consolidation with, purchase of substantially all of the assets of, or purchase of more than fifty percent (50%) of the outstanding equity securities of, the other entity, or issued pursuant to a bona fide joint venture agreement, *provided* that such issuances are approved by the Board including the affirmative approval of a majority of the Preferred Directors;

(ix) shares of Common Stock, Options or Convertible Securities issued as a result of a decrease in the Conversion Price of any series of Preferred Stock resulting from the operation of Section 5.1.3;

(x) shares of Series C Preferred Stock issued pursuant to an Additional Closing (as defined under the Series C Purchase Agreement); or

(xi) with respect to a specific series of Preferred Stock only, shares of Common Stock, Options or Convertible Securities issued with the written consent, or affirmative vote at a meeting or evidenced in writing, of the holders of at least a majority of the then-outstanding shares of such series of Preferred Stock, consenting or voting as a separate class.

5.1.2 Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the applicable Original Issue Date for a series of Preferred Stock shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability (including the passage of time) but without regard to any provision contained therein for a subsequent adjustment of such number including by way of anti-dilution adjustment) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price of a series of Preferred Stock pursuant to the terms of Section 5.1.3, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (i) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (ii) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Conversion Price of such series of Preferred Stock computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Conversion Price of such series of Preferred Stock as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this Section 5.1.2(b) shall have the effect of increasing the Conversion Price of a series of Preferred Stock to an amount which exceeds the lower of (1) the Conversion Price for such series of Preferred Stock in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (2) the Conversion Price for such series of Preferred Stock that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities that are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Conversion Price of a series of Preferred Stock pursuant to the terms of Section 5.1.3 (either because the consideration per share (determined pursuant to Section 5.1.4) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Conversion Price of such series of Preferred Stock then in effect, or because such Option or Convertible Security was issued before the Original Issue Date of such series of Preferred Stock), are revised after the Original Issue Date of such series of Preferred Stock as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (i) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (ii) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Section 5.1.2(a)) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) that resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price of a series of Preferred Stock pursuant to the terms of Section 5.1.3, the Conversion Price of such series of Preferred Stock shall be readjusted to such Conversion Price of such series of Preferred Stock as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Conversion Price of a series of Preferred Stock provided for in this Section 5.1.2 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in Sections 5.1.2(b) and 5.1.2(c)). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to such Conversion Price that would result under the terms of this Section 5.1.2 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to such Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

5.1.3 Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the applicable Original Issue Date of a series of Preferred Stock issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 5.1.2), without consideration or for a consideration per share less than the Conversion Price for such series of Preferred Stock in effect immediately prior to such issue, then such Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-thousandth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

“CP₂” shall mean the applicable Conversion Price in effect immediately after such issue or deemed issue of Additional Shares of Common Stock;

“CP₁” shall mean the applicable Conversion Price in effect immediately prior to such issue or deemed issue of Additional Shares of Common Stock;

“A” shall mean the number of shares of Common Stock outstanding immediately prior to such issue or deemed issue of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issue or upon conversion or exchange of Convertible Securities (including the Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

“B” shall mean the number of shares of Common Stock that would have been issued or deemed issued if such Additional Shares of Common Stock had been issued at a price per share equal to CP₁ (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP₁); and

“C” shall mean the number of such Additional Shares of Common Stock actually issued or deemed issued in such transaction.

5.1.4 Determination of Consideration. For purposes of this Section 5.1, the consideration received by the Corporation for the issue or deemed issue of any Additional Shares of Common Stock shall be computed as follows:

(a) Cash and Property: Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 5.1.2, relating to Options and Convertible Securities, shall be determined by dividing:

(i) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

5.1.5 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion Price of a series of Preferred Stock pursuant to the terms of Section 5.1.2 and such issuance dates occur within a period of no more than 120 days after the first such issuance to the final such issuance, then, upon the final such issuance, the Conversion Price of such series of Preferred Stock shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period that are a part of such transaction or series of related transaction).

5.2 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Original Issue Date for a series of Preferred Stock effect a subdivision of the outstanding Common Stock, the Conversion Price for such series of Preferred Stock in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock

outstanding. If the Corporation shall at any time or from time to time after the Original Issue Date for a series of Preferred Stock combine the outstanding shares of Common Stock, the Conversion Price for such series of Preferred Stock in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this Section 5.2 shall become effective at the close of business on the date the subdivision or combination becomes effective.

5.3 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date for a series of Preferred Stock shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Conversion Price for such series of Preferred Stock in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying such Conversion Price then in effect by a fraction:

(a) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(b) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (i) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, such Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter such Conversion Price shall be adjusted pursuant to this Section 5.3 as of the time of actual payment of such dividends or distributions; and (ii) no such adjustment shall be made if the holders of such series of Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of such series of Preferred Stock had been converted into Common Stock on the date of such event.

5.4 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date for a series of Preferred Stock shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock), then and in each such event the holders of such series of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities in an amount equal to the amount of such securities as they would have received if all outstanding shares of such series of Preferred Stock had been converted into Common Stock on the date of such event.

5.5 Adjustment for Reclassification, Exchange and Substitution. If, at any time or from time to time after the Original Issue Date for a series of Preferred Stock, the Common Stock issuable upon the conversion of such series of Preferred Stock is changed into the same or a different number of shares of any class or classes of stock of the Corporation, whether by recapitalization, reclassification or otherwise (other than by a stock split or combination, dividend, distribution, merger or consolidation covered by Sections 5.2, 5.3, 5.4 or 5.6 or by Section 2.3 regarding a Deemed Liquidation Event), then in any such event each holder of such series of Preferred Stock shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Common Stock into which such shares of Preferred Stock could have been converted immediately prior to such recapitalization, reclassification or change.

5.6 Adjustment for Merger or Consolidation. Subject to the provisions of Section 2.3, if there shall occur any consolidation or merger involving the Corporation in which the Common Stock (but not a series of Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Sections 5.3, 5.4 or 5.5), then, following any such consolidation or merger, provision shall be made that each share of such series of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of such series of Preferred Stock immediately prior to such consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board) shall be made in the application of the provisions in Section 4 and this Section 5 with respect to the rights and interests thereafter of the holders of such series of Preferred Stock, to the end that the provisions set forth in Section 4 and this Section 5 shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of such series of Preferred Stock.

5.7 General Conversion Provisions.

5.7.1 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price of a series of Preferred Stock pursuant to this Section 5, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than 15 days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of such series of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which such series of Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of any series of Preferred Stock (but in any event not later than 10 days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (a) the Conversion Price of such series of Preferred Stock then in effect and (b) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of such series of Preferred Stock.

5.7.2 Reservation of Shares. The Corporation shall at all times while any share of Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Restated Certificate. Before taking any action that would cause an adjustment reducing the Conversion Price of a series of Preferred Stock below the then par value of the shares of Common Stock issuable upon conversion of such series of Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Conversion Price.

5.7.3 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair value of a share of Common Stock as determined in good faith by the Board. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

5.7.4 No Further Adjustment after Conversion. Upon any conversion of shares of Preferred Stock into Common Stock, no adjustment to the Conversion Price of the applicable series of Preferred Stock shall be made with respect to the converted shares for any declared but unpaid dividends on such series of Preferred Stock or on the Common Stock delivered upon conversion.

6. No Reissuance of Redeemed or Otherwise Acquired Preferred Stock. Any shares of Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights, powers and preferences granted to the holders of Preferred Stock following the close of business on the third day preceding the date fixed for redemption for such shares.

7. Waiver. Any of the rights, powers, preferences and other terms of a series of the Preferred Stock that are set forth herein may be waived on behalf of all holders of such series of Preferred Stock by the affirmative written consent or vote of the holders of at least a majority of the shares of such series of Preferred Stock that are then outstanding. Any of the rights, powers, preferences and other terms of the Preferred Stock as a class that are set forth herein may be waived on behalf of all holders of Preferred Stock by the Requisite Preferred Majority.

8. Notice of Record Date. In the event:

(a) the Corporation shall set a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or subscription right, and the amount and character of such dividend, distribution or subscription right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Stock and the Common Stock. Such notice shall be sent (A) at least 20 days prior to the earlier of the record date or effective date for the event specified in such notice or (B) such fewer number of days as may be approved the holders of at least a majority of the outstanding shares of Preferred Stock acting as a single class on an as-converted basis.

9. Notices. Except as otherwise provided herein, any notice required or permitted by the provisions of this Article IV to be given to a holder of shares of Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation for such holder, given by the holder to the Corporation for the purpose of notice or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission. If no such address appears or is given, notice shall be deemed given at the place where the principal executive office of the Corporation is located.

ARTICLE V: PREEMPTIVE RIGHTS.

No stockholder of the Corporation shall have a right to purchase shares of capital stock of the Corporation sold or issued by the Corporation except to the extent that such a right may from time to time be set forth in a written agreement between the Corporation and any stockholder.

ARTICLE VI: STOCK REPURCHASES.

In accordance with Section 500 of the California Corporations Code, a distribution can be made without regard to any preferential dividends arrears amount (as defined in Section 500 of the California Corporations Code) or any preferential rights amount (as defined in Section 500 of the California Corporations Code) in connection with (i) repurchases of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries upon termination of their employment or services pursuant to agreements providing for the right of said repurchase, (ii) repurchases of Common Stock issued to or held by employees, officers, directors or consultants of the Corporation or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such right, (iii) repurchases of Common Stock or Preferred Stock in connection with the settlement of disputes with any stockholder, or (iv) any other repurchase or redemption of Common Stock or Preferred Stock approved by the holders of Preferred Stock of the Corporation.

ARTICLE VII: BYLAW PROVISIONS.

A. AMENDMENT OF BYLAWS. Subject to any additional vote required by this Restated Certificate or the Bylaws, in furtherance and not in limitation of the powers conferred by statute, the Board is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws.

B. NUMBER OF DIRECTORS. Subject to any additional vote required by this Restated Certificate, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws.

C. BALLOT. Elections of directors need not be by written ballot unless the Bylaws shall so provide.

D. MEETINGS AND BOOKS. Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board or in the Bylaws.

ARTICLE VIII: DIRECTOR LIABILITY.

A. LIMITATION. To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article VIII to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended. Any repeal or modification of the foregoing provisions of this Article VIII by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

B. INDEMNIFICATION. To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which General Corporation Law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.

C. MODIFICATION. Any amendment, repeal or modification of the foregoing provisions of this Article VIII shall not adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification.

ARTICLE IX: CORPORATE OPPORTUNITIES.

In the event that a director of the Corporation who is also a partner or employee of an entity that is a holder of Preferred Stock or any of its affiliates and that is in the business of investing and reinvesting in other entities (each, a "**Fund**"), acquires knowledge of a potential transaction or matter in such person's capacity as a partner or employee of the Fund and that may be a corporate opportunity for both the Corporation and such Fund, such director shall to the fullest extent permitted by law have fully satisfied and fulfilled such director's fiduciary duty to the Corporation and its stockholders with respect to such corporate opportunity, and the Corporation to the fullest extent permitted by law waives any claim that such business opportunity constituted a corporate opportunity that should have been presented to the Corporation or any of its affiliates, if such director acts in good faith in a manner consistent with the following policy: a corporate opportunity offered to any person who is a director of the Corporation, and who is also a partner or employee of a Fund shall belong to such Fund, unless such opportunity was expressly offered to such person solely in his or her capacity as a director of the Corporation.

ARTICLE X: CREDITOR AND STOCKHOLDER COMPROMISES.

Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under the provisions of §291 of Title 8 of the General Corporation Law or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under §279 of Title 8 of the General Corporation Law order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

ARTICLE XI: FORUM.

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware, to the fullest extent permitted by law, shall be the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of the Corporation; (ii) any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any director, officer, employee or agent of the Corporation to the Corporation or the Corporation's stockholders; (iii) any action asserting a claim against the Corporation arising pursuant to any provision of the General Corporation Law, this Restated Certificate of Incorporation or the Bylaws; (iv) any action to interpret, apply, enforce or determine the validity of this Restated Certificate of Incorporation or the Bylaws; or (v) any action asserting a claim against the Corporation governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Article XI.

* * * * *

ARCUTIS BIOTHERAPEUTICS, INC.

RESTATED CERTIFICATE OF INCORPORATION

Arcutis Biotherapeutics, Inc., a Delaware corporation, hereby certifies as follows:

1. The name of the corporation is Arcutis Biotherapeutics, Inc. The date of the filing of its original Certificate of Incorporation with the Secretary of State was June 1, 2016 under the name Arcutis, Inc.

2. The Restated Certificate of Incorporation of the corporation attached hereto as Exhibit A, which is incorporated herein by this reference, and which restates, integrates and further amends the provisions of the Certificate of Incorporation of this corporation as previously amended and/or restated, has been duly adopted by this corporation's Board of Directors and by the stockholders in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware, with the approval of the corporation's stockholders having been given by written consent without a meeting in accordance with Section 228 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, this corporation has caused this Restated Certificate of Incorporation to be signed by its duly authorized officer and the foregoing facts stated herein are true and correct.

Dated: [_____] [__], 2020

ARCUTIS BIOTHERAPEUTICS, INC.

By: _____
Name: Todd Franklin Watanabe
Title: Chief Executive Officer

EXHIBIT A

ARCUTIS BIOTHERAPEUTICS, INC.

RESTATED CERTIFICATE OF INCORPORATION

ARTICLE I: NAME

The name of the corporation is Arcutis Biotherapeutics, Inc. (collectively with its subsidiaries, the “*Corporation*”).

ARTICLE II: AGENT FOR SERVICE OF PROCESS

The address of the Corporation’s registered office in the State of Delaware is 3500 South Dupont Highway, in the City of Dover, County of Kent 19901. The name of the registered agent of the Corporation at that address is Incorporating Services, Ltd.

ARTICLE III: PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the “*General Corporation Law*”).

ARTICLE IV: AUTHORIZED STOCK

1. Total Authorized. The total number of shares of all classes of stock that the Corporation has authority to issue is Three Hundred Ten Million (310,000,000) shares, consisting of two classes: Three Hundred Million (300,000,000) shares of Common Stock, \$0.0001 par value per share (“*Common Stock*”), and Ten Million (10,000,000) shares of Preferred Stock, \$0.0001 par value per share (“*Preferred Stock*”).

2. Designation of Additional Series.

2.1. The Board of Directors of the Corporation (the “*Board*”) is authorized, subject to any limitations prescribed by the law of the State of Delaware, to provide for the issuance of the shares of Preferred Stock in one or more series, and, by filing a Certificate of Designation pursuant to the applicable law of the State of Delaware (“*Certificate of Designation*”), to establish from time to time the number of shares to be included in each such series, to fix the designation, vesting, powers (including voting powers), preferences and relative, participating, optional or other special rights, if any, of the shares of each such series and any qualifications, limitations or restrictions thereof, and, except where otherwise provided in the applicable Certificate of Designation, to thereafter increase (but not above the total number of authorized shares of the Preferred Stock) or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series. The number of authorized shares of Preferred Stock may also be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of two-thirds of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote thereon, without a separate vote of the holders of the Preferred Stock, unless a vote of any such holders is required pursuant to the terms of any certificate or certificates establishing a series of Preferred Stock.

2.2 Except as otherwise expressly provided in any Certificate of Designation designating any series of Preferred Stock pursuant to the foregoing provisions of this Article IV, any new series of Preferred Stock may be designated, fixed and determined as provided herein by the Board without approval of the holders of Common Stock or the holders of Preferred Stock, or any series thereof, and any such new series may have powers, preferences and rights, including, without limitation, voting rights, dividend rights, liquidation rights, redemption rights and conversion rights, senior to, junior to or pari passu with the rights of the Common Stock, the Preferred Stock or any future class or series of Preferred Stock or Common Stock.

2.3 Each outstanding share of Common Stock shall entitle the holder thereof to one vote on each matter properly submitted to the stockholders of the Corporation for their vote; provided, however, that, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Restated Certificate of Incorporation (including any Certificate of Designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to this Restated Certificate of Incorporation (including any Certificate of Designation relating to any series of Preferred Stock).

ARTICLE V: AMENDMENT OF BYLAWS

The Board shall have the power to adopt, amend or repeal the Bylaws of the Corporation (as the same may be amended and/or restated from time to time, the “**Bylaws**”). Any adoption, amendment or repeal of the Bylaws by the Board shall require the approval of a majority of the Whole Board. For purposes of this Restated Certificate of Incorporation, the term “**Whole Board**” shall mean the total number of authorized directors whether or not there exist any vacancies in previously authorized directorships. The stockholders shall also have power to adopt, amend or repeal the Bylaws; provided, however, that notwithstanding any other provision of this Restated Certificate of Incorporation or any provision of law that might otherwise permit a lesser or no vote, but in addition to any vote of the holders of any class or series of stock of the Corporation required by applicable law or by this Restated Certificate of Incorporation (including any Preferred Stock issued pursuant to a Certificate of Designation), the affirmative vote of the holders of at least two-thirds of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders to adopt, amend or repeal any provision of the Bylaws; provided further, that, in the case of any proposed adoption, amendment or repeal of any provisions of the Bylaws that is approved by the Board and submitted to the stockholders for adoption thereby, if two-thirds of the Whole Board has approved such adoption, amendment or repeal of any provisions of the Bylaws, then only the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to adopt, amend or repeal any provision of the Bylaws.

ARTICLE VI: MATTERS RELATING TO THE BOARD OF DIRECTORS

1. Director Powers. Except as otherwise provided by the General Corporation Law, the conduct of the affairs of the Corporation shall be managed by or under the direction of the Board. In addition to the powers and authority expressly conferred upon them by applicable law or by this Restated Certificate of Incorporation or the Bylaws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

2. Number of Directors. Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the total number of directors constituting the Whole Board shall be fixed from time to time exclusively by resolution adopted by a majority of the Whole Board.

3. Classified Board. Subject to the special rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the directors shall be divided, with respect to the time for which they severally hold office, into three classes designated as Class I, Class II and Class III, respectively (the “**Classified Board**”). The Board may assign members of the Board already in office to the Classified Board, which assignments shall become effective at the same time the Classified Board becomes effective. Directors shall be assigned to each class in accordance with a resolution or resolutions adopted by the Board. The number of directors in each class shall be divided as nearly equal as reasonably possible. The initial term of office of the Class I directors shall expire at the Corporation’s first annual meeting of stockholders following the closing of the Corporation’s initial public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, relating to the offer and sale of Common Stock to the public (the “**Initial Public Offering**”), the initial term of office of the Class II directors shall expire at the Corporation’s second annual meeting of stockholders following the closing of the Initial Public Offering and the initial term of office of the Class III directors shall expire at the

Corporation's third annual meeting of stockholders following the closing of the Initial Public Offering. At each annual meeting of stockholders following the closing of the Initial Public Offering, directors elected to succeed those directors of the class whose terms then expire shall be elected for a term of office to expire at the third succeeding annual meeting of stockholders after their election.

4. Term and Removal. Each director shall hold office until the annual meeting at which such director's term expires and until such director's successor is duly elected and qualified, or until such director's earlier death, resignation, disqualification or removal. Any director may resign at any time upon notice to the Corporation given in writing or by any electronic transmission permitted in the Bylaws. Subject to the special rights of the holders of any series of Preferred Stock, no director may be removed from the Board except for cause and only by the affirmative vote of the holders of at least two-thirds of the voting power of the then-outstanding shares of capital stock of the Corporation entitled to vote at an election of directors, voting together as a single class. No decrease in the authorized number of directors constituting the Whole Board shall shorten the term of any incumbent director.

5. Board Vacancies and Newly Created Directorships. Subject to the special rights of the holders of any series of Preferred Stock, any vacancy occurring in the Board for any cause, and any newly created directorship resulting from any increase in the authorized number of directors, shall, unless (a) the Board determines by resolution that any such vacancies or newly created directorships shall be filled by the stockholders or (b) as otherwise provided by law, be filled only by the affirmative vote of a majority of the directors then in office, even if less than a quorum, or by a sole remaining director, and shall not be filled by the stockholders. Any director elected in accordance with the preceding sentence shall hold office for a term expiring at the annual meeting of stockholders at which the term of office of the class to which the director has been assigned expires or until such director's successor shall have been duly elected and qualified, or until such director's earlier death, resignation, disqualification or removal.

6. Vote by Ballot. Election of directors need not be by written ballot unless the Bylaws shall so provide.

ARTICLE VII: DIRECTOR LIABILITY

1. Limitation of Liability. To the fullest extent permitted by law, no director of the Corporation shall be personally liable for monetary damages for breach of fiduciary duty as a director. Without limiting the effect of the preceding sentence, if the General Corporation Law is hereafter amended to authorize the further elimination or limitation of the liability of a director, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law, as so amended.

2. Change in Rights. Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of this Restated Certificate of Incorporation inconsistent with this Article VII, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such amendment, repeal or adoption of such an inconsistent provision.

ARTICLE VIII: MATTERS RELATING TO STOCKHOLDERS

1. No Action by Written Consent of Stockholders. Subject to the rights of any series of Preferred Stock then outstanding, no action shall be taken by the stockholders of the Corporation except at a duly called annual or special meeting of stockholders and no action shall be taken by the stockholders of the Corporation by written consent.

2. Special Meeting of Stockholders. Special meetings of the stockholders of the Corporation may be called only by the Chairperson of the Board, the Chief Executive Officer, the President, or the Board acting pursuant to a resolution adopted by a majority of the Whole Board and may not be called by any other person or persons.

3. Advance Notice of Stockholder Nominations and Business Transacted at Special Meetings. Advance notice of stockholder nominations for the election of directors of the Corporation and of business to be brought by stockholders before any meeting of stockholders of the Corporation shall be given in the manner provided in the Bylaws. Business transacted at special meetings of stockholders shall be limited to the purpose or purposes stated in the notice of meeting.

ARTICLE IX: CHOICE OF FORUM

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware, to the fullest extent permitted by law, shall be the sole and exclusive forum for: (a) any derivative action or proceeding brought on behalf of the Corporation; (b) any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any director, officer, stockholder, employee or agent of the Corporation to the Corporation or the Corporation's stockholders; (c) any action asserting a claim against the Corporation or any director, officer, stockholder, employee or agent of the Corporation arising pursuant to any provision of the General Corporation Law, this Restated Certificate of Incorporation or the Bylaws; (d) any action to interpret, apply, enforce or determine the validity of this Restated Certificate of Incorporation or the Bylaws; or (e) any action asserting a claim against the Corporation or any director, officer, stockholder, employee or agent of the Corporation governed by the internal affairs doctrine.

Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Article IX.

ARTICLE X: AMENDMENT OF CERTIFICATE OF INCORPORATION

If any provision of this Restated Certificate of Incorporation becomes or is declared on any ground by a court of competent jurisdiction to be illegal, unenforceable or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this Restated Certificate of Incorporation, and the court will replace such illegal, void or unenforceable provision of this Restated Certificate of Incorporation with a valid and enforceable provision that most accurately reflects the Corporation's intent, in order to achieve, to the maximum extent possible, the same economic, business and other purposes of the illegal, void or unenforceable provision. The balance of this Restated Certificate of Incorporation shall be enforceable in accordance with its terms.

The Corporation reserves the right to amend or repeal any provision contained in this Restated Certificate of Incorporation in the manner prescribed by the laws of the State of Delaware and all rights conferred upon stockholders are granted subject to this reservation; *provided, however*, that, notwithstanding any other provision of this Restated Certificate of Incorporation or any provision of law that might otherwise permit a lesser vote or no vote, but in addition to any vote of the holders of any class or series of the stock of the Corporation required by law or by this Restated Certificate of Incorporation, the affirmative vote of the holders of at least two-thirds of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to amend or repeal this Article X or Article V, Article VI, Article VII or Article VIII; *provided, further*, that if two-thirds of the Whole Board has approved such amendment or repeal of any provisions of this Restated Certificate of Incorporation, then only the affirmative vote of the holders of at least a majority of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to amend or repeal such provisions of this Restated Certificate of Incorporation.

AMENDED AND RESTATED BYLAWS

OF

**ARCUTIS, INC.
(A DELAWARE CORPORATION)**

AS ADOPTED APRIL 10, 2017

AMENDED AND RESTATED BYLAWS

OF

**ARCUTIS, INC.
(A DELAWARE CORPORATION)**

AS ADOPTED APRIL 10, 2017

ARTICLE I

OFFICES

Section 1. Registered Office. The registered office of the corporation in the State of Delaware shall be in the City of Wilmington, County of New Castle.

Section 2. Other Offices. The corporation shall also have and maintain an office or principal place of business at such place as may be fixed by the Board of Directors, and may also have offices at such other places, both within and without the State of Delaware, as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE II

CORPORATE SEAL

Section 3. Corporate Seal. The Board of Directors may adopt a corporate seal. The corporate seal shall consist of a die bearing the name of the corporation and the inscription, "Corporate Seal-Delaware." Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE III

STOCKHOLDERS' MEETINGS

Section 4. Place of Meetings. Meetings of the stockholders of the corporation may be held at such place, either within or without the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the Delaware General Corporation Law ("DGCL").

Section 5. Annual Meeting.

(a) The annual meeting of the stockholders of the corporation, for the purpose of election of directors and for such other business as may lawfully come before it, shall be held on such date and at such time as may be designated from time to time by the Board of Directors. Nominations of persons for election to the Board of Directors of the corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders: (i) pursuant to the corporation's notice of meeting of stockholders; (ii) by or at the direction of the Board of Directors; or (iii) by any stockholder of the corporation who was a stockholder of record at the time of giving of notice provided for in the following paragraph, who is entitled to vote at the meeting and who complied with the notice procedures set forth in Section 5.

(b) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a) of these Bylaws, (i) the stockholder must have given timely notice thereof in writing to the Secretary of the corporation, (ii) such other business must be a proper matter for stockholder action under the DGCL, (iii) if the stockholder, or the beneficial owner on whose behalf any such proposal or nomination is made, has provided the corporation with a Solicitation Notice (as defined in this Section 5(b)), such stockholder or beneficial owner must, in the case of a proposal, have delivered a proxy statement and form of proxy to holders of at least the percentage of the corporation's voting shares required under applicable law to carry any such proposal, or, in the case of a nomination or nominations, have delivered a proxy statement and form of proxy to holders of a percentage of the corporation's voting shares reasonably believed by such stockholder or beneficial owner to be sufficient to elect the nominee or nominees proposed to be nominated by such stockholder, and must, in either case, have included in such materials the Solicitation Notice, and (iv) if no Solicitation Notice relating thereto has been timely provided pursuant to this section, the stockholder or beneficial owner proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice under this Section 5. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90th) day nor earlier than the close of business on the one hundred twentieth (120th) day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of an adjournment of an annual meeting commence a new time period for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth: (A) as to each person whom the stockholder proposed to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "1934

Act”) and Rule 14a-4(d) thereunder (including such person’s written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the corporation’s books, and of such beneficial owner, (ii) the class and number of shares of the corporation which are owned beneficially and of record by such stockholder and such beneficial owner, and (iii) whether either such stockholder or beneficial owner intends to deliver a proxy statement and form of proxy to holders of, in the case of the proposal, at least the percentage of the corporation’s voting shares required under applicable law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the corporation’s voting shares to elect such nominee or nominees (an affirmative statement of such intent, a “**Solicitation Notice**”).

(c) Notwithstanding anything in the second sentence of Section 5(b) of these Bylaws to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the corporation at least one hundred (100) days prior to the first anniversary of the preceding year’s annual meeting, a stockholder’s notice required by this Section 5 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the corporation.

(d) Only such persons who are nominated in accordance with the procedures set forth in this Section 5 shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 5. Except as otherwise provided by law, the Chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, to declare that such defective proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

(e) Notwithstanding the foregoing provisions of this Section 5, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders’ meeting, stockholders must provide notice as required by the regulations promulgated under the 1934 Act. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation proxy statement pursuant to Rule 14a-8 under the 1934 Act.

(f) For purposes of this Section 5, “public announcement” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the 1934 Act.

Section 6. Special Meetings.

(a) Special meetings of the stockholders of the corporation may be called, for any purpose or purposes, by (i) the Chairman of the Board of Directors, (ii) the Chief Executive Officer, (iii) the Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors (whether or not there exist any vacancies in previously authorized directorships at the time any such resolution is presented to the Board of Directors for adoption) or (iv) by the holders of shares entitled to cast not less than twenty percent (20%) of the votes at the meeting, and shall be held at such place, on such date, and at such time as the Board of Directors shall fix.

(b) If a special meeting is properly called by any person or persons other than the Board of Directors, the request shall be in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered personally or sent by certified or registered mail, return receipt requested, or by telegraphic or other facsimile transmission to the Chairman of the Board of Directors, the Chief Executive Officer, or the Secretary of the corporation. No business may be transacted at such special meeting otherwise than specified in such notice. The Board of Directors shall determine the time and place of such special meeting, which shall be held not less than thirty-five (35) nor more than one hundred twenty (120) days after the date of the receipt of the request. Upon determination of the time and place of the meeting, the officer receiving the request shall cause notice to be given to the stockholders entitled to vote, in accordance with the provisions of Section 7 of these Bylaws. Nothing contained in this paragraph (b) shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board of Directors may be held.

Section 7. Notice of Meetings. Except as otherwise provided by law, notice, given in writing or by electronic transmission, of each meeting of stockholders shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, if any, date and hour, in the case of special meetings, the purpose or purposes of the meeting, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at any such meeting. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived in writing, signed by the person entitled to notice thereof or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by his attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

Section 8. Quorum. At all meetings of stockholders, except where otherwise provided by statute or by the Certificate of Incorporation, or by these Bylaws, the presence, in person, by remote communication, if applicable, or by proxy duly authorized, of the holders of a majority of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairman of the meeting or by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Except as otherwise provided by statute, or by the Certificate of Incorporation or these Bylaws, in all matters other than the election of directors, the affirmative vote of a majority of shares present in person, by remote communication, if applicable, or represented by proxy duly authorized at the meeting and entitled to vote generally on the subject matter shall be the act of the stockholders. Except as otherwise provided by statute, the Certificate of Incorporation or these Bylaws, directors shall be elected by a plurality of the votes of the shares present in person, by remote communication, if applicable, or represented by proxy duly authorized at the meeting and entitled to vote generally on the election of directors. Where a separate vote by a class or classes or series is required, except where otherwise provided by the statute or by the Certificate of Incorporation or these Bylaws, a majority of the outstanding shares of such class or classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. Except where otherwise provided by statute or by the Certificate of Incorporation or these Bylaws, the affirmative vote of the majority (plurality, in the case of the election of directors) of shares of such class or classes or series present in person, by remote communication, if applicable, or represented by proxy at the meeting shall be the act of such class or classes or series.

Section 9. Adjournment and Notice of Adjourned Meetings. Any meeting of stockholders, whether annual or special, may be adjourned from time to time either by the chairman of the meeting or by the vote of a majority of the shares present in person, by remote communication, if applicable, or represented by proxy. When a meeting is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 10. Voting Rights. For the purpose of determining those stockholders entitled to vote at any meeting of the stockholders, except as otherwise provided by law, only persons in whose names shares stand on the stock records of the corporation on the record date, as provided in Section 12 of these Bylaws, shall be entitled to vote at any meeting of stockholders. Every person entitled to vote or execute consents shall have the right to do so either in person, by remote communication, if applicable, or by an agent or agents authorized by a proxy granted in accordance with Delaware law. An agent so appointed need not be a stockholder. No proxy shall be voted after three (3) years from its date of creation unless the proxy provides for a longer period.

Section 11. Joint Owners of Stock. If shares or other securities having voting power stand of record in the names of two (2) or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety, or otherwise, or if two (2) or more persons have the same fiduciary relationship respecting the same shares, unless the Secretary is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect: (a) if only one (1) votes, his act binds all; (b) if more than one (1) votes, the act of the majority so voting binds all; (c) if more than one (1) votes, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or may apply to the Delaware Court of Chancery for relief as provided in the DGCL, Section 217(b). If the instrument filed with the Secretary shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of subsection (c) shall be a majority or even-split in interest.

Section 12. List of Stockholders. The Secretary shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. The list shall be open to examination of any stockholder during the time of the meeting as provided by law.

Section 13. Action Without Meeting.

(a) Unless otherwise provided in the Certificate of Incorporation, any action required by statute to be taken at any annual or special meeting of the stockholders, or any action which may be taken at any annual or special meeting of the stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, or by electronic transmission setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

(b) Every written consent or electronic transmission shall bear the date of signature of each stockholder who signs the consent, and no written consent or electronic transmission shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest dated consent delivered to the corporation in the manner herein required, written consents or electronic transmissions signed by a sufficient number of stockholders to take action are delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

(c) Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing or by electronic transmission and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to take action were delivered to the corporation as provided in Section 228(c) of the DGCL. If the action which is consented to is such as would have required the filing of a certificate under any section of the DGCL if such action had been voted on by stockholders at a meeting thereof, then the certificate filed under such section shall state, in lieu of any statement required by such section concerning any vote of stockholders, that written consent has been given in accordance with Section 228 of the DGCL.

(d) A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the corporation can determine (i) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder and (ii) the date on which such stockholder or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in the state of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded if, to the extent and in the manner provided by resolution of the board of directors of the corporation. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

Section 14. Organization.

(a) At every meeting of stockholders, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the President, or, if the President is absent, a chairman of the meeting chosen by a majority in interest of the stockholders entitled to vote, present in person or by proxy, shall act as chairman. The Secretary, or, in his absence, an Assistant Secretary directed to do so by the President, shall act as secretary of the meeting.

(b) The Board of Directors of the corporation shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in such meeting to stockholders of record of the corporation and their duly authorized and constituted proxies and such other persons as the chairman shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting on matters which are to be voted on by ballot. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with rules of parliamentary procedure.

ARTICLE IV

DIRECTORS

Section 15. Number and Term of Office.

The authorized number of directors of the corporation shall be fixed by the Board of Directors from time to time. Directors need not be stockholders unless so required by the Certificate of Incorporation. If for any cause, the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient.

Section 16. Powers. The business and affairs of the corporation shall be managed by or under the direction of the Board of Directors, except as may be otherwise provided by statute or by the Certificate of Incorporation.

Section 17. Term of Directors.

Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, directors shall be elected at each annual meeting of stockholders to serve until the next annual meeting of stockholders. Each director shall serve until his successor is duly elected and qualified or until his death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Section 18. Vacancies.

Unless otherwise provided in the Certificate of Incorporation, and subject to the rights of the holders of any series of Preferred Stock, any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other causes and any newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such vacancies or newly created

directorships shall be filled by stockholders, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director, *provided, however*, that whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director's successor shall have been elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under this Bylaw in the case of the death, removal or resignation of any director.

Section 19. Resignation. Any director may resign at any time by delivering his or her notice in writing or by electronic transmission to the Secretary, such resignation to specify whether it will be effective at a particular time, upon receipt by the Secretary or at the pleasure of the Board of Directors. If no such specification is made, it shall be deemed effective at the pleasure of the Board of Directors. When one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each Director so chosen shall hold office for the unexpired portion of the term of the Director whose place shall be vacated and until his successor shall have been duly elected and qualified.

Section 20. Removal.

(a) Subject to any limitations imposed by applicable law and to the rights of any holders of Preferred Stock then-outstanding, the Board of Directors or any director may be removed from office at any time (i) with cause by the affirmative vote of the holders of a majority of the voting power of all then-outstanding shares of capital stock of the corporation entitled to vote generally at an election of directors or (ii) without cause by the affirmative vote of the holders of a majority of the voting power of all then-outstanding shares of capital stock of the corporation, entitled to vote generally at an election of directors.

Section 21. Meetings.

(a) **Regular Meetings.** Unless otherwise restricted by the Certificate of Incorporation, regular meetings of the Board of Directors may be held at any time or date and at any place within or without the State of Delaware which has been designated by the Board of Directors and publicized among all directors, either orally or in writing, including a voice-messaging system or other system designated to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means. No further notice shall be required for a regular meeting of the Board of Directors.

(b) **Special Meetings.** Unless otherwise restricted by the Certificate of Incorporation, special meetings of the Board of Directors may be held at any time and place within or without the State of Delaware whenever called by the Chairman of the Board, the President or any two of the directors.

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

(d) Notice of Special Meetings. Notice of the time and place of all special meetings of the Board of Directors shall be orally or in writing, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means, during normal business hours, at least twenty-four (24) hours before the date and time of the meeting. If notice is sent by US mail, it shall be sent by first class mail, postage prepaid at least three (3) days before the date of the meeting. Notice of any meeting may be waived in writing or by electronic transmission at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

(e) Waiver of Notice. The transaction of all business at any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the directors not present who did not receive notice shall sign a written waiver of notice or shall waive notice by electronic transmission. All such waivers shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 22. Quorum and Voting.

(a) Unless the Certificate of Incorporation requires a greater number, a quorum of the Board of Directors shall consist of a majority of the exact number of directors fixed from time to time by the Board of Directors in accordance with the Certificate of Incorporation; *provided, however*, at any meeting, whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the Board of Directors, without notice other than by announcement at the meeting.

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

Section 23. Action Without Meeting. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 24. Fees and Compensation. Directors shall be entitled to such compensation for their services as may be approved by the Board of Directors, including, if so approved, by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board of Directors and at any meeting of a committee of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor.

Section 25. Committees.

(a) Executive Committee. The Board of Directors may appoint an Executive Committee to consist of one (1) or more members of the Board of Directors. The Executive Committee, to the extent permitted by law and provided in the resolution of the Board of Directors shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopting, amending or repealing any bylaw of the corporation.

(b) Other Committees. The Board of Directors may, from time to time, appoint such other committees as may be permitted by law. Such other committees appointed by the Board of Directors shall consist of one (1) or more members of the Board of Directors and shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

(c) Term. The Board of Directors, subject to any requirements of any outstanding series of Preferred Stock and the provisions of subsections (a) or (b) of this Bylaw may at any time increase or decrease the number of members of a committee or terminate the existence of a committee. The membership of a committee member shall terminate on the date of his death or voluntary resignation from the committee or from the Board of Directors. The Board of Directors may at any time for any reason remove any individual committee member and the Board of Directors may fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee, and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

(d) Meetings. Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section 25 shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter. Special meetings of any such committee may be held at any place which has been determined from time to time by such committee, and may be called by any director who is a member of such committee, upon notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends such special meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Unless otherwise provided by the Board of Directors in the resolutions authorizing the creation of the committee, a majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

Section 26. Organization. At every meeting of the directors, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the President, or if the President is absent, the most senior Vice President, (if a director) or, in the absence of any such person, a chairman of the meeting chosen by a majority of the directors present, shall preside over the meeting. The Secretary, or in his absence, any Assistant Secretary directed to do so by the President, shall act as secretary of the meeting.

ARTICLE V

OFFICERS

Section 27. Officers Designated. The officers of the corporation shall include, if and when designated by the Board of Directors, the Chief Executive Officer, the President, one or more Vice Presidents, the Secretary, the Chief Financial Officer, the Treasurer and the Controller, all of whom shall be elected at the annual organizational meeting of the Board of Directors. The Board of Directors may also appoint one or more Assistant Secretaries, Assistant Treasurers, Assistant Controllers and such other officers and agents with such powers and duties as it shall deem necessary. The Board of Directors may assign such additional titles to one or more of the officers as it shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the corporation shall be fixed by or in the manner designated by the Board of Directors.

Section 28. Tenure and Duties of Officers.

(a) General. All officers shall hold office at the pleasure of the Board of Directors and until their successors shall have been duly elected and qualified, unless sooner removed. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

(b) Duties of Chairman of the Board of Directors. The Chairman of the Board of Directors, when present, shall preside at all meetings of the stockholders and the Board of Directors. The Chairman of the Board of Directors shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time. If there is no President, then the Chairman of the Board of Directors shall also serve as the Chief Executive Officer of the corporation and shall have the powers and duties prescribed in paragraph (c) of this Section 28.

(c) Duties of President. The President shall preside at all meetings of the stockholders and at all meetings of the Board of Directors, unless the Chairman of the Board of Directors has been appointed and is present. Unless some other officer has been elected Chief Executive Officer of the corporation, the President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation. The President shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

(d) Duties of Vice Presidents. The Vice Presidents may assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. The Vice Presidents shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(e) Duties of Secretary. The Secretary shall attend all meetings of the stockholders and of the Board of Directors and shall record all acts and proceedings thereof in the minute book of the corporation. The Secretary shall give notice in conformity with these Bylaws of all meetings of the stockholders and of all meetings of the Board of Directors and any committee thereof requiring notice. The Secretary shall perform all other duties provided for in these Bylaws and other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time. The President may direct any Assistant Secretary to assume and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(f) Duties of Chief Financial Officer. The Chief Financial Officer shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board of Directors or the President. The Chief Financial Officer, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Chief Financial Officer shall perform other duties commonly incident to his office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time. The President may direct the Treasurer or any Assistant Treasurer, or the Controller or any Assistant Controller to assume and

perform the duties of the Chief Financial Officer in the absence or disability of the Chief Financial Officer, and each Treasurer and Assistant Treasurer and each Controller and Assistant Controller shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

Section 29. Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

Section 30. Resignations. Any officer may resign at any time by giving notice in writing or by electronic transmission notice to the Board of Directors or to the President or to the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the corporation under any contract with the resigning officer.

Section 31. Removal. Any officer may be removed from office at any time, either with or without cause, by the affirmative vote of a majority of the directors in office at the time, or by the unanimous written consent of the directors in office at the time, or by any committee or superior officers upon whom such power of removal may have been conferred by the Board of Directors.

ARTICLE VI

EXECUTION OF CORPORATE INSTRUMENTS AND VOTING OF SECURITIES OWNED BY THE CORPORATION

Section 32. Execution of Corporate Instruments. The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute on behalf of the corporation any corporate instrument or document, or to sign on behalf of the corporation the corporate name without limitation, or to enter into contracts on behalf of the corporation, except where otherwise provided by law or these Bylaws, and such execution or signature shall be binding upon the corporation.

All checks and drafts drawn on banks or other depositaries on funds to the credit of the corporation or in special accounts of the corporation shall be signed by such person or persons as the Board of Directors shall authorize so to do.

Unless authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 33. Voting of Securities Owned by the Corporation. All stock and other securities of other corporations owned or held by the corporation for itself, or for other parties in any capacity, shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors, or, in the absence of such authorization, by the Chairman of the Board of Directors, the Chief Executive Officer, the President, or any Vice President.

ARTICLE VII

SHARES OF STOCK

Section 34. Form and Execution of Certificates. The shares of the corporation shall be represented by certificates, or shall be uncertificated. Certificates for the shares of stock, if any, shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of stock in the corporation represented by certificate shall be entitled to have a certificate signed by or in the name of the corporation by the Chairman of the Board of Directors, or the President or any Vice President and by the Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary, certifying the number of shares owned by him in the corporation. Any or all of the signatures on the certificate may be facsimiles. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he were such officer, transfer agent, or registrar at the date of issue.

Section 35. Lost Certificates. A new certificate or certificates shall be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen, or destroyed. The corporation may require, as a condition precedent to the issuance of a new certificate or certificates, the owner of such lost, stolen, or destroyed certificate or certificates, or the owner's legal representative, to agree to indemnify the corporation in such manner as it shall require or to give the corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost, stolen, or destroyed.

Section 36. Transfers.

(a) Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, and, in the case of stock represented by certificate, upon the surrender of a properly endorsed certificate or certificates for a like number of shares.

(b) The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

Section 37. Fixing Record Dates.

(a) In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, subject to applicable law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however*, that the Board of Directors may fix a new record date for the adjourned meeting.

(b) In order that the corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in all events within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Directors within ten (10) days of the date on which such a request is received, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by applicable law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(c) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 38. Registered Stockholders. The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE VIII

OTHER SECURITIES OF THE CORPORATION

Section 39. Execution of Other Securities. All bonds, debentures and other corporate securities of the corporation, other than stock certificates (covered in Section 34), may be signed by the Chairman of the Board of Directors, the President or any Vice President, or such other person as may be authorized by the Board of Directors, and the corporate seal impressed thereon or a facsimile of such seal imprinted thereon and attested by the signature of the Secretary or an Assistant Secretary, or the Chief Financial Officer or Treasurer or an Assistant Treasurer; *provided, however,* that where any such bond, debenture or other corporate security shall be authenticated by the manual signature, or where permissible facsimile signature, of a trustee under an indenture pursuant to which such bond, debenture or other corporate security shall be issued, the signatures of the persons signing and attesting the corporate seal on such bond, debenture or other corporate security may be the imprinted facsimile of the signatures of such persons. Interest coupons appertaining to any such bond, debenture or other corporate security, authenticated by a trustee as aforesaid, shall be signed by the Treasurer or an Assistant Treasurer of the corporation or such other person as may be authorized by the Board of Directors, or bear imprinted thereon the facsimile signature of such person. In case any officer who shall have signed or attested any bond, debenture or other corporate security, or whose facsimile signature shall appear thereon or on any such interest coupon, shall have ceased to be such officer before the bond, debenture or other corporate security so signed or attested shall have been delivered, such bond, debenture or other corporate security nevertheless may be adopted by the corporation and issued and delivered as though the person who signed the same or whose facsimile signature shall have been used thereon had not ceased to be such officer of the corporation.

ARTICLE IX

DIVIDENDS

Section 40. Declaration of Dividends. Dividends upon the capital stock of the corporation, subject to the provisions of the Certificate of Incorporation and applicable law, if any, may be declared by the Board of Directors pursuant to law at any regular or special meeting. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation and applicable law.

Section 41. Dividend Reserve. Before payment of any dividend, there may be set aside out of any funds of the corporation available for dividends such sum or sums as the Board of Directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or for such other purpose as the Board of Directors shall think conducive to the interests of the corporation, and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

ARTICLE X

FISCAL YEAR

Section 42. Fiscal Year. The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

ARTICLE XI

INDEMNIFICATION

Section 43. Indemnification of Directors, Executive Officers, Other Officers, Employees and Other Agents.

(a) Directors and Officers. The corporation shall indemnify its directors and officers to the fullest extent not prohibited by the DGCL or any other applicable law; *provided, however*, that the corporation may modify the extent of such indemnification by individual contracts with its directors and officers; and, *provided, further*, that the corporation shall not be required to indemnify any director or officer in connection with any proceeding (or part thereof) initiated by such person unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors of the corporation, (iii) such indemnification is provided by the corporation, in its sole discretion, pursuant to the powers vested in the corporation under the Delaware General Corporation Law or any other applicable law or (iv) such indemnification is required to be made under subsection (d).

(b) Employees and Other Agents. The corporation shall have power to indemnify its officers, employees and other agents as set forth in the DGCL or any other applicable law. The Board of Directors shall have the power to delegate the determination of whether indemnification shall be given to any such person to such officers or other persons as the Board of Directors shall determine.

(c) Expenses. The corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director or officer, of the corporation, or is or was serving at the request of the corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses incurred by any director or officer in connection with such proceeding, provided, however, that, if the DGCL requires, an advancement of expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an

employee benefit plan) shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this Section 43 or otherwise.

Notwithstanding the foregoing, unless otherwise determined pursuant to paragraph (e) of this Bylaw, no advance shall be made by the corporation to an officer of the corporation (except by reason of the fact that such officer is or was a director of the corporation, in which event this paragraph shall not apply) in any action, suit or proceeding, whether civil, criminal, administrative or investigative, if a determination is reasonably and promptly made (i) by a majority vote of a quorum consisting of directors who were not parties to the proceeding, even if not a quorum, or (ii) by a committee of such directors designated by a majority of such directors, even though less than a quorum, or (iii) if there are no such directors, or such directors so direct, by independent legal counsel in a written opinion, that the facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation.

(d) Enforcement. Without the necessity of entering into an express contract, all rights to indemnification and advances to directors and officers under this Bylaw shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the corporation and the director or officer. Any right to indemnification or advances granted by this Bylaw to a director or officer shall be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within ninety (90) days of request therefor. The claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim for indemnification, the corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the DGCL or any other applicable law for the corporation to indemnify the claimant for the amount claimed. In connection with any claim by an officer of the corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such officer is or was a director of the corporation) for advances, the corporation shall be entitled to raise as a defense as to any such action clear and convincing evidence that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation, or with respect to any criminal action or proceeding that such person acted without reasonable cause to believe that his conduct was lawful. Neither the failure of the corporation (including its Board of Directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in the DGCL or any other applicable law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct. In any suit brought by a director or officer to enforce a right to indemnification or to an advancement of expenses hereunder, the burden of proving that the director or officer is not entitled to be indemnified, or to such advancement of expenses, under this Article XI or otherwise shall be on the corporation.

(e) Non-Exclusivity of Rights. The rights conferred on any person by this Bylaw shall not be exclusive of any other right which such person may have or hereafter acquire under any applicable statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding office. The corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL or any other applicable law.

(f) Survival of Rights. The rights conferred on any person by this Bylaw shall continue as to a person who has ceased to be a director, officer, employee or other agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) Insurance. To the fullest extent permitted by the DGCL, or any other applicable law, the corporation, upon approval by the Board of Directors, may purchase insurance on behalf of any person required or permitted to be indemnified pursuant to this Bylaw.

(h) Amendments. Any repeal or modification of this Bylaw shall only be prospective and shall not affect the rights under this Bylaw in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding against any agent of the corporation.

(i) Saving Clause. If this Bylaw or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the corporation shall nevertheless indemnify each director and officer to the full extent not prohibited by any applicable portion of this Bylaw that shall not have been invalidated, or by any other applicable law. If this Section 43 shall be invalid due to the application of the indemnification provisions of another jurisdiction, then the corporation shall indemnify each director and officer to the full extent under applicable law.

(j) Certain Definitions. For the purposes of this Bylaw, the following definitions shall apply:

(1) The term “proceeding” shall be broadly construed and shall include, without limitation, the investigation, preparation, prosecution, defense, settlement, arbitration and appeal of, and the giving of testimony in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

(2) The term “expenses” shall be broadly construed and shall include, without limitation, court costs, attorneys’ fees, witness fees, fines, amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any proceeding.

(3) The term the “corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Bylaw with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(4) References to a “director,” “executive officer,” “officer,” “employee,” or “agent” of the corporation shall include, without limitation, situations where such person is serving at the request of the corporation as, respectively, a director, executive officer, officer, employee, trustee or agent of another corporation, partnership, joint venture, trust or other enterprise.

(5) References to “other enterprises” shall include employee benefit plans; references to “fines” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “serving at the request of the corporation” shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the corporation” as referred to in this Bylaw.

ARTICLE XII

NOTICES

Section 44. Notices.

(a) **Notice to Stockholders.** Written notice to stockholders of stockholder meetings shall be given as provided in Section 7 herein. Without limiting the manner by which notice may otherwise be given effectively to stockholders under any agreement or contract with such stockholder, and except as otherwise required by law, written notice to stockholders for purposes other than stockholder meetings may be sent by United States mail or nationally recognized overnight courier, or by facsimile, telegraph or telex or by electronic mail or other electronic means.

(b) **Notice to Directors.** Any notice required to be given to any director may be given by the method stated in subsection (a), or as provided for in Section 21 of these Bylaws. If such notice is not delivered personally, it shall be sent to such address as such director shall have filed in writing with the Secretary, or, in the absence of such filing, to the last known post office address of such director.

(c) Affidavit of Mailing. An affidavit of mailing, executed by a duly authorized and competent employee of the corporation or its transfer agent appointed with respect to the class of stock affected or other agent, specifying the name and address or the names and addresses of the stockholder or stockholders, or director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall in the absence of fraud, be prima facie evidence of the facts therein contained.

(d) Methods of Notice. It shall not be necessary that the same method of giving notice be employed in respect of all recipients of notice, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others.

(e) Notice to Person with Whom Communication Is Unlawful. Whenever notice is required to be given, under any provision of law or of the Certificate of Incorporation or Bylaws of the corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under any provision of the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

(f) Notice to Stockholders Sharing an Address. Except as otherwise prohibited under DGCL, any notice given under the provisions of DGCL, the Certificate of Incorporation or the Bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Such consent shall have been deemed to have been given if such stockholder fails to object in writing to the corporation within sixty (60) days of having been given notice by the corporation of its intention to send the single notice. Any consent shall be revocable by the stockholder by written notice to the corporation.

ARTICLE XIII

AMENDMENTS

Section 45. Amendments. The Board of Directors is expressly empowered to adopt, amend or repeal Bylaws of the corporation. The stockholders shall also have power to adopt, amend or repeal the Bylaws of the corporation; provided, however, that, in addition to any vote of the holders of any class or series of stock of the corporation required by law or by the Certificate of Incorporation, such action by stockholders shall require the affirmative vote of the holders of at least a majority of the voting power of all of the then-outstanding shares of the capital stock of the corporation entitled to vote generally in the election of directors, voting together as a single class.

ARTICLE XIV

RIGHT OF FIRST REFUSAL

Section 46. Right of First Refusal. No stockholder shall sell, assign, pledge, or in any manner transfer any of the shares of stock of the corporation or any right or interest therein, whether voluntarily or by operation of law, or by gift or otherwise, except by a transfer which meets the requirements hereinafter set forth in this bylaw; *provided*, however, this Section 46 shall not apply to shares of the corporation's Preferred Stock (or shares of the corporation's Common Stock issued upon conversion of such Preferred Stock):

(a) If the stockholder desires to sell or otherwise transfer any of his shares of stock, then the stockholder shall first give written notice thereof to the corporation. The notice shall name the proposed transferee and state the number of shares to be transferred, the proposed consideration, and all other terms and conditions of the proposed transfer.

(b) For thirty (30) days following receipt of such notice, the corporation shall have the option to purchase all (but not less than all) of the shares specified in the notice at the price and upon the terms set forth in such notice; *provided, however*, that, with the consent of the stockholder, the corporation shall have the option to purchase a lesser portion of the shares specified in said notice at the price and upon the terms set forth therein. In the event of a gift, property settlement or other transfer in which the proposed transferee is not paying the full price for the shares, and that is not otherwise exempted from the provisions of this Section 46, the price shall be deemed to be the fair market value of the stock at such time as determined in good faith by the Board of Directors. In the event the corporation elects to purchase all of the shares or, with consent of the stockholder, a lesser portion of the shares, it shall give written notice to the transferring stockholder of its election and settlement for said shares shall be made as provided below in paragraph (d).

(c) The corporation may assign its rights hereunder.

(d) In the event the corporation and/or its assignee(s) elect to acquire any of the shares of the transferring stockholder as specified in said transferring stockholder's notice, the Secretary of the corporation shall so notify the transferring stockholder and settlement thereof shall be made in cash within thirty (30) days after the Secretary of the corporation receives said transferring stockholder's notice; *provided* that if the terms of payment set forth in said transferring stockholder's notice were other than cash against delivery, the corporation and/or its assignee(s) shall pay for said shares on the same terms and conditions set forth in said transferring stockholder's notice.

(e) In the event the corporation and/or its assignees(s) do not elect to acquire all of the shares specified in the transferring stockholder's notice, said transferring stockholder may, within the sixty-day period following the expiration or waiver of the option rights granted to the corporation and/or its assignees(s) herein, transfer the shares specified in said transferring stockholder's notice which were not acquired by the corporation and/or its assignees(s) as specified in said transferring stockholder's notice. All shares so sold by said transferring stockholder shall continue to be subject to the provisions of this bylaw in the same manner as before said transfer.

(f) Anything to the contrary contained herein notwithstanding, the following transactions shall be exempt from the provisions of this bylaw:

(1) A stockholder's transfer of any or all shares held either during such stockholder's lifetime or on death by will or intestacy to such stockholder's immediate family or to any custodian or trustee for the account of such stockholder or such stockholder's immediate family or to any limited partnership of which the stockholder, members of such stockholder's immediate family or any trust for the account of such stockholder or such stockholder's immediate family will be the general of limited partner(s) of such partnership. "Immediate family" as used herein shall mean spouse, lineal descendant, father, mother, brother, or sister of the stockholder making such transfer.

(2) A stockholder's bona fide pledge or mortgage of any shares with a commercial lending institution, provided that any subsequent transfer of said shares by said institution shall be conducted in the manner set forth in this bylaw.

(3) A stockholder's transfer of any or all of such stockholder's shares to the corporation or to any other stockholder of the corporation.

(4) A stockholder's transfer of any or all of such stockholder's shares to a person who, at the time of such transfer, is an officer or director of the corporation.

(5) A corporate stockholder's transfer of any or all of its shares pursuant to and in accordance with the terms of any merger, consolidation, reclassification of shares or capital reorganization of the corporate stockholder, or pursuant to a sale of all or substantially all of the stock or assets of a corporate stockholder.

(6) A corporate stockholder's transfer of any or all of its shares to any or all of its stockholders.

(7) A transfer by a stockholder which is a limited or general partnership to any or all of its affiliates, entities under common control, partners or former partners in accordance with partnership interests.

In any such case, the transferee, assignee, or other recipient shall receive and hold such stock subject to the provisions of this bylaw, and there shall be no further transfer of such stock except in accord with this bylaw.

(g) The provisions of this bylaw may be waived with respect to any transfer either by the corporation, upon duly authorized action of its Board of Directors, or by the stockholders, upon the express written consent of the owners of a majority of the voting power of the corporation (excluding the votes represented by those shares to be transferred by the transferring stockholder). This bylaw may be amended or repealed either by a duly authorized action of the Board of Directors or by the stockholders, upon the express written consent of the owners of a majority of the voting power of the corporation.

(h) Any sale or transfer, or purported sale or transfer, of securities of the corporation shall be null and void unless the terms, conditions, and provisions of this bylaw are strictly observed and followed.

(i) The foregoing right of first refusal shall terminate on the date securities of the corporation are first offered to the public pursuant to a registration statement filed with, and declared effective by, the United States Securities and Exchange Commission under the Securities Act of 1933, as amended.

(j) The certificates representing shares of stock of the corporation shall bear on their face the following legend so long as the foregoing right of first refusal remains in effect:

“THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF FIRST REFUSAL OPTION IN FAVOR OF THE CORPORATION AND/OR ITS ASSIGNEE(S), AS PROVIDED IN THE BYLAWS OF THE CORPORATION.”

ARTICLE XV

LOANS TO OFFICERS

Section 47. Loans to Officers. Except as otherwise prohibited under applicable law, the corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the corporation or of its subsidiaries, including any officer or employee who is a Director of the corporation or its subsidiaries, whenever, in the judgment of the Board of Directors, such loan, guarantee or assistance may reasonably be expected to benefit the corporation. The loan, guarantee or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing in these Bylaws shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

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ARCUTIS BIOTHERAPEUTICS, INC.

(a Delaware corporation)

RESTATED BYLAWS

As Adopted [_____] [____], 2020

ARCUTIS BIOTHERAPEUTICS, INC.

(a Delaware corporation)

RESTATED BYLAWS

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ARCUTIS BIOTHERAPEUTICS, INC.

(a Delaware corporation)

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As Adopted [_____] [____], 2020 and

ARTICLE I: STOCKHOLDERS

Section 1.1: Annual Meetings

An annual meeting of stockholders shall be held for the election of directors at such date and time as the Board of Directors (the “**Board**”) of Arcutis Biotherapeutics, Inc. (collectively with its subsidiaries, the “**Corporation**”) shall each year fix. The meeting may be held either at a place, within or without the State of Delaware as permitted by the Delaware General Corporation Law (the “**DGCL**”), or by means of remote communication as the Board in its sole discretion may determine. Any proper business may be transacted at the annual meeting.

Section 1.2: Special Meetings

Special meetings of stockholders for any purpose or purposes may be called at any time by the Chairperson of the Board, the Chief Executive Officer, the President or the Board acting pursuant to a resolution adopted by a majority of the Whole Board (as defined below). Special meetings may not be called by any other person or persons. The special meeting may be held either at a place, within or without the State of Delaware, or by means of remote communication as the Board in its sole discretion may determine. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of the meeting.

Section 1.3: Notice of Meetings

Notice of all meetings of stockholders shall be given in writing or by electronic transmission in the manner provided by applicable law (including, without limitation, as set forth in Section 7.1.1 of these Bylaws) stating the date, time and place, if any, of the meeting and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. In the case of a special meeting, such notice shall also set forth the purpose or purposes for which the meeting is called. Unless otherwise required by applicable law or the Restated Certificate of Incorporation of the Corporation (as the same may be amended and/or restated from time to time, the “**Certificate of Incorporation**”), notice of any meeting of stockholders shall be given not less than ten (10), nor more than sixty (60), days before the date of the meeting to each stockholder of record entitled to vote at such meeting.

Section 1.4: Adjournments

The chairperson of the meeting shall have the power to adjourn the meeting to another time, date and place (if any). Any meeting of stockholders may be adjourned from time to time, and notice need not be given of any such adjourned meeting if the time, date and place (if any) thereof and the means of remote communication (if any) by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; *provided, however*, that if the adjournment is for more than thirty (30) days, or if a new record date is fixed for the adjourned meeting, then a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. At the adjourned meeting, the Corporation may transact any business that might have been transacted at the original meeting. To the fullest extent permitted by law, the Board may postpone, reschedule or cancel any previously scheduled special or annual meeting of stockholders before it is to be held, in which case notice shall be provided to the stockholders of the new date, time and place, if any, of the meeting as provided in Section 1.3 above.

Section 1.5: Quorum

At each meeting of stockholders the holders of a majority of the voting power of the shares of stock entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum for the transaction of business, unless otherwise required by applicable law. Where a separate vote by a class or classes or series is

required, a majority of the voting power of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter. If a quorum shall fail to attend any meeting, the chairperson of the meeting or the holders of a majority of the shares entitled to vote who are present, in person or by proxy, at the meeting may adjourn the meeting. Shares of the Corporation's stock belonging to the Corporation (or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation are held, directly or indirectly, by the Corporation), shall neither be entitled to vote nor be counted for quorum purposes; *provided, however*, that the foregoing shall not limit the right of the Corporation or any other corporation to vote any shares of the Corporation's stock held by it in a fiduciary capacity and to count such shares for purposes of determining a quorum.

Section 1.6: Organization

Meetings of stockholders shall be presided over by (a) such person as the Board may designate, or (b) in the absence of such a person, the Chairperson of the Board, or (c) in the absence of such person, the Chief Executive Officer of the Corporation, or (d) in the absence of such person, the President of the Corporation, or (e) in the absence of such person, such person as may be chosen by the holders of a majority of the voting power of the shares entitled to vote who are present, in person or by proxy, at the meeting. Such person shall be chairperson of the meeting and, subject to Section 1.10 hereof, shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seems to him or her to be in order. The Secretary of the Corporation shall act as secretary of the meeting, but in such person's absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 1.7: Voting; Proxies

Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy. Such a proxy may be prepared, transmitted and delivered in any manner permitted by applicable law. Except as may be required in the Certificate of Incorporation, directors shall be elected by a plurality of the votes cast. Unless otherwise provided by applicable law, the rules of any stock exchange upon which the Corporation's securities are listed, the Certificate of Incorporation or these Bylaws, every matter other than the election of directors shall be decided by a majority of the votes cast for or against the matter.

Section 1.8: Fixing Date for Determination of Stockholders of Record

In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, unless otherwise required by law, the Board may fix, in advance, a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board and which shall not be more than sixty (60), nor less than ten (10), days before the date of such meeting, nor more than sixty (60) days prior to any other action. If no record date is fixed by the Board, then the record date shall be as provided by applicable law. To the fullest extent permitted by law, a determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however*, that the Board may fix a new record date for the adjourned meeting.

In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix, in advance, a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board and which shall not be more than sixty (60) days prior to such action. If no such record date is fixed by the Board, then the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

Section 1.9: List of Stockholders Entitled to Vote

A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder, shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either on a reasonably accessible electronic

network as permitted by law (provided that the information required to gain access to the list is provided with the notice of the meeting) or during ordinary business hours at the principal place of business of the Corporation. If the meeting is held at a location where stockholders may attend in person, the list shall also be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present at the meeting. If the meeting is held solely by means of remote communication, then the list shall be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access the list shall be provided with the notice of the meeting.

Section 1.10: Inspectors of Elections

1.10.1 Applicability. Unless otherwise required by the Certificate of Incorporation or by the DGCL, the following provisions of this Section 1.10 shall apply only if and when the Corporation has a class of voting stock that is: (a) listed on a national securities exchange; (b) authorized for quotation on an interdealer quotation system of a registered national securities association; or (c) held of record by more than two thousand (2,000) stockholders. In all other cases, observance of the provisions of this Section 1.10 shall be optional, and at the discretion of the Board.

1.10.2 Appointment. The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors of election to act at the meeting and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting.

1.10.3 Inspector's Oath. Each inspector of election, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability.

1.10.4 Duties of Inspectors. At a meeting of stockholders, the inspectors of election shall (a) ascertain the number of shares outstanding and the voting power of each share, (b) determine the shares represented at a meeting and the validity of proxies and ballots, (c) count all votes and ballots, (d) determine and retain for a reasonable period of time a record of the disposition of any challenges made to any determination by the inspectors, and (e) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors.

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

1.10.6 Determinations. In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in connection with proxies pursuant to Section 211(a)(2)(b)(i) or (iii) of the DGCL, or in accordance with Sections 211(e) or 212(c)(2) of the DGCL, ballots and the regular books and records of the Corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification of their determinations pursuant to this Section 1.10 shall specify the precise information considered by them, including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors' belief that such information is accurate and reliable.

Section 1.11: Notice of Stockholder Business; Nominations.

1.11.1 Annual Meeting of Stockholders.

(a) Nominations of persons for election to the Board and the proposal of business to be considered by the stockholders shall be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of such meeting, (ii) by or at the direction of the Board or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of giving of the notice provided for in this Section 1.11, who is entitled to vote at such meeting and who complies with the notice procedures set forth in this Section 1.11. For the avoidance of doubt, the foregoing clause (iii) shall be the exclusive means for a stockholder to make nominations or propose business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (such act, and the rules and regulations promulgated thereunder, the "***Exchange Act***")), at an annual meeting of stockholders.

(b) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to Section 1.11.1(a):

(i) the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation;

(ii) such other business must otherwise be a proper matter for stockholder action;

(iii) if the stockholder, or the beneficial owner on whose behalf any such proposal or nomination is made, has provided the Corporation with a Solicitation Notice, as that term is defined in this Section, such stockholder or beneficial owner must, in the case of a proposal, have delivered a proxy statement and form of proxy to holders of at least the percentage of the Corporation's voting shares required under applicable law to carry any such proposal, or, in the case of a nomination or nominations, have delivered a proxy statement and form of proxy to holders of a percentage of the Corporation's voting shares reasonably believed by such stockholder or beneficial holder to be sufficient to elect the nominee or nominees proposed to be nominated by such stockholder, and must, in either case, have included in such materials the Solicitation Notice; and

(iv) if no Solicitation Notice relating thereto has been timely provided pursuant to this Section, the stockholder or beneficial owner proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice under this Section.

To be timely, a stockholder's notice must be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the seventy-fifth (75th) day nor earlier than the close of business on the one hundred and fifth (105th) day prior to the first anniversary of the preceding year's annual meeting (except in the case of the Corporation's first annual meeting following its initial public offering, for which such notice shall be timely if delivered in the same time period as if such meeting were a special meeting governed by Section 1.11.2); *provided, however*, that in the event that the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered (A) no earlier than the close of business on the one hundred and fifth (105th) day prior to currently proposed annual meeting and (B) no later than the close of business on the later of the seventy-fifth (75th) day prior to such annual meeting or the close of business on the tenth (10th) day following the day on which Public Announcement of the date of such meeting is first made by the Corporation. Such stockholder's notice shall set forth:

(x) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that would be required to be disclosed in solicitations of proxies for election of directors, or would be otherwise required, in each case pursuant to Regulation 14A under the Exchange Act, including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected;

(y) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and

(z) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made, (aa) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (bb) the class and number of shares of the Corporation that are owned beneficially and held of record by such stockholder and such beneficial owner, (cc) a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, (dd) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of stock of the Corporation, (ee) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nomination and (ff) whether either such stockholder or beneficial owner intends to deliver a proxy statement and form of proxy to holders of, in the case of a proposal, at least the percentage of the Corporation's voting shares required under applicable law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the Corporation's voting shares to elect such nominee or nominees (an affirmative statement of such intent being a "**Solicitation Notice**"). If requested by the Corporation, the information required under clauses (bb), (cc) and (dd) of this subparagraph (z) shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such information as of the record date.

(c) Notwithstanding anything in the second sentence of Section 1.11.1(b) to the contrary, in the event that the number of directors to be elected to the Board is increased and there is no Public Announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board at least seventy five (75) days prior to the first anniversary of the preceding year's annual meeting (or, if the annual meeting is held more than thirty (30) days before or sixty (60) days after such anniversary date, at least seventy five (75) days prior to such annual meeting), a stockholder's notice required by this Section 1.11 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary of the Corporation at the principal executive office of the Corporation no later than the close of business on the tenth (10th) day following the day on which such Public Announcement is first made by the Corporation.

1.11.2 Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of such meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of such meeting (a) by or at the direction of the Board or (b) provided that the Board has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice of the special meeting, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, any such stockholder may nominate a person or persons (as the case may be), for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by Section 1.11.1(b) shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation (i) no earlier than the one hundred fifth (105th) day prior to such special meeting and (ii) no later than the close of business on the later of the seventy fifth (75th) day prior to such special meeting or the tenth (10th) day following the day on which Public Announcement is first made of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting.

1.11.3 General.

(a) Only such persons who are nominated in accordance with the procedures set forth in this Section 1.11 shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 1.11. Except as otherwise provided by law or these Bylaws, the chairperson of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 1.11 and, if any proposed nomination or business is not in compliance herewith, to declare that such defective proposal or nomination shall be disregarded.

(b) For purposes of this Section 1.11, the term “**Public Announcement**” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(c) Notwithstanding the foregoing provisions of this Section 1.11, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 1.11 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act.

ARTICLE II: BOARD OF DIRECTORS

Section 2.1: Number; Qualifications

The total number of authorized directors constituting the Board, whether or not there exist any vacancies in previously authorized directorships (the “**Whole Board**”) shall be fixed from time to time in the manner set forth in the Certificate of Incorporation. No decrease in the authorized number of directors constituting the Whole Board shall shorten the term of any incumbent director. Directors need not be stockholders of the Corporation.

Section 2.2: Election; Resignation; Removal; Vacancies

The directors shall be divided, with respect to the time for which they severally hold office, into classes as provided in the Certificate of Incorporation, and vacancies occurring in the Board and any newly created directorships resulting from any increase in the authorized number of directors shall be filled, as provided in the Certificate of Incorporation.

Section 2.3: Regular Meetings

Regular meetings of the Board may be held at such places, within or without the State of Delaware, and at such times as the Board may from time to time determine. Notice of regular meetings need not be given if the date, times and places thereof are fixed by resolution of the Board.

Section 2.4: Special Meetings

Special meetings of the Board may be called by the Chairperson of the Board, the Chief Executive Officer, or a majority of the members of the Board then in office and may be held at any time, date or place, within or without the State of Delaware, as the person or persons calling the meeting shall fix. Notice of the time, date and place of such meeting shall be given, orally, in writing or by electronic transmission (including electronic mail), by the person or persons calling the meeting to all directors at least four (4) days before the meeting if the notice is mailed, or at least twenty-four (24) hours before the meeting if such notice is given by telephone, hand delivery, telegram, telex, mailgram, facsimile, electronic mail or other means of electronic transmission. Unless otherwise indicated in the notice, any and all business may be transacted at a special meeting.

Section 2.5: Remote Meetings Permitted

Members of the Board, or any committee of the Board, may participate in a meeting of the Board or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to conference telephone or other communications equipment shall constitute presence in person at such meeting.

Section 2.6: Quorum; Vote Required for Action

Subject to the Certificate of Incorporation regarding the ability of members of the Board to fill a vacancy occurring in the Board, a majority of the Whole Board shall constitute a quorum for the transaction of business. If a quorum shall fail to attend any meeting, a majority of those present may adjourn the meeting to another place, date or time with further notice thereof. Except as otherwise provided herein or in the Certificate of Incorporation, or required by law, the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board.

Section 2.7: Organization

Meetings of the Board shall be presided over by (a) the Chairperson of the Board, or (b) in such person's absence, by the Chief Executive Officer, or (c) in such person's absence, by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in such person's absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 2.8: Written Action by Directors

Any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee, respectively, in the minute books of the Corporation. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 2.9: Powers

The Board may, except as otherwise required by law or the Certificate of Incorporation, exercise all such powers and manage and direct all such acts and things as may be exercised or done by the Corporation.

Section 2.10: Compensation of Directors

Members of the Board, as such, may receive, pursuant to a resolution of the Board, fees and other compensation for their services as directors, including without limitation their services as members of committees of the Board.

ARTICLE III: COMMITTEES

Section 3.1: Committees

The Board may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting of such committee who are not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent provided in a resolution of the Board, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority in reference to the following matters: (a) approving, adopting, or recommending to the stockholders any action or matter (other than the election or removal of members of the Board) expressly required by the DGCL to be submitted to stockholders for approval or (b) adopting, amending or repealing any bylaw of the Corporation.

Section 3.2: Committee Rules

Each committee shall keep records of its proceedings and make such reports as the Board may from time to time request. Unless the Board otherwise provides, each committee designated by the Board may make, alter and repeal rules for the conduct of its business. In the absence of such rules, each committee shall conduct its business in the same manner as the Board conducts its business pursuant to Article II of these Bylaws. Except as otherwise provided in the Certificate of Incorporation, these Bylaws or the resolution of the Board designating the committee, any committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and may delegate to any such subcommittee any or all of the powers and authority of the committee.

ARTICLE IV: OFFICERS; CHAIRPERSON

Section 4.1: Generally

The officers of the Corporation shall consist of a Chief Executive Officer (who may be the Chairperson of the Board or the President), a President, a Secretary and a Treasurer and may consist of such other officers, including, without limitation, a Chief Financial Officer, and one or more Vice Presidents, as may from time to time be appointed by the Board. All officers shall be elected by the Board; *provided, however*, that the Board may empower the Chief Executive Officer of the Corporation to appoint any officer other than the Chief Executive Officer, the President, the Chief Financial Officer or the Treasurer. Except as otherwise provided by law, by the Certificate of Incorporation or these Bylaws, each officer shall hold office until such officer's successor is duly elected and qualified or until such officer's earlier resignation, death, disqualification or removal. Any number of offices may be held by the same person. Any officer may resign by delivering a resignation in writing or by electronic transmission to the Corporation at its principal office or to the Chairperson of the Board, the Chief Executive Officer, or the Secretary. Such resignation shall be effective upon delivery unless it is specified to be effective at some later time or upon the happening of some later event. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise may be filled by the Board and the Board may, in its discretion, leave unfilled, for such period as it may determine, any offices.

Section 4.2: Chief Executive Officer

Subject to the control of the Board and such supervisory powers, if any, as may be given by the Board, the powers and duties of the Chief Executive Officer of the Corporation are:

- (a) to act as the general manager and, subject to the control of the Board, to have general supervision, direction and control of the business and affairs of the Corporation;
- (b) subject to Article I, Section 1.6 of these Bylaws, to preside at all meetings of the stockholders;
- (c) subject to Article I, Section 1.2 of these Bylaws, to call special meetings of the stockholders to be held at such times and, subject to the limitations prescribed by law or by these Bylaws, at such places as he or she shall deem proper;
- (d) to affix the signature of the Corporation to all deeds, conveyances, mortgages, guarantees, leases, obligations, bonds, certificates and other papers and instruments in writing which have been authorized by the Board or which, in the judgment of the Chief Executive Officer, should be executed on behalf of the Corporation; to sign certificates for shares of stock of the Corporation (if any); and, subject to the direction of the Board, to have general charge of the property of the Corporation and to supervise and control all officers, agents and employees of the Corporation; and
- (e) to vote and otherwise act on, or to authorize any officer to vote or otherwise act on, on behalf of the Corporation, in person or by proxy, at any meeting of stockholders of or with respect to any action of stockholders of any other corporation in which this Corporation may hold securities and otherwise to exercise, or authorize any officer otherwise to exercise, any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other corporation.

The person holding the office of President shall be the Chief Executive Officer of the Corporation unless the Board shall designate another officer to be the Chief Executive Officer. If there is no President, and the Board has not designated any other officer to be the Chief Executive Officer, then the Chairperson of the Board shall be the Chief Executive Officer.

Section 4.3: Chairperson of the Board

Subject to the provisions of Section 2.7 of these Bylaws, the Chairperson of the Board shall have the power to preside at all meetings of the Board and shall have such other powers and duties as provided in these Bylaws and as the Board may from time to time prescribe.

Section 4.4: President

The person holding the office of Chief Executive Officer shall be the President of the Corporation unless the Board shall have designated one individual as the President and a different individual as the Chief Executive Officer of the Corporation. Subject to the provisions of these Bylaws and to the direction of the Board, and subject to the supervisory powers of the Chief Executive Officer (if the Chief Executive Officer is an officer other than the President), and subject to such supervisory powers and authority as may be given by the Board to the Chairperson of the Board, and/or to any other officer, the President shall have the responsibility for the general management and control of the business and affairs of the Corporation and the general supervision and direction of all of the officers, employees and agents of the Corporation (other than the Chief Executive Officer, if the Chief Executive Officer is an officer other than the President) and shall perform all duties and have all powers that are commonly incident to the office of President or that are delegated to the President by the Board.

Section 4.5: Chief Financial Officer

The person holding the office of Chief Financial Officer shall be the Treasurer of the Corporation unless the Board shall have designated another officer as the Treasurer of the Corporation. Subject to the direction of the Board and the Chief Executive Officer, the Chief Financial Officer shall perform all duties and have all powers that are commonly incident to the office of Chief Financial Officer.

Section 4.6: Treasurer

The person holding the office of Treasurer shall have custody of all monies and securities of the Corporation. The Treasurer shall make such disbursements of the funds of the Corporation as are authorized and shall render from time to time an account of all such transactions. The Treasurer shall also perform such other duties and have such other powers as are commonly incident to the office of Treasurer, or as the Board or the Chief Executive Officer may from time to time prescribe.

Section 4.7: Vice Presidents

Any Vice President shall perform such duties and possess such powers as the Board of Directors or the President may from time to time prescribe. In the event of the absence, inability or refusal to act of the President, the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors) shall perform the duties of the President and when so performing shall have at the powers of and be subject to all the restrictions upon the President. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

Section 4.8: Secretary

The Secretary shall issue or cause to be issued all authorized notices for, and shall keep, or cause to be kept, minutes of all meetings of the stockholders and the Board. The Secretary shall have charge of the corporate minute books and similar records and shall perform such other duties and have such other powers as are commonly incident to the office of Secretary, or as the Board or the Chief Executive Officer may from time to time prescribe.

Section 4.9: Delegation of Authority

The Board may from time to time delegate the powers or duties of any officer of the Corporation to any other officers or agents of the Corporation, notwithstanding any provision hereof.

Section 4.10: Removal

Any officer of the Corporation shall serve at the pleasure of the Board and may be removed at any time, with or without cause, by the Board; *provided* that if the Board has empowered the Chief Executive Officer to appoint any officer of the Corporation, then such officer may also be removed by the Chief Executive Officer. Such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation.

ARTICLE V: STOCK

Section 5.1: Certificates

The shares of capital stock of the Corporation shall be represented by certificates; provided, however, that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock may be uncertificated shares. Notwithstanding the adoption of such resolution by the Board, each holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by the Chairperson or Vice-Chairperson of the Board, or the President or a Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary, of the Corporation, certifying the number of shares owned by such stockholder in the Corporation. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were an officer, transfer agent or registrar at the date of issue.

Section 5.2: Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates or Uncertificated Shares

The Corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to agree to indemnify the Corporation and/or to give the Corporation a bond sufficient to indemnify it, against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 5.3: Other Regulations

Subject to applicable law, the Certificate of Incorporation and these Bylaws, the issue, transfer, conversion and registration of shares represented by certificates and of uncertificated shares shall be governed by such other regulations as the Board may establish.

ARTICLE VI: INDEMNIFICATION

Section 6.1: Indemnification of Officers and Directors

Each person who was or is made a party to, or is threatened to be made a party to, or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "**Proceeding**"), by reason of the fact that such person (or a person of whom such person is the legal representative), is or was a member of the Board or officer of the Corporation or a Reincorporated Predecessor (as defined below) or is or was serving at the request of the Corporation or a Reincorporated Predecessor as a member of the board of directors, officer or trustee of another corporation, or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans (for purposes of this Article VI, an "**Indemnitee**"), shall be indemnified and held harmless by the Corporation to the fullest extent permitted by the DGCL as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expenses, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such Indemnitee in connection therewith, provided such Indemnitee acted in good faith and in a manner that the Indemnitee reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or Proceeding, had no reasonable cause to believe the Indemnitee's conduct was unlawful. Such indemnification shall continue as to an Indemnitee who has ceased to be a director or officer and shall inure to the benefit of such Indemnitees' heirs, executors and administrators. Notwithstanding the foregoing, the Corporation shall indemnify any such Indemnitee seeking indemnity in connection with a Proceeding (or part thereof) initiated by such Indemnitee only if such Proceeding (or part thereof) was authorized by the Board or such indemnification is authorized by an agreement approved by the Board. As used herein, the term the "**Reincorporated Predecessor**" means a corporation that is merged with and into the Corporation in a statutory merger where (a) the Corporation is the surviving corporation of such merger; (b) the primary purpose of such merger is to change the corporate domicile of the Reincorporated Predecessor to Delaware. To the extent that a present or former director or officer of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding described in this Section 6.1 or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

Section 6.2: Advancement of Expenses

Except as otherwise provided in a written indemnification agreement between the Corporation and an Indemnitee upon written request, the Corporation shall pay all expenses (including attorneys' fees) incurred by such an Indemnitee in defending any such Proceeding as they are incurred in advance of its final disposition; *provided, however*, that if the DGCL then so requires, the payment of such expenses incurred by such Indemnitee in advance of the final disposition of such Proceeding shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such Indemnitee, to repay all amounts so advanced if it should be determined ultimately by final judicial decision from which there is no appeal that such Indemnitee is not entitled to be indemnified under this Article VI or otherwise. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents of the Corporation or by persons serving at the request of the Corporation as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise may be so paid upon such terms and conditions, if any, as the Corporation deems appropriate. The right to advancement of expenses shall not apply to any claim for which indemnity is excluded pursuant to these bylaws, but shall apply to any Proceeding referenced in Section 6.1 prior to a determination that the person is not entitled to be indemnified by the Corporation.

Section 6.3: Non-Exclusivity of Rights

The rights conferred on any person in this Article VI shall not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote or consent of stockholders or disinterested directors, or otherwise. Additionally, nothing in this Article VI shall limit the ability of the Corporation, in its discretion, to indemnify or advance expenses to persons whom the Corporation is not obligated to indemnify or advance expenses pursuant to this Article VI.

Section 6.4: Indemnification Contracts

The Board is authorized to cause the Corporation to enter into indemnification contracts with any director, officer, employee or agent of the Corporation, or any person serving at the request of the Corporation as a director, officer, employee, agent or trustee of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, providing indemnification or advancement rights to such person. Such rights may be greater than those provided in this Article VI.

Section 6.5: Right of Indemnitee to Bring Suit

The following shall apply to the extent not in conflict with any indemnification contract provided for in Section 6.4 of these Bylaws.

6.5.1 Right to Bring Suit. If a claim under Section 6.1 or 6.2 of these Bylaws is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the Corporation, the Indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Indemnitee shall be entitled to be paid, to the fullest extent permitted by law, the expense of prosecuting or defending such suit. In (a) any suit brought by the Indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the Indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (b) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the Indemnitee has not met any applicable standard for indemnification set forth in applicable law.

6.5.2 Effect of Determination. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct set forth in applicable law, nor an

actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel or its stockholders) that the Indemnitee has not met such applicable standard of conduct, shall create a presumption that the Indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnitee, be a defense to such suit.

6.5.3 Burden of Proof. In any suit brought by the Indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article VI, or otherwise, shall be on the Corporation.

Section 6.6: Nature of Rights

The rights conferred upon Indemnitees in this Article VI shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the Indemnitee's heirs, executors and administrators. Any amendment, repeal or modification of any provision of this Article VI that adversely affects any right of an Indemnitee or an Indemnitee's successors shall be prospective only, and shall not adversely affect any right or protection conferred on a person pursuant to this Article VI and existing at the time of such amendment, repeal or modification.

Section 6.7: Insurance

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

ARTICLE VII: NOTICES

Section 7.1: Notice

7.1.1 Form and Delivery. Except as otherwise specifically required in these Bylaws (including, without limitation, Section 7.1.2 of these Bylaws) or by applicable law, all notices required to be given pursuant to these Bylaws shall be in writing and may (a) in every instance in connection with any delivery to a member of the Board, be effectively given by hand delivery (including use of a delivery service), by depositing such notice in the mail, postage prepaid, or by sending such notice by overnight express courier, facsimile, electronic mail or other form of electronic transmission and (b) be effectively delivered to a stockholder when given by hand delivery, by depositing such notice in the mail, postage prepaid or, if specifically consented to by the stockholder as described in Section 7.1.2 of these Bylaws, by sending such notice by facsimile, electronic mail or other form of electronic transmission. Any such notice shall be addressed to the person to whom notice is to be given at such person's address as it appears on the records of the Corporation. The notice shall be deemed given (a) in the case of hand delivery, when received by the person to whom notice is to be given or by any person accepting such notice on behalf of such person, (b) in the case of delivery by mail, upon deposit in the mail, (c) in the case of delivery by overnight express courier, when dispatched, and (d) in the case of delivery via facsimile, electronic mail or other form of electronic transmission, at the time provided in Section 7.1.2 of these Bylaws.

7.1.2 Electronic Transmission. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation, or these Bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given in accordance with Section 232 of the DGCL. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if (a) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent and (b) such inability becomes known to the Secretary or an Assistant Secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any

meeting or other action. Notice given pursuant to this Section 7.1.2 shall be deemed given: (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of such posting and the giving of such separate notice; and (iv) if by any other form of electronic transmission, when directed to the stockholder.

7.1.3 Affidavit of Giving Notice. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given in writing or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 7.2: Waiver of Notice

Whenever notice is required to be given under any provision of the DGCL, the Certificate of Incorporation or these Bylaws, a written waiver of notice, signed by the person entitled to notice, or waiver by electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any waiver of notice.

ARTICLE VIII: INTERESTED DIRECTORS

Section 8.1: Interested Directors

No contract or transaction between the Corporation and one or more of its members of the Board or officers, or between the Corporation and any other corporation, partnership, association or other organization in which one or more of its directors or officers are members of the board of directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board or committee thereof that authorizes the contract or transaction, or solely because his, her or their votes are counted for such purpose, if: (a) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board or the committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; (b) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (c) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board, a committee thereof, or the stockholders.

Section 8.2: Quorum

Interested directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee which authorizes the contract or transaction.

ARTICLE IX: MISCELLANEOUS

Section 9.1: Fiscal Year

The fiscal year of the Corporation shall be determined by resolution of the Board.

Section 9.2: Seal

The Board may provide for a corporate seal, which may have the name of the Corporation inscribed thereon and shall otherwise be in such form as may be approved from time to time by the Board.

Section 9.3: Form of Records

Any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on or by means of, or be in the form of, any other information storage device, method or one or more electronic networks or databases (including one or more distributed electronic networks or databases), electronic or otherwise, *provided* that the records so kept can be converted into clearly legible paper form within a reasonable time and otherwise comply with the DGCL. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to any provision of the DGCL.

Section 9.4: Reliance upon Books, Records and Experts

A member of the Board, or a member of any committee designated by the Board shall, in the performance of such person's duties, be fully protected in relying in good faith upon the books and records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers or employees, or committees of the Board, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 9.5: Certificate of Incorporation Governs

In the event of any conflict between the provisions of the Certificate of Incorporation and Bylaws, the provisions of the Certificate of Incorporation shall govern.

Section 9.6: Severability

If any provision of these Bylaws shall be held to be invalid, illegal, unenforceable or in conflict with the provisions of the Certificate of Incorporation, then such provision shall nonetheless be enforced to the maximum extent possible consistent with such holding and the remaining provisions of these Bylaws (including without limitation, all portions of any section of these Bylaws containing any such provision held to be invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation, that are not themselves invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation) shall remain in full force and effect.

Section 9.7: Time Periods

In applying any provision of these Bylaws which requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

ARTICLE X: AMENDMENT

Notwithstanding any other provision of these Bylaws, any alteration, amendment or repeal of these Bylaws, and any adoption of new Bylaws, shall require the approval of the Board or the stockholders of the Corporation as expressly provided in the Certificate of Incorporation.

CERTIFICATION OF RESTATED BYLAWS
OF
ARCUTIS BIOTHERAPEUTICS, INC.
(a Delaware corporation)

I, Keith Klein, certify that I am Secretary of Arcutis Biotherapeutics, Inc., a Delaware corporation (the “*Corporation*”), that I am duly authorized to make and deliver this certification, that the attached Bylaws are a true and complete copy of the Restated Bylaws of the Corporation in effect as of the date of this certificate.

Dated: [_____] [____], 2020

Keith Klein
Secretary

ARCUTIS BIOTHERAPEUTICS, INC.
AMENDED AND RESTATED
INVESTORS' RIGHTS AGREEMENT

This Amended and Restated Investors' Rights Agreement (this "**Agreement**") is made and entered into as of October 8, 2019 by and among Arcutis Biotherapeutics, Inc., a Delaware corporation (the "**Company**"), and each of the investors listed on Schedule A hereto, each of which is referred to in this Agreement as an "**Investor**," each of the stockholders listed on Schedule B hereto, each of whom is referred to herein as a "**Key Holder**," any Additional Purchaser (as defined in the Purchase Agreement) that becomes a party to this Agreement in accordance with Section 7.14 hereof and any holder of a Lender Warrant that becomes a party to this Agreement in accordance with Section 7.14 hereof.

RECITALS

WHEREAS, certain of the Investors previously purchased shares of the Company's Series A Preferred Stock, par value \$0.0001 per share (the "**Series A Preferred Stock**") and/or the Company's Series B Preferred Stock, par value \$0.0001 per share (the "**Series B Preferred Stock**") and such Investors, collectively the "**Prior Investors**");

WHEREAS, the Company and certain of the Investors (including, without limitation, certain of the Prior Investors) are parties to that certain Series C Preferred Stock Purchase Agreement dated October __, 2019 by and among the Company and the Investors, as amended from time to time (the "**Purchase Agreement**") pursuant to which the Company is selling to such Investors, and such Investors are purchasing from the Company, shares of the Company's Series C Preferred Stock, par value \$0.0001 per share (the "**Series C Preferred Stock**");

WHEREAS, in order to induce the Company to enter into the Purchase Agreement and to induce the Investors to invest funds in the Company pursuant to the Purchase Agreement, the Investors and the Company now wish to amend and restate the Prior Agreement in its entirety and replace it with this Agreement, and the Investors and the Company hereby agree that this Agreement shall govern the rights of the Investors to cause the Company to register shares of Common Stock issuable to the Investors, to receive certain information from the Company, and to participate in future equity offerings by the Company, and shall govern certain other matters as set forth in this Agreement; and

WHEREAS, pursuant to Section 7.6 of the Prior Agreement, the undersigned Investors constitute the Investors whose prior written consent is required to amend and restate the Prior Agreement in accordance with its terms.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises hereinafter set forth, the parties hereto hereby agree as follows:

1. DEFINITIONS. For purposes of this Agreement:

“**Affiliate**” means, with respect to any specified Person, such Person’s principal or any other Person who or which, directly or indirectly, controls, is controlled by, or is under common control with such Person or such Person’s principal, including, without limitation, any general partner, managing member or partner, officer or director of such Person or such Person’s principal or any venture capital fund or registered investment company now or hereafter existing that is controlled by one or more general partners, managing members or investment adviser of, or shares the same management company or investment adviser with, such Person or such Person’s principal. For purposes of this definition, the terms “**controlling**,” “**controlled by**,” or “**under common control with**” shall mean the possession, directly or indirectly, of (a) 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, or (b) the power to elect or appoint at least 50% of the directors, managers, general partners, or persons exercising similar authority with respect to such Person.

“**Automatic Shelf Registration Statement**” shall have the meaning given to that term in SEC Rule 405.

“**Budget**” shall have the meaning given to that term in Section 2.1.1.

“**business day**” means a weekday on which banks are open for general banking business in San Francisco, California.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Common Stock**” means shares of the Company’s common stock.

“**Damages**” means any loss, damage, or liability (joint or several) to which a party hereto may become subject under the Securities Act, the Exchange Act, or other federal or state law, insofar as such loss, damage, or liability (or any action in respect thereof) arises out of or is based upon (a) any untrue statement or alleged untrue statement of a material fact contained in any registration statement of the Company, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, and any free-writing prospectus and any issuer information (as defined in Rule 433 of the Securities Act) filed or required to be filed pursuant to Rule 433(d) under the Securities Act or any other document incident to such registration prepared by or on behalf of the Company or used or referred to by the Company; (b) an omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading; or (c) any violation or alleged violation by the indemnifying party (or any of its agents or Affiliates) of the Securities Act, the Exchange Act, any state securities law, or any rule or regulation promulgated under the Securities Act, the Exchange Act, or any state securities law.

“**Demand Notice**” means notice sent by the Company to the Holders specifying that a demand registration has been requested as provided in Section 3.1.1.

“**Derivative Securities**” means any securities or rights that are convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Common Stock, including options and warrants.

“Deemed Liquidation Event” has the meaning set forth for such term in the certificate of incorporation of the Company most recently filed with the Delaware Secretary of State that contains such a definition, whether or not the holders of outstanding shares of Preferred Stock elect otherwise by written notice sent to the Company as provided in such definition.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Excluded Registration” means (a) a registration relating to the sale of securities to employees of the Company or a subsidiary pursuant to an equity incentive, stock option, stock purchase, or similar plan; (b) a registration relating to an SEC Rule 145 transaction; (c) a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities; or (d) a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered.

“Form S-1” means such form under the Securities Act as in effect on the date hereof or any successor registration form under the Securities Act subsequently adopted by the SEC.

“Form S-3” means such form under the Securities Act as in effect on the date hereof or any registration form under the Securities Act subsequently adopted by the SEC that permits incorporation of substantial information by reference to other documents filed by the Company with the SEC.

“Free Writing Prospectus” means a free-writing prospectus, as defined in Rule 405 under the Securities Act.

“Fully Exercising Investor” shall have the meaning set forth in Section 4.2.

“GAAP” means generally accepted accounting principles in the United States.

“Holder” means any holder of Registrable Securities who is a party to this Agreement.

“Immediate Family Member” means a child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, of a natural person referred to herein.

“Initiating Holders” means, collectively, Holders who properly initiate a registration request under this Agreement.

“Investor Notice” shall have the meaning set forth in Section 4.2.

“IPO” means the Company’s first underwritten public offering of its Common Stock under the Securities Act.

“Key Holder Registrable Securities” means (a) the shares of Common Stock held by the Key Holders, and (b) any Common Stock issued as (or issuable upon the conversion or exercise of any warrant, right, or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of such shares.

“Lender Registrable Securities” means (a) the Common Stock issuable or issued upon the exercise of any Lender Warrant and (b) the Common Stock issuable or issued upon conversion of the Preferred Stock issuable or issued pursuant to the exercise of any Lender Warrant; *provided, however*, that before the holder of any Lender Warrant shall be entitled to exercise any rights under this Agreement, such holder must either (i) become a party to this Agreement as a “Lender” or (ii) agree to be bound by the terms of this Agreement related to registration rights applicable to the Lender Registrable Securities in a separate written agreement between such holder and the Company (including, without limitation, in a Lender Warrant).

“Lender Warrant” means any warrant to purchase shares of capital stock of the Company issued to banks, equipment lessors or other financial institutions pursuant to a debt financing or equipment leasing transaction where the Company’s Board of Directors (the **“Board”**) has approved the grant to the holder thereof of “piggyback” registration rights.

“Major Investor” means (a) any Investor that, individually or together with such Investor’s Affiliates, holds at least (i) 1,500,000 shares of Preferred Stock or (ii) at least 859,874 shares of Series C Preferred Stock (such shares in (i) and (ii) as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof) and (b) AstraZeneca AB (**“AstraZeneca”**), for so long AstraZeneca and its Affiliates continue to own beneficially any shares of Preferred Stock.

“New Securities” means, collectively, equity securities of the Company, whether or not currently authorized, Derivative Securities and any rights, options, or warrants to purchase such equity securities, or securities of any type whatsoever that are, or may become, convertible or exchangeable into or exercisable for (in each case, directly or indirectly) such equity securities; *provided, however*, that “New Securities” shall exclude: (a) Exempted Securities (as defined in the Restated Certificate); (b) shares of Common Stock issued in the IPO; and (c) shares of Series C Preferred Stock issued to Additional Purchasers pursuant to Section 1.2.3 of the Purchase Agreement.

“Offer Notice” shall have the meaning set forth in Section 4.1.

“Person” means any individual, corporation, partnership, trust, limited liability company, association or other entity.

“Preferred Directors” means, collectively, the Series A Directors, the Series B Directors and the Series C Directors.

“Preferred Stock” means shares of the Company’s Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock.

“Pro Rata Amount” means, for each Major Investor, that portion of the New Securities identified in an Offer Notice which equals the proportion that the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other Derivative Securities then held by such Major Investor bears to the total Common Stock of the Company then outstanding (assuming full conversion and/or exercise, as applicable, of all Preferred Stock and any other Derivative Securities then outstanding).

“Registrable Securities” means (a) the Common Stock issuable or issued upon conversion of shares of the Preferred Stock held by the Investors (other than Common Stock issued following a Special Mandatory Conversion (as defined in the Restated Certificate)); (b) the Key Holder Registrable Securities, *provided, however*, that such Key Holder Registrable Securities shall not be deemed Registrable Securities and the Key Holders shall not be deemed Holders for the purposes of Sections 2.1, 2.2, 3.1, 3.10, 4 and 7.6; (c) the Lender Registrable Securities, *provided, however*, that such Lender Registrable Securities shall not be deemed Registrable Securities and the Lenders shall not be deemed Holders for the purposes of Sections 2.1, 2.2, 3.1, 3.10, 4 and 7.6; and (d) any Common Stock issued as (or issuable upon the conversion or exercise of any warrant, right, or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, the shares referenced in clauses (a) through (d) above; excluding in all cases, however, any Registrable Securities sold by a Person in a transaction in which the applicable rights under this Agreement are not assigned pursuant to Section 7.1, and excluding for purposes of Section 3 any shares for which registration rights have terminated pursuant to Section 6.2 of this Agreement. Notwithstanding the foregoing, the Company shall in no event be obligated to register any Preferred Stock of the Company, and Holders of Registrable Securities will not be required to convert their Preferred Stock into Common Stock in order to exercise the registration rights granted hereunder, until immediately before the closing of the offering to which the registration relates.

“Registrable Securities then outstanding” means the number of shares determined by adding the number of shares of outstanding Common Stock that are Registrable Securities and the number of shares of Common Stock issuable (directly or indirectly) pursuant to then exercisable and/or convertible securities that are Registrable Securities.

“Requisite Preferred Majority” shall have the meaning set forth in Section 3.10.

“Restated Certificate” means the Company’s Restated Certificate of Incorporation (as may be amended and/or restated from time to time).

“Restricted Securities” means the securities of the Company required to bear the legend set forth in Section 3.12.2 hereof.

“SEC” means the Securities and Exchange Commission.

“SEC Rule 144” means Rule 144 promulgated by the SEC under the Securities Act.

“SEC Rule 145” means Rule 145 promulgated by the SEC under the Securities Act.

“SEC Rule 405” means Rule 405 promulgated by the SEC under the Securities Act.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Selling Expenses” means all underwriting discounts, selling commissions, and stock transfer taxes applicable to the sale of Registrable Securities, and fees and disbursements of counsel for any Holder, except for the fees and disbursements of the Selling Holder Counsel borne and paid by the Company as provided in Section 3.6.

“**Selling Holder Counsel**” means one counsel for the selling Holders.

“**Series A Director**” means any director of the Company that the holders of record of the Series A Preferred Stock are entitled to elect pursuant to the Restated Certificate.

“**Series B Director**” means any director of the Company that the holders of record of the Series B Preferred Stock are entitled to elect pursuant to the Restated Certificate.

“**Series C Director**” means any director of the Company that the holders of record of the Series C Preferred Stock are entitled to elect pursuant to the Restated Certificate.

“**Standoff Period**” means the period commencing on the date of the final prospectus relating to the Company’s IPO and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days).

“**Stock Sale**” means a sale by the Company’s stockholders, in one transaction or series of related transactions, of equity securities that represent, immediately prior to such transaction or transactions, at least a majority by voting power of the equity securities of the Company pursuant to an agreement approved by the Board and entered into by the Company.

“**Voting Agreement**” means that certain Voting Agreement dated of even date hereof by and among the Company and the Investors.

2. INFORMATION RIGHTS.

2.1 Delivery of Financial Statements.

2.1.1 **Information to be Delivered.** The Company shall deliver the following to each Major Investor, *provided* that the Board has not reasonably determined in good faith that such Major Investor is a competitor of the Company (but none of the Fund Investors (as defined below), or any of their respective Affiliates, or AstraZeneca or any of its Affiliates, shall in any circumstances be considered a “competitor” hereunder):

(a) As soon as practicable, but in any event 180 days after the end of each fiscal year of the Company, the Company shall deliver, (i) a balance sheet as of the end of such year, (ii) statements of income and of cash flows for such year, and (iii) a statement of stockholders’ equity as of the end of such year, all of which shall be audited and prepared in accordance with GAAP.

(b) As soon as practicable, but in any event within forty-five (45) days after the end of each of quarter of each fiscal year of the Company, the Company shall deliver unaudited statements of income and of cash flows for such fiscal quarter, and an unaudited balance sheet and a statement of stockholders’ equity as of the end of such fiscal quarter, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP).

(c) As soon as practicable, but in any event within thirty (30) days before the end of each fiscal year, the Company shall deliver a budget and business plan for the next fiscal year, approved by the Board and prepared on a monthly basis, including balance sheets, income statements, and statements of cash flow for such months (the “**Budget**”) and, promptly after prepared, any other budgets or revised budgets prepared by the Company.

(d) If, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to Section 2.1.1 shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

(e) As soon as practicable, but in any event within fifteen (15) days after requested in writing by such Major Investor, the Company shall deliver a detailed capitalization table of the Company’s outstanding shares of capital stock, including any securities of the Company that are convertible into or exercisable or exchangeable (directly or indirectly) for shares of capital stock of the Company.

(f) As soon as practicable, in the event of any material defaults of the Company’s obligations under its material contracts or other obligations, or the commencement or settlement of any litigation by or against the Company, the Company shall provide notice to each Major Investor.

2.1.2 Suspension or Termination. Notwithstanding anything else in this Section 2.1 to the contrary but subject to Section 6.1, the Company may cease providing the information set forth in this Section 2.1 during the period starting with the date sixty (60) days before the Company’s good-faith estimate of the date of filing of a registration statement if it reasonably concludes it must do so to comply with the SEC rules applicable to such registration statement and related offering; *provided* that the Company’s covenants under this Section 2.1 shall be reinstated at such time as the Company is no longer actively employing its reasonable efforts to cause such registration statement to become effective.

2.2 Inspection. Solely for purposes of a Major Investor monitoring its equity investment, the Company shall permit each Major Investor, at such Investor’s expense, and on such Investor’s written request, to visit and inspect the Company’s properties; examine its books of account and records; and discuss the Company’s affairs, finances, and accounts with its officers, during normal business hours of the Company as may be reasonably requested by the Major Investor; *provided, however*, that the Company shall not be obligated pursuant to this Section 2.2 to provide access (a) to a Major Investor that the Board has reasonably determined in good faith is a competitor of the Company (but none of the Fund Investors or any of their respective Affiliates, and AstraZeneca or any of its Affiliates shall in any circumstances be considered a “competitor” hereunder) or (b) to any information that it reasonably and in good faith considers to be confidential information (unless covered by an enforceable confidentiality agreement, in form reasonably acceptable to the Company), a trade secret or the disclosure of which would either (i) result in a conflict of interest or (ii) adversely affect the attorney-client privilege between the Company and its counsel.

2.3 Notice. The Company shall provide each Major Investor that requests in writing that the Company provide such notifications with written notification of any material default of the Company’s obligations under its material contracts or other obligations or the commencement or settlement of any material litigation by or against the Company.

2.4 Confidentiality. Each Investor agrees that such Investor will keep confidential and will not disclose, divulge, or use for any purpose (other than to monitor its investment in the Company) any confidential information obtained from the Company pursuant to the terms of this Section 2 unless such confidential information (a) is known or becomes known to the public in general (other than as a result of a breach of this Section 2.4 by such Investor), (b) is or has been independently developed or conceived by the Investor without use of the Company's confidential information, or (c) is or has been made known or disclosed to the Investor by a third party without a breach of any obligation of confidentiality such third party may have to the Company; *provided, however*, that an Investor may disclose confidential information (i) to its attorneys, accountants, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company; (ii) to any existing Affiliate, partner, member, stockholder, or wholly owned subsidiary of such Investor in the ordinary course of business, but only if such Investor informs such Person that such information is confidential and directs such Person to maintain the confidentiality of such information, and that Person shall be subject to the requirements of confidentiality and restrictions on use as set forth in this Agreement; or (iii) as may otherwise be required by law if the Investor promptly notifies the Company of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure.

3. REGISTRATION RIGHTS.

3.1 Demand Registration.

3.1.1 Form S-1 Demand. If at any time after the earlier of (a) five (5) years after the date of this Agreement or (b) one hundred eighty (180) days after the effective date of the registration statement for the IPO, the Company receives a request from Holders of at least 10% of the Registrable Securities then outstanding that the Company file a Form S-1 registration statement with respect to any Registrable Securities then outstanding and the Registrable Securities subject to such request have an anticipated aggregate offering price, net of Selling Expenses, of at least \$10,000,000, then the Company shall (i) within ten (10) days after the date such request is given, give a Demand Notice to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within ninety (90) days after the date such request is given by the Initiating Holders, file a Form S-1 registration statement under the Securities Act covering all Registrable Securities that the Initiating Holders requested to be registered and any additional Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days after the date the Demand Notice is given, and in each case, subject to the limitations of Section 3.1.3 and Section 3.3.

3.1.2 Form S-3 Demand. If at any time when it is eligible to use a Form S-3 registration statement, the Company receives a request from Holders of at least 10% of the Registrable Securities then outstanding that the Company file a Form S-3 registration statement with respect to outstanding Registrable Securities of such Holders having an anticipated aggregate offering price, net of Selling Expenses, of at least \$1,000,000, then the Company shall (a) within ten (10) days after the date such request is given, give a Demand Notice to all Holders other than the Initiating Holders; and (b) as soon as practicable, and in any event within forty-five (45) days after the date such request is given by the Initiating Holders, file a Form S-3 registration statement under the Securities Act covering all Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Section 3.1.3 and Section 3.3.

3.1.3 Delay. Notwithstanding the foregoing obligations, if the Company furnishes to Holders requesting a registration pursuant to this Section 3.1 a certificate signed by the Company's chief executive officer stating that in the good faith judgment of the Board it would be materially detrimental to the Company and its stockholders for such registration statement to either become effective or remain effective for as long as such registration statement otherwise would be required to remain effective, because such action would (a) materially interfere with a significant acquisition, corporate reorganization, or other similar transaction involving the Company; (b) require premature disclosure of material information that the Company has a bona fide business purpose for preserving as confidential; or (c) render the Company unable to comply with requirements under the Securities Act or Exchange Act, then the Company shall have the right to defer taking action with respect to such filing, and any time periods with respect to filing or effectiveness thereof shall be tolled correspondingly, for a period of not more than ninety (90) days after the request of the Initiating Holders is given; *provided, however*, that (i) the Company may not invoke this right more than once in any twelve (12) month period and (ii) the Company shall not register any securities for its own account or that of any other stockholder during such ninety (90) day period other than an Excluded Registration.

3.1.4 Limitations. The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Section 3.1.1: (a) during the period that is sixty (60) days before the Company's good faith estimate of the date of filing of, and ending on a date that is one hundred eighty (180) days after the effective date of, a Company-initiated registration, *provided*, that the Company is actively employing in good faith commercially reasonable efforts to cause such registration statement to become effective; (b) after the Company has effected two (2) registrations pursuant to Section 3.1.1; or (c) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 3.1.2. The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Section 3.1.2: (i) during the period that is thirty (30) days before the Company's good faith estimate of the date of filing of, and ending on a date that is ninety (90) days after the effective date of, a Company-initiated registration, *provided*, that the Company is actively employing in good faith commercially reasonable efforts to cause such registration statement to become effective; or (ii) if the Company has effected two (2) registrations pursuant to Section 3.1.2 within the twelve (12) month period immediately preceding the date of such request. A registration shall not be counted as "effected" for purposes of this Section 3.1.4 until such time as the applicable registration statement has been declared effective by the SEC, unless the Initiating Holders withdraw their request for such registration, elect not to pay the registration expenses therefor, and forfeit their right to one registration on Form S-1 or S-3, as applicable, pursuant to Section 3.6, in which case such withdrawn registration statement shall be counted as "effected" for purposes of this Section 3.1.4.

3.2 Company Registration. If the Company proposes to register (including, for this purpose, a registration effected by the Company for stockholders other than the Holders) any of its Common Stock under the Securities Act in connection with the public offering of such securities solely for cash (other than in an Excluded Registration), the Company shall, at such time, promptly give each Holder notice of such registration. Upon the request of each Holder given within twenty (20) days after such notice is given by the Company, the Company shall, subject to the provisions of Section 3.3, cause to be registered all of the Registrable Securities that each such Holder has requested to be included in such registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 3.2 before the effective date of such registration, whether or not any Holder has elected to include Registrable Securities in such registration. The expenses (other than Selling Expenses) of such withdrawn registration shall be borne by the Company in accordance with Section 3.6.

3.3 Underwriting Requirements.

3.3.1 **Inclusion.** If, pursuant to Section 3.1, the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to Section 3.1, and the Company shall include such information in the Demand Notice. The underwriter(s) will be selected by the Company, subject only to the reasonable approval of the holders of a majority of Registrable Securities held by the Initiating Holders. In such event, the right of any Holder to include such Holder's Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 3.4(e)) enter into an underwriting agreement in customary form with the underwriter(s) selected for such underwriting. Notwithstanding any other provision of this Section 3.3, if the managing underwriter(s) advise(s) the Initiating Holders in writing that marketing factors require a limitation on the number of shares to be underwritten, then the Initiating Holders shall so advise all Holders of Registrable Securities that otherwise would be underwritten pursuant hereto, and the number of Registrable Securities that may be included in the underwriting shall be allocated among such Holders of Registrable Securities, including the Initiating Holders, in proportion (as nearly as practicable) to the number of Registrable Securities owned or held by each Holder or in such other proportion as shall mutually be agreed to by all such selling Holders; *provided, however*, that the number of Registrable Securities owned or held by the Holders to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest one hundred (100) shares.

3.3.2 **Underwriter Cutback.** In connection with any offering involving an underwriting of shares of the Company's capital stock pursuant to Section 3.2, the Company shall not be required to include any of the Holders' Registrable Securities in such underwriting unless the Holders accept the terms of the underwriting as agreed upon between the Company and its underwriters. If the total number of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the number of securities to be sold (other than by the Company) that the underwriters in their reasonable discretion determine is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters and the Company in their sole discretion determine will not jeopardize the success of the offering. If the underwriters determine that less than all of the Registrable Securities

requested to be registered can be included in such offering, then the Registrable Securities that are included in such offering shall be allocated among the selling Holders in proportion (as nearly as practicable to) the number of Registrable Securities owned or held by each selling Holder or in such other proportions as shall mutually be agreed to by all such selling Holders. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest one hundred (100) shares. Notwithstanding the foregoing, in no event shall (a) the number of Registrable Securities included in the offering be reduced unless all other securities (other than securities to be sold by the Company) are first entirely excluded from the offering, (b) the number of Registrable Securities included in the offering be reduced below 30% of the total number of securities included in such offering, unless such offering is the IPO, in which case the selling Holders may be excluded further if the underwriters make the determination described above and no other stockholder's securities are included in such offering or (c) notwithstanding clause (b) above, any Registrable Securities which are not Key Holder Registrable Securities be excluded from such underwriting unless all Key Holder Registrable Securities are first excluded from such offering. For purposes of the provision in this Section 3.3.2 concerning apportionment, for any selling Holder that is a partnership, limited liability company, or corporation, the partners, members, retired partners, retired members, stockholders, and Affiliates of such Holder, or the estates and Immediate Family Members of any such partners, retired partners, members, and retired members and any trusts for the benefit of any of the foregoing Persons, shall be deemed to be a single "selling Holder," and any pro rata reduction with respect to such "selling Holder" shall be based upon the aggregate number of Registrable Securities owned or held by all Persons included in such "selling Holder," as defined in this sentence.

3.3.3 Registration Not Effected. For purposes of Section 3.1, a registration shall not be counted as "effected" if, as a result of an exercise of the underwriter's cutback provisions in Section 3.3.1, fewer than fifty percent (50%) of the total number of Registrable Securities that Holders have requested to be included in such registration statement are actually included.

3.4 Obligations of the Company. Whenever required under this Section 3 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its commercially reasonable efforts to cause such registration statement to become effective as promptly as practicable, and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for a period of up to one hundred twenty (120) days or, if earlier, until the distribution contemplated in the registration statement has been completed; *provided, however*, that (i) such 120-day period shall be extended for a period of time equal to the period the Holder refrains, at the request of an underwriter of Common Stock (or other securities) of the Company, from selling any securities included in such registration, and (ii) in the case of any registration of Registrable Securities on Form S-3 that are intended to be offered on a continuous or delayed basis, subject to compliance with applicable SEC rules, such 120-day period shall be extended for up to sixty (60) days, if necessary, to keep the registration statement effective until all such Registrable Securities are sold;

(b) prepare and file with the SEC such amendments and supplements to such registration statement, the prospectus and, if required, any Free Writing Prospectus used in connection with such registration statement as may be necessary to comply with the Securities Act in order to enable the disposition of all securities covered by such registration statement;

(c) furnish to the selling Holders such numbers of copies of a prospectus, including a preliminary prospectus and any Free Writing Prospectus, as required by the Securities Act, and such other documents as the Holders may reasonably request in order to facilitate their disposition of their Registrable Securities;

(d) use its commercially reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or blue-sky laws of such jurisdictions as shall be reasonably requested by the selling Holders; *provided* that the Company shall not be required to qualify to do business or to file a general consent to service of process in any such states or jurisdictions, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(e) in the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the underwriter(s) of such offering;

(f) use its commercially reasonable efforts to cause all such Registrable Securities covered by such registration statement to be listed on a national securities exchange or trading system and each securities exchange and trading system (if any) on which similar securities issued by the Company are then listed;

(g) provide a transfer agent and registrar for all Registrable Securities registered pursuant to this Agreement and provide a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(h) promptly make available for inspection by the selling Holders, any managing underwriter(s) participating in any disposition pursuant to such registration statement, and any attorney or accountant or other agent retained by any such underwriter or selected by the selling Holders, all financial and other records, pertinent corporate documents, and properties of the Company, and cause the Company's officers, directors, employees, and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent, in each case, as necessary or advisable to verify the accuracy of the information in such registration statement and to conduct appropriate due diligence in connection therewith;

(i) notify each selling Holder, promptly after the Company receives notice thereof, of the time when such registration statement has been declared effective or a supplement to any prospectus or Free-Writing Prospectus forming a part of such registration statement has been filed;

(j) after such registration statement becomes effective, notify each selling Holder of any request by the SEC that the Company amend or supplement such registration statement or prospectus or Free-Writing Prospectus;

(k) use its commercially reasonable efforts to obtain for the underwriters one or more “cold comfort” letters, dated the effective date of the related registration statement (and, if such registration includes an underwritten public offering, dated the date of the closing under the underwriting agreement), signed by the Company’s independent public accountants in customary form and covering such matters of the type customarily covered by “cold comfort” letters;

(l) use its commercially reasonable efforts to obtain for the underwriters on the date such securities are delivered to the underwriters for sale pursuant to such registration a legal opinion of the Company’s outside counsel with respect to the registration statement, each amendment and supplement thereto, the prospectus included therein (including the preliminary prospectus) and such other documents relating thereto in customary form and covering such matters of the type customarily covered by legal opinions of such nature;

(m) to the extent the Company is a well-known seasoned issuer (as defined in SEC Rule 405 at the time any request for registration is submitted to the Company in accordance with Section 3.1, if so requested, file an Automatic Shelf Registration Statement to effect such registration; and

(n) if at any time when the Company is required to re-evaluate its well-known seasoned issuer status for purposes of an outstanding Automatic Shelf Registration Statement used to effect a request for registration in accordance with Section 3.1.2 the Company determines that it is not a well-known seasoned issuer and (i) the registration statement is required to be kept effective in accordance with this Agreement and (ii) the registration rights of the applicable Holders have not terminated, use commercially reasonable efforts to promptly amend the registration statement on a form the Company is then eligible to use or file a new registration statement on such form, and keep such registration statement effective in accordance with the requirements otherwise applicable under this Agreement.

3.5 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 3 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as is reasonably required to effect the registration of such Holder’s Registrable Securities.

3.6 Expenses of Registration. All expenses (other than Selling Expenses) incurred in connection with registrations, filings, or qualifications pursuant to Section 3, including all registration, filing, and qualification fees; printers’ and accounting fees; fees and disbursements of counsel for the Company; and the reasonable fees and disbursements of one Selling Holder Counsel, not to exceed \$50,000, shall be borne and paid by the Company; *provided, however,* that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 3.1 if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be

registered (in which case all selling Holders shall bear such expenses pro rata based upon the number of Registrable Securities that were to be included in the withdrawn registration), unless (i) the Holders of a majority of the Registrable Securities agree to forfeit their right to one registration pursuant to Section 3.1.1 or Section 3.1.2, as the case may be, or (ii) if, at the time of such withdrawal, the Holders shall have learned of a material adverse change in the condition, business, or prospects of the Company not known to the Holders at the time of their request and have withdrawn the request with reasonable promptness after learning of such information, then the Holders shall not be required to pay any of such expenses and shall not forfeit their right to one registration pursuant to Section 3.1.1 or Section 3.1.2. All Selling Expenses relating to Registrable Securities registered pursuant to this Section 3 shall be borne and paid by the Holders pro rata on the basis of the number of Registrable Securities registered on their behalf.

3.7 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any registration pursuant to this Agreement as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 3.

3.8 Indemnification. If any Registrable Securities are included in a registration statement under this Section 3:

3.8.1 **Company Indemnification.** To the extent permitted by law, the Company will indemnify and hold harmless each selling Holder, and the partners, members, officers, directors, and stockholders of each such Holder; legal counsel and accountants for each such Holder; any underwriter (as defined in the Securities Act) for each such Holder; and each Person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any Damages, and the Company will pay to each such Holder, underwriter, controlling Person, or other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; *provided, however*, that the indemnity agreement contained in this Section 3.8.1 shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Company, which consent shall not be unreasonably withheld, conditioned, or delayed nor shall the Company be liable for any Damages to the extent that they arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of any such Holder, underwriter, controlling Person, or other aforementioned Person expressly for use in connection with such registration.

3.8.2 **Selling Holder Indemnification.** To the extent permitted by law, each selling Holder, severally and not jointly, will indemnify and hold harmless the Company, and each of its directors, each of its officers who has signed the registration statement, each Person (if any), who controls the Company within the meaning of the Securities Act, legal counsel and accountants for the Company, any underwriter (as defined in the Securities Act), any other Holder selling securities in such registration statement, and any controlling Person of any such underwriter or other Holder, against any Damages, in each case only to the extent that such Damages arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of such selling Holder expressly for use in connection with such registration; and each such selling Holder will pay to the Company and each other aforementioned Person any legal or other expenses reasonably incurred

thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; *provided, however*, that (a) the indemnity agreement contained in this Section 3.8.2 shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld, conditioned or delayed, and (b) that in no event shall the aggregate amounts payable by any Holder by way of indemnity or contribution under Sections 3.8.2 and 3.8.4 exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of fraud or willful misconduct by such Holder.

3.8.3 Procedures. Promptly after receipt by an indemnified party under this Section 3.8 of notice of the commencement of any action (including any governmental action) for which a party may be entitled to indemnification hereunder, such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 3.8, give the indemnifying party notice of the commencement thereof. The indemnifying party shall have the right to participate in such action and, to the extent the indemnifying party so desires, participate jointly with any other indemnifying party to which notice has been given, and to assume the defense thereof with counsel mutually satisfactory to the parties; *provided, however*, that an indemnified party (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such action. The failure to give notice to the indemnifying party within a reasonable time of the commencement of any such action shall relieve such indemnifying party of any liability to the indemnified party under this Section 3.8, solely to the extent that such failure prejudices the indemnifying party's ability to defend such action.

3.8.4 Contribution. To provide for just and equitable contribution to joint liability under the Securities Act in any case in which either (a) any party otherwise entitled to indemnification hereunder makes a claim for indemnification pursuant to this Section 3.8 but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case, notwithstanding the fact that this Section 3.8 provides for indemnification in such case, or (b) contribution under the Securities Act may be required on the part of any party hereto for which indemnification is provided under this Section 3.8, then, and in each such case, such parties will contribute to the aggregate losses, claims, damages, liabilities, or expenses to which they may be subject (after contribution from others) in such proportion as is appropriate to reflect the relative fault of each of the indemnifying party and the indemnified party in connection with the statements, omissions, or other actions that resulted in such loss, claim, damage, liability, or expense, as well as to reflect any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or allegedly untrue statement of a material fact, or the omission or alleged omission of a material fact, relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission; *provided, however*, that:

(i) in any such case, (A) no Holder will be required to contribute any amount in excess of the public offering price of all such Registrable Securities offered and sold by such Holder pursuant to such registration statement, and (B) no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation; and

(ii) in no event shall a Holder's liability pursuant to this Section 3.8.4, when combined with the amounts paid or payable by such Holder pursuant to Section 3.8.2, exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of fraud or willful misconduct by such Holder.

3.8.5 Underwriting Agreement Controls. Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

3.8.6 Survival. Unless otherwise superseded by an underwriting agreement entered into in connection with the underwritten public offering, the obligations of the Company and Holders under this Section 3.8 shall survive the completion of any offering of Registrable Securities in a registration under this Section 3, and otherwise shall survive the termination of this Agreement.

3.9 Reports under the Exchange Act. With a view to making available to the Holders the benefits of SEC Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company shall:

(a) make and keep available adequate current public information, as those terms are understood and defined in SEC Rule 144, at all times after the effective date of the registration statement filed by the Company for the IPO;

(b) use commercially reasonable efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after the Company has become subject to such reporting requirements); and

(c) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) to the extent accurate, a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144 (at any time after ninety (90) days after the effective date of the registration statement filed by the Company for the IPO), the Securities Act, and the Exchange Act (at any time after the Company has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after the Company so qualifies); and (ii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration (at any time after the Company has become subject to the reporting requirements under the Exchange Act) or pursuant to Form S-3 (at any time after the Company so qualifies to use such form).

3.10 Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of the Holders of a majority of the Registrable Securities then outstanding (the “*Requisite Preferred Majority*”), enter into any agreement with any holder or prospective holder of any securities of the Company that would provide to such holder or prospective holder the right to include securities in any registration on other than a subordinate basis after all Investors have had the opportunity to include in the registration and offering all shares of Registrable Securities that they wish to so include.

3.11 “Market Stand-off” Agreement. Each Holder hereby agrees that, during the Standoff Period, such Holder will not, without the prior written consent of the Company or the managing underwriter,

(a) lend, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right, or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock, or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock, held immediately before the effective date of the registration statement for such offering; or

(b) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (a) or (b) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise.

The foregoing provisions of this Section 3.11: (w) shall apply only to an IPO (but, for the avoidance of doubt, shall not apply to shares acquired by the Holder in the IPO or in open market transactions after the completion of the IPO); (x) shall not apply, in the case of a Holder that is an entity, to the transfer of any shares during the Standoff Period to an Affiliate of such Holder or any of the Holder’s stockholders, members, partners or other equity holders, *provided* that such Affiliate, stockholder, member, partner or other equity holder agrees to be bound in writing by the restrictions set forth herein; (y) shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement, and (z) shall be applicable to the Holders only if all officers, directors, and stockholders individually owning more than one percent (1%) of the Company’s outstanding Common Stock (after giving effect to conversion into Common Stock of all outstanding Preferred Stock) are similarly bound. Any discretionary waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters shall apply pro rata to all directors, officers, and Holders owning more than one percent (1%) of the Company’s outstanding Common Stock (after giving effect to conversion into Common Stock of all outstanding Preferred Stock) subject to such agreements, based on the number of shares subject to such agreements, except that, notwithstanding the foregoing, the Company and the underwriters may, in their sole discretion, waive or terminate these restrictions with respect to up to one percent (1%) of the Company’s then outstanding shares of the Common Stock. For purposes of this Section 3.11, the term “Company” shall include any wholly-owned subsidiary of the Company into which the Company merges or consolidates. In order to enforce the foregoing

covenant, the Company shall have the right to place restrictive legends on the certificates representing the shares subject to this Section 3.11 and to impose stop transfer instructions with respect to such shares until the end of such period. The underwriters in connection with such registration are intended third-party beneficiaries of this Section 3.11 and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Each Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section 3.11 or that are necessary to give further effect thereto.

3.12 Restrictions on Transfer.

3.12.1 Agreement Binding. The Preferred Stock and the Registrable Securities shall not be sold, pledged, or otherwise transferred, and the Company shall not recognize and shall issue stop-transfer instructions to its transfer agent with respect to any such sale, pledge, or transfer, except upon the conditions specified in this Agreement, which conditions are intended to ensure compliance with the provisions of the Securities Act. A transferring Holder will cause any proposed purchaser, pledgee, or transferee of the Preferred Stock and the Registrable Securities held by such Holder to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.

3.12.2 Legends. Each certificate or instrument representing (a) the Preferred Stock, (b) the Registrable Securities, and (c) any other securities issued in respect of the securities referenced in clauses (a) and (b), upon any stock split, stock dividend, recapitalization, merger, consolidation, or similar event, shall (unless otherwise permitted by the provisions of Section 3.12.3) be stamped or otherwise imprinted with a legend substantially in the following form:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO TRANSFER MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM REASONABLY SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933, AS AMENDED.

THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

The Holders consent to the Company making a notation in its records and giving instructions to any transfer agent of the Restricted Securities in order to implement the restrictions on transfer set forth in this Section 3.12.

3.12.3 **Procedure.** The holder of each certificate representing Restricted Securities, by acceptance thereof, agrees to comply in all respects with the provisions of this Section 3. Before any proposed sale, pledge, or transfer of any Restricted Securities, unless there is in effect a registration statement under the Securities Act covering the proposed transaction, the Holder thereof shall give notice to the Company of such Holder's intention to effect such sale, pledge, or transfer. Each such notice shall describe the manner and circumstances of the proposed sale, pledge, or transfer in sufficient detail and, if reasonably requested by the Company, shall be accompanied at such Holder's expense by either (a) a written opinion of legal counsel who shall, and whose legal opinion shall, be reasonably satisfactory to the Company, addressed to the Company, to the effect that the proposed transaction may be effected without registration under the Securities Act; (b) a "no action" letter from the SEC to the effect that the proposed sale, pledge, or transfer of such Restricted Securities without registration will not result in a recommendation by the staff of the SEC that action be taken with respect thereto; or (c) any other evidence reasonably satisfactory to counsel to the Company to the effect that the proposed sale, pledge, or transfer of the Restricted Securities may be effected without registration under the Securities Act, whereupon the Holder of such Restricted Securities shall be entitled to sell, pledge, or transfer such Restricted Securities in accordance with the terms of the notice given by the Holder to the Company. The Company will not require such a legal opinion or "no action" letter (i) in any transaction in compliance with SEC Rule 144 or (ii) in any transaction in which such Holder distributes Restricted Securities to an Affiliate of such Holder for no consideration; *provided* that each transferee agrees in writing to be subject to the terms of this Section 3.12. Each certificate or instrument evidencing the Restricted Securities transferred as above provided shall bear, except if such transfer is made pursuant to SEC Rule 144, the appropriate restrictive legend set forth in Section 3.12.2, except that such certificate shall not bear such restrictive legend if, in the opinion of counsel for such Holder and the Company, such legend is not required in order to establish compliance with any provisions of the Securities Act. Until the IPO, no Holder shall transfer any Restricted Securities to any person or entity that is determined to be a competitor of the Company, in the good faith judgment of the Board; *provided, however* that none of the Fund Investors, or any of their respective Affiliates, or AstraZeneca or any of its Affiliates, shall in any circumstances be considered a "competitor" for purposes of this provision.

4. RIGHTS TO FUTURE STOCK ISSUANCES. Subject to the terms and conditions of this Section 4 and applicable securities laws, if the Company proposes to sell any New Securities, the Company shall offer to sell a portion of New Securities to each Major Investor as described in this Section 4. A Major Investor shall be entitled to apportion the right of first refusal hereby granted to it among itself and its Affiliates in such proportions as it deems appropriate. The right of first refusal in this Section 4 shall not be applicable with respect to any Major Investor, if at the time of such subsequent securities issuance, the Major Investor is not an "accredited investor," as that term is then defined in Rule 501(a) under the Securities Act.

4.1 Company Notice. The Company shall give notice (the "**Offer Notice**") to each Major Investor, stating (a) its bona fide intention to sell such New Securities, (b) the number of such New Securities to be sold and (c) the price and terms, if any, upon which it proposes to sell such New Securities.

4.2 Investor Right. By written notice (the “*Investor Notice*”) to the Company within twenty (20) days after the Offer Notice is given, each Major Investor may elect to purchase or otherwise acquire, at the price and on the terms specified in the Offer Notice, up to such Major Investor’s Pro Rata Amount. In addition, each Major Investor that elects to purchase or acquire all of its Pro Rata Amount (each, a “*Fully Exercising Investor*”) may, in the Investor Notice, elect to purchase or acquire, in addition to its Pro Rata Amount, a portion of the New Securities, if any, for which other Major Investors were entitled to subscribe but that are not subscribed for by such Major Investors. The amount of such overallocation that each Fully Exercising Investor shall be entitled to purchase is equal to the proportion that the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of Preferred Stock then held, by such Fully Exercising Investor bears to the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock then held, by all Fully Exercising Investors who wish to purchase such unsubscribed shares. A Major Investor’s election may be conditioned on the consummation of the transaction described in the Offer Notice. The closing of any sale pursuant to this Section 4.2 shall occur on the earlier of one hundred and twenty (120) days after the date that the Offer Notice is given and the date of initial sale of New Securities pursuant to Section 4.3.

4.3 Sale of Securities. If all New Securities referred to in the Offer Notice are not elected to be purchased or acquired as provided in Section 4.2, the Company may, during the ninety (90) day period following the expiration of the periods provided in Section 4.2, offer and sell the remaining unsubscribed portion of such New Securities to any Person or Persons at a price not less than, and upon terms no more favorable to the offeree than, those specified in the Offer Notice. If the Company does not enter into an agreement for the sale of the New Securities within such period, or if such agreement is not consummated within thirty (30) days of the execution thereof, the right provided hereunder shall be deemed to be revived and such New Securities shall not be offered unless first reoffered to the Major Investors in accordance with this Section 4.

5. ADDITIONAL COVENANTS.

5.1 D&O Insurance. The Company shall use its commercially reasonable efforts to maintain Directors and Officers liability insurance from a financially sound and reputable insurer in an amount and on terms and conditions reasonably satisfactory to the Board, until such time as each of the Board (including at a majority of the Preferred Directors) determines that such insurance should be discontinued. Such policies shall not be cancelable by the Company without prior approval by the Board (including the affirmative approval of at a majority of the Preferred Directors). Notwithstanding any other provision of this Section 5.1 to the contrary, for so long as any Preferred Director is serving on the Board, the Company shall not cease to maintain a Directors and Officers liability insurance policy in an amount of at least \$3,000,000 unless approved by a majority of the Preferred Directors, and the Company shall annually, within one hundred twenty (120) days after the end of each fiscal year of the Company, deliver to the Investors a certification that such a Directors and Officers liability insurance policy remains in effect.

5.2 Employee Vesting. Unless otherwise approved by the Board, including the affirmative approval of a majority of the Preferred Directors, all employees, directors, consultants and other service providers of the Company or its subsidiaries who purchase, receive options to purchase, or receive awards of shares of the Company’s capital stock after the date hereof, shall be required to execute restricted stock or option agreements, as applicable, providing for vesting of shares over a four (4) year period, with the first twenty-five percent (25%) of such shares vesting following twelve (12) months of continued employment or service (or the date of grant in the case of a grant to an existing employee or consultant), and the remaining shares vesting in equal monthly installments over the following thirty-six (36) months.

5.3 Employee Agreements. The Company will cause each person now or hereafter employed by it or by any subsidiary (or engaged by the Company or any subsidiary as a consultant/independent contractor) with access to confidential information and/or trade secrets to enter into an employee invention assignment and confidentiality agreement substantially in the form provided to the Investors. In addition, the Company shall not amend, modify, terminate, waive, or otherwise alter, in whole or in part, any of the above-referenced agreements or any restricted stock agreement between the Company and any employee, without approval of the Board, including the affirmative consent of a majority of the Preferred Directors.

5.4 Board Matters; Observer.

5.4.1 **Board Meetings and Reimbursement.** Unless otherwise determined by the vote of a majority of the directors then in office, the Board of Directors shall meet at least quarterly in accordance with an agreed-upon schedule. The Company shall reimburse the nonemployee directors and observers for all reasonable out-of-pocket travel expenses incurred in connection with attending meetings of the Board.

5.4.2 **Nonvoting Frazier Observer.** As long as Frazier Life Sciences VIII, L.P. (together with its Affiliates) ("**Frazier**") owns at least 1,000,000 shares of Preferred Stock (or an equivalent amount of Common Stock issued upon conversion thereof, and as adjusted for stock splits, consolidations and the like), the Company shall invite a representative of Frazier to attend all meetings of its Board of Directors in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors at the same time and in the same manner as provided to such directors; *provided, however*, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest.

5.4.3 **Nonvoting AstraZeneca Observer.** As long as AstraZeneca owns any shares of Preferred Stock, the Company shall invite a representative of AstraZeneca to attend all meetings of its Board of Directors in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors at the same time and in the same manner as provided to such directors; *provided, however*, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest.

5.5 Successor Indemnification. If the Company or any of its successors or assignees consolidates with or merges into any other Person and is not the continuing or surviving corporation or entity of such consolidation or merger, then to the extent necessary, proper provision shall be made so that the successors and assignees of the Company assume the obligations of the Company with respect to indemnification of members of the Board as in effect immediately before such transaction, whether such obligations are contained in the Company's Bylaws, the Restated Certificate, or elsewhere, as the case may be.

5.6 Indemnification Matters. The Company hereby acknowledges that one (1) or more of the directors nominated to serve on the Board by the Investors (each a "**Fund Director**") may have certain rights to indemnification, advancement of expenses and/or insurance provided by one or more of the Investors and certain of their Affiliates (collectively, the "**Fund Indemnitors**"). The Company hereby agrees (a) that it is the indemnitor of first resort (i.e., its obligations to any such Fund Director are primary and any obligation of the Fund Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such Fund Director are secondary), (b) that it shall be required to advance the full amount of expenses incurred by such Fund Director and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement by or on behalf of any such Fund Director to the extent legally permitted and as required by the Restated Certificate or Bylaws of the Company (or any agreement between the Company and such Fund Director), without regard to any rights such Fund Director may have against the Fund Indemnitors, and, (c) that it irrevocably waives, relinquishes and releases the Fund Indemnitors from any and all claims against the Fund Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Fund Indemnitors on behalf of any such Fund Director with respect to any claim for which such Fund Director has sought indemnification from the Company shall affect the foregoing and the Fund Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Fund Director against the Company.

5.7 Right to Conduct Activities. The Company hereby agrees and acknowledges that Frazier, HBM, Bain Capital Life Sciences, LP (together with its Affiliates) ("**BCLS**"), OrbiMed Advisors LLC (together with its Affiliates) ("**OrbiMed**"), BlackRock (together with its Affiliates) ("**BlackRock**"), RA Capital Healthcare Fund, L.P. (together with its Affiliates) ("**RA Capital**"), Pivotal BioVentures (together with its Affiliates) ("**Pivotal**"), Vivo Capital Fund IX, L.P. (together with its Affiliates) ("**Vivo**") and Omega Fund VI, LP (together with its Affiliates) ("**Omega**", and together with Frazier, HBM, BCLS, OrbiMed, BlackRock, RA Capital, Pivotal, and Vivo, the "**Fund Investors**") are professional investment funds, and that AstraZeneca and its Affiliates engage in strategic acquisition and investment transactions in the ordinary course of their business, and as such the Fund Investors and AstraZeneca invest in numerous portfolio companies, some of which may be deemed competitive with the Company's business (as currently conducted or as currently propose to be conducted). The Company hereby agrees that, to the extent permitted under applicable law, the Fund Investors and AstraZeneca shall not be liable to the Company for any claim arising out of, or based upon, (i) the investment by each Fund Investor or AstraZeneca, respectively, in any entity competitive with the Company, or (ii) actions taken by any partner, stockholder, director, officer or other representative of a Fund Investor or AstraZeneca to assist any such competitive company, whether or not such action was taken as a member of the board of directors of such competitive company or otherwise, and whether or not such action has a detrimental effect on the Company; provided, however, that the foregoing shall not relieve (x) any of the Investors from liability associated with the unauthorized disclosure of the Company's confidential information obtained pursuant to this Agreement, or (y) any director or officer of the Company from any liability associated with his or her fiduciary duties to the Company; provided, further, that any such representative shall be subject to the requirements of confidentiality and restrictions on use as set forth in this Agreement.

5.8 FCPA. The Company represents that it shall not (and shall not permit any of its subsidiaries or Affiliates or any of its or their respective directors, officers, managers, employees, independent contractors, representatives or agents to) promise, authorize or make any payment to, or otherwise contribute any item of value to, directly or indirectly, to any third party, including any Non-U.S. Official (as such term is defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended (the “**FCPA**”)), in each case, in violation of the FCPA, the U.K. Bribery Act, or any other applicable anti-bribery or anti-corruption law. The Company further represents that it shall (and shall cause each of its subsidiaries and Affiliates to) cease all of its or their respective activities, as well as remediate any actions taken by the Company, its subsidiaries or Affiliates, or any of their respective directors, officers, managers, employees, independent contractors, representatives or agents in violation of the FCPA, the U.K. Bribery Act, or any other applicable anti-bribery or anti-corruption law. Upon request, the Company agrees to provide responsive information and/or certifications concerning its compliance with applicable anti-corruption laws. The Company shall promptly notify each Investor if the Company becomes aware of any Enforcement Action (as defined in the Purchase Agreement). The Company shall, and shall cause any direct or indirect subsidiary or entity controlled by it, whether now in existence or formed in the future, to comply with the FCPA. The Company shall use its best efforts to cause any direct or indirect subsidiary, whether now in existence or formed in the future, to comply in all material respects with all applicable laws.

5.9 Qualified Small Business Stock. The Company shall use commercially reasonable efforts to cause the shares of Series A Preferred Stock, as well as any shares into which such shares are converted, within the meaning of Section 1202(f) of the Internal Revenue Code (the “**Code**”), to constitute “qualified small business stock” as defined in Section 1202(c) of the Code; *provided, however*, that such requirement shall not be applicable if the Board determines, with the affirmative approval of at least one of the Series A Directors, in its good-faith business judgment, that such qualification is inconsistent with the best interests of the Company. The Company shall submit to its stockholders (including the Investors) and to the Internal Revenue Service any reports that may be required under Section 1202(d)(1)(C) of the Code and the regulations promulgated thereunder. In addition, within twenty (20) business days after any Investor’s written request therefor, the Company shall, at its option, either (i) deliver to such Investor a written statement indicating whether (and what portion of) such Investor’s interest in the Company constitutes “qualified small business stock” as defined in Section 1202(c) of the Code or (ii) deliver to such Investor such factual information in the Company’s possession as is reasonably necessary to enable such Investor to determine whether (and what portion of) such Investor’s interest in the Company constitutes “qualified small business stock” as defined in Section 1202(c) of the Code.

6. TERMINATION.

6.1 Generally. The covenants set forth in Section 2.1, Section 2.2, Section 2.3, Section 4 and Section 5 (other than Subsections 5.5 and 5.6) shall terminate and be of no further force or effect upon the earliest to occur of: (a) immediately prior to the consummation of the IPO; (b) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act; or (c) upon a Deemed Liquidation Event or a Stock Sale.

6.2 Registration Rights. Except as set forth in Section 3.8.6, the right of any Holder to request registration or inclusion of Registrable Securities in any registration pursuant to Section 3.1 or Section 3.2 shall terminate upon the earliest to occur of: (a) when all of such Holder's Registrable Securities could be sold without any restriction on volume or manner of sale in any three-month period under SEC Rule 144 or any successor; (b) upon a Deemed Liquidation Event or a Stock Sale; and (c) the seventh (7th) anniversary of the IPO.

7. GENERAL PROVISIONS.

7.1 Successors and Assigns. The rights under this Agreement may be assigned (but only with all related obligations) by a Holder to a transferee of Registrable Securities that (a) is an Affiliate, partner, member, limited partner, retired or former partner, retired or former member, or stockholder of a Holder or such Holder's Affiliate; (b) is a Holder's Immediate Family Member or trust for the benefit of an individual Holder or one or more of such Holder's Immediate Family Members; (c) after such transfer, holds at least two percent (2%) of the shares of Registrable Securities (or if the transferring Holder owns less than two percent (2%) of the Registrable Securities, then all Registrable Securities held by the transferring Holder); or (d) is a venture capital fund that is controlled by or under common control with one or more general partners or managing partners or managing members of, or shares the same management company with, the Holder; *provided, however*, that (i) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee and the Registrable Securities with respect to which such rights are being transferred; and (ii) such transferee agrees in a written instrument delivered to the Company to be bound by and subject to the terms and conditions of this Agreement, including the provisions of Section 3.11. For the purposes of determining the number of shares of Registrable Securities held by a transferee, the holdings of a transferee (A) that is an Affiliate, limited partner, retired or former partner, member, retired or former member, or stockholder of a Holder or such Holder's Affiliate; (B) who is a Holder's Immediate Family Member; or (C) that is a trust for the benefit of an individual Holder or such Holder's Immediate Family Member shall be aggregated together and with those of the transferring Holder. The terms and conditions of this Agreement inure to the benefit of and are binding upon the respective successors and permitted assignees of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assignees any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided herein.

7.2 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws.

7.3 Counterparts; Facsimile. 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. This Agreement may also be executed and delivered by facsimile or electronic signature and 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.

7.4 Titles and Subtitles. The titles and subtitles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.

7.5 Notices. All notices, requests, and other communications given, made or delivered pursuant to this Agreement shall be in writing and shall be deemed effectively given, made or delivered upon the earlier of actual receipt or: (a) personal delivery to the party to be notified; (b) when sent, if sent by facsimile or email during the recipient's normal business hours, and if not sent during normal business hours, then on the recipient's next business day; (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) business day after the business day of deposit with a nationally recognized overnight courier, freight prepaid, specifying next-day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their addresses as set forth on Schedule A hereto, or to the principal office of the Company and to the attention of the Chief Executive Officer, in the case of the Company, or to such address or facsimile number as subsequently modified by written notice given in accordance with this Section 7.5. If notice is given to the Company, it shall be sent to 2945 Townsgate Road, Suite 110, Westlake Village, CA, 91361, marked "Attention: Chief Executive Officer"; and a copy (which shall not constitute notice) shall also be sent to Fenwick & West LLP, 555 California Street, 12th Floor, San Francisco, California 94104, Attn: Matthew Rossiter, mrossiter@fenwick.com. If no facsimile number or email address is listed on Schedule A for a party (or above in the case of the Company), notices and communications given or made by facsimile or email shall not be deemed effectively given to such party.

7.6 Amendments and Waivers. This Agreement may only be amended or terminated and the observance of any term hereof may be waived (either generally or in a particular instance, and either retroactively or prospectively) only by a written instrument executed by the Company and the Requisite Preferred Majority; *provided*, that (i) the Company may in its sole discretion waive compliance with Section 3.12 (and the Company's failure to object promptly in writing after notification of a proposed assignment allegedly in violation of Section 3.12 shall be deemed to be a waiver); (ii) any provision hereof may be waived by any waiving party on such party's own behalf, without the consent of any other party; (iii) the Company may, without the consent or approval of any other party hereto, cause additional persons to become party to this Agreement as Investors or Lenders pursuant to Section 7.14 hereto and amend Schedule A hereto accordingly; (iv) if, after giving effect to any waiver of Section 4 or any provision pertaining to Section 4 with respect to a particular transaction, a Major Investor purchases securities in such transaction or issuance (such Major Investor, a "**Participating Investor**"), then each Major Investor shall be permitted to participate in such offering on a *pro rata* basis (based on the level of participation of the Major Investor purchasing the largest portion of such Major Investor's Pro Rata Amount) in accordance with the other provisions (including notice and election periods) set forth in Section 4; and (v) Section 5.4.3 and clause (b) of the definition of "Major Investor" shall not be amended or waived without the consent of AstraZeneca. Notwithstanding the foregoing, this Agreement may not be amended or terminated and the observance of any term hereof may not be waived with respect to any Major Investor without the written consent of such Major Investor, unless such amendment,

termination, or waiver applies to all Major Investors in the same fashion. Further, this Agreement may not be amended, and no provision hereof may be waived, in each case, in any way which would adversely affect the rights of the Key Holders hereunder in a manner disproportionate to any adverse effect such amendment or waiver would have on the rights of the Investors hereunder, without also the written consent of the holders of a majority of the Registrable Securities held by the Key Holders; *provided, however*, that the grant to third parties of piggyback registration rights under Section 3.2 hereof shall not be deemed to be an adverse change to the piggyback registration rights of the Key Holders under this Agreement and shall not require the consent of the Key Holders. Any amendment, termination, or waiver effected in accordance with this Section 7.6 shall be binding on each party hereto and all of such party's successors and permitted assigns, regardless of whether or not any such party, successor or assignee entered into or approved such amendment, termination, or waiver. No waivers of or exceptions to any term, condition, or provision of this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such term, condition, or provision. Notwithstanding the foregoing, Section 7.6(iv) and this last sentence of Section 7.6 may be amended and the observance of any term thereof may be waived (either generally or in a particular instance, and either retroactively or prospectively) only by a written instrument executed by the holders of a majority of the Registrable Securities then outstanding held by the Major Investors.

7.7 Severability. In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and such invalid, illegal, or unenforceable provision shall be reformed and construed so that it will be valid, legal, and enforceable to the maximum extent permitted by law.

7.8 Aggregation of Stock. All shares of Registrable Securities held or acquired by Affiliates shall be aggregated together for the purpose of determining the availability of any rights under this Agreement and such affiliated persons may apportion such rights as among themselves in any manner they deem appropriate.

7.9 Entire Agreement. This Agreement (including any Schedules and Exhibits hereto) constitutes the full and entire understanding and agreement among the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties is expressly canceled and replaced with this Agreement.

7.10 Third Parties. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

7.11 Delays or Omissions. No delay or omission to exercise any right, power, or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power, or remedy of such nonbreaching or nondefaulting party, nor shall it be construed to be a waiver of or acquiescence to any such breach or default, or to any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All remedies, whether under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

7.12 Dispute Resolution; Waiver of Jury Trial. The parties (a) hereby irrevocably and unconditionally submit to the jurisdiction of the federal or state courts located in the Northern District of California for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement, (b) agree not to commence any suit, action or other proceeding arising out of or based upon this Agreement except in the federal or state courts located in the Northern District of California, and (c) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that a party is not subject to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution based upon judgment or order of such court(s), that any suit, action or proceeding arising out of or based upon this Agreement commenced in the federal or state courts located in the Northern District of California is brought in an inconvenient forum, that the venue of such suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court. Should any party commence a suit, action or other proceeding arising out of or based upon this Agreement in a forum other than the federal or state courts located in the Northern District of California, or should any party otherwise seek to transfer or dismiss such suit, action or proceeding from such court(s), that party shall indemnify and reimburse the other party for all legal costs and expenses incurred in enforcing this provision.

EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS, THE SECURITIES OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER WARRANTS AND REPRESENTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

7.13 Attorneys' Fees. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the non-prevailing party shall pay all costs and expenses incurred by the prevailing party, including, without limitation, all reasonable attorneys' fees.

7.14 Additional Investors and Lenders. Notwithstanding anything to the contrary contained herein, if the Company issues additional shares of the Company's Series C Preferred Stock after the date hereof, any purchaser of such shares of Series C Preferred Stock may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement, and thereafter shall be deemed an "Investor" for all purposes hereunder. In addition, notwithstanding anything to the contrary contained herein, if the

Company issues any Lender Warrant, any recipient of a Lender Warrant may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement, and thereafter shall be deemed a “Lender” for all purposes hereunder. No action or consent by the Investors shall be required for such joinder to this Agreement by such additional Investor or Lender, so long as such additional Investor or Lender has agreed in writing to be bound by all of the obligations as an “Investor” or a “Lender” hereunder, as applicable.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this **Amended and Restated Investors' Rights Agreement** as of the date first written above.

COMPANY:

ARCUTIS BIOTHERAPEUTICS, INC.

By: /s/ Todd Franklin Watanabe _____

Name: Todd Franklin Watanabe

Title: President and CEO

[SIGNATURE PAGE TO ARCUTIS BIOTHERAPEUTICS, INC. AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have executed this **Amended and Restated Investors' Rights Agreement** as of the date first written above.

INVESTORS:

HBM HEALTHCARE INVESTMENTS (CAYMAN) LTD.

By: /s/ Jean Marc LeSieur

Name: Jean Marc LeSieur

Title: Director

[SIGNATURE PAGE TO ARCUTIS BIOTHERAPEUTICS, INC. AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have executed this **Amended and Restated Investors' Rights Agreement** as of the date first written above.

INVESTORS:

BLACKROCK HEALTH SCIENCES TRUST

By: BlackRock Advisors, LLC

Its: Investment Advisor

By: /s/ Hongying Erin Xie

Name: Hongying Erin Xie

Title: Managing Director

**BLACKROCK HEALTH SCIENCES OPPORTUNITIES
PORTFOLIO, A SERIES OF BLACKROCK FUNDS**

By: BlackRock Advisors, LLC

Its: Investment Advisor

By: /s/ Hongying Erin Xie

Name: Hongying Erin Xie

Title: Managing Director

**BLACKROCK HEALTH SCIENCES
MASTER UNIT TRUST**

By: BlackRock Advisors, LLC

Its: Investment Advisor

By: /s/ Hongying Erin Xie

Name: Hongying Erin Xie

Title: Managing Director

[SIGNATURE PAGE TO ARCUTIS BIOTHERAPEUTICS, INC. AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have executed this **Amended and Restated Investors' Rights Agreement** as of the date first written above.

INVESTORS:

/s/ Robert Hopfner

(Signature)

Robert Hopfner, Managing Partner

Pivotal bioVenture Partners Fund I, L.P.

By: Pivotal bioVenture Partners Fund G.P., L.P., its general partner

By: Pivotal bioVenture Partners Fund I U.G.P. Ltd, its general partner

[SIGNATURE PAGE TO ARCUTIS BIOTHERAPEUTICS, INC. AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have executed this **Amended and Restated Investors' Rights Agreement** as of the date first written above.

INVESTORS:

Vivo Capital Fund IX, L.P.

By: Vivo Capital Fund IX, LLC, General Partner

By: /s/ Albert Cha

Name: Albert Cha

Title: Managing Member

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INVESTORS:

OMEGA FUND VI, LP

By: Omega Fund VI GP, LP, its General Partner

By: Omega Fund VI GP Manager, Ltd., its General Partners

By: /s/ Anne-Mari Paster

Name: Anne-Mari Paster

Title: Director

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INVESTORS:

BROAD STREET PRINCIPAL INVESTMENTS, L.L.C.

By: /s/ Joseph P. DiSabato

Name: Joseph P. DiSabato

Title: Vice President

[SIGNATURE PAGE TO ARCUTIS BIOTHERAPEUTICS, INC. AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT]

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INVESTORS:

BAIN CAPITAL LIFE SCIENCES FUND, LP

By: Bain Capital Life Sciences Partners, LP

its general partner

By: Bain Capital Life Sciences Investors, LLC

its general partner

By: /s/ Adam Koppel

Name: Adam Koppel

Title: Managing Director

BCIP LIFE SCIENCES ASSOCIATES, LP

By: Boylston Coinvestors, LLC

its general partner

By: /s/ Adam Koppel

Name: Adam Koppel

Title: Authorized Signatory

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INVESTORS:

OrbiMed Private Investments VII, LP

By: OrbiMed Capital GP VII, LLC,
Its General Partner

By: OrbiMed Advisors LLC,
Its Managing Member

By: /s/ Jonathan T. Silverstein

Name: Jonathan T. Silverstein

Title: Member

OrbiMed Partners Master Fund Limited

By: OrbiMed Capital LLC, solely in its Capacity as
Investment Advisor

By: /s/ Sven H. Borho

Name: Sven H. Borho

Title: Member

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INVESTORS:

FRAZIER LIFE SCIENCES VIII, L.P.

By FHM Life Sciences VIII, LP
Its general partner

By FHM Life Sciences VIII, LLC
Its general partner

By: /s/ Daniel J. Estes
Name: Daniel J. Estes
Title: Authorized Representative

[SIGNATURE PAGE TO ARCUTIS BIOTHERAPEUTICS, INC. AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT]

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INVESTORS:

RA CAPITAL HEALTHCARE FUND, L.P.

By: RA Capital Management, LLC

Its: General Partner

By: /s/ Rajeev Shah

Name: Rajeev Shah

Title: Authorized Signatory

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INVESTORS:

RA CAPITAL NEXUS FUND, L.P.

By: RA Capital Nexus Fund GP, LLC

Its: General Partner

By: /s/ Rajeev Shah

Name: Rajeev Shah

Title: Manager

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INVESTORS:

BLACKWELL PARTNERS LLC – SERIES A

By: /s/ Abayomi A. Adigun

Name: Abayomi A. Adigun

Title: Investment Manager, DUMAC, Inc., Authorized Agent

By: /s/ Jannine M. Lall

Name: Jannine M. Lall

Title: Head of Finance & Controller, DUMAC, Inc., Authorized Agent

[SIGNATURE PAGE TO ARCUTIS BIOTHERAPEUTICS, INC. AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have executed this **Amended and Restated Investors' Rights Agreement** as of the date first written above.

INVESTORS:

ASTRAZENECA AB

By: /s/ Anders G. Holmen _____

Name: Anders G. Holmen

Title: Vice President, BioPharmaceuticals R&D

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IN WITNESS WHEREOF, the parties hereto have executed this **Amended and Restated Investors' Rights Agreement** as of the date first written above.

KEY HOLDERS:

Signature: /s/ Bhaskar Chaudhuri
Bhaskar Chaudhuri

Signature: /s/ David Osbourne
David Osbourne

Signature: /s/ David A. Socks
David A. Socks 2013 Revocable Trust

Signature: /s/ Tadataka Yamada
Tadataka Yamada

Signature: /s/ Howard Welgus
Howard Welgus

Signature: /s/ John Smither
John Smither

Signature: /s/ Todd Franklin Watanabe
Todd Franklin Watanabe

FRAZIER LIFE SCIENCES VIII, L.P.

By FHM Life Sciences VIII, LP
Its general partner

By FHM Life Sciences VIII, LLC
Its general partner

By: /s/ Daniel J. Estes

Name: Daniel J. Estes
Title: Authorized Representative

[SIGNATURE PAGE TO ARCUTIS BIOTHERAPEUTICS, INC. AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT]

INDEMNITY AGREEMENT

This Indemnity Agreement, dated as of _____, 2020 is made by and between Arcutis Biotherapeutics, Inc., a Delaware corporation (collectively with its subsidiaries, the “**Company**”), and _____, a director, officer or key employee of the Company or one of the Company’s subsidiaries or other service provider who satisfies the definition of Indemnifiable Person set forth below (“**Indemnitee**”).

RECITALS

A. The Company is aware that competent and experienced persons are increasingly reluctant to serve as representatives of corporations unless they are protected by comprehensive liability insurance and indemnification, due to increased exposure to litigation costs and risks resulting from their service to such corporations, and due to the fact that the exposure frequently bears no relationship to the compensation of such representatives;

B. The members of the Board of Directors of the Company (the “**Board**”) have concluded that to retain and attract talented and experienced individuals to serve as representatives of the Company and its Subsidiaries and Affiliates and to encourage such individuals to take the business risks necessary for the success of the Company and its Subsidiaries and Affiliates, it is necessary for the Company to contractually indemnify certain of its representatives and the representatives of its Subsidiaries and Affiliates, and to assume for itself maximum liability for Expenses and Other Liabilities in connection with claims against such representatives in connection with their service to the Company and its Subsidiaries and Affiliates;

C. Section 145 of the Delaware General Corporation Law (“**Section 145**”), empowers the Company to indemnify by agreement its officers, directors, employees and agents, and persons who serve, at the request of the Company, as directors, officers, employees or agents of other corporations, partnerships, joint ventures, trusts or other enterprises, and expressly provides that the indemnification provided thereby is not exclusive; and

D. The Company desires and has requested Indemnitee to serve or continue to serve as a representative of the Company and/or the Subsidiaries or Affiliates of the Company free from undue concern about inappropriate claims for damages arising out of or related to such services to the Company and/or the Subsidiaries or Affiliates of the Company.

AGREEMENT

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions.

(a) Affiliate. For purposes of this Agreement, “**Affiliate**” of the Company means any corporation, partnership, limited liability company, joint venture, trust or other enterprise in respect of which Indemnitee is or was or will be serving as a director, officer, trustee, manager, member, partner, employee, agent, attorney, consultant, member of the entity’s governing body (whether constituted as a board of directors, board of managers, general partner or otherwise), fiduciary, or in any other similar capacity at the request, election or direction of the Company, and including, but not limited to, any employee benefit plan of the Company or a Subsidiary or Affiliate of the Company.

(b) Change in Control. For purposes of this Agreement, “**Change in Control**” means (i) any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended), other than a Subsidiary or a trustee or other fiduciary holding securities under an employee benefit plan of the Company or Subsidiary, is or becomes the “Beneficial Owner” (as defined in Rule 13d-3 under said Act), directly or indirectly,

of securities of the Company representing 50% or more of the total voting power represented by the Company's then outstanding capital stock or (ii) during any period of two consecutive years, individuals who at the beginning of such period constitute the Board and any new director whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof, or (iii) the stockholders of the Company approve a merger or consolidation of the Company with any other corporation, other than a merger or consolidation that would result in the outstanding capital stock of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into capital stock of the surviving entity) at least 80% of the total voting power represented by the capital stock of the Company or such surviving entity outstanding immediately after such merger or consolidation, or the stockholders of the Company approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company (in one transaction or a series of transactions) of all or substantially all of the Company's assets.

(c) Expenses. For purposes of this Agreement, "**Expenses**" means all direct and indirect costs of any type or nature whatsoever (including, without limitation, all attorneys' fees and related disbursements, and other out-of-pocket costs), paid or incurred by Indemnitee in connection with either the investigation, defense or appeal of, or being a witness in, a Proceeding (as defined below), or establishing or enforcing a right to indemnification under this Agreement, Section 145 or otherwise; provided, however, that Expenses shall not include any judgments, fines, ERISA excise taxes or penalties or amounts paid in settlement of a Proceeding.

(d) Indemnifiable Event. For purposes of this Agreement, "**Indemnifiable Event**" means any event or occurrence related to Indemnitee's service for the Company or any Subsidiary or Affiliate as an Indemnifiable Person (as defined below), or by reason of anything done or not done, or any act or omission, by Indemnitee in any such capacity.

(e) Indemnifiable Person. For the purposes of this Agreement, "**Indemnifiable Person**" means any person who is or was a director, officer, trustee, manager, member, partner, employee, attorney, consultant, member of an entity's governing body (whether constituted as a board of directors, board of managers, general partner or otherwise) or other agent or fiduciary of the Company or a Subsidiary or Affiliate of the Company.

(f) Independent Counsel. For purposes of this Agreement, "**Independent Counsel**" means legal counsel that has not performed services for the Company or Indemnitee in the five years preceding the time in question and that would not, under applicable standards of professional conduct, have a conflict of interest in representing either the Company or Indemnitee.

(g) Independent Director. For purposes of this Agreement, "**Independent Director**" means a member of the Board who is not a party to the Proceeding for which a claim is made under this Agreement.

(h) Other Liabilities. For purposes of this Agreement, "**Other Liabilities**" means any and all liabilities of any type whatsoever (including, but not limited to, judgments, fines, penalties, ERISA (or other benefit plan related) excise taxes or penalties, and amounts paid in settlement and all interest, taxes, assessments and other charges paid or payable in connection with or in respect of any such judgments, fines, ERISA (or other benefit plan related) excise taxes or penalties, or amounts paid in settlement).

(i) Proceeding. For the purposes of this Agreement, "**Proceeding**" means any threatened, pending, or completed action, suit or other proceeding, whether civil, criminal, administrative, investigative, legislative or any other type whatsoever, preliminary, informal or formal, including any arbitration or other alternative dispute resolution and including any appeal of any of the foregoing.

(j) Subsidiary. For purposes of this Agreement, "**Subsidiary**" means any entity of which more than 50% of the outstanding voting securities is owned directly or indirectly by the Company.

2. Agreement to Serve. The Indemnitee agrees to serve and/or continue to serve as an Indemnifiable Person in the capacity or capacities in which Indemnitee currently serves the Company as an Indemnifiable Person, and any additional capacity in which Indemnitee may agree to serve, until such time as Indemnitee's service in a particular capacity shall end according to the terms of an agreement, the Company's Certificate of Incorporation or Bylaws, governing law, or otherwise. Nothing contained in this Agreement is intended to create any right to continued employment or other form of service for the Company or a Subsidiary or Affiliate of the Company by Indemnitee.

3. Mandatory Indemnification.

(a) Agreement to Indemnify. In the event Indemnitee is a person who was or is a party to or witness in or is threatened to be made a party to or witness in any Proceeding by reason of an Indemnifiable Event, the Company shall indemnify Indemnitee from and against any and all Expenses and Other Liabilities incurred by Indemnitee in connection with (including in preparation for) such Proceeding to the fullest extent not prohibited by the provisions of the Company's Bylaws and the Delaware General Corporation Law ("**DGCL**"), as the same may be amended from time to time (but only to the extent that such amendment permits the Company to provide broader indemnification rights than the Bylaws or the DGCL permitted prior to the adoption of such amendment).

(b) Exception for Amounts Covered by Insurance and Other Sources. Notwithstanding the foregoing, the Company shall not be obligated to indemnify Indemnitee for Expenses or Other Liabilities of any type whatsoever (including, but not limited to judgments, fines, penalties, ERISA excise taxes or penalties and amounts paid in settlement) to the extent such have been paid directly to Indemnitee (or paid directly to a third party on Indemnitee's behalf) by any directors and officers, or other type, of insurance maintained by the Company; provided, however, that payment made to Indemnitee pursuant to an insurance policy purchased and maintained by Indemnitee at his or her own expense of any amounts otherwise indemnifiable or obligated to be made pursuant to this Agreement shall not reduce the Company's obligations to Indemnitee pursuant to this Agreement.

(c) Company Obligations Primary. The Company hereby acknowledges that Indemnitee may have rights to indemnification for Expenses and Other Liabilities provided by a venture capital firm or other sponsoring organization ("**Other Indemnitor**"). The Company agrees with Indemnitee that the Company is the indemnitor of first resort of Indemnitee with respect to matters for which indemnification is provided under this Agreement and that the Company will be obligated to make all payments due to or for the benefit of Indemnitee under this Agreement without regard to any rights that Indemnitee may have against the Other Indemnitor. The Company hereby waives any equitable rights to contribution or indemnification from the Other Indemnitor in respect of any amounts paid to indemnify hereunder. The Company further agrees that no reimbursement of Other Liabilities or payment of Expenses by the Other Indemnitor to or for the benefit of Indemnitee shall affect the obligations of the Company hereunder, and that the Company shall be obligated to repay the Other Indemnitor for all amounts so paid or reimbursed to the extent that the Company has an obligation to indemnify Indemnitee for such Expenses or Other Liabilities hereunder.

4. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of any Expenses or Other Liabilities but not entitled, however, to indemnification for the total amount of such Expenses or Other Liabilities, the Company shall nevertheless indemnify Indemnitee for such total amount except as to the portion thereof for which indemnification is prohibited by the provisions of the Company's Bylaws or the DGCL. In any review or Proceeding to determine the extent of indemnification, the Company shall bear the burden to establish, by clear and convincing evidence, the lack of a successful resolution of a particular claim, issue or matter and which amounts sought in indemnity are allocable to claims, issues or matters which were not successfully resolved.

5. Liability Insurance. So long as Indemnitee shall continue to serve the Company or a Subsidiary or Affiliate of the Company as an Indemnifiable Person and thereafter so long as Indemnitee shall be subject to any possible claim or threatened, pending or completed Proceeding as a result of an Indemnifiable Event, the Company shall use reasonable efforts to maintain in full force and effect for the benefit of Indemnitee as an insured (i) liability insurance issued by one or more reputable insurers and having the policy amount and deductible deemed appropriate by the Board and providing in all respects coverage at least comparable to and in the same amount as that provided to the Chairman of the Board or the Chief Executive Officer of the Company and (ii) any replacement or substitute policies issued by one or more reputable insurers providing in all respects coverage at least comparable to and in the same amount as that being provided to the Chairman of the Board or the Chief Executive Officer of the Company. The purchase, establishment and maintenance of any such insurance or other arrangements shall not in any way limit or affect the rights and obligations of the Company or of Indemnitee under this Agreement except as expressly provided herein, and the execution and delivery of this Agreement by the Company and Indemnitee shall not in any way limit or affect the rights and obligations of the Company or the other party or parties thereto under any such insurance or other arrangement. In the event of a Change in Control subsequent to the date of this Agreement, or the Company's becoming insolvent, including being placed into receivership or entering the federal bankruptcy process,

the Company shall maintain in force any and all insurance policies then maintained by the Company in providing insurance—directors' and officers' liability, fiduciary, employment practices or otherwise—in respect of the individual directors and officers of the Company, for a fixed period of six years thereafter. Such coverage shall be non-cancelable and shall be placed and serviced by the Company's incumbent insurance broker or a broker selected by a majority of the Independent Directors.

6. Mandatory Advancement of Expenses. If requested by Indemnitee, the Company shall advance prior to the final disposition of the Proceeding all Expenses reasonably incurred by Indemnitee in connection with (including in preparation for) a Proceeding related to an Indemnifiable Event within (30) days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee. The right to advances under this section shall in all events continue until final disposition of any Proceeding, including any appeal therein. Indemnitee hereby undertakes to repay such amounts advanced if, and only if and to the extent that, it shall ultimately be determined that Indemnitee is not entitled to be indemnified by the Company under the provisions of this Agreement, the Company's Bylaws or the DGCL, and no additional form of undertaking with respect to such obligation to repay shall be required. Indemnitee's undertaking to repay any Expenses advanced to Indemnitee hereunder shall be unsecured and shall not be subject to the accrual or payment of any interest thereon. In the event that Indemnitee's request for the advancement of expenses shall be accompanied by an affidavit of counsel to Indemnitee to the effect that such counsel has reviewed such Expenses and that such Expenses are reasonable in such counsel's view, then such expenses shall be deemed reasonable in the absence of clear and convincing evidence to the contrary.

7. Notice and Other Indemnification Procedures.

(a) Notification. Promptly after receipt by Indemnitee of notice of the commencement of or the threat of commencement of any Proceeding, unless the Company is a named co-defendant with Indemnitee, Indemnitee shall, if Indemnitee believes that indemnification or advancement of Expenses with respect thereto may be sought from the Company under this Agreement, notify the Company of the commencement or threat of commencement thereof. However, a failure so to notify the Company promptly following Indemnitee's receipt of such notice shall not relieve the Company from any liability that it may have to Indemnitee except to the extent that the Company is materially prejudiced in its defense of such Proceeding as a result of such failure.

(b) Insurance and Other Matters. If, at the time of the receipt of a notice of the commencement of a Proceeding pursuant to Section 7(a) above, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the issuers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all reasonable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such insurance policies. In addition, the Company will instruct the insurers and the Company's insurance broker that they may communicate directly with Indemnitee regarding such claim.

(c) Assumption of Defense. In the event the Company shall be obligated to advance the Expenses for any Proceeding against Indemnitee, the Company, if deemed appropriate by the Company, shall be entitled to assume the defense of such Proceeding as provided herein. Such defense by the Company may include the representation of two or more parties by one attorney or law firm as permitted under the ethical rules and legal requirements related to joint representations. Following delivery of written notice to Indemnitee of the Company's election to assume the defense of such Proceeding, the approval by Indemnitee (which approval shall not be unreasonably withheld) of counsel designated by the Company and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees and expenses of counsel subsequently incurred by Indemnitee with respect to the same Proceeding. If (A) the employment of counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have notified the Board in writing that Indemnitee has reasonably concluded that there may be a conflict of interest between the Company and Indemnitee in the conduct of any such defense, (C) the Company fails to employ counsel to assume the defense of such Proceeding, or (D) after a Change in Control, the employment of counsel by Indemnitee has been approved by the Independent Counsel, the Expenses related to work conducted by Indemnitee's counsel shall be subject to indemnification and/or advancement pursuant to the terms of this Agreement. Nothing herein shall prevent Indemnitee from employing counsel for any such Proceeding at Indemnitee's expense. Indemnitee agrees that any such separate counsel retained by Indemnitee will be a member of any approved list of panel counsel under the Company's applicable directors' and officers' insurance policy, should the applicable policy provide for a panel of approved counsel.

(d) Settlement. The Company shall not be liable to indemnify Indemnitee under this Agreement or otherwise for any amounts paid in settlement of any Proceeding effected without the Company's written consent; provided, however, that if a Change in Control has occurred subsequent to the date of this Agreement, the Company shall be liable for indemnification of Indemnitee for amounts paid in settlement if the Independent Counsel has approved the settlement. Neither the Company nor any Subsidiary or Affiliate shall enter into a settlement of any Proceeding that might result in the imposition of any Expense, Other Liability, penalty, limitation or detriment on Indemnitee, whether indemnifiable under this Agreement or otherwise, without Indemnitee's written consent. Neither the Company nor Indemnitee shall unreasonably withhold consent from any settlement of any Proceeding. The Company shall promptly notify Indemnitee upon the Company's receipt of an offer to settle, or if the Company makes an offer to settle, any Proceeding, and provide Indemnitee with a reasonable amount of time to consider such settlement, in the case of any such settlement for which the consent of Indemnitee would be required hereunder. The Company shall not, on its own behalf, settle any part of any Proceeding to which Indemnitee is a party with respect to other parties (including the Company) without the written consent of Indemnitee if any portion of the settlement is to be funded from insurance proceeds unless approved by a majority of the Independent Directors, provided that this sentence shall cease to be of any force and effect if it has been determined in accordance with this Agreement that Indemnitee is not entitled to indemnification hereunder with respect to such Proceeding or if the Company's obligations hereunder to Indemnitee with respect to such Proceeding have been fully discharged.

8. Determination of Right to Indemnification.

(a) Success on the Merits or Otherwise. To the extent that Indemnitee has been successful on the merits or otherwise in defense of any Proceeding referred to in Section 3(a) above or in the defense of any claim, issue or matter described therein, the Company shall indemnify Indemnitee against Expenses actually and reasonably incurred in connection therewith.

(b) Indemnification in Other Situations. In the event that Section 8(a) is inapplicable, the Company shall also indemnify Indemnitee if Indemnitee has not failed to meet the applicable standard of conduct for indemnification.

(c) Forum. Indemnitee shall be entitled to select the forum in which determination of whether or not Indemnitee has met the applicable standard of conduct shall be decided, and such election will be made from among the following:

- a. Those members of the Board who are Independent Directors even though less than a quorum;
- b. A committee of Independent Directors designated by a majority vote of Independent Directors, even though less than a quorum;

or

c. Independent Counsel selected by Indemnitee and approved by the Board, which approval may not be unreasonably withheld, which counsel shall make such determination in a written opinion.

If Indemnitee is an officer or a director of the Company at the time that Indemnitee is selecting the forum, then Indemnitee shall not select Independent Counsel as such forum unless there are no Independent Directors or unless the Independent Directors agree to the selection of Independent Counsel as the forum.

The selected forum shall be referred to herein as the "Reviewing Party". Notwithstanding the foregoing, following any Change in Control subsequent to the date of this Agreement, the Reviewing Party shall be Independent Counsel selected in the manner provided in c. above.

(d) Decision Timing and Expenses. As soon as practicable, and in no event later than thirty (30) days after receipt by the Company of written notice of Indemnitee's choice of forum pursuant to Section 8(c) above, the Company and Indemnitee shall each submit to the Reviewing Party such information as they believe is appropriate for the Reviewing Party to consider. The Reviewing Party shall arrive at its decision within a reasonable period of time following the receipt of all such information from the Company and Indemnitee, but in no event later than thirty (30) days following the receipt of all such information, provided that the time by which the Reviewing Party must reach a decision may be extended by mutual agreement of the Company and Indemnitee. All Expenses associated with the process set forth in this Section 8(d), including but not limited to the Expenses of the Reviewing Party, shall be paid by the Company.

(e) Delaware Court of Chancery. Notwithstanding a final determination by any Reviewing Party that Indemnitee is not entitled to indemnification with respect to a specific Proceeding, Indemnitee shall have the right to apply to the Court of Chancery, for the purpose of enforcing Indemnitee's right to indemnification pursuant to this Agreement.

(f) Expenses. The Company shall indemnify Indemnitee against all Expenses incurred by Indemnitee in connection with any hearing or Proceeding under this Section 8 involving Indemnitee and against all Expenses and Other Liabilities incurred by Indemnitee in connection with any other Proceeding between the Company and Indemnitee involving the interpretation or enforcement of the rights of Indemnitee under this Agreement unless a court of competent jurisdiction finds that each of the material claims of Indemnitee in any such Proceeding was frivolous or made in bad faith.

(g) Determination of "Good Faith". For purposes of any determination of whether Indemnitee acted in "good faith" or acted in "bad faith," Indemnitee shall be deemed to have acted in good faith or not acted in bad faith if in taking or failing to take the action in question Indemnitee relied on the records or books of account of the Company or a Subsidiary or Affiliate, including financial statements, or on information, opinions, reports or statements provided to Indemnitee by the officers or other employees of the Company or a Subsidiary or Affiliate in the course of their duties, or on the advice of legal counsel for the Company or a Subsidiary or Affiliate, or on information or records given or reports made to the Company or a Subsidiary or Affiliate by an independent certified public accountant or by an appraiser or other expert selected by the Company or a Subsidiary or Affiliate, or by any other person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company or a Subsidiary or Affiliate. In connection with any determination as to whether Indemnitee is entitled to be indemnified hereunder, or to advancement of Expenses, the Reviewing Party or court shall presume that Indemnitee has satisfied the applicable standard of conduct and is entitled to indemnification or advancement of Expenses, as the case may be, and the burden of proof shall be on the Company to establish, by clear and convincing evidence, that Indemnitee is not so entitled. The provisions of this Section 8(g) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement. In addition, the knowledge and/or actions, or failures to act, of any other person serving the Company or a Subsidiary or Affiliate as an Indemnifiable Person shall not be imputed to Indemnitee for purposes of determining the right to indemnification hereunder.

9. Exceptions. Any other provision herein to the contrary notwithstanding,

(a) Claims Initiated by Indemnitee. The Company shall not be obligated pursuant to the terms of this Agreement to indemnify or advance Expenses to Indemnitee with respect to Proceedings or claims initiated or brought voluntarily by Indemnitee and not by way of defense, except (1) with respect to Proceedings brought to establish or enforce a right to indemnification under this Agreement, any other statute or law, as permitted under Section 145, or otherwise, (2) where the Board has consented to the initiation of such Proceeding, or (3) with respect to Proceedings brought to discharge Indemnitee's fiduciary responsibilities, whether under ERISA or otherwise, but such indemnification or advancement of Expenses may be provided by the Company in specific cases if the Board finds it to be appropriate; or

(b) Actions Based on Federal Statutes Regarding Profit Recovery and Return of Bonus Payments. The Company shall not be obligated pursuant to the terms of this Agreement to indemnify Indemnitee on account of (i) any suit in which judgment is rendered against Indemnitee for an accounting of profits made from the purchase or sale by Indemnitee of securities of the Company pursuant to the provisions of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto or similar provisions of any federal, state or local statutory law, or (ii) any reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "**Sarbanes-Oxley Act**"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act); or

(c) Unlawful Indemnification. The Company shall not be obligated pursuant to the terms of this Agreement to indemnify Indemnitee for Other Liabilities if such indemnification is prohibited by law as determined by a court of competent jurisdiction in a final adjudication not subject to further appeal.

10. Non-exclusivity. The provisions for indemnification and advancement of Expenses set forth in this Agreement shall not be deemed exclusive of any other rights which Indemnitee may have under any provision of law, the Company's Certificate of Incorporation or Bylaws, the vote of the Company's stockholders or disinterested directors, other agreements, or otherwise, both as to acts or omissions in his or her official capacity and to acts or omissions in another capacity while serving the Company or a Subsidiary or Affiliate as an Indemnifiable Person and Indemnitee's rights hereunder shall continue after Indemnitee has ceased serving the Company or a Subsidiary or Affiliate as an Indemnifiable Person and shall inure to the benefit of the heirs, executors and administrators of Indemnitee.

11. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever, (i) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby, and (ii) to the fullest extent possible, the provisions of this Agreement (including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

12. Supersession, Modification and Waiver. This Agreement supersedes any prior indemnification agreement between the Indemnitee and the Company, its Subsidiaries or its Affiliates. If the Company and Indemnitee have previously entered into an indemnification agreement providing for the indemnification of Indemnitee by the Company, parties entry into this Agreement shall be deemed to amend and restate such prior agreement to read in its entirety as, and be superseded by, this Agreement. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar) and except as expressly provided herein, no such waiver shall constitute a continuing waiver.

13. Successors and Assigns. The terms of this Agreement shall bind, and shall inure to the benefit of, and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), assigns, spouses, heirs and personal and legal representatives. In addition, the Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all, or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement and indemnify Indemnitee to the fullest extent permitted by law.

14. Notice. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed duly given (i) if delivered by hand and a receipt is provided by the party to whom such communication is delivered, (ii) if mailed by certified or registered mail with postage prepaid, return receipt requested, on the signing by the recipient of an acknowledgement of receipt form accompanying delivery through the U.S. mail, (iii) by personal service by a process server, or (iv) by delivery to the recipient's address by overnight delivery (e.g., FedEx, UPS or DHL) or other commercial delivery service. Addresses for notice to either party are as shown on the signature page of this Agreement, or as subsequently modified by written notice complying with the provisions of this Section 14. Delivery of communications to the Company with respect to this Agreement shall be sent to the attention of the Company's Chief Financial Officer.

15. No Presumptions. For purposes of this Agreement, the termination of any Proceeding, by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by applicable law or otherwise. In addition, neither the failure of the Company or a Reviewing Party to have made a determination as to whether Indemnitee has met any particular standard of conduct or had any particular belief, nor an actual determination by the Company or a Reviewing Party that Indemnitee has not met such standard of conduct or did not have such belief, prior to the commencement of Proceedings by Indemnitee to secure a judicial determination by exercising Indemnitee's rights under Section 8(e) of this Agreement shall be a defense to Indemnitee's claim or create a presumption that Indemnitee has failed to meet any particular standard of conduct or did not have any particular belief or is not entitled to indemnification under applicable law or otherwise.

16. Survival of Rights. The rights conferred on Indemnitee by this Agreement shall continue after Indemnitee has ceased to serve the Company or a Subsidiary or Affiliate of the Company as an Indemnifiable Person and shall inure to the benefit of Indemnitee's heirs, executors and administrators.

17. Subrogation and Contribution.

(a) Except as otherwise expressly provided in this Agreement, in the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company effectively to bring suit to enforce such rights.

(b) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by or on behalf of Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an Indemnifiable Event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

18. Specific Performance, Etc. The parties recognize that if any provision of this Agreement is violated by the Company, Indemnitee may be without an adequate remedy at law. Accordingly, in the event of any such violation, Indemnitee shall be entitled, if Indemnitee so elects, to institute Proceedings, either in law or at equity, to obtain damages, to enforce specific performance, to enjoin such violation, or to obtain any relief or any combination of the foregoing as Indemnitee may elect to pursue.

19. Counterparts. This Agreement may be executed in counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

20. Headings. The headings of the sections and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction or interpretation thereof.

21. Governing Law. This Agreement shall be governed exclusively by and construed according to the laws of the State of Delaware, as applied to contracts between Delaware residents entered into and to be performed entirely with Delaware.

22. Consent to Jurisdiction. The Company and Indemnitee each hereby irrevocably consent to the jurisdiction of the courts of the State of Delaware for all purposes in connection with any Proceeding which arises out of or relates to this Agreement.

[Signature Page Follows]

The parties hereto have entered into this Indemnity Agreement effective as of the date first above written.

ARCUTIS BIOTHERAPEUTICS, INC.:

By: _____

Name: _____

Its: _____

INDEMNITEE:

By: _____

Name: _____

Address: _____

SIGNATURE PAGE TO INDEMNIFICATION AGREEMENT

Arcutis, Inc.**2017 Equity Incentive Plan****As Adopted on April 10, 2017****As Amended August 21, 2018**

1. PURPOSE. The purpose of this Plan is to provide incentives to attract, retain and motivate eligible persons whose present and potential contributions are important to the success of Arcutis, Inc. (the "**Company**"), its Parent and Subsidiaries by offering eligible persons an opportunity to participate in the Company's future performance through the grant of Awards covering Shares. Capitalized terms not defined in the text are defined in Section 14 hereof. Although this Plan is intended to be a written compensatory benefit plan within the meaning of Rule 701, grants may be made pursuant to this Plan that do not qualify for exemption under Rule 701 or Section 25102(o). Any requirement of this Plan that is required in law only because of Section 25102(o) need not apply if the Committee so provides.

2. SHARES SUBJECT TO THE PLAN

2.1 Number of Shares Available. Subject to Sections 2.2 and 11 hereof, the total number of Shares reserved and available for grant and issuance pursuant to this Plan will be 7,679,110 Shares. Subject to Sections 2.2 and 11 hereof, Shares subject to Awards that are cancelled, forfeited, settled in cash, used to pay withholding obligations or pay the exercise price of an Option or that expire by their terms at any time will again be available for grant and issuance in connection with other Awards. In the event that Shares previously issued under the Plan are reacquired by the Company pursuant to a forfeiture provision, right of first refusal, or repurchase by the Company, such Shares shall be added to the number of Shares then available for issuance under the Plan. At all times the Company will reserve and keep available a sufficient number of Shares as will be required to satisfy the requirements of all Awards granted and outstanding under this Plan. In no event shall the total number of Shares issued (counting each reissuance of a Share that was previously issued and then forfeited or repurchased by the Company as a separate issuance) under the Plan upon exercise of ISOs exceed 15,358,220 Shares (adjusted in proportion to any adjustments under Section 2.2 hereof) over the term of the Plan (the "**ISO Limit**").

2.2 Adjustment of Shares. In the event that the number of outstanding shares of the Company's Common Stock is changed by a stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification or other change in the capital structure of the Company affecting Shares without consideration, then in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the Plan (a) the number of Shares reserved for issuance under this Plan, (b) the Exercise Prices of and number of Shares subject to outstanding Options and SARs, and (c) the Purchase Prices of and/or number of Shares subject to other outstanding Awards will (to the extent appropriate) be proportionately adjusted, subject to any required action by the Board or the stockholders of the Company and compliance with applicable securities laws; *provided, however*, that fractions of a Share will not be issued but will either be paid in cash at the Fair Market Value of such fraction of a Share or will be rounded down to the nearest whole Share, as determined by the Committee.

3. **PLAN FOR BENEFIT OF SERVICE PROVIDERS.**

3.1 Eligibility. The Committee will have the authority to select persons to receive Awards. ISOs (as defined in Section 4 hereof) may be granted only to employees (including officers and directors who are also employees) of the Company or of a Parent or Subsidiary of the Company. NQSOs (as defined in Section 4 hereof) and all other types of Awards may be granted to employees, officers, directors and consultants of the Company or any Parent or Subsidiary of the Company; *provided* such consultants render bona fide services not in connection with the offer and sale of securities in a capital-raising transaction when Rule 701 is to apply to the Award granted for such services. A person may be granted more than one Award under this Plan.

3.2 No Obligation to Employ. Nothing in this Plan or any Award granted under this Plan will confer or be deemed to confer on any Participant any right to continue in the employ of, or to continue any other relationship with, the Company or any Parent or Subsidiary or limit in any way the right of the Company or any Parent or Subsidiary to terminate Participant's employment or other relationship at any time, with or without Cause.

4. OPTIONS. The Committee may grant Options to eligible persons described in Section 3 hereof and will determine whether such Options will be Incentive Stock Options within the meaning of the Code ("*ISOs*") or Nonqualified Stock Options ("*NQSOs*"), the number of Shares subject to the Option, the Exercise Price of the Option, the period during which the Option may be exercised, and all other terms and conditions of the Option, subject to the following.

4.1 Form of Option Grant. Each Option granted under this Plan will be evidenced by an Award Agreement which will expressly identify the Option as an ISO or an NQSO ("*Stock Option Agreement*"), and will be in such form and contain such provisions (which need not be the same for each Participant) as the Committee may from time to time approve, and which will comply with and be subject to the terms and conditions of this Plan.

4.2 Date of Grant. The date of grant of an Option will be the date on which the Committee makes the determination to grant such Option, unless a later date is otherwise specified by the Committee. The Stock Option Agreement and a copy of this Plan will be delivered to the Participant within a reasonable time after the granting of the Option.

4.3 Exercise Period. Options may be exercisable within the time or upon the events determined by the Committee in the Award Agreement and may be awarded as immediately exercisable but subject to repurchase pursuant to Section 10 hereof or may be exercisable within the times or upon the events determined by the Committee as set forth in the Stock Option Agreement governing such Option; *provided, however*, that (a) no Option will be exercisable after the expiration of ten (10) years from the date the Option is granted; and (b) no ISO granted to a person who directly or by attribution owns more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of any Parent or

Subsidiary (“**Ten Percent Stockholder**”) will be exercisable after the expiration of five (5) years from the date the ISO is granted. The Committee also may provide for Options to become exercisable at one time or from time to time, periodically or otherwise, in such number of Shares or percentage of Shares as the Committee determines.

4.4 Exercise Price. The Exercise Price of an Option will be determined by the Committee when the Option is granted and shall not be less than the Fair Market Value per Share unless expressly determined in writing by the Committee on the Option’s date of grant; *provided* that the Exercise Price of an ISO granted to a Ten Percent Stockholder will not be less than one hundred ten percent (110%) of the Fair Market Value of the Shares on the date of grant. Payment for the Shares purchased must be made in accordance with Section 8 hereof.

4.5 Method of Exercise. Options may be exercised only by delivery to the Company of a written stock option exercise agreement (the “**Exercise Agreement**”) in a form approved by the Committee (which need not be the same for each Participant). The Exercise Agreement will state (a) the number of Shares being purchased, (b) the restrictions imposed on the Shares purchased under such Exercise Agreement, if any, and (c) such representations and agreements regarding Participant’s investment intent and access to information and other matters, if any, as may be required or desirable by the Company to comply with applicable securities laws. Each Participant’s Exercise Agreement may be modified by (i) agreement of Participant and the Company or (ii) substitution by the Company, upon becoming a public company, in order to add the payment terms set forth in Section 8.1 that apply to a public company and such other terms as shall be necessary or advisable in order to exercise a public company option. Upon exercise of an Option, Participant shall execute and deliver to the Company the Exercise Agreement then in effect, together with payment in full of the Exercise Price for the number of Shares being purchased and payment of any applicable taxes. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 2.2 of the Plan. Exercising an Option in any manner will decrease the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

4.6 Termination. Subject to earlier termination pursuant to Sections 11 and 13.3 hereof and notwithstanding the exercise periods set forth in the Stock Option Agreement, exercise of an Option will always be subject to the following terms and conditions.

4.6.1 Other than Death or Disability or for Cause. If the Participant is Terminated for any reason other than death, Disability or for Cause, then the Participant may exercise such Participant’s Options only to the extent that such Options are exercisable as to Vested Shares upon the Termination Date or as otherwise determined by the Committee. Such Options must be exercised by the Participant, if at all, as to all or some of the Vested Shares calculated as of the Termination Date or such other date determined by the Committee, within three (3) months after the Termination Date (or within such shorter time period, not less than thirty (30) days, or within such longer time period after the Termination Date as may be determined by the Committee, with any exercise beyond three (3) months after the date Participant ceases to be an employee deemed to be an NQSO) but in any event, no later than the expiration date of the Options.

4.6.2 **Death or Disability.** If the Participant is Terminated because of Participant's death or Disability (or the Participant dies within three (3) months after a Termination other than for Cause), then Participant's Options may be exercised only to the extent that such Options are exercisable as to Vested Shares by Participant on the Termination Date or as otherwise determined by the Committee. Such options must be exercised by Participant (or Participant's legal representative or authorized assignee), if at all, as to all or some of the Vested Shares calculated as of the Termination Date or such other date determined by the Committee, within twelve (12) months after the Termination Date (or within such shorter time period, not less than six (6) months, or within such longer time period, after the Termination Date as may be determined by the Committee, with any exercise beyond (a) three (3) months after the date Participant ceases to be an employee when the Termination is for any reason other than the Participant's death or disability, within the meaning of Section 22(e)(3) of the Code, or (b) twelve (12) months after the date Participant ceases to be an employee when the Termination is for Participant's disability, within the meaning of Section 22(e)(3) of the Code, deemed to be an NQSO) but in any event no later than the expiration date of the Options.

4.6.3 **For Cause.** If the Participant is terminated for Cause, the Participant may exercise such Participant's Options, but not to an extent greater than such Options are exercisable as to Vested Shares upon the Termination Date and Participant's Options shall expire on such Participant's Termination Date, or at such later time and on such conditions as are determined by the Committee.

4.7 **Limitations on Exercise.** The Committee may specify a reasonable minimum number of Shares that may be purchased on any exercise of an Option, *provided* that such minimum number will not prevent Participant from exercising the Option for the full number of Shares for which it is then exercisable.

4.8 **Limitations on ISOs.** The aggregate Fair Market Value (determined as of the date of grant) of Shares with respect to which ISOs are exercisable for the first time by a Participant during any calendar year (under this Plan or under any other incentive stock option plan of the Company or any Parent or Subsidiary of the Company) will not exceed One Hundred Thousand Dollars (\$100,000). If the Fair Market Value of Shares on the date of grant with respect to which ISOs are exercisable for the first time by a Participant during any calendar year exceeds One Hundred Thousand Dollars (\$100,000), then the Options for the first One Hundred Thousand Dollars (\$100,000) worth of Shares to become exercisable in such calendar year will be ISOs and the Options for the amount in excess of One Hundred Thousand Dollars (\$100,000) that become exercisable in that calendar year will be NQSOs. In the event that the Code or the regulations promulgated thereunder are amended after the Effective Date (as defined in Section 13.1 hereof) to provide for a different limit on the Fair Market Value of Shares permitted to be subject to ISOs, then such different limit will be automatically incorporated herein and will apply to any Options granted after the effective date of such amendment.

4.9 **Modification, Extension or Renewal.** The Committee may modify, extend or renew outstanding Options and authorize the grant of new Options in substitution therefor, *provided* that any such action may not, without the written consent of a Participant, impair any of such Participant's rights under any Option previously granted. Any outstanding ISO that is modified, extended, renewed or otherwise altered will be treated in accordance with

Section 424(h) of the Code. Subject to Section 4.10 hereof, the Committee may reduce the Exercise Price of outstanding Options without the consent of Participants by a written notice to them; *provided, however*, that the Exercise Price may not be reduced below the minimum Exercise Price that would be permitted under Section 4.4 hereof for Options granted on the date the action is taken to reduce the Exercise Price.

4.10 No Disqualification. Notwithstanding any other provision in this Plan, no term of this Plan relating to ISOs will be interpreted, amended or altered, nor will any discretion or authority granted under this Plan be exercised, so as to disqualify this Plan under Section 422 of the Code or, without the consent of the Participant, to disqualify any Participant's ISO under Section 422 of the Code.

5. RESTRICTED STOCK. A Restricted Stock Award is an offer by the Company to sell to an eligible person Shares that are subject to certain specified restrictions. The Committee will determine to whom an offer will be made, the number of Shares the person may purchase, the Purchase Price, the restrictions to which the Shares will be subject, and all other terms and conditions of the Restricted Stock Award, subject to the following terms and conditions.

5.1 Form of Restricted Stock Award. All purchases under a Restricted Stock Award made pursuant to this Plan will be evidenced by an Award Agreement ("**Restricted Stock Purchase Agreement**") that will be in such form (which need not be the same for each Participant) as the Committee will from time to time approve, and will comply with and be subject to the terms and conditions of this Plan. The Restricted Stock Award will be accepted by the Participant's execution and delivery of the Restricted Stock Purchase Agreement and full payment for the Shares to the Company within thirty (30) days from the date the Restricted Stock Purchase Agreement is delivered to the person. If such person does not execute and deliver the Restricted Stock Purchase Agreement along with full payment for the Shares to the Company within such thirty (30) days, then the offer will terminate, unless otherwise determined by the Committee.

5.2 Purchase Price. The Purchase Price of Shares sold pursuant to a Restricted Stock Award will be determined by the Committee on the date the Restricted Stock Award is granted or at the time the purchase is consummated. Payment of the Purchase Price must be made in accordance with Section 8 hereof.

5.3 Dividends and Other Distributions. Participants holding Restricted Stock will be entitled to receive all dividends and other distributions paid with respect to such Shares, unless the Committee provides otherwise at the time of award. If any such dividends or distributions are paid in Shares, the Shares will be subject to the same restrictions on transferability and forfeitability as the Shares of Restricted Stock with respect to which they were paid.

5.4 Restrictions. Restricted Stock Awards may be subject to the restrictions set forth in Sections 9 and 10 hereof or, with respect to a Restricted Stock Award to which Section 25102(o) is to apply, such other restrictions not inconsistent with Section 25102(o).

6. **RESTRICTED STOCK UNITS.**

6.1 Awards of Restricted Stock Units. A Restricted Stock Unit (“RSU”) is an Award covering a number of Shares that may be settled in cash, or by issuance of those Shares at a date in the future. No Purchase Price shall apply to an RSU settled in Shares. All grants of Restricted Stock Units will be evidenced by an Award Agreement that will be in such form (which need not be the same for each Participant) as the Committee will from time to time approve, and will comply with and be subject to the terms and conditions of this Plan. No RSU will have a term longer than ten (10) years from the date the RSU is granted.

6.2 Form and Timing of Settlement. To the extent permissible under applicable law, the Committee may permit a Participant to defer payment under a RSU to a date or dates after the RSU is earned, *provided* that the terms of the RSU and any deferral satisfy the requirements of Section 409A of the Code (or any successor) and any regulations or rulings promulgated thereunder. Payment may be made in the form of cash or whole Shares or a combination thereof, all as the Committee determines.

6.3 Dividend Equivalent Payments. The Board may permit Participants holding RSUs to receive dividend equivalent payments on outstanding RSUs if and when dividends are paid to stockholders on Shares. In the discretion of the Board, such dividend equivalent payments may be paid in cash or Shares and they may either be paid at the same time as dividend payments are made to stockholders or delayed until when Shares are issued pursuant to the RSU grants and may be subject to the same vesting requirements as the RSUs. If the Board permits dividend equivalent payments to be made on RSUs, the terms and conditions for such payments will be set forth in the Award Agreement.

7. **STOCK APPRECIATION RIGHTS.**

7.1 Awards of SARs. Stock Appreciation Rights (“SARs”) may be settled in cash, or Shares (which may consist of Restricted Stock or RSUs), having a value equal to the value determined by multiplying the difference between the Fair Market Value on the date of exercise over the Exercise Price and the number of Shares with respect to which the SAR is being settled. All grants of SARs made pursuant to this Plan will be evidenced by an Award Agreement that will be in such form (which need not be the same for each Participant) as the Committee will from time to time approve, and will comply with and be subject to the terms and conditions of this Plan.

7.2 Exercise Period and Expiration Date. A SAR will be exercisable within the times or upon the occurrence of events determined by the Committee and set forth in the Award Agreement governing such SAR. The Award Agreement shall set forth the Expiration Date; *provided* that no SAR will be exercisable after the expiration of ten years from the date the SAR is granted.

7.3 Exercise Price. The Committee will determine the Exercise Price of the SAR when the SAR is granted, and which may not be less than the Fair Market Value on the date of grant and may be settled in cash or in Shares.

7.4 Termination. Subject to earlier termination pursuant to Sections 11 and 13.1 hereof and notwithstanding the exercise periods set forth in the Award Agreement, exercise of SARs will always be subject to the following terms and conditions.

7.4.1 **Other than Death or Disability or for Cause.** If the Participant is Terminated for any reason other than death, Disability or for Cause, then the Participant may exercise such Participant's SARs only to the extent that such SARs are exercisable as to Vested Shares upon the Termination Date or as otherwise determined by the Committee. SARs must be exercised by the Participant, if at all, as to all or some of the Vested Shares calculated as of the Termination Date or such other date determined by the Committee, within three (3) months after the Termination Date (or within such shorter time period, not less than thirty (30) days, or within such longer time period after the Termination Date as may be determined by the Committee) but in any event, no later than the expiration date of the SARs.

7.4.2 **Death or Disability.** If the Participant is Terminated because of Participant's death or Disability (or the Participant dies within three (3) months after a Termination other than for Cause), then Participant's SARs may be exercised only to the extent that such SARs are exercisable as to Vested Shares by Participant on the Termination Date or as otherwise determined by the Committee. Such SARs must be exercised by Participant (or Participant's legal representative or authorized assignee), if at all, as to all or some of the Vested Shares calculated as of the Termination Date or such other date determined by the Committee, within twelve (12) months after the Termination Date (or within such shorter time period, not less than six (6) months, or within such longer time period after the Termination Date as may be determined by the Committee) but in any event no later than the expiration date of the SARs.

7.4.3 **For Cause.** If the Participant is terminated for Cause, the Participant may exercise such Participant's SARs, but not to an extent greater than such SARs are exercisable as to Vested Shares upon the Termination Date and Participant's SARs shall expire on such Participant's Termination Date, or at such later time and on such conditions as are determined by the Committee.

8. PAYMENT FOR PURCHASES AND EXERCISES.

8.1 Payment in General. Payment for Shares acquired pursuant to this Plan may be made in cash (by check) or, where expressly approved for the Participant by the Committee and where permitted by law:

- (a) by cancellation of indebtedness of the Company owed to the Participant;
- (b) by surrender of shares of the Company that are clear of all liens, claims, encumbrances or security interests and: (i) for which the Company has received "full payment of the purchase price" within the meaning of SEC Rule 144 (and, if such shares were purchased from the Company by use of a promissory note, such note has been fully paid with respect to such shares) or (ii) that were obtained by Participant in the public market;
- (c) by tender of a full recourse promissory note having such terms as may be approved by the Committee and bearing interest at a rate sufficient to avoid imputation

of income under Sections 483 and 1274 of the Code; *provided, however*, that Participants who are not employees or directors of the Company will not be entitled to purchase Shares with a promissory note unless the note is adequately secured by collateral other than the Shares; *provided, further*, that the portion of the Exercise Price or Purchase Price, as the case may be, equal to the par value (if any) of the Shares must be paid in cash or other legal consideration permitted by the laws under which the Company is then incorporated or organized;

(d) by waiver of compensation due or accrued to the Participant from the Company for services rendered;

(e) by participating in a formal cashless exercise program implemented by the Committee in connection with the Plan;

(f) subject to compliance with applicable law, provided that a public market for the Company's Common Stock exists, by exercising through a "same day sale" commitment from the Participant and a broker-dealer whereby the Participant irrevocably elects to exercise the Award and to sell a portion of the Shares so purchased sufficient to pay the total Exercise Price or Purchase Price, and whereby the broker-dealer irrevocably commits upon receipt of such Shares to forward the total Exercise Price or Purchase Price directly to the Company; or

(g) by any combination of the foregoing or any other method of payment approved by the Committee.

8.2 Withholding Taxes.

8.2.1 Withholding Generally. Whenever Shares are to be issued in satisfaction of Awards granted under this Plan, the Company may require the Participant to remit to the Company an amount sufficient to satisfy applicable tax withholding requirements prior to the delivery of any certificate or certificates for such Shares. Whenever, under this Plan, payments in satisfaction of Awards are to be made in cash by the Company, such payment will be net of an amount sufficient to satisfy applicable tax withholding requirements.

8.2.2 Stock Withholding. When, under applicable tax laws, a Participant incurs tax liability in connection with the exercise or vesting of any Award that is subject to tax withholding and the Participant is obligated to pay the Company the amount required to be withheld, the Committee may in its sole discretion allow the Participant to satisfy the minimum tax withholding obligation by electing to have the Company withhold from the Shares to be issued up to the minimum number of Shares having a Fair Market Value on the date that the amount of tax to be withheld is to be determined that is not more than the minimum amount to be withheld; or to arrange a mandatory "sell to cover" on Participant's behalf (without further authorization) but in no event will the Company withhold Shares or "sell to cover" if such withholding would result in adverse accounting consequences to the Company. Any elections to have Shares withheld or sold for this purpose will be made in accordance with the requirements established by the Committee for such elections and be in writing in a form acceptable to the Committee.

9. RESTRICTIONS ON AWARDS.

9.1 Transferability. Except as permitted by the Committee, Awards granted under this Plan, and any interest therein, will not be transferable or assignable by Participant, other than by will or by the laws of descent and distribution, and, with respect to NQSOs, by instrument to an inter vivos or testamentary trust in which the NQSOs are to be passed to beneficiaries upon the death of the trustor (settlor), or by gift to “family member” as that term is defined in Rule 701, and may not be made subject to execution, attachment or similar process. For the avoidance of doubt, the prohibition against assignment and transfer applies to a stock option and, prior to exercise, the shares to be issued on exercise of a stock option, and pursuant to the foregoing sentence shall be understood to include, without limitation, a prohibition against any pledge, hypothecation, or other transfer, including any short position, any “put equivalent position” or any “call equivalent position” (in each case, as defined in Rule 16a-1 promulgated under the Exchange Act). Unless an Award is transferred pursuant to the terms of this Section, during the lifetime of the Participant an Award will be exercisable only by the Participant or Participant’s legal representative and any elections with respect to an Award may be made only by the Participant or Participant’s legal representative. The terms of an Option shall be binding upon the executor, administrator, successors and assigns of the Participant who is a party thereto.

9.2 Securities Law and Other Regulatory Compliance. Although this Plan is intended to be a written compensatory benefit plan within the meaning of Rule 701 promulgated under the Securities Act, grants may be made pursuant to this Plan that do not qualify for exemption under Rule 701 or Section 25102(o). Any requirement of this Plan which is required in law only because of Section 25102(o) need not apply with respect to a particular Award to which Section 25102(o) will not apply. An Award will not be effective unless such Award is in compliance with all applicable federal and state securities laws, rules and regulations of any governmental body, and the requirements of any stock exchange or automated quotation system upon which the Shares may then be listed or quoted, as they are in effect on the date of grant of the Award and also on the date of exercise or other issuance. Notwithstanding any other provision in this Plan, the Company will have no obligation to issue or deliver certificates for Shares under this Plan prior to (a) obtaining any approvals from governmental agencies that the Company determines are necessary or advisable, and/or (b) compliance with any exemption, completion of any registration or other qualification of such Shares under any state or federal law or ruling of any governmental body that the Company determines to be necessary or advisable. The Company will be under no obligation to register the Shares with the SEC or to effect compliance with the exemption, registration, qualification or listing requirements of any state securities laws, stock exchange or automated quotation system, and the Company will have no liability for any inability or failure so do.

9.3 Exchange and Buyout of Awards. The Committee may, at any time or from time to time, authorize the Company, with the consent of the respective Participants, to issue new Awards in exchange for the surrender and cancellation of any or all outstanding Awards. Without prior stockholder approval the Committee may reprice Options or SARs (and where such repricing is a reduction in the Exercise Price of outstanding Options or SARs, the consent of the affected Participants is not required provided written notice is provided to them). The Committee may at any time buy from a Participant an Award previously granted with payment in cash, Shares (including Restricted Stock) or other consideration, based on such terms and conditions as the Committee and the Participant may agree.

10. RESTRICTIONS ON SHARES.

10.1 Privileges of Stock Ownership. No Participant will have any of the rights of a stockholder with respect to any Shares until such Shares are issued to the Participant. After Shares are issued to the Participant, the Participant will be a stockholder and have all the rights of a stockholder with respect to such Shares, including the right to vote and receive all dividends or other distributions made or paid with respect to such Shares; *provided*, that if such Shares are Restricted Stock, then any new, additional or different securities the Participant may become entitled to receive with respect to such Shares by virtue of a stock dividend, stock split or any other change in the corporate or capital structure of the Company will be subject to the same restrictions as the Restricted Stock. The Participant will have no right to retain such stock dividends or stock distributions with respect to Unvested Shares that are repurchased as described in this Section 10.

10.2 Rights of First Refusal and Repurchase. At the discretion of the Committee, the Company may reserve to itself and/or its assignee(s) in the Award Agreement (a) a right of first refusal to purchase all Shares that a Participant (or a subsequent transferee) may propose to transfer to a third party, *provided* that such right of first refusal terminates upon the Company's initial public offering of Common Stock pursuant to an effective registration statement filed under the Securities Act and (b) a right to repurchase Unvested Shares held by a Participant for cash and/or cancellation of purchase money indebtedness owed to the Company by the Participant following such Participant's Termination at any time.

10.3 Escrow; Pledge of Shares. To enforce any restrictions on a Participant's Shares, the Committee may require the Participant to deposit all certificates representing Shares, together with stock powers or other instruments of transfer approved by the Committee, appropriately endorsed in blank, with the Company or an agent designated by the Company to hold in escrow until such restrictions have lapsed or terminated. The Committee may cause a legend or legends referencing such restrictions to be placed on the certificate. Any Participant who is permitted to execute a promissory note as partial or full consideration for the purchase of Shares under this Plan will be required to pledge and deposit with the Company all or part of the Shares so purchased as collateral to secure the payment of Participant's obligation to the Company under the promissory note; *provided*, *however*, that the Committee may require or accept other or additional forms of collateral to secure the payment of such obligation and, in any event, the Company will have full recourse against the Participant under the promissory note notwithstanding any pledge of the Participant's Shares or other collateral. In connection with any pledge of the Shares, Participant will be required to execute and deliver a written pledge agreement in such form as the Committee will from time to time approve. The Shares purchased with the promissory note may be released from the pledge on a pro rata basis as the promissory note is paid.

10.4 Securities Law Restrictions. All certificates for Shares or other securities delivered under this Plan will be subject to such stock transfer orders, legends and other restrictions as the Committee may deem necessary or advisable, including restrictions under any applicable federal, state or foreign securities law, or any rules, regulations and other requirements of the SEC or any stock exchange or automated quotation system upon which the Shares may be listed or quoted.

11. CORPORATE TRANSACTIONS.

11.1 Acquisitions or Other Combinations. In the event that the Company is subject to an Acquisition or Other Combination, outstanding Awards acquired under the Plan shall be subject to the agreement evidencing the Acquisition or Other Combination, which need not treat all outstanding Awards in an identical manner. Such agreement, without the Participant's consent, shall provide for one or more of the following with respect to all outstanding Awards as of the effective date of such Acquisition or Other Combination:

(a) The continuation of such outstanding Awards by the Company (if the Company is the successor entity).

(b) The assumption of outstanding Awards by the successor or acquiring entity (if any) in such Acquisition or Other Combination (or by any of its Parents, if any), which assumption, will be binding on all Participants; provided that the exercise price and the number and nature of shares issuable upon exercise of any such option or stock appreciation right, or any award that is subject to Section 409A of the Code, will be adjusted appropriately pursuant to Section 424(a) and Section 409A of the Code. For the purposes of this Section 11, an Award will be considered assumed if, following the Acquisition or Other Combination, the Award confers the right to purchase or receive, for each Share subject to the Award immediately prior to the Acquisition or Other Combination, the consideration (whether stock, cash, or other securities or property) received in the Acquisition or Other Combination by holders of Shares for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the Acquisition or Other Combination is not solely common stock of the successor corporation or its Parent, the Committee may, with the consent of the successor corporation, provide for the consideration to be received upon the exercise of an Option or Stock Appreciation Right or upon the payout of a Restricted Stock Unit, for each Share subject to such Award, to be solely common stock of the successor corporation or its Parent equal in fair market value to the per share consideration received by holders of Common Stock in the Acquisition or Other Combination.

(c) The substitution by the successor or acquiring entity in such Acquisition or Other Combination (or by any of its Parents, if any) of equivalent awards with substantially the same terms for such outstanding Awards (except that the exercise price and the number and nature of shares issuable upon exercise of any such option or stock appreciation right, or any award that is subject to Section 409A of the Code, will be adjusted appropriately pursuant to Section 424(a) and Section 409A of the Code).

(d) The full or partial exercisability or vesting and accelerated expiration of outstanding Awards.

(e) The settlement of the full value of such outstanding Award (whether or not then vested or exercisable) in cash, cash equivalents, or securities of the successor entity (or its Parent, if any) with a Fair Market Value equal to the required amount, followed by the cancellation of such Awards; provided however, that such Award may be cancelled without consideration if such Award has no value, as determined by the Committee, in its discretion. Subject to Section 409A of the Code, such payment may be made in installments and may be deferred until the date or dates when the Award would have become exercisable or vested. Such payment may be subject to vesting based on the Participant's continued service, provided that without the Participant's consent, the vesting schedule shall not be less favorable to the Participant than the schedule under which the Award would have become vested or exercisable. For purposes of this Section 11.1(e), the Fair Market Value of any security shall be determined without regard to any vesting conditions that may apply to such security.

(f) The cancellation of outstanding Awards in exchange for no consideration.

Immediately following an Acquisition or Other Combination, outstanding Awards shall terminate and cease to be outstanding, except to the extent such Awards, have been continued, assumed or substituted, as described in Sections 11.1(a), (b) and/or (c).

11.2 Assumption of Awards by the Company. The Company, from time to time, also may substitute or assume outstanding awards granted by another entity, whether in connection with an acquisition of such other entity or otherwise, by either (a) granting an Award under this Plan in substitution of such other entity's award or (b) assuming and/or converting such award as if it had been granted under this Plan if the terms of such assumed award could be applied to an Award granted under this Plan. Such substitution or assumption will be permissible if the holder of the substituted or assumed award would have been eligible to be granted an Award under this Plan if the other entity had applied the rules of this Plan to such grant. In the event the Company assumes an award granted by another entity, the terms and conditions of such award will remain unchanged (except that the exercise price and the number and nature of shares issuable upon exercise of any such option or stock appreciation right, or any award that is subject to Section 409A of the Code, will be adjusted appropriately pursuant to Section 424(a) of the Code). In the event the Company elects to grant a new Option or SAR rather than assuming an existing option or stock appreciation right, such new Option or SAR may be granted with a similarly adjusted Exercise Price.

12. ADMINISTRATION.

12.1 Committee Authority. This Plan will be administered by the Committee or the Board if no Committee is created by the Board. Subject to the general purposes, terms and conditions of this Plan, and to the direction of the Board, the Committee will have full power to implement and carry out this Plan. Without limitation, the Committee will have the authority to:

(a) construe and interpret this Plan, any Award Agreement and any other agreement or document executed pursuant to this Plan;

- (b) prescribe, amend, expand, modify and rescind or terminate rules and regulations relating to this Plan;
- (c) approve persons to receive Awards;
- (d) determine the form and terms of Awards;
- (e) determine the number of Shares or other consideration subject to Awards granted under this Plan;
- (f) determine the Fair Market Value in good faith and interpret the applicable provisions of this Plan and the definition of Fair Market Value in connection with circumstances that impact the Fair Market Value, if necessary;
- (g) determine whether Awards will be granted singly, in combination with, in tandem with, in replacement of, or as alternatives to, other Awards under this Plan or awards under any other incentive or compensation plan of the Company or any Parent or Subsidiary of the Company;
- (h) grant waivers of any conditions of this Plan or any Award;
- (i) determine the terms of vesting, exercisability and payment of Awards to be granted pursuant to this Plan;
- (j) correct any defect, supply any omission, or reconcile any inconsistency in this Plan, any Award, any Award Agreement, any Exercise Agreement or any Restricted Stock Purchase Agreement;
- (k) determine whether an Award has been earned;
- (l) extend the vesting period beyond a Participant's Termination Date;
- (m) adopt rules and/or procedures (including the adoption of any subplan under this Plan) relating to the operation and administration of the Plan to accommodate requirements of local law and procedures outside of the United States;
- (n) delegate any of the foregoing to a subcommittee consisting of one or more executive officers pursuant to a specific delegation as may otherwise be permitted by applicable law;
- (o) change the vesting schedule of Awards under the Plan prospectively in the event that the Participant's service status changes between full and part time status in accordance with Company policies relating to work schedules and vesting of awards; and
- (p) make all other determinations necessary or advisable in connection with the administration of this Plan.

12.2 Committee Composition and Discretion. The Board may delegate full administrative authority over the Plan and Awards to a Committee consisting of at least one

member of the Board (or such greater number as may then be required by applicable law). Unless in contravention of any express terms of this Plan or Award, any determination made by the Committee with respect to any Award will be made in its sole discretion either (a) at the time of grant of the Award, or (b) subject to Section 4.9 hereof, at any later time. Any such determination will be final and binding on the Company and on all persons having an interest in any Award under this Plan. To the extent permitted by applicable law, the Committee may delegate to one or more officers of the Company the authority to grant an Award under this Plan, provided that each such officer is a member of the Board.

12.3 Nonexclusivity of the Plan. Neither the adoption of this Plan by the Board, the submission of this Plan to the stockholders of the Company for approval, nor any provision of this Plan will be construed as creating any limitations on the power of the Board to adopt such additional compensation arrangements as it may deem desirable, including, without limitation, the granting of stock options and other equity awards otherwise than under this Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

12.4 Governing Law. This Plan and all agreements hereunder shall be governed by and construed in accordance with the laws of the State of California, without giving effect to that body of laws pertaining to conflict of laws.

13. EFFECTIVENESS, AMENDMENT AND TERMINATION OF THE PLAN.

13.1 Adoption and Stockholder Approval. This Plan will become effective on the date that it is adopted by the Board (the “*Effective Date*”). This Plan will be approved by the stockholders of the Company (excluding Shares issued pursuant to this Plan), consistent with applicable laws, within twelve (12) months before or after the Effective Date. Upon the Effective Date, the Board may grant Awards pursuant to this Plan; provided, however, that: (a) no Option or SAR may be exercised prior to initial stockholder approval of this Plan; (b) no Option or SAR granted pursuant to an increase in the number of Shares approved by the Board shall be exercised prior to the time such increase has been approved by the stockholders of the Company; (c) in the event that initial stockholder approval is not obtained within the time period provided herein, all Awards for which only the exemption from California’s securities qualification requirements provided by Section 25102(o) can apply shall be canceled, any Shares issued pursuant to any such Award shall be canceled and any purchase of such Shares issued hereunder shall be rescinded; and (d) Awards (to which only the exemption from California’s securities qualification requirements provided by Section 25102(o) can apply) granted pursuant to an increase in the number of Shares approved by the Board which increase is not approved by stockholders within the time then required under Section 25102(o) shall be canceled, any Shares issued pursuant to any such Awards shall be canceled, and any purchase of Shares subject to any such Award shall be rescinded.

13.2 Term of Plan. Unless earlier terminated as provided herein, this Plan will automatically terminate ten (10) years after the later of (i) the Effective Date, or (ii) the most recent increase in the number of Shares reserved under Section 2 that was approved by stockholders.

13.3 Amendment or Termination of Plan. Subject to Section 4.9 hereof, the Board may at any time (a) terminate or amend this Plan in any respect, including without limitation amendment of any form of Award Agreement or instrument to be executed pursuant to this Plan and (b) terminate any and all outstanding Options, SARs or RSUs upon a dissolution or liquidation of the Company, followed by the payment of creditors and the distribution of any remaining funds to the Company's stockholders; *provided, however*, that the Board will not, without the approval of the stockholders of the Company, amend this Plan in any manner that requires such stockholder approval pursuant to Section 25102(o) or pursuant to the Code or the regulations promulgated under the Code as such provisions apply to ISO plans. The termination of the Plan, or any amendment thereof, shall not affect any Share previously issued or any Award previously granted under the Plan.

14. DEFINITIONS. For all purposes of this Plan, the following terms will have the following meanings.

"Acquisition," for purposes of Section 11, means:

(a) any consolidation or merger in which the Company is a constituent entity or is a party in which the voting stock and other voting securities of the Company that are outstanding immediately prior to the consummation of such consolidation or merger represent, or are converted into, securities of the surviving entity of such consolidation or merger (or of any Parent of such surviving entity) that, immediately after the consummation of such consolidation or merger, together possess less than fifty percent (50%) of the total voting power of all voting securities of such surviving entity (or of any of its Parents, if any) that are outstanding immediately after the consummation of such consolidation or merger;

(b) a sale or other transfer by the holders thereof of outstanding voting stock and/or other voting securities of the Company possessing more than fifty percent (50%) of the total voting power of all outstanding voting securities of the Company, whether in one transaction or in a series of related transactions, pursuant to an agreement or agreements to which the Company is a party and that has been approved by the Board, and pursuant to which such outstanding voting securities are sold or transferred to a single person or entity, to one or more persons or entities who are Affiliates of each other, or to one or more persons or entities acting in concert; or

(c) the sale, lease, transfer or other disposition, in a single transaction or series of related transactions, by the Company and/or any Subsidiary or Subsidiaries of the Company, of all or substantially all the assets of the Company and its Subsidiaries taken as a whole, (or, if substantially all of the assets of the Company and its Subsidiaries taken as a whole are held by one or more Subsidiaries, the sale or disposition (whether by consolidation, merger, conversion or otherwise) of such Subsidiaries of the Company), except where such sale, lease, transfer or other disposition is made to the Company or one or more wholly owned Subsidiaries of the Company (an **"Acquisition by Sale of Assets"**).

"Affiliate" of a specified person means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified (where, for purposes of this definition, the term **"control"** (including the terms **controlling, controlled by** and **under common control with**) means the possession, direct or indirect, 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.

“Award” means any award pursuant to the terms and conditions of this Plan, including any Option, Restricted Stock Unit, Stock Appreciation Right or Restricted Stock Award.

“Award Agreement” means, with respect to each Award, the signed written or electronic agreement between the Company and the Participant setting forth the terms and conditions of the Award as approved by the Committee. For purposes of the Plan, the Award Agreement may be executed via written or electronic means.

“Board” means the Board of Directors of the Company.

“Cause” means (a) in the absence of an employment or service provider agreement between the Company and Participant providing a definition of “Cause”, Termination because of (i) Participant’s unauthorized misuse of the Company or a Parent or Subsidiary of the Company’s trade secrets or proprietary information, (ii) Participant’s conviction of or plea of nolo contendere to a felony or a crime involving moral turpitude, (iii) Participant’s committing an act of fraud against the Company or a Parent or Subsidiary of the Company or (iv) Participant’s gross negligence or willful misconduct in the performance of his or her duties that has had or will have a material adverse effect on the Company or Parent or Subsidiary of the Company’ reputation or business, or (b) the definition of “Cause” set forth in the applicable employment or service provider agreement between the Company and Participant (if any).

“Code” means the Internal Revenue Code of 1986, as amended.

“Committee” means the committee created and appointed by the Board to administer this Plan, or if no committee is created and appointed, the Board.

“Company” means Arcutis, Inc., or any successor corporation.

“Disability” means that the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Exercise Price” means the price per Share at which a holder of an Option may purchase Shares issuable upon exercise of the Option.

“Fair Market Value” means, as of any date, the value of a share of the Company’s Common Stock determined as follows:

(a) if such Common Stock is then publicly traded on a national securities exchange, its closing price on the date of determination on the principal national securities exchange on which the Common Stock is listed or admitted to trading as reported in The Wall Street Journal;

(b) if such Common Stock is publicly traded but is not listed or admitted to trading on a national securities exchange, the average of the closing bid and asked prices on the date of determination as reported by The Wall Street Journal (or, if not so reported, as otherwise reported by any newspaper or other source as the Committee may determine); or

(c) if none of the foregoing is applicable to the valuation in question, by the Committee in good faith.

“**Option**” means an award of an option to purchase Shares pursuant to Section 4 of this Plan.

“**Other Combination**” for purposes of Section 11 means any (a) consolidation or merger in which the Company is a constituent entity and is not the surviving entity of such consolidation or merger or (b) any conversion of the Company into another form of entity; provided that such consolidation, merger or conversion does not constitute an Acquisition.

“**Parent**” of a specified entity means, any entity that, either directly or indirectly, owns or controls such specified entity, where for this purpose, “**control**” means the ownership of stock, securities or other interests that possess at least a majority of the voting power of such specified entity (including indirect ownership or control of such stock, securities or other interests).

“**Participant**” means a person who receives an Award under this Plan.

“**Plan**” means this 2017 Equity Incentive Plan, as amended from time to time.

“**Purchase Price**” means the price at which a Participant may purchase Restricted Stock pursuant to this Plan.

“**Restricted Stock**” means Shares purchased pursuant to a Restricted Stock Award under this Plan.

“**Restricted Stock Award**” means an award of Shares pursuant to Section 5 hereof.

“**Restricted Stock Unit**” or “**RSU**” means an award made pursuant to Section 6 hereof.

“**Rule 701**” means Rule 701 *et seq.* promulgated by the Commission under the Securities Act.

“**SEC**” means the Securities and Exchange Commission.

“**Section 25102(o)**” means Section 25102(o) of the California Corporations Code.

“**Securities Act**” means the Securities Act of 1933, as amended.

“**Shares**” means shares of the Company’s Common Stock reserved for issuance under this Plan, as adjusted pursuant to Sections 2.2 and 11 hereof, and any successor security.

“**Stock Appreciation Right**” or “**SAR**” means an award granted pursuant to Section 7 hereof.

“**Subsidiary**” means any entity (other than the Company) in an unbroken chain of entities beginning with the Company if each of the entities other than the last entity in the unbroken chain owns stock or other equity securities representing fifty percent (50%) or more of the total combined voting power of all classes of stock or other equity securities in one of the other entities in such chain.

“**Termination**” or “**Terminated**” means, for purposes of this Plan with respect to a Participant, that the Participant has for any reason ceased to provide services as an employee, officer, director or consultant to the Company or a Parent or Subsidiary of the Company. A Participant will not be deemed to have ceased to provide services while the Participant is on a bona fide leave of absence, if such leave was approved by the Company in writing. In the case of an approved leave of absence, the Committee may make such provisions respecting crediting of service, including suspension of vesting of the Award (including pursuant to a formal policy adopted from time to time by the Company) it may deem appropriate, except that in no event may an Option be exercised after the expiration of the term set forth in the Stock Option Agreement. The Committee will have sole discretion to determine whether a Participant has ceased to provide services and the effective date on which the Participant ceased to provide services (the “**Termination Date**”).

“**Unvested Shares**” means “**Unvested Shares**” as defined in the Award Agreement for an Award.

“**Vested Shares**” means “**Vested Shares**” as defined in the Award Agreement.

ARCUTIS, INC.
2017 EQUITY INCENTIVE PLAN
NOTICE OF STOCK OPTION GRANT

The Optionee named below (“**Optionee**”) has been granted an option (this “**Option**”) to purchase shares of Common Stock (the “**Common Stock**”) of **ARCUTIS, INC.** (the “**Company**”), pursuant to the Company’s 2017 Equity Incentive Plan, as amended from time to time (the “**Plan**”) on the terms, and subject to the conditions, described below and in the Stock Option Agreement attached hereto as **Exhibit A**, including its annexes (the “**Stock Option Agreement**”).

Optionee: «Optionee»
Maximum Number of Shares Subject to this Option (the “Shares”): «Total_Number_of_Options»
Exercise Price Per Share: \$____per share
Date of Grant: «Grant_Date»
Vesting Start Date: «Vesting_Start_Date»
Exercise Schedule: This Option is immediately exercisable for all of the Shares, subject to the terms of the Stock Option Agreement
Expiration Date: The date ten (10) years after the Date of Grant set forth above, subject to earlier expiration in the event of Termination as provided in Section 3 of the Stock Option Agreement.
Tax Status of Option: Incentive Stock Option (*To the fullest extent permitted by the Code*)
(Check Only One Box): Nonqualified Stock Option.
(If neither box is checked, this Option is a Nonqualified Stock Option).

Vesting Schedule [EXAMPLE ONLY]: For so long as Optionee continuously provides services to the Company (or any Subsidiary or Parent of the Company) as an employee, officer, director, contractor or consultant, the Shares subject to this Option will vest as follows: (a) prior to the first one (1) year anniversary of the Vesting Start Date, none of the Shares will be vested; (b) [1/4th] of the Shares will be vested on the one (1) year anniversary of the Vesting Start Date; and (c) thereafter, an additional [1/48th] of the Shares when Optionee completes each month of continuous service following the first one (1) year anniversary of the Vesting Start Date.

General; Agreement: By their signatures below, Optionee and the Company agree that this Option is granted under and governed by this Notice of Stock Option Grant (this “**Grant Notice**”) and by the provisions of the Plan and the Stock Option Agreement. The Plan and the Stock Option Agreement are incorporated herein by reference. Capitalized terms used but not defined herein shall have the meanings given to them in the Plan or in the Stock Option Agreement, as applicable. By signing below, Optionee acknowledges receipt of a copy of this Grant Notice, the Plan and the Stock Option Agreement, represents that Optionee has carefully read and is familiar with their provisions, and hereby accepts the Option subject to all of their respective terms and conditions. Optionee acknowledges that there may be adverse tax consequences upon exercise of the Option or disposition of the Shares and that Optionee should consult a tax adviser prior to such exercise or disposition. Optionee agrees and acknowledges that the Vesting Schedule may change prospectively in the event that Optionee’s service status changes between full and part time status in accordance with Company policies relating to work schedules and vesting of equity awards.

Execution and Delivery: This Grant Notice may be executed and delivered electronically whether via the Company’s intranet or the Internet site of a third party or via email or any other means of electronic delivery specified by the Company. By Optionee’s acceptance hereof (whether written, electronic or otherwise), Optionee agrees, to the fullest extent permitted by law, that in lieu of receiving documents in paper format, Optionee accepts the electronic delivery of any documents that the Company (or any third party the Company may designate), may deliver in connection with this grant (including the Plan, this Grant Notice, the Stock Option Agreement, the information described in Rules 701(e)(2), (3), (4) and (5) under the Securities Act (the “**701 Disclosures**”), account statements, or other communications or information) whether via the Company’s intranet or the Internet site of such third party or via email or such other means of electronic delivery specified by the Company.

ARCUTIS, INC.

By /Signature: _____

Optionee Signature: _____

Typed Name: _____

Optionee’s Name: «Optionee»

Title: _____

ATTACHMENT:

Exhibit A – Stock Option Agreement

Exhibit A

Stock Option Agreement

STOCK OPTION AGREEMENT

ARCUTIS, INC.

2017 EQUITY INCENTIVE PLAN

This Stock Option Agreement (this “**Agreement**”) is made and entered into as of the date of grant (the “**Date of Grant**”) set forth on the Notice of Stock Option Grant attached as the facing page to this Agreement (the “**Grant Notice**”) by and between Arcutis, Inc. (the “**Company**”), and the optionee named on the Grant Notice (“**Optionee**”). Capitalized terms not defined in this Agreement shall have the meaning ascribed to them in the Company’s 2017 Equity Incentive Plan, as amended from time to time (the “**Plan**”), or in the Grant Notice, as applicable.

1. GRANT OF OPTION. The Company hereby grants to Optionee an option (this “**Option**”) to purchase up to the total number of shares of Common Stock of the Company (the “**Common Stock**”) set forth in the Grant Notice as the Shares (the “**Shares**”) at the Exercise Price Per Share set forth in the Grant Notice (the “**Exercise Price**”), subject to all of the terms and conditions of the Grant Notice, this Agreement and the Plan. If designated as an Incentive Stock Option in the Grant Notice, this Option is intended to qualify as an incentive stock option (the “**ISO**”) within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended (the “**Code**”), except that if on the Date of Grant Optionee is not subject to U.S. income tax, then this Option shall be a NQSO.

2. EXERCISE PERIOD.

2.1. Exercise Period of Option. Subject to the conditions set forth in this Agreement, all or part of this Option may be exercised at any time after the Date of Grant. Shares purchased by exercising this Option may be subject to the Repurchase Option as set forth in Section 7 below. This Option will become vested during its term as to portions of the Shares in accordance with the Vesting Schedule set forth in the Grant Notice. Notwithstanding any provision in the Plan or this Agreement to the contrary, on or after Optionee’s Termination Date, this Option may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date.

2.2. Vesting of Option Shares. Shares with respect to which this Option is vested at a given time pursuant to the Vesting Schedule set forth in the Grant Notice are “**Vested Shares**.” Shares with respect to which this Option is not vested at a given time pursuant to the Vesting Schedule set forth in the Grant Notice are “**Unvested Shares**.”

2.3. Expiration. The Option shall expire on the Expiration Date set forth in the Grant Notice or earlier as provided in Section 3 below.

3. TERMINATION.

3.1. Termination for Any Reason Except Death, Disability or Cause. Except as provided in subsection 3.2 in a case in which Optionee dies within three (3) months after Optionee is Terminated other than for Cause, if Optionee is Terminated for any reason (other than Optionee’s death or Disability or for Cause), then (a) on and after Optionee’s Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date and (b) this Option to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Optionee’s Termination Date, may be exercised by Optionee no later than three (3) months after Optionee’s Termination Date (but in no event may this Option be exercised after the Expiration Date).

3.2. Termination Because of Death or Disability. If Optionee is Terminated because of Optionee's death or Disability (or if Optionee dies within three (3) months of the date of Optionee's Termination for any reason other than for Cause), then (a) on and after Optionee's Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee's Termination Date and (b) this Option, to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Optionee's Termination Date, may be exercised by Optionee (or Optionee's legal representative) no later than twelve (12) months after Optionee's Termination Date, but in no event later than the Expiration Date. Any exercise of this Option beyond (i) three (3) months after the date Optionee ceases to be an employee when Optionee's Termination is for any reason other than Optionee's death or disability, within the meaning of Section 22(e)(3) of the Code; or (ii) twelve (12) months after the date Optionee ceases to be an employee when the termination is for Optionee's disability, within the meaning of Section 22(e)(3) of the Code, is deemed to be an NQSO.

3.3. Termination for Cause. If Optionee is Terminated for Cause, then Optionee may exercise this Option, but only with respect to any Shares that are Vested Shares on Optionee's Termination Date, and this Option shall expire on Optionee's Termination Date, or at such later time and on such conditions as may be affirmatively determined by the Committee. On and after Optionee's Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee's Termination Date.

3.4. No Obligation to Employ. Nothing in the Plan or this Agreement shall confer on Optionee any right to continue in the employ of, or other relationship with, the Company or any Parent or Subsidiary of the Company, or limit in any way the right of the Company or any Parent or Subsidiary of the Company to terminate Optionee's employment or other relationship at any time, with or without Cause.

4. MANNER OF EXERCISE.

4.1. Stock Option Exercise Notice and Agreement. To exercise this Option, Optionee (or in the case of exercise after Optionee's death or incapacity, Optionee's executor, administrator, heir or legatee, as the case may be) must deliver to the Company an executed Stock Option Exercise Notice and Agreement in the form attached hereto as **Annex A**, or in such other form as may be approved by the Committee from time to time (the "**Exercise Agreement**") and payment for the shares being purchased in accordance with this Agreement. The Exercise Agreement shall set forth, among other things, (i) Optionee's election to exercise this Option, (ii) the number of Shares being purchased, (iii) any representations, warranties and agreements regarding Optionee's investment intent and access to information as may be required by the Company to comply with applicable securities laws in connection with any exercise of this Option and (iv) any other agreements required by the Company. If someone other than Optionee exercises this Option, then such person must submit documentation reasonably acceptable to the Company verifying that such person has the legal right to exercise this Option and such person shall be subject to all of the restrictions contained herein as if such person were Optionee.

4.2. Limitations on Exercise. This Option may not be exercised unless such exercise is in compliance with all applicable federal and state securities laws, as they are in effect on the date of exercise.

4.3. Payment. The Exercise Agreement shall be accompanied by full payment of the Exercise Price for the shares being purchased in cash (by check or wire transfer), or where permitted by law:

- (a) by cancellation of indebtedness of the Company owed to Optionee;

(b) by surrender of shares of the Company that are free and clear of all security interests, pledges, liens, claims or encumbrances and: (i) for which the Company has received “full payment of the purchase price” within the meaning of SEC Rule 144 (and, if such shares were purchased from the Company by use of a promissory note, such note has been fully paid with respect to such shares) or (ii) that were obtained by Optionee in the public market;

(c) by participating in a formal cashless exercise program implemented by the Committee in connection with the Plan;

(d) provided that a public market for the Common Stock exists, subject to compliance with applicable law, by exercising as set forth below, through a “same day sale” commitment from Optionee and a broker-dealer whereby Optionee irrevocably elects to exercise this Option and to sell a portion of the Shares so purchased sufficient to pay the total Exercise Price, and whereby the broker-dealer irrevocably commits upon receipt of such Shares to forward the total Exercise Price directly to the Company; or

(e) by any combination of the foregoing or any other method of payment approved by the Committee that constitutes legal consideration for the issuance of Shares.

4.4. Tax Withholding. Prior to the issuance of the Shares upon exercise of the Option, Optionee must pay or provide for any applicable federal, state and local withholding obligations of the Company. If the Committee permits, Optionee may provide for payment of withholding taxes upon exercise of the Option by requesting that the Company retain the minimum number of Shares with a Fair Market Value equal to the minimum amount of taxes required to be withheld; or to arrange a mandatory “sell to cover” on Participant’s behalf (without further authorization); but in no event will the Company withhold Shares or “sell to cover” if such withholding would result in adverse accounting consequences to the Company. In case of stock withholding or a sell to cover, the Company shall issue the net number of Shares to Optionee by deducting the Shares retained from the Shares issuable upon exercise.

4.5. Issuance of Shares. Provided that the Exercise Agreement and payment are in form and substance satisfactory to counsel for the Company, the Company shall issue the Shares issuable upon a valid exercise of this Option registered in the name of Optionee, Optionee’s authorized assignee, or Optionee’s legal representative, and shall deliver certificates representing the Shares with the appropriate legends affixed thereto.

5. COMPLIANCE WITH LAWS AND REGULATIONS. The Plan and this Agreement are intended to comply with Section 25102(o) and Rule 701. Any provision of this Agreement that is inconsistent with Section 25102(o) or Rule 701 shall, without further act or amendment by the Company or the Committee, be reformed to comply with the requirements of Section 25102(o) and/or Rule 701. The exercise of this Option and the issuance and transfer of Shares shall be subject to compliance by the Company and Optionee with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Common Stock may be listed at the time of such issuance or transfer. Optionee understands that the Company is under no obligation to register or qualify the Shares with the SEC, any state securities commission or any stock exchange to effect such compliance.

6. NONTRANSFERABILITY OF OPTION. This Option may not be transferred in any manner other than by will or by the laws of descent and distribution, and, with respect to NQSOs, by instrument to a testamentary trust in which the options are to be passed to beneficiaries upon the death of the trustor (settlor) or a revocable trust, or by gift to “immediate family” as that term is defined in 17 C.F.R. 240.16a-1(e), and may be exercised during the lifetime of Optionee only by Optionee or in the event of Optionee’s incapacity, by Optionee’s legal representative. The terms of this Option shall be binding upon the executors, administrators, successors and assigns of Optionee.

7. COMPANY'S REPURCHASE OPTION FOR UNVESTED SHARES. If Optionee is Terminated for any reason, or no reason, including without limitation, Optionee's death, Disability, voluntary resignation or termination by the Company with or without Cause and Optionee has acquired Unvested Shares by exercising this Option, then the Company and/or its assignee(s) shall have the option to repurchase all or a portion of Optionee's Unvested Shares (as defined in Section 2.2 of this Agreement) as of the Termination Date on the terms and conditions set forth in this Section 7 (the "**Repurchase Option**").

7.1. Termination and Termination Date. In case of any dispute as to whether Optionee is Terminated, the Committee shall have discretion to determine whether Optionee has been Terminated and the effective date of such Termination (the "**Termination Date**").

7.2. Exercise of Repurchase Option. Subject to the foregoing provisions of this Section, at any time within ninety (90) days after Optionee's Termination Date, the Company and/or its assignee(s), may elect to repurchase any or all of Optionee's Unvested Shares by giving Optionee written notice of exercise of the Repurchase Option.

7.3. Calculation of Repurchase Price for Unvested Shares. The Company or its assignee shall have the option to repurchase from Optionee (or from Optionee's personal representative as the case may be) the Unvested Shares at the lower of (i) the Fair Market Value (as defined in the Plan) per Share of such Shares on the Termination Date or (ii) Optionee's Exercise Price, as such may be proportionately adjusted for any stock split or similar change in the capital structure of the Company as set forth in Section 2.2 of the Plan (the "**Repurchase Price**").

7.4. Payment of Repurchase Price. The Repurchase Price shall be payable, at the option of the Company or its assignee, by check or by cancellation of all or a portion of any outstanding indebtedness owed by Optionee to the Company and/or such assignee, or by any combination thereof. The Repurchase Price shall be paid without interest within the term of the Repurchase Option as described in Section 7.2.

7.5. Right of Termination Unaffected. Nothing in this Agreement shall be construed to limit or otherwise affect in any manner whatsoever the right or power of the Company (or any Parent or Subsidiary of the Company) to terminate Optionee's employment or other relationship with Company (or any Parent or Subsidiary of the Company) at any time, for any reason or no reason, with or without Cause.

8. RESTRICTIONS ON TRANSFER.

8.1. Disposition of Shares. Optionee hereby agrees that Optionee shall make no disposition of any of the Shares (other than as permitted by this Agreement) unless and until:

(a) Optionee shall have notified the Company of the proposed disposition and provided a written summary of the terms and conditions of the proposed disposition;

(b) Optionee shall have complied with all requirements of this Agreement applicable to the disposition of the Shares;

(c) Optionee shall have provided the Company with written assurances, in form and substance satisfactory to counsel for the Company, that (i) the proposed disposition does not require registration of the Shares under the Securities Act or under any applicable state securities laws or (ii) all appropriate actions necessary for compliance with the registration requirements of the Securities Act or of any exemption from registration available under the Securities Act (including Rule 144) or applicable state securities laws have been taken; and

(d) Optionee shall have provided the Company with written assurances, in form and substance satisfactory to the Company, that the proposed disposition will not result in the contravention of any transfer restrictions applicable to the Shares pursuant to the provisions of the regulations promulgated under Section 25102(o), Rule 701 or under any other applicable securities laws or adversely affect the Company's ability to rely on the exemption(s) from registration under the Securities Act or under any other applicable securities laws for the grant of the Option, the issuance of Shares thereunder or any other issuance of securities under the Plan.

8.2. Restriction on Transfer. Optionee shall not transfer, assign, grant a lien or security interest in, pledge, hypothecate, encumber or otherwise dispose of any of the Shares which are subject to the Company's Repurchase Option or the Right of First Refusal described below, except as permitted by this Agreement.

8.3. Transferee Obligations. Each person (other than the Company) to whom the Shares are transferred by means of one of the permitted transfers specified in this Agreement must, as a condition precedent to the validity of such transfer, acknowledge in writing to the Company that such person is bound by the provisions of this Agreement and that the transferred Shares are subject to (i) both the Company's Repurchase Option and the Company's Right of First Refusal granted hereunder and (ii) the market stand-off provisions of Section 9 below, to the same extent such Shares would be so subject if retained by Optionee.

9. MARKET STANDOFF AGREEMENT. Optionee agrees that, subject to any early release provisions that apply pro rata to stockholders of the Company according to their holdings of Common Stock (determined on an as-converted into Common Stock basis), Optionee will not, for a period of up to one hundred eighty (180) days (plus up to an additional thirty five (35) days to the extent reasonably requested by the Company or such underwriter(s) to accommodate regulatory restrictions on the publication or other distribution of research reports or earnings releases by the Company, including NASD and NYSE rules) following the effective date of the registration statement filed with the SEC relating to the initial underwritten sale of Common Stock of the Company to the public under the Securities Act (the "**IPO**"), directly or indirectly sell, offer to sell, grant any option for the sale of, or otherwise dispose of any Common Stock or securities convertible into Common Stock, except for: (i) transfers of Shares permitted under Section 10.6 hereof so long as such transferee furnishes to the Company and the managing underwriter their written consent to be bound by this Section 9 as a condition precedent to such transfer; and (ii) sales of any securities to be included in the registration statement for the IPO. For the avoidance of doubt, the provisions of this Section shall only apply to the IPO. The restricted period shall in any event terminate two (2) years after the closing date of the IPO. In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the Shares subject to this Section and to impose stop transfer instructions with respect to the Shares until the end of such period. Optionee further agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing restrictions on transfer. For the avoidance of doubt, the foregoing provisions of this Section shall not apply to any registration of securities of the Company (a) under an employee benefit plan or (b) in a merger, consolidation, business combination or similar transaction.

10. COMPANY'S RIGHT OF FIRST REFUSAL. Unvested Shares may not be sold or otherwise transferred, or pledged by Optionee or made subject to a security interest, pledge or other lien without the Company's prior written consent, which may be withheld in the Company's sole and absolute discretion. Before any Vested Shares held by Optionee or any transferee of such Vested Shares (either sometimes referred to herein as the "**Holder**") may be sold or otherwise transferred (including, without limitation, a transfer by gift or operation of law), the Company and/or its assignee(s) will have a right of first refusal to purchase the Vested Shares to be sold or transferred (the "**Offered Shares**") on the terms and conditions set forth in this Section (the "**Right of First Refusal**").

10.1. Notice of Proposed Transfer. The Holder of the Offered Shares will deliver to the Company a written notice (the “**Notice**”) stating: (i) the Holder’s bona fide intention to sell or otherwise transfer the Offered Shares; (ii) the name and address of each proposed purchaser or other transferee (the “**Proposed Transferee**”); (iii) the number of Offered Shares to be transferred to each Proposed Transferee; (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Offered Shares (the “**Offered Price**”); and (v) that the Holder acknowledges this Notice is an offer to sell the Offered Shares to the Company and/or its assignee(s) pursuant to the Company’s Right of First Refusal at the Offered Price as provided for in this Agreement.

10.2. Exercise of Right of First Refusal. At any time within thirty (30) days after the date of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all (or, with the consent of the Holder, less than all) the Offered Shares proposed to be transferred to any one or more of the Proposed Transferees named in the Notice, at the purchase price, determined as specified below.

10.3. Purchase Price. The purchase price for the Offered Shares purchased under this Section will be the Offered Price, *provided* that if the Offered Price consists of no legal consideration (as, for example, in the case of a transfer by gift) then the purchase price will be the fair market value of the Offered Shares as determined in good faith by the Committee. If the Offered Price includes consideration other than cash, then the value of the non-cash consideration, as determined in good faith by the Committee, will conclusively be deemed to be the cash equivalent value of such non-cash consideration.

10.4. Payment. Payment of the purchase price for the Offered Shares will be payable, at the option of the Company and/or its assignee(s) (as applicable), by check or by cancellation of all or a portion of any outstanding purchase money indebtedness owed by the Holder to the Company (or to such assignee, in the case of a purchase of Offered Shares by such assignee) or by any combination thereof. The purchase price will be paid without interest within sixty (60) days after the Company’s receipt of the Notice, or, at the option of the Company and/or its assignee(s), in the manner and at the time(s) set forth in the Notice.

10.5. Holder’s Right to Transfer. If all of the Offered Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section, then the Holder may sell or otherwise transfer such Offered Shares to each Proposed Transferee at the Offered Price or at a higher price, *provided* that (i) such sale or other transfer is consummated within ninety (90) days after the date of the Notice, (ii) any such sale or other transfer is effected in compliance with all applicable securities laws, and (iii) each Proposed Transferee agrees in writing that the provisions of this Section will continue to apply to the Offered Shares in the hands of such Proposed Transferee. If the Offered Shares described in the Notice are not transferred to each Proposed Transferee within such ninety (90) day period, then a new Notice must be given to the Company pursuant to which the Company will again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

10.6. Exempt Transfers. Notwithstanding anything to the contrary in this Section, the following transfers of Vested Shares will be exempt from the Right of First Refusal: (i) the transfer of any or all of the Vested Shares during Optionee’s lifetime by gift or on Optionee’s death by will or intestacy to any member(s) of Optionee’s “Immediate Family” (as defined below) or to a trust for the benefit of Optionee and/or member(s) of Optionee’s Immediate Family, *provided* that each transferee or other recipient agrees in a writing satisfactory to the Company that the provisions of this Section will continue to apply to the transferred Vested Shares in the hands of such transferee or other recipient; (ii) any transfer of Vested Shares made pursuant to a statutory merger, statutory consolidation of the Company with or into another corporation or corporations or a conversion of the Company into another form of legal entity (except that the Right of First Refusal will continue to apply thereafter to such Vested Shares, in which case the surviving corporation of such merger or consolidation or the resulting entity of such conversion shall succeed to the rights of the Company under this Section unless the agreement of merger

or consolidation or conversion expressly otherwise provides); or (iii) any transfer of Vested Shares pursuant to the winding up and dissolution of the Company. As used herein, the term “**Immediate Family**” will mean Optionee’s spouse, the lineal descendant or antecedent, father, mother, brother or sister, child, adopted child, grandchild or adopted grandchild of Optionee or Optionee’s spouse, or the spouse of any of the above or Spousal Equivalent, as defined herein. As used herein, a person is deemed to be a “**Spousal Equivalent**” provided the following circumstances are true: (i) irrespective of whether or not Optionee and the Spousal Equivalent are the same sex, they are the sole spousal equivalent of the other for the last twelve (12) months, (ii) they intend to remain so indefinitely, (iii) neither are married to anyone else, (iv) both are at least 18 years of age and mentally competent to consent to contract, (v) they are not related by blood to a degree of closeness that which would prohibit legal marriage in the state in which they legally reside, (vi) they are jointly responsible for each other’s common welfare and financial obligations, and (vii) they reside together in the same residence for the last twelve (12) months and intend to do so indefinitely.

10.7. Termination of Right of First Refusal. The Right of First Refusal will terminate as to all Shares: (i) on the effective date of the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the SEC under the Securities Act (other than a registration statement relating solely to the issuance of Common Stock pursuant to a business combination or an employee incentive or benefit plan); (ii) on any transfer or conversion of Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another corporation or corporations if the common stock of the surviving corporation or any direct or indirect parent corporation thereof is registered under the Exchange Act; or (iii) on any transfer or conversion of Shares made pursuant to a statutory conversion of the Company into another form of legal entity if the common equity (or comparable equity security) of entity resulting from such conversion is registered under the Exchange Act.

10.8. Encumbrances on Vested Shares. Optionee may grant a lien or security interest in, or pledge, hypothecate or encumber Vested Shares only if each party to whom such lien or security interest is granted, or to whom such pledge, hypothecation or other encumbrance is made, agrees in a writing satisfactory to the Company that: (i) such lien, security interest, pledge, hypothecation or encumbrance will not adversely affect or impair the Right of First Refusal or the rights of the Company and/or its assignee(s) with respect thereto and will not apply to such Vested Shares after they are acquired by the Company and/or its assignees under this Section; and (ii) the provisions of this Agreement will continue to apply to such Vested Shares in the hands of such party and any transferee of such party. Optionee may not grant a lien or security interest in, or pledge, hypothecate or encumber, any Unvested Shares.

10.9. Effect of Company Co-Sale Agreement. If Optionee is, or at any time hereafter becomes, a party to or otherwise bound by (i) a Right of First Refusal and Co-Sale Agreement¹ among the Company and certain stockholders and other investors in the Company, as such may be entered into, amended and/or restated from time to time and/or (ii) any other agreement that is a successor to or replacement of such agreement (collectively, the “**Company Co-Sale Agreement**”), then, in the event of any conflict or inconsistency between the provisions of Section 9 hereof and/or this Section 10 and any provisions in the Company Co-Sale Agreement granting the Company and/or other security holders of the Company rights of first refusal and/or co-sale rights with respect to any or all of the Shares or imposing market stand-off restrictions, Optionee agrees with the Company that the terms and conditions of the Company Co-Sale Agreement shall apply, govern, supersede and prevail over (and in lieu of) the provisions of Section 9 hereof and/or of this Section 10 (as applicable) so long as the Company Co-Sale Agreement is in effect and Optionee is a party to or bound thereby. If the Company Co-Sale Agreement is no longer in effect or if Optionee is not a party to or bound thereby, then the provisions of this Section 10 shall apply in full force and effect until termination of the Right of First Refusal and the provisions of Section 9 hereof shall apply in full force and effect in accordance with its terms.

¹ NTD: Following Company’s first applicable equity financing, to update this reference.

11. RIGHTS AS A STOCKHOLDER. Optionee shall not have any of the rights of a stockholder with respect to any Shares unless and until such Shares are issued to Optionee. Subject to the terms and conditions of this Agreement, Optionee will have all of the rights of a stockholder of the Company with respect to the Shares from and after the date that Shares are issued to Optionee pursuant to, and in accordance with, the terms of the Exercise Agreement until such time as Optionee disposes of the Shares or the Company and/or its assignee(s) exercise(s) the Repurchase Option or the Right of First Refusal. Upon an exercise of the Repurchase Option or the Right of First Refusal, Optionee will have no further rights as a holder of the Shares so purchased upon such exercise, other than the right to receive payment for the Shares so purchased in accordance with the provisions of this Agreement, and Optionee will promptly surrender the stock certificate(s) evidencing the Shares so purchased to the Company for transfer or cancellation.

12. ESCROW. As security for Optionee's faithful performance of this Agreement, Optionee agrees, immediately upon receipt of the stock certificate(s) evidencing the Shares, to deliver such certificate(s) to the Secretary of the Company or other designee of the Company (the "**Escrow Holder**"), who is hereby appointed to hold such certificate(s) and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Optionee and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement and will not be liable for any act or omission taken by Escrow Holder in good faith reliance on such documents, the advice of counsel or a court order. The Shares will be released from escrow upon termination of both the Repurchase Option and the Right of First Refusal.

13. COMPANY CO-SALE AND VOTING AGREEMENTS. As a material inducement and consideration for the Company to enter into this Agreement, Optionee hereby agrees that if, the Company requests Optionee to enter into and become a party to (a) the Company Co-Sale Agreement (and to subject the Shares to the rights of first refusal held by the Company and other Company investors thereunder and the co-sale rights of other investors thereunder) and/or (b) (i) a Voting Agreement among the Company and certain stockholders and other investors in the Company, as such may be amended and/or restated from time to time and/or (ii) any other voting agreement that is a successor to or replacement of such Voting Agreement (collectively, the "**Company Voting Agreement**") (pursuant to which Optionee would agree to vote all shares of Company stock held by Optionee for the election of directors and in favor of certain material transactions (such as mergers or sales of the Company)), then Optionee will enter into such agreements and execute and deliver signature pages thereto (as requested by the Company) in such capacities as the Company requests, at the time of exercising this Option and as a condition to such exercise or at any later time.

14. RESTRICTIVE LEGENDS AND STOP-TRANSFER ORDERS.

14.1. Legends. Optionee understands and agrees that the Company will place the legends set forth below or similar legends on any stock certificate(s) evidencing the Shares, together with any other legends that may be required by state or U.S. Federal securities laws, the Company's Certificate of Incorporation or Bylaws, any other agreement between Optionee and the Company, or any agreement between Optionee and any third party (and any other legend(s) that the Company may become obligated to place on the stock certificate(s) evidencing the Shares under the terms of any agreement to which the Company is or may become bound or obligated):

(a) THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

(b) THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON RESALE AND TRANSFER, INCLUDING THE REPURCHASE OPTION AND RIGHT OF FIRST REFUSAL HELD BY THE ISSUER AND/OR ITS ASSIGNEE(S) AS SET FORTH IN A STOCK OPTION AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH SALE AND TRANSFER RESTRICTIONS, INCLUDING THE REPURCHASE OPTION AND RIGHT OF FIRST REFUSAL, ARE BINDING ON TRANSFEREES OF THESE SHARES.

(c) THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A MARKET STANDOFF RESTRICTION AS SET FORTH IN A CERTAIN STOCK OPTION AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. AS A RESULT OF SUCH AGREEMENT, THESE SHARES MAY NOT BE TRADED PRIOR TO 180 DAYS (AND POSSIBLY LONGER) AFTER THE EFFECTIVE DATE OF CERTAIN PUBLIC OFFERINGS OF THE COMMON STOCK OF THE ISSUER HEREOF. SUCH RESTRICTION IS BINDING ON TRANSFEREES OF THESE SHARES.

Optionee agrees that if Optionee becomes a party to (i) the Company Co-Sale Agreement or (ii) the Company Voting Agreement, then Optionee agrees that the stock certificate(s) evidencing the Shares shall, in addition, bear any legends required under the Company Co-Sale Agreement and/or the Company Voting Agreement, as applicable.

14.2. Stop-Transfer Instructions. Optionee agrees that, to ensure compliance with the restrictions imposed by this Agreement, the Company may issue appropriate "stop-transfer" instructions to its transfer agent, if any, and if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

14.3. Refusal to Transfer. The Company will not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares, or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares have been so transferred.

15. CERTAIN TAX CONSEQUENCES. Set forth below is a brief summary as of the Effective Date of the Plan of some of the federal tax consequences of exercise of the Option and disposition of the Shares. THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE. OPTIONEE SHOULD CONSULT A TAX ADVISER BEFORE EXERCISING THE OPTION OR DISPOSING OF THE SHARES.

15.1. Exercise of ISO. If the Option qualifies as an ISO, there will be no regular federal income tax liability upon the exercise of the Option, although the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price will be treated as a tax preference item for federal alternative minimum tax purposes and may subject Optionee to the alternative minimum tax in the year of exercise.

15.2. Exercise of Nonqualified Stock Option. If the Option does not qualify as an ISO, there may be a regular federal income tax liability upon the exercise of the Option. Optionee will be treated as having received compensation income (taxable at ordinary income tax rates) equal to the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. If Optionee is a current or former employee of the Company, the Company may be required to withhold from Optionee's compensation or collect from Optionee and pay to the applicable taxing authorities an amount equal to a percentage of this compensation income at the time of exercise.

15.3. Disposition of Shares. The following tax consequences may apply upon disposition of the Shares.

(a) **Incentive Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an ISO and are disposed of more than two (2) years after the Date of Grant, any gain realized on disposition of the Shares will be treated as long term capital gain for federal income tax purposes. If Vested Shares purchased under an ISO are disposed of within the applicable one (1) year or two (2) year period, any gain realized on such disposition will be treated as compensation income (taxable at ordinary income rates in the year of the disposition) to the extent of the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. To the extent the Shares were exercised prior to vesting coincident with the filing of an 83(b) Election, the amount taxed because of a disqualifying disposition will be based upon the excess, if any, of the fair market value on the date of vesting over the exercise price.

(b) **Nonqualified Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an NQSO, any gain realized on disposition of the Shares will be treated as long term capital gain.

15.4. Section 83(b) Election for Unvested Shares. With respect to Unvested Shares, which are subject to the Repurchase Option, unless an election is filed by Optionee with the Internal Revenue Service (and, if necessary, the proper state taxing authorities), within thirty (30) days of the purchase of the Unvested Shares, electing pursuant to Section 83(b) of the Code (and similar state tax provisions, if applicable) to be taxed currently on any difference between the Exercise Price of the Unvested Shares and their Fair Market Value on the date of purchase, there may be a recognition of taxable income (including, where applicable, alternative minimum taxable income) to Optionee, measured by the excess, if any, of the Fair Market Value of the Unvested Shares at the time they cease to be Unvested Shares, over the Exercise Price of the Unvested Shares.

16. GENERAL PROVISIONS.

16.1. Interpretation. Any dispute regarding the interpretation of this Agreement shall be submitted by Optionee or the Company to the Committee for review. The resolution of such a dispute by the Committee shall be final and binding on the Company and Optionee.

16.2. Entire Agreement. The Plan, the Grant Notice and the Exercise Agreement are each incorporated herein by reference. This Agreement, the Grant Notice, the Plan and the Exercise Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior undertakings and agreements with respect to such subject matter.

17. NOTICES. Any and all notices required or permitted to be given to a party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed to provide such party sufficient notice under this Agreement on the earliest of the following: (i) at the time of personal delivery, if delivery is in person; (ii) at the time an electronic confirmation of receipt is received, if delivery is by email; (iii) at the time of transmission by facsimile, addressed to the other party at its facsimile number specified herein (or hereafter modified by subsequent notice to the parties hereto), with confirmation of receipt made by both telephone and printed confirmation sheet verifying successful transmission of the facsimile; (iv) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States, with proof of delivery from the courier requested; or (v) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries. Any notice for delivery outside the United States will be sent by email, facsimile or by express courier. Any notice not delivered personally or by email will be sent with postage and/or other charges prepaid and properly addressed to Optionee at the last known address or facsimile number on the books of the Company, or at such other address or facsimile number as such other party may designate by one of the indicated means of notice herein to the other parties hereto or, in the case of the Company, to it at its principal place of business. Notices to the Company will be marked "Attention: Chief Financial Officer." Notices by facsimile shall be machine verified as received.

18. SUCCESSORS AND ASSIGNS. The Company may assign any of its rights under this Agreement including its rights to purchase Shares under both the Right of First Refusal and Repurchase Option. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, this Agreement shall be binding upon Optionee and Optionee's heirs, executors, administrators, legal representatives, successors and assigns.

19. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California as such laws are applied to agreements between California residents entered into and to be performed entirely within California. If any provision of this Agreement is determined by a court of law to be illegal or unenforceable, then such provision will be enforced to the maximum extent possible and the other provisions will remain fully effective and enforceable.

20. FURTHER ASSURANCES. The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Agreement.

21. TITLES AND HEADINGS. The titles, captions and headings of this Agreement are included for ease of reference only and will be disregarded in interpreting or construing this Agreement. Unless otherwise specifically stated, all references herein to "sections" and "exhibits" will mean "sections" and "exhibits" to this Agreement.

22. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement.

23. SEVERABILITY. If any provision of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Agreement. Notwithstanding the foregoing, if the value of this Agreement based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

* * * * *

Attachments:

Annex A: Form of Stock Option Exercise Notice and Agreement

ANNEX A

FORM OF STOCK OPTION EXERCISE NOTICE AND AGREEMENT

STOCK OPTION EXERCISE NOTICE AND AGREEMENT

ARCUTIS, INC.

2017 EQUITY INCENTIVE PLAN

***NOTE:** You **must** sign this Notice on Page 3 before submitting it to Arcutis, Inc. (the "Company") **AND**, if requested to do so by the Company, you **must** also sign the then-current signature pages to the Company's then-current Company Co-Sale Agreement and Company Voting Agreement (as those terms are defined in the Stock Option Agreement) before submitting this Notice to the Company.

OPTIONEE INFORMATION: Please provide the following information about yourself ("**Optionee**"):

Name: «Optionee» Social Security Number: _____
 Address: _____ Employee Number: _____
 _____ Email Address: _____

OPTION INFORMATION: Please provide this information on the option being exercised (the "**Option**"):

Grant No. «No»
 Date of Grant: «Grant_Date» Type of Stock Option:
 Option Price per Share: \$_____ Nonqualified (NQSO)
 Total number of shares of Common Stock of the Company subject to the Option: «Total_Number_of_Options» Incentive (ISO)

EXERCISE INFORMATION:

Number of shares of Common Stock of the Company for which the Option is now being exercised [_____]. (These shares are referred to below as the "**Purchased Shares**.”)

Total Exercise Price Being Paid for the Purchased Shares: \$_____

Form of payment enclosed [**check all that apply**]:

- Check for \$_____, payable to "[**ARCUTIS, INC.**]."
- Certificate(s) for _____ shares of Common Stock of the Company. These shares will be valued as of the date this notice is received by the Company. [**Requires Company consent.**]

AGREEMENTS, REPRESENTATIONS AND ACKNOWLEDGMENTS OF OPTIONEE: By signing this Stock Option Exercise Notice and Agreement, Optionee hereby agrees with, and represents to, the Company as follows:

- Terms Governing.** I acknowledge and agree with the Company that I am acquiring the Purchased Shares by exercise of this Option subject to all other terms and conditions of the Notice of Stock Option Grant and the Stock Option Agreement that govern the Option, including without limitation the terms of the Company's 2017 Equity Incentive Plan, as it may be amended (the "**Plan**").
- Investment Intent; Securities Law Restrictions.** I represent and warrant to the Company that I am acquiring and will hold the Purchased Shares for investment for my account only, and not with a view

to, or for resale in connection with, any “distribution” of the Purchased Shares within the meaning of the Securities Act of 1933, as amended (the “**Securities Act**”). I understand that the Purchased Shares have not been registered under the Securities Act by reason of a specific exemption from such registration requirement and that the Purchased Shares must be held by me indefinitely, unless they are subsequently registered under the Securities Act or I obtain an opinion of counsel (in form and substance satisfactory to the Company and its counsel) that registration is not required. I acknowledge that the Company is under no obligation to register the Purchased Shares under the Securities Act or under any other securities law.

3. **Restrictions on Transfer: Rule 144.** I will not sell, transfer or otherwise dispose of the Purchased Shares in violation of the Securities Act, the Securities Exchange Act of 1934, or the rules promulgated thereunder (including Rule 144 under the Securities Act described below “Rule 144”) or of any other applicable securities laws. I am aware of Rule 144, which permits limited public resales of securities acquired in a non-public offering, subject to satisfaction of certain conditions, which include (without limitation) that: (a) certain current public information about the Company is available; (b) the resale occurs only after the holding period required by Rule 144 has been met; (c) the sale occurs through an unsolicited “broker’s transaction;” and (d) the amount of securities being sold during any three-month period does not exceed specified limitations. I understand that the conditions for resale set forth in Rule 144 have not been satisfied and that the Company has no plans to satisfy these conditions in the foreseeable future.
4. **Access to Information; Understanding of Risk in Investment.** I acknowledge that I have received and had access to such information as I consider necessary or appropriate for deciding whether to invest in the Purchased Shares and that I had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the issuance of the Purchased Shares. I am aware that my investment in the Company is a speculative investment that has limited liquidity and is subject to the risk of complete loss. I am able, without impairing my financial condition, to hold the Purchased Shares for an indefinite period and to suffer a complete loss of my investment in the Purchased Shares.
5. **Rights of First Refusal; Repurchase Options; Market Stand-off.** I acknowledge that the Purchased Shares remain subject to the Company’s Right of First Refusal, the Company’s Repurchase Option (with respect to unvested Purchased Shares) and the market stand-off covenants (sometimes referred to as the “lock-up”), all in accordance with the applicable Notice of Stock Option Grant and the Stock Option Agreement that govern the Option
6. **Form of Ownership.** I acknowledge that the Company has encouraged me to consult my own adviser to determine the form of ownership of the Purchased Shares that is appropriate for me. In the event that I choose to transfer my Purchased Shares to a trust, I agree to sign a Stock Transfer Agreement. In the event that I choose to transfer my Purchased Shares to a trust that is not an eligible revocable trust, I also acknowledge that the transfer will be treated as a “disposition” for tax purposes. As a result, the favorable ISO tax treatment will be unavailable and other unfavorable tax consequences may occur.
7. **Investigation of Tax Consequences.** I acknowledge that the Company has encouraged me to consult my own adviser to determine the tax consequences of acquiring the Purchased Shares at this time.
8. **Other Tax Matters.** I agree that the Company does not have a duty to design or administer the Plan or its other compensation programs in a manner that minimizes my tax liabilities. I will not make any claim against the Company or its Board, officers or employees related to tax liabilities arising from my options or my other compensation. In particular, I acknowledge that my options (including the Option) are exempt from Section 409A of the Internal Revenue Code only if the exercise price per share is at least equal to the fair market value per share of the Common Stock at the time the option was granted by the Board. Since shares of the Common Stock are not traded on an established

securities market, the determination of their fair market value was made by the Board and/or by an independent valuation firm retained by the Company. I acknowledge that there is no guarantee in either case that the Internal Revenue Service will agree with the valuation, and I will not make any claim against the Company or its Board of Directors, officers or employees in the event that the Internal Revenue Service asserts that the valuation was too low.

- 9. **Spouse Consent.** I agree to seek the consent of my spouse to the extent required by the Company to enforce the foregoing.
- 10. **Agreement to Enter into Co-Sale and Voting Agreements.** Pursuant to the Stock Option Agreement, if requested to do so by the Company, I agree to enter into and execute the then-current Company Co-Sale Agreement and the then-current Company Voting Agreement concurrently with my exercise of the Option or at any other time I am requested to do so by the Company. I acknowledge that by entering into the Company Co-Sale Agreement I will be subjecting the Purchased Shares to the rights of first refusal, co-sale rights and all the other provisions of the Company Co-Sale Agreement and that by entering into the Voting Agreement I will be subjected to voting and other obligations and covenants regarding all Company shares I own and all other provisions of the Company Voting Agreement, in addition to the right of first refusal, repurchase option and market stand-off provisions described above.]
- 11. **Tax Withholding.** As a condition of exercising this Option, I agree to make adequate provision for foreign, federal, state or other tax withholding obligations, if any, which arise upon the grant, vesting or exercise of this Option, or disposition of the Purchased Shares, whether by withholding, direct payment to the Company, or otherwise.

IMPORTANT NOTE: UNVESTED PURCHASED SHARES ARE SUBJECT TO REPURCHASE BY THE COMPANY. PLEASE CONSULT WITH YOUR TAX ADVISER CONCERNING THE ADVISABILITY OF FILING AN 83(b) ELECTION WITH THE INTERNAL REVENUE SERVICE WHICH MUST BE FILED WITHIN THIRTY (30) DAYS AFTER THE PURCHASE OF SHARES TO BE EFFECTIVE.

A form of Election under Section 83(b) is attached hereto as Exhibit 1 for reference. Unless an 83(b) election is timely filed with the Internal Revenue Service (and, if necessary, the proper state taxing authorities), electing pursuant to Section 83(b) of the Internal Revenue Code (and similar state tax provisions, if applicable) to be taxed currently on any difference between the purchase price of the Unvested Purchased Shares and their fair market value on the date of purchase, there may be a recognition of taxable income (including, where applicable, alternative minimum taxable income) to you, measured by the excess, if any, of the Fair Market Value of the Unvested Purchased Shares at the time they cease to be Unvested Purchased Shares, over the purchase price of the Unvested Purchased Shares.

The undersigned hereby executes and delivers this Stock Option Exercise Notice and Agreement and agrees to be bound by its terms

SIGNATURE:
«OPTIONEE»

DATE:

Attachments:

Exhibit 1 – Section 83(b) Election Form

[Signature Page to Stock Option Exercise Notice and Agreement]

EXHIBIT 1
SECTION 83(b) ELECTION

ELECTION UNDER SECTION 83(b) OF THE INTERNAL REVENUE CODE

The undersigned Taxpayer hereby elects, pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to include the excess, if any, of the fair market value of the property described below at the time of transfer over the amount paid for such property, as compensation for services in the calculation of: (1) regular gross income; (2) alternative minimum taxable income; or (3) disqualifying disposition gross income, as the case may be.

1. TAXPAYER’S NAME: «Optionee»

TAXPAYER’S ADDRESS: _____

SOCIAL SECURITY NUMBER: _____

2. The property with respect to which the election is made is described as follows: _____ shares of Common Stock of **ARCUTIS, INC.**, a Delaware corporation (the “**Company**”) which were transferred upon exercise of an option by Company, which is Taxpayer’s employer or the corporation for whom the Taxpayer performs services.

3. The date on which the shares were transferred pursuant to the exercise of the option was _____, _____ and this election is made for calendar year _____.

4. The shares received upon exercise of the option are subject to the following restrictions: The Company may repurchase all or a portion of the shares at [**the lower of (a)**] Taxpayer’s original purchase price per share [**or (b) the then fair market value per share of the shares**], under certain conditions at the time of Taxpayer’s termination of employment or services.

5. The fair market value of the shares (without regard to restrictions other than restrictions which by their terms will never lapse) was \$ _____ per share x _____ shares = \$ _____ at the time of exercise of the option.

6. The amount paid for such shares upon exercise of the option was \$ _____ per share x _____ shares = \$ _____.

7. The Taxpayer has submitted a copy of this statement to the Company.

8. The amount to include in gross income is \$ _____. [The result of the amount reported in Item 5 minus the amount reported in Item 6.]

THIS ELECTION MUST BE FILED WITH THE INTERNAL REVENUE SERVICE (“IRS”), AT THE OFFICE WHERE THE TAXPAYER FILES ANNUAL INCOME TAX RETURNS, WITHIN 30 DAYS AFTER THE DATE OF TRANSFER OF THE SHARES, AND MUST ALSO BE FILED WITH THE TAXPAYER’S INCOME TAX RETURNS FOR THE CALENDAR YEAR. THE ELECTION CANNOT BE REVOKED WITHOUT THE CONSENT OF THE IRS.

Dated: _____

_____ «Optionee»

NOTICE OF STOCK OPTION GRANT

ARCUTIS, INC.

2017 EQUITY INCENTIVE PLAN

The Optionee named below (“**Optionee**”) has been granted an option (this “**Option**”) to purchase shares of Common Stock (the “**Common Stock**”) of ARCUTIS, INC. (the “**Company**”), pursuant to the Company’s 2017 Equity Incentive Plan, as amended from time to time (the “**Plan**”) on the terms, and subject to the conditions, described below and in the Stock Option Agreement attached hereto as **Exhibit A**, including its annexes (the “**Stock Option Agreement**”).

Optionee: «Optionee»

Maximum Number of Shares Subject to this Option (the “Shares”): «Total_Number_of_Options»

Exercise Price Per Share: \$____per share

Date of Grant: «Grant_Date»

Vesting Start Date: «Vesting_Start_Date»

Exercise Schedule: This Option will become exercisable during its term with respect to portions of the Shares in accordance with the Vesting Schedule set forth below.

Expiration Date: The date ten (10) years after the Date of Grant set forth above, subject to earlier expiration in the event of Termination as provided in Section 3 of the Stock Option Agreement.

Tax Status of Option: Incentive Stock Option (*To the fullest extent permitted by the Code*)
(Check Only One Box): Nonqualified Stock Option.
(If neither box is checked, this Option is a Nonqualified Stock Option).

Vesting Schedule [EXAMPLE ONLY]: For so long as Optionee continuously provides services to the Company (or any Subsidiary or Parent of the Company) as an employee, officer, director, contractor or consultant, this Option will vest (that is, become exercisable) with respect to the Shares as follows: (a) prior to the first one (1) year anniversary of the Vesting Start Date this Option will not be vested or exercisable as to any of the Shares; (b) this Option will become vested and exercisable with respect to [1/4th] of the Shares on the one (1) year anniversary of the Vesting Start Date; and (c) thereafter, this Option will become vested and exercisable with respect to an additional [1/48th] of the Shares when Optionee completes each month of continuous service following the first one (1) year anniversary of the Vesting Start Date.

General; Agreement: By their signatures below, Optionee and the Company agree that this Option is granted under and governed by this Notice of Stock Option Grant (this “**Grant Notice**”) and by the provisions of the Plan and the Stock Option Agreement. The Plan and the Stock Option Agreement are incorporated herein by reference. Capitalized terms used but not defined herein shall have the meanings given to them in the Plan or in the Stock Option Agreement, as applicable. By signing below, Optionee acknowledges receipt of a copy of this Grant Notice, the Plan and the Stock Option Agreement, represents that Optionee has carefully read and is familiar with their provisions, and hereby accepts the Option subject to all of their respective terms and conditions. Optionee acknowledges that there may be adverse tax consequences upon exercise of the Option or disposition of the Shares and that Optionee should consult a tax adviser prior to such exercise or disposition. Optionee agrees and acknowledges that the Vesting Schedule may change prospectively in the event that Optionee’s service status changes between full and part time status in accordance with Company policies relating to work schedules and vesting of equity awards.

Execution and Delivery: This Grant Notice may be executed and delivered electronically whether via the Company’s intranet or the Internet site of a third party or via email or any other means of electronic delivery specified by the Company. By Optionee’s acceptance hereof (whether written, electronic or otherwise), Optionee agrees, to the fullest extent permitted by law, that in lieu of receiving documents in paper format, Optionee accepts the electronic delivery of any documents that the Company (or any third party the Company may designate), may deliver in connection with this grant (including the Plan, this Grant Notice, the Stock Option Agreement, the information described in Rules 701(e)(2), (3), (4) and (5) under the Securities Act (the “**701 Disclosures**”), account statements, or other communications or information) whether via the Company’s intranet or the Internet site of such third party or via email or such other means of electronic delivery specified by the Company.

ARCUTIS, INC.

By /Signature: _____

Optionee Signature: _____

Typed Name: _____

Optionee’s Name: «Optionee» _____

Title: _____

ATTACHMENT: Exhibit A – Stock Option Agreement

Exhibit A
Stock Option Agreement

STOCK OPTION AGREEMENT

ARCUTIS, INC.

2017 EQUITY INCENTIVE PLAN

This Stock Option Agreement (this “**Agreement**”) is made and entered into as of the date of grant (the “**Date of Grant**”) set forth on the Notice of Stock Option Grant attached as the facing page to this Agreement (the “**Grant Notice**”) by and between Arcutis, Inc. (the “**Company**”), and the optionee named on the Grant Notice (“**Optionee**”). Capitalized terms not defined in this Agreement shall have the meaning ascribed to them in the Company’s 2017 Equity Incentive Plan, as amended from time to time (the “**Plan**”), or in the Grant Notice, as applicable.

1. GRANT OF OPTION. The Company hereby grants to Optionee an option (this “**Option**”) to purchase up to the total number of shares of Common Stock of the Company (the “**Common Stock**”) set forth in the Grant Notice as the Shares (the “**Shares**”) at the Exercise Price Per Share set forth in the Grant Notice (the “**Exercise Price**”), subject to all of the terms and conditions of the Grant Notice, this Agreement and the Plan. If designated as an Incentive Stock Option in the Grant Notice, this Option is intended to qualify as an incentive stock option (the “**ISO**”) within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended (the “**Code**”), except that if on the Date of Grant Optionee is not subject to U.S. income tax, then this Option shall be a NQSO.

2. EXERCISE PERIOD.

2.1 Exercise Period of Option. This Option is considered to be “vested” with respect to any particular Shares when this Option is exercisable with respect to such Shares. This Option will become vested during its term as to portions of the Shares in accordance with the Vesting Schedule set forth in the Grant Notice. Notwithstanding any provision in the Plan or this Agreement to the contrary, on or after Optionee’s Termination Date, this Option may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date.

2.2 Vesting of Option Shares. Shares with respect to which this Option is vested and exercisable at a given time pursuant to the Vesting Schedule set forth in the Grant Notice are “**Vested Shares**.” Shares with respect to which this Option is not vested and exercisable at a given time pursuant to the Vesting Schedule set forth in the Grant Notice are “**Unvested Shares**.”

2.3 Expiration. The Option shall expire on the Expiration Date set forth in the Grant Notice or earlier as provided in Section 3 below.

3. TERMINATION.

3.1 Termination for Any Reason Except Death, Disability or Cause. Except as provided in subsection 3.2 in a case in which Optionee dies within three (3) months after Optionee is Terminated other than for Cause, if Optionee is Terminated for any reason (other than Optionee’s death or Disability or for Cause), then (a) on and after Optionee’s Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date and (b) this Option to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Optionee’s Termination Date, may be exercised by Optionee no later than three (3) months after Optionee’s Termination Date (but in no event may this Option be exercised after the Expiration Date).

3.2 Termination Because of Death or Disability. If Optionee is Terminated because of Optionee’s death or Disability (or if Optionee dies within three (3) months of the date of Optionee’s Termination for any reason other than for Cause), then (a) on and after Optionee’s

Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee's Termination Date and (b) this Option, to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Optionee's Termination Date, may be exercised by Optionee (or Optionee's legal representative) no later than twelve (12) months after Optionee's Termination Date, but in no event later than the Expiration Date. Any exercise of this Option beyond (i) three (3) months after the date Optionee ceases to be an employee when Optionee's Termination is for any reason other than Optionee's death or disability, within the meaning of Section 22(e)(3) of the Code; or (ii) twelve (12) months after the date Optionee ceases to be an employee when the termination is for Optionee's disability, within the meaning of Section 22(e)(3) of the Code, is deemed to be an NQSO.

3.3 Termination for Cause. If Optionee is Terminated for Cause, then Optionee may exercise this Option, but only with respect to any Shares that are Vested Shares on Optionee's Termination Date, and this Option shall expire on Optionee's Termination Date, or at such later time and on such conditions as may be affirmatively determined by the Committee. On and after Optionee's Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee's Termination Date.

3.4 No Obligation to Employ. Nothing in the Plan or this Agreement shall confer on Optionee any right to continue in the employ of, or other relationship with, the Company or any Parent or Subsidiary of the Company, or limit in any way the right of the Company or any Parent or Subsidiary of the Company to terminate Optionee's employment or other relationship at any time, with or without Cause.

4. MANNER OF EXERCISE.

4.1 Stock Option Exercise Notice and Agreement. To exercise this Option, Optionee (or in the case of exercise after Optionee's death or incapacity, Optionee's executor, administrator, heir or legatee, as the case may be) must deliver to the Company an executed Stock Option Exercise Notice and Agreement in the form attached hereto as **Annex A**, or in such other form as may be approved by the Committee from time to time (the "**Exercise Agreement**") and payment for the shares being purchased in accordance with this Agreement. The Exercise Agreement shall set forth, among other things, (i) Optionee's election to exercise this Option, (ii) the number of Shares being purchased, (iii) any representations, warranties and agreements regarding Optionee's investment intent and access to information as may be required by the Company to comply with applicable securities laws in connection with any exercise of this Option and (iv) any other agreements required by the Company. If someone other than Optionee exercises this Option, then such person must submit documentation reasonably acceptable to the Company verifying that such person has the legal right to exercise this Option and such person shall be subject to all of the restrictions contained herein as if such person were Optionee.

4.2 Limitations on Exercise. This Option may not be exercised unless such exercise is in compliance with all applicable federal and state securities laws, as they are in effect on the date of exercise.

4.3 Payment. The Exercise Agreement shall be accompanied by full payment of the Exercise Price for the shares being purchased in cash (by check or wire transfer), or where permitted by law:

(a) by cancellation of indebtedness of the Company owed to Optionee;

(b) by surrender of shares of the Company that are free and clear of all security interests, pledges, liens, claims or encumbrances and: (i) for which the Company has received "full payment of the purchase price" within the meaning of SEC Rule 144 (and, if such shares were purchased from the Company by use of a promissory note, such note has been fully paid with respect to such shares) or (ii) that were obtained by Optionee in the public market;

(c) by participating in a formal cashless exercise program implemented by the Committee in connection with the Plan;

(d) provided that a public market for the Common Stock exists and subject to compliance with applicable law, by exercising as set forth below, through a "same day sale" commitment from Optionee and a broker-dealer whereby Optionee irrevocably elects to exercise this Option and to sell a portion of the Shares so purchased sufficient to pay the total Exercise Price, and whereby the broker-dealer irrevocably commits upon receipt of such Shares to forward the total Exercise Price directly to the Company; or

(e) by any combination of the foregoing or any other method of payment approved by the Committee that constitutes legal consideration for the issuance of Shares.

4.4 Tax Withholding. Prior to the issuance of the Shares upon exercise of the Option, Optionee must pay or provide for any applicable federal, state and local withholding obligations of the Company. If the Committee permits, Optionee may provide for payment of withholding taxes upon exercise of the Option by requesting that the Company retain the minimum number of Shares with a Fair Market Value equal to the minimum amount of taxes required to be withheld; or to arrange a mandatory "sell to cover" on Participant's behalf (without further authorization); but in no event will the Company withhold Shares or "sell to cover" if such withholding would result in adverse accounting consequences to the Company. In case of stock withholding or a sell to cover, the Company shall issue the net number of Shares to Optionee by deducting the Shares retained from the Shares issuable upon exercise.

4.5 Issuance of Shares. Provided that the Exercise Agreement and payment are in form and substance satisfactory to counsel for the Company, the Company shall issue the Shares issuable upon a valid exercise of this Option registered in the name of Optionee, Optionee's authorized assignee, or Optionee's legal representative, and shall deliver certificates representing the Shares with the appropriate legends affixed thereto.

5. COMPLIANCE WITH LAWS AND REGULATIONS. The Plan and this Agreement are intended to comply with Section 25102(o) and Rule 701. Any provision of this Agreement that is inconsistent with Section 25102(o) or Rule 701 shall, without further act or amendment by the Company or the Committee, be reformed to comply with the requirements of Section 25102(o) and/or Rule 701. The exercise of this Option and the issuance and transfer of Shares shall be subject to compliance by the Company and Optionee with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Common Stock may be listed at the time of such issuance or transfer. Optionee understands that the Company is under no obligation to register or qualify the Shares with the SEC, any state securities commission or any stock exchange to effect such compliance.

6. NONTRANSFERABILITY OF OPTION. This Option may not be transferred in any manner other than by will or by the laws of descent and distribution, and, with respect to NQSOs, by instrument to a testamentary trust in which the options are to be passed to beneficiaries upon the death of the trustor (settlor) or a revocable trust, or by gift to "immediate family" as that term is defined in 17 C.F.R. 240.16a-1(e), and may be exercised during the lifetime of Optionee only by Optionee or in the event of Optionee's incapacity, by Optionee's legal representative. The terms of this Option shall be binding upon the executors, administrators, successors and assigns of Optionee.

7. RESTRICTIONS ON TRANSFER.

7.1 Disposition of Shares. Optionee hereby agrees that Optionee shall make no disposition of any of the Shares (other than as permitted by this Agreement) unless and until:

(a) Optionee shall have notified the Company of the proposed disposition and provided a written summary of the terms and conditions of the proposed disposition;

(b) Optionee shall have complied with all requirements of this Agreement applicable to the disposition of the Shares;

(c) Optionee shall have provided the Company with written assurances, in form and substance satisfactory to counsel for the Company, that (i) the proposed disposition does not require registration of the Shares under the Securities Act or under any applicable state securities laws or (ii) all appropriate actions necessary for compliance with the registration requirements of the Securities Act or of any exemption from registration available under the Securities Act (including Rule 144) or applicable state securities laws have been taken; and

(d) Optionee shall have provided the Company with written assurances, in form and substance satisfactory to the Company, that the proposed disposition will not result in the contravention of any transfer restrictions applicable to the Shares pursuant to the provisions of the regulations promulgated under Section 25102(o), Rule 701 or under any other applicable securities laws or adversely affect the Company's ability to rely on the exemption(s) from registration under the Securities Act or under any other applicable securities laws for the grant of the Option, the issuance of Shares thereunder or any other issuance of securities under the Plan.

7.2 Restriction on Transfer. Optionee shall not transfer, assign, grant a lien or security interest in, pledge, hypothecate, encumber or otherwise dispose of any of the Shares which are subject to the Company's Right of First Refusal described below, except as permitted by this Agreement.

7.3 Transferee Obligations. Each person (other than the Company) to whom the Shares are transferred by means of one of the permitted transfers specified in this Agreement must, as a condition precedent to the validity of such transfer, acknowledge in writing to the Company that such person is bound by the provisions of this Agreement and that the transferred Shares are subject to (i) the Company's Right of First Refusal granted hereunder and (ii) the market stand-off provisions of Section 8 below, to the same extent such Shares would be so subject if retained by Optionee.

8. MARKET STANDOFF AGREEMENT. Optionee agrees that, subject to any early release provisions that apply pro rata to stockholders of the Company according to their holdings of Common Stock (determined on an as-converted into Common Stock basis), Optionee will not, for a period of up to one hundred eighty (180) days (plus up to an additional thirty five (35) days to the extent reasonably requested by the Company or such underwriter(s) to accommodate regulatory restrictions on the publication or other distribution of research reports or earnings releases by the Company, including NASD and NYSE rules) following the effective date of the registration statement filed with the SEC relating to the initial underwritten sale of Common Stock of the Company to the public under the Securities Act (the "IPO"), directly or indirectly sell, offer to sell, grant any option for the sale of, or otherwise dispose of any Common Stock or securities convertible into Common Stock, except for: (i) transfers of Shares permitted under Section 9.6 hereof so long as such transferee furnishes to the Company and the managing underwriter their written consent to be bound by this Section 8 as a condition precedent to such transfer; and (ii) sales of any securities to be included in the registration statement for the IPO. For the avoidance of doubt, the provisions of this Section shall only apply to the IPO. The restricted period shall in any event terminate two (2) years after the closing date of the IPO. In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the Shares subject to this Section and to impose stop transfer instructions with respect to the Shares until the end of such period. Optionee further agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing restrictions on transfer. For the avoidance of doubt, the foregoing provisions of this Section shall not apply to any registration of securities of the Company (a) under an employee benefit plan or (b) in a merger, consolidation, business combination or similar transaction.

9. COMPANY'S RIGHT OF FIRST REFUSAL. Before any Shares held by Optionee or any transferee of such Shares (either sometimes referred to herein as the "**Holder**") may be sold or otherwise transferred (including, without limitation, a transfer by gift or operation of law), the Company and/or its assignee(s) will have a right of first refusal to purchase the Shares to be sold or transferred (the "**Offered Shares**") on the terms and conditions set forth in this Section (the "**Right of First Refusal**").

9.1 Notice of Proposed Transfer. The Holder of the Offered Shares will deliver to the Company a written notice (the "**Notice**") stating: (i) the Holder's bona fide intention to sell or otherwise transfer the Offered Shares; (ii) the name and address of each proposed purchaser or other transferee (the "**Proposed Transferee**"); (iii) the number of Offered Shares to be transferred to each Proposed Transferee; (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Offered Shares (the "**Offered Price**"); and (v) that the Holder acknowledges this Notice is an offer to sell the Offered Shares to the Company and/or its assignee(s) pursuant to the Company's Right of First Refusal at the Offered Price as provided for in this Agreement.

9.2 Exercise of Right of First Refusal. At any time within thirty (30) days after the date of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all (or, with the consent of the Holder, less than all) the Offered Shares proposed to be transferred to any one or more of the Proposed Transferees named in the Notice, at the purchase price, determined as specified below.

9.3 Purchase Price. The purchase price for the Offered Shares purchased under this Section will be the Offered Price, *provided* that if the Offered Price consists of no legal consideration (as, for example, in the case of a transfer by gift) then the purchase price will be the fair market value of the Offered Shares as determined in good faith by the Committee. If the Offered Price includes consideration other than cash, then the value of the non-cash consideration, as determined in good faith by the Committee, will conclusively be deemed to be the cash equivalent value of such non-cash consideration.

9.4 Payment. Payment of the purchase price for the Offered Shares will be payable, at the option of the Company and/or its assignee(s) (as applicable), by check or by cancellation of all or a portion of any outstanding purchase money indebtedness owed by the Holder to the Company (or to such assignee, in the case of a purchase of Offered Shares by such assignee) or by any combination thereof. The purchase price will be paid without interest within sixty (60) days after the Company's receipt of the Notice, or, at the option of the Company and/or its assignee(s), in the manner and at the time(s) set forth in the Notice.

9.5 Holder's Right to Transfer. If all of the Offered Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section, then the Holder may sell or otherwise transfer such Offered Shares to each Proposed Transferee at the Offered Price or at a higher price, *provided* that (i) such sale or other transfer is consummated within ninety (90) days after the date of the Notice, (ii) any such sale or other transfer is effected in compliance with all applicable securities laws, and (iii) each Proposed Transferee agrees in writing that the provisions of this Section will continue to apply to the Offered Shares in the hands of such Proposed Transferee. If the Offered Shares described in the Notice are not transferred to each Proposed Transferee within such ninety (90) day period, then a new Notice must be given to the Company pursuant to which the Company will again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

9.6 Exempt Transfers. Notwithstanding anything to the contrary in this Section, the following transfers of Shares will be exempt from the Right of First Refusal: (i) the transfer of any or all

of the Shares during Optionee's lifetime by gift or on Optionee's death by will or intestacy to any member(s) of Optionee's "Immediate Family" (as defined below) or to a trust for the benefit of Optionee and/or member(s) of Optionee's Immediate Family, *provided* that each transferee or other recipient agrees in a writing satisfactory to the Company that the provisions of this Section will continue to apply to the transferred Shares in the hands of such transferee or other recipient; (ii) any transfer of Shares made pursuant to a statutory merger, statutory consolidation of the Company with or into another corporation or corporations or a conversion of the Company into another form of legal entity (except that the Right of First Refusal will continue to apply thereafter to such Shares, in which case the surviving corporation of such merger or consolidation or the resulting entity of such conversion shall succeed to the rights of the Company under this Section unless the agreement of merger or consolidation or conversion expressly otherwise provides); or (iii) any transfer of Shares pursuant to the winding up and dissolution of the Company. As used herein, the term "**Immediate Family**" will mean Optionee's spouse, the lineal descendant or antecedent, father, mother, brother or sister, child, adopted child, grandchild or adopted grandchild of Optionee or Optionee's spouse, or the spouse of any of the above or Spousal Equivalent, as defined herein. As used herein, a person is deemed to be a "**Spousal Equivalent**" provided the following circumstances are true: (i) irrespective of whether or not Optionee and the Spousal Equivalent are the same sex, they are the sole spousal equivalent of the other for the last twelve (12) months, (ii) they intend to remain so indefinitely, (iii) neither are married to anyone else, (iv) both are at least 18 years of age and mentally competent to consent to contract, (v) they are not related by blood to a degree of closeness that which would prohibit legal marriage in the state in which they legally reside, (vi) they are jointly responsible for each other's common welfare and financial obligations, and (vii) they reside together in the same residence for the last twelve (12) months and intend to do so indefinitely.

9.7 Termination of Right of First Refusal. The Right of First Refusal will terminate as to all Shares: (i) on the effective date of the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the SEC under the Securities Act (other than a registration statement relating solely to the issuance of Common Stock pursuant to a business combination or an employee incentive or benefit plan); (ii) on any transfer or conversion of Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another corporation or corporations if the common stock of the surviving corporation or any direct or indirect parent corporation thereof is registered under the Exchange Act; or (iii) on any transfer or conversion of Shares made pursuant to a statutory conversion of the Company into another form of legal entity if the common equity (or comparable equity security) of entity resulting from such conversion is registered under the Exchange Act.

9.8 Encumbrances on Shares. Optionee may grant a lien or security interest in, or pledge, hypothecate or encumber Shares only if each party to whom such lien or security interest is granted, or to whom such pledge, hypothecation or other encumbrance is made, agrees in a writing satisfactory to the Company that: (i) such lien, security interest, pledge, hypothecation or encumbrance will not adversely affect or impair the Right of First Refusal or the rights of the Company and/or its assignee(s) with respect thereto and will not apply to such Shares after they are acquired by the Company and/or its assignees under this Section; and (ii) the provisions of this Agreement will continue to apply to such Shares in the hands of such party and any transferee of such party.

9.9 Effect of Company Co-Sale Agreement. If Optionee is, or at any time hereafter becomes, a party to or otherwise bound by (i) a Right of First Refusal and Co-Sale Agreement¹ among the Company and certain stockholders and other investors in the Company, as such may be entered into, amended and/or restated from time to time and/or (ii) any other agreement that is a successor to or replacement of such agreement (collectively, the "**Company Co-Sale Agreement**"), then, in the event of any conflict or inconsistency between the provisions of Section 8 hereof and/or this Section 9 and any provisions in the Company Co-Sale Agreement granting the Company and/or other security holders of the

¹ NTD: Following Company's first applicable equity financing, to update this reference.

Company rights of first refusal and/or co-sale rights with respect to any or all of the Shares or imposing market stand-off restrictions, Optionee agrees with the Company that the terms and conditions of the Company Co-Sale Agreement shall apply, govern, supersede and prevail over (and in lieu of) the provisions of Section 8 hereof and/or of this Section 9 (as applicable) so long as the Company Co-Sale Agreement is in effect and Optionee is a party to or bound thereby. If the Company Co-Sale Agreement is no longer in effect or if Optionee is not a party to or bound thereby, then the provisions of this Section 9 shall apply in full force and effect until termination of the Right of First Refusal and the provisions of Section 8 hereof shall apply in full force and effect in accordance with its terms.

10. RIGHTS AS A STOCKHOLDER. Optionee shall not have any of the rights of a stockholder with respect to any Shares unless and until such Shares are issued to Optionee. Subject to the terms and conditions of this Agreement, Optionee will have all of the rights of a stockholder of the Company with respect to the Shares from and after the date that Shares are issued to Optionee pursuant to, and in accordance with, the terms of the Exercise Agreement until such time as Optionee disposes of the Shares or the Company and/or its assignee(s) exercise(s) the Right of First Refusal. Upon an exercise of the Right of First Refusal, Optionee will have no further rights as a holder of the Shares so purchased upon such exercise, other than the right to receive payment for the Shares so purchased in accordance with the provisions of this Agreement, and Optionee will promptly surrender the stock certificate(s) evidencing the Shares so purchased to the Company for transfer or cancellation.

11. ESCROW. As security for Optionee's faithful performance of this Agreement, Optionee agrees, immediately upon receipt of the stock certificate(s) evidencing the Shares, to deliver such certificate(s) to the Secretary of the Company or other designee of the Company (the "**Escrow Holder**"), who is hereby appointed to hold such certificate(s) in escrow and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Optionee and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement and will not be liable for any act or omission taken by Escrow Holder in good faith reliance on such documents, the advice of counsel or a court order. The Shares will be released from escrow upon termination of the Right of First Refusal.

12. COMPANY CO-SALE AND VOTING AGREEMENTS. As a material inducement and consideration for the Company to enter into this Agreement, Optionee hereby agrees that if, the Company requests Optionee to enter into and become a party to (a) the Company Co-Sale Agreement (and to subject the Shares to the rights of first refusal held by the Company and other Company investors thereunder and the co-sale rights of other investors thereunder) and/or (b) (i) a Voting Agreement among the Company and certain stockholders and other investors in the Company, as such may be amended and/or restated from time to time and/or (ii) any other voting agreement that is a successor to or replacement of such Voting Agreement (collectively, the "**Company Voting Agreement**") (pursuant to which Optionee would agree to vote all shares of Company stock held by Optionee for the election of directors and in favor of certain material transactions (such as mergers or sales of the Company)), then Optionee will enter into such agreements and execute and deliver signature pages thereto (as requested by the Company) in such capacities as the Company requests, at the time of exercising this Option and as a condition to such exercise or at any later time.

13. RESTRICTIVE LEGENDS AND STOP-TRANSFER ORDERS.

13.1 Legends. Optionee understands and agrees that the Company will place the legends set forth below or similar legends on any stock certificate(s) evidencing the Shares, together with any other legends that may be required by state or U.S. Federal securities laws, the Company's Certificate of Incorporation or Bylaws, any other agreement between Optionee and the Company, or any agreement between Optionee and any third party (and any other legend(s) that the Company may become obligated to place on the stock certificate(s) evidencing the Shares under the terms of any agreement to which the Company is or may become bound or obligated):

(a) THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

(b) THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON RESALE AND TRANSFER, INCLUDING THE RIGHT OF FIRST REFUSAL HELD BY THE ISSUER AND/OR ITS ASSIGNEE(S) AS SET FORTH IN A STOCK OPTION AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH SALE AND TRANSFER RESTRICTIONS, INCLUDING THE RIGHT OF FIRST REFUSAL, ARE BINDING ON TRANSFEREES OF THESE SHARES.

(c) THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A MARKET STANDOFF RESTRICTION AS SET FORTH IN A CERTAIN STOCK OPTION AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. AS A RESULT OF SUCH AGREEMENT, THESE SHARES MAY NOT BE TRADED PRIOR TO 180 DAYS (AND POSSIBLY LONGER) AFTER THE EFFECTIVE DATE OF CERTAIN PUBLIC OFFERINGS OF THE COMMON STOCK OF THE ISSUER HEREOF. SUCH RESTRICTION IS BINDING ON TRANSFEREES OF THESE SHARES.

Optionee agrees that if Optionee becomes a party to (i) the Company Co-Sale Agreement or (ii) the Company Voting Agreement, then Optionee agrees that the stock certificate(s) evidencing the Shares shall, in addition, bear any legends required under the Company Co-Sale Agreement and/or the Company Voting Agreement, as applicable.

13.2 Stop-Transfer Instructions. Optionee agrees that, to ensure compliance with the restrictions imposed by this Agreement, the Company may issue appropriate "stop-transfer" instructions to its transfer agent, if any, and if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

13.3 Refusal to Transfer. The Company will not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares, or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares have been so transferred.

14. CERTAIN TAX CONSEQUENCES. Set forth below is a brief summary as of the Effective Date of the Plan of some of the federal tax consequences of exercise of the Option and disposition of the Shares. THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE. OPTIONEE SHOULD CONSULT A TAX ADVISER BEFORE EXERCISING THE OPTION OR DISPOSING OF THE SHARES.

14.1 Exercise of ISO. If the Option qualifies as an ISO, there will be no regular federal income tax liability upon the exercise of the Option, although the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price will be treated as a tax preference item for federal alternative minimum tax purposes and may subject Optionee to the alternative minimum tax in the year of exercise.

14.2 Exercise of Nonqualified Stock Option. If the Option does not qualify as an ISO, there may be a regular federal income tax liability upon the exercise of the Option. Optionee will be treated as having received compensation income (taxable at ordinary income tax rates) equal to the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. If Optionee is a current or former employee of the Company, the Company may be required to withhold from Optionee's compensation or collect from Optionee and pay to the applicable taxing authorities an amount equal to a percentage of this compensation income at the time of exercise.

14.3 Disposition of Shares. The following tax consequences may apply upon disposition of the Shares.

(a) **Incentive Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an ISO and are disposed of more than two (2) years after the Date of Grant, any gain realized on disposition of the Shares will be treated as long term capital gain for federal income tax purposes. If Shares purchased under an ISO are disposed of within the applicable one (1) year or two (2) year period, any gain realized on such disposition will be treated as compensation income (taxable at ordinary income rates in the year of the disposition) to the extent of the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price.

(b) **Nonqualified Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an NQSO, any gain realized on disposition of the Shares will be treated as long term capital gain.

15. GENERAL PROVISIONS

15.1 Interpretation. Any dispute regarding the interpretation of this Agreement shall be submitted by Optionee or the Company to the Committee for review. The resolution of such a dispute by the Committee shall be final and binding on the Company and Optionee.

15.2 Entire Agreement. The Plan, the Grant Notice and the Exercise Agreement are each incorporated herein by reference. This Agreement, the Grant Notice, the Plan and the Exercise Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior undertakings and agreements with respect to such subject matter.

16. NOTICES. Any and all notices required or permitted to be given to a party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed to provide such party sufficient notice under this Agreement on the earliest of the following: (i) at the time of personal delivery, if delivery is in person; (ii) at the time an electronic confirmation of receipt is received, if delivery is by email; (iii) at the time of transmission by facsimile, addressed to the other party at its facsimile number specified herein (or hereafter modified by subsequent notice to the parties hereto), with confirmation of receipt made by both telephone and printed confirmation sheet verifying successful transmission of the facsimile; (iv) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States, with proof of delivery from the courier requested; or (v) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries. Any notice for delivery outside the United States will be sent by email, facsimile or by express courier. Any notice not delivered personally or by email will be sent with postage and/or other charges prepaid and properly

addressed to Optionee at the last known address or facsimile number on the books of the Company, or at such other address or facsimile number as such other party may designate by one of the indicated means of notice herein to the other parties hereto or, in the case of the Company, to it at its principal place of business. Notices to the Company will be marked "Attention: Chief Financial Officer." Notices by facsimile shall be machine verified as received.

17. SUCCESSORS AND ASSIGNS. The Company may assign any of its rights under this Agreement including its rights to purchase Shares under the Right of First Refusal. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, this Agreement shall be binding upon Optionee and Optionee's heirs, executors, administrators, legal representatives, successors and assigns.

18. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California as such laws are applied to agreements between California residents entered into and to be performed entirely within California. If any provision of this Agreement is determined by a court of law to be illegal or unenforceable, then such provision will be enforced to the maximum extent possible and the other provisions will remain fully effective and enforceable.

19. FURTHER ASSURANCES. The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Agreement.

20. TITLES AND HEADINGS. The titles, captions and headings of this Agreement are included for ease of reference only and will be disregarded in interpreting or construing this Agreement. Unless otherwise specifically stated, all references herein to "sections" and "exhibits" will mean "sections" and "exhibits" to this Agreement.

21. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement.

22. SEVERABILITY. If any provision of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Agreement. Notwithstanding the forgoing, if the value of this Agreement based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

* * * * *

Attachment: Annex A: Form of Stock Option Exercise Notice and Agreement

ANNEX A

FORM OF STOCK OPTION EXERCISE NOTICE AND AGREEMENT

STOCK OPTION EXERCISE NOTICE AND AGREEMENT

ARCUTIS, INC.

2017 EQUITY INCENTIVE PLAN

***NOTE:** You must sign this Notice on Page 3 before submitting it to Arcutis, Inc. (the "Company") AND, if requested to do so by the Company, you must also sign the then-current signature pages to the Company's then-current Company Co-Sale Agreement and Company Voting Agreement (as those terms are defined in the Stock Option Agreement) before submitting this Notice to the Company.

OPTIONEE INFORMATION: Please provide the following information about yourself ("Optionee"):

Name: «Optionee» _____ Social Security Number: _____
 Address: _____ Employee Number: _____
 _____ Email Address: _____

OPTION INFORMATION: Please provide this information on the option being exercised (the "Option"):

Grant No. «No»
 Date of Grant: «Grant_Date» _____ Type of Stock Option:
 Option Price per Share: \$ _____ Nonqualified (NQSO)
 Total number of shares of Common Stock of the Company subject to the Option: «Total_Number_of_Options» Incentive (ISO)

EXERCISE INFORMATION:

Number of shares of Common Stock of the Company for which the Option is now being exercised [_____]. (These shares are referred to below as the "**Purchased Shares**.")

Total Exercise Price Being Paid for the Purchased Shares: \$ _____

Form of payment enclosed [**check all that apply**]:

- Check for \$ _____, payable to "**ARCUTIS, INC.**"
- Certificate(s) for _____ shares of Common Stock of the Company. These shares will be valued as of the date this notice is received by the Company. [**Requires Company consent.**]

AGREEMENTS, REPRESENTATIONS AND ACKNOWLEDGMENTS OF OPTIONEE: By signing this Stock Option Exercise Notice and Agreement, Optionee hereby agrees with, and represents to, the Company as follows:

- Terms Governing.** I acknowledge and agree with the Company that I am acquiring the Purchased Shares by exercise of this Option subject to all other terms and conditions of the Notice of Stock Option Grant and the Stock Option Agreement that govern the Option, including without limitation the terms of the Company's 2017 Equity Incentive Plan, as it may be amended (the "**Plan**").
- Investment Intent; Securities Law Restrictions.** I represent and warrant to the Company that I am acquiring and will hold the Purchased Shares for investment for my account only, and not with a view to, or for resale in connection with, any "distribution" of the Purchased Shares within the meaning of

the Securities Act of 1933, as amended (the “**Securities Act**”). I understand that the Purchased Shares have not been registered under the Securities Act by reason of a specific exemption from such registration requirement and that the Purchased Shares must be held by me indefinitely, unless they are subsequently registered under the Securities Act or I obtain an opinion of counsel (in form and substance satisfactory to the Company and its counsel) that registration is not required. I acknowledge that the Company is under no obligation to register the Purchased Shares under the Securities Act or under any other securities law.

3. **Restrictions on Transfer: Rule 144.** I will not sell, transfer or otherwise dispose of the Purchased Shares in violation of the Securities Act, the Securities Exchange Act of 1934, or the rules promulgated thereunder (including Rule 144 under the Securities Act described below “Rule 144”) or of any other applicable securities laws. I am aware of Rule 144, which permits limited public resales of securities acquired in a non-public offering, subject to satisfaction of certain conditions, which include (without limitation) that: (a) certain current public information about the Company is available; (b) the resale occurs only after the holding period required by Rule 144 has been met; (c) the sale occurs through an unsolicited “broker’s transaction”; and (d) the amount of securities being sold during any three-month period does not exceed specified limitations. I understand that the conditions for resale set forth in Rule 144 have not been satisfied and that the Company has no plans to satisfy these conditions in the foreseeable future.
4. **Access to Information; Understanding of Risk in Investment.** I acknowledge that I have received and had access to such information as I consider necessary or appropriate for deciding whether to invest in the Purchased Shares and that I had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the issuance of the Purchased Shares. I am aware that my investment in the Company is a speculative investment that has limited liquidity and is subject to the risk of complete loss. I am able, without impairing my financial condition, to hold the Purchased Shares for an indefinite period and to suffer a complete loss of my investment in the Purchased Shares.
5. **Rights of First Refusal; Market Stand-off.** I acknowledge that the Purchased Shares remain subject to the Company’s Right of First Refusal and the market stand-off covenants (sometimes referred to as the “lock-up”), all in accordance with the applicable Notice of Stock Option Grant and the Stock Option Agreement that govern the Option.
6. **Form of Ownership.** I acknowledge that the Company has encouraged me to consult my own adviser to determine the form of ownership of the Purchased Shares that is appropriate for me. In the event that I choose to transfer my Purchased Shares to a trust, I agree to sign a Stock Transfer Agreement. In the event that I choose to transfer my Purchased Shares to a trust that is not an eligible revocable trust, I also acknowledge that the transfer will be treated as a “disposition” for tax purposes. As a result, the favorable ISO tax treatment will be unavailable and other unfavorable tax consequences may occur.
7. **Investigation of Tax Consequences.** I acknowledge that the Company has encouraged me to consult my own adviser to determine the tax consequences of acquiring the Purchased Shares at this time.
8. **Other Tax Matters.** I agree that the Company does not have a duty to design or administer the Plan or its other compensation programs in a manner that minimizes my tax liabilities. I will not make any claim against the Company or its Board, officers or employees related to tax liabilities arising from my options or my other compensation. In particular, I acknowledge that my options (including the Option) are exempt from section 409A of the Internal Revenue Code only if the exercise price per share is at least equal to the fair market value per share of the Common Stock at the time the option was granted by the Board. Since shares of the Common Stock are not traded on an established securities market, the determination of their fair market value was made by the Board and/or by an independent valuation firm retained by the Company. I acknowledge that there is no guarantee in

either case that the Internal Revenue Service will agree with the valuation, and I will not make any claim against the Company or its Board, officers or employees in the event that the Internal Revenue Service asserts that the valuation was too low.

9. **Spouse Consent.** I agree to seek the consent of my spouse to the extent required by the Company to enforce the foregoing.
10. **Tax Withholding.** As a condition of exercising this Option, I agree to make adequate provision for foreign, federal, state or other tax withholding obligations, if any, which arise upon the grant, vesting or exercise of this Option, or disposition of the Purchased Shares, whether by withholding, direct payment to the Company, or otherwise.

The undersigned hereby executes and delivers this Stock Option Exercise Notice and Agreement and agrees to be bound by its terms.

SIGNATURE:
«OPTIONEE»

DATE:

ACCEPTED BY:

Arcutis, Inc.

By

Title

DATE:
TIME:

[Signature Page to Stock Option Exercise Notice and Agreement]

ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN

1. PURPOSE. The purpose of this Plan is to provide incentives to attract, retain and motivate eligible persons whose present and potential contributions are important to the success of the Company, and any Parents, Subsidiaries and Affiliates that exist now or in the future, by offering them an opportunity to participate in the Company's future performance through the grant of Awards. Capitalized terms not defined elsewhere in the text are defined in Section 28.

2. SHARES SUBJECT TO THE PLAN.

2.1. Number of Shares Available. Subject to Section 2.4, Section 2.6 and Section 21 and any other applicable provisions hereof, the total number of Shares reserved and available for grant and issuance pursuant to this Plan as of the date of adoption of the Plan by the Board, is [_____] Shares, plus (a) any reserved shares not issued or subject to outstanding grants under the Company's 2017 Equity Incentive Plan (the "**Prior Plan**") on the Effective Date, (b) shares that are subject to stock options or other awards granted under the Prior Plan that cease to be subject to such stock options or other awards by forfeiture or otherwise after the Effective Date, (c) shares issued under the Prior Plan before or after the Effective Date pursuant to the exercise of stock options that are, after the Effective Date, forfeited, (d) shares issued under the Prior Plan that are repurchased by the Company at the original issue price and (e) shares that are subject to stock options or other awards under the Prior Plan that are used to pay the exercise price of an option or withheld to satisfy the tax withholding obligations related to any award.

2.2. Lapsed, Returned Awards. Shares subject to Awards, and Shares issued under the Plan under any Award, will again be available for grant and issuance in connection with subsequent Awards under this Plan to the extent such Shares: (a) are subject to issuance upon exercise of an Option or SAR granted under this Plan but which cease to be subject to the Option or SAR for any reason other than exercise of the Option or SAR; (b) are subject to Awards granted under this Plan that are forfeited or are repurchased by the Company at the original issue price; (c) are subject to Awards granted under this Plan that otherwise terminate without such Shares being issued; or (d) are surrendered pursuant to an Exchange Program. To the extent an Award under the Plan is paid out in cash rather than Shares, such cash payment will not result in reducing the number of Shares available for issuance under the Plan. Shares used to pay the exercise price of an Award or withheld to satisfy the tax withholding obligations related to an Award will become available for future grant or sale under the Plan. For the avoidance of doubt, Shares that otherwise become available for grant and issuance because of the provisions of this Section 2.2 shall not include Shares subject to Awards that initially became available because of the substitution clause in Section 21.2 hereof.

2.3. Minimum Share Reserve. At all times the Company will reserve and keep available a sufficient number of Shares as will be required to satisfy the requirements of all outstanding Awards granted under this Plan.

2.4. Automatic Share Reserve Increase. The number of Shares available for grant and issuance under the Plan will be increased on January 1 for each of the first ten (10) calendar years during the term of the Plan by the lesser of (a) four percent (4%) of all classes of the Company's common stock outstanding on each December 31 immediately prior to the date of increase or (b) such number of Shares determined by the Board.

2.5. ISO Limitation. No more than [_____] Shares shall be issued pursuant to the exercise of ISOs (as defined below) under the Plan.

2.6. Adjustment of Shares. If the number of outstanding Shares is changed by a stock dividend, extraordinary dividend or distribution (whether in cash, shares or other property, other than a regular cash dividend), recapitalization, stock split, reverse stock split, subdivision, combination, consolidation, reclassification, spin-off or similar change in the capital structure of the Company, without consideration, then (a) the number and class of Shares reserved for issuance and future grant under the Plan set forth in Section 2.1, including shares reserved under sub-clauses (a)-(e) of Section 2.1, (b) the Exercise Prices of and number and class of Shares subject to outstanding Options and SARs, (c) the number and class of Shares subject to other outstanding Awards and (d) the maximum number and class of Shares that may be issued as ISOs set forth in Section 2.5 will be proportionately adjusted, subject to any required action by the Board or the stockholders of the Company and in compliance with applicable securities laws; provided that fractions of a Share will not be issued.

If, by reason of an adjustment pursuant to this Section 2.6, a Participant's Award Agreement or other agreement related to any Award or the Shares subject to such Award covers additional or different shares of stock or securities, then such additional or different shares, and the Award Agreement or such other agreement in respect thereof, will be subject to all of the terms, conditions and restrictions which were applicable to the Award or the Shares subject to such Award prior to such adjustment.

3. ELIGIBILITY. ISOs may be granted only to Employees. All other Awards may be granted to Employees, Consultants, Directors and Non-Employee Directors; provided such Consultants and Non-Employee Directors render bona fide services not in connection with the offer and sale of securities in a capital-raising transaction.

4. ADMINISTRATION.

4.1. Committee Composition; Authority. This Plan will be administered by the Committee or by the Board acting as the Committee. Subject to the general purposes, terms and conditions of this Plan, and to the direction of the Board, the Committee will have full power to implement and carry out this Plan, except, however, the Board will establish the terms for the grant of an Award to Non-Employee Directors. The Committee will have the authority to:

(a) construe and interpret this Plan, any Award Agreement and any other agreement or document executed pursuant to this Plan;

(b) prescribe, amend and rescind rules and regulations relating to this Plan or any Award;

(c) select persons to receive Awards;

(d) determine the form and terms and conditions, not inconsistent with the terms of the Plan, of any Award granted hereunder. Such terms and conditions include, but are not limited to, the Exercise Price, the time or times when Awards may vest and be exercised (which may be based on performance criteria) or settled, any vesting acceleration or waiver of forfeiture restrictions, the method to satisfy tax withholding obligations or any other tax liability legally due and any restriction or limitation regarding any Award or the Shares relating thereto, based in each case on such factors as the Committee will determine;

(e) determine the number of Shares or other consideration subject to Awards;

(f) determine the Fair Market Value in good faith and interpret the applicable provisions of this Plan and the definition of Fair Market Value in connection with circumstances that impact the Fair Market Value, if necessary;

(g) determine whether Awards will be granted singly, in combination with, in tandem with, in replacement of, or as alternatives to, other Awards under this Plan or any other incentive or compensation plan of the Company or any Parent, Subsidiary or Affiliate;

(h) grant waivers of Plan or Award conditions;

(i) determine the vesting, exercisability and payment of Awards;

(j) correct any defect, supply any omission or reconcile any inconsistency in this Plan, any Award or any Award Agreement;

(k) determine whether an Award has been vested and/or earned;

(l) determine the terms and conditions of any, and to institute any Exchange Program;

(m) reduce, waive or modify any criteria with respect to Performance Factors;

(n) adjust Performance Factors;

(o) adopt terms and conditions, rules and/or procedures (including the adoption of any subplan under this Plan) relating to the operation and administration of the Plan to accommodate requirements of local law and procedures outside of the United States or to qualify Awards for special tax treatment under laws of jurisdictions other than the United States;

(p) exercise discretion with respect to Performance Awards;

(q) make all other determinations necessary or advisable for the administration of this Plan; and

(r) delegate any of the foregoing to a subcommittee or to one or more executive officers pursuant to a specific delegation as permitted by applicable law.

4.2. Committee Interpretation and Discretion. Any determination made by the Committee with respect to any Award will be made in its sole discretion at the time of grant of the Award or, unless in contravention of any express term of the Plan or Award, at any later time, and such determination will be final and binding on the Company and all persons having an interest in any Award under the Plan. Any dispute regarding the interpretation of the Plan or any Award Agreement will be submitted by the Participant or Company to the Committee for review. The resolution of such a dispute by the Committee will be final and binding on the Company and the Participant. The Committee may delegate to one or more executive officers the authority to review and resolve disputes with respect to Awards held by Participants who are not Insiders, and such resolution will be final and binding on the Company and the Participant.

4.3. Section 16 of the Exchange Act. Awards granted to Participants who are subject to Section 16 of the Exchange Act must be approved by two or more “non-employee directors” (as defined in the regulations promulgated under Section 16 of the Exchange Act).

4.4. Documentation. The Award Agreement for a given Award, the Plan and any other documents may be delivered to, and accepted by, a Participant or any other person in any manner (including electronic distribution or posting) that meets applicable legal requirements.

4.5. Foreign Award Recipients. Notwithstanding any provision of the Plan to the contrary, in order to comply with the laws and practices in other countries in which the Company and its Subsidiaries or Affiliates operate or have Employees or other individuals eligible for Awards, the Committee, in its sole discretion, will have the power and authority to: (a) determine which Subsidiaries and Affiliates will be covered by the Plan; (b) determine which individuals outside the United States are eligible to participate in the Plan; (c) modify the terms and conditions of any Award granted to individuals outside the United States or foreign nationals to comply with applicable foreign laws, policies, customs and practices; (d) establish subplans and modify exercise procedures, vesting conditions, and other terms and procedures, to the extent the Committee determines such actions to be necessary or advisable (and such subplans and/or modifications will be attached to this Plan as appendices, if necessary); provided, however, that no such subplans and/or modifications will increase the share limitations contained in Section 2.1 hereof; and (e) take any action, before or after an Award is made, that the Committee determines to be necessary or advisable to obtain approval or comply with any local governmental regulatory exemptions or approvals. Notwithstanding the foregoing, the Committee may not take any actions hereunder, and no Awards will be granted, that would violate the Exchange Act or any other applicable United States securities law, the Code, or any other applicable United States governing statute or law.

5. OPTIONS. An Option is the right but not the obligation to purchase a Share, subject to certain conditions, if applicable. The Committee may grant Options to eligible Employees, Consultants and Directors or any Parent, Subsidiary or Affiliate and will determine whether such Options will be Incentive Stock Options within the meaning of the Code ("**ISOs**") or Nonqualified Stock Options ("**NSOs**"), the number of Shares subject to the Option, the Exercise Price of the Option, the period during which the Option may vest and be exercised, and all other terms and conditions of the Option, subject to the following terms of this section.

5.1. Option Grant. Each Option granted under this Plan will identify the Option as an ISO or an NSO. An Option may be, but need not be, awarded upon satisfaction of such Performance Factors during any Performance Period as are set out in advance in the Participant's individual Award Agreement. If the Option is being earned upon the satisfaction of Performance Factors, then the Committee will: (a) determine the nature, length and starting date of any Performance Period for each Option; and (b) select from among the Performance Factors to be used to measure the performance, if any. Performance Periods may overlap and Participants may participate simultaneously with respect to Options that are subject to different performance goals and other criteria.

5.2. Date of Grant. The date of grant of an Option will be the date on which the Committee makes the determination to grant such Option, or a specified future date. The Award Agreement will be delivered to the Participant within a reasonable time after the granting of the Option.

5.3. Exercise Period. Options may be vested and exercisable within the times or upon the conditions as set forth in the Award Agreement governing such Option; provided, however, that no Option will be exercisable after the expiration of ten (10) years from the date the Option is granted; and provided further that no ISO granted to a person who, at the time the ISO is granted, directly or by attribution owns more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of any Parent or Subsidiary ("**Ten Percent Stockholder**") will be exercisable after the expiration of five (5) years from the date the ISO is granted. The Committee also may provide for Options to become exercisable at one time or from time to time, periodically or otherwise, in such number of Shares or percentage of Shares as the Committee determines.

5.4. Exercise Price. The Exercise Price of an Option will be determined by the Committee when the Option is granted; provided that: (a) the Exercise Price of an Option will be not less than one hundred percent (100%) of the Fair Market Value of the Shares on the date of grant and (b) the Exercise Price of any ISO granted to a Ten Percent Stockholder will not be less than one hundred ten percent (110%) of the Fair Market Value of the Shares on the date of grant. Payment for the Shares purchased may be made in accordance with Section 11 and the Award Agreement and in accordance with any procedures established by the Company.

5.5. Method of Exercise. Any Option granted hereunder will be vested and exercisable according to the terms of the Plan and at such times and under such conditions as determined by the Committee and set forth in the Award Agreement. An Option may not be exercised for a fraction of a Share. An Option will be deemed exercised when the Company receives: (a) notice of exercise (in such form as the Committee may specify from time to time) from the person entitled to exercise the Option (and/or via electronic execution through the authorized third-party administrator), and (b) full payment for the Shares with respect to which the Option is exercised (together with applicable withholding taxes). Full payment may consist of any consideration and method of payment authorized by the Committee and permitted by the Award Agreement and the Plan. Shares issued upon exercise of an Option will be issued in the name of the Participant. Until the Shares are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder will exist with respect to the Shares, notwithstanding the exercise of the Option. The Company will issue (or cause to be issued) such Shares promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 2.6 of the Plan. Exercising an Option in any manner will decrease the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

5.6. Termination of Service. If the Participant's Service terminates for any reason except for Cause or the Participant's death or Disability, then the Participant may exercise such Participant's Options only to the extent that such Options would have been exercisable by the Participant on the date Participant's Service terminates no later than three (3) months after the date Participant's Service terminates (or such shorter or longer time period as may be determined by the Committee, with any exercise beyond three (3) months after the date Participant's employment terminates deemed to be the exercise of an NSO), but in any event no later than the expiration date of the Options.

(a) **Death.** If the Participant's Service terminates because of the Participant's death (or the Participant dies within three (3) months after Participant's Service terminates other than for Cause or because of the Participant's Disability), then the Participant's Options may be exercised only to the extent that such Options would have been exercisable by the Participant on the date Participant's Service terminates and must be exercised by the Participant's legal representative, or authorized assignee, no later than twelve (12) months after the date Participant's Service terminates (or such shorter time period or longer time period as may be determined by the Committee), but in any event no later than the expiration date of the Options.

(b) **Disability.** If the Participant's Service terminates because of the Participant's Disability, then the Participant's Options may be exercised only to the extent that such Options would have been exercisable by the Participant on the date Participant's Service terminates and must be exercised by the Participant (or the Participant's legal representative or authorized assignee) no later than twelve (12) months after the date Participant's Service terminates (or such shorter or longer time period as may be determined by the Committee, with any exercise beyond (a) three (3) months after the date Participant's employment terminates when the termination of Service is for a Disability that is not a "permanent and total disability" as defined in Section 22(e)(3) of the Code, or (b) twelve (12) months after the date Participant's employment terminates when the termination of Service is for a Disability that is a "permanent and total disability" as defined in Section 22(e)(3) of the Code, deemed to be exercise of an NSO), but in any event no later than the expiration date of the Options.

(c) **Cause.** If the Participant's Service terminates for Cause, then Participant's Options (whether or not vested) will expire on the date of termination of Participant's Service if the Committee has reasonably determined in good faith that such cessation of Services has resulted in connection with an act or failure to act constituting Cause (or such Participant's Services could have been terminated for Cause (without regard to the lapsing of any required notice or cure periods in connection therewith) at the time such Participant terminated Services), or at such later time and on such conditions as are determined by the Committee, but in any event no later than the expiration date of the Options. Unless otherwise provided in an employment agreement, Award Agreement, or other applicable agreement, Cause will have the meaning set forth in the Plan.

5.7. Limitations on Exercise. The Committee may specify a minimum number of Shares that may be purchased on any exercise of an Option, provided that such minimum number will not prevent any Participant from exercising the Option for the full number of Shares for which it is then exercisable.

5.8. Limitations on ISOs. With respect to Awards granted as ISOs, to the extent that the aggregate Fair Market Value of the Shares with respect to which such ISOs are exercisable for the first time by the Participant during any calendar year (under all plans of the Company and any Parent or Subsidiary) exceeds one hundred thousand dollars (\$100,000), such Options will be treated as NSOs. For purposes of this Section 5.8, ISOs will be taken into account in the order in which they were granted. The Fair Market Value of the Shares will be determined as of the time the Option with respect to such Shares is granted. In the event that the Code or the regulations promulgated thereunder are amended after the Effective Date to provide for a different limit on the Fair Market Value of Shares permitted to be subject to ISOs, such different limit will be automatically incorporated herein and will apply to any Options granted after the effective date of such amendment.

5.9. Modification, Extension or Renewal. The Committee may modify, extend or renew outstanding Options and authorize the grant of new Options in substitution therefor, provided that any such action may not, without the written consent of a Participant, impair any of such Participant's rights under any Option previously granted. Any outstanding ISO that is modified, extended, renewed or otherwise altered will be treated in accordance with Section 424(h) of the Code. Subject to Section 18 of this Plan, by written notice to affected Participants, the Committee may reduce the Exercise Price of outstanding Options without the consent of such Participants; provided, however, that the Exercise Price may not be reduced below the Fair Market Value on the date the action is taken to reduce the Exercise Price.

5.10. No Disqualification. Notwithstanding any other provision in this Plan, no term of this Plan relating to ISOs will be interpreted, amended or altered, nor will any discretion or authority granted under this Plan be exercised, so as to disqualify this Plan under Section 422 of the Code or, without the consent of the Participant affected, to disqualify any ISO under Section 422 of the Code.

6. RESTRICTED STOCK AWARDS. A Restricted Stock Award is an offer by the Company to sell to an eligible Employee, Consultant, or Director or any Parent, Subsidiary or Affiliate Shares that are subject to restrictions ("**Restricted Stock**"). The Committee will determine to whom an offer will be made, the number of Shares the Participant may purchase, the Purchase Price, the restrictions under which the Shares will be subject and all other terms and conditions of the Restricted Stock Award, subject to the Plan.

6.1. Restricted Stock Purchase Agreement. All purchases under a Restricted Stock Award will be evidenced by an Award Agreement. Except as may otherwise be provided in an Award Agreement, a Participant accepts a Restricted Stock Award by signing and delivering to the Company an Award Agreement with full payment of the Purchase Price, within thirty (30) days from the date the Award Agreement was delivered to the Participant. If the Participant does not accept such Award within thirty (30) days, then the offer of such Restricted Stock Award will terminate, unless the Committee determines otherwise.

6.2. Purchase Price. The Purchase Price for a Restricted Stock Award will be determined by the Committee and may be less than Fair Market Value on the date the Restricted Stock Award is granted. Payment of the Purchase Price must be made in accordance with Section 11 of the Plan, and the Award Agreement and in accordance with any procedures established by the Company.

6.3. Terms of Restricted Stock Awards. Restricted Stock Awards will be subject to such restrictions as the Committee may impose or are required by law. These restrictions may be based on completion of a specified number of years of service with the Company or upon completion of Performance Factors, if any, during any Performance Period as set out in advance in the Participant's Award Agreement. Prior to the grant of a Restricted Stock Award, the Committee shall: (a) determine the nature, length and starting date of any Performance Period for the Restricted Stock Award; (b) select from among the Performance Factors to be used to measure performance goals, if any; and (c) determine the number of Shares that may be awarded to the Participant. Performance Periods may overlap and a Participant may participate simultaneously with respect to Restricted Stock Awards that are subject to different Performance Periods and having different performance goals and other criteria.

6.4. Termination of Service. Except as may be set forth in the Participant's Award Agreement, vesting ceases on such date Participant's Service terminates (unless determined otherwise by the Committee).

7. STOCK BONUS AWARDS. A Stock Bonus Award is an award to an eligible Employee, Consultant, or Director or any Parent, Subsidiary or Affiliate of Shares for Services to be rendered or for past Services already rendered to the Company or any Parent, Subsidiary or Affiliate. All Stock Bonus Awards shall be made pursuant to an Award Agreement. No payment from the Participant will be required for Shares awarded pursuant to a Stock Bonus Award.

7.1. Terms of Stock Bonus Awards. The Committee will determine the number of Shares to be awarded to the Participant under a Stock Bonus Award and any restrictions thereon. These restrictions may be based upon completion of a specified number of years of service with the Company or upon satisfaction of performance goals based on Performance Factors during any Performance Period as set out in advance in the Participant's Stock Bonus Agreement. Prior to the grant of any Stock Bonus Award the Committee shall: (a) determine the nature, length and starting date of any Performance Period for the Stock Bonus Award; (b) select from among the Performance Factors to be used to measure performance goals; and (c) determine the number of Shares that may be awarded to the Participant. Performance Periods may overlap and a Participant may participate simultaneously with respect to Stock Bonus Awards that are subject to different Performance Periods and different performance goals and other criteria.

7.2. Form of Payment to Participant. Payment may be made in the form of cash, whole Shares, or a combination thereof, based on the Fair Market Value of the Shares earned under a Stock Bonus Award on the date of payment, as determined in the sole discretion of the Committee.

7.3. Termination of Service. Except as may be set forth in the Participant's Award Agreement, vesting ceases on such date Participant's Service terminates (unless determined otherwise by the Committee).

8. STOCK APPRECIATION RIGHTS. A Stock Appreciation Right ("**SAR**") is an award to an eligible Employee, Consultant, or Director or any Parent, Subsidiary or Affiliate that may be settled in cash, or Shares (which may consist of Restricted Stock), having a value equal to (a) the difference between the Fair Market Value on the date of exercise less the Exercise Price multiplied by (b) the number of Shares with respect to which the SAR is being settled (subject to any maximum number of Shares that may be issuable as specified in an Award Agreement). All SARs shall be made pursuant to an Award Agreement.

8.1. Terms of SARs. The Committee will determine the terms of each SAR including, without limitation: (a) the number of Shares subject to the SAR; (b) the Exercise Price and the time or times during which the SAR may be settled; (c) the consideration to be distributed on settlement of the SAR; and (d) the effect of the Participant's termination of Service on each SAR. The Exercise Price of the SAR will be determined by the Committee when the SAR is granted, and may not be less than Fair

Market Value. A SAR may be awarded upon satisfaction of Performance Factors, if any, during any Performance Period as are set out in advance in the Participant's individual Award Agreement. If the SAR is being earned upon the satisfaction of Performance Factors, then the Committee will:

(x) determine the nature, length and starting date of any Performance Period for each SAR; and (y) select from among the Performance Factors to be used to measure the performance, if any. Performance Periods may overlap and Participants may participate simultaneously with respect to SARs that are subject to different Performance Factors and other criteria.

8.2. Exercise Period and Expiration Date. A SAR will be exercisable within the times or upon the occurrence of events determined by the Committee and set forth in the Award Agreement governing such SAR. The SAR Agreement shall set forth the expiration date; provided that no SAR will be exercisable after the expiration of ten (10) years from the date the SAR is granted. The Committee may also provide for SARs to become exercisable at one time or from time to time, periodically or otherwise (including, without limitation, upon the attainment during a Performance Period of performance goals based on Performance Factors), in such number of Shares or percentage of the Shares subject to the SAR as the Committee determines. Except as may be set forth in the Participant's Award Agreement, vesting ceases on the date Participant's Service terminates (unless determined otherwise by the Committee). Notwithstanding the foregoing, the rules of Section 5.6 also will apply to SARs.

8.3. Form of Settlement. Upon exercise of a SAR, a Participant will be entitled to receive payment from the Company in an amount determined by multiplying (a) the difference between the Fair Market Value of a Share on the date of exercise less the Exercise Price; times (b) the number of Shares with respect to which the SAR is exercised. At the discretion of the Committee, the payment from the Company for the SAR exercise may be in cash, in Shares of equivalent value, or in some combination thereof. The portion of a SAR being settled may be paid currently or on a deferred basis with such interest, if any, as the Committee determines, provided that the terms of the SAR and any deferral satisfy the requirements of Section 409A of the Code to the extent applicable.

8.4. Termination of Service. Except as may be set forth in the Participant's Award Agreement, vesting ceases on such date Participant's Service terminates (unless determined otherwise by the Committee).

9. RESTRICTED STOCK UNITS. A Restricted Stock Unit ("**RSU**") is an award to an eligible Employee, Consultant, or Director or any Parent, Subsidiary or Affiliate covering a number of Shares that may be settled in cash, or by issuance of those Shares (which may consist of Restricted Stock). All RSUs shall be made pursuant to an Award Agreement.

9.1. Terms of RSUs. The Committee will determine the terms of an RSU including, without limitation: (a) the number of Shares subject to the RSU; (b) the time or times during which the RSU may be settled; (c) the consideration to be distributed on settlement; and (d) the effect of the Participant's termination of Service on each RSU; provided that no RSU shall have a term longer than ten (10) years. An RSU may be awarded upon satisfaction of such performance goals based on Performance Factors during any Performance Period as are set out in advance in the Participant's Award Agreement. If the RSU is being earned upon satisfaction of Performance Factors, then the Committee will: (x) determine the nature, length and starting date of any Performance Period for the RSU; (y) select from among the Performance Factors to be used to measure the performance, if any; and (z) determine the number of Shares deemed subject to the RSU. Performance Periods may overlap and Participants may participate simultaneously with respect to RSUs that are subject to different Performance Periods and different performance goals and other criteria.

9.2. Form and Timing of Settlement. Payment of earned RSUs shall be made as soon as practicable after the date(s) determined by the Committee and set forth in the Award Agreement. The Committee, in its sole discretion, may settle earned RSUs in cash, Shares, or a combination of both. The Committee may also permit a Participant to defer payment under an RSU to a date or dates after the RSU is earned provided that the terms of the RSU and any deferral satisfy the requirements of Section 409A of the Code to the extent applicable.

9.3. Termination of Service. Except as may be set forth in the Participant's Award Agreement, vesting ceases on such date Participant's Service terminates (unless determined otherwise by the Committee).

10. PERFORMANCE AWARDS. A Performance Award is an award to an eligible Employee, Consultant, or Director of the Company or any Parent, Subsidiary or Affiliate that is based upon the attainment of performance goals, as established by the Committee, and other terms and conditions specified by the Committee, and may be settled in cash, Shares (which may consist of, without limitation, Restricted Stock), other property, or any combination thereof. Grants of Performance Awards shall be made pursuant to an Award Agreement.

10.1. Performance Awards shall include Performance Shares, Performance Units, and cash-based Awards as set forth in Sections 10.1(a), 10.1(b), and 10.1(c) below.

(a) **Performance Shares.** The Committee may grant Awards of Performance Shares, designate the Participants to whom Performance Shares are to be awarded and determine the number of Performance Shares and the terms and conditions of each such Award. Performance Shares shall consist of a unit valued by reference to a designated number of Shares, the value of which may be paid to the Participant by delivery of Shares or, if set forth in the instrument evidencing the Award, of such property as the Committee shall determine, including, without limitation, cash, Shares, other property, or any combination thereof, upon the attainment of performance goals, as established by the Committee, and other terms and conditions specified by the Committee. The amount to be paid under an Award of Performance Shares may be adjusted on the basis of such further consideration as the Committee shall determine in its sole discretion.

(b) **Performance Units.** The Committee may grant Awards of Performance Units, designate the Participants to whom Performance Units are to be awarded and determine the number of Performance Units and the terms and conditions of each such Award. Performance Units shall consist of a unit valued by reference to a designated amount of property other than Shares, which value may be paid to the Participant by delivery of such property as the Committee shall determine, including, without limitation, cash, Shares, other property, or any combination thereof, upon the attainment of performance goals, as established by the Committee, and other terms and conditions specified by the Committee.

(c) **Cash-Settled Performance Awards.** The Committee may grant cash-settled Performance Awards to Participants under the terms of this Plan. Such awards will be based on the attainment of performance goals using the Performance Factors within this Plan that are established by the Committee for the relevant performance period.

10.2. Terms of Performance Awards. Performance Awards will be based on the attainment of performance goals using the Performance Factors within this Plan that are established by the Committee for the relevant Performance Period. The Committee will determine, and each Award Agreement shall set forth, the terms of each Performance Award including, without limitation: (a) the amount of any cash bonus, (b) the number of Shares deemed subject to an award of Performance Shares; (c) the Performance Factors and Performance Period that shall determine the time and extent to which each award of Performance Shares shall be settled; (d) the consideration to be distributed on settlement, and (e) the effect of the Participant's termination of Service on each Performance Award. In establishing Performance Factors and the Performance Period the Committee will: (x) determine the nature, length and starting date of any Performance Period; (y) select from among the Performance Factors to be used; and (z) determine the number of Shares deemed subject to the award of Performance Shares. Prior to settlement the Committee shall determine the extent to which Performance Awards have been earned. Performance Periods may overlap, and Participants may participate simultaneously with respect to Performance Awards that are subject to different Performance Periods and different performance goals and other criteria.

10.3. Termination of Service. Except as may be set forth in the Participant's Award Agreement, vesting ceases on the date Participant's Service terminates (unless determined otherwise by the Committee).

11. PAYMENT FOR SHARE PURCHASES. Payment from a Participant for Shares purchased pursuant to this Plan may be made in cash or by check or, where approved for the Participant by the Committee and where permitted by law (and to the extent not otherwise set forth in the applicable Award Agreement):

(a) by cancellation of indebtedness of the Company to the Participant;

(b) by surrender of shares of the Company held by the Participant that have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which said Award will be exercised or settled;

(c) by waiver of compensation due or accrued to the Participant for services rendered or to be rendered to the Company or a Parent or Subsidiary;

(d) by consideration received by the Company pursuant to a broker-assisted or other form of cashless exercise program implemented by the Company in connection with the Plan;

(e) by any combination of the foregoing; or

(f) by any other method of payment as is permitted by applicable law.

12. GRANTS TO NON-EMPLOYEE DIRECTORS.

12.1. Grant and Eligibility. Non-Employee Directors are eligible to receive any type of Award offered under this Plan except ISOs. Awards pursuant to this Section 12 may be automatically made pursuant to policy adopted by the Board, or made from time to time as determined in the discretion of the Board. No Non-Employee Director may receive Awards under the Plan that, when combined with cash compensation received for service as a Non-Employee Director, exceeds \$750,000 in value (as described below) in any calendar year, increased to \$1,000,000 in value (as described below) in the calendar year of his or her initial services as a Non-Employee Director. The value of Awards for purposes of complying with this maximum shall be determined as follows: (a) for Options and SARs, grant date fair value will be calculated using the Black-Scholes valuation methodology on the date of grant of such Option or SAR, and (b) for all other Awards other than Options and SARs, grant date fair value will be determined by either (i) calculating the product of the Fair Market Value per Share on the date of grant and the aggregate number of Shares subject to the Award, or (ii) calculating the product using an average of the Fair Market Value over a number of trading days and the aggregate number of Shares subject to the Award as determined by the Committee. Awards granted, or cash compensation paid, to an individual while he or she was serving in the capacity as an Employee or while he or she was a Consultant but not a Non-Employee Director will not count for purposes of the limitations set forth in this Section 12.1. Awards under the Plan may be granted to Non-Employee Directors may be automatically made pursuant to a policy adopted by the Board, or made from time to time as determined in the discretion of the Board.

12.2. Vesting, Exercisability and Settlement. Except as set forth in Section 21, Awards will vest, become exercisable and be settled as determined by the Board. With respect to Options and SARs, the exercise price granted to Non-Employee Directors will not be less than the Fair Market Value of the Shares at the time that such Option or SAR is granted.

12.3. Election to Receive Awards in Lieu of Cash. A Non-Employee Director may elect to receive his or her annual retainer payments and/or meeting fees from the Company in the form of cash or Awards or a combination thereof, if permitted, and as determined, by the Committee. Such Awards shall be issued under the Plan. An election under this Section 12.3 shall be filed with the Company on the form prescribed by the Company.

13. WITHHOLDING TAXES.

13.1. Withholding Generally. Whenever Shares are to be issued in satisfaction of Awards granted under this Plan or a tax event occurs, the Company may require the Participant to remit to the Company, or to the Parent, Subsidiary or Affiliate, as applicable, employing the Participant, an amount sufficient to satisfy applicable U.S. federal, state, local and international tax or any other tax or social insurance liability (the "**Tax-Related Items**") required to be withheld from the Participant prior to the delivery of Shares pursuant to exercise or settlement of any Award. Whenever payments in satisfaction of Awards granted under this Plan are to be made in cash, such payment will be net of an amount sufficient to satisfy applicable withholding obligations for Tax-Related Items. Unless otherwise determined by the Committee, the Fair Market Value of the Shares will be determined as of the date that the taxes are required to be withheld and such Shares will be valued based on the value of the actual trade or, if there is none, the Fair Market Value of the Shares as of the previous trading day.

13.2. Stock Withholding. The Committee, or its delegate(s), as permitted by applicable law, in its sole discretion and pursuant to such procedures as it may specify from time to time and to limitations of local law, may require or permit a Participant to satisfy such Tax Related Items legally due from the Participant, in whole or in part by (without limitation) (a) paying cash, (b) having the Company withhold otherwise deliverable cash or Shares having a Fair Market Value equal to the Tax-Related Items to be withheld, (c) delivering to the Company already-owned shares having a Fair Market Value equal to the Tax-Related Items to be withheld or (d) withholding from the proceeds of the sale of otherwise deliverable Shares acquired pursuant to an Award either through a voluntary sale or through a mandatory sale arranged by the Company. The Company may withhold or account for these Tax-Related Items by considering applicable statutory withholding rates or other applicable withholding rates, including up to (but not in excess of) the maximum permissible statutory tax rate for the applicable tax jurisdiction, to the extent consistent with applicable laws.

14. TRANSFERABILITY. Unless determined otherwise by the Committee, an Award may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or by the laws of descent or distribution. If the Committee makes an Award transferable, including, without limitation, by instrument to an inter vivos or testamentary trust in which the Awards are to be passed to beneficiaries upon the death of the trustor (settlor) or by gift or by domestic relations order to a Permitted Transferee, such Award will contain such additional terms and conditions as the Committee deems appropriate. All Awards will be exercisable: (a) during the Participant's lifetime only by the Participant, or the Participant's guardian or legal representative; (b) after the Participant's death, by the legal representative of the Participant's heirs or legatees; and (c) in the case of all awards except ISOs, by a Permitted Transferee.

15. PRIVILEGES OF STOCK OWNERSHIP; RESTRICTIONS ON SHARES.

15.1. Voting and Dividends. No Participant will have any of the rights of a stockholder with respect to any Shares until the Shares are issued to the Participant, except for any Dividend Equivalent Rights permitted by an applicable Award Agreement. Any Dividend Equivalent Rights will be subject to the same vesting or performance conditions as the underlying Award. In addition, the Committee may provide that any Dividend Equivalent Rights permitted by an applicable Award Agreement will be deemed to have been reinvested in additional Shares or otherwise reinvested. After Shares are issued to the Participant, the Participant will be a stockholder and have all the rights of a stockholder with respect to such Shares, including the right to vote and receive all dividends or other distributions made or paid

with respect to such Shares; provided, that if such Shares are Restricted Stock, then any new, additional or different securities the Participant may become entitled to receive with respect to such Shares by virtue of a stock dividend, stock split or any other change in the corporate or capital structure of the Company will be subject to the same restrictions as the Restricted Stock; provided, further, that the Participant will have no right to such stock dividends or stock distributions with respect to Unvested Shares, and any such dividends or stock distributions will be accrued and paid only at such time, if any, as such Unvested Shares become vested Shares. The Committee, in its discretion, may provide in the Award Agreement evidencing any Award that the Participant will be entitled to Dividend Equivalent Rights with respect to the payment of cash dividends on Shares underlying an Award during the period beginning on the date the Award is granted and ending, with respect to each Share subject to the Award, on the earlier of the date on which the Award is exercised or settled or the date on which it is forfeited provided, that no Dividend Equivalent Right will be paid with respect to the Unvested Shares, and such dividends or stock distributions will be accrued and paid only at such time, if any, as such Unvested Shares become vested Shares. Such Dividend Equivalent Rights, if any, will be credited to the Participant in the form of additional whole Shares as of the date of payment of such cash dividends on Shares.

15.2. Restrictions on Shares. At the discretion of the Committee, the Company may reserve to itself and/or its assignee(s) a right to repurchase (a “**Right of Repurchase**”) a portion of any or all Unvested Shares held by a Participant following such Participant’s termination of Service at any time within ninety (90) days (or such longer or shorter time determined by the Committee) after the later of the date Participant’s Service terminates and the date the Participant purchases Shares under this Plan, for cash and/or cancellation of purchase money indebtedness, at the Participant’s Purchase Price or Exercise Price, as the case may be.

16. CERTIFICATES. All Shares or other securities whether or not certificated, delivered under this Plan will be subject to such stock transfer orders, legends and other restrictions as the Committee may deem necessary or advisable, including restrictions under any applicable U.S. federal, state or foreign securities law, or any rules, regulations and other requirements of the SEC or any stock exchange or automated quotation system upon which the Shares may be listed or quoted and any non-U.S. exchange controls or securities law restrictions to which the Shares are subject.

17. ESCROW; PLEDGE OF SHARES. To enforce any restrictions on a Participant’s Shares, the Committee may require the Participant to deposit all certificates representing Shares, together with stock powers or other instruments of transfer approved by the Committee, appropriately endorsed in blank, with the Company or an agent designated by the Company to hold in escrow until such restrictions have lapsed or terminated, and the Committee may cause a legend or legends referencing such restrictions to be placed on the certificates. Any Participant who is permitted to execute a promissory note as partial or full consideration for the purchase of Shares under this Plan will be required to pledge and deposit with the Company all or part of the Shares so purchased as collateral to secure the payment of the Participant’s obligation to the Company under the promissory note; provided, however, that the Committee may require or accept other or additional forms of collateral to secure the payment of such obligation and, in any event, the Company will have full recourse against the Participant under the promissory note notwithstanding any pledge of the Participant’s Shares or other collateral. In connection with any pledge of the Shares, the Participant will be required to execute and deliver a written pledge agreement in such form as the Committee will from time to time approve. The Shares purchased with the promissory note may be released from the pledge on a pro rata basis as the promissory note is paid.

18. REPRICING; EXCHANGE AND BUYOUT OF AWARDS. Without prior stockholder approval, the Committee may (a) reprice Options or SARs (and where such repricing is a reduction in the Exercise Price of outstanding Options or SARs, the consent of the affected Participants is not required provided written notice is provided to them, notwithstanding any adverse tax consequences to them arising from the repricing), and (b) with the consent of the respective Participants (unless not required pursuant to Section 5.9 of the Plan), pay cash or issue new Awards in exchange for the surrender and cancellation of any, or all, outstanding Awards.

19. SECURITIES LAW AND OTHER REGULATORY COMPLIANCE. An Award will not be effective unless such Award is in compliance with all applicable U.S. and foreign federal and state securities and exchange control laws, rules and regulations of any governmental body, and the requirements of any stock exchange or automated quotation system upon which the Shares may then be listed or quoted, as they are in effect on the date of grant of the Award and also on the date of exercise or other issuance. Notwithstanding any other provision in this Plan, the Company will have no obligation to issue or deliver certificates for Shares under this Plan prior to: (a) obtaining any approvals from governmental agencies that the Company determines are necessary or advisable; and/or (b) completion of any registration or other qualification of such Shares under any state or federal or foreign law or ruling of any governmental body that the Company determines to be necessary or advisable. The Company will be under no obligation to register the Shares with the SEC or to effect compliance with the registration, qualification or listing requirements of any foreign or state securities laws, exchange control laws, stock exchange or automated quotation system, and the Company will have no liability for any inability or failure to do so.

20. NO OBLIGATION TO EMPLOY. Nothing in this Plan or any Award granted under this Plan will confer or be deemed to confer on any Participant any right to continue in the employ of, or to continue any other relationship with, the Company or any Parent, Subsidiary or Affiliate or limit in any way the right of the Company or any Parent, Subsidiary or Affiliate to terminate Participant's employment or other relationship at any time.

21. CORPORATE TRANSACTIONS.

21.1. Assumption or Replacement of Awards by Successor. In the event of a Corporate Transaction any or all outstanding Awards may be (a) continued by the Company, if the Company is the successor entity; or (b) assumed or substituted by the successor corporation, or a parent or subsidiary of the successor corporation, for substantially equivalent Awards (including, but not limited to, a payment in cash or the right to acquire the same consideration paid to the stockholders of the Company pursuant to the Corporate Transaction), in each case after taking into account appropriate adjustments for the number and kind of shares and exercise prices. The successor corporation may also issue, as replacement of outstanding Shares of the Company held by the Participant, substantially similar shares or other property subject to repurchase restrictions no less favorable to the Participant. In the event such successor corporation refuses to assume, substitute or replace any Award in accordance with this Section 21, then notwithstanding any other provision in this Plan to the contrary, each such Award shall become fully vested and, as applicable, exercisable and any rights of repurchase or forfeiture restrictions thereon shall lapse, immediately prior to the consummation of the Corporation Transaction. Performance Awards not assumed pursuant to the foregoing shall be deemed earned and vested at 100% of target level, unless otherwise indicated pursuant to the terms and conditions of the applicable Award Agreement.

If an Award vests in lieu of assumption or substitution in connection with a Corporate Transaction as provided above, the Committee will notify the holder of such Award in writing or electronically that such Award will be exercisable for a period of time determined by the Committee in its sole discretion, and such Award will terminate upon the expiration of such period without consideration. Any determinations by the Committee need not treat all outstanding Awards in an identical manner, and shall be final and binding on each applicable Participant.

21.2. Assumption of Awards by the Company. The Company, from time to time, also may substitute or assume outstanding awards granted by another company, whether in connection with an acquisition of such other company or otherwise, by either; (a) granting an Award under this Plan in substitution of such other company's award; or (b) assuming such award as if it had been granted under this Plan if the terms of such assumed award could be applied to an Award granted under this Plan. Such substitution or assumption will be permissible if the holder of the substituted or assumed award would have been eligible to be granted an Award under this Plan if the other company had applied the rules of this Plan to such grant. In the event the Company assumes an award granted by another company, the

terms and conditions of such award will remain unchanged (except that the Purchase Price or the Exercise Price, as the case may be, and the number and nature of Shares issuable upon exercise or settlement of any such Award will be adjusted appropriately pursuant to Section 424(a) of the Code). In the event the Company elects to grant a new Option in substitution rather than assuming an existing option, such new Option may be granted with a similarly adjusted Exercise Price. Substitute Awards will not reduce the number of Shares authorized for grant under the Plan or authorized for grant to a Participant in a calendar year.

21.3. Non-Employee Directors' Awards. Notwithstanding any provision to the contrary herein, in the event of a Corporate Transaction, the vesting of all Awards granted to Non-Employee Directors will accelerate and such Awards will become exercisable (as applicable) in full prior to the consummation of such event at such times and on such conditions as the Committee determines.

22. ADOPTION AND STOCKHOLDER APPROVAL. This Plan will be submitted for the approval of the Company's stockholders, consistent with applicable laws, within twelve (12) months before or after the date this Plan is adopted by the Board.

23. TERM OF PLAN/GOVERNING LAW. Unless earlier terminated as provided herein, this Plan will become effective on the Effective Date and will terminate ten (10) years from the date this Plan is adopted by the Board. This Plan and all Awards granted hereunder will be governed by and construed in accordance with the laws of the State of Delaware (excluding its conflict of laws rules).

24. AMENDMENT OR TERMINATION OF PLAN. The Board may at any time terminate or amend this Plan in any respect, including, without limitation, amendment of any form of Award Agreement or instrument to be executed pursuant to this Plan; provided, however, that the Board will not, without the approval of the stockholders of the Company, amend this Plan in any manner that requires such stockholder approval; provided further, that a Participant's Award will be governed by the version of this Plan then in effect at the time such Award was granted. No termination or amendment of the Plan or any outstanding Award may adversely affect any then outstanding Award without the consent of the Participant, unless such termination or amendment is necessary to comply with applicable law, regulation or rule.

25. NONEXCLUSIVITY OF THE PLAN. Neither the adoption of this Plan by the Board, the submission of this Plan to the stockholders of the Company for approval, nor any provision of this Plan will be construed as creating any limitations on the power of the Board to adopt such additional compensation arrangements as it may deem desirable, including, without limitation, the granting of stock awards and bonuses otherwise than under this Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

26. INSIDER TRADING POLICY. Each Participant who receives an Award will comply with any policy adopted by the Company from time to time covering transactions in the Company's securities by Employees, officers and/or Directors of the Company, as well as with any applicable insider trading or market abuse laws to which the Participant may be subject.

27. ALL AWARDS SUBJECT TO COMPANY CLAWBACK OR RECOUPMENT POLICY. All Awards, subject to applicable law, shall be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy adopted by the Board or required by law during the term of Participant's employment or other service with the Company that is applicable to Employees, Directors or other service providers of the Company, and in addition to any other remedies available under such policy and applicable law, may require the cancellation of outstanding Awards and the recoupment of any gains realized with respect to Awards.

28. DEFINITIONS. As used in this Plan, and except as elsewhere defined herein, the following terms will have the following meanings:

28.1. “Affiliate” means any person or entity that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the Company, including any general partner, managing member, officer or director of the Company, in each case as of the date on which, or at any time during the period for which, the determination of affiliation is being made. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such person or entity, whether through the ownership of voting securities or by contract or otherwise.

28.2. “Award” means any award under the Plan, including any Option, Restricted Stock, Stock Bonus, Stock Appreciation Right, Restricted Stock Unit or Performance Award.

28.3. “Award Agreement” means, with respect to each Award, the written or electronic agreement between the Company and the Participant setting forth the terms and conditions of the Award, and country-specific appendix thereto for grants to non-U.S. Participants, which will be in substantially a form (which need not be the same for each Participant) that the Committee (or in the case of Award agreements that are not used for Insiders, the Committee’s delegate(s)) has from time to time approved, and will comply with and be subject to the terms and conditions of this Plan.

28.4. “Board” means the Board of Directors of the Company.

28.5. “Cause” means a determination by the Company (and in the case of Participant who is subject to Section 16 of the Exchange Act, the Committee) that the Participant has committed an act or acts constituting any of the following: (a) dishonesty, fraud, misconduct or negligence in connection with Participant’s duties to the Company, (b) unauthorized disclosure or use of the Company’s confidential or proprietary information or trade secrets, (c) misappropriation of a business opportunity of the Company, (d) materially aiding Company competitor, (e) a conviction or plea of nolo contendere to a felony or crime involving moral turpitude, (f) failure or refusal to attend to the duties or obligations of the Participant’s position (g) violation or breach of, or failure to comply with, the Company’s code of ethics or conduct, any of the Company’s rules, policies or procedures applicable to the Participant or any agreement in effect between the Company and the Participant or (h) other conduct by such Participant that could be expected to be harmful to the business, interests or reputation of the Company. The determination as to whether Cause for a Participant’s termination exists will be made in good faith by the Company and will be final and binding on the Participant. This definition does not in any way limit the Company’s or any Parent’s or Subsidiary’s ability to terminate a Participant’s employment or services at any time as provided in Section 20 above. Notwithstanding the foregoing, the foregoing definition of “Cause” may, in part or in whole, be modified or replaced in each individual employment agreement, Award Agreement, or other applicable agreement with any Participant provided that such document specifically supersedes this definition.

28.6. “Code” means the United States Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

28.7. “Committee” means the Compensation Committee of the Board or those persons to whom administration of the Plan, or part of the Plan, has been delegated as permitted by law.

28.8. “Company” means Arcutis Biotherapeutics, Inc., a Delaware corporation, or any successor corporation.

28.9. “Consultant” means any natural person, including an advisor or independent contractor, engaged by the Company or a Parent, Subsidiary or Affiliate to render services to such entity.

28.10. “Corporate Transaction” means the occurrence of any of the following events: (a) any “Person” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) becomes the “beneficial owner” (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total voting power represented by the Company’s then-outstanding voting securities; provided, however, that for purposes of this subclause (a) the acquisition of additional securities by any one Person who is considered to own more than fifty percent (50%) of the total voting power of the securities of the Company will not be considered a Corporate Transaction; (b) the consummation of the sale or disposition by the Company of all or substantially all of the Company’s assets; (c) the consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation; (d) any other transaction which qualifies as a “corporate transaction” under Section 424(a) of the Code wherein the stockholders of the Company give up all of their equity interest in the Company (except for the acquisition, sale or transfer of all or substantially all of the outstanding shares of the Company) or (e) a change in the effective control of the Company that occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by members of the Board whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purpose of this subclause (e), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Corporate Transaction. For purposes of this definition, Persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company. Notwithstanding the foregoing, to the extent that any amount constituting deferred compensation (as defined in Section 409A of the Code) would become payable under this Plan by reason of a Corporate Transaction, such amount will become payable only if the event constituting a Corporate Transaction would also qualify as a change in ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company, each as defined within the meaning of Code Section 409A, as it has been and may be amended from time to time, and any proposed or final Treasury Regulations and IRS guidance that has been promulgated or may be promulgated thereunder from time to time.

28.11. “Director” means a member of the Board.

28.12. “Disability” means in the case of incentive stock options, total and permanent disability as defined in Section 22(e)(3) of the Code and in the case of other Awards, that the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months.

28.13. “Dividend Equivalent Right” means the right of a Participant, granted at the discretion of the Committee or as otherwise provided by the Plan, to receive a credit for the account of such Participant in an amount equal to the cash, stock or other property dividends in amounts equivalent to cash, stock or other property dividends for each Share represented by an Award held by such Participant.

28.14. “Effective Date” means the day immediately prior to the Company’s IPO Registration Date, subject to approval of the Plan by the Company’s stockholders.

28.15. “Employee” means any person, including officers and Directors, providing services as an employee to the Company or any Parent, Subsidiary or Affiliate. Neither service as a Director nor payment of a director’s fee by the Company will be sufficient to constitute “employment” by the Company.

28.16. “Exchange Act” means the United States Securities Exchange Act of 1934, as amended.

28.17. “Exchange Program” means a program pursuant to which (a) outstanding Awards are surrendered, cancelled or exchanged for cash, the same type of Award or a different Award (or combination thereof) or (b) the exercise price of an outstanding Award is increased or reduced, each as described in Section 18.

28.18. “Exercise Price” means, with respect to an Option, the price at which a holder may purchase the Shares issuable upon exercise of an Option and with respect to a SAR, the price at which the SAR is granted to the holder thereof.

28.19. “Fair Market Value” means, as of any date, the value of a share of the Company’s common stock determined as follows:

(a) if such common stock is publicly traded and is then listed on a national securities exchange, its closing price on the date of determination on the principal national securities exchange on which the common stock is listed or admitted to trading as reported in *The Wall Street Journal* or such other source as the Committee deems reliable;

(b) if such common stock is publicly traded but is neither listed nor admitted to trading on a national securities exchange, the average of the closing bid and asked prices on the date of determination as reported in *The Wall Street Journal* or such other source as the Committee deems reliable;

(c) in the case of an Option or SAR grant made on the IPO Registration Date, the price per share at which Shares are initially offered for sale to the public by the Company’s underwriters in the initial public offering of Shares as set forth in the Company’s final prospectus included within the registration statement on Form S-1 filed with the SEC under the Securities Act; or

(d) by the Board or the Committee in good faith.

28.20. “Insider” means an officer or Director of the Company or any other person whose transactions in the Company’s common stock are subject to Section 16 of the Exchange Act.

28.21. “IPO Registration Date” means the date on which the Company’s registration statement on Form S-1 in connection with its initial public offering of common stock is declared effective by the SEC under the Securities Act.

28.22. “IRS” means the United States Internal Revenue Service.

28.23. “Non-Employee Director” means a Director who is not an Employee of the Company or any Parent or Subsidiary.

28.24. “Option” means an Award as defined in Section 5 and granted under the Plan.

28.25. “Parent” means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company if each of such corporations other than the Company owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

28.26. “Participant” means a person who holds an Award under this Plan.

28.27. “Performance Award” means an Award as defined in Section 10 and granted under the Plan.

28.28. "Performance Factors" means any of the factors selected by the Committee and specified in an Award Agreement, from among the following objective or subjective measures, either individually, alternatively or in any combination applied to the Participant, the Company, any business unit or Subsidiary, either individually, alternatively, or in any combination, on a GAAP or non-GAAP basis, and measured, to the extent applicable on an absolute basis or relative to a pre-established target, to determine whether the performance goals established by the Committee with respect to applicable Awards have been satisfied:

- (a) Profit Before Tax;
- (b) Sales;
- (c) Expenses;
- (d) Billings;
- (e) Revenue;
- (f) Net revenue;
- (g) Earnings (which may include earnings before interest and taxes, earnings before taxes, net earnings, stock-based compensation expenses, depreciation and amortization);
- (h) Operating income;
- (i) Operating margin;
- (j) Operating profit;
- (k) Controllable operating profit, or net operating profit;
- (l) Net Profit;
- (m) Gross margin;
- (n) Operating expenses or operating expenses as a percentage of revenue;
- (o) Net income;
- (p) Earnings per share;
- (q) Total stockholder return;
- (r) Market share;
- (s) Return on assets or net assets;
- (t) The Company's stock price;
- (u) Growth in stockholder value relative to a pre-determined index;
- (v) Return on equity;

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- (w) Return on invested capital;
 - (x) Cash Flow (including free cash flow or operating cash flows);
 - (y) Balance of cash, cash equivalents and marketable securities;
 - (z) Cash conversion cycle;
 - (aa) Economic value added;
 - (bb) Individual confidential business objectives;
 - (cc) Contract awards or backlog;
 - (dd) Overhead or other expense reduction;
 - (ee) Credit rating;
 - (ff) Completion of an identified special project;
 - (gg) Completion of a joint venture or other corporate transaction;
 - (hh) Strategic plan development and implementation;
 - (ii) Succession plan development and implementation;
 - (jj) Improvement in workforce diversity;
 - (kk) Employee satisfaction;
 - (ll) Employee retention;
 - (mm) Customer indicators and/or satisfaction;
 - (nn) New product invention or innovation;
 - (oo) Research and development expenses;
 - (pp) Attainment of research and development milestones;
 - (qq) Improvements in productivity;
 - (rr) Bookings;
 - (ss) Working-capital targets and changes in working capital;
 - (tt) Attainment of operating goals and employee metrics; and
 - (uu) Any other metric as determined by the Committee.

The Committee may provide for one or more equitable adjustments to the Performance Factors to preserve the Committee's original intent regarding the Performance Factors at the time of the initial award grant, such as but not limited to, adjustments in recognition of unusual or non-recurring items such as acquisition related activities or changes in applicable accounting rules. It is within the sole discretion of the Committee to make or not make any such equitable adjustments.

28.29. "Performance Period" means one or more periods of time, which may be of varying and overlapping durations, as the Committee may select, over which the attainment of one or more Performance Factors will be measured for the purpose of determining a Participant's right to, and the payment of, a Performance Award.

28.30. "Performance Share" means an Award as defined in Section 10 and granted under the Plan.

28.31. "Permitted Transferee" means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law (including adoptive relationships) of the Employee, any person sharing the Employee's household (other than a tenant or employee), a trust in which these persons (or the Employee) have more than 50% of the beneficial interest, a foundation in which these persons (or the Employee) control the management of assets, and any other entity in which these persons (or the Employee) own more than 50% of the voting interests.

28.32. "Performance Unit" means an Award as defined in Section 10 and granted under the Plan.

28.33. "Plan" means this Arcutis Biotherapeutics, Inc. 2020 Equity Incentive Plan.

28.34. "Purchase Price" means the price to be paid for Shares acquired under the Plan, other than Shares acquired upon exercise of an Option or SAR.

28.35. "Restricted Stock Award" means an Award as defined in Section 6 and granted under the Plan (or issued pursuant to the early exercise of an Option).

28.36. "Restricted Stock Unit" means an Award as defined in Section 9 and granted under the Plan.

28.37. "SEC" means the United States Securities and Exchange Commission.

28.38. "Securities Act" means the United States Securities Act of 1933, as amended.

28.39. "Service" means service as an Employee, Consultant, Director or Non-Employee Director, to the Company or a Parent, Subsidiary or Affiliate, subject to such further limitations as may be set forth in the Plan or the applicable Award Agreement. An Employee will not be deemed to have ceased to provide Service in the case of (a) sick leave, (b) military leave, or (c) any other leave of absence approved by the Company; provided, that such leave is for a period of not more than 90 days unless reemployment upon the expiration of such leave is guaranteed by contract or statute. Notwithstanding anything to the contrary, an Employee will not be deemed to have ceased to provide Service if a formal policy adopted from time to time by the Company and issued and promulgated to employees in writing provides otherwise. In the case of any Employee on an approved leave of absence or a reduction in hours worked (for illustrative purposes only, a change in schedule from that of full-time to part-time), the Committee may make such provisions respecting suspension or modification of vesting of the Award while on leave from the employ of the Company or a Parent, Subsidiary or Affiliate or during such change in working hours as it may deem appropriate, except that in no event may an Award be exercised after the expiration of the term set forth in the applicable Award Agreement. In the event of military or other protected leave, if required by applicable laws, vesting will continue for the longest period that

vesting continues under any other statutory or Company approved leave of absence and, upon a Participant's returning from military leave, he or she will be given vesting credit with respect to Awards to the same extent as would have applied had the Participant continued to provide Service to the Company throughout the leave on the same terms as he or she was providing Service immediately prior to such leave. An Employee will have terminated employment as of the date he or she ceases to provide Service (regardless of whether the termination is in breach of local employment laws or is later found to be invalid) and employment will not be extended by any notice period or garden leave mandated by local law, *provided however*, a change in status from an Employee to a Consultant or a Non-Employee Director (or vice versa) will not terminate a Participant's Service, unless determined by the Committee, in its discretion or to the extent set forth in the applicable Award Agreement. The Committee will have sole discretion to determine whether a Participant has ceased to provide Service and the effective date on which the Participant ceased to provide Service.

28.40. "Shares" means shares of the common stock of the Company.

28.41. "Stock Appreciation Right" means an Award as defined in Section 8 and granted under the Plan.

28.42. "Stock Bonus" means an Award granted pursuant to Section 7 of the Plan.

28.43. "Subsidiary" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company if each of the corporations other than the last corporation in the unbroken chain owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

28.44. "Treasury Regulations" means regulations promulgated by the United States Treasury Department.

28.45. "Unvested Shares" means Shares that have not yet vested or are subject to a right of repurchase in favor of the Company (or any successor thereto).

ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN
GLOBAL NOTICE OF STOCK OPTION GRANT

Unless otherwise defined herein, the terms defined in the Arcutis Biotherapeutics, Inc. (the “**Company**”) 2020 Equity Incentive Plan (the “**Plan**”) will have the same meanings in this Global Notice of Stock Option Grant and the electronic representation of this Global Notice of Stock Option Grant established and maintained by the Company or a third party designated by the Company (this “**Notice**”).

Name:

Address:

You (“**Participant**”) have been granted an option to purchase shares of common stock of the Company (the “**Option**”) under the Plan subject to the terms and conditions of the Plan, this Notice and the attached Global Stock Option Award Agreement (the “**Option Agreement**”), including any applicable country-specific provisions in the appendix attached hereto (the “**Appendix**”), which constitutes part of the Option Agreement.

Grant Number:

Date of Grant:

Vesting Commencement Date:

Exercise Price per Share:

Total Number of Shares:

Type of Option: Non-Qualified Stock Option
 Incentive Stock Option

Expiration Date: _____, 20__; This Option expires earlier if Participant’s Service terminates earlier, as described in the Option Agreement.

Vesting Schedule: Subject to the limitations set forth in this Notice, the Plan and the Option Agreement, the Option will vest in accordance with the following schedule: [insert applicable vesting schedule, which may be time-based, performance-based or a both]

By accepting (whether in writing, electronically or otherwise) the Option, Participant acknowledges and agrees to the following:

- 1) Participant understands that Participant’s Service with the Company or a Parent or Subsidiary or Affiliate is for an unspecified duration, can be terminated at any time (*i.e.*, is “at-will”), except where otherwise prohibited by applicable law, and that nothing in this Notice, the Option Agreement or the Plan changes the nature of that relationship. Participant acknowledges that the vesting of the Option pursuant to this Notice is subject to Participant’s continuing Service as an Employee, Director or Consultant. To the extent permitted by applicable law, Participant agrees and acknowledges that the Vesting Schedule may change prospectively in the event that Participant’s Service status changes between full- and part-time and/or in the event Participant is on a leave of absence, in accordance with Company policies relating to work schedules and vesting of Awards or as determined by the Committee to the extent permitted by applicable law. Furthermore, the period during which Participant may exercise the Option after termination of Service, if any, will commence on the Termination Date (as defined in the Option Agreement).
- 2) This grant is made under and governed by the Plan, the Option Agreement and this Notice, and this Notice is subject to the terms and conditions of the Option Agreement and the Plan, both of which are incorporated herein by reference. Participant has read the Notice, the Option Agreement and the Plan.
- 3) Participant has read the Company’s Insider Trading Policy, and agrees to comply with such policy, as it may be amended from time to time, whenever Participant acquires or disposes of the Company’s securities.
- 4) By accepting the Option, Participant consents to electronic delivery and participation as set forth in the Option Agreement.

ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN
GLOBAL STOCK OPTION AWARD AGREEMENT

Unless otherwise defined in this Global Stock Option Award Agreement (this “**Option Agreement**”), any capitalized terms used herein will have the meaning ascribed to them in the Arcutis Biotherapeutics, Inc. 2020 Equity Incentive Plan (the “**Plan**”).

Participant has been granted an option to purchase Shares (the “**Option**”) of Arcutis Biotherapeutics, Inc. (the “**Company**”), subject to the terms, restrictions and conditions of the Plan, the Global Notice of Stock Option Grant (the “**Notice**”) and this Option Agreement, including any applicable country-specific provisions in the appendix attached hereto (the “**Appendix**”), which constitutes part of this Option Agreement.

1. Vesting Rights. Subject to the applicable provisions of the Plan and this Option Agreement, this Option may be exercised, in whole or in part, in accordance with the Vesting Schedule set forth in the Notice. Participant acknowledges that the vesting of the Option pursuant to this Notice and Agreement is subject to Participant’s continuing Service as an Employee, Director or Consultant.

2. Grant of Option. Participant has been granted an Option for the number of Shares set forth in the Notice at the exercise price per Share in U.S. Dollars set forth in the Notice (the “**Exercise Price**”). In the event of a conflict between the terms and conditions of the Plan and the terms and conditions of this Option Agreement, the terms and conditions of the Plan shall prevail. If designated in the Notice as an Incentive Stock Option (“**ISO**”), this Option is intended to qualify as an Incentive Stock Option under Section 422 of the Code. However, if this Option is intended to be an ISO, to the extent that it exceeds the U.S. \$100,000 rule of Code Section 422(d) it shall be treated as a Nonqualified Stock Option (“**NSO**”).

3. Termination Period.

(a) **General Rule.** If Participant’s Service terminates for any reason except death or Disability, and other than for Cause, then this Option will expire at the close of business at Company headquarters on the date three (3) months after Participant’s Termination Date (as defined below) (or such shorter time period not less than thirty (30) days or longer time period as may be determined by the Committee, with any exercise beyond three (3) months after the date Participant’s Service terminates deemed to be the exercise of an NSO). The Company determines when Participant’s Service terminates for all purposes under this Option Agreement.

(b) **Death; Disability.** If Participant dies before Participant’s Service terminates (or Participant dies within three months of Participant’s termination of Service other than for Cause), then this Option will expire at the close of business at Company headquarters on the date twelve (12) months after the date of death (or such shorter time period not less than six (6) months or longer time period as may be determined by the Committee, subject to the expiration details in Section 7). If Participant’s Service terminates because of Participant’s Disability, then this Option will expire at the close of business at Company headquarters on the date twelve (12) months after Participant’s Termination Date (or such shorter time period not less than six (6) months or longer time period as may be determined by the Committee, subject to the expiration details in Section 7).

(c) **Cause.** Unless otherwise determined by the Committee, the Option (whether or not vested) will terminate immediately upon the Participant’s cessation of Services if the Company reasonably determines in good faith that such cessation of Services has resulted in connection with an act or failure to act constituting Cause (or the Participant’s Services could have been terminated for Cause (without regard to the lapsing of any required notice or cure periods in connection therewith) at the time the Participant terminated Services).

(d) No Notification of Exercise Periods. Participant is responsible for keeping track of these exercise periods following Participant's termination of Service for any reason. The Company will not provide further notice of such periods. In no event shall this Option be exercised later than the Expiration Date set forth in the Notice.

(e) Termination. For purposes of this Option, Participant's Service will be considered terminated (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any) as of the date Participant is no longer actively providing services to the Company, its Parent or one of its Subsidiaries or Affiliates (i.e., Participant's period of Service would not include any contractual notice period or any period of "garden leave" or similar period mandated under employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any) (the "**Termination Date**"). Unless otherwise provided in this Option Agreement or determined by the Company, Participant's right to vest in the Option under the Plan, if any, will terminate as of the Termination Date and Participant's right to exercise the Option after termination of Service, if any, will be measured from the Termination Date.

In case of any dispute as to whether and when a termination of Service has occurred, the Committee will have sole discretion to determine whether such termination of Service has occurred and the effective date of such termination (including whether Participant may still be considered to be actively providing Services while on a leave of absence).

If Participant does not exercise this Option within the termination period set forth in the Notice or the termination periods set forth above, the Option shall terminate in its entirety. In no event, may any Option be exercised after the Expiration Date of the Option as set forth in the Notice.

4. Exercise of Option

(a) Right to Exercise. This Option is exercisable during its term in accordance with the Vesting Schedule set forth in the Notice and the applicable provisions of the Plan and this Option Agreement. In the event of Participant's death, Disability, termination for Cause or other cessation of Service, the exercisability of the Option is governed by the applicable provisions of the Plan, the Notice and this Option Agreement. This Option may not be exercised for a fraction of a Share.

(b) Method of Exercise. This Option is exercisable by delivery of an exercise notice in a form specified by the Company (the "**Exercise Notice**"), which will state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised (the "**Exercised Shares**"), and such other representations and agreements as may be required by the Company pursuant to the provisions of the Plan. The Exercise Notice will be delivered in person, by mail, via electronic mail or facsimile or by other authorized method to the Secretary of the Company or other person designated by the Company. The Exercise Notice will be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares together with any applicable Tax-Related Items (as defined in Section 8 below). This Option will be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by such aggregate Exercise Price and payment of any applicable Tax-Related Items (as defined below). No Shares will be issued pursuant to the exercise of this Option unless such issuance and exercise complies with all relevant provisions of law and the requirements of any stock exchange or quotation service upon which the Shares are then listed and any exchange control registrations. Assuming such compliance, for United States income tax purposes the Exercised Shares will be considered transferred to Participant on the date the Option is exercised with respect to such Exercised Shares.

(c) **Exercise by Another.** If another person wants to exercise this Option after it has been transferred to him or her in compliance with this Option Agreement, that person must prove to the Company's satisfaction that he or she is entitled to exercise this Option. That person must also complete the proper Exercise Notice form (as described above) and pay the Exercise Price (as described below) and any applicable Tax-Related Items (as described below).

5. Method of Payment. Payment of the aggregate Exercise Price, and any Tax-Related Items withholding, will be by any of the following, or a combination thereof, at the election of Participant:

(a) Participant's personal check (representing readily available funds), wire transfer, or a cashier's check;

(b) if permitted by the Committee, certificates for shares of Company stock that Participant owns, along with any forms needed to effect a transfer of those shares to the Company; the value of the shares, determined as of the effective date of the Option exercise, will be applied to the Exercise Price. Instead of surrendering shares of Company stock, Participant may attest to the ownership of those shares on a form provided by the Company and have the same number of shares subtracted from the Option shares issued to Participant. However, Participant may not surrender, or attest to the ownership of, shares of Company stock in payment of the Exercise Price of Participant's Option if Participant's action would cause the Company to recognize compensation expense (or additional compensation expense) with respect to this Option for financial reporting purposes;

(c) cashless exercise through irrevocable directions to a securities broker approved by the Company to sell all or part of the Shares covered by this Option and to deliver to the Company from the sale proceeds an amount sufficient to pay the Exercise Price and any applicable Tax-Related Items withholding. The balance of the sale proceeds, if any, will be delivered to Participant unless otherwise provided in this Option Agreement. The directions must be given by signing a special notice of exercise form provided by the Company; or

(d) other method authorized by the Company;

provided, however, that the Company may restrict the available methods of payment due to facilitate compliance with applicable law or administration of the Plan. In particular, if Participant is located outside the United States, Participant should review the applicable provisions of the Appendix for any such restrictions that may currently apply.

6. Non-Transferability of Option. This Option may not be sold, assigned, transferred, pledged, hypothecated, or otherwise disposed of other than by will or by the laws of descent or distribution or court order and may be exercised during the lifetime of Participant only by Participant or unless otherwise permitted by the Committee on a case-by-case basis. The terms of the Plan and this Option Agreement will be binding upon the executors, administrators, heirs, successors and assigns of Participant.

7. Term of Option. This Option will in any event expire on the expiration date set forth in the Notice, which date is 10 years after the Date of Grant (five years after the Date of Grant if this option is designated as an ISO in the Notice of Stock Option Grant and Section 5.3 of the Plan applies).

8. Taxes.

(a) **Responsibility for Taxes.** Participant acknowledges that, to the extent permitted by applicable law, regardless of any action taken by the Company or a Parent, Subsidiary or Affiliate employing or retaining Participant (the "**Employer**"), the ultimate liability for all income tax, social insurance, payroll tax, fringe benefits tax, payment on account or other tax related items related to

Participant's participation in the Plan and legally applicable to Participant ("**Tax-Related Items**") is and remains Participant's responsibility and may exceed the amount actually withheld by the Company or the Employer, if any. Participant further acknowledges that the Company and/or the Employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of this Option, including, but not limited to, the grant, vesting or exercise of this Option, the subsequent sale of Shares acquired pursuant to such exercise and the receipt of any dividends; and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of this Option to reduce or eliminate Participant's liability for Tax-Related Items or achieve any particular tax result. Further, if Participant is subject to Tax-Related Items in more than one jurisdiction, Participant acknowledges that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction. *PARTICIPANT SHOULD CONSULT A TAX ADVISER APPROPRIATELY QUALIFIED IN EACH OF THE JURISDICTIONS, INCLUDING COUNTRY OR COUNTRIES IN WHICH PARTICIPANT RESIDES OR IS SUBJECT TO TAXATION BEFORE EXERCISING THE OPTION OR DISPOSING OF THE SHARES.*

(b) Withholding. Prior to any relevant taxable or tax withholding event, as applicable, to the extent permitted by applicable law Participant agrees to make arrangements satisfactory to the Company and/or the Employer to fulfill all Tax-Related Items. In this regard, Participant authorizes the Company and/or the Employer, or their respective agents, at their discretion, to satisfy any withholding obligations for Tax-Related Items by one or a combination of the following:

- (i) withholding from Participant's wages or other cash compensation paid to Participant by the Company and/or the Employer or any Parent, Subsidiary or Affiliate; or
- (ii) withholding from proceeds of the sale of Shares acquired at exercise of this Option either through a voluntary sale or through a mandatory sale arranged by the Company (on Participant's behalf pursuant to this authorization and without further consent); or
- (iii) withholding Shares to be issued upon exercise of the Option, provided the Company only withholds the number of Shares necessary to satisfy no more than the maximum statutory withholding amounts;
- (iv) Participant's payment of a cash amount (including by check representing readily available funds or a wire transfer); or
- (v) any other arrangement approved by the Committee and permitted under applicable law;

all under such rules as may be established by the Committee and in compliance with the Company's Insider Trading Policy and 10b5-1 Trading Plan Policy, if applicable; provided however, that if Participant is a Section 16 officer of the Company under the Exchange Act, then the Committee (as constituted in accordance with Rule 16b-3 under the Exchange Act) shall establish the method of withholding from alternatives (i)-(v) above, and the Committee shall establish the method prior to the Tax-Related Items withholding event.

Depending on the withholding method, the Company may withhold or account for Tax-Related Items by considering applicable statutory withholding rates or other applicable withholding rates, including up to the maximum permissible statutory rate for Participant's tax jurisdiction(s) in which case Participant will have no entitlement to the equivalent amount in Shares and may receive a refund of any over-withheld amount in cash in accordance with applicable law. If the obligation for Tax-Related Items is satisfied by withholding in Shares, for tax purposes, Participant is deemed to have been issued the full number of Exercised Shares; notwithstanding that a number of the Shares are held back solely for the purpose of satisfying the withholding obligation for Tax-Related Items.

Finally, Participant agrees to pay to the Company or the Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of Participant's participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver the Shares or the proceeds of the sale of Shares, if Participant fails to comply with Participant's obligations in connection with the Tax-Related Items.

(c) Notice of Disqualifying Disposition of ISO Shares. If Participant is subject to Tax-Related Items in the United States and sells or otherwise disposes of any of the Shares acquired pursuant to an ISO on or before the later of (i) two years after the grant date, or (ii) one year after the exercise date, Participant will immediately notify the Company in writing of such disposition. Participant agrees that he or she may be subject to income tax withholding by the Company on the compensation income recognized from such early disposition of ISO Shares by payment in cash or out any wages or other cash compensation paid to Participant by the Company and/or the Employer or any Parent, Subsidiary or Affiliate.

9. Nature of Grant. By accepting the Option, Participant acknowledges, understands and agrees that:

(a) the Plan is established voluntarily by the Company, it is discretionary in nature and it may be modified, amended, suspended or terminated by the Company at any time, to the extent permitted by the Plan;

(b) the grant of the Option is exceptional, voluntary and occasional and does not create any contractual or other right to receive future grants of options, or benefits in lieu of options, even if options have been granted in the past;

(c) all decisions with respect to future options or other grants, if any, will be at the sole discretion of the Company;

(d) Participant is voluntarily participating in the Plan;

(e) the Option and Participant's participation in the Plan will not create a right to employment or be interpreted as forming or amending an employment or service contract with the Company, the Employer or any Parent, Subsidiary or Affiliate, and shall not interfere with the ability of the Company, the Employer or any Parent, Subsidiary or Affiliate, as applicable, to terminate Participant's employment or service relationship (if any);

(f) the Option and the Shares subject to the Option, and the income from and value of same, are not intended to replace any pension rights or compensation;

(g) the Option and the Shares subject to the Option, and the income from and value of same, are not part of normal or expected compensation for any purpose, including, but not limited to, calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, long-service awards, pension or retirement or welfare benefits or similar payments;

(h) unless otherwise agreed with the Company, the Option and the Shares subject to the Option, and the income from and value of same, are not granted as consideration for, or in connection with, the service Participant may provide as a director of a Parent, Subsidiary or Affiliate;

(i) the future value of the Shares underlying the Option is unknown, indeterminable and cannot be predicted with certainty; if the underlying Shares do not increase in value, the Option will have no value; if Participant exercises the Option and acquires Shares, the value of such Shares may increase or decrease, even below the Exercise Price;

(j) no claim or entitlement to compensation or damages will arise from forfeiture of the Option resulting from Participant's termination of Service (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any); and

(k) neither the Company, the Employer nor any Parent, Subsidiary or Affiliate will be liable for any foreign exchange rate fluctuation between Participant's local currency and the United States Dollar that may affect the value of the Option or of any amounts due to Participant pursuant to the exercise of the Option or the subsequent sale of any Shares acquired upon exercise.

10. No Advice Regarding Grant. The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding Participant's participation in the Plan, or Participant's acquisition or sale of the underlying Shares. Participant acknowledges, understands and agrees that he or she should consult with his or her own personal tax, legal and financial advisors regarding his or her participation in the Plan before taking any action related to the Plan.

11. Data Privacy. *Participant hereby explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of Participant's personal data as described in this Option Agreement and any other Option grant materials by and among, as applicable, the Employer, the Company and any Parent, Subsidiary or Affiliate for the exclusive purpose of implementing, administering and managing Participant's participation in the Plan.*

Participant understands that the Company and the Employer may hold certain personal information about Participant, including, but not limited to, Participant's name, home address, email address and telephone number, date of birth, social insurance number, passport number or other identification number (e.g., resident registration number), salary, nationality, job title, any shares of stock or directorships held in the Company, details of all Options or any other entitlement to shares of stock awarded, canceled, exercised, vested, unvested or outstanding in Participant's favor ("Data"), for the exclusive purpose of implementing, administering and managing the Plan.

Participant understands that Data will be transferred to the Company's designated third-party broker, or other third party ("Online Administrator") and its affiliated companies or such other stock plan service provider as may be designated by the Company from time to time, which is assisting the Company with the implementation, administration and management of the Plan. Participant understands that the recipients of Data may be located in the United States or elsewhere, and that the recipients' country may have different data privacy laws and protections than Participant's country. Participant understands that if he or she resides outside the United States, he or she may request a list with the names and addresses of any potential recipients of Data by contacting his or her local human resources representative. Participant authorizes the Company, the Company's designated third-party broker, or such other stock plan service provider as may be designated by the Company from time to time, and any other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer Data, in electronic or other form, for the sole purpose of implementing, administering and managing his or her participation in the Plan. Participant understands that Data will be held only as long as is necessary to implement, administer and manage Participant's participation in the Plan. Participant understands if he or she resides outside the United States, he or she may, at any time, view Data, request information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting his or her local human resources representative. Further, Participant understands that he or she is providing the consents herein on a purely voluntary basis. If Participant does not consent, or if Participant later

seeks to revoke his or her consent, his or her employment status or service with the Employer will not be affected; the only consequence of refusing or withdrawing Participant's consent is that the Company would not be able to grant Options or other equity awards to Participant or administer or maintain such awards. Therefore, Participant understands that refusing or withdrawing his or her consent may affect Participant's ability to participate in the Plan. For more information on the consequences of Participant's refusal to consent or withdrawal of consent, Participant understands that he or she may contact his or her local human resources representative.

Finally, upon request of the Company or the Employer, Participant agrees to provide an executed data privacy consent form (or any other agreements or consents) that the Company or the Employer may deem necessary to obtain from Participant for the purpose of administering Participant's participation in the Plan in compliance with the data privacy laws in Participant's country, either now or in the future. Participant understands and agrees that Participant will not be able to participate in the Plan if Participant fails to provide any such consent or agreement requested by the Company and/or the Employer.

12. Language. Participant acknowledges that he or she is sufficiently proficient in English to understand the terms and conditions of this Option Agreement. Furthermore, if Participant has received this Option Agreement, or any other document related to the Option and/or the Plan translated into a language other than English and if the meaning of the translated version is different than the English version, the English version will control.

13. Appendix. Notwithstanding any provisions in this Option Agreement, the Option will be subject to any special terms and conditions set forth in any appendix to this Option Agreement for Participant's country. Moreover, if Participant relocates to one of the countries included in the Appendix, the special terms and conditions for such country will apply to Participant, to the extent the Company determines that the application of such terms and conditions is necessary or advisable for legal or administrative reasons. The Appendix constitutes part of this Option Agreement.

14. Imposition of Other Requirements. The Company reserves the right to impose other requirements on Participant's participation in the Plan, on the Option and on any Shares purchased upon exercise of the Option, to the extent the Company determines it is necessary or advisable for legal or administrative reasons, and to require Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.

15. Acknowledgement. The Company and Participant agree that the Option is granted under and governed by the Notice, this Option Agreement and the provisions of the Plan (incorporated herein by reference). Participant: (a) acknowledges receipt of a copy of the Plan and the Plan prospectus, (b) represents that Participant has carefully read and is familiar with their provisions, and (c) hereby accepts the Option subject to all of the terms and conditions set forth herein and those set forth in the Plan and the Notice.

16. Entire Agreement; Enforcement of Rights. This Option Agreement, the Plan and the Notice constitute the entire agreement and understanding of the parties relating to the subject matter herein and supersede all prior discussions between them. Any prior agreements, commitments or negotiations concerning the purchase of the Shares hereunder are superseded. No adverse modification of, or adverse amendment to, this Option Agreement, nor any waiver of any rights under this Option Agreement, will be effective unless in writing and signed by the parties to this Option Agreement (which writing and signing may be electronic). The failure by either party to enforce any rights under this Option Agreement will not be construed as a waiver of any rights of such party.

17. Compliance with Laws and Regulations. The issuance of Shares will be subject to and conditioned upon compliance by the Company and Participant with all applicable state, federal and foreign laws and regulations and with all applicable requirements of any stock exchange or automated quotation system on which the Company's Shares may be listed or quoted at the time of such issuance or transfer. Participant understands that the Company is under no obligation to register or qualify the Shares with any state, federal or foreign securities commission or to seek approval or clearance from any governmental authority for the issuance or sale of the Shares. Further, Participant agrees that the Company shall have unilateral authority to amend the Plan and this Option Agreement without Participant's consent to the extent necessary to comply with securities or other laws applicable to issuance of Shares. Finally, the Shares issued pursuant to this Option Agreement shall be endorsed with appropriate legends, if any, determined by the Company.

18. Severability. If one or more provisions of this Option Agreement are held to be unenforceable under applicable law, then such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, then (a) such provision will be excluded from this Option Agreement, (b) the balance of this Option Agreement will be interpreted as if such provision were so excluded and (c) the balance of this Option Agreement will be enforceable in accordance with its terms.

19. Governing Law and Venue. This Option Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto will be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to such state's conflict of laws rules.

Any and all disputes relating to, concerning or arising from this Option Agreement, or relating to, concerning or arising from the relationship between the parties evidenced by the Plan or this Option Agreement, will be brought and heard exclusively in the United States District Court for the District of Southern California or the Superior Court of California, County of Los Angeles. Each of the parties hereby represents and agrees that such party is subject to the personal jurisdiction of said courts; hereby irrevocably consents to the jurisdiction of such courts in any legal or equitable proceedings related to, concerning or arising from such dispute, and waives, to the fullest extent permitted by law, any objection which such party may now or hereafter have that the laying of the venue of any legal or equitable proceedings related to, concerning or arising from such dispute which is brought in such courts is improper or that such proceedings have been brought in an inconvenient forum.

20. No Rights as Employee, Director or Consultant. Nothing in this Option Agreement will affect in any manner whatsoever any right or power of the Company, or a Parent, Subsidiary or Affiliate, to terminate Participant's Service, for any reason, with or without Cause.

21. Consent to Electronic Delivery of All Plan Documents and Disclosures. By Participant's acceptance of the Notice (whether in writing or electronically), Participant and the Company agree that this Option is granted under and governed by the terms and conditions of the Plan, the Notice and this Option Agreement. Participant has reviewed the Plan, the Notice and this Option Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing the Notice and Agreement, and fully understands all provisions of the Plan, the Notice and this Option Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Committee upon any questions relating to the Plan, the Notice and this Option Agreement. Participant further agrees to notify the Company upon any change in the residence address. By acceptance of this Option, Participant agrees to participate in the Plan through an on-line or electronic system established and maintained by the Company or a third party designated by the Company and consents to the electronic delivery of the Notice, this Option Agreement, the Plan, account statements, Plan prospectuses required by the SEC, U.S. financial reports of the Company, and all other documents that the Company is required to deliver to its security holders (including, without limitation, annual reports and proxy statements) or other communications or information related to the Option and current or future participation in the Plan. Electronic delivery may include the delivery of a link to the Company intranet or the internet site of a third party involved in administering the Plan, the delivery of the document via e-mail or such other delivery determined at the Company's discretion. Participant acknowledges that

Participant may receive from the Company a paper copy of any documents delivered electronically at no cost if Participant contacts the Company by telephone, through a postal service or electronic mail to Stock Administration. Participant further acknowledges that Participant will be provided with a paper copy of any documents delivered electronically if electronic delivery fails; similarly, Participant understands that Participant must provide on request to the Company or any designated third party a paper copy of any documents delivered electronically if electronic delivery fails. Also, Participant understands that Participant's consent may be revoked or changed, including any change in the electronic mail address to which documents are delivered (if Participant has provided an electronic mail address), at any time by notifying the Company of such revised or revoked consent by telephone, postal service or electronic mail to Stock Administration.

22. Insider Trading Restrictions/Market Abuse Laws. Participant acknowledges that, depending on Participant's country of residence, the broker's country, or the country in which the Shares are listed, Participant may be subject to insider trading restrictions and/or market abuse laws in applicable jurisdictions, which may affect Participant's ability to directly or indirectly, accept, acquire, sell or attempt to sell or otherwise dispose of Shares, or rights to Shares (e.g., Options), or rights linked to the value of Shares, during such times as Participant is considered to have "inside information" regarding the Company (as defined by the laws or regulations in the applicable jurisdiction). Local insider trading laws and regulations may prohibit the cancellation or amendment of orders Participant placed before possessing the inside information. Furthermore, Participant may be prohibited from (i) disclosing the inside information to any third party, including fellow employees (other than on a "need to know" basis) and (ii) "tipping" third parties or causing them to otherwise buy or sell securities. Any restrictions under these laws or regulations are separate from and in addition to any restrictions that may be imposed under any applicable Company insider trading policy. Participant acknowledges that it is Participant's responsibility to comply with any applicable restrictions and understands that Participant should consult his or her personal legal advisor on such matters. In addition, Participant acknowledges that he or she read the Company's Insider Trading Policy, and agrees to comply with such policy, as it may be amended from time to time, whenever Participant acquires or disposes of the Company's securities.

23. Foreign Asset/Account, Exchange Control and Tax Reporting. Participant may be subject to foreign asset/account, exchange control and/or tax reporting requirements as a result of the acquisition, holding and/or transfer of Shares or cash resulting from his or her participation in the Plan. Participant may be required to report such accounts, assets, the balances therein, the value thereof and/or the transactions related thereto to the applicable authorities in Participant's country and/or repatriate funds received in connection with the Plan within certain time limits or according to specified procedures. Participant acknowledges that he or she is responsible for ensuring compliance with any applicable foreign asset/account, exchange control and tax reporting requirements and should consult his or her personal legal and tax advisors on such matters.

24. Award Subject to Company Clawback or Recoupment. The Option shall be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy adopted by the Board or required by law during the term of Participant's employment or other Service that is applicable to Participant. In addition to any other remedies available under such policy, applicable law may require the cancellation of Participant's Option (whether vested or unvested) and the recoupment of any gains realized with respect to Participant's Option.

BY ACCEPTING THIS OPTION, PARTICIPANT AGREES TO ALL OF THE TERMS AND CONDITIONS DESCRIBED ABOVE AND IN THE PLAN.

APPENDIX
ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN
GLOBAL STOCK OPTION AWARD AGREEMENT
COUNTRY SPECIFIC PROVISIONS FOR EMPLOYEES OUTSIDE THE U.S.

Not applicable

ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN
GLOBAL NOTICE OF RESTRICTED STOCK UNIT AWARD

Unless otherwise defined herein, the terms defined in the Arcutis Biotherapeutics, Inc. (the “**Company**”) 2020 Equity Incentive Plan (the “**Plan**”) will have the same meanings in this Global Notice of Restricted Stock Unit Award and the electronic representation of this Global Notice of Restricted Stock Unit Award established and maintained by the Company or a third party designated by the Company (this “**Notice**”).

Name:
Address:

You (“**Participant**”) have been granted an award of Restricted Stock Units (“**RSUs**”) under the Plan subject to the terms and conditions of the Plan, this Notice and the attached Global Restricted Stock Unit Award Agreement (the “**Agreement**”), including any applicable country-specific provisions in the appendix attached hereto (the “**Appendix**”), which constitutes part of the Agreement.

Grant Number:

Number of RSUs:

Date of Grant:

Vesting Commencement Date:

Expiration Date: The earlier to occur of: (a) the date on which settlement of all RSUs granted hereunder occurs and (b) the tenth anniversary of the Date of Grant. This RSU expires earlier if Participant’s Service terminates earlier, as described in the Agreement.

Vesting Schedule: Subject to the limitations set forth in this Notice, the Plan and the Agreement, the RSUs will vest in accordance with the following schedule: [insert applicable vesting schedule]

By accepting (whether in writing, electronically or otherwise) the RSUs, Participant acknowledges and agrees to the following:

- 1) Participant understands that Participant’s Service with the Company or a Parent or Subsidiary or Affiliate is for an unspecified duration, can be terminated at any time (*i.e.*, is “at-will”), except where otherwise prohibited by applicable law, and that nothing in this Notice, the Agreement or the Plan changes the nature of that relationship. Participant acknowledges that the vesting of the RSUs pursuant to this Notice is subject to Participant’s continuing Service as an Employee, Director or Consultant. To the extent permitted by applicable law, Participant agrees and acknowledges that the Vesting Schedule may change prospectively in the event that Participant’s Service status changes between full- and part-time and/or in the event Participant is on a leave of absence, in accordance with Company policies relating to work schedules and vesting of Awards or as determined by the Committee.
- 2) This grant is made under and governed by the Plan, the Agreement and this Notice, and this Notice is subject to the terms and conditions of the Agreement and the Plan, both of which are incorporated herein by reference. Participant has read the Notice, the Agreement and the Plan.
- 3) Participant has read the Company’s Insider Trading Policy, and agrees to comply with such policy, as it may be amended from time to time, whenever Participant acquires or disposes of the Company’s securities.
- 4) By accepting the RSUs, Participant consents to electronic delivery and participation as set forth in the Agreement.

ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN
GLOBAL RESTRICTED STOCK UNIT AWARD AGREEMENT

Unless otherwise defined in this Global Restricted Stock Unit Award Agreement (this “**Agreement**”), any capitalized terms used herein will have the same meaning ascribed to them in the Arcutis Biotherapeutics, Inc. 2020 Equity Incentive Plan (the “**Plan**”).

Participant has been granted Restricted Stock Units (“**RSUs**”) subject to the terms, restrictions and conditions of the Plan, the Global Notice of Restricted Stock Unit Award (the “**Notice**”) and this Agreement, including any applicable country-specific provisions in the appendix attached hereto (the “**Appendix**”), which constitutes part of this Agreement. In the event of a conflict between the terms and conditions of the Plan and the terms and conditions of the Notice or this Agreement, the terms and conditions of the Plan shall prevail.

- 1. Settlement.** Settlement of RSUs will be made within 30 days following the applicable date of vesting under the Vesting Schedule set forth in the Notice. Settlement of RSUs will be in Shares. No fractional RSUs or rights for fractional Shares shall be created pursuant to this Agreement.
- 2. No Stockholder Rights.** Unless and until such time as Shares are issued in settlement of vested RSUs, Participant will have no ownership of the Shares allocated to the RSUs and will have no rights to dividends or to vote such Shares.
- 3. Dividend Equivalents.** Dividends, if any (whether in cash or Shares), will not be credited to Participant.
- 4. Non-Transferability of RSUs.** The RSUs and any interest therein will not be sold, assigned, transferred, pledged, hypothecated, or otherwise disposed of in any manner other than by will or by the laws of descent or distribution or court order or unless otherwise permitted by the Committee on a case-by-case basis.
- 5. Termination.** If Participant’s Service terminates for any reason, all unvested RSUs will be forfeited to the Company forthwith, and all rights of Participant to such RSUs will immediately terminate without payment of any consideration to Participant. Participant’s Service will be considered terminated (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant’s employment agreement, if any) as of the date Participant is no longer actively providing services and Participant’s Service will not be extended by any notice period (e.g., Participant’s Service would not include a period of “garden leave” or similar period mandated under employment laws in the jurisdiction where Participant is employed or the terms of Participant’s employment agreement, if any). Participant acknowledges and agrees that the Vesting Schedule may change prospectively in the event Participant’s service status changes between full- and part-time and/or in the event Participant is on a leave of absence, in accordance with Company policies relating to work schedules and vesting of awards or as determined by the Committee. In case of any dispute as to whether and when a termination of Service has occurred, the Committee will have sole discretion to determine whether such termination of Service has occurred and the effective date of such termination (including whether Participant may still be considered to be actively providing Services while on a leave of absence).

6. Taxes.

(a) Responsibility for Taxes. Participant acknowledges that, to the extent permitted by applicable law, regardless of any action taken by the Company or a Parent, Subsidiary or Affiliate employing or retaining Participant (the “**Employer**”), the ultimate liability for all income tax, social insurance, payroll tax, fringe benefits tax, payment on account or other tax-related items related to Participant’s participation in the Plan and legally applicable to Participant (“**Tax-Related Items**”) is and remains Participant’s responsibility and may exceed the amount actually withheld by the Company or the Employer, if any. Participant further acknowledges that the Company and/or the Employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the RSUs, including, but not limited to, the grant, vesting or settlement of the RSUs and the subsequent sale of Shares acquired pursuant to such settlement and the receipt of any dividends, and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of the RSUs to reduce or eliminate Participant’s liability for Tax-Related Items or achieve any particular tax result. Further, if Participant is subject to Tax-Related Items in more than one jurisdiction, Participant acknowledges that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction. *PARTICIPANT SHOULD CONSULT A TAX ADVISER APPROPRIATELY QUALIFIED IN EACH OF THE JURISDICTIONS, INCLUDING COUNTRY OR COUNTRIES IN WHICH PARTICIPANT RESIDES OR IS SUBJECT TO TAXATION.*

(b) Withholding. Prior to any relevant taxable or tax withholding event, as applicable, to the extent permitted by applicable law, Participant agrees to make arrangements satisfactory to the Company and/or the Employer to fulfill all Tax-Related Items. In this regard, Participant authorizes the Company and/or the Employer, or their respective agents, at their discretion, to satisfy any withholding obligations for Tax-Related Items by one or a combination of the following:

- (i) withholding from Participant’s wages or other cash compensation paid to Participant by the Company and/or the Employer or any Parent, Subsidiary or Affiliate; or
- (ii) withholding from proceeds of the sale of Shares acquired upon settlement of the RSUs either through a voluntary sale or through a mandatory sale arranged by the Company (on Participant’s behalf pursuant to this authorization and without further consent); or
- (iii) withholding Shares to be issued upon settlement of the RSUs, provided the Company only withholds the number of Shares necessary to satisfy no more than the maximum statutory withholding amounts; or
- (iv) Participant’s payment of a cash amount (including by check representing readily available funds or a wire transfer); or
- (v) any other arrangement approved by the Committee and permitted under applicable law;

all under such rules as may be established by the Committee and in compliance with the Company’s Insider Trading Policy and 10b5-1 Trading Plan Policy, if applicable; provided however, that if Participant is a Section 16 officer of the Company under the Exchange Act, then the Committee (as constituted in accordance with Rule 16b-3 under the Exchange Act) shall establish the method of withholding from alternatives (i) – (v) above, and the Committee shall establish such method prior to the Tax-Related Items withholding event.

Depending on the withholding method, the Company may withhold or account for Tax-Related Items by considering applicable statutory withholding rates or other applicable withholding rates, including up to the maximum permissible statutory rate for Participant's tax jurisdiction(s) in which case Participant will have no entitlement to the equivalent amount in Shares and may receive a refund of any over-withheld amount in cash in accordance with applicable law. If the obligation for Tax-Related Items is satisfied by withholding in Shares, for tax purposes, Participant is deemed to have been issued the full number of Shares subject to the vested RSUs, notwithstanding that a number of the Shares are held back solely for the purpose of satisfying the withholding obligation for Tax-Related Items.

Finally, Participant agrees to pay to the Company or the Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of Participant's participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver the Shares or the proceeds of the sale of Shares, if Participant fails to comply with Participant's obligations in connection with the Tax-Related Items.

7. Nature of Grant. By accepting the RSUs, Participant acknowledges, understands and agrees that:

(a) the Plan is established voluntarily by the Company, it is discretionary in nature and it may be modified, amended, suspended or terminated by the Company at any time, to the extent permitted by the Plan;

(b) the grant of the RSUs is exceptional, voluntary and occasional and does not create any contractual or other right to receive future grants of RSUs, or benefits in lieu of RSUs, even if RSUs have been granted in the past;

(c) all decisions with respect to future RSUs or other grants, if any, will be at the sole discretion of the Company;

(d) Participant is voluntarily participating in the Plan;

(e) the RSUs and Participant's participation in the Plan will not create a right to employment or be interpreted as forming or amending an employment or service contract with the Company, the Employer or any Parent, Subsidiary or Affiliate and shall not interfere with the ability of the Company, the Employer or any Parent, Subsidiary or Affiliate, as applicable, to terminate Participant's employment or service relationship (if any);

(f) the RSUs and the Shares subject to the RSUs, and the income from and value of same, are not intended to replace any pension rights or compensation;

(g) the RSUs and the Shares subject to the RSUs, and the income from and value of same, are not part of normal or expected compensation for any purpose, including, but not limited to, calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, long-service awards, pension or retirement or welfare benefits or similar payments;

(h) unless otherwise agreed with the Company, the RSUs and the Shares subject to the RSUs, and the income from and value of same, are not granted as consideration for, or in connection with, the service Participant may provide as a director of a Parent, Subsidiary or Affiliate;

(i) the future value of the underlying Shares is unknown, indeterminable and cannot be predicted with certainty;

(j) no claim or entitlement to compensation or damages will arise from forfeiture of the RSUs resulting from Participant's termination of Service (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any); and

(k) neither the Company, the Employer nor any Parent, Subsidiary or Affiliate will be liable for any foreign exchange rate fluctuation between Participant's local currency and the United States Dollar that may affect the value of the RSUs or of any amounts due to Participant pursuant to the settlement of the RSUs or the subsequent sale of any Shares acquired upon settlement.

8. No Advice Regarding Grant. The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding Participant's participation in the Plan, or Participant's acquisition or sale of the underlying Shares. Participant acknowledges, understands and agrees he or she should consult with his or her own personal tax, legal and financial advisors regarding his or her participation in the Plan before taking any action related to the Plan.

9. Data Privacy. *Participant hereby explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of Participant's personal data as described in this Agreement and any other RSU grant materials by and among, as applicable, the Employer, the Company and any Parent, Subsidiary or Affiliate for the exclusive purpose of implementing, administering and managing Participant's participation in the Plan.*

Participant understands that the Company and the Employer may hold certain personal information about Participant, including, but not limited to, Participant's name, home address, email address and telephone number, date of birth, social insurance number, passport number or other identification number (e.g., resident registration number), salary, nationality, job title, any shares of stock or directorships held in the Company, details of all RSUs or any other entitlement to shares of stock awarded, canceled, exercised, vested, unvested or outstanding in Participant's favor ("Data"), for the exclusive purpose of implementing, administering and managing the Plan.

Participant understands that Data will be transferred to the Company's designated third-party broker, or other third party ("Online Administrator") and its affiliated companies or such other stock plan service provider as may be designated by the Company from time to time, which is assisting the Company with the implementation, administration and management of the Plan. Participant understands that the recipients of Data may be located in the United States or elsewhere, and that the recipients' country may have different data privacy laws and protections than Participant's country. Participant understands that if he or she resides outside the United States, he or she may request a list with the names and addresses of any potential recipients of Data by contacting his or her local human resources representative. Participant authorizes the Company, the Company's designated third-party broker, or such other stock plan service provider as may be designated by the Company from time to time, and any other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer Data, in electronic or other form, for the sole purpose of implementing, administering and managing his or her participation in the Plan. Participant understands that Data will be held only as long as is necessary to implement, administer and manage Participant's participation in the Plan. Participant understands if he or she resides outside the United States, he or she may, at any time, view Data, request information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting his or her local human resources representative. Further, Participant understands that he or she is providing the consents herein on a purely voluntary basis. If Participant does not consent, or if Participant later seeks to revoke his or her consent, his or her employment status or service with the Employer will not

be affected; the only consequence of refusing or withdrawing Participant's consent is that the Company would not be able to grant RSUs or other equity awards to Participant or administer or maintain such awards. Therefore, Participant understands that refusing or withdrawing his or her consent may affect Participant's ability to participate in the Plan. For more information on the consequences of Participant's refusal to consent or withdrawal of consent, Participant understands that he or she may contact his or her local human resources representative.

Finally, upon request of the Company or the Employer, Participant agrees to provide an executed data privacy consent form (or any other agreements or consents) that the Company or the Employer may deem necessary to obtain from Participant for the purpose of administering Participant's participation in the Plan in compliance with the data privacy laws in Participant's country, either now or in the future. Participant understands and agrees that Participant will not be able to participate in the Plan if Participant fails to provide any such consent or agreement requested by the Company and/or the Employer.

10. Language. Participant acknowledges that he or she is sufficiently proficient in English to understand the terms and conditions of this Agreement. Furthermore, if Participant has received this Agreement or any other document related to the RSU and/or the Plan translated into a language other than English and if the meaning of the translated version is different than the English version, the English version will control.

11. Appendix. Notwithstanding any provisions in this Agreement, the RSUs will be subject to any special terms and conditions set forth in any appendix to this Agreement for Participant's country. Moreover, if Participant relocates to one of the countries included in the Appendix, the special terms and conditions for such country will apply to Participant, to the extent the Company determines that the application of such terms and conditions is necessary or advisable for legal or administrative reasons. The Appendix constitutes part of this Agreement.

12. Imposition of Other Requirements. The Company reserves the right to impose other requirements on Participant's participation in the Plan, on the RSUs and on any Shares acquired under the Plan, to the extent the Company determines it is necessary or advisable for legal or administrative reasons, and to require Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.

13. Acknowledgement. The Company and Participant agree that the RSUs are granted under and governed by the Notice, this Agreement and the provisions of the Plan (incorporated herein by reference). Participant: (a) acknowledges receipt of a copy of the Plan and the Plan prospectus, (b) represents that Participant has carefully read and is familiar with their provisions, and (c) hereby accepts the RSUs subject to all of the terms and conditions set forth herein and those set forth in the Plan and the Notice.

14. Entire Agreement; Enforcement of Rights. This Agreement, the Plan and the Notice constitute the entire agreement and understanding of the parties relating to the subject matter herein and supersede all prior discussions between them. Any prior agreements, commitments or negotiations concerning the purchase of the Shares hereunder are superseded. No adverse modification of or adverse amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing and signed by the parties to this Agreement (which writing and signing may be electronic). The failure by either party to enforce any rights under this Agreement will not be construed as a waiver of any rights of such party.

15. Compliance with Laws and Regulations. The issuance of Shares will be subject to and conditioned upon compliance by the Company and Participant with all applicable state, federal and foreign laws and regulations and with all applicable requirements of any stock exchange or automated quotation system on which the Company's Shares may be listed or quoted at the time of such issuance or transfer. Participant understands that the Company is under no obligation to register or qualify the Shares with any state, federal or foreign securities commission or to seek approval or clearance from any governmental authority for the issuance or sale of the Shares. Further, Participant agrees that the Company shall have unilateral authority to amend the Plan and this RSU Agreement without Participant's consent to the extent necessary to comply with securities or other laws applicable to issuance of Shares. Finally, the Shares issued pursuant to this RSU Agreement shall be endorsed with appropriate legends, if any, determined by the Company.

16. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, then such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, then (a) such provision will be excluded from this Agreement, (b) the balance of this Agreement will be interpreted as if such provision were so excluded and (c) the balance of this Agreement will be enforceable in accordance with its terms.

17. Governing Law and Venue. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto will be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to such state's conflict of laws rules.

Any and all disputes relating to, concerning or arising from this Agreement, or relating to, concerning or arising from the relationship between the parties evidenced by the Plan or this Agreement, will be brought and heard exclusively in the United States District Court for the District of Southern California or the Superior Court of California, County of Los Angeles. Each of the parties hereby represents and agrees that such party is subject to the personal jurisdiction of said courts; hereby irrevocably consents to the jurisdiction of such courts in any legal or equitable proceedings related to, concerning or arising from such dispute, and waives, to the fullest extent permitted by law, any objection which such party may now or hereafter have that the laying of the venue of any legal or equitable proceedings related to, concerning or arising from such dispute which is brought in such courts is improper or that such proceedings have been brought in an inconvenient forum.

18. No Rights as Employee, Director or Consultant. Nothing in this Agreement will affect in any manner whatsoever any right or power of the Company, or a Parent, Subsidiary or Affiliate, to terminate Participant's Service, for any reason, with or without Cause.

19. Consent to Electronic Delivery of All Plan Documents and Disclosures. By Participant's acceptance of the Notice (whether in writing or electronically), Participant and the Company agree that the RSUs are granted under and governed by the terms and conditions of the Plan, the Notice and this Agreement. Participant has reviewed the Plan, the Notice and this Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Notice and Agreement, and fully understands all provisions of the Plan, the Notice and this Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Committee upon any questions relating to the Plan, the Notice and this Agreement. Participant further agrees to notify the Company upon any change in Participant's residence address. By acceptance of the RSUs, Participant agrees to participate in the Plan through an on-line or electronic system established and maintained by the Company or a third party designated by the Company and consents to the electronic delivery of the Notice, this Agreement, the Plan, account statements, Plan prospectuses required by the SEC, U.S. financial reports of the Company, and all other documents that the Company is required to deliver to its security holders (including, without limitation, annual reports and proxy statements) or other communications or information related to the RSUs and current or future participation in the Plan. Electronic delivery may include the delivery of a link to the Company intranet or the internet site of a

third party involved in administering the Plan, the delivery of the document via e-mail or such other delivery determined at the Company's discretion. Participant acknowledges that Participant may receive from the Company a paper copy of any documents delivered electronically at no cost if Participant contacts the Company by telephone, through a postal service or electronic mail to Stock Administration. Participant further acknowledges that Participant will be provided with a paper copy of any documents delivered electronically if electronic delivery fails; similarly, Participant understands that Participant must provide on request to the Company or any designated third party a paper copy of any documents delivered electronically if electronic delivery fails. Also, Participant understands that Participant's consent may be revoked or changed, including any change in the electronic mail address to which documents are delivered (if Participant has provided an electronic mail address), at any time by notifying the Company of such revised or revoked consent by telephone, postal service or electronic mail to Stock Administration.

20. Insider Trading Restrictions/Market Abuse Laws. Participant acknowledges that, depending on Participant's country of residence, the broker's country, or the country in which the Shares are listed, Participant may be subject to insider trading restrictions and/or market abuse laws in applicable jurisdictions, which may affect Participant's ability to directly or indirectly, accept, acquire, sell or attempt to sell or otherwise dispose of Shares, or rights to Shares (e.g., RSUs), or rights linked to the value of Shares, during such times as Participant is considered to have "inside information" regarding the Company (as defined by the laws or regulations in the applicable jurisdiction). Local insider trading laws and regulations may prohibit the cancellation or amendment of orders Participant placed before possessing the inside information. Furthermore, Participant may be prohibited from (i) disclosing the inside information to any third party, including fellow employees (other than on a "need to know" basis) and (ii) "tipping" third parties or causing them to otherwise buy or sell securities. Any restrictions under these laws or regulations are separate from and in addition to any restrictions that may be imposed under any applicable Company insider trading policy. Participant acknowledges that it is Participant's responsibility to comply with any applicable restrictions and understands that Participant should consult his or her personal legal advisor on such matters. In addition, Participant acknowledges that he or she read the Company's Insider Trading Policy, and agrees to comply with such policy, as it may be amended from time to time, whenever Participant acquires or disposes of the Company's securities.

21. Foreign Asset/Account, Exchange Control and Tax Reporting. Participant may be subject to foreign asset/account, exchange control and/or tax reporting requirements as a result of the acquisition, holding and/or transfer of Shares or cash resulting from his or her participation in the Plan. Participant may be required to report such accounts, assets, the balances therein, the value thereof and/or the transactions related thereto to the applicable authorities in Participant's country and/or repatriate funds received in connection with the Plan within certain time limits or according to specified procedures. Participant acknowledges that he or she is responsible for ensuring compliance with any applicable foreign asset/account, exchange control and tax reporting requirements and should consult his or her personal legal and tax advisors on such matters.

22. Code Section 409A. For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A of the Internal Revenue Code and the regulations thereunder ("**Section 409A**"). Notwithstanding anything else provided herein, to the extent any payments provided under this RSU Agreement in connection with Participant's termination of employment constitute deferred compensation subject to Section 409A, and Participant is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the six-month period measured from Participant's separation from service from the Company or (ii) the date of Participant's death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Participant including,

without limitation, the additional tax for which Participant would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. To the extent any payment under this RSU Agreement may be classified as a “short-term deferral” within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this section are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

23. Award Subject to Company Clawback or Recoupment. The RSUs shall be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy adopted by the Board or required by law during the term of Participant’s employment or other Service that is applicable to Participant. In addition to any other remedies available under such policy, applicable law may require the cancellation of Participant’s RSUs (whether vested or unvested) and the recoupment of any gains realized with respect to Participant’s RSUs.

BY ACCEPTING THIS AWARD OF RSUS, PARTICIPANT AGREES TO ALL OF THE TERMS AND CONDITIONS DESCRIBED ABOVE AND IN THE PLAN.

APPENDIX
ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN
GLOBAL RESTRICTED STOCK UNIT AWARD AGREEMENT
COUNTRY SPECIFIC PROVISIONS FOR EMPLOYEES OUTSIDE THE U.S.

Not applicable

ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN
GLOBAL NOTICE OF PERFORMANCE STOCK UNIT AWARD

Unless otherwise defined herein, the terms defined in the Arcutis Biotherapeutics, Inc. (the “**Company**”) 2020 Equity Incentive Plan (the “**Plan**”) will have the same meanings in this Global Notice of Performance Stock Unit Award and the electronic representation of this Global Notice of Performance Stock Unit Award established and maintained by the Company or a third party designated by the Company (this “**Notice**”).

Name:

Address:

You (“**Participant**”) have been granted an award of Performance Stock Units (“**PSUs**”) under the Plan subject to the terms and conditions of the Plan, this Notice and the attached Global Performance Stock Unit Award Agreement (the “**Agreement**”), including any applicable country-specific provisions in the appendix attached hereto (the “**Appendix**”), which constitutes part of the Agreement.

Grant Number:

Number of PSUs:

Date of Grant:

Vesting Commencement Date:

Expiration Date:

The earlier to occur of: (a) the date on which settlement of all PSUs granted hereunder occurs and (b) the tenth anniversary of the Date of Grant. This PSU expires earlier if Participant’s Service terminates earlier, as described in the Agreement.

Vesting Schedule:

Subject to the limitations set forth in this Notice, the Plan and the Agreement, the PSUs will vest in accordance with the following schedule: [insert applicable performance metrics and vesting schedule]

By accepting (whether in writing, electronically or otherwise) the PSUs, Participant acknowledges and agrees to the following:

- 1) Participant understands that Participant’s Service with the Company or a Parent or Subsidiary or Affiliate is for an unspecified duration, can be terminated at any time (*i.e.*, is “at-will”), except where otherwise prohibited by applicable law, and that nothing in this Notice, the Agreement or the Plan changes the nature of that relationship. Participant acknowledges that the vesting of the PSUs pursuant to this Notice is subject to Participant’s continuing Service as an Employee, Director or Consultant. To the extent permitted by applicable law, Participant agrees and acknowledges that the Vesting Schedule may change prospectively in the event that Participant’s Service status changes between full- and part-time and/or in the event Participant is on a leave of absence, in accordance with Company policies relating to work schedules and vesting of Awards or as determined by the Committee.
- 2) This grant is made under and governed by the Plan, the Agreement and this Notice, and this Notice is subject to the terms and conditions of the Agreement and the Plan, both of which are incorporated herein by reference. Participant has read the Notice, the Agreement and the Plan.
- 3) Participant has read the Company’s Insider Trading Policy, and agrees to comply with such policy, as it may be amended from time to time, whenever Participant acquires or disposes of the Company’s securities.
- 4) By accepting the PSUs, Participant consents to electronic delivery and participation as set forth in the Agreement.

ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN
GLOBAL PERFORMANCE STOCK UNIT AWARD AGREEMENT

Unless otherwise defined in this Global Performance Stock Unit Award Agreement (this “**Agreement**”), any capitalized terms used herein will have the same meaning ascribed to them in the Arcutis Biotherapeutics, Inc. 2020 Equity Incentive Plan (the “**Plan**”).

Participant has been granted Performance Stock Units (“**PSUs**”) subject to the terms, restrictions and conditions of the Plan, the Global Notice of Performance Stock Unit Award (the “**Notice**”) and this Agreement, including any applicable country-specific provisions in the appendix attached hereto (the “**Appendix**”), which constitutes part of this Agreement. In the event of a conflict between the terms and conditions of the Plan and the terms and conditions of the Notice or this Agreement, the terms and conditions of the Plan shall prevail.

1. Settlement. Settlement of PSUs will be made within 30 days following the applicable date of vesting under the Vesting Schedule set forth in the Notice. Settlement of PSUs will be in Shares. No fractional PSUs or rights for fractional Shares shall be created pursuant to this Agreement.

2. No Stockholder Rights. Unless and until such time as Shares are issued in settlement of vested PSUs, Participant will have no ownership of the Shares allocated to the PSUs and will have no rights to dividends or to vote such Shares.

3. Dividend Equivalents. Dividends, if any (whether in cash or Shares), will not be credited to Participant.

4. Non-Transferability of PSUs. The PSUs and any interest therein will not be sold, assigned, transferred, pledged, hypothecated, or otherwise disposed of in any manner other than by will or by the laws of descent or distribution or court order or unless otherwise permitted by the Committee on a case-by-case basis.

5. Termination. If Participant’s Service terminates for any reason, all unvested PSUs will be forfeited to the Company forthwith, and all rights of Participant to such PSUs will immediately terminate without payment of any consideration to Participant. Participant’s Service will be considered terminated (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant’s employment agreement, if any) as of the date Participant is no longer actively providing services and Participant’s Service will not be extended by any notice period (e.g., Participant’s Service would not include a period of “garden leave” or similar period mandated under employment laws in the jurisdiction where Participant is employed or the terms of Participant’s employment agreement, if any). Participant acknowledges and agrees that the Vesting Schedule may change prospectively in the event Participant’s service status changes between full- and part-time and/or in the event Participant is on a leave of absence, in accordance with Company policies relating to work schedules and vesting of awards or as determined by the Committee. In case of any dispute as to whether and when a termination of Service has occurred, the Committee will have sole discretion to determine whether such termination of Service has occurred and the effective date of such termination (including whether Participant may still be considered to be actively providing Services while on a leave of absence).

6. Taxes.

(a) Responsibility for Taxes. Participant acknowledges that, to the extent permitted by applicable law, regardless of any action taken by the Company or a Parent, Subsidiary or Affiliate employing or retaining Participant (the “**Employer**”), the ultimate liability for all income tax, social insurance, payroll tax, fringe benefits tax, payment on account or other tax-related items related to Participant’s participation in the Plan and legally applicable to Participant (“**Tax-Related Items**”) is and remains Participant’s responsibility and may exceed the amount actually withheld by the Company or the Employer, if any. Participant further acknowledges that the Company and/or the Employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the PSUs, including, but not limited to, the grant, vesting or settlement of the PSUs and the subsequent sale of Shares acquired pursuant to such settlement and the receipt of any dividends, and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of the PSUs to reduce or eliminate Participant’s liability for Tax-Related Items or achieve any particular tax result. Further, if Participant is subject to Tax-Related Items in more than one jurisdiction, Participant acknowledges that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction. *PARTICIPANT SHOULD CONSULT A TAX ADVISER APPROPRIATELY QUALIFIED IN EACH OF THE JURISDICTIONS, INCLUDING COUNTRY OR COUNTRIES IN WHICH PARTICIPANT RESIDES OR IS SUBJECT TO TAXATION.*

(b) Withholding. Prior to any relevant taxable or tax withholding event, as applicable, to the extent permitted by applicable law, Participant agrees to make arrangements satisfactory to the Company and/or the Employer to fulfill all Tax-Related Items. In this regard, Participant authorizes the Company and/or the Employer, or their respective agents, at their discretion, to satisfy any withholding obligations for Tax-Related Items by one or a combination of the following:

- (i) withholding from Participant’s wages or other cash compensation paid to Participant by the Company and/or the Employer or any Parent, Subsidiary or Affiliate; or
- (ii) withholding from proceeds of the sale of Shares acquired upon settlement of the PSUs either through a voluntary sale or through a mandatory sale arranged by the Company (on Participant’s behalf pursuant to this authorization and without further consent); or
- (iii) withholding Shares to be issued upon settlement of the PSUs, provided the Company only withholds the number of Shares necessary to satisfy no more than the maximum statutory withholding amounts; or
- (iv) Participant’s payment of a cash amount (including by check representing readily available funds or a wire transfer); or
- (v) any other arrangement approved by the Committee and permitted under applicable law;

all under such rules as may be established by the Committee and in compliance with the Company’s Insider Trading Policy and 10b5-1 Trading Plan Policy, if applicable; provided however, that if Participant is a Section 16 officer of the Company under the Exchange Act, then the Committee (as constituted in accordance with Rule 16b-3 under the Exchange Act) shall establish the method of withholding from alternatives (i) – (v) above, and the Committee shall establish such method prior to the Tax-Related Items withholding event.

Depending on the withholding method, the Company may withhold or account for Tax-Related Items by considering applicable statutory withholding rates or other applicable withholding rates, including up to the maximum permissible statutory rate for Participant's tax jurisdiction(s) in which case Participant will have no entitlement to the equivalent amount in Shares and may receive a refund of any over-withheld amount in cash in accordance with applicable law. If the obligation for Tax-Related Items is satisfied by withholding in Shares, for tax purposes, Participant is deemed to have been issued the full number of Shares subject to the vested PSUs, notwithstanding that a number of the Shares are held back solely for the purpose of satisfying the withholding obligation for Tax-Related Items.

Finally, Participant agrees to pay to the Company or the Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of Participant's participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver the Shares or the proceeds of the sale of Shares, if Participant fails to comply with Participant's obligations in connection with the Tax-Related Items.

7. Nature of Grant. By accepting the PSUs, Participant acknowledges, understands and agrees that:

(a) the Plan is established voluntarily by the Company, it is discretionary in nature and it may be modified, amended, suspended or terminated by the Company at any time, to the extent permitted by the Plan;

(b) the grant of the PSUs is exceptional, voluntary and occasional and does not create any contractual or other right to receive future grants of PSUs, or benefits in lieu of PSUs, even if PSUs have been granted in the past;

(c) all decisions with respect to future PSUs or other grants, if any, will be at the sole discretion of the Company;

(d) Participant is voluntarily participating in the Plan;

(e) the PSUs and Participant's participation in the Plan will not create a right to employment or be interpreted as forming or amending an employment or service contract with the Company, the Employer or any Parent, Subsidiary or Affiliate and shall not interfere with the ability of the Company, the Employer or any Parent, Subsidiary or Affiliate, as applicable, to terminate Participant's employment or service relationship (if any);

(f) the PSUs and the Shares subject to the PSUs, and the income from and value of same, are not intended to replace any pension rights or compensation;

(g) the PSUs and the Shares subject to the PSUs, and the income from and value of same, are not part of normal or expected compensation for any purpose, including, but not limited to, calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, long-service awards, pension or retirement or welfare benefits or similar payments;

(h) unless otherwise agreed with the Company, the PSUs and the Shares subject to the PSUs, and the income from and value of same, are not granted as consideration for, or in connection with, the service Participant may provide as a director of a Parent, Subsidiary or Affiliate;

(i) the future value of the underlying Shares is unknown, indeterminable and cannot be predicted with certainty;

(j) no claim or entitlement to compensation or damages will arise from forfeiture of the PSUs resulting from Participant's termination of Service (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any); and

(k) neither the Company, the Employer nor any Parent, Subsidiary or Affiliate will be liable for any foreign exchange rate fluctuation between Participant's local currency and the United States Dollar that may affect the value of the PSUs or of any amounts due to Participant pursuant to the settlement of the PSUs or the subsequent sale of any Shares acquired upon settlement.

8. No Advice Regarding Grant. The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding Participant's participation in the Plan, or Participant's acquisition or sale of the underlying Shares. Participant acknowledges, understands and agrees he or she should consult with his or her own personal tax, legal and financial advisors regarding his or her participation in the Plan before taking any action related to the Plan.

9. Data Privacy. *Participant hereby explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of Participant's personal data as described in this Agreement and any other PSU grant materials by and among, as applicable, the Employer, the Company and any Parent, Subsidiary or Affiliate for the exclusive purpose of implementing, administering and managing Participant's participation in the Plan.*

Participant understands that the Company and the Employer may hold certain personal information about Participant, including, but not limited to, Participant's name, home address, email address and telephone number, date of birth, social insurance number, passport number or other identification number (e.g., resident registration number), salary, nationality, job title, any shares of stock or directorships held in the Company, details of all PSUs or any other entitlement to shares of stock awarded, canceled, exercised, vested, unvested or outstanding in Participant's favor ("Data"), for the exclusive purpose of implementing, administering and managing the Plan.

Participant understands that Data will be transferred to the Company's designated third-party broker, or other third party ("Online Administrator") and its affiliated companies or such other stock plan service provider as may be designated by the Company from time to time, which is assisting the Company with the implementation, administration and management of the Plan. Participant understands that the recipients of Data may be located in the United States or elsewhere, and that the recipients' country may have different data privacy laws and protections than Participant's country. Participant understands that if he or she resides outside the United States, he or she may request a list with the names and addresses of any potential recipients of Data by contacting his or her local human resources representative. Participant authorizes the Company, the Company's designated third-party broker, or such other stock plan service provider as may be designated by the Company from time to time, and any other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer Data, in electronic or other form, for the sole purpose of implementing, administering and managing his or her participation in the Plan. Participant understands that Data will be held only as long as is necessary to implement, administer and manage Participant's participation in the Plan. Participant understands if he or she resides outside the United States, he or she may, at any time, view Data, request information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting his or her local human resources representative. Further, Participant understands that he or she is providing the consents herein on a purely voluntary basis. If Participant does not consent, or if Participant later seeks to revoke his or her consent, his or her employment status or service with the Employer will not

be affected; the only consequence of refusing or withdrawing Participant's consent is that the Company would not be able to grant PSUs or other equity awards to Participant or administer or maintain such awards. Therefore, Participant understands that refusing or withdrawing his or her consent may affect Participant's ability to participate in the Plan. For more information on the consequences of Participant's refusal to consent or withdrawal of consent, Participant understands that he or she may contact his or her local human resources representative.

Finally, upon request of the Company or the Employer, Participant agrees to provide an executed data privacy consent form (or any other agreements or consents) that the Company or the Employer may deem necessary to obtain from Participant for the purpose of administering Participant's participation in the Plan in compliance with the data privacy laws in Participant's country, either now or in the future. Participant understands and agrees that Participant will not be able to participate in the Plan if Participant fails to provide any such consent or agreement requested by the Company and/or the Employer.

10. Language. Participant acknowledges that he or she is sufficiently proficient in English to understand the terms and conditions of this Agreement. Furthermore, if Participant has received this Agreement or any other document related to the PSU and/or the Plan translated into a language other than English and if the meaning of the translated version is different than the English version, the English version will control.

11. Appendix. Notwithstanding any provisions in this Agreement, the PSUs will be subject to any special terms and conditions set forth in any appendix to this Agreement for Participant's country. Moreover, if Participant relocates to one of the countries included in the Appendix, the special terms and conditions for such country will apply to Participant, to the extent the Company determines that the application of such terms and conditions is necessary or advisable for legal or administrative reasons. The Appendix constitutes part of this Agreement.

12. Imposition of Other Requirements. The Company reserves the right to impose other requirements on Participant's participation in the Plan, on the PSUs and on any Shares acquired under the Plan, to the extent the Company determines it is necessary or advisable for legal or administrative reasons, and to require Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.

13. Acknowledgement. The Company and Participant agree that the PSUs are granted under and governed by the Notice, this Agreement and the provisions of the Plan (incorporated herein by reference). Participant: (a) acknowledges receipt of a copy of the Plan and the Plan prospectus, (b) represents that Participant has carefully read and is familiar with their provisions, and (c) hereby accepts the PSUs subject to all of the terms and conditions set forth herein and those set forth in the Plan and the Notice.

14. Entire Agreement; Enforcement of Rights. This Agreement, the Plan and the Notice constitute the entire agreement and understanding of the parties relating to the subject matter herein and supersede all prior discussions between them. Any prior agreements, commitments or negotiations concerning the purchase of the Shares hereunder are superseded. No adverse modification of or adverse amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing and signed by the parties to this Agreement (which writing and signing may be electronic). The failure by either party to enforce any rights under this Agreement will not be construed as a waiver of any rights of such party.

15. Compliance with Laws and Regulations. The issuance of Shares will be subject to and conditioned upon compliance by the Company and Participant with all applicable state, federal and foreign laws and regulations and with all applicable requirements of any stock exchange or automated quotation system on which the Company's Shares may be listed or quoted at the time of such issuance or transfer. Participant understands that the Company is under no obligation to register or qualify the Shares with any state, federal or foreign securities commission or to seek approval or clearance from any governmental authority for the issuance or sale of the Shares. Further, Participant agrees that the Company shall have unilateral authority to amend the Plan and this PSU Agreement without Participant's consent to the extent necessary to comply with securities or other laws applicable to issuance of Shares. Finally, the Shares issued pursuant to this PSU Agreement shall be endorsed with appropriate legends, if any, determined by the Company.

16. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, then such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, then (a) such provision will be excluded from this Agreement, (b) the balance of this Agreement will be interpreted as if such provision were so excluded and (c) the balance of this Agreement will be enforceable in accordance with its terms.

17. Governing Law and Venue. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto will be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to such state's conflict of laws rules.

Any and all disputes relating to, concerning or arising from this Agreement, or relating to, concerning or arising from the relationship between the parties evidenced by the Plan or this Agreement, will be brought and heard exclusively in the United States District Court for the District of Southern California or the Superior Court of California, County of Los Angeles. Each of the parties hereby represents and agrees that such party is subject to the personal jurisdiction of said courts; hereby irrevocably consents to the jurisdiction of such courts in any legal or equitable proceedings related to, concerning or arising from such dispute, and waives, to the fullest extent permitted by law, any objection which such party may now or hereafter have that the laying of the venue of any legal or equitable proceedings related to, concerning or arising from such dispute which is brought in such courts is improper or that such proceedings have been brought in an inconvenient forum.

18. No Rights as Employee, Director or Consultant. Nothing in this Agreement will affect in any manner whatsoever any right or power of the Company, or a Parent, Subsidiary or Affiliate, to terminate Participant's Service, for any reason, with or without Cause.

19. Consent to Electronic Delivery of All Plan Documents and Disclosures. By Participant's acceptance of the Notice (whether in writing or electronically), Participant and the Company agree that the PSUs are granted under and governed by the terms and conditions of the Plan, the Notice and this Agreement. Participant has reviewed the Plan, the Notice and this Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Notice and Agreement, and fully understands all provisions of the Plan, the Notice and this Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Committee upon any questions relating to the Plan, the Notice and this Agreement. Participant further agrees to notify the Company upon any change in Participant's residence address. By acceptance of the PSUs, Participant agrees to participate in the Plan through an on-line or electronic system established and maintained by the Company or a third party designated by the Company and consents to the electronic delivery of the Notice, this Agreement, the Plan, account statements, Plan prospectuses required by the SEC, U.S. financial reports of the Company, and all other documents that the Company is required to deliver to its security holders (including, without limitation, annual reports and proxy statements) or other communications or information related to the PSUs and current or future participation in the Plan. Electronic delivery may include the delivery of a link to the Company intranet or the internet site of a

third party involved in administering the Plan, the delivery of the document via e-mail or such other delivery determined at the Company's discretion. Participant acknowledges that Participant may receive from the Company a paper copy of any documents delivered electronically at no cost if Participant contacts the Company by telephone, through a postal service or electronic mail to Stock Administration. Participant further acknowledges that Participant will be provided with a paper copy of any documents delivered electronically if electronic delivery fails; similarly, Participant understands that Participant must provide on request to the Company or any designated third party a paper copy of any documents delivered electronically if electronic delivery fails. Also, Participant understands that Participant's consent may be revoked or changed, including any change in the electronic mail address to which documents are delivered (if Participant has provided an electronic mail address), at any time by notifying the Company of such revised or revoked consent by telephone, postal service or electronic mail to Stock Administration.

20. Insider Trading Restrictions/Market Abuse Laws. Participant acknowledges that, depending on Participant's country of residence, the broker's country, or the country in which the Shares are listed, Participant may be subject to insider trading restrictions and/or market abuse laws in applicable jurisdictions, which may affect Participant's ability to directly or indirectly, accept, acquire, sell or attempt to sell or otherwise dispose of Shares, or rights to Shares (e.g., PSUs), or rights linked to the value of Shares, during such times as Participant is considered to have "inside information" regarding the Company (as defined by the laws or regulations in the applicable jurisdiction). Local insider trading laws and regulations may prohibit the cancellation or amendment of orders Participant placed before possessing the inside information. Furthermore, Participant may be prohibited from (i) disclosing the inside information to any third party, including fellow employees (other than on a "need to know" basis) and (ii) "tipping" third parties or causing them to otherwise buy or sell securities. Any restrictions under these laws or regulations are separate from and in addition to any restrictions that may be imposed under any applicable Company insider trading policy. Participant acknowledges that it is Participant's responsibility to comply with any applicable restrictions and understands that Participant should consult his or her personal legal advisor on such matters. In addition, Participant acknowledges that he or she read the Company's Insider Trading Policy, and agrees to comply with such policy, as it may be amended from time to time, whenever Participant acquires or disposes of the Company's securities.

21. Foreign Asset/Account, Exchange Control and Tax Reporting. Participant may be subject to foreign asset/account, exchange control and/or tax reporting requirements as a result of the acquisition, holding and/or transfer of Shares or cash resulting from his or her participation in the Plan. Participant may be required to report such accounts, assets, the balances therein, the value thereof and/or the transactions related thereto to the applicable authorities in Participant's country and/or repatriate funds received in connection with the Plan within certain time limits or according to specified procedures. Participant acknowledges that he or she is responsible for ensuring compliance with any applicable foreign asset/account, exchange control and tax reporting requirements and should consult his or her personal legal and tax advisors on such matters.

22. Code Section 409A. For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A of the Internal Revenue Code and the regulations thereunder ("**Section 409A**"). Notwithstanding anything else provided herein, to the extent any payments provided under this PSU Agreement in connection with Participant's termination of employment constitute deferred compensation subject to Section 409A, and Participant is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the six-month period measured from Participant's separation from service from the Company or (ii) the date of Participant's death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Participant including,

without limitation, the additional tax for which Participant would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. To the extent any payment under this PSU Agreement may be classified as a “short-term deferral” within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this section are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

23. Award Subject to Company Clawback or Recoupment. The PSUs shall be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy adopted by the Board or required by law during the term of Participant’s employment or other Service that is applicable to Participant. In addition to any other remedies available under such policy, applicable law may require the cancellation of Participant’s PSUs (whether vested or unvested) and the recoupment of any gains realized with respect to Participant’s PSUs.

BY ACCEPTING THIS AWARD OF PSUS, PARTICIPANT AGREES TO ALL OF THE TERMS AND CONDITIONS DESCRIBED ABOVE AND IN THE PLAN.

APPENDIX
ARCUTIS BIOTHERAPEUTICS, INC.
2020 EQUITY INCENTIVE PLAN
GLOBAL PERFORMANCE STOCK UNIT AWARD AGREEMENT
COUNTRY SPECIFIC PROVISIONS FOR EMPLOYEES OUTSIDE THE U.S.

Not applicable

ARCUTIS BIOTHERAPEUTICS, INC.
2020 EMPLOYEE STOCK PURCHASE PLAN

1. Establishment of Plan. Arcutis Biotherapeutics, Inc. a Delaware corporation (the “*Company*”), proposes to grant options to purchase shares of Common Stock to eligible employees of the Company and its Participating Corporations pursuant to this Plan. The Company intends this Plan to qualify as an “employee stock purchase plan” under Code Section 423 and this Plan will be so construed; provided that the Company may adopt sub-plans applicable to particular Participating Corporations which sub-plans may be designed to be outside the scope of Section 423 of the Code. Subject to Section 14, a total of _____ shares of Common Stock is reserved for issuance under this Plan. In addition, on each January 1 for the first ten (10) calendar years after the first Offering Date, the aggregate number of shares of Common Stock reserved for issuance under the Plan will be increased automatically by the number of shares equal to one percent (1%) of the total number of outstanding shares of all classes of the Company’s common stock on the immediately preceding December 31 (rounded down to the nearest whole share); provided that the Board or the Committee may in its sole discretion reduce the amount of the increase in any particular year; and provided, further, that the aggregate number of shares of Common Stock issued over the term of this Plan will not exceed _____. The number of shares reserved for issuance under this Plan and the maximum number of shares that may be issued under this Plan will be subject to adjustments effected in accordance with Section 14 of this Plan. Capitalized terms not defined elsewhere in the text are defined in Section 27.

2. Purpose. The purpose of this Plan is to provide eligible employees of the Company and Participating Corporations with a means of acquiring an equity interest in the Company through payroll deductions, to enhance such employees’ sense of participation in the affairs of the Company and Participating Corporations, and to provide an incentive for continued employment.

3. Administration.

(a) The Plan will be administered by the Compensation Committee of the Board or by the Board (as applicable, the “*Committee*”). Subject to the provisions of this Plan and the limitations of Section 423 of the Code or any successor provision in the Code, all questions of interpretation or application of this Plan will be determined by the Committee and its decisions will be final and binding upon all Participants. The Committee will have full and exclusive discretionary authority to construe, interpret, and apply the terms of the Plan, to determine eligibility and determine which entities will be Participating Corporations and whether an offer to Participating Corporations is intended to meet Code Section 423 requirements and to decide upon any and all claims filed under the Plan. Every finding, decision, and determination made by the Committee will, to the full extent permitted by law, be final and binding upon all parties. The Committee will have the authority to determine the Fair Market Value (which determination will be final, binding, and conclusive for all purposes) in accordance with Section 8 below and to interpret Section 8 of the Plan in connection with circumstances that impact the Fair Market Value. Members of the Committee will receive no compensation for their services in connection with the administration of this Plan, other than standard fees as established from time to time by the Board for services rendered by Board members serving on the Board or its committees. All expenses incurred in connection with the administration of this Plan will be paid by the Company. For purposes of this Plan, the Committee may designate separate offerings under the Plan (the terms of which need not be identical) in which eligible employees of one or more Participating Corporations will participate, even if the dates of the applicable Offering Periods of each such offering are identical. The Committee may also establish rules to govern transfers of employment among the Company and any Participating Corporation, consistent with the applicable requirements of Code Section 423 and the terms of the Plan.

(b) The Committee may adopt such rules, procedures, and sub-plans as are necessary or appropriate to permit the participation in the Plan by eligible employees who are citizens or residents of a jurisdiction and/or employed outside the United States, the terms of which sub-plans may take precedence over other provisions of this Plan, with the exception of the provisions in Section 1 above setting forth the number of shares of Common Stock reserved for issuance under the Plan; provided that unless otherwise superseded by the terms of such sub-plan, the provisions of this Plan will govern the operation of such sub-plan. Further, the Committee is specifically authorized to adopt rules and procedures regarding the application of the definition of Compensation (as defined below) to Participants on payrolls outside of the United States, handling of payroll deductions and other contributions, taking of payroll deductions and making of other contributions to the Plan, establishment of bank or trust accounts to hold contributions, payment of interest, establishment of the exchange rate applicable to payroll deductions taken and other contributions made in a currency other than U.S. dollars, obligations to pay payroll tax, determination of beneficiary designation requirements, tax withholding procedures, and handling of stock certificates that vary with applicable local requirements.

4. Eligibility. Any employee of the Company or the Participating Corporations is eligible to participate in an Offering Period under this Plan, except that the Committee may exclude any or all of the following (other than where exclusion of such employees is prohibited by applicable law):

(a) employees who are not employed by the Company or a Participating Corporation prior to the beginning of such Offering Period or prior to such other time period as specified by the Committee;

(b) employees who are customarily employed for twenty (20) or less hours per week;

(c) employees who are customarily employed for five (5) months or less in a calendar year;

(d) (i) employees who are “highly compensated employees” of the Company or any Participating Corporation (within the meaning of Section 414(q) of the Code), or (ii) any employee who are “highly compensated employees” with compensation above a specified level, who is an officer and/or is subject to the disclosure requirements of Section 16(a) of the Exchange Act;

(e) employees who are citizens or residents of a foreign jurisdiction (without regard to whether they are also a citizen of the United States or a resident alien (within the meaning of Section 7701(b)(1)(A) of the Code)) if either (i) such employee’s participation is prohibited under the laws of the jurisdiction governing such employee, or (ii) compliance with the laws of the foreign jurisdiction would violate the requirements of Section 423 of the Code;

(f) individuals who provide services to the Company or any of its Participating Corporations as independent contractors who are reclassified as common law employees for any reason except for federal income and employment tax purposes.

The foregoing notwithstanding, employees who, together with any other person whose stock would be attributed to such employee pursuant to Section 424(d) of the Code, own stock or hold options to purchase stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company or any of its Participating Corporations or who, as a result of being granted an option under this Plan with respect to such Offering Period, would own stock or hold options to purchase stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company or any of its Participating Corporations may not participate.

5. Offering Dates.

(a) While the Plan is in effect, the Committee will determine the duration and commencement date of each Offering Period and Purchase Period, provided that an Offering Period will in no event be longer than twenty-seven (27) months, except as otherwise provided by an applicable subplan and no Purchase Period will end later than the last day of the Offering Period in which it begins. Offering Periods may be consecutive or overlapping. Each Offering Period may consist of one or more Purchase Periods during which payroll deductions of Participants are accumulated under this Plan. Purchase Periods will be consecutive. The Committee shall have the power to change these terms as provided in Section 25 below.

(b) Unless otherwise determined by the Committee, (i) the initial Offering Period (the “**Initial Offering Period**”), which shall be comprised of a single Purchase Period of the same length (the “**Initial Purchase Period**”), shall commence on the Effective Date and end May 31, 2020 (or another date selected by the Committee (but in any event not more than twenty-seven (27) months after the Effective Date) (ii) each Offering Period shall consist of a single six (6) month Purchase Period (provided that the Initial Purchase Period shall be less than six (6) months), and (iii) each Offering Period following the Initial Offering Period shall commence on each June 1st and December 1st with each such Offering Period consisting of a single six (6) month Purchase Period ending on November 30th and May 31st, respectively. The Committee shall have the power to change these terms as provided in Section 25 below.

6. Participation in this Plan.

(a) **Enrollment in Initial Offering Period.** Any employee who is an eligible employee determined in accordance with Section 4 immediately prior to the Initial Offering Period will be automatically enrolled in the Initial Offering Period at a contribution level equal to fifteen percent (15%) of Compensation (the “**Initial Contribution Level**”). A Participant that is automatically enrolled in the Initial Offering Period pursuant to this section will be entitled to continue to participate in the Initial Offering Period only if such Participant submits a subscription agreement in a form determined by the Administrator, or electronic representation thereof, to the Company and/or an authorized third party administrator (the “**Third Party Administrator**”) authorizing his or her contributions and confirming or changing his or her contribution rate (i) no earlier than the date on which an effective registration statement pursuant to Form S-8 is filed with respect to the issuance of Common Stock under this Plan, and (ii) within thirty-one (31) days after the filing of such Form S-8, or such longer time as may be determined by the Company (the “**Initial Offering Period Window**”). If a Participant that is automatically enrolled in the Initial Offering Period fails to submit a subscription agreement, or electronic representation thereof, during the Initial Offering Period Window, such Participant’s participation in the Initial Offering Period will be automatically terminated and he or she will be withdrawn from the Initial Offering Period.

(b) **Enrollment in Subsequent Offering Periods.** With respect to Offering Periods after the Initial Offering Period, an eligible employee determined in accordance with Section 4 may elect to become a Participant by submitting a subscription agreement, or electronic representation thereof, to the Company and/or via the Third Party Administrator’s standard process, prior to the commencement of the Offering Period to which such agreement relates in accordance with such rules as the Committee may determine.

(c) **Continued Enrollment in Offering Periods.** Once an employee becomes a Participant in an Offering Period (including, with respect to the Initial Offering Period, provided a Participant who is automatically enrolled submits a subscription agreement, or electronic representation thereof, within the Initial Offering Period Window), then such Participant will automatically participate in each subsequent Offering Period commencing immediately following the last day of such prior Offering

Period at the same contribution level unless the Participant withdraws or is deemed to withdraw from this Plan or terminates further participation in the Offering Period as set forth in Section 11 below or otherwise notifies the Company of a change in the Participant's contribution level by filing an additional subscription agreement or electronic representation thereof with the Company and/or the Third Party Administrator, prior to the next Offering Period. A Participant that is automatically enrolled in a subsequent Offering Period pursuant to this section (i) is not required to file any additional subscription agreement in order to continue participation in this Plan, and (ii) will be deemed to have accepted the terms and conditions of the Plan, any sub-plan, and subscription agreement in effect at the time each subsequent Offering Period begins, subject to Participant's right to withdraw from the Plan in accordance with the withdrawal procedures in effect at the time.

7. Grant of Option on Enrollment. Becoming a Participant with respect to an Offering Period will constitute the grant (as of the Offering Date) by the Company to such Participant of an option to purchase on the Purchase Date up to that number of shares of Common Stock determined by a fraction the numerator of which is the amount of the contribution level for such Participant multiplied by such Participant's Compensation (as defined in Section 9 below) during such Purchase Period and the denominator of which is eighty-five percent (85%) of the lower of (a) the Fair Market Value on the Offering Date or (b) the Fair Market Value on the Purchase Date, but in no event less than the par value of a share; provided, however, that for the Purchase Period within the Initial Offering Period, the numerator will be the Initial Contribution Level of the Participant's Compensation for such Purchase Period, or such lower percentage as determined by the Committee prior to the Effective Date or pursuant to a Participant's election to change the amount as set forth in Section 6(a) above; and provided, further, that the number of shares of Common Stock subject to any option granted pursuant to this Plan will not exceed the lesser of (x) the maximum number of shares set by the Committee pursuant to Section 10(b) below with respect to the applicable Purchase Date or (y) the maximum number of shares which may be purchased pursuant to Section 10(a) below with respect to the applicable Purchase Date.

8. Purchase Price. The Purchase Price in any Offering Period will be eighty-five percent (85%) of the lesser of:

(a) the Fair Market Value on the Offering Date or

(b) the Fair Market Value on the Purchase Date.

9. Payment of Purchase Price; Payroll Deduction Changes; Share Issuances.

(a) The Purchase Price of the shares is accumulated by regular payroll deductions made during each Offering Period, unless the Committee determines that contributions may be, or are required to be, made in another form (due to local law requirements, in another form with respect to categories of Participants outside the United States). The deductions are made as a percentage of the Participant's Compensation in one percent (1%) increments not less than one percent (1%), nor greater than fifteen percent (15%) or such lower limit set by the Committee. "**Compensation**" means base salary and regular hourly wages (including overtime and holiday pay), or in foreign jurisdictions, equivalent cash compensation; however, the Committee may at any time prior to the beginning of an Offering Period determine that for that and future Offering Periods, Compensation means base salary or regular hourly wages, bonuses, cash incentive compensation, sales or other commissions, overtime, shift premiums and/or draws against commissions (or in foreign jurisdictions, equivalent cash compensation). For purposes of determining a Participant's Compensation, any election by such Participant to reduce his or her regular cash remuneration under Sections 125 or 401(k) of the Code (or in foreign jurisdictions, equivalent salary deductions) will be treated as if the Participant did not make such election. Payroll deductions shall commence (i) for the Initial Offering Period, on the first payday on or following the end of the Initial

Offering Period Window (and, the payroll deductions for each of the remaining payroll periods in the Initial Offering Period will be increased by the amount of the payroll deductions that would have been made prior to end of the Initial Offering Period Window), and (ii) for subsequent Offering Periods, on the first payday following the beginning of any subsequent Offering Period, and in either case shall continue to the end of the applicable Offering Period unless sooner altered or terminated as provided in this Plan. Notwithstanding the foregoing, the terms of any subplan may permit matching shares without the payment of any purchase price.

(b) Subject to Section 25 below and to the rules of the Committee, a Participant may decrease the rate of payroll deductions during an on-going Offering Period by filing with the Company and/or the Third Party Administrator a new authorization for payroll deductions, with the new rate to become effective as soon as reasonably practicable and continuing for the remainder of the Offering Period unless changed as described below. A decrease in the rate of payroll deductions may be made once during an on-going Offering Period or more or less frequently under rules determined by the Committee. An increase in the rate of payroll deductions may not be made with respect to an on-going Offering Period unless otherwise determined by the Committee. A Participant may increase or decrease the rate of payroll deductions for any subsequent Offering Period by filing with the Company and/or the Third Party Administrator a new authorization for payroll deductions prior to the beginning of such Offering Period or such other time period as may be specified by the Committee.

(c) Subject to Section 25 below and to the rules of the Committee, a Participant may reduce his or her payroll deduction percentage to zero during an Offering Period by filing with the Company a request for cessation of payroll deductions, with such reduction to become effective as soon as reasonably practicable and after such reduction becomes effective, no further payroll deductions will be made for the duration of the Offering Period. Payroll deductions credited to the Participant's account prior to the effective date of the request will be used to purchase shares of Common Stock in accordance with Section (e) below. A reduction of the payroll deduction percentage to zero will be treated as such Participant's withdrawal from such Offering Period and the Plan, effective as of the day after the next Purchase Date following the filing date of such request with the Company.

(d) All payroll deductions made for a Participant are credited to his or her account under this Plan and are deposited with the general funds of the Company, and the Company will not be obligated to segregate such payroll deductions, except to the extent required to be segregated due to local legal restrictions outside the United States. No interest accrues on the payroll deductions, except to the extent required due to local legal requirements outside the United States. All payroll deductions received or held by the Company may be used by the Company for any corporate purpose, except to the extent necessary to comply with local legal requirements outside the United States.

(e) On each Purchase Date, so long as this Plan remains in effect and provided that the Participant has not submitted a signed and completed withdrawal form before that date which notifies the Company and/or the Third Party Administrator that the Participant wishes to withdraw from that Offering Period under this Plan and have all payroll deductions accumulated in the account maintained on behalf of the Participant as of that date returned to the Participant, the Company will apply the funds then in the Participant's account to the purchase of whole shares of Common Stock reserved under the option granted to such Participant with respect to the Offering Period to the extent that such option is exercisable on the Purchase Date. The Purchase Price will be as specified in Section 8 of this Plan. Any amount remaining in a Participant's account on a Purchase Date which is less than the amount necessary to purchase a full share of Common Stock will be carried forward into the next Purchase Period or Offering Period, as the case may be (except to the extent required due to local legal requirements outside the United States), or otherwise treated as determined by the Committee. In the event that this Plan has been oversubscribed, all funds not used to purchase shares on the Purchase Date will be refunded to the Participant without interest

(except to the extent required due to local legal requirements outside the United States). No Common Stock will be purchased on a Purchase Date on behalf of any employee whose participation in this Plan has terminated prior to such Purchase Date (except to the extent required due to local legal requirements outside the United States).

(f) As promptly as practicable after the Purchase Date, the Company will issue shares for the Participant's benefit representing the shares purchased upon exercise of his or her option.

(g) During a Participant's lifetime, his or her option to purchase shares hereunder is exercisable only by him or her. The Participant will have no interest or voting right in shares covered by his or her option until such option has been exercised.

(h) To the extent required by applicable federal, state, local, or foreign law, a Participant will make arrangements satisfactory to the Company and the Participating Corporation employing the Participant for the satisfaction of any withholding tax obligations that arise in connection with the Plan. The Company or any Participating Corporation, as applicable, may withhold, by any method permissible under applicable law, the amount necessary for the Company or any Participating Corporation, as applicable, to meet applicable withholding obligations, including up to the maximum permissible statutory rates and including any withholding required to make available to the Company or any Participating Corporation, as applicable, any tax deductions or benefits attributable to the sale or early disposition of shares of Common Stock by a Participant. The Company will not be required to issue any shares of Common Stock under the Plan until such obligations are satisfied.

10. Limitations on Shares to be Purchased.

(a) No Participant will be entitled to purchase stock under any Offering Period at a rate which, when aggregated with such Participant's rights to purchase stock under all other employee stock purchase plans of a Participating Company intended to meet the requirements of Section 423 of the Code, that are also outstanding in the same calendar year(s) (whether under other Offering Periods or other employee stock purchase plans of the Company, its Parent, and its Subsidiaries), exceeds \$25,000 in Fair Market Value, determined as of the Offering Date (or such other limit as may be imposed by the Code) for each calendar year in which such Offering Period is in effect (the "**Maximum Share Amount**"). The Company may automatically suspend the payroll deductions of any Participant as necessary to enforce such limit provided that when the Company automatically resumes such payroll deductions, the Company must apply the rate in effect immediately prior to such suspension.

(b) The Committee may, in its sole discretion, set a lower maximum number of shares which may be purchased by any Participant during any Offering Period than that determined under Section 10(a) above, which will then be the Maximum Share Amount for subsequent Offering Periods; provided, however, that in no event will a Participant be permitted to purchase more than Four Thousand (4,000) shares during any one Purchase Period or such greater or lesser number as the Committee may determine, irrespective of the Maximum Share Amount set forth in (a) and (b) hereof. If a new Maximum Share Amount is set, then all Participants will be notified of such Maximum Share Amount prior to the commencement of the next Offering Period for which it is to be effective. The Maximum Share Amount will continue to apply with respect to all succeeding Offering Periods unless revised by the Committee as set forth above.

(c) If the number of shares to be purchased on a Purchase Date by all Participants exceeds the number of shares then available for issuance under this Plan, then the Company will make a pro rata allocation of the remaining shares in as uniform a manner as will be reasonably practicable and as the Committee will determine to be equitable. In such event, the Company will give written notice of such reduction of the number of shares to be purchased under a Participant's option to each Participant affected.

(d) Any payroll deductions accumulated in a Participant's account which are not used to purchase stock due to the limitations in this Section 10, and not covered by Section 9(e), will be returned to the Participant as soon as administratively practicable after the end of the applicable Purchase Period, without interest (except to the extent required due to local legal requirements outside the United States).

11. Withdrawal.

(a) Each Participant may withdraw from an Offering Period under this Plan pursuant to a method specified by the Company. Such withdrawal may be elected at any time prior to the end of an Offering Period, or such other time period as specified by the Committee. The Committee may set forth a deadline of when a withdrawal must occur to be effective prior to a given Purchase Date in accordance with policies it may approve from time to time.

(b) Upon withdrawal from this Plan, the accumulated payroll deductions will be returned to the withdrawn Participant, without interest (except to the extent required due to local legal requirements outside the United States), and his or her interest in this Plan will terminate. In the event a Participant voluntarily elects to withdraw from this Plan, he or she may not resume his or her participation in this Plan during the same Offering Period, but he or she may participate in any Offering Period under this Plan which commences on a date subsequent to such withdrawal by filing a new authorization for payroll deductions in the same manner as set forth in Section 6 above for initial participation in this Plan.

(c) To the extent applicable, if the Fair Market Value on the first day of the current Offering Period in which a Participant is enrolled is higher than the Fair Market Value on the first day of any subsequent Offering Period, the Company will automatically enroll such Participant in the subsequent Offering Period. Any funds accumulated in a Participant's account prior to the first day of such subsequent Offering Period will be applied to the purchase of shares on the Purchase Date immediately prior to the first day of such subsequent Offering Period, if any.

12. Termination of Employment. Termination of a Participant's employment for any reason, including (but not limited to) retirement, death, disability, or the failure of a Participant to remain an eligible employee of the Company or of a Participating Corporation, or Participant's employer no longer being a Participating Corporation, immediately terminates his or her participation in this Plan (except to the extent required due to local legal requirements outside the United States). In such event, accumulated payroll deductions credited to the Participant's account will be returned to him or her or, in the case of his or her death, to his or her legal representative, without interest (except to the extent required due to local legal requirements outside the United States). For purposes of this Section 12, an employee will not be deemed to have terminated employment or failed to remain in the continuous employ of the Company or of a Participating Corporation in the case of sick leave, military leave, or any other leave of absence approved by the Company; provided that such leave is for a period of not more than ninety (90) days or reemployment upon the expiration of such leave is guaranteed by contract or statute. The Company will have sole discretion to determine whether a Participant has terminated employment and the effective date on which the Participant terminated employment, regardless of any notice period or garden leave required under local law.

13. Return of Payroll Deductions. In the event a Participant's interest in this Plan is terminated by withdrawal, termination of employment, or otherwise, or in the event this Plan is terminated by the Board, the Company will deliver to the Participant all accumulated payroll deductions credited to such Participant's account. No interest will accrue on the payroll deductions of a Participant in this Plan (except to the extent required due to local legal requirements outside the United States).

14. Capital Changes. If the number of outstanding shares is changed by a stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification, or similar change in the capital structure of the Company, without consideration, then the Committee will adjust the number and class of Common Stock that may be delivered under the Plan, the Purchase Price, and the number of shares of Common Stock covered by each option under the Plan which has not yet been exercised, and the numerical limits of Sections 1 and 10 will be proportionately adjusted, subject to any required action by the Board or the stockholders of the Company and in compliance with applicable securities laws; provided that fractions of a share will not be issued.

15. Nonassignability. Neither payroll deductions credited to a Participant's account nor any rights with regard to the exercise of an option or to receive shares under this Plan may be assigned, transferred, pledged, or otherwise disposed of in any way (other than by will, pursuant to the laws of descent and distribution, or as provided in Section 22 below) by the Participant. Any such attempt at assignment, transfer, pledge, or other disposition will be void and without effect.

16. Use of Participant Funds and Reports. The Company may use all payroll deductions received or held by it under the Plan for any corporate purpose, and the Company will not be required to segregate Participant payroll deductions (except to the extent required due to local legal requirements outside the United States). Until shares are issued, Participants will only have the rights of an unsecured creditor (except to the extent required due to local legal requirements outside the United States). Each Participant will receive, or have access to, promptly after the end of each Purchase Period a report of his or her account setting forth the total payroll deductions accumulated, the number of shares purchased, the Purchase Price thereof, and the remaining cash balance, if any, carried forward or refunded, as determined by the Committee, to the next Purchase Period or Offering Period, as the case may be.

17. Notice of Disposition. If Participant is subject to tax in the United States, Participant will notify the Company in writing if the Participant disposes of any of the shares purchased in any Offering Period pursuant to this Plan. If such disposition occurs within two (2) years from the Offering Date or within one (1) year from the Purchase Date on which such shares were purchased, the Company may place a legend or legends on any certificate representing shares acquired pursuant to this Plan requesting the Company's transfer agent to notify the Company of any transfer of the shares. The obligation of the Participant to provide such notice will continue notwithstanding the placement of any such legend on the certificates.

18. No Rights to Continued Employment. Neither this Plan nor the grant of any option hereunder will confer any right on any employee to remain in the employ of the Company or any Participating Corporation, or restrict the right of the Company or any Participating Corporation to terminate such employee's employment.

19. Equal Rights And Privileges. All eligible employees granted an option under this Plan that is intended to meet the Code Section 423 requirements will have equal rights and privileges with respect to this Plan or within any separate offering under the Plan so that this Plan qualifies as an "employee stock purchase plan" within the meaning of Section 423 or any successor provision of the Code and the related regulations. Any provision of this Plan which is inconsistent with Section 423 or any successor provision of the Code will, without further act or amendment by the Company or the Committee, be reformed to comply with the requirements of Section 423 (unless such provision applies exclusively to options granted under the Plan that are not intended to comply with the Code Section 423 requirements). This Section 19 will take precedence over all other provisions in this Plan.

20. Notices. All notices or other communications by a Participant to the Company under or in connection with this Plan will be deemed to have been duly given when received in the form specified by the Company at the location, or by the person, designated by the Company for the receipt thereof.

21. Term; Stockholder Approval. This Plan will become effective on the Effective Date. This Plan will be approved by the stockholders of the Company within twelve (12) months before or after the date this Plan is adopted by the Board. No purchase of shares that are subject to such stockholder approval before becoming available under this Plan will occur prior to stockholder approval of such shares, and the Committee may delay any Purchase Date and postpone the commencement of any Offering Period subsequent to such Purchase Date as deemed necessary or desirable to obtain such approval (provided that if a Purchase Date would occur more than twenty-four (24) months after commencement of the Offering Period to which it relates, then such Purchase Date will not occur, and instead such Offering Period will terminate without the purchase of such shares and Participants in such Offering Period will be refunded their contributions without interest, unless the payment of interest is required under local laws). This Plan will continue until the earlier to occur of (a) termination of this Plan by the Board (which termination may be effected by the Board at any time pursuant to Section 25 below), (b) issuance of all of the shares of Common Stock reserved for issuance under this Plan, or (c) the tenth anniversary of the first Purchase Date under the Plan.

22. Designation of Beneficiary.

(a) Unless otherwise determined by the Committee, a Participant may file a written designation of a beneficiary who is to receive any cash from the Participant's account under this Plan in the event of such Participant's death prior to a Purchase Date. Such form shall be valid only if it was filed with the Company at the prescribed location before the Participant's death.

(b) If authorized by the Company, such designation of beneficiary may be changed by the Participant at any time by written notice filed with the Company at the prescribed location before the Participant's death. In the event of the death of a Participant and in the absence of a beneficiary validly designated under this Plan who is living at the time of such Participant's death, the Company shall deliver such cash to the executor or administrator of the estate of the Participant or to the legal heirs of the Participant.

23. Conditions Upon Issuance of Shares; Limitation on Sale of Shares. Shares will not be issued with respect to an option unless the exercise of such option and the issuance and delivery of such shares pursuant thereto will comply with all applicable provisions of law, domestic or foreign, including, without limitation, the Securities Act, the Exchange Act, the rules and regulations promulgated thereunder, and the requirements of any stock exchange or automated quotation system upon which the shares may then be listed, exchange control restrictions, securities law restrictions, or other applicable laws outside the United States, and will be further subject to the approval of counsel for the Company with respect to such compliance. Shares may be held in trust or subject to further restrictions as permitted by any subplan.

24. Applicable Law. The Plan will be governed by the substantive laws (excluding the conflict of laws rules) of the State of Delaware.

25. Amendment or Termination. The Committee, in its sole discretion, may amend, suspend, or terminate the Plan, or any part thereof, at any time and for any reason. If the Plan is terminated, the Committee, in its discretion, may elect to terminate all outstanding Offering Periods either immediately or upon completion of the purchase of shares of Common Stock on the next Purchase Date (which may be sooner than originally scheduled, if determined by the Committee in its discretion), or may elect to permit Offering Periods to expire in accordance with their terms (and subject to any adjustment pursuant to

Section 14). If an Offering Period is terminated prior to its previously-scheduled expiration, all amounts then credited to Participants' accounts for such Offering Period, which have not been used to purchase shares of Common Stock, will be returned to those Participants (without interest thereon, except as otherwise required under local laws) as soon as administratively practicable. Further, the Committee will be entitled to establish rules to change the Purchase Periods and Offering Periods, limit the frequency and/or number of changes in the amount contributed during a Purchase Period or an Offering Period, permit payroll withholding in excess of the amount designated by a Participant in order to adjust for delays or mistakes in the administration of the Plan, establish reasonable waiting and adjustment periods and/or accounting and crediting procedures to ensure that amounts applied toward the purchase of Common Stock for each Participant properly correspond with amounts contributed from the Participant's Compensation, and establish such other limitations or procedures as the Committee determines in its sole discretion advisable which are consistent with the Plan. Such actions will not require stockholder approval or the consent of any Participants. However, no amendment will be made without approval of the stockholders of the Company (obtained in accordance with Section 21 above) within twelve (12) months of the adoption of such amendment (or earlier if required by Section 21) if such amendment would (a) increase the number of shares that may be issued under this Plan or (b) change the designation of the employees (or class of employees) eligible for participation in this Plan. In addition, in the event the Committee determines that the ongoing operation of the Plan may result in unfavorable financial accounting consequences, the Committee may, in its discretion and, to the extent necessary or desirable, modify, amend, or terminate the Plan to reduce or eliminate such accounting consequences including, but not limited to: (a) amending the definition of compensation, including with respect to an Offering Period underway at the time; (b) altering the Purchase Price for any Offering Period including an Offering Period underway at the time of the change in Purchase Price; (c) shortening any Offering Period by setting a Purchase Date, including an Offering Period underway at the time of the Committee action; (d) reducing the maximum percentage of compensation a Participant may elect to set aside as payroll deductions; and (e) reducing the maximum number of shares of Common Stock a Participant may purchase during any Offering Period. Such modifications or amendments will not require approval of the stockholders of the Company or the consent of any Participants.

26. Corporate Transactions. In the event of a Corporate Transaction (as defined below), each outstanding right to purchase Common Stock will be assumed or an equivalent option substituted by the successor corporation or a parent or a subsidiary of the successor corporation. In the event that the successor corporation refuses to assume or substitute for the purchase right, the Offering Period with respect to which such purchase right relates will be shortened by setting a new Purchase Date (the "**New Purchase Date**") and will end on the New Purchase Date. The New Purchase Date will occur on or prior to the consummation of the Corporate Transaction, and the Plan will terminate on the consummation of the Corporate Transaction.

27. Definitions.

(a) "**Affiliate**" means any entity, other than a Subsidiary or Parent, (i) that, directly or indirectly, is controlled by, controls or is under common control with, the Company and (ii) in which the Company has a significant equity interest, in either case as determined by the Committee, whether now or hereafter existing.

(b) "**Board**" means the Board of Directors of the Company.

(c) "**Code**" means the U.S. Internal Revenue Code of 1986, as amended.

(d) "**Common Stock**" means the common stock of the Company.

(e) “**Corporate Transaction**” means the occurrence of any of the following events: (i) any “person” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) becomes the “beneficial owner” (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the total voting power represented by the Company’s then outstanding voting securities; (ii) the consummation of the sale or disposition by the Company of all or substantially all of the Company’s assets; or (iii) the consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation.

(f) “**Effective Date**” means the date on which the Registration Statement covering the initial public offering of shares of Common Stock is declared effective by the U.S. Securities and Exchange Commission.

(g) “**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended.

(h) “**Fair Market Value**” means, as of any date, the value of a share of Common Stock, determined as follows:

(i) if such Common Stock is publicly traded and is then listed on a national securities exchange, its closing price on the date of determination on the principal national securities exchange on which the Common Stock is listed or admitted to trading as reported in *The Wall Street Journal* or such other source as the Committee deems reliable;

(ii) if such Common Stock is publicly traded but is neither listed nor admitted to trading on a national securities exchange, the average of the closing bid and asked prices on the date of determination as reported in *The Wall Street Journal* or such other source as the Committee deems reliable;

(iii) if such Common Stock is publicly traded but is neither quoted on the Nasdaq Market nor listed or admitted to trading on a national securities exchange, the average of the closing bid and asked prices on the date of determination as reported in *The Wall Street Journal* or such other source as the Committee deems reliable;

(iv) with respect to the Initial Offering Period, Fair Market Value on the Offering Date shall be the price at which shares of Common Stock are offered to the public pursuant to the Registration Statement covering the initial public offering of the shares of Common Stock; and

(v) if none of the foregoing is applicable, by the Committee in good faith.

(i) “**Offering Date**” means the first Trading Day of each Offering Period; however, for the Initial Offering Period the Offering Date will be the Effective Date.

(j) “**Offering Period**” means a period with respect to which the right to purchase Common Stock may be granted under the Plan, as determined by the Committee pursuant to Section 5(a).

(k) “**Parent**” will have the same meaning as “parent corporation” in Sections 424(e) and 424(f) of the Code.

(l) “**Participant**” means an eligible employee who meets the eligibility requirements set forth in Section 4 and who is either automatically enrolled in the Initial Offering Period or who elects to participate in this Plan, subject and pursuant to Section 6.

(m) “**Participating Corporation**” means any Parent, Subsidiary or Affiliate that the Board designates from time to time as a corporation that will participate in this Plan.

(n) “**Plan**” means this Arcutis Biotherapeutics, Inc., 2020 Employee Stock Purchase Plan.

(o) “**Purchase Date**” means the last Trading Day of each Purchase Period.

(p) “**Purchase Period**” means a period during which contributions may be made toward the purchase of Common Stock under the Plan, as determined by the Committee pursuant to Section 5(b).

(q) “**Purchase Price**” means the price at which Participants may purchase a share of Common Stock under the Plan, as determined pursuant to Section 8.

(r) “**Securities Act**” means the U.S. Securities Act of 1933, as amended.

(s) “**Subsidiary**” will have the same meaning as “subsidiary corporation” in Sections 424(e) and 424(f) of the Code.

(t) “**Trading Day**” means a day on which the national stock exchange upon which the Common Stock is listed is open for trading.

**ARCUTIS BIOTHERAPEUTICS, INC. (THE "COMPANY")
2020 EMPLOYEE STOCK PURCHASE PLAN ("ESPP")**

**INITIAL OFFERING PERIOD
CONFIRMATION & CHANGE FORM AND AGREEMENT
(THE "AGREEMENT")**

Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the ESPP.

SECTION 1:	CHECK DESIRED ACTION:	AND COMPLETE SECTIONS:
ACTIONS	<input type="checkbox"/> Confirm / Change Contribution Percentage	2 + 4 + 19
	<input type="checkbox"/> Withdraw from ESPP	2 + 5 + 19

SECTION 2:
PERSONAL DATA

Name: _____
Home Address: _____

Social Security No. or Employee ID No.: _____

SECTION 3:
ENROLLMENT CONFIRMED

I understand that I have been automatically enrolled in the ESPP, and I hereby elect to continue to participate in the ESPP. I understand that my enrollment was effective at the beginning of the Initial Offering Period and as a result of that enrollment I am electing to purchase shares of the common stock of the Company pursuant to the ESPP. I understand that the stock certificate(s) for the Shares purchased on my behalf will be issued in street name and deposited directly into my brokerage account at the Company's captive broker. I hereby agree to take all steps, and sign all forms, required to establish an account with the Company's captive broker for this purpose.

My participation will continue as long as the Company offers the ESPP and I remain eligible, unless I withdraw from the ESPP by filing a new Enrollment/Change Form with the Company. I understand that I must notify the Company of any disposition of Shares purchased under the ESPP.

SECTION 4:
CHANGE CONTRIBUTION PERCENTAGE

I understand that I am currently enrolled in the ESPP at a contribution of 15% of my Compensation (as defined in the ESPP).

I hereby authorize the Company to either (a) continue the automatic enrollment at the 15% contribution level, or (b) continue the automatic enrollment but decrease the contribution level, in either case, by withholding from each of my paychecks such amount as is necessary to equal at the end of the applicable Offering Period the percentage of my Compensation (as defined in the ESPP) paid to me during such Offering Period as indicated below, so long as I continue to participate in the ESPP. The percentage must be a whole number (from 1% up to a maximum of 14%).

-continue my contribution at 15%

-decrease my contribution percentage to _____% (**must be a whole number from 1% up to a maximum of 14%**).

For the Initial Offering Period (provided you have timely submitted this Confirmation/Change Form to continue your participation in the ESPP), the withholding from your paychecks may be increased by the Company to achieve the designated contribution percentage for the full Offering Period.

SECTION 5:
WITHDRAW

DO NOT CHECK ANY OF THE BOXES BELOW IF YOU WISH TO CONTINUE TO PARTICIPATE IN THE ESPP

-I understand that my enrollment in the ESPP was effective at the beginning of the Initial Offering Period. **I hereby elect to withdraw from, and discontinue my participation in, the ESPP**, effective as soon as reasonably practicable after this form is received by the Company. Accumulated contributions will be returned to me without interest (except to the extent required due to local legal requirements outside the United States), pursuant to Section 11 of the ESPP.

Note: No contributions will be made if you elect to withdraw of the ESPP. **I understand that I cannot resume participation until the start of the next Offering Period and must timely file a new enrollment form to do so.**

SECTION 6:
**ELECTRONIC DELIVERY AND
ACCEPTANCE**

The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the ESPP by electronic means. I hereby consent to receive such documents by electronic delivery and agree to participate in the ESPP through an on-line or electronic system established and maintained by the Company or a third party designated by the Company.

SECTION 7:
**NO ADVICE REGARDING
PARTICIPATION**

The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding my participation in the ESPP or my acquisition or sale of Shares. I acknowledge, understand and agree that I should consult with my own personal tax, legal and financial advisors regarding my participation in the ESPP before taking any action related to the ESPP.

SECTION 8:
APPENDIX

Notwithstanding any provisions of the Agreement, my participation in the ESPP will be subject to any special terms and conditions set forth in the appendix to this Agreement for employees outside the United States (if any) (the "**Appendix**"). Moreover, if I relocate to one of the countries included in the Appendix, the special terms and conditions for such country will apply to me, to the extent the Company determines that the application of such terms and conditions is necessary or advisable for legal or administrative reasons. The Appendix constitutes part of the Agreement.

SECTION 9:
**TERMINATION, MODIFICATION
AND IMPOSITION OF OTHER
REQUIREMENTS**

The Company, at its option, may elect to terminate, suspend or modify the terms of the ESPP at any time, to the extent permitted by the ESPP. I agree to be bound by such termination, suspension or modification regardless of whether notice is given to me of such event, subject in any case to my right to timely withdraw from the ESPP in accordance with the ESPP withdrawal procedures then in effect. The Company reserves the right to impose other requirements on my participation in the ESPP, to the extent the Company determines it is necessary or advisable for legal or administrative reasons and to require me to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.

SECTION 10:
SEVERABILITY

If one or more provisions of this Agreement are held to be unenforceable under applicable law, then such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, then (i) such provision will be excluded from the Agreement, (ii) the balance of the Agreement will be interpreted as if such provision were so excluded and (iii) the balance of the Agreement will be enforceable in accordance with its terms.

SECTION 11:
WAIVER

I acknowledge that a waiver by the Company of breach of any provision of the Agreement shall not operate or be construed as a waiver of any other provision of the Agreement, or any subsequent breach by any Participant.

SECTION 12:
GOVERNING LAW AND VENUE

The Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto will be governed, construed and interpreted in accordance with the substantive laws of the State of Delaware, without giving effect to such state's conflict of laws rules. Any and all disputes relating to, concerning or arising from the Agreement, or relating to, concerning or arising from the relationship between the parties evidenced by the ESPP or this Agreement, will be brought and heard exclusively in the United States District Court for the District of Southern California or the Superior Court of California, County of Los Angeles. Each of the parties hereby (i) represents and agrees that such party is subject to the personal jurisdiction of said courts; (ii) irrevocably consents to the jurisdiction of such courts in any legal or equitable proceedings related to, concerning or arising from such dispute; and (iii) waives, to the fullest extent permitted by law, any objection which such party may now or hereafter have that the laying of the venue of any legal or equitable proceedings related to, concerning or arising from such dispute which is brought in such courts is improper or that such proceedings have been brought in an inconvenient forum.

SECTION 13:

RESPONSIBILITY FOR TAXES

I acknowledge that, regardless of any action taken by the Company or the Parent or Subsidiary employing me (the “**Employer**”), the ultimate liability for all income tax, social insurance, payroll tax, fringe benefits tax, payment on account or other tax related items related to my participation in the ESPP and legally applicable to me (“**Tax-Related Items**”) is and remains my responsibility and may exceed the amount withheld by the Company or the Employer, if any. I further acknowledge that the Company and/or the Employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the purchase rights granted pursuant to the ESPP, including, but not limited to, the purchase of Shares, the subsequent sale of Shares acquired pursuant to such purchase and the receipt of any dividends (if any); and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of my participation to reduce or eliminate my liability for Tax-Related Items or achieve any particular tax result. Further, if I am subject to Tax-Related Items in more than one jurisdiction, I acknowledge that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

Prior to any relevant taxable or tax withholding event, as applicable, I agree to make arrangements satisfactory to the Company and/or the Employer to fulfill all Tax-Related Items. In this regard, I authorize the Company and/or the Employer, or their respective agents, at their discretion, to satisfy any withholding obligations for Tax-Related Items by one or a combination of the following:

- a. withholding from my wages or other cash compensation paid to me by the Company and/or the Employer or any Parent or Subsidiary;
- b. withholding from proceeds of the sale of Shares acquired upon purchase either through a voluntary sale or through a mandatory sale arranged by the Company (on my behalf pursuant to this authorization and without further consent);
- c. my payment of a cash amount (including by check representing readily available funds or a wire transfer) to the Company or Employer; or
- d. any other arrangement approved by the Committee and permitted under applicable law,

all under such rules as may be established by the Committee and in compliance with the Company’s Insider Trading Policy and 10b5-1 Trading Plan Policy, if applicable.

Depending on the withholding method, the Company may withhold or account for Tax-Related Items by considering applicable statutory withholding rates or other applicable withholding rates, including up to the maximum permissible statutory rate for my tax jurisdiction(s) in which case I will have no entitlement to the equivalent amount in Shares and may receive a refund of any over-withheld amount in cash in accordance with applicable law.

Finally, I agree to pay to the Company or the Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of my participation in the ESPP that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver the Shares or the proceeds of the sale of Shares, if I fail to comply with my obligations in connection with the Tax-Related Items.

SECTION 14:

NATURE OF GRANT

By enrolling and participating in the ESPP, I acknowledge, understand and agree that:

- a. the ESPP is established voluntarily by the Company and it is discretionary in nature;
- b. all decisions with respect to future offers to participate in the ESPP, if any, will be at the sole discretion of the Committee;
- c. I am voluntarily participating in the ESPP;
- d. the purchase rights and Shares subject to the purchase rights, and the income from and value of same, are not intended to replace any pension rights or compensation;

- e. the purchase rights and the Shares subject to the purchase rights, and the income from and value of same, are not part of normal or expected compensation for any purpose, including, but not limited to calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, long-service awards, pension or retirement or welfare benefits or similar payments;
- f. unless otherwise agreed with the Company, the purchase rights and the Shares subject to the purchase rights, and the income from and value of same, are not granted as consideration for or in connection with the service I may provide as a director of any parent or Subsidiary; and
- g. neither the Company, the Employer nor any Parent or Subsidiary will be liable for any foreign exchange rate fluctuation between my local currency and the United States Dollar that may affect the value of the purchase rights or of any amounts due to me pursuant to purchase or sale of Shares under the ESPP.

SECTION 15:

DATA PRIVACY

I hereby explicitly and unambiguously consent to the collection, use and transfer, in electronic or other form, of my personal data as described in the Agreement and any other grant materials by and among, as applicable, the Employer, the Company and any Parent or Subsidiary for the exclusive purpose of implementing, administering and managing my participation in the ESPP.

I understand that the Company and the Employer may hold certain personal information about me, including, but not limited to, my name, home address, email address and telephone number, date of birth, social insurance number, passport number or other identification number (e.g., resident registration number), salary, nationality, job title, any shares of stock or directorships held in the Company, details of all purchase rights or any other entitlement to shares of stock awarded, canceled, exercised, vested, unvested or outstanding in my favor ("Data"), for the exclusive purpose of implementing, administering and managing the ESPP.

I understand that Data will be transferred to the Company's designated third-party broker, or other third party ("Online Administrator") and its affiliated companies or such other stock plan service provider as may be designated by the Company from time to time, which is assisting the Company with the implementation, administration and management of the ESPP. I understand that the recipients of Data may be located in the United States or elsewhere, and that the recipients' country may have different data privacy laws and protections than my country. I understand that if I reside outside the United States, I may request a list with the names and addresses of any potential recipients of Data by contacting my local human resources representative. I authorize the Company, Online Administrator, or such other stock plan service provider as may be designated by the Company from time to time, and any other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the ESPP to receive, possess, use, retain and transfer Data, in electronic or other form, for the sole purpose of implementing, administering and managing my participation in the ESPP. I understand that Data will be held only as long as is necessary to implement, administer and manage my participation in the ESPP. I understand if I reside outside the United States, I may, at any time, view Data, request information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting my local human resources representative. Further, I understand that I am providing the consents herein on a purely voluntary basis. If I do not consent, or if I later seek to revoke my consent, my employment status or service with the Employer will not be affected; the only consequence of refusing or withdrawing my consent is that the Company would not be able to grant purchase rights or other equity awards to me or administer or maintain such awards. Therefore, I understand that refusing or withdrawing my consent may affect my ability to participate in the ESPP. For more information on the consequences of my refusal to consent or withdrawal of consent, I understand that I may contact my local human resources representative.

Finally, upon request of the Company or the Employer, I agree to provide an executed data privacy consent form (or any other agreements or consents) that the Company or the Employer may deem necessary to obtain from me for the purpose of administering my participation in the ESPP in compliance with the data privacy laws in my country, either now or in the future. I understand and agree that I will not be able to participate in the ESPP if I fail to provide any such consent or agreement requested by the Company and/or the Employer.

SECTION 16:

**INSIDER TRADING
RESTRICTIONS/MARKET ABUSE
LAWS**

I acknowledge that, depending on my country of residence, the broker's country, or the country in which the Shares are listed, I may be subject to insider trading restrictions and/or market abuse laws in applicable jurisdictions, which may affect my ability to directly or indirectly, accept, acquire, sell or attempt to sell or otherwise dispose of Shares, or rights to Shares (e.g., purchase rights), or rights linked to the value of Shares, during such times as I am considered to have "inside information" regarding the Company (as defined by the laws or regulations in the applicable jurisdiction). Local insider trading laws and regulations may prohibit the cancellation or amendment of orders I placed before possessing the inside information. Furthermore, I may be prohibited from (i) disclosing the inside information to any third party, including fellow employees (other than on a "need to know" basis) and (ii) "tipping" third parties or causing them to otherwise buy or sell securities. Any restrictions under these laws or regulations are separate from and in addition to any restrictions that may be imposed under any applicable Company insider trading policy. I acknowledge that it is my responsibility to comply with any applicable restrictions and understand that I should consult my personal legal advisor on such matters. In addition, I acknowledge having read the Company's Insider Trading Policy, and agree to comply with such policy, as it may be amended from time to time, whenever I acquire or dispose of the Company's securities.

SECTION 17:

**FOREIGN ASSET/ACCOUNT,
EXCHANGE CONTROL AND TAX
REPORTING**

I may be subject to foreign asset/account, exchange control and/or tax reporting requirements as a result of the acquisition, holding and/or transfer of Shares or cash resulting from my participation in the ESPP. I may be required to report such accounts, assets, the balances therein, the value thereof and/or the transactions related thereto to the applicable authorities in my country and/or to repatriate funds received in connection with the ESPP within certain time limits or according to specified procedures. I acknowledge that I am responsible for ensuring compliance with any applicable foreign asset/account, exchange control and tax reporting requirements and should consult my personal legal and tax advisors on such matters.

SECTION 18:

LANGUAGE

I acknowledge that I am sufficiently proficient in English to understand the terms and conditions of the Agreement and the ESPP. Furthermore, if I have received this Agreement, or any other document related to the purchase rights and/or the ESPP translated into a language other than English and if the meaning of the translated version is different from the English version, the English version will control.

SECTION 19:

**ACKNOWLEDGMENT AND
SIGNATURE**

I acknowledge that I have received and read a copy of the ESPP Prospectus (which summarizes the features of the ESPP). My signature below (or my clicking on the Accept box if this is an electronic form) indicates that I hereby agree to be bound by the terms of the ESPP.

Signature: _____

Date: _____

APPENDIX

**ARCUTIS BIOTHERAPEUTICS, INC.
2020 EMPLOYEE STOCK PURCHASE PLAN
INITIAL OFFERING PERIOD GLOBAL ENROLLMENT CONFIRMATION FORM AND AGREEMENT
COUNTRY SPECIFIC PROVISIONS FOR EMPLOYEES OUTSIDE THE U.S.**

Not applicable

Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the ESPP.

SECTION 1:	CHECK DESIRED ACTION:	AND COMPLETE SECTIONS:
ACTIONS	<input type="checkbox"/> Enroll in the ESPP	2 + 3 + 4 + 19
	<input type="checkbox"/> Change Contribution Percentage (for next Offering Period)	2 + 4 + 19
	<input type="checkbox"/> Withdraw from ESPP	2 + 5 + 19

SECTION 2:

PERSONAL DATA

Name : _____

Home Address: _____

Social Security No. or Employee ID No.: _____

SECTION 3:

ENROLL

I hereby elect to participate in the ESPP, effective at the beginning of the next Offering Period. I elect to purchase shares of the common stock of the Company pursuant to the ESPP. I understand that the stock certificate(s) for the Shares purchased on my behalf will be issued in street name and deposited directly into my brokerage account at the Company's captive broker. I hereby agree to take all steps, and sign all forms, required to establish an account with the Company's captive broker for this purpose.

My participation will continue as long as the Company offers the ESPP and I remain eligible, unless I withdraw from the ESPP by filing a new Enrollment/Change Form with the Company. I understand that I must notify the Company of any disposition of Shares purchased under the ESPP.

SECTION 4:

ELECT/CHANGE CONTRIBUTION PERCENTAGE

I hereby authorize the Company to withhold from each of my paychecks such amount as is necessary to equal at the end of the applicable Offering Period the percentage of my Compensation (as defined in the ESPP) paid to me during such Offering Period as indicated below, so long as I continue to participate in the ESPP. **The percentage must be a whole number (from 1% up to a maximum of 15%). This change will be effective for the Next Offering Period.**

Designated contribution percentage: _____%

If this is a change to my current enrollment, this represents an increase decrease to my contribution percentage.

Note: You may not increase your contributions at any time within an ongoing Offering Period. An increase in your contribution percentage can only take effect with the next Offering Period. You may decrease your Contribution percentage to a percentage other than 0% only once within an ongoing Offering Period to be effective during that Offering Period. If you decrease your percentage to 0%, any previously accumulated contributions will be used to purchase shares on the next Purchase Date pursuant to Section 9 of the ESPP. A change will become effective as soon as reasonably practicable after the form is received by the Company.

SECTION 5:

WITHDRAW FROM PLAN

DO NOT CHECK ANY OF THE BOXES BELOW IF YOU WISH TO CONTINUE TO PARTICIPATE IN THE ESPP

I hereby elect to withdraw from, and discontinue my participation in, the ESPP, effective as soon as reasonably practicable after this form is received by the Company. Accumulated contributions will be returned to me without interest (except to the extent required due to local legal requirements outside the United States), pursuant to Section 11 of the ESPP.

Note: I understand that I cannot resume participation until the start of the next Offering Period and must timely file a new enrollment form to do so.

SECTION 6: ELECTRONIC DELIVERY AND ACCEPTANCE	The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the ESPP by electronic means. I hereby consent to receive such documents by electronic delivery and agree to participate in the ESPP through an on-line or electronic system established and maintained by the Company or a third party designated by the Company.
SECTION 7: NO ADVICE REGARDING PARTICIPATION	The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding my participation in the ESPP or my acquisition or sale of Shares. I acknowledge, understand and agree that I should consult with my own personal tax, legal and financial advisors regarding my participation in the ESPP before taking any action related to the ESPP.
SECTION 8: APPENDIX	Notwithstanding any provisions of the Agreement, my participation in the ESPP will be subject to any special terms and conditions set forth in the appendix to this Agreement for employees outside the United States (if any) (the “ Appendix ”). Moreover, if I relocate to one of the countries included in the Appendix, the special terms and conditions for such country will apply to me, to the extent the Company determines that the application of such terms and conditions is necessary or advisable for legal or administrative reasons. The Appendix constitutes part of the Agreement.
SECTION 9: TERMINATION, MODIFICATION AND IMPOSITION OF OTHER REQUIREMENTS	The Company, at its option, may elect to terminate, suspend or modify the terms of the ESPP at any time, to the extent permitted by the ESPP. I agree to be bound by such termination, suspension or modification regardless of whether notice is given to me of such event, subject in any case to my right to timely withdraw from the ESPP in accordance with the ESPP withdrawal procedures then in effect. The Company reserves the right to impose other requirements on my participation in the ESPP, to the extent the Company determines it is necessary or advisable for legal or administrative reasons and to require me to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.
SECTION 10: SEVERABILITY	If one or more provisions of this Agreement are held to be unenforceable under applicable law, then such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, then (i) such provision will be excluded from the Agreement, (ii) the balance of the Agreement will be interpreted as if such provision were so excluded and (iii) the balance of the Agreement will be enforceable in accordance with its terms.
SECTION 11: WAIVER	I acknowledge that a waiver by the Company of breach of any provision of the Agreement shall not operate or be construed as a waiver of any other provision of the Agreement, or any subsequent breach by any Participant.
SECTION 12: GOVERNING LAW AND VENUE	The Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto will be governed, construed and interpreted in accordance with the substantive laws of the State of Delaware, without giving effect to such state’s conflict of laws rules. Any and all disputes relating to, concerning or arising from the Agreement, or relating to, concerning or arising from the relationship between the parties evidenced by the ESPP or this Agreement, will be brought and heard exclusively in the United States District Court for the District of Southern California or the Superior Court of California, County of Los Angeles. Each of the parties hereby (i) represents and agrees that such party is subject to the personal jurisdiction of said courts; (ii) irrevocably consents to the jurisdiction of such courts in any legal or equitable proceedings related to, concerning or arising from such dispute, and (iii) waives, to the fullest extent permitted by law, any objection which such party may now or hereafter have that the laying of the venue of any legal or equitable proceedings related to, concerning or arising from such dispute which is brought in such courts is improper or that such proceedings have been brought in an inconvenient forum.
SECTION 13: RESPONSIBILITY FOR TAXES	I acknowledge that, regardless of any action taken by the Company or the Parent or Subsidiary employing me (the “ Employer ”), the ultimate liability for all income tax, social insurance, payroll tax, fringe benefits tax, payment on account or other tax related items related to my participation in the ESPP and legally applicable to me (“ Tax-Related Items ”) is and remains my responsibility and may exceed the amount withheld by the Company or the Employer, if any. I further acknowledge that the Company and/or the Employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the purchase rights granted pursuant to the ESPP, including, but not limited to, the purchase of Shares, the subsequent sale of Shares acquired pursuant to such purchase and the receipt of any

dividends (if any); and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of my participation to reduce or eliminate my liability for Tax-Related Items or achieve any particular tax result. Further, if I am subject to Tax-Related Items in more than one jurisdiction, I acknowledge that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

Prior to any relevant taxable or tax withholding event, as applicable, I agree to make arrangements satisfactory to the Company and/or the Employer to fulfill all Tax-Related Items. In this regard, I authorize the Company and/or the Employer, or their respective agents, at their discretion, to satisfy any withholding obligations for Tax-Related Items by one or a combination of the following:

- a. withholding from my wages or other cash compensation paid to me by the Company and/or the Employer or any Parent or Subsidiary;
- b. withholding from proceeds of the sale of Shares acquired upon purchase either through a voluntary sale or through a mandatory sale arranged by the Company (on my behalf pursuant to this authorization and without further consent);
- c. my payment of a cash amount (including by check representing readily available funds or a wire transfer) to the Company or Employer; or
- d. any other arrangement approved by the Committee and permitted under applicable law,

all under such rules as may be established by the Committee and in compliance with the Company's Insider Trading Policy and 10b5-1 Trading Plan Policy, if applicable.

Depending on the withholding method, the Company may withhold or account for Tax-Related Items by considering applicable statutory withholding rates or other applicable withholding rates, including up to the maximum permissible statutory rate for my tax jurisdiction(s) in which case I will have no entitlement to the equivalent amount in Shares and may receive a refund of any over-withheld amount in cash in accordance with applicable law.

Finally, I agree to pay to the Company or the Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of my participation in the ESPP that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver the Shares or the proceeds of the sale of Shares, if I fail to comply with my obligations in connection with the Tax-Related Items.

SECTION 14:

NATURE OF GRANT

By enrolling and participating in the ESPP, I acknowledge, understand and agree that:

- a. the ESPP is established voluntarily by the Company and it is discretionary in nature;
- b. all decisions with respect to future offers to participate in the ESPP, if any, will be at the sole discretion of the Committee;
- c. I am voluntarily participating in the ESPP;
- d. the purchase rights and Shares subject to the purchase rights, and the income from and value of same, are not intended to replace any pension rights or compensation;
- e. the purchase rights and the Shares subject to the purchase rights, and the income from and value of same, are not part of normal or expected compensation for any purpose, including, but not limited to calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, long-service awards, pension or retirement or welfare benefits or similar payments;
- f. unless otherwise agreed with the Company, the purchase rights and the Shares subject to the purchase rights, and the income from and value of same, are not granted as consideration for or in connection with the service I may provide as a director of any parent or Subsidiary; and

- g. neither the Company, the Employer nor any Parent or Subsidiary will be liable for any foreign exchange rate fluctuation between my local currency and the United States Dollar that may affect the value of the purchase rights or of any amounts due to me pursuant to purchase or sale of Shares under the ESPP.

SECTION 15:

DATA PRIVACY

I hereby explicitly and unambiguously consent to the collection, use and transfer, in electronic or other form, of my personal data as described in the Agreement and any other grant materials by and among, as applicable, the Employer, the Company and any Parent or Subsidiary for the exclusive purpose of implementing, administering and managing my participation in the ESPP.

I understand that the Company and the Employer may hold certain personal information about me, including, but not limited to, my name, home address, email address and telephone number, date of birth, social insurance number, passport number or other identification number (e.g., resident registration number), salary, nationality, job title, any shares of stock or directorships held in the Company, details of all purchase rights or any other entitlement to shares of stock awarded, canceled, exercised, vested, unvested or outstanding in my favor (“Data”), for the exclusive purpose of implementing, administering and managing the ESPP.

I understand that Data will be transferred to the Company’s designated third-party broker, or other third party (“Online Administrator”) and its affiliated companies or such other stock plan service provider as may be designated by the Company from time to time, which is assisting the Company with the implementation, administration and management of the ESPP. I understand that the recipients of Data may be located in the United States or elsewhere, and that the recipients’ country may have different data privacy laws and protections than my country. I understand that if I reside outside the United States, I may request a list with the names and addresses of any potential recipients of Data by contacting my local human resources representative. I authorize the Company, Online Administrator, or such other stock plan service provider as may be designated by the Company from time to time, and any other possible recipients which may assist the Company (presently or in the future) with implementing, administering and managing the ESPP to receive, possess, use, retain and transfer Data, in electronic or other form, for the sole purpose of implementing, administering and managing my participation in the ESPP. I understand that Data will be held only as long as is necessary to implement, administer and manage my participation in the ESPP. I understand if I reside outside the United States, I may, at any time, view Data, request information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting my local human resources representative. Further, I understand that I am providing the consents herein on a purely voluntary basis. If I do not consent, or if I later seek to revoke my consent, my employment status or service with the Employer will not be affected; the only consequence of refusing or withdrawing my consent is that the Company would not be able to grant purchase rights or other equity awards to me or administer or maintain such awards. Therefore, I understand that refusing or withdrawing my consent may affect my ability to participate in the ESPP. For more information on the consequences of my refusal to consent or withdrawal of consent, I understand that I may contact my local human resources representative.

Finally, upon request of the Company or the Employer, I agree to provide an executed data privacy consent form (or any other agreements or consents) that the Company or the Employer may deem necessary to obtain from me for the purpose of administering my participation in the ESPP in compliance with the data privacy laws in my country, either now or in the future. I understand and agree that I will not be able to participate in the ESPP if I fail to provide any such consent or agreement requested by the Company and/or the Employer.

SECTION 16:

INSIDER TRADING
RESTRICTIONS/MARKET ABUSE
LAWS

I acknowledge that, depending on my country of residence, the broker’s country, or the country in which the Shares are listed, I may be subject to insider trading restrictions and/or market abuse laws in applicable jurisdictions, which may affect my ability to directly or indirectly, accept, acquire, sell or attempt to sell or otherwise dispose of Shares, or rights to Shares (e.g., purchase rights), or rights linked to the value of Shares, during such times as I am considered to have “inside information” regarding the Company (as defined by the laws or regulations in the applicable jurisdiction). Local insider trading laws and regulations may prohibit the cancellation

or amendment of orders I placed before possessing the inside information. Furthermore, I may be prohibited from (i) disclosing the inside information to any third party, including fellow employees (other than on a “need to know” basis) and (ii) “tipping” third parties or causing them to otherwise buy or sell securities. Any restrictions under these laws or regulations are separate from and in addition to any restrictions that may be imposed under any applicable Company insider trading policy. I acknowledge that it is my responsibility to comply with any applicable restrictions and understand that I should consult my personal legal advisor on such matters. In addition, I acknowledge having read the Company’s Insider Trading Policy, and agree to comply with such policy, as it may be amended from time to time, whenever I acquire or dispose of the Company’s securities.

SECTION 17:
**FOREIGN ASSET/ACCOUNT,
EXCHANGE CONTROL AND TAX
REPORTING**

I may be subject to foreign asset/account, exchange control and/or tax reporting requirements as a result of the acquisition, holding and/or transfer of Shares or cash resulting from my participation in the ESPP. I may be required to report such accounts, assets, the balances therein, the value thereof and/or the transactions related thereto to the applicable authorities in my country and/or to repatriate funds received in connection with the ESPP within certain time limits or according to specified procedures. I acknowledge that I am responsible for ensuring compliance with any applicable foreign asset/account, exchange control and tax reporting requirements and should consult my personal legal and tax advisors on such matters.

SECTION 18:
LANGUAGE

I acknowledge that I am sufficiently proficient in English to understand the terms and conditions of the Agreement and the ESPP. Furthermore, if I have received this Agreement, or any other document related to the purchase rights and/or the ESPP translated into a language other than English and if the meaning of the translated version is different from the English version, the English version will control.

SECTION 19:
**ACKNOWLEDGMENT AND
SIGNATURE**

I acknowledge that I have received and read a copy of the ESPP Prospectus (which summarizes the features of the ESPP). My signature below (or my clicking on the Accept box if this is an electronic form) indicates that I hereby agree to be bound by the terms of the ESPP.

Signature: _____ Date: _____

APPENDIX

**ARCUTIS BIOTHERAPEUTICS, INC. 2020 EMPLOYEE STOCK PURCHASE PLAN
GLOBAL ENROLLMENT/CHANGE FORM AND AGREEMENT**

COUNTRY SPECIFIC PROVISIONS FOR EMPLOYEES OUTSIDE THE U.S.

Not applicable

CONSULTING AGREEMENT

This Consulting Agreement (“**Agreement**”) is entered into as of August 16, 2016 (the “**Effective Date**”) by and between Arcutis, Inc. (“**Company**”), a Delaware corporation with a principal place of business at 70 Willow Road, Suite 200, Menlo Park CA 94025, and Bhaskar Chaudhuri, PhD, (“**Consultant**”), a California resident with a principal address at . The Company desires to retain Consultant as an independent contractor to perform consulting services for the Company and Consultant is willing to perform such services, on the terms described below. In consideration of the mutual promises contained herein, the parties agree as follows:

1. *Services and Compensation*; Consultant agrees to perform for the Company the services described in Exhibit A (the “**Services**”), herein incorporated by reference, and the Company agrees to pay Consultant the compensation described in Exhibit A for Consultant’s performance of the Services.

A. *Travel Expenses*. Company shall reimburse Consultant for any and all reasonable travel-related expenses incurred by Consultant in connection with Consultant’s performance of the Services set forth herein, provided, however, that all such expenses must be preapproved by Company. Reimbursable travel expenses shall include automobile rental and other transportation expenses, hotel expenses and meals. All requests for reimbursement for travel-related expenses must be accompanied by documentation in form and detail sufficient to meet the requirements of the Internal Revenue Service with respect to recognition of business-related travel expenses for federal corporate tax purposes.

2. *Confidentiality*.

A. *Definition*. “**Confidential Information**” means any non-public information that relates to the actual or anticipated business or research and development of the Company, technical data, trade secrets or know-how, including, but not limited to, research, clinical data, product plans or other information regarding the Company’s research and development, products or services and markets therefore, customer lists and customers, developments, inventions, processes, formulas, compounds, technology, designs, marketing, finances or other business information. Confidential Information does not include information that (i) is known to Consultant at the time of disclosure to Consultant by the Company as evidenced by written records of Consultant, (ii) has become publicly known and made generally available through no wrongful act of Consultant, or (iii) has been rightfully received by Consultant from a third party who is authorized to make such disclosure. Notwithstanding the foregoing, all Confidential Information developed by or for Consultant and assigned to Company in connection with this Agreement shall be deemed Confidential Information of the Company and exception (i) above will not be applicable thereto.

B. *Nonuse and Nondisclosure*. Consultant will not, during or subsequent to the term of this Agreement, (i) use the Confidential Information for any purpose whatsoever other than the performance of the Services on behalf of the Company or (ii) disclose the Confidential Information to any third party. Consultant agrees that all Confidential Information will remain the sole property

of the Company. Consultant also agrees to take all reasonable precautions to prevent any unauthorized use or disclosure of such Confidential Information, including, but not limited to, having each of Consultant's employees, agents and contractors, if any, with access to any Confidential Information, execute (prior to gaining access) an agreement requiring such employee, agent or contractor, as the case may be, to comply with and be bound by Consultant's obligations set forth in Sections 2, 3, 4 and 10 of this Agreement (Consultant will provide the Company with a copy of each such agreement).

C. *Former Client Confidential Information.* Consultant agrees that Consultant will not, during the term of this Agreement, improperly use or disclose any proprietary information or trade secrets of any former or current employer of Consultant or other person or entity with which Consultant has an agreement or duty to keep in confidence information acquired by Consultant, if any. Consultant also agrees that Consultant will not bring onto the Company's premises any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

D. *Third Party Confidential Information.* Consultant recognizes that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. Consultant agrees that, during the term of this Agreement and thereafter, Consultant owes the Company and such third parties a duty to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out the Services for the Company consistent with the Company's agreement with such third party.

Consultant acknowledges that Company is actively seeking technology from third parties, and contemplates that Consultant's services will be requested with respect to third party information. From time to time, Company may request that Consultant execute additional confidentiality provisions or agreements required by these third parties. Consultant shall not unreasonably refuse to execute such additional confidentiality provisions.

E. *Return of Materials.* Upon the termination of this Agreement, or upon Company's earlier request, Consultant will deliver to the Company all of the Company's property and any Confidential Information that Consultant may have in Consultant's possession or control (including without limitation any such property or Confidential Information in the possession or control of any of Consultant's employees, agents or consultants). In the event any of Consultant's employees, agents or contractors are terminated, Consultant will recover any Company property or Confidential Information in the possession or control of such individual or entity.

3. *Ownership.*

A. *Assignment.* Consultant agrees that all intellectual and physical concepts, reports, plans, ideas, writings, sketches, layouts, copy, promotions, videos, commercials, films, photographs, illustrations, presentations, recordings, software, literary and artistic works, artwork, campaigns, material, notes, records, drawings, designs, inventions, improvements, developments, discoveries, compositions, and trade secrets, processes, methods and/or techniques conceived, discovered, developed or reduced to practice by Consultant, solely or in collaboration with others,

during the term of this Agreement that relate in any manner to the business of the Company that Consultant may be directed to undertake, prepare, investigate or experiment with or that Consultant may become associated with in work, investigation or experimentation in the Company's line of business in the course of performing the Services hereunder (collectively, "**Inventions**"), are the sole property of the Company. Consultant also agrees to assign (or cause to be assigned) and hereby assigns fully to the Company all Inventions and any copyrights, patents, or other intellectual property rights relating to all Inventions.

B. *Works Made-For-Hire.* Consultant agrees that all Inventions created under this Agreement shall be deemed "works made-for-hire" for all purposes, including for the purposes of interpretation under Section 101 of the Copyright Act, 17 U.S.C. Section 101 (or any successor thereto), that Company is deemed the author or creator of the Inventions, and that, as between Consultant and Company, Company is the exclusive owner of all right, title and interest, including all copyrights, trademark rights, and any and all other intellectual property rights, in and to the Inventions. If, for any reason, any of the Inventions are not found to have been created as works made-for-hire, Consultant hereby assigns and/or agrees to assign all its right, title and interest in and to the Inventions, including the copyrights of said Inventions to Company. Notwithstanding the foregoing, Company acknowledges that from time to time, with its prior knowledge and consent, Consultant may acquire a license or other limited right to use certain intellectual property (i.e., photography, art, music) and not the full ownership thereof; and, in such event, same shall not be a work for hire.

C. *Representations and Warranties.* Consultant represents and warrants that all Inventions are original or that it has obtained all rights necessary for its unrestricted use of Inventions by Client, in any manner and over any period of time, including without limitation, rights related to copyright, trademark, right of publicity and privacy and trade secret, subject to Section 3B and excepting such limitations or restrictions as Consultant shall fully disclose in writing to Company before the work is created. Consultant agrees to secure for Company all third party consents, releases and contracts necessary to evidence Company's rights in any Inventions provided by Consultant under this Agreement.

D. *Further Assurances.* Consultant agrees to assist Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in Inventions and any copyrights, patents, or other intellectual property rights relating to all Inventions in any and all countries, including the disclosure to the Company of all pertinent information and data with respect to all Inventions, the execution of all applications, specifications, oaths, assignments and all other instruments that the Company may deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns and nominees the sole and exclusive right, title and interest in and to all Inventions, and any copyrights, patents, or other intellectual property rights relating to all Inventions. In the event Consultant fails to execute any necessary documents when requested by Company, Company is hereby irrevocably granted such power of attorney to execute assignment and other necessary documents on Consultant's behalf to perfect Company's ownership in the Inventions. Consultant also agrees that Consultant's obligation to execute or cause to be executed any such instrument or papers will continue after the termination of this Agreement. It is understood and agreed that the Company, or its designee, shall have the sole right, but not the obligation, to file, prosecute and maintain patent applications and patents worldwide with respect to Inventions.

(i) *No Company obligation to protect or commercialize Consultant information.* Consultant agrees that Company is not obligated to commercialize any subject matter, including any information generated by Consultant and set forth in any intellectual property pursuant to this agreement. Consultant acknowledges that the Company, may or may not, in its sole discretion, take steps to protect intellectual property encompassing any information generated by Consultant, and is in no way obligated to commercialize such inventions or intellectual property.

(ii) *Consultant Cooperation with Judicial or Regulatory Authorities.* To the extent that Consultant, or anyone under Consultant's control, generates any information which Company, in its sole discretion, deems appropriate to submit to any judicial or regulatory authority, including the US Food and Drug Administration, the US Securities and Exchange Administration, or any other authority in any other jurisdiction, Consultant acknowledges that Company owns such information *ab initio*, and Consultant agrees to use best efforts to assist Company in all dealings with such judicial or regulatory authority. If Consultant receives a subpoena or other judicial or administrative demand for information, Consultant agrees to immediately, within 24 hours of receipt, notify Company, and cooperate fully with Company in responding to such demand for information prior to disclosing such information, which may include Confidential Information, to the demanding authority.

(iii) *Consultant Compliance with Disclosure Requirements.* Consultant also agrees to obey all disclosure requirements of any regulatory authority, including requirements that scientific or clinical investigators disclose all direct or indirect financial or other compensation received on behalf of Company or any third party in connection with the regulatory information.

(iv) *Care of Property.* Consultant shall take all reasonable precautions to safeguard any and all Company property in Consultant's custody or control and shall be responsible for any and all loss, damage, destruction or unauthorized use by others of Company's property.

E. *Pre-Existing Materials.* Consultant agrees that if, in the course of performing the Services, Consultant incorporates into any Invention developed under this Agreement any invention, improvement, development, concept, discovery or other proprietary information owned by Consultant or in which Consultant has an interest, (i) Consultant will inform Company, in writing before incorporating any such invention, improvement, development, concept, discovery or other proprietary information into any Invention, and (ii) the Company is hereby granted a nonexclusive, royalty-free, perpetual, irrevocable, worldwide license to make, have made, modify, reproduce, display, use and sell such item as part of or in connection with such Invention but solely in the manner as is utilized in the Services. Notwithstanding the foregoing, Company may assign the above referenced worldwide license to a successor to all or substantially all of its business or assets whether by sale, merger, operation of law or otherwise if the assignee or transferee has agreed to be bound by the terms and conditions of this Agreement. Consultant will not incorporate any invention, improvement, development, concept, discovery or other proprietary information owned by any third party into any Invention without Company's prior written permission.

F. *Attorney-in-Fact.* Consultant agrees that, if the Company is unable because of Consultant's unavailability, dissolution, mental or physical incapacity, or for any other reason, to secure Consultant's signature for the purpose of applying for or pursuing any application for any United States or foreign patents or copyright registrations covering the Inventions assigned to the Company in **Section 3.A**, then Consultant hereby irrevocably designates and appoints the Company and its duly authorized officers and agents as Consultant's agent and attorney-in-fact, to act for and on Consultant's behalf to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of patents, copyright or other legal documents required by any judicial or regulatory authority, with the same legal force and effect as if executed by Consultant.

4. *Conflicting Obligations.*

Consultant certifies that Consultant has no outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement or that would preclude Consultant from rendering the Services, and otherwise complying with the provisions of this Agreement. Consultant will not enter into any such conflicting agreement during the term of this Agreement.

5. *Term and Termination.*

A. *Term.* The term of this Agreement will begin on the Effective Date of this Agreement and will continue until termination as provided in **Section 5.B**. The term of this Agreement may be extended through the written, mutual agreement of the parties.

B. *Termination.* Either the Company or Consultant may terminate this Agreement for any reason or no reason upon giving Consultant thirty (30) days' prior written notice of such termination pursuant to **Section 9.E** of this Agreement. In addition, either Company or Consultant may terminate this Agreement upon ten (10) days prior written notice if the other party is in breach of any material provision of this Agreement, and such breach is not cured during such ten (10) day period.

C. *Survival.* Upon such termination, all rights and duties of the Company and Consultant toward each other will cease except:

(i) The Company will pay, within 30 days after the effective date of termination, all amounts owing to Consultant for Services completed by the Company prior to the termination date and related expenses, if any, submitted in accordance with the Company's standard policies;

(ii) Consultant may be eligible for acceleration in vesting of equity, as provided on Exhibit A; and

(iii) Section 2 (Confidentiality), Section 3 (Ownership), Section 4 (Conflicting Obligations), Section 6 (Independent Contractor; Benefits), Section 8 (Arbitration and Equitable Relief) and Section 9 (Miscellaneous) will survive termination of this Agreement. Consultant acknowledges continuing obligations toward third party regulatory and judicial authorities, in conjunction with Company, and disclosure obligations, as set forth under section 3(B)(ii) and (iii) above.

6. *Independent Contractor; Benefits.*

A. *Independent Contractor.* It is the express intention of the Company and Consultant that Consultant perform the Services as an independent contractor to the Company. Nothing in this Agreement will in any way be construed to constitute Consultant as an agent, employee or representative of the Company. Without limiting the generality of the foregoing, Consultant is not authorized to bind the Company to any liability or obligation or to represent that Consultant has any such authority. Consultant acknowledges and agrees that Consultant is obligated to report as income all compensation received by Consultant pursuant to this Agreement. Consultant agrees to and acknowledges the obligation to pay all self-employment and other taxes on such income.

B. *Benefits.* The Company and Consultant agree that Consultant will receive no Company-sponsored benefits from the Company. If Consultant is reclassified by a state or federal agency or court as Company's employee, Consultant will become a reclassified employee and will receive no benefits from the Company, except those mandated by state or federal law, even if by the terms of the Company's benefit plans or programs of the Company in effect at the time of such reclassification, Consultant would otherwise be eligible for such benefits.

7. *Omitted*

8. *Arbitration and Equitable Relief.*

A. *Arbitration.* Consultant agrees that any and all controversies, claims or disputes with anyone (including the Company and any employee, officer, director, shareholder or benefit plan of the Company, in its capacity as such or otherwise) arising out of, relating to or resulting from Consultant's performance of the Services under this Agreement or the termination of this Agreement, including any breach of this Agreement, shall be subject to binding arbitration under the Arbitration Rules set forth in California Code of Civil Procedure Section 1280 through 1294.2, including Section 1283.05 (the "**Rules**") and pursuant to California law. CONSULTANT AGREES TO ARBITRATE, AND THEREBY AGREES TO WAIVE ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO, ALL DISPUTES ARISING FROM OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO: ANY STATUTORY CLAIMS UNDER STATE OR FEDERAL LAW, CLAIMS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AMERICANS WITH DISABILITIES ACT OF 1990, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE OLDER WORKERS BENEFIT PROTECTION ACT, THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, THE CALIFORNIA LABOR CODE, CLAIMS OF HARASSMENT, DISCRIMINATION OR WRONGFUL TERMINATION AND ANY STATUTORY CLAIMS. Consultant understands that this Agreement to arbitrate also applies to any disputes that the Company may have with Consultant.

B. *Procedure.* Consultant agrees that any arbitration will be administered by the American Arbitration Association ("**AAA**"), and that a neutral arbitrator will be selected in a manner consistent with its National Rules for the Resolution of Employment Disputes. Consultant agrees that the arbitrator will have the power to decide any motions brought by any party to the arbitration, including discovery motions, motions for summary judgment and/or adjudication and motions to dismiss and demurrers, prior to any arbitration hearing. Consultant agrees that the arbitrator will issue a written decision on the merits. Consultant also agrees that the arbitrator will

have the power to award any remedies, including attorneys' fees and costs, available under applicable law. Consultant understands that the Company will pay for any administrative or hearing fees charged by the arbitrator or AAA, except that Consultant shall pay the first \$200.00 of any filing fees associated with any arbitration Consultant initiates. Consultant agrees that the arbitrator will administer and conduct any arbitration in a manner consistent with the Rules and that, to the extent that the AAA's National Rules for the Resolution of Employment Disputes conflict with the Rules, the Rules will take precedence.

C. *Remedy.* Except as provided by the Rules, arbitration will be the sole, exclusive and final remedy for any dispute between the Company and Consultant. Accordingly, except as provided for by the Rules, neither the Company nor Consultant will be permitted to pursue court action regarding claims that are subject to arbitration. Notwithstanding the foregoing, the arbitrator will not have the authority to disregard or refuse to enforce any lawful Company policy, and the arbitrator shall not order or require the Company to adopt a policy not otherwise required by law which the Company has not adopted.

D. *Availability of Injunctive Relief.* In addition to the right under the Rules to petition the court for provisional relief, Consultant agrees that any party may also petition the court for injunctive relief where either party alleges or claims a violation of Sections 2 (Confidentiality), 3 (Ownership) or 4 (Conflicting Obligations) of this Agreement or any other agreement regarding trade secrets, confidential information, nonsolicitation or Labor Code §2870. In the event either the Company or Consultant seeks injunctive relief, the prevailing party will be entitled to recover reasonable costs and attorneys' fees.

E. *Administrative Relief.* Consultant understands that this Agreement does not prohibit Consultant from pursuing an administrative claim with a local, state or federal administrative body such as the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission or the workers' compensation board. This Agreement does, however, preclude Consultant from pursuing court action regarding any such claim.

F. *Voluntary Nature of Agreement.* Consultant acknowledges and agrees that Consultant is executing this Agreement voluntarily and without any duress or undue influence by the Company or anyone else. Consultant further acknowledges and agrees that Consultant has carefully read this Agreement and has asked any questions needed to understand the terms, consequences and binding effect of this Agreement and fully understand it, including that Consultant is waiving its right to a jury trial. Finally, Consultant agrees that Consultant has been provided an opportunity to seek the advice of an attorney of its choice before signing this Agreement.

9. *Miscellaneous.*

A. *Governing Law.* This Agreement will be governed by, and construed and interpreted under, the laws of the State of Delaware without regard to Delaware's conflicts of law principles.

B. *Assignability.* Consultant may not sell, assign, sub-contract or otherwise delegate any rights or obligations under this Agreement. Company may, without limitation, assign any or

all of its rights and interests hereunder to a successor to all or substantially all of its business or assets whether by sale, merger, operation of law or otherwise if the assignee or transferee has agreed to be bound by the terms and conditions of this Agreement.

C. *Entire Agreement; Amendment and Waiver.* This Agreement and the Exhibits hereto constitute the entire agreement between the parties with respect to the subject matter of this Agreement and supersede all prior written and oral agreements between the parties regarding the subject matter of this Agreement. This Agreement may not be altered, amended or modified in any manner except by a writing signed by both parties. Waiver of any term or provision of this Agreement shall not be effective unless signed by the party to the bound, and shall not constitute a waiver as to any subsequent breach or failure of the same term of provision of this Agreement.

D. *Headings.* Headings are used in this Agreement for reference only and will not be considered when interpreting this Agreement.

E. *Notices.* Any notice or other communication required or permitted by this Agreement to be given to a party will be in writing and will be deemed given if delivered personally or by commercial messenger or courier service, or mailed by U.S. registered or certified mail (return receipt requested), or sent via facsimile (with receipt of confirmation of complete transmission) to the party at the party's address or facsimile number written below or at such other address or facsimile number as the party may have previously specified by like notice. If by mail, delivery will be deemed effective 3 business days after mailing in accordance with this Section 9.E.

(1) If to the Company, to:

70 Willow Road
Suite 200
Menlo Park, CA 94025
ATTN: Frank Watanabe
Telephone: 1-650-325-5156
Facsimile: 1-650-325-5157

(2) If to Consultant, to:

Bhaskar Chaudhuri, PhD

F. *Severability.* If any provision of this Agreement is found to be illegal or unenforceable, the other provisions will remain effective and enforceable to the greatest extent permitted by law, provided the effect thereof does not materially change the economic benefit of this Agreement to either the Company or Consultant.

G. *Counterparts*. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Execution of this Agreement or any Exhibit incorporated herein by email in “portable document format” (“.pdf”) shall be binding to the same extent as physical delivery of the paper document bearing original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Consulting Agreement as of the date first written above.

Bhaskar Chaudhuri, PhD

By: /s/ Bhaskar Chaudhuri

Name: Bhaskar Chaudhuri

Arcutis, Inc.

By: /s/ Frank Watanabe

Name: Frank Watanabe

Title: President

EXHIBIT A

Services:

Consultant will provide services as Chair of the Company's Board of Directors, and in such role (i) will lead interactions with external investors on behalf of the Company and (ii) provide direction to the CEO or President of the Company, provide strategic guidance to the Company, guide business development activities of the Company, and any other supervisory or leadership responsibilities roles established by the Board of Directors. The Services are expected, on average, to require an average of ten (10) working days per month, although Consultant and the Company understand that the time required from Consultant in any given month may vary from this average.

Compensation:

In partial consideration of Consultant's services, following the initial closing of the Company's Series A preferred stock financing, the Company will pay Consultant a base consulting fee of \$16,666 per month (equivalent to \$200,000 per year), which will be paid on a bi-weekly or monthly basis as agreed by Consultant and the Company. Consultant may also from time to time be entitled to additional compensation for the Services and/or additional services performed by Consultant, as mutually agreed in writing between Consultant and the Company and approved by the Company's Board of Directors.

Furthermore, for the term of the Agreement, Consultant will be considered "employed by the Company" for the purposes of any vesting of stock, stock options or other equity incentive compensation that requires that Consultant be "employed by the Company," including without limitation that certain Stock Purchase Agreement between the Company and Consultant dated August 16, 2016 (the "**Initial Stock Purchase Agreement**").

Vesting Acceleration:

In addition, with regard to any additional stock option grant, restricted stock unit, restricted stock award and other equity award, beyond the Initial Stock Purchase Agreement, that may be granted to Consultant, if, during a Change of Control Period, Consultant's services to the Company under this Agreement are terminated by the Company other than for Cause, or are terminated by Consultant for Good Reason, then the vesting and, if applicable, exercisability of each such stock option, restricted stock unit, restricted stock award and other equity award held by Consultant will accelerate fully, effective as of the date of termination.

For purposes of the foregoing, the following definitions apply:

(a) "**Cause**" will mean: (i) Consultant engaging in any material act of dishonesty, fraud or misrepresentation with respect to the Company; (ii) Consultant's violation of any federal or state law or regulation applicable to the business of the Company or its affiliates, unless such act was reliant on the advice of counsel; or (iii) Consultant's material breach of any confidentiality agreement or invention assignment agreement between Consultant and the Company (or any affiliate of the Company).

(b) **“Change of Control”** will mean the occurrence of any of the following events:

(i) Any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the **“Exchange Act”**)) becomes the “beneficial owner” (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing more than 50% of the total voting power represented by the Company’s then outstanding voting securities; or

(ii) The consummation of the sale or disposition by the Company of all or substantially all of the Company’s assets; or

(iii) The consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least 50% of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation.

Notwithstanding the foregoing provisions of this definition, a transaction will not be deemed a Change of Control unless the transaction qualifies as a “change in control event” within the meaning of Section 409A.

(c) **“Change of Control Period”** will mean the period of time commencing one month prior to a Change of Control and ending eighteen (18) months after the Change of Control.

(d) **“Good Reason”** will mean Consultant’s termination of this Agreement within ninety (90) days following the expiration of any cure period (as discussed below) following the occurrence of one or more of the following, without Consultant’s express consent: (i) a material diminution of Consultant’s then-current base consulting fee; (ii) a material diminution in Consultant’s authority, duties or responsibilities; or (iii) a material negative change in geographic location at which Consultant must perform services when present at the Company’s offices (that is, Consultant’s relocation to a location more than fifty (50) miles from Consultant’s then present location, which relocation materially increases Consultant’s commuting distance to the Company’s offices). Consultant may not resign for Good Reason without first providing the Company with written notice within ninety (90) days of the first occurrence of the event that Consultant believes constitutes “Good Reason” specifically identifying the acts or omissions constituting the grounds for Good Reason and a cure period of thirty (30) days during which the event is not cured.

CERTAIN IDENTIFIED INFORMATION HAS BEEN OMITTED FROM THIS DOCUMENT BECAUSE IT IS BOTH NOT MATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED, AND HAS BEEN MARKED WITH “[***]” TO INDICATE WHERE OMISSIONS HAVE BEEN MADE

Final Execution Copy

LICENSE AGREEMENT

between

ASTRAZENECA AB

and

ARCUTIS, INC.

Dated as of July 23, 2018

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SCHEDULES

Schedule 1.12	AstraZeneca Patents
Schedule 1.13	AstraZeneca Regulatory Documentation
Schedule 3.1	Transition Plan

LICENSE AGREEMENT

This License Agreement (the “**Agreement**”) is made and entered into effective as of July 23, 2018 (the “**Effective Date**”) by and between **AstraZeneca AB**, a company incorporated in Sweden under no. 556011-7482 with offices at Pepparedsleden 1, SE-431 83 Mölndal, Sweden (“**AstraZeneca**”) and **Arcutis, Inc.**, a corporation incorporated in Delaware, United States having its principal place of business at 70 Willow Road, Suite 200, Menlo Park, CA 94025 (“**Licensee**”). AstraZeneca and Licensee are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

Recitals

WHEREAS, AstraZeneca owns and controls certain intellectual property rights with respect to the Licensed Compound (as defined herein) and Licensed Products (as defined herein) in the Territory (as defined herein); and

WHEREAS, AstraZeneca wishes to grant a license to Licensee and Licensee wishes to take, a license under such intellectual property rights to develop and commercialize Licensed Products in the Field (as defined herein) in the Territory, in each case in accordance with the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the premises and the mutual promises and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

**ARTICLE 1
DEFINITIONS**

Unless otherwise specifically provided herein, the following terms shall have the following meanings:

1.1 “AAA” has the meaning set forth in Section 10.5.2.

1.2 “Affiliate” means, with respect to a Party, any Person that, directly or indirectly, through one (1) or more intermediaries, controls, is controlled by or is under common control with such Party. For purposes of this definition, “control” and, with correlative meanings, the terms “controlled by” and “under common control with” means: (i) the possession, directly or indirectly, of the power to direct the management or policies of a business entity, whether through the ownership of voting securities, by contract relating to voting rights or corporate governance or otherwise; or (ii) the ownership, directly or indirectly, of fifty percent (50%) or more of the voting securities or other ownership interest of a business entity (or, with respect to a limited partnership or other similar entity, its general partner or controlling entity).

1.3 “Agreement” has the meaning set forth in the preamble hereto.

1.4 “Anti-Corruption Laws” means the U.S. Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act 2010, as amended, and any other applicable anti-bribery or anti-corruption laws and laws for the prevention of fraud, racketeering, money laundering or terrorism.

1.5 “Anti-Corruption Law Violation” means a violation of an Anti- Corruption Law relating to the subject matter of this Agreement by or on behalf of Licensee or any of its Affiliates or its or their Sublicensees that would, if it were publicly known, in the reasonable view of AstraZeneca, have a material adverse effect on AstraZeneca or any of its Affiliates or on the reputation of AstraZeneca or any of its Affiliates because of its relationship with Licensee.

1.6 “Applicable Law” means applicable laws, rules and regulations, including any rules, regulations, legally binding guidelines or other requirements of the Regulatory Authorities that may be in effect from time to time, including the FFDCA and the Anti-Corruption Laws.

1.7 “Arbitration Notice” has the meaning set forth in Section 10.5.2.

1.8 “Arbitrators” has the meaning set forth in Section 10.5.2.

1.9 “AstraZeneca” has the meaning set forth in the preamble hereto.

1.10 “AstraZeneca Indemnitees” has the meaning set forth in Section 8.1.

1.11 “AstraZeneca Know-How” means the Information Controlled by AstraZeneca or any of its Affiliates as of the Effective Date or that is developed by AstraZeneca or any of its Affiliates at any time during the Term that is (i) not generally known and (ii) reasonably necessary for the Exploitation of the Licensed Compound or a Licensed Product in the Field, but excluding any Information to the extent covered or claimed by published AstraZeneca Patents.

1.12 “AstraZeneca Patents” means the Patents set forth on **Schedule 1.12**.

1.13 “AstraZeneca Regulatory Documentation” means the Regulatory Documentation Controlled by AstraZeneca or any of its Affiliates and identified on **Schedule 1.13**. At Licensee’s request, and subject to AstraZeneca’s reasonable discretion, AstraZeneca Regulatory Documentation may also include such other Regulatory Documentation related to the Licensed Compound and Controlled by AstraZeneca or any of its Affiliates, that is necessary for the Development of a Licensed Product in the Field, and specifically identified by the Licensee after the Effective Date.

1.14 “Auditor” has the meaning set forth in Section 4.11.

1.15 “Authorized Generic Version” means, with respect to a pharmaceutical product, any other pharmaceutical product that (i) is sold under the Drug Approval Application for the first product or any supplement or amendment thereto, (ii) is sold under a different Trademark than the first product and (iii) has a National Drug Code, or NDC, number that differs from the NDC number for the first product (other than on a temporary basis as may be necessary to launch the second product in the Territory).

1.16 “Breaching Party” has the meaning set forth in Section 9.2.1.

1.17 “Business Day” means a day other than a Saturday or Sunday or a day on which banking institutions in New York are permitted or required to be closed.

1.18 “Calendar Quarter” means each successive period of three (3) calendar months commencing on January 1, April 1, July 1 and October 1, except that the first Calendar Quarter of the Term shall commence on the Effective Date and end on the day immediately prior to the first to occur of January 1, April 1, July 1 or October 1 after the Effective Date and the last Calendar Quarter shall end on the last day of the Term.

1.19 “Calendar Year” means each successive period of twelve (12) calendar months commencing on January 1 and ending on December 31, except that the first Calendar Year of the Term shall commence on the Effective Date and end on December 31 of the year in which the Effective Date occurs and the last Calendar Year of the Term shall commence on January 1 of the year in which the Term ends and end on the last day of the Term.

1.20 “Cause” has the meaning set forth in Section 9.2.4(b).

1.21 “cGMP” means current standards of good manufacturing practice, as amended from time to time, related to the manufacture of Licensed Compound as set forth in the United States Code of Federal Regulations (CFR) 21 CFR Parts 11, 210, 211, 600-800 and 820, European Commission Directive 2003/94/EC, Eudralex Volume 4 and 93/42/EEC.

1.22 “Change of Control” means, with respect to a Party, any of the following events: (a) any Third Party becomes the beneficial owner, directly or indirectly, as a result of a single transaction or a series of related transactions, of 50% or more of the total voting power of all classes of shares of capital stock or other interests of such Party (or, if applicable, a parent of such Party) then outstanding and normally entitled to vote in the general election of directors of such Party (“**Voting Stock**”), (b) such Party (or, if applicable, a parent of such Party) consolidates with or merges into a Third Party, or any such Third Party consolidates with or merges into such Party (or, if applicable, a parent of such Party), in either event pursuant to a transaction in which 50% or more of the total voting power of all Voting Stock of the surviving entity then outstanding is not held by the Persons holding at least 50% of the total voting power of all Voting Stock of such Party (or, if applicable, a parent of such Party) outstanding immediately prior to such consolidation or merger; or (c) such Party (or, if applicable, a parent of such Party) conveys, transfers or leases all or substantially all of its assets to a Third Party.

1.23 “CMO” has the meaning set forth in Section 3.6.3.

1.24 “Combination Product” means a Licensed Product that is comprised of or contains the Licensed Compound as an active ingredient together with one (1) or more other active ingredients or Delivery Systems and is sold either as a fixed dose/unit or as separate doses/units in a single package.

1.25 “Commercialization” means any and all activities directed to the preparation for sale of, offering for sale of or sale of a Licensed Product, including activities related to marketing, promoting, distributing and importing such Licensed Product and interacting with Regulatory Authorities regarding any of the foregoing. When used as a verb, “**to Commercialize**” and “**Commercializing**” means to engage in Commercialization and “**Commercialized**” has a corresponding meaning.

1.26 “Commercially Reasonable Efforts” means, with respect to the performance of Development, Commercialization or Manufacturing activities with respect to the Licensed Compound or a Licensed Product by Licensee, the carrying out of such activities using efforts and resources comparable to the efforts and resources commonly used in the research- based biopharmaceutical industry for compounds or products of similar market potential at a similar stage in development or product life. “Commercially Reasonable Efforts” shall be determined on a country-by-country (or region-by-region, where applicable) and indication-by- indication basis, without regard to the particular circumstances of Licensee, including any other product opportunities of Licensee and without regard to any payments owed by Licensee to AstraZeneca under this Agreement.

1.27 “Confidential Information” has the meaning set forth in Section 6.1.

1.28 “Control” means, with respect to any item of Information, Regulatory Documentation, material, Patent or other intellectual property right, possession of the right, whether directly or indirectly and whether by ownership, license or otherwise (other than by operation of the license and other grants in Section 2.1), to grant a license, sublicense or other right (including the right to reference Regulatory Documentation) to or under such Information, Regulatory Documentation, Patent or other intellectual property right as provided for herein without violating the terms of any agreement with any Third Party.

1.29 “Delivery System” means any delivery system comprising equipment, instrumentation, one or more devices, or other components designed to assist in, or useful for, the administration of the Licensed Compound.

1.30 “Development” means all activities related to research, pre-clinical and other non-clinical testing, test method development and stability testing, toxicology, formulation, process development, manufacturing scale-up, qualification and validation, quality assurance/quality control, clinical studies, including Manufacturing in support thereof, statistical analysis and report writing, the preparation and submission of Drug Approval Applications, regulatory affairs with respect to the foregoing and all other activities necessary or reasonably useful or otherwise requested or required by a Regulatory Authority as a condition or in support of obtaining or maintaining a Regulatory Approval. When used as a verb, “**Develop**” means to engage in Development.

1.31 “Dermatological Indications” means diseases of the skin and subcutaneous tissue according to ICD-10 chapter XII.

1.32 “Dispute” has the meaning set forth in Section 10.5.

1.33 “Dollars” or “**\$**” means United States Dollars.

1.34 “Drug Approval Application” means a New Drug Application as defined in the FDCA or any corresponding foreign application in the Territory, including, with respect to the European Union, a Marketing Authorization Application filed with the EMA pursuant to the centralized approval procedure or with the applicable Regulatory Authority of a country in Europe with respect to the mutual recognition or any other national approval.

1.35 “Effective Date” has the meaning set forth in the preamble hereto.

1.36 “EMA” means the European Medicines Agency and any successor agency thereto.

1.37 “European Union” means the economic, scientific and political organization of member states as it may be constituted from time to time, specifically including any country that was a European Union member state as of the Effective Date, whether or not such country is a participating member as of the applicable time.

1.38 “Exploit” means to make, have made, import, use, sell or offer for sale, including to research, Develop, Commercialize, register, Manufacture, have Manufactured, hold or keep (whether for disposal or otherwise), have used, export, transport, distribute, promote, market or have sold or otherwise dispose of. “**Exploitation**” means the act of Exploiting a compound, product or process.

1.39 “FDA” means the United States Food and Drug Administration and any successor agency thereto.

1.40 “FFDCA” means the United States Federal Food, Drug, and Cosmetic Act, as amended from time to time, together with any rules, regulations and requirements promulgated thereunder (including all additions, supplements, extensions and modifications thereto).

1.41 “Field” means all diagnostic, prophylactic and therapeutic uses of a topical product in humans solely for Dermatological Indications.

1.42 “Financing” shall mean the successful completion of the issuance and sale of Series B Convertible Preferred Stock shares by the Licensee which raises gross proceeds to Licensee of at least [***] ([***]).

1.43 “Financing Period” shall mean the period of [***] from the Effective Date.

1.44 “First Commercial Sale” means, with respect to a Licensed Product and a country, the first sale to a Third Party for monetary value for use or consumption by the end user of such Licensed Product in such country after Regulatory Approval for such Licensed Product has been obtained in such country. Sales for clinical trial purposes and sales prior to receipt of Regulatory Approval for such Licensed Product, such as so-called “treatment IND sales,” “named patient sales,” and “compassionate use sales,” shall not be construed as a First Commercial Sale.

1.45 “GAAP” means, with respect to a Party or its Affiliates or its or their sublicensees, United States generally accepted accounting principles, International Financial Reporting Standards or such other similar national standards as such Party, Affiliates or its or their sublicense adopts, in each case, consistently applied.

1.46 “Generic Product” means, with respect to a particular mode of administration and dosage strength of a Licensed Product, any other prescription pharmaceutical product that (i) contains the same active ingredient(s) as such Licensed Product, (ii) has the same mode of administration and dosage strength as such Licensed Product and (iii) is “therapeutically equivalent” as evaluated by the FDA, applying the definition of “therapeutically equivalent” set forth in the preface to the FDA’s *Orange Book: Approved Drug Products with Therapeutic Equivalence Evaluations* (the “Orange Book”) (or, with respect to any country in the Territory outside the United States, is similarly substitutable under equivalent Applicable Law in such country), to such Licensed Product.

1.47 “Hatch-Waxman Act” means the U.S. “Drug Price Competition and Patent Term Restoration Act” of 1984, as set forth at 21 U.S.C. §355(b)(2)(A)(iv) or (j)(2)(A)(vii)(IV).

1.48 “Improvements” means any invention, discovery, development or modification with respect to the Licensed Compound or a Licensed Product or relating to the Exploitation thereof, whether or not patented or patentable, including any enhancement in the efficiency, operation, Manufacture, ingredients, preparation, presentation, formulation, means of delivery (including the development of any Delivery System or enhancement thereto) or dosage of such Licensed Compound or Licensed Product, any discovery or development of any new or expanded indications for such Licensed Compound or Licensed Product, or any discovery or development that improves the stability, safety or efficacy of such Licensed Compound or Licensed Product.

1.49 “IND” means (i) an investigational new drug application filed with the FDA for authorization to commence clinical studies and its equivalent in other countries or regulatory jurisdictions and (ii) all supplements and amendments that may be filed with respect to the foregoing.

1.50 “Indemnification Claim Notice” has the meaning set forth in Section 8.3.

1.51 “Indemnified Party” has the meaning set forth in Section 8.3.

1.52 “Information” means all technical, scientific and other know-how and information, trade secrets, knowledge, technology, means, methods, processes, practices, formulae, instructions, skills, techniques, procedures, experiences, ideas, technical assistance, designs, drawings, assembly procedures, computer programs, apparatuses, specifications, data, results and other material, including: biological, chemical, pharmacological, toxicological, pharmaceutical, physical and analytical, pre-clinical, clinical, safety, manufacturing and quality control data and information, including study designs and protocols, assays and biological methodology, in each case (whether or not confidential, proprietary, patented or patentable) in written, electronic or any other form now known or hereafter developed.

1.53 “Infringement” has the meaning set forth in Section 5.3.1.

1.54 “Initial Post-Termination Payment” has the meaning set forth in 9.4.1(b).

1.55 “Inventory” has the meaning set forth in Section 3.6.1.

1.56 “Invoiced Sales” has the meaning set forth in the definition of “Net Sales.”

1.57 “License Shares” shall have the meaning set forth in Section 4.2.

1.58 “Licensed Compound” means the pharmaceutical compound known as

1.59 “Licensed Product” means any product that is comprised of or contains the Licensed Compound, alone or in combination with one or more other active ingredients, in any and all topical forms, presentations, dosages and formulations, each of which shall be administered solely by direct application to the skin. For clarity, “Licensed Product” shall include any Delivery Systems that are sold with, or for the administration of, such Licensed Compound.

1.60 “Licensee” has the meaning set forth in the preamble hereto.

1.61 “Licensee Indemnitees” has the meaning set forth in Section 8.2.

1.62 “Licensee Know-How” means all Information Controlled by Licensee or any of its Affiliates or its or their Sublicensees as of the Effective Date or that is developed by Licensee or any of its Affiliates or its or their Sublicensees after the Effective Date and at any time during the Term that is (i) not generally known and (ii) reasonably necessary for the Exploitation of the Licensed Compound or a Licensed Product or any Improvement thereto, but excluding any Information to the extent covered or claimed by published Licensee Patents.

1.63 “Licensee Patents” means all of the Patents Controlled by Licensee or any of its Affiliates or its or their Sublicensees as of the Effective Date or at any time during the Term that are reasonably necessary or useful for the Exploitation of the Licensed Compound or a Licensed Product or any Improvement thereto.

1.64 “Losses” has the meaning set forth in Section 8.1.

1.65 “Major Market” means any of the following countries: United States, Italy, Spain, Germany, United Kingdom, France, China or Japan.

1.66 “Manufacture” and “Manufacturing” means all activities related to the production, manufacture, processing, filling, finishing, packaging, labeling, shipping and holding of a product or any intermediate thereof, including process development, process qualification and validation, scale-up, pre-clinical, clinical and commercial manufacture and analytic development, product characterization, stability testing, quality assurance and quality control.

1.67 “Milestone Event” means each of the event identified as a milestone event in Section 4.3.1 or Section 4.3.2.

1.68 “Net Sales” means, with respect to a Licensed Product for any period, the gross amount billed or invoiced by Licensee, its Affiliates or its or their Sublicensees (including distributors of Authorized Generic Versions of Licensed Product(s)) to Third Parties for the sale of a Licensed Product (the “**Invoiced Sales**”), less deductions for:

1.68.1 normal and customary trade, quantity and prompt settlement discounts (including chargebacks and allowances) actually allowed;

1.68.2 amounts repaid or credited by reason of rejection, return or recall of goods, rebates or bona fide price reductions;

1.68.3 freight, postage, shipping and insurance expenses to the extent that such items are included in the gross amount invoiced;

1.68.4 customs and excise duties and other Taxes or duties related to the sales to the extent that such items are included in the gross amount invoiced;

1.68.5 rebates and similar payments made with respect to sales paid for by any governmental or regulatory authority such as, by way of illustration and not in limitation of the Parties’ rights hereunder, Federal or state Medicaid, Medicare or similar state program or equivalent foreign governmental program;

1.68.6 the portion of administrative fees paid during the relevant time period to group purchasing organizations or pharmaceutical benefit managers relating to such Licensed Product; and

1.68.7 that portion of the annual fee on prescription drug manufacturers imposed by the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (as amended) that Licensee, its Affiliate or its or their Sublicensee, as applicable, allocates to sales of the Licensed Products in accordance with AstraZeneca’s, its Affiliate’s or its or their Sublicensee’s standard policies and procedures consistently applied across its products, as applicable.

Any of the deductions listed above that involves a payment by Licensee, its Affiliates or its or their Sublicensees shall be taken as a deduction in the Calendar Quarter in which the payment is accrued by such entity. For purposes of determining Net Sales, a Licensed Product shall be deemed to be sold when invoiced and a “sale” shall not include transfers or dispositions of such Licensed Product for pre-clinical or clinical purposes or as samples, in each case, without charge. Licensee’s, its Affiliates’ or its or their Sublicensees’ transfer of any Licensed Product to an Affiliate or Sublicensee shall not result in any Net Sales, unless such Licensed Product is consumed or administered by such Affiliate or Sublicensee in the course of its commercial activities. With respect to any Licensed Product that is consumed or administered by Licensee or its Affiliates or its or their Sublicensees, Net Sales shall include any amount billed or invoiced to Third Parties with respect to such consumption or administration, including any services provided in connection therewith.

In the event that a Licensed Product is sold in any country in the form of a Combination Product, Net Sales of such Combination Product shall be adjusted by multiplying actual Net Sales of such Combination Product in such country calculated pursuant to the foregoing definition of "Net Sales" by the fraction $A/(A+B)$, where A is the average invoice price in such country of any Licensed Product that contains the same Licensed Compound(s) as such Combination Product as its sole active ingredient(s) (and without a Delivery System), if sold separately in such country and B is the average invoice price in such country of each product that contains active ingredient(s) other than the Licensed Compound(s) contained in such Combination Product as its sole active ingredient(s) (or the Delivery System on a stand-alone basis if applicable), if sold separately in such country; provided that the invoice price in a country for each Licensed Product that contains only the Licensed Compound(s) and each product that contains solely active ingredient(s) other than the Licensed Compound(s) included in the Combination Product shall be for a quantity comparable to that used in such Combination Product and of substantially the same class, purity and potency. If either such Licensed Product that contains the Licensed Compound(s) as its sole active ingredient or a product that contains an active ingredient (other than the Licensed Product) in the Combination Product as its sole active ingredient(s) (or the Delivery System) is not sold separately in a particular country, the Parties shall negotiate in good faith a reasonable adjustment to Net Sales in such country that takes into account the medical contribution to the Combination Product of and all other factors reasonably relevant to the relative value of, the Licensed Compound(s), on the one hand and all of the other active ingredient(s) and Delivery System components, collectively, on the other hand.

In the case of pharmacy incentive programs, hospital performance incentive programs, chargebacks, disease management programs, similar programs or discounts on portfolio product offerings, all rebates, discounts and other forms of reimbursements shall be allocated among products on the basis on which such rebates, discounts and other forms of reimbursements were actually granted or, if such basis cannot be determined, in accordance with Licensee's, its Affiliates' or its or their Sublicensees' existing allocation method; provided that any such allocation to a Licensed Product shall be (i) done in accordance with Applicable Law, including any price reporting laws, rules and regulations and (ii) subject to clause (i), in no event no greater than a pro rata allocation, such that the portion of each of foregoing rebates, discounts and other forms of reimbursements shall not be included as deductions from Invoiced Sales hereunder in any amount greater than the proportion of the undiscounted dollar value of such Licensed Product sold by Licensee, its Affiliates or its or their Sublicensees to Third Parties hereunder compared to the undiscounted dollar value of all the products sold by Licensee, such Affiliates and such Sublicensees to Third Parties to which such foregoing rebate, discount or other form of reimbursement, as applicable, are granted.

Subject to the above, Net Sales shall be calculated in accordance with the standard internal policies and procedures of Licensee, its Affiliates or its or their Sublicensees, which must be in accordance with GAAP.

1.69 "Non-Breaching Party" has the meaning set forth in Section 9.2.1

1.70 "Non-Prosecuting Party" has the meaning set forth in Section 5.2.2.

1.71 "Notice Period" has the meaning set forth in Section 9.2.1.

1.72 "Party" and **"Parties"** have the meaning set forth in the preamble hereto.

1.73 "Patents" means: (i) all national, regional and international patents and patent applications, including provisional patent applications; (ii) all patent applications filed either from such patents, patent applications or provisional applications or from an application claiming priority from either of these, including divisionals, continuations, continuations-in-part, provisionals, converted

provisionals and continued prosecution applications; (iii) any and all patents that have issued or in the future issue from the foregoing patent applications ((i) and (ii)), including utility models, petty patents, innovation patents and design patents and certificates of invention; (iv) any and all extensions or restorations by existing or future extension or restoration mechanisms, including revalidations, reissues, re-examinations and extensions (including any supplementary protection certificates and the like) of the foregoing patents or patent applications ((i), (ii) and (iii)); and (v) any similar rights, including so-called pipeline protection or any importation, revalidation, confirmation or introduction patent or registration patent or patent of additions to any of such foregoing patent applications and patents.

1.74 “Payment” has the meaning set forth in Section 4.7.1.

1.75 “Person” means an individual, sole proprietorship, partnership, limited partnership, limited liability partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or other similar entity or organization, including a government or political subdivision, department or agency of a government.

1.76 “Phase II Study” shall mean (i) a human clinical study conducted in any country that would satisfy the requirements of 21 CFR 312.21(b) and that is designed or intended to explore a variety of doses, dose response and duration of effect to generate initial evidence of clinical safety and activity in a target patient population, or (ii) an equivalent clinical study required by a Regulatory Authority in a jurisdiction outside of the United States. For clarity, the Parties acknowledge and agree that Licensee’s proof of concept study “A Phase 1/2a Single Dose and 28- day Parallel Group, Double Blind, Vehicle-Controlled Study of the Safety, Pharmacokinetics and Efficacy of ARQ-151 Cream 0.5% and 0.15% in Adults with Mild to Moderate Chronic Plaque Psoriasis” (NCT03392168), shall be excluded from the definition of Phase II Study and shall not be considered a Phase II Study for purposes of this Agreement.

1.77 “Post-Termination Royalty” has the meaning set forth in Section 9.4.1(b).

1.78 “Post-Termination Royalty Period” has the meaning set forth in Section 9.4.1(b).

1.79 “Product Trademarks” means the Trademarks used or to be used by Licensee or its Affiliates or its or their Sublicensees for the Commercialization of Licensed Products in the Territory.

1.80 “Prosecuting Party” has the meaning set forth in Section 5.2.2.

1.81 “Regulatory Approval” means, with respect to a country in the Territory, any and all approvals (including Drug Approval Applications), licenses, registrations or authorizations of any Regulatory Authority necessary to commercially distribute, sell or market a Licensed Product or any Improvement thereto in such country, including, where applicable, (i) pricing or reimbursement approval in such country, (ii) pre- and post-approval marketing authorizations (including any prerequisite Manufacturing approval or authorization related thereto) and (iii) labeling approval.

1.82 “Regulatory Authority” means any applicable supra-national, federal, national, regional, state, provincial or local regulatory agencies, departments, bureaus, commissions, councils or other government entities regulating or otherwise exercising authority with respect to the Exploitation of Licensed Compound or Licensed Products or any Improvement thereto in the Territory, including the FDA in the United States and the EMA in the European Union.

1.83 “Regulatory Documentation” means: all (i) applications (including all INDs and Drug Approval Applications), registrations, licenses, authorizations and approvals (including Regulatory Approvals); (ii) correspondence and reports submitted to or received from Regulatory Authorities (including minutes and official contact reports relating to any communications with any Regulatory Authority) and all supporting documents with respect thereto, including all adverse event files and complaint files; and (iii) clinical and other data contained or relied upon in any of the foregoing; in each case ((i), (ii) and (iii)) relating to the Licensed Compound or a Licensed Product or any Improvement thereto.

1.84 “Representatives” has the meaning set forth in Section 7.6.

1.85 “Retained Rights” mean, with respect to the Licensed Compound and Licensed Products, the rights of AstraZeneca, its Affiliates and its and their licensors, (sub)licensees and contractors to (i) perform its and their obligations under this Agreement; (ii) develop, obtain and maintain regulatory approvals for and to Manufacture, Commercialize and otherwise Exploit any compound or product, other than the Licensed Compound or Licensed Products, in any field (including the Field) anywhere in the Territory and (iii) develop, obtain and maintain regulatory approvals for and to Manufacture, Commercialize and otherwise Exploit any compound or product (including the Licensed Compound and Licensed Products) outside the Field anywhere in the Territory; and (iv) Manufacture and Develop and otherwise use the Licensed Compound or Licensed Products in the Field or in the Territory for Exploitation outside of the Field or outside the Territory.

1.86 “Royalty Term” means, with respect to each Licensed Product and each country in the Territory, on a country-by-country basis, the period beginning on the date of the First Commercial Sale of such Licensed Product in such country and ending on the latest to occur of: (a) the expiration of the last-to-expire AstraZeneca Patent in such country that contains a Valid Claim; and (b) the 10th anniversary of the First Commercial Sale of such Licensed Product in such country.

1.87 “Senior Officer” means, with respect to AstraZeneca, its Vice President, Scientific Partnering & Alliances and with respect to Licensee, its Chief Executive Officer.

1.88 “Specifications” means the written specifications for the Licensed Compound submitted to the applicable Regulatory Authority.

1.89 “Sublicensee” means a Person, other than an Affiliate, that is granted a sublicense by Licensee or its Affiliate under the grants in Section 2.1, as provided in Section 2.2, including any distributors of Authorized Generic Versions of a Licensed Product, irrespective of whether such distributor is granted a sublicense hereunder (but otherwise excluding any distributors and/or wholesalers).

1.90 “Tax” or “Taxation” means any form of tax or taxation, levy, duty, charge, social security charge, contribution, or withholding of whatever nature (including any related fine, penalty, surcharge or interest) imposed by, or payable to, a Tax Authority.

1.91 “Tax Authority” means any government, state or municipality, or any local, state, federal or other fiscal, revenue, customs or excise authority, body or official anywhere in the world, authorized to levy Tax.

1.92 “Term” has the meaning set forth in Section 9.1.

1.93 “Terminated Territory” means each country with respect to which this Agreement is terminated by AstraZeneca pursuant to Section 9.4.2.

1.94 “Termination Notice” has the meaning set forth in Section 9.2.1.

1.95 “Territory” means the entire world.

1.96 “Third Party” means any Person other than AstraZeneca, Licensee and their respective Affiliates.

1.97 “Third Party Claims” has the meaning set forth in Section 8.1.

1.98 “Third Party Infringement Claim” has the meaning set forth in Section 5.4.

1.99 “Third Party Patent Right” has the meaning set forth in Section 5.6.

1.100 “Trademark” means any word, name, symbol, color, designation or device or any combination thereof that functions as a source identifier, including any trademark, trade dress, brand mark, service mark, trade name, brand name, logo or business symbol, whether or not registered.

1.101 “United States” or “U.S.” means the United States of America and its territories and possessions (including the District of Columbia and Puerto Rico).

1.102 “Valid Claim” means (i) a claim of any issued and unexpired Patent whose validity, enforceability or patentability has not been affected by (a) irretrievable lapse, abandonment, revocation, dedication to the public or disclaimer or (b) a holding, finding or decision of invalidity, unenforceability or non-patentability by a court, governmental agency, national or regional patent office or other appropriate body that has competent jurisdiction, such holding, finding or decision being final and unappealable or unappealed within the time allowed for appeal or (ii) a claim of a pending Patent application that was filed and is being prosecuted in good faith and has not been abandoned or finally disallowed without the possibility of appeal or re-filing of the application; provided that such pending Patent application has not been pending for more than seven (7) years.

1.103 “VAT” has the meaning set forth in Section 4.7.2.

1.104 “Voting Stock” has the meaning set forth in the definition of “Change of Control.”

ARTICLE 2 GRANT OF RIGHTS

2.1 Grants to Licensee. Subject to Sections 2.2 and 2.3 and the other terms and conditions of this Agreement, AstraZeneca hereby grants to Licensee:

2.1.1 an exclusive (including with regard to AstraZeneca and its Affiliates) license (or sublicense), with the right to grant sublicenses in accordance with Section 2.2, under the AstraZeneca Patents and the AstraZeneca Know-How, to Exploit the Licensed Compound and Licensed Products in the Field in the Territory; and

2.1.2 an exclusive (including with regard to AstraZeneca and its Affiliates) license and right of reference, with the right to grant sublicenses and further rights of reference in accordance with Section 2.2, under the AstraZeneca Regulatory Documentation as necessary to Exploit the Licensed Compound and Licensed Products in the Field in the Territory.

2.2 Sublicenses. Licensee shall have the right to grant sublicenses (or further rights of reference), through multiple tiers of sublicensees, under the licenses and rights of reference granted in Section 2.1, to its Affiliates and other Persons; *provided* that any such sublicenses shall be consistent with, and expressly made subject and subordinate to, the terms and conditions of this Agreement. Licensee shall cause each Sublicensee to comply with the applicable terms and conditions of this Agreement, as if such Sublicensee were a Party to this Agreement. Licensee hereby (x) guarantees the performance of its Affiliates and permitted Sublicensees and the grant of any such sublicense shall not relieve Licensee of its obligations under this Agreement, and (y) waives any requirement that AstraZeneca exhaust any right, power or remedy, or proceed against any Sublicensee for any obligation or performance under this Agreement prior to proceeding directly against Licensee. A copy of any draft sublicense agreement shall be provided to AstraZeneca prior to its execution and a copy of any sublicense agreement executed by Licensee shall be provided to AstraZeneca within fourteen (14) days after its execution; *provided* that in each case the financial terms of any such sublicense agreement to the extent not pertinent to an understanding of a Party's obligations or benefits under this Agreement may be redacted. Licensee shall provide AstraZeneca with any additional materials reasonably requested by AstraZeneca in order for AstraZeneca to verify that such sublicense is in compliance with the terms and conditions of this Agreement.

2.3 Retention of Rights; Limitations Applicable to License Grants.

2.3.1 Retained Rights of AstraZeneca. Notwithstanding anything to the contrary in this Agreement and without limitation of any rights granted or reserved to AstraZeneca pursuant to any other term or condition of this Agreement, AstraZeneca hereby expressly retains, on behalf of itself and its Affiliates (and on behalf of its licensors, (sub)licensees and contractors) all right, title and interest in and to the AstraZeneca Patents, the AstraZeneca Know-How and AstraZeneca Regulatory Documentation, in each case, for purposes of performing or exercising the Retained Rights.

2.3.2 No Other Rights Granted by AstraZeneca. Except as expressly provided herein and without limiting the foregoing, AstraZeneca grants no other right or license, including any rights or licenses to the AstraZeneca Patents, the AstraZeneca Know-How, the AstraZeneca Regulatory Documentation or any other Patent or other intellectual property rights.

ARTICLE 3 TRANSITION, DEVELOPMENT, REGULATORY AND COMMERCIALIZATION ACTIVITIES.

3.1 Transition Plan. Upon the Effective Date, the Parties will initiate the transfer activities set forth in **Schedule 3.1** (the "**Transition Plan**") and endeavor to complete the Transfer Plan within the timelines set forth therein. Each Party shall bear its own expenses with respect to its obligations and activities under the Transition Plan.

3.2 Development.

3.2.1 Diligence. After the Effective Date, as between the Parties, Licensee shall be solely responsible for all aspects of the Development of the Licensed Compound and Licensed Products in the Field in the Territory. Licensee shall use Commercially Reasonable Efforts to Develop, and obtain and maintain Regulatory Approvals for, Licensed Products for use in the Field in each Major Market. Licensee shall perform or cause to be performed its Development activities hereunder in good scientific manner and in compliance with all Applicable Law by allocating sufficient time, effort, equipment, and skilled personnel to complete such Development activities.

3.2.2 Development Costs. Licensee shall be responsible for all of its costs and expenses in connection with the Development of, and obtaining and maintaining Regulatory Approvals for, the Licensed Products for use in the Field in the Territory. AstraZeneca shall be responsible for all of its costs and expenses in connection with its Retained Rights.

3.2.3 Development Records. Licensee shall, and shall cause its Affiliates and its and their Sublicensees to, maintain, in good scientific manner, complete and accurate books and records pertaining to Development of Licensed Products hereunder, in sufficient detail to verify compliance with its obligations under this Agreement. Such books and records shall (i) be appropriate for patent and regulatory purposes, (ii) be in compliance with Applicable Law, (iii) properly reflect all work done and results achieved in the performance of its Development activities hereunder, (iv) record only such activities and not include or be commingled with records of activities outside the scope of this Agreement and (v) be retained by Licensee for at least three (3) years after the expiration or termination of this Agreement in its entirety or for such longer period as may be required by Applicable Law. AstraZeneca shall have the right, during normal business hours and upon reasonable notice, to inspect and copy all such books and records maintained pursuant to this Section 3.2.3; *provided* that AstraZeneca shall maintain such records and information disclosed therein in confidence accordance with Article 6.

3.2.4 Development Reports. Within thirty (30) days following the end of each Calendar Year during which Licensee is conducting Development activities hereunder, Licensee shall provide AstraZeneca with a detailed written report of such Development activities it has performed, or caused to be performed, since the preceding report, its Development activities in process and the future activities it expects to initiate during the following twelve (12)-month period. Each such report shall contain sufficient detail to enable AstraZeneca to assess Licensee's compliance with its obligations set forth in Sections 3.2.1 including Licensee's, or its Affiliates' or its or their Sublicensees' activities with respect to achieving Regulatory Approvals of Licensed Products in the Territory and clinical study results and results of other Development activities.

3.3 Regulatory Activities.

3.3.1 Regulatory Approvals. Subject to the Retained Rights, Licensee shall have the sole right to prepare, obtain and maintain Drug Approval Applications (including the setting of the overall regulatory strategy therefor), other Regulatory Approvals and other submissions (including INDs) and to conduct communications with the Regulatory Authorities, for Licensed Products in the Field in the Territory in its name.

3.3.2 Recalls, Suspensions or Withdrawals.

(a) Licensee shall notify AstraZeneca promptly (but in no event later than [***) following its determination that an event, incident or circumstance has occurred which may result in the need for a recall, market suspension or market withdrawal of a Licensed Product in the Field in the Territory and shall include in such notice the reasoning behind such determination and any supporting facts. As between the Parties, Licensee shall have the right to make the final determination whether to voluntarily implement any such recall, market suspension or market withdrawal in the Field in the Territory, *provided* that prior to the implementation of any such recall, market suspension or market withdrawal due to an event, incident or circumstance (i) related to the Licensed Compound, or (ii) which, in AstraZeneca's reasonable judgment, may otherwise affect a Licensed Product outside the Field, Licensee shall consult with AstraZeneca and shall consider AstraZeneca's comments in good faith.

(b) AstraZeneca shall notify Licensee promptly (but in no event later than [***) following its determination that an event, incident or circumstance has occurred which may result in the need for a recall, market suspension or market withdrawal of a Licensed Product outside the Field and which, in AstraZeneca's reasonable judgment, affects a Licensed Product in the Field in the Territory.

Such notice shall include the reasoning behind such determination and any supporting facts. Licensee, after consultation with AstraZeneca and if reasonably requested by AstraZeneca, shall initiate a recall, market suspension or market withdrawal of the Licensed Product in the Field in the Territory.

(c) If a recall, market suspension or market withdrawal of a Licensed Product in the Field is mandated by a Regulatory Authority in the Territory, as between the Parties, Licensee shall initiate such a recall, market suspension or market withdrawal in compliance with Applicable Law.

(d) For all recalls, market suspensions or market withdrawals undertaken pursuant to this Section 3.3.2, as between the Parties, Licensee shall be solely responsible for the execution thereof. Subject to Article 8, Licensee shall be responsible for all costs of any such recall, market suspension or market withdrawal.

3.3.3 Pharmacovigilance. Within 120 days after the Effective Date, the Parties shall discuss and agree on how to manage and report adverse events in respect of the Licensed Compound or any Licensed Product and comply with other safety and reporting practices and procedures in compliance with all Applicable Laws. Licensee shall provide AstraZeneca with information in the possession or control of Licensee as necessary for AstraZeneca to comply with its pharmacovigilance responsibilities in respect of the Licensed Compound and the Licensed Products, in the Territory, including, as applicable, any adverse drug experiences (including those events or experiences that are required to be reported to the FDA under 21 C.F.R. sections 312.32 or 600.80 or to foreign Regulatory Authorities under corresponding Applicable Law outside the United States) from pre-clinical or clinical laboratory, animal toxicology and pharmacology studies, clinical studies, and commercial experiences with the Licensed Compound or a Licensed Product, in each case, in the form reasonably requested by AstraZeneca.

3.3.4 Manufacturing Information. Upon Licensee's reasonable request, AstraZeneca shall provide Licensee one or more letters permitting Licensee to reference the CMC Data for the Licensed Compound solely to the extent necessary for Licensee to prepare, submit, obtain or maintain an IND, Drug Approval Application, or other Regulatory Approval for a Licensed Product in the Field in the Territory.

3.4 Commercialization.

3.4.1 Diligence; Commercialization Costs. After the Effective Date, as between the Parties, Licensee shall be solely responsible for Commercialization of the Licensed Products in the Field throughout the Territory at Licensee's own cost and expense. Licensee shall use Commercially Reasonable Efforts to Commercialize the Licensed Products in each Major Market so as to maximize Net Sales throughout the Territory.

3.4.2 Booking of Sales; Distribution. Licensee shall invoice and book sales, establish all terms of sale (including pricing and discounts) and warehouse and distribute the Licensed Products in the Field in the Territory and perform or cause to be performed all related services. Licensee shall handle all returns, recalls or withdrawals, order processing, invoicing, collection, distribution and inventory management with respect to the Licensed Products in the Territory.

3.4.3 Commercialization Records. Without limitation of Section 4.9, Licensee shall maintain complete and accurate books and records pertaining to Commercialization of Licensed Products hereunder, in sufficient detail to verify compliance with its obligations under this Agreement and which shall be in compliance with Applicable Law and properly reflect all work done and results achieved in the performance of its Commercialization activities. Such records shall be retained by Licensee for at least three (3) years after the expiration or termination of this Agreement in its entirety or for such longer period as may be required by Applicable Law.

3.4.4 Commercialization Reports. Without limiting Section 3.4.3, within thirty (30) days following the end of each Calendar Year, commencing upon the First Commercial Sale of a Licensed Product and thereafter, Licensee shall provide to AstraZeneca with written reports of such Commercialization activities it has performed, or caused to be performed, since the preceding report and the future activities it expects to initiate during the following 12-month period. Each such report shall contain sufficient detail to reasonably enable AstraZeneca to assess Licensee's compliance with its obligations set forth in Sections 3.4.1.

3.5 Statements and Compliance with Applicable Law. Licensee shall and shall cause its Affiliates to, comply with all Applicable Law with respect to the Exploitation of Licensed Products. Licensee shall avoid and shall use reasonable efforts to cause its Affiliates and its and their Sublicensees employees, representatives, agents, and distributors to avoid, taking or failing to take, any actions that Licensee knows or reasonably should know would jeopardize the goodwill or reputation of AstraZeneca or the Licensed Products or any Trademark associated therewith. Without limitation to the foregoing, Licensee shall in all material respects conform its practices and procedures relating to the Commercialization of the Licensed Products and educating the medical community in the Territory with respect to the Licensed Products to any applicable industry association regulations, policies and guidelines, as the same may be amended from time to time.

3.6 Supply of Licensed Compound.

3.6.1 If reasonably feasible (as determined solely by AstraZeneca), AstraZeneca may sell to Licensee up to [***] of Licensed Compound (the "Inventory") at a cost of [***]. In accordance with the Transition Plan, AstraZeneca shall deliver or have delivered the Inventory to Licensee EXW (Incoterms 2010) at a facility designated by AstraZeneca, together with a certificate of analysis certifying that the Inventory was (a) manufactured in accordance with the Specifications, all Applicable Laws and cGMP, and (b) stored by AstraZeneca prior to delivery in accordance with AstraZeneca's standard procedures, all Applicable Laws and cGMP.

3.6.2 Licensee shall use the Inventory solely for the Development of Licensed Products pursuant to this Agreement and shall not make any Inventory available to any Third Party except as expressly consented to in writing by AstraZeneca.

3.6.3 Upon Licensee's reasonable request, AstraZeneca shall provide a letter permitting Licensee to contact AstraZeneca's Third Party contract manufacturer of the Licensed Compound ("CMO") and to negotiate terms and conditions directly with such CMO for the purchase of such additional quantities of the Licensed Compound as may be required by Licensee for its Development and Commercialization of the Licensed Products.

3.6.4 As between the Parties, Licensee shall have the sole responsibility for, at its expense, Manufacturing (or having Manufactured) and supplying the Licensed Compound and Licensed Products for its Development and Commercialization activities in the Territory.

3.7 Subcontracting. Subject to Section 2.2, Licensee may subcontract with a Third Party to perform any or all of its obligations hereunder (including by appointing one or more distributors); provided that (i) no such permitted subcontracting shall relieve Licensee of its obligations hereunder (except to the extent satisfactorily performed by such subcontractor) or any liability and Licensee shall be and remain fully responsible and liable therefor and (ii) the agreement pursuant to which Licensee

engages any Third Party subcontractor must (a) be consistent in all material respects with this Agreement, (b) contain terms obligating such subcontractor to comply with the confidentiality, intellectual property and all other relevant provisions of this Agreement and (c) contain terms obligating such subcontractor to permit AstraZeneca rights of inspection, access and audit substantially similar to those provided to AstraZeneca in this Agreement. Licensee shall ensure that each subcontractor accepts and complies with all of the applicable terms and conditions of this Agreement as if such permitted subcontractor were a Party to this Agreement. Licensee hereby waives any requirement that AstraZeneca exhaust any right, power or remedy, or proceed against any subcontractor for any obligation or performance under this Agreement prior to proceeding directly against Licensee.

ARTICLE 4 PAYMENTS AND RECORDS

4.1 Cash Payment. In partial consideration of the rights granted by AstraZeneca to Licensee hereunder, Licensee shall pay to AstraZeneca a nonrefundable and non- creditable upfront payment equal to \$1.0 million on the Effective Date.

4.2 Equity Payment. Upon closing of the Financing, Licensee shall issue to AstraZeneca \$3.0 million worth of its Series B Convertible Preferred Stock (the “**License Shares**”) valued at the price per share paid by the investors in the Financing, subject to AstraZeneca’s execution of the applicable documents entered into in the Financing between Licensee and the participants in the Financing (the “**Financing Documents**”). The Financing Documents are expected to include the following terms, and should any such term not be included in the Financing Documents, then Licensee will at AstraZeneca’s request within thirty (30) days following the closing of the Financing, either amend the Financing Documents to include such term or enter into an additional agreement with AstraZeneca that provides AstraZeneca with substantially the same rights: (i) the pro rata right, based on AstraZeneca’s equity ownership percentage in the Licensee (assuming conversion of all outstanding convertible preferred stock into common stock of the Licensee and the exercise of all options outstanding under Licensee’s equity incentive plans), to participate in subsequent issuances of equity securities by the Licensee (subject to customary exclusions) to maintain AstraZeneca’s equity ownership percentage, (ii) the right to invite one representative of AstraZeneca to attend meetings of the Licensee’s board of directors in a nonvoting observer capacity (subject to customary confidentiality agreements and procedures), (iii) the right to receive audited annual financial statements within 120 days following the Licensee’s fiscal year-end, (iv) the right to receive unaudited quarterly financial statements within forty-five (45) days following the Licensee’s fiscal quarter-end, (v) the right to receive copies of the Licensee’s annual business plans and budgets to the extent prepared by or on behalf of the Licensee, (vi) the right to receive written notification of any material defaults of Licensee’s obligations under its material contracts or other obligations or the commencement or settlement of any litigation by or against the Licensee, (vii) such other information concerning the Licensee and its business as AstraZeneca may reasonably require from time to time (provided, however, that the Licensee shall not be obligated to provide information pursuant to this clause (vii) that the Licensee reasonably determines in good faith to be a trade secret or the disclosure of which would adversely affect the attorney-client privilege between the Licensee and its counsel), and (viii) all other rights granted to the holders of shares of Series B Convertible Preferred Stock and other terms to which such holders are subject under the Financing Documents (other than any right to appoint a director to Licensee’s board of directors), including standard registration rights, customary lock-up restrictions, and right of first refusal and co-sale rights. Notwithstanding anything to the contrary set forth above or in the Financing Documents, if the terms of the Financing include (or are later amended to impose) any pay-to-play provision on the holders of shares of any series of the Licensee’s preferred stock, none of the License Shares shall be included in the calculation of AstraZeneca’s “pro rata portion” investment obligation with respect to such “pay-to-play” provision. All AstraZeneca’s rights and Licensee’s obligations under this Section 4.2 will terminate on the earliest of (a) such date as AstraZeneca no longer

holds any of the License Shares or any other shares of any series of Licensee's preferred stock, (b) the consummation of a transaction in which (i) Licensee sells to a third party (other than an Affiliate of Licensee) all or substantially all of Licensee's assets or (ii) a third party acquires from the stockholders of Licensee shares of Licensee's capital stock representing 100% of the outstanding voting power of Licensee (other than a transaction in which the stockholders of Licensee immediately prior to such transaction, continue to hold at least a majority of the voting power of Licensee or the surviving entity (or if the surviving entity is a wholly owned subsidiary, its parent) immediately after such transaction), and (c) the closing of Licensee's first underwritten public offering of the Licensee's common stock under the Securities Act of 1933, as amended.

4.3 Milestones.

4.3.1 Development and Regulatory Milestones. In partial consideration of the rights granted by AstraZeneca to Licensee hereunder, Licensee shall pay to AstraZeneca each of the following nonrefundable, non-creditable milestone payments, which payment shall be fully earned upon the achievement of the applicable Milestone Event:

<u>Development or Regulatory Milestone Event</u>	<u>Development or Regulatory Milestone Payment</u>
Report of positive efficacy data in the first Phase II Study of a Licensed Product in the Territory	\$2.0 million
[***]	[***]
[***]	[***]

Each milestone payment in this Section 4.3.1 shall be payable only upon the first achievement of the applicable Milestone Event and no amounts shall be due for subsequent or repeated achievements of such Milestone Event, whether for the same or a different Licensed Product.

4.3.2 Commercial Milestones. In partial consideration of the rights granted by AstraZeneca to Licensee hereunder, Licensee shall pay to AstraZeneca each of the following nonrefundable, non-creditable milestone payments, which payments shall be fully earned upon the achievement of the applicable Milestone Event:

<u>Commercial Milestone Event</u>	<u>Commercial Milestone Payment</u>
[***]	[***]
[***]	[***]

Each milestone payment in this Section 4.3.2 shall be payable only once upon the first achievement of such Milestone Event and no amounts shall be due for subsequent or repeated achievements of such Milestone Event.

4.3.3 Invoicing; Determination that Milestones Have Occurred.

(a) Licensee shall give AstraZeneca written notice of the achievement of each Milestone Event no later than [***] after such achievement. Upon receipt of such written notice, AstraZeneca shall submit an invoice to Licensee for the full amount of the corresponding milestone payment, which amount shall be payable within [***] after the date of invoice.

(b) If, notwithstanding the fact that Licensee has not provided AstraZeneca with written notice, AstraZeneca believes that a Milestone Event has been achieved, it shall so notify Licensee in writing and the Parties shall promptly meet and discuss in good faith whether such Milestone Event has been achieved. Any dispute under this Section 4.3.3 regarding whether or not a Milestone Event has been achieved shall be subject to resolution in accordance with Section 10.5.

4.4 Royalties.

4.4.1 Royalty Rates. As further consideration for the rights granted to Licensee hereunder, commencing upon the First Commercial Sale of a Licensed Product in the Territory, Licensee shall pay to AstraZeneca, during the Royalty Term, [***] on aggregate Net Sales of all Licensed Products in the Territory during each Calendar Year.

4.4.2 Blended Royalty. Licensee acknowledges that (a) the AstraZeneca Know-How and the Information in the AstraZeneca Regulatory Documentation are proprietary and valuable and that without the AstraZeneca Know-How and AstraZeneca Regulatory Documentation, Licensee would not be able to obtain and maintain Regulatory Approvals with respect to the Licensed Products, (b) such Regulatory Approvals will allow Licensee to obtain and maintain regulatory exclusivity with respect to the Licensed Products in the Field in the Territory, (c) access to the AstraZeneca Know-How and the AstraZeneca Regulatory Documentation has provided Licensee with a competitive advantage in the marketplace beyond the exclusivity afforded by the AstraZeneca Patents and (d) the milestone payments and royalties set forth in Section 4.3 and Section 4.4, respectively, are, in part, intended to compensate AstraZeneca for such exclusivity and such competitive advantage. The Parties agree that the royalty rates set forth in Section 4.4 reflect an efficient and reasonable blended allocation of the value provided by AstraZeneca to Licensee.

4.4.3 Royalty Term. Licensee shall have no obligation to pay any royalty with respect to Net Sales of any Licensed Product in any country after the Royalty Term for such Licensed Product in such country has expired. Upon termination of the Royalty Term with respect to a Licensed Product in any country, the license grants to Licensee in Section 2.1, as applicable, with respect to such Licensed Product shall convert to non-exclusive and shall become fully paid-up with respect to such country.

4.4.4 Royalty Reductions.

(a) In the event that Licensee enters into an agreement with a Third Party in order to obtain a license to a Third Party Patent Right with respect to a Licensed Product that is reasonably necessary to Exploit the Licensed Compound and Licensed Products in the Field in a country in the Territory, Licensee shall be entitled to deduct from royalties payable hereunder in a given Calendar Year with respect to such Licensed Product in such [***] paid to such Third Party in such Calendar Year under such agreement, solely to the extent that such royalties are triggered by sales of such Licensed Product in such country.

(b) If, during the Royalty Term for a Licensed Product in a country in the Territory, the Exploitation of such Licensed Product is not covered by any Valid Claim of any AstraZeneca Patent in such country, then for the remainder of the Royalty Term for such Licensed Product in such country thereafter, the royalty rate set forth in Section 4.4.1 shall be reduced to [***] with respect to Net Sales of such Licensed Product in such country.

4.4.5 Maximum Amount of Royalty Reduction. In no event shall the amounts payable to AstraZeneca under Section 4.4 be reduced by operation of Section 4.4.4 to a royalty rate less than [***].

4.5 Royalty Payments and Reports. Licensee shall calculate all amounts payable to AstraZeneca pursuant to Section 4.4 at the end of each Calendar Quarter, which amounts shall be converted to Dollars, in accordance with Section 4.6. Licensee shall pay to AstraZeneca the royalty amounts due with respect to a given Calendar Quarter within thirty (30) days after the end of such Calendar Quarter. Each payment of royalties due to AstraZeneca shall be accompanied by a statement specifying, on a Licensed Product-by-Licensed Product basis, the amount of Invoiced Sales, Net Sales and deductions taken to arrive at Net Sales attributable to each Licensed Product in each country the Territory during the applicable Calendar Quarter (including such amounts expressed in local currency and as converted to Dollars) and a calculation of the amount of royalty payment due on such Net Sales for such Calendar Quarter. Without limiting the generality of the foregoing, Licensee shall require its Affiliates and Sublicensees to account for their Net Sales and to provide such reports with respect thereto, as if such sales were made by Licensee. After receiving such written statement, AstraZeneca shall submit an invoice to Licensee for the royalty amounts due with respect to such Calendar Quarter, which amounts shall be payable within thirty (30) days after the date of invoice. If for any Calendar Quarter there were no Net Sales, Licensee shall notify AstraZeneca and no additional report shall be due under this Section 4.5 for such Calendar Quarter

4.6 Mode of Payment; Offsets. All payments to AstraZeneca under this Agreement shall be made by deposit of Dollars in the requisite amount to such bank account as AstraZeneca may from time to time designate by notice to Licensee. For the purpose of calculating any sums due under, or otherwise reimbursable pursuant to, this Agreement (including the calculation of Net Sales expressed in currencies other than Dollars), Licensee shall convert any amount expressed in a foreign currency into Dollar equivalents using its, its Affiliate's or Sublicensee's, as applicable, standard conversion methodology consistent with GAAP.

4.7 Taxes.

4.7.1 General. All amounts payable by Licensee to AstraZeneca pursuant to this Agreement (each, a "**Payment**") shall be paid free and clear of any and all taxes, except for any withholding Taxes required by Applicable Law. Except as provided in this Section 4.7, AstraZeneca shall be solely responsible for paying any and all Taxes (other than withholding Taxes required by Applicable Law to be deducted from Payments and remitted by Licensee) levied on account of, or measured in whole or in part by reference to, any Payments it receives. Licensee shall deduct or withhold from the Payments any Taxes that it is required by Applicable Law to deduct or withhold. Notwithstanding the foregoing, if AstraZeneca is entitled under any applicable Tax treaty to a reduction of rate of, or the elimination of, applicable withholding Tax, it may deliver to Licensee or the appropriate governmental authority (with the assistance of Licensee to the extent that this is reasonably required and is requested in writing) the prescribed forms necessary to reduce the applicable rate of withholding or to relieve Licensee of its obligation to withhold such Tax and Licensee shall apply the reduced rate of withholding or dispense with withholding, as the case may be; provided that Licensee has received evidence of AstraZeneca's delivery of all applicable forms (and, if necessary, its receipt of appropriate governmental authorization) prior to the time that the Payments are due. If, in accordance with the foregoing, Licensee withholds any amount, it shall pay to AstraZeneca the balance when due, make timely payment to the proper Taxing authority of the withheld amount and send to AstraZeneca proof of such payment within ten (10) days following such payment.

4.7.2 Value Added Tax. Notwithstanding anything contained in Section 4.7.1, this Section 4.7.2 shall apply with respect to value added tax (“VAT”). All Payments are exclusive of VAT. If any VAT is chargeable in respect of any Payments, Licensee shall pay VAT at the applicable rate in respect of any such Payments following the receipt of a VAT invoice in the appropriate form issued by AstraZeneca in respect of those Payments, such VAT to be payable on the later of the due date of the payment of the Payments to which such VAT relates and thirty (30) days after the receipt by Licensee of the applicable invoice relating to that VAT payment. The Parties will issue invoices for all amounts due under this Agreement consistent with indirect Tax requirements.

4.7.3 Gross Up. If either Party assigns this Agreement to an Affiliate or Third Party and, as a result of such assignment, Payments made hereunder are subject to additional withholding Tax, such assigning Party shall be responsible for the resulting additional withholding Taxes; provided, however, that if the non-assigning Party derives a Tax benefit (including through the use of foreign tax credit) determined on a with and without basis as a result of such additional withholding, then the non-assigning Party shall promptly reimburse the assigning Party for the amount of such benefit; provided, further, that the non-assigning Party shall take all commercially reasonable actions necessary to obtain any Tax benefit (including through the use of foreign tax credit) with respect to such additional withholding Taxes and to defend such benefit in a tax audit.

4.8 Interest on Late Payments. If any payment due to either Party under this Agreement is not paid when due, then such paying Party shall pay interest thereon (before and after any judgment) at an annual rate (but with interest accruing on a daily basis) of [***], as adjusted each Business Day and published by the Federal Reserve Bank of New York through its website (<https://apps.newyorkfed.org/markets/autorates/fed%20funds>) (or in the event that the U.S. effective federal funds rate is no longer an applicable reference rate, such reasonably equivalent alternative as may be selected by AstraZeneca in its reasonable discretion), such interest to run from the date on which payment of such sum became due until payment thereof in full together with such interest. Notwithstanding the previous sentence, the payable interest rate shall never be less than [***].

4.9 Financial Records. Licensee shall and shall cause its Affiliates and its and their Sublicensees to, keep complete and accurate financial books and records pertaining to the Commercialization of Licensed Products hereunder, including books and records of Invoiced Sales and Net Sales of Licensed Products, in sufficient detail to calculate and verify all amounts payable hereunder. Licensee shall and shall cause its Affiliates and its and their Sublicensees to, retain such books and records until the later of (i) three (3) years after the end of the period to which such books and records pertain, (ii) the expiration of the applicable tax statute of limitations (or any extensions thereof) and (iii) for such period as may be required by Applicable Law.

4.10 Audit. At the request of AstraZeneca, Licensee shall and shall cause its Affiliates and its and their Sublicensees to, permit AstraZeneca or an independent auditor designated by AstraZeneca and reasonably acceptable to Licensee, at reasonable times and upon reasonable notice, to audit the books and records maintained pursuant to Section 4.9 to ensure the accuracy of all reports and payments made hereunder. Except as provided below, the cost of this audit shall be borne by AstraZeneca, unless the audit reveals, with respect to a period, a variance of more than five percent (5%) from the reported amounts for such period, in which case Licensee shall bear the cost of the audit. Unless disputed pursuant to Section 4.11 below, if such audit concludes that (i) additional amounts were owed by Licensee, Licensee shall pay the additional amounts, with interest from the date originally due as provided in Section 4.8 or (ii) excess payments were made by Licensee, AstraZeneca shall reimburse such excess payments, in either case ((i) or (ii)), within sixty (60) days after the date on which such audit is completed by AstraZeneca. Such audit may not be conducted more than once per rolling three hundred sixty five (365) day period without cause.

4.11 Audit Dispute. In the event of a dispute with respect to any audit under Section 4.10, AstraZeneca and Licensee shall work in good faith to resolve the disagreement. If the Parties are unable to reach a mutually acceptable resolution of any such dispute within thirty (30) days, the dispute shall be submitted for resolution to a certified public accounting firm jointly selected by each Party's certified public accountants or to such other Person as the Parties shall mutually agree (the "**Auditor**"). The decision of the Auditor shall be final and the costs of such arbitration as well as the initial audit shall be borne between the Parties in such manner as the Auditor shall determine. Not later than ten (10) days after such decision and in accordance with such decision, Licensee shall pay the additional amounts, with interest from the date originally due as provided in Section 4.8 or AstraZeneca shall reimburse the excess payments, as applicable.

ARTICLE 5 INTELLECTUAL PROPERTY

5.1 Ownership of Intellectual Property.

5.1.1 Ownership of Technology. As between the Parties, each Party shall own all right, title and interest in and to any and all (a) Information, Improvements and other inventions that are conceived, discovered, developed or otherwise made by or on behalf of such Party or its Affiliates or its or their (sub)licensees (or Sublicensee(s)), as applicable, under or in connection with this Agreement, whether or not patented or patentable and any and all Patents and other intellectual property rights with respect thereto and (b) other Information, inventions, Patents and other intellectual property rights that are owned or otherwise controlled (other than pursuant to the license grants set forth in Section 2.1) by such Party or its Affiliates or its or their (sub)licensees (or Sublicensees) (as applicable) outside of this Agreement.

5.1.2 United States Law. The determination of whether Information, Improvements and other inventions are conceived, discovered, developed or otherwise made by a Party for the purpose of allocating proprietary rights (including Patent, copyright or other intellectual property rights) therein, shall, for purposes of this Agreement, be made in accordance with Applicable Law in the United States as such law exists as of the Effective Date irrespective of where such conception, discovery, development or making occurs.

5.1.3 Assignment Obligation. Each Party shall cause all Persons who perform activities for such Party under this Agreement or who conceive, discover, develop or otherwise make any Information, Improvement or other inventions by or on behalf of such Party or its Affiliates or its or their (sub)licensees (or Sublicensees) under or in connection with this Agreement to be under an obligation to assign or grant an exclusive license under their rights in any Information, Improvement and inventions resulting therefrom to such Party, except where Applicable Law requires otherwise and except in the case of governmental, not-for-profit and public institutions that have standard policies against such an assignment (in which case, a suitable license or right to obtain such a license, shall be obtained).

5.1.4 Ownership of Product Trademarks. As between the Parties, Licensee shall own all right, title and interest to the Product Trademarks in the Territory.

5.2 Maintenance and Prosecution of Patents.

5.2.1 In General. As between the Parties, (a) AstraZeneca shall have the first right, but not the obligation, through counsel of its choice, to prepare, file, prosecute and maintain the AstraZeneca Patents, including any related interference, re-issuance, re-examination and opposition proceedings with respect thereto, in the Territory, in each case, at AstraZeneca's sole cost and expense and (b) Licensee

shall have the sole right, but not the obligation, to prepare, file, prosecute and maintain the Licensee Patents, including any related interference, re-issuance, re-examination and opposition proceedings with respect thereto, worldwide, in each case, at its sole cost and expense and through counsel of its choice. If, as between the Parties, AstraZeneca decides not to prepare, file, prosecute or maintain an AstraZeneca Patent in a country in the Territory, AstraZeneca shall provide reasonable prior written notice to Licensee of such intention and Licensee shall thereupon have the right, in its sole discretion, to assume the control and direction of the preparation, filing, prosecution and maintenance of such AstraZeneca Patent at its sole cost and expense in such country.

5.2.2 Cooperation. Each Party shall, and shall cause its Affiliates to, assist the other Party at the reasonable request of the other Party from time to time in connection with its activities set forth in Section 5.2.1. The Party that has the right to prepare, file, prosecute and maintain the AstraZeneca Patents, as applicable (the “**Prosecuting Party**”) shall (a) keep the other Party (the “**Non-Prosecuting Party**”) informed of all steps to be taken in the preparation and prosecution of all applications filed by it pursuant to Section 5.2.1, (b) furnish the Non-Prosecuting Party with copies of such applications for Patents, amendments thereto and other related correspondence to and from patent offices, including correspondence relating to any office actions, and (c) to the extent reasonably practicable, permit the Non-Prosecuting Party an opportunity to offer its comments on such applications, amendments and other correspondence before making a submission to a patent office, which comments the Prosecuting Party shall consider in good faith. The Non-Prosecuting Party shall offer its comments, if any, promptly.

5.2.3 Patent Term Extension and Supplementary Protection Certificate. As between the Parties, AstraZeneca shall have the sole right to make decisions regarding and AstraZeneca shall have the right to apply for, patent term extensions, in the Territory, including the United States with respect to extensions pursuant to 35 U.S.C. §156 et. seq. and in other jurisdictions pursuant to supplementary protection certificates, and in all jurisdictions with respect to any other extensions that are now or become available in the future, wherever applicable, for the AstraZeneca Patents and with respect to the Licensed Compound and the Licensed Products, in each case including whether or not to do so; *provided* that AstraZeneca shall consult with Licensee to determine the course of action with respect to such filings. Licensee shall provide prompt and reasonable assistance, as requested by AstraZeneca, including by taking such action as patent holder as is required under any Applicable Law to obtain such extension or supplementary protection certificate.

5.2.4 Patent Listings. As between the Parties, Licensee shall have the sole right to make decisions regarding and Licensee shall have the right to make all filings with Regulatory Authorities in the Field in the Territory with respect to the AstraZeneca Patents, and Licensee Patents, including as required or allowed (a) in the United States, in the FDA’s Orange Book and (b) in the European Union, under the national implementations of Article 10.1(a)(iii) of Directive 2001/EC/83 or other international equivalents.

5.3 Enforcement of Patents.

5.3.1 Notice. Each Party shall promptly notify the other Party in writing of (a) any alleged or threatened infringement of the AstraZeneca Patents in any jurisdiction in the Territory or (b) any certification filed under the Hatch-Waxman Act claiming that any AstraZeneca Patents are invalid or unenforceable or claiming that any AstraZeneca Patents would not be infringed by the making, use, offer for sale, sale or import of a product for which an application under the Hatch-Waxman Act is filed or any equivalent or similar certification or notice in any other jurisdiction in the Territory, in each case ((a) and (b)) of which such Party becomes aware (an “**Infringement**”).

5.3.2 Enforcement of Patents. As between the Parties, AstraZeneca shall have the first right, but not the obligation, to prosecute any Infringement with respect to the AstraZeneca Patents, including as a defense or counterclaim in connection with any Third Party Infringement Claim, at the AstraZeneca's sole cost and expense, using counsel of AstraZeneca's choice; provided that if AstraZeneca does not take commercially reasonable steps to prosecute such an Infringement (i) within ninety (90) days following the first notice provided above with respect to such Infringement or (ii) provided such date occurs after the first such notice of such Infringement is provided, ten (10) Business Days before the time limit, if any, set forth in appropriate laws and regulations for filing of such actions, whichever comes first, then AstraZeneca shall so notify Licensee and Licensee may prosecute such Infringement at its sole cost and expense. For clarity, Licensee shall have the sole right, but not the obligation, to prosecute any alleged or threatened infringement with respect to the Licensee Patents, including as a defense or counterclaim in connection with any Third Party Infringement Claim, at Licensee's sole cost and expense, using counsel of its choice.

5.3.3 Cooperation. If a Party is entitled to, and pursues an action against an Infringement in accordance with this Section 5.3, (a) the other Party shall, and shall cause its Affiliates to, cooperate fully, including being joined as a necessary party to such action, providing access to relevant documents and other evidence and making its employees available at reasonable business hours, (b) the Party pursuing any action against an Infringement shall consult with the other Party as to the strategy for such action and (c) such Party shall consider in good faith any comments from the other Party and shall keep the other Party reasonably informed of any steps taken with respect to such action.

5.3.4 Settlement. The Party that is entitled to and pursues an action against an Infringement in accordance with this Section 5.3 shall have the right to control any settlement of such claim; provided that no settlement shall be entered into without the prior consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed) if such settlement would reasonably be expected to have a material adverse effect on the rights or interest of the other Party or any of its Affiliates or impose any costs or liability on or involve any admission by, the other Party or any of its Affiliates.

5.3.5 Cost Recovery. Each Party shall bear its own costs and expenses relating to any Infringement action commenced pursuant to this Section 5.3; provided that the pursuing Party shall reimburse the other Party for the costs and expenses incurred by the other Party for any assistance requested by the pursuing Party for such Infringement action. Except as otherwise agreed by the Parties in connection with a cost sharing arrangement, any recovery realized as a result of such litigation described above in this Section 5.3 (whether by way of settlement or otherwise) shall be first, allocated to reimburse the Parties for their costs and expenses in making such recovery (which amounts shall be allocated pro rata if insufficient to cover the totality of such expenses). Any remainder after such reimbursement is made shall be retained by the pursuing Party; provided, however, that to the extent that any award or settlement (whether by judgment or otherwise) with respect to an AstraZeneca Patent is attributable to loss of sales or profits with respect to a Licensed Product, the Parties shall negotiate in good faith an appropriate allocation of such remainder to reflect the economic interests of the Parties under this Agreement with respect to such Licensed Product.

5.4 Infringement Claims by Third Parties. If the Exploitation of a Licensed Product in the Territory pursuant to this Agreement results in, or is reasonably expected to result in, any claim, suit or proceeding by a Third Party alleging infringement by Licensee or any of its Affiliates or its or their Sublicensees, distributors or customers (a "**Third Party Infringement Claim**"), including any defense or counterclaim in connection with an Infringement action initiated pursuant to Section 5.3, the Party first becoming aware of such Third Party Infringement Claim shall promptly notify the other Party in writing. As between the Parties, Licensee shall be responsible for defending any such Third Party Infringement

Claim at its sole cost and expense, using counsel of Licensee's choice. AstraZeneca may participate in any such claim, suit or proceeding with counsel of its choice at its sole cost and expense; provided that Licensee shall retain the right to control such claim, suit or proceeding. AstraZeneca shall, and shall cause its Affiliates to, assist and cooperate with Licensee, as Licensee may reasonably request from time to time, in connection with its activities set forth in this Section 5.4, including where necessary, furnishing a power of attorney solely for such purpose or joining in, or being named as a necessary party to, such action, providing access to relevant documents and other evidence and making its employees available at reasonable business hours; provided that Licensee shall reimburse AstraZeneca for its reasonable and verifiable out-of-pocket costs and expenses incurred in connection therewith. Licensee shall keep AstraZeneca reasonably informed of all material developments in connection with any such claim, suit or proceeding. Any damages, or awards, including royalties incurred or awarded in connection with any Third Party Infringement Claim defended under this Section 5.4 shall be borne by Licensee.

5.5 Invalidity or Unenforceability Defenses or Actions. Each Party shall promptly notify the other Party in writing of any alleged or threatened assertion of invalidity or unenforceability of any of the AstraZeneca Patents by a Third Party of which such Party becomes aware. As between the Parties, AstraZeneca shall have the first right, but not the obligation, to defend and control the defense of the validity and enforceability of the AstraZeneca Patents at its sole cost and expense, using counsel of AstraZeneca's choice and (b) Licensee shall have the sole right, but not the obligation, to defend and control the defense of the validity and enforceability of the Licensee Patents at its sole cost and expense, using counsel of Licensee's choice, including, in each case ((a) and (b)), when such invalidity or unenforceability is raised as a defense or counterclaim in connection with an Infringement action initiated pursuant to Section 5.3. With respect to any such claim, suit or proceeding related to AstraZeneca Patents in the Territory, Licensee may participate in such claim, suit or proceeding with counsel of its choice at its sole cost and expense; provided that AstraZeneca shall retain control of the defense in such claim, suit or proceeding. If AstraZeneca or its designee elects not to defend or control the defense of the applicable AstraZeneca Patents in a suit brought in the Territory or otherwise fails to initiate and maintain the defense of any such claim, suit or proceeding, Licensee may conduct and control the defense of any such claim, suit or proceeding at its sole cost and expense. Licensee shall, and shall cause its Affiliates to, cooperate fully with respect to such action, including being joined as a party plaintiff in such action, providing access to relevant documents and other evidence and making its employees available at reasonable business hours; provided that the AstraZeneca shall reimburse Licensee for its reasonable and verifiable costs and expenses incurred in connection therewith. AstraZeneca shall consider in good faith any comments from Licensee and shall keep Licensee reasonably informed of any steps taken with respect to such action.

5.6 Third Party Patent Rights. If in the reasonable opinion of Licensee, the Exploitation of the Licensed Compound or Licensed Product in the Field and in the Territory by Licensee, any of its Affiliates or any of its or their Sublicensees infringes or is reasonably expected to infringe any Patent of a Third Party in any country in the Territory (such right, a "**Third Party Patent Right**"), then, as between the Parties, Licensee shall have the first right, but not the obligation, to negotiate and obtain a license from such Third Party to such Third Party Patent Right as necessary or desirable for Licensee or its Affiliates or its or their Sublicensees to Exploit the Licensed Compound and Licensed Products in the Field in such country; provided that (a) as between the Parties, Licensee shall bear all expenses incurred in connection therewith, including any royalties, milestones or other payments incurred under any such license, (b) any such license shall be limited to the Field in the Territory and provide for the unencumbered right, but not the obligation, to transfer such license to AstraZeneca or any of its Affiliates upon termination or expiration of this Agreement (as provided in Section 9.4) with respect to the applicable country(ies) and (c) Licensee shall obtain the written consent of AstraZeneca prior to entering into any such license (such consent not to be unreasonably withheld, delayed or conditioned).

5.7 Product Trademarks.

5.7.1 Prosecution of Product Trademarks. Licensee shall be responsible for the registration, prosecution and maintenance of the Product Trademarks using counsel of its own choice. All costs and expenses of registering, prosecuting and maintaining the Product Trademarks shall be borne solely by Licensee.

5.7.2 Enforcement of Product Trademarks.

(a) Each Party shall provide to the other Party prompt written notice of any actual or threatened infringement of the Product Trademarks in the Territory and of any actual or threatened claim that the use of the Product Trademarks in the Territory violates the rights of any Third Party, in each case, of which such Party becomes aware.

(b) Licensee shall have the sole right to take such action as Licensee deems necessary against a Third Party based on any alleged, threatened or actual infringement, dilution, misappropriation or other violation of or unfair trade practices or any other like offense relating to, the Product Trademarks by a Third Party in the Territory at its sole cost and expense and using counsel of its own choice. Licensee shall retain any damages or other amounts collected in connection therewith; provided, however, that to the extent that any award or settlement (whether by judgment or otherwise) with respect to a Product Trademark is attributable to loss of sales or profits with respect to a Licensed Product, the Parties shall negotiate in good faith an appropriate allocation of such remainder to reflect the economic interests of the Parties under this Agreement with respect to such Licensed Product.

5.7.3 Third Party Claims. Licensee shall have the sole right to defend against and settle any alleged, threatened or actual claim by a Third Party that the use or registration of the Product Trademarks in the Territory infringes, dilutes, misappropriates or otherwise violates any Trademark or other right of that Third Party or constitutes unfair trade practices or any other like offense or any other claims as may be brought by a Third Party against a Party in connection with the use of the Product Trademarks with respect to a Licensed Product in the Territory at its sole cost and expense and using counsel of its choice. Any damages, or awards, including royalties incurred or awarded in connection with any such claim defended under this Section 5.7.3 shall be borne by Licensee.

5.7.4 Selection of Product Trademarks. Licensee shall not and shall not permit its Affiliates or its or their Sublicensees to use in their respective businesses, any Trademark that (a) contains any term in any Trademark used by AstraZeneca or its Affiliates, or its and their (sub)licensees, unless otherwise agreed to by AstraZeneca in writing, or (b) is confusingly similar to, or a colorable imitation of, any term in any Trademark used by AstraZeneca or its Affiliates, or its and their (sub)licensees.

ARTICLE 6 CONFIDENTIALITY AND NON-DISCLOSURE

6.1 Confidentiality Obligations. At all times during the Term and for a period of ten (10) years following termination or expiration hereof in its entirety, each Party shall and shall cause its officers, directors, employees and agents to, keep confidential and not publish or otherwise disclose to a Third Party and not use, directly or indirectly, for any purpose, any Confidential Information furnished or otherwise made known to it, directly or indirectly, by the other Party, except to the extent such disclosure or use is expressly permitted by the terms of this Agreement. “**Confidential Information**” means any technical, business or other information provided by or on behalf of one Party to the other Party in connection with this Agreement, whether prior to, on or after the Effective Date, including information relating to the terms of this Agreement (subject to Section 6.2 and Section 6.4), information relating to the

Licensed Compound or any Licensed Product (including the Regulatory Documentation), any Development or Commercialization of the Licensed Compound or any Licensed Product, any know-how with respect thereto developed by or on behalf of the disclosing Party or its Affiliates (including Licensee Know-How and AstraZeneca Know-How, as applicable) or the scientific, regulatory or business affairs or other activities of either Party. Notwithstanding the foregoing, the terms of this Agreement shall be deemed to be the Confidential Information of both Parties and both Parties shall be deemed to be the receiving Party and the disclosing Party with respect thereto. Notwithstanding the foregoing, the confidentiality and non-use obligations under this Section 6.1 with respect to any Confidential Information shall not include any information that:

6.1.1 is or hereafter becomes part of the public domain by public use, publication, general knowledge or the like through no breach of this Agreement by the receiving Party;

6.1.2 can be demonstrated by documentation or other competent proof to have been in the receiving Party's possession prior to disclosure by the disclosing Party without any obligation of confidentiality with respect to such information;

6.1.3 is subsequently received by the receiving Party from a Third Party who is not bound by any obligation of confidentiality with respect to such information;

6.1.4 has been published by a Third Party or otherwise enters the public domain through no fault of the receiving Party in breach of this Agreement; or

6.1.5 can be demonstrated by documentation or other competent evidence to have been independently developed by or for the receiving Party without reference to the disclosing Party's Confidential Information. Specific aspects or details of Confidential Information shall not be deemed to be within the public domain or in the possession of the receiving Party merely because the Confidential Information is embraced by more general information in the public domain or in the possession of the receiving Party. Further, any combination of Confidential Information shall not be considered in the public domain or in the possession of the receiving Party merely because individual elements of such Confidential Information are in the public domain or in the possession of the receiving Party unless the combination and its principles are in the public domain or in the possession of the receiving Party.

6.2 Permitted Disclosures. Each Party may disclose Confidential Information to the extent that such disclosure is:

6.2.1 made in response to a valid order of a court of competent jurisdiction or other supra-national, federal, national, regional, state, provincial and local governmental or regulatory body of competent jurisdiction or, if in the reasonable opinion of the receiving Party's legal counsel, such disclosure is otherwise required by law, including by reason of filing with securities regulators; *provided, however*, that the receiving Party shall first have given prompt notice to the disclosing Party and reasonably assists the disclosing Party in seeking to quash such order or to obtain a protective order or confidential treatment requiring that the Confidential Information and documents that are the subject of such order be held in confidence by such court or agency or, if disclosed, be used only for the purposes for which the order was issued; and *provided, further*, that the Confidential Information disclosed in response to such court or governmental order shall be limited to that information which is legally required to be disclosed in response to such court or governmental order;

6.2.2 made by or on behalf of the receiving Party to the Regulatory Authorities as required in connection with any filing, application or request for Regulatory Approval; *provided, however*, that reasonable measures shall be taken to assure confidential treatment of such information to the extent practicable and consistent with Applicable Law;

6.2.3 made by or on behalf of the receiving Party to a patent authority as may be reasonably necessary or useful for purposes of obtaining or enforcing a Patent; *provided, however*, that reasonable measures shall be taken to assure confidential treatment of such information, to the extent such protection is available;

6.2.4 made by or on behalf of AstraZeneca as the receiving Party, in connection with its performance or exercise of its Retained Rights or its rights under this Agreement; or

6.2.5 made by or on behalf of the receiving Party to potential or actual investors, collaboration partners or acquirers as may be necessary in connection with their evaluation of such potential or actual investment, collaboration or acquisition; *provided, however*, that such persons shall be subject to obligations of confidentiality and non-use with respect to such Confidential Information substantially similar to the obligations of confidentiality and non-use of the receiving Party pursuant to this Article 6 (with a duration of confidentiality and non-use obligations as appropriate that is no less than five (5) years from the date of disclosure).

6.3 Use of Name. Except as expressly provided herein, neither Party shall use the name, logo or Trademark of the other Party or any of its Affiliates or any of its or their (sub)licensees (or Sublicensees) (or any abbreviation or adaptation thereof) in any publication, press release, marketing and promotional material or other form of publicity without the prior written approval of such other Party in each instance. The restrictions imposed by this Section 6.3 shall not prohibit (i) either Party from making any disclosure identifying the other Party to the extent required in connection with its exercise of its rights or obligations under this Agreement and (ii) either Party from making any disclosure identifying the other Party that is required by Applicable Law or the rules of a stock exchange on which the securities of the disclosing Party are listed (or to which an application for listing has been submitted).

6.4 Public Announcements. Neither Party shall issue any other public announcement, press release or other public disclosure regarding this Agreement without the other Party's prior written consent, except for any such disclosure that is, in the opinion of the disclosing Party's counsel, required by Applicable Law or the rules of a stock exchange on which the securities of the disclosing Party are listed (or to which an application for listing has been submitted). In the event a Party is, in the opinion of its counsel, required by Applicable Law or the rules of a stock exchange on which its securities are listed (or to which an application for listing has been submitted) to make such a public disclosure, such Party shall submit the proposed disclosure in writing to the other Party as far in advance as reasonably practicable (and in no event less than three (3) Business Days prior to the anticipated date of disclosure) so as to provide a reasonable opportunity to comment thereon. Neither Party shall be required to seek the permission of the other Party to repeat any information regarding the terms of this Agreement or any amendment hereto that has already been publicly disclosed by such Party or by the other Party, in accordance with this Section 6.4; *provided* that such information remains accurate as of such time and provided the frequency and form of such disclosure are reasonable.

6.5 Publications. The Parties recognize the desirability of publishing and publicly disclosing the results of and information regarding, activities under this Agreement. Accordingly, Licensee shall be free to publicly disclose the results of and information regarding, activities under this Agreement, subject to prior review by AstraZeneca of any disclosure of AstraZeneca's Confidential Information for issues of patentability and protection of such Confidential Information, in a manner consistent with Applicable Law and industry practices, as provided in this Section 6.5. Accordingly, prior to publishing or disclosing any Confidential Information of AstraZeneca, Licensee shall provide AstraZeneca with drafts of proposed

abstracts, manuscripts or summaries of presentations that cover such Confidential Information. AstraZeneca shall respond promptly through its designated representative and in any event no later than fifteen (15) days after receipt of such proposed publication or presentation or such shorter period as may be required by the publication or presentation. Licensee agrees to allow a reasonable period (not to exceed thirty (30) days) to permit filings for patent protection and to otherwise address issues of Confidential Information or related competitive harm to the reasonable satisfaction of AstraZeneca. In addition, Licensee shall give due regard to comments furnished by AstraZeneca and such comments shall not be unreasonably rejected.

6.6 Return of Confidential Information. Upon the effective date of the expiration or termination of this Agreement for any reason, either Party may request in writing and the non-requesting Party shall either, with respect to Confidential Information to which such non-requesting Party does not retain rights under the surviving provisions of this Agreement, at the requesting Party's election, (i) promptly destroy all copies of such Confidential Information in the possession or control of the non-requesting Party and confirm such destruction in writing to the requesting Party or (ii) promptly deliver to the requesting Party, at the non-requesting Party's sole cost and expense, all copies of such Confidential Information in the possession or control of the non-requesting Party. Notwithstanding the foregoing, the non-requesting Party shall be permitted to retain such Confidential Information (x) to the extent necessary or useful for purposes of performing any continuing obligations or exercising any ongoing rights hereunder and, in any event, a single copy of such Confidential Information for archival purposes and (y) any computer records or files containing such Confidential Information that have been created solely by such non-requesting Party's automatic archiving and back-up procedures, to the extent created and retained in a manner consistent with such non-requesting Party's standard archiving and back-up procedures, but not for any other uses or purposes. All Confidential Information shall continue to be subject to the terms of this Agreement for the period set forth in Section 6.1.

6.7 Privileged Communications. In furtherance of this Agreement, it is expected that the Parties may, from time to time, disclose to one another privileged communications with counsel, including opinions, memoranda, letters and other written, electronic and verbal communications. Such disclosures are made with the understanding that they shall remain confidential in accordance with this Article 6, that they will not be deemed to waive any applicable attorney-client or attorney work product or other privilege and that they are made in connection with the shared community of legal interests existing between AstraZeneca and Licensee, including the community of legal interests in avoiding infringement of any valid, enforceable patents of Third Parties and maintaining the validity of the AstraZeneca Patents and Licensee Patents. In the event of any litigation (or potential litigation) with a Third Party related to this Agreement or the subject matter hereof, the Parties shall, upon either Party's request, enter into a reasonable and customary joint defense agreement. In any event, each Party shall consult in a timely manner with the other Party before engaging in any conduct (e.g., producing information or documents) in connection with litigation or other proceedings that could conceivably implicate privileges maintained by the other Party. Notwithstanding anything contained in this Section 6.7, nothing in this Agreement shall prejudice a Party's ability to take discovery of the other Party in disputes between them relating to the Agreement and no information otherwise admissible or discoverable by a Party shall become inadmissible or immune from discovery solely by this Section 6.7.

ARTICLE 7
REPRESENTATIONS AND WARRANTIES

7.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party, as of the Effective Date, and covenants, that:

7.1.1 It is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all requisite power and authority, corporate or otherwise, to execute, deliver and perform this Agreement;

7.1.2 The execution and delivery of this Agreement and the performance by it of the transactions contemplated hereby have been duly authorized by all necessary corporate action and do not violate: (a) such Party's charter documents, bylaws or other organizational documents; (b) in any material respect, any agreement, instrument or contractual obligation to which such Party is bound; (c) any requirement of any Applicable Law; or (d) any order, writ, judgment, injunction, decree, determination or award of any court or governmental agency presently in effect applicable to such Party;

7.1.3 This Agreement is a legal, valid and binding obligation of such Party enforceable against it in accordance with its terms and conditions, subject to the effects of bankruptcy, insolvency or other laws of general application affecting the enforcement of creditor rights, judicial principles affecting the availability of specific performance and general principles of equity (whether enforceability is considered a proceeding at law or equity);

7.1.4 It is not under any obligation, contractual or otherwise, to any Person that conflicts with or is inconsistent in any material respect with the terms of this Agreement or that would impede the diligent and complete fulfillment of its obligations hereunder; and

7.1.5 Neither it nor any of its Affiliates has been debarred or is subject to debarment and neither it nor any of its Affiliates will use in any capacity, in connection with the services to be performed under this Agreement, any Person who has been debarred pursuant to Section 306 of the FFDCa or who is the subject of a conviction described in such section. It will inform the other Party in writing promptly if it or any such Person who is performing services hereunder is debarred or is the subject of a conviction described in Section 306 or if any action, suit, claim, investigation or legal or administrative proceeding is pending, relating to the debarment or conviction of it or any such Person performing services hereunder.

7.2 Additional Representations and Warranties of AstraZeneca. AstraZeneca further represents and warrants to Licensee, as of the Effective Date, (a) AstraZeneca Controls the AstraZeneca Patents and the AstraZeneca Regulatory Documentation as of the Effective Date and has the right to grant the licenses specified herein; and (b) AstraZeneca has not received any written claim or demand alleging that the Development or Commercialization of the Licensed Products as contemplated herein infringes any Patent owned by any Third Party.

7.3 Additional Representations and Warranties of Licensee. Licensee further represents and warrants to AstraZeneca, as of the Effective Date, that Licensee: (a) has conducted its own investigation and analysis of (i) the Patent and other proprietary rights of Third Parties as such rights relate to the Exploitation of the Licensed Compound and Licensed Products as contemplated hereunder and (ii) the potential infringement thereof; (b) understands the complexity and uncertainties associated with possible claims of infringement of Patent or other proprietary rights of Third Parties, particularly those relating to pharmaceutical products; and (c) acknowledges and agrees that it is solely responsible for the risks of such claims.

7.4 DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, NEITHER PARTY MAKES ANY REPRESENTATIONS OR GRANTS ANY WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE AND EACH PARTY SPECIFICALLY DISCLAIMS ANY OTHER WARRANTIES, WHETHER WRITTEN OR ORAL OR EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE OR ANY WARRANTY AS TO THE VALIDITY OF ANY PATENTS OR THE NON- INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

7.5 ADDITIONAL WAIVER. LICENSEE AGREES THAT: (a) THE ASTRAZENECA PATENTS ARE LICENSED “AS IS,” “WITH ALL FAULTS,” AND “WITH ALL DEFECTS,” AND LICENSEE EXPRESSLY WAIVES ALL RIGHTS TO MAKE ANY CLAIM WHATSOEVER AGAINST ASTRAZENECA FOR MISREPRESENTATION OR FOR BREACH OF PROMISE, GUARANTEE OR WARRANTY OF ANY KIND RELATING TO THE ASTRAZENECA PATENTS; (b) LICENSEE AGREES THAT ASTRAZENECA WILL HAVE NO LIABILITY TO LICENSEE FOR ANY ACT OR OMISSION IN THE PREPARATION, FILING, PROSECUTION, MAINTENANCE, ENFORCEMENT, DEFENCE OR OTHER HANDLING OF THE ASTRAZENECA PATENTS; AND (c) LICENSEE IS SOLELY RESPONSIBLE FOR DETERMINING WHETHER THE ASTRAZENECA PATENTS HAVE APPLICABILITY OR UTILITY IN LICENSEE’S CONTEMPLATED EXPLOITATION OF THE LICENSED PRODUCTS AND LICENSEE ASSUMES ALL RISK AND LIABILITY IN CONNECTION WITH SUCH DETERMINATION.

7.6 Anti-Bribery and Anti-Corruption Compliance. Licensee agrees, on behalf of itself, its officers, directors and employees and on behalf of its Affiliates, agents, representatives, consultants and subcontractors hired in connection with the subject matter of this Agreement (“**Representatives**”) that for the performance of its obligations hereunder:

7.6.1 Licensee and its Representatives shall comply with the Anti-Corruption Laws and shall not take any action that will, or would reasonably be expected to, cause AstraZeneca or its Affiliates to be in violation of any Anti-Corruption Laws; and

7.6.2 Licensee shall promptly provide AstraZeneca with written notice of the following events: (a) upon becoming aware of any breach or violation by Licensee or its Representative of any representation, warranty or undertaking set forth in Section 7.6.1, or (b) upon receiving notification that it is the target of an investigation or inquiry by a governmental authority for an Anti-Corruption Law Violation or upon receipt of information from any of its Representatives connected with this Agreement that any of them is the target of an investigation or inquiry by a governmental authority for an Anti-Corruption Law Violation.

ARTICLE 8 INDEMNITY

8.1 Indemnification of AstraZeneca. Licensee shall indemnify AstraZeneca, its Affiliates, its or their (sub)licensees and its and their respective directors, officers, employees and agents (the “**AstraZeneca Indemnitees**”) and defend and save each of them harmless, from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys’ fees and expenses) (collectively, “**Losses**”) in connection with any and all suits, investigations, claims or demands of Third Parties (collectively, “**Third Party Claims**”) arising from or occurring as a result of: (i) the breach by Licensee of this Agreement, including the enforcement of AstraZeneca’s rights under this Section 8.1; (ii) the gross negligence or willful misconduct on the part of Licensee or its Affiliates or its or their Sublicensees or its or their distributors or contractors or its or their respective directors, officers, employees or agents in performing its or their obligations under this Agreement; or (iii) the Exploitation by Licensee or any of its Affiliates or its or their Sublicensees or its or their distributors or contractors of any Licensed Product or the Licensed Compound in or for the Territory, except, in each case ((i), (ii) and (iii)), for those Losses for which AstraZeneca has an obligation to indemnify Licensee pursuant to Section 8.2 hereof, as to which Losses each Party shall indemnify the other to the extent of their respective liability.

8.2 Indemnification of Licensee. AstraZeneca shall indemnify Licensee, its Affiliates and their respective directors, officers, employees and agents (the “**Licensee Indemnitees**”) and defend and save each of them harmless, from and against any and all Losses in connection with any and all Third Party Claims arising from or occurring as a result of: (i) the breach by AstraZeneca of this Agreement, including the enforcement of Licensee’s rights under this Section 8.2; (ii) the gross negligence or willful misconduct on the part of AstraZeneca or its Affiliates or its or their respective directors, officers, employees or agents in performing its obligations under this Agreement; or (iii) the exercise of the Retained Rights by AstraZeneca or its Affiliates or its or their (sub)licensees or its or their distributors or contractors, except, in each case ((i), (ii) and (iii)), for those Losses for which Licensee has an obligation to indemnify AstraZeneca pursuant to Section 8.1 hereof, as to which Losses each Party shall indemnify the other to the extent of their respective liability for the Losses.

8.3 Indemnification Procedures. All indemnification claims in respect of an AstraZeneca Indemnitee or Licensee Indemnitee shall be made solely by AstraZeneca or Licensee, as applicable (each of AstraZeneca or Licensee in such capacity, the “**Indemnified Party**”). The Indemnified Party shall give the indemnifying Party prompt written notice (an “**Indemnification Claim Notice**”) of any Losses or discovery of fact upon which such Indemnified Party intends to base a request for indemnification under this Article 8, but in no event shall the indemnifying Party be liable for any Losses that result from any delay in providing such notice. Each Indemnification Claim Notice must contain a description of the claim and the nature and amount of such Loss (to the extent that the nature and amount of such Loss is known at such time). The Indemnified Party shall furnish promptly to the indemnifying Party copies of all papers and official documents received in respect of any Losses and Third Party Claims. The indemnifying Party shall have the right to assume the defense of any such Third Party Claim, including the right to select counsel of its choosing and the right to compromise or settle any Third Party Claim, by giving written notice to the Indemnified Party within thirty (30) days after the indemnifying Party’s receipt of an Indemnification Claim Notice; *provided, however*, that the indemnifying Party shall not make any compromise or settlement admitting fault, subjecting the Indemnified Party to injunctive or other relief, adversely affecting the business of the Indemnified Party or any AstraZeneca Indemnitee or Licensee Indemnitee, as applicable, or incurring any liability on the part of the Indemnified Party or any AstraZeneca Indemnitee or Licensee Indemnitee, as applicable, without the Indemnified Party’s prior written consent, such consent not to be unreasonably withheld or delayed. The Indemnified Party shall be entitled to retain counsel of its choice (at its own expense) to participate in, but not control, the defense of any Third Party Claim. Except as provided in the immediately preceding sentence, the costs and expenses, including fees and disbursements of counsel, incurred by the Indemnified Party and any AstraZeneca Indemnitee or Licensee Indemnitee, as applicable, in connection with any Third Party Claim shall be reimbursed on a Calendar Quarter basis by the indemnifying Party, without prejudice to the indemnifying Party’s right to contest the Indemnified Party’s right to indemnification and subject to refund if the indemnifying Party is ultimately held not to be obligated to indemnify the Indemnified Party. If it is ultimately determined that the indemnifying Party is not obligated to indemnify, defend or hold harmless the Indemnified Party from and against the Third Party Claim, the Indemnified Party shall reimburse the indemnifying Party for any and all reasonable and verifiable costs and expenses (including attorneys’ fees and costs of suit) and any Losses incurred by the indemnifying Party in accordance with this Section 8.3 in its defense of the Third Party Claim. If the indemnifying Party is required to defend any Third Party Claim, the Indemnified Party shall, and shall cause its employees and agents to, cooperate in the defense or prosecution thereof and shall furnish such records, information and testimony, provide such witnesses and attend such conferences, discovery proceedings, hearings, trials and appeals as may be reasonably requested in connection therewith.

8.4 Special, Indirect and Other Losses. EXCEPT (i) IN THE EVENT THE WILLFUL MISCONDUCT OR FRAUD OF A PARTY OR OF A PARTY'S BREACH OF ITS OBLIGATIONS UNDER Article 6, (ii) AS PROVIDED UNDER SECTION 10.9, (iii) TO THE EXTENT ANY SUCH DAMAGES ARE REQUIRED TO BE PAID TO A THIRD PARTY AS PART OF A CLAIM FOR WHICH A PARTY PROVIDES INDEMNIFICATION UNDER THIS Article 8, NEITHER PARTY NOR ANY OF ITS AFFILIATES OR (SUB)LICENSEES SHALL BE LIABLE IN CONTRACT, TORT, NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OR FOR LOSS OF PROFITS SUFFERED BY THE OTHER PARTY.

8.5 Insurance. Licensee shall have and maintain such types and amounts of insurance covering its Exploitation of the Licensed Compound and Licensed Products as is (i) normal and customary in the pharmaceutical industry generally for parties similarly situated and (ii) otherwise required by Applicable Law. Upon request by AstraZeneca, Licensee shall provide to AstraZeneca evidence of its insurance coverage, including copies of applicable insurance policies. The insurance policies shall be under an occurrence form, but if only a claims-made form is available to Licensee, then Licensee shall continue to maintain such insurance after the expiration or termination of this Agreement in its entirety for a period of five (5) years.

ARTICLE 9 TERM AND TERMINATION

9.1 Term and Expiration. This Agreement shall commence on the Effective Date and, unless earlier terminated in accordance herewith, shall continue in force and effect until the date of expiration of the last Royalty Term for the last Licensed Product (such period, the "**Term**"). Following the expiration (but not earlier termination) of the Royalty Term for a Licensed Product in a country, the grants in Section 2.1 shall become non-exclusive, fully-paid, and irrevocable for such Licensed Product in such country. For clarity, upon the expiration of the Term, the grants in Section 2.1 shall become non-exclusive, fully-paid, and irrevocable in their entirety.

9.2 Termination.

9.2.1 Material Breach. If either Party materially breaches any of its obligations under this Agreement (such Party, the "**Breaching Party**"), in addition to any other right and remedy the other Party (the "**Non-Breaching Party**") may have, the Non-Breaching Party may terminate this Agreement by providing ninety (90) days' (or, with respect to a payment breach, ten (10) days') (the "**Notice Period**") prior written notice (the "**Termination Notice**") to the Breaching Party and specifying the breach and its claim of right to terminate; *provided* that (a) the termination shall not become effective at the end of the Notice Period if the Breaching Party cures the breach specified in the Termination Notice during the Notice Period, (b) if the breach is capable of being cured, but cure of such breach (other than non-payment) cannot reasonably be effected within such ninety (90)-day period, the breaching Party shall deliver to the non-breaching Party a plan reasonably calculated to cure such breach within a reasonable time frame, but in any event within one hundred eighty (180) days, and so long as the breaching Party is diligently carrying out such plan, the non-breaching Party shall not have the right to terminate this Agreement during such 180-day cure period; and (c) with respect to an uncured material breach of Licensee's diligence obligations under Section 3.2.1 or Section 3.4.1, as applicable, AstraZeneca shall have the right to terminate this Agreement, in its sole discretion, solely with respect to the country(ies) affected by such breach; further *provided* that, if the breach affects two (2) or more Major Markets, AstraZeneca shall have the right to terminate this Agreement, in its sole discretion, in its entirety.

9.2.2 Termination by AstraZeneca.

(a) If Licensee fails to close the Financing and issue the License Shares to AstraZeneca during the Financing Period, AstraZeneca shall have the right to immediately terminate this Agreement in its entirety, including the rights of any Sublicensees, upon written notice to Licensee.

(b) If Licensee or any of its Affiliates or Sublicensees, anywhere in the Territory, institutes, prosecutes or otherwise participates in (or in any way aids any Third Party in instituting, prosecuting or participating in), at law or in equity or before any administrative or regulatory body, including the U.S. Patent and Trademark Office or its foreign counterparts, any claim, demand, action or cause of action for declaratory relief, damages or any other remedy or for an injunction, injunction or any other equitable remedy, including any interference, re-examination, opposition or any similar proceeding, alleging that any claim in a AstraZeneca Patent is invalid, unenforceable or otherwise not patentable or would not be infringed by Licensee's activities absent the rights and licenses granted hereunder, AstraZeneca shall have the right to immediately terminate this Agreement in its entirety, including the rights of any Sublicensees, upon written notice to Licensee.

(c) If Licensee permanently ceases development of all Licensed Products and a Licensed Product is not being commercialized in the Territory by or on behalf of Licensee, AstraZeneca shall have the right to terminate this Agreement in its entirety by providing one hundred twenty (120) days' prior written notice to Licensee; *provided* that the normal pauses or gaps between or following clinical studies or other studies for the analysis of data, preparation of reports and design of future clinical studies or preparation of regulatory filings and other customary development functions not constituting clinical studies do not constitute a cessation of development.

9.2.3 Termination for Insolvency. If either Party or any of its Affiliates (a) files for protection under bankruptcy or insolvency laws, (b) makes an assignment for the benefit of creditors, (c) appoints or suffers appointment of a receiver or trustee over substantially all of its property that is not discharged within ninety (90) days after such filing, (d) proposes a written agreement of composition or extension of its debts, (e) proposes or is a party to any dissolution or liquidation, (f) files a petition under any bankruptcy or insolvency act or has any such petition filed against that is not discharged within 60 days of the filing thereof or (g) admits in writing its inability generally to meet its obligations as they fall due in the general course, then the other Party may terminate this Agreement in its entirety effective immediately upon written notice to such Party.

9.2.4 Termination by Licensee.

(a) Licensee shall have the right to terminate this Agreement in its entirety without any cause at any time by giving at least one hundred twenty (120) days' advance written notice to AstraZeneca of such termination; *provided* that, Licensee shall remain obligated to meet its obligations hereunder and under Applicable Law, including with respect to conducting or funding any Development and Commercialization activities, during such one hundred twenty (120) day period, or such longer period as may be required under Applicable Law.

(b) Licensee shall have the right to terminate this Agreement in its entirety upon written notice to AstraZeneca for Cause. For purposes of this Agreement, "**Cause**" means (i) a material risk for harm based upon the observation of serious adverse effects in humans after a Licensed Product has been administered to or taken by humans, such as during a clinical trial or after the launch of the Licensed Product and/or (ii) any other situation where, as a result of feedback received from, or other interactions with, Regulatory Authorities, the Development of a Licensed Product in the Field in the Territory is no longer commercially reasonable.

9.3 Rights in Bankruptcy. All rights and licenses granted under or pursuant to this Agreement by Licensee or AstraZeneca are and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code or any analogous provisions in any other country or jurisdiction, licenses of right to “intellectual property” as defined under Section 101 of the U.S. Bankruptcy Code. The Parties agree that the Parties, as licensees of such rights under this Agreement, shall retain and may fully exercise all of their rights and elections under the U.S. Bankruptcy Code or any analogous provisions in any other country or jurisdiction. The Parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against either Party under the U.S. Bankruptcy Code or any analogous provisions in any other country or jurisdiction, the Party that is not a party to such proceeding shall be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property and all embodiments of such intellectual property, which, if not already in the non-subject Party’s possession, shall be promptly delivered to it (a) upon any such commencement of a bankruptcy proceeding upon the non-subject Party’s written request therefor, unless the Party subject to such proceeding elects to continue to perform all of its obligations under this Agreement or (b) if not delivered under clause (a) above, following the rejection of this Agreement by or on behalf of the Party subject to such proceeding upon written request therefor by the non-subject Party.

9.4 Consequences of Termination.

9.4.1 Termination in its Entirety. In the event of a termination of this Agreement in its entirety for any reason:

(a) all rights and licenses granted by AstraZeneca hereunder shall immediately terminate, including, for clarity, any sublicense granted by Licensee pursuant to Section 2.2 (provided that upon such termination, any such sublicense will continue as a direct license between AstraZeneca and the applicable Sublicensee, subject to AstraZeneca’s written consent, which consent shall not be unreasonably withheld, conditioned or delayed);

(b) in any case of any termination of this Agreement other than by Licensee pursuant to Section 9.2.1 (where AstraZeneca is the Breaching Party) or 9.2.4(b), Licensee shall pay to AstraZeneca an amount equal to the greater of (i) [***] (“**Initial Post-Termination Payment**”) or (ii) [***] (“**Post-Termination Royalty**”) during the [***] (“**Post-Termination Royalty Period**”), [***]. For avoidance of doubt, in the situation where the first Regulatory Approval in the Territory has occurred prior to termination, the Post-Termination Royalty (to the extent the Post-Termination Royalty accrued prior to such termination exceeds the Initial Post-Termination Payment) shall be payable within thirty (30) days after the effective date of termination, and the remainder, if any, shall be payable on a quarterly basis, in accordance with Section 4.5, during the remainder of the Post-Termination Royalty Period.

(c) The Parties acknowledge and agree that the payments set forth in Section 9.4.1(b) are the only payments due to AstraZeneca due in connection with any termination of the Agreement (other than amounts that are outstanding as of the termination date in accordance with the terms of the Agreement), and, without limiting the foregoing, such payments shall constitute Licensee’s sole liability and AstraZeneca’s sole remedy for Licensee’s failure to comply with the diligence obligations under Section 3.2.1 and Section 3.4.1.

9.4.2 Termination in a Terminated Territory. In the event of a termination of this Agreement with respect to a Terminated Territory by AstraZeneca pursuant to Section 9.2.1 (but not in the case of any termination of this Agreement in its entirety):

(a) all rights and licenses granted by AstraZeneca hereunder, and any sublicense granted by Licensee pursuant to Section 2.2, (i) shall automatically be deemed to be amended

to exclude, if applicable, the right to market, promote, detail, distribute, import, sell for commercial use, offer for commercial sale, file any Drug Approval Application for, or seek any Regulatory Approval for Licensed Products in such Terminated Territory and (ii) shall otherwise survive and continue in effect in such Terminated Territory solely for the purpose of furthering any Commercialization of the Licensed Products in the Territory or for any ongoing Development or Manufacturing in support thereof;

(b) the Parties shall negotiate in good faith a non-exclusive, royalty-bearing license grant and right of reference from Licensee to AstraZeneca under the Licensee Patents, Licensee Know-How, the Product Trademarks, and Regulatory Documentation (including any Regulatory Approvals) then Controlled by Licensee or any of its Affiliates that, in each case, are necessary for AstraZeneca to Develop or Commercialize the Licensed Compound or Licensed Products, or any Improvements thereto, that are or have been the subject of Development or Commercialization hereunder as of the effective date of termination, in each case solely in the Terminated Territory.

9.5 Remedies. Except as otherwise expressly provided herein, termination of this Agreement in accordance with the provisions hereof shall not limit remedies that may otherwise be available in law or equity.

9.6 Accrued Rights; Surviving Obligations. Termination or expiration of this Agreement for any reason shall be without prejudice to any rights that shall have accrued to the benefit of a Party prior to such termination or expiration. Such termination or expiration shall not relieve a Party from obligations that are expressly indicated to survive the termination or expiration of this Agreement. Without limiting the foregoing, Articles 1, 8, 10 and Sections 3.2.3 (for the period set forth therein), 3.2.4 (with respect to activities during the Term), 3.3.2 (for sales during the Term), 3.4.3 (for the period set forth therein), 3.4.4 (with respect to activities during the Term), 4.3 (with respect to Milestones achieved during the Term), 4.4 (with respect to Net Sales made during the Term), 4.5 (for final accounting), 4.6 through 4.8 (with regard to accrued but unpaid amounts), 4.9 (for the period set forth therein), 4.10, 4.11, 5.1, 5.7.4, 6.1, 6.2, 9.4, 9.5 and this 9.6 of this Agreement shall survive the termination or expiration of this Agreement for any reason. If this Agreement is terminated with respect to a Terminated Territory but not in its entirety, then following such termination, the foregoing provisions of this Agreement shall remain in effect with respect to the Terminated Territory (to the extent they would survive and apply in the event the Agreement expires or is terminated in its entirety, or as otherwise necessary for any of AstraZeneca and its Affiliates and its and their (sub)licensees to exercise their rights in the Terminated Territory) and all provisions not surviving in accordance with the foregoing shall terminate upon termination of this Agreement with respect to the Terminated Territory and be of no further force and effect.

ARTICLE 10 MISCELLANEOUS

10.1 Force Majeure. Neither Party shall be held liable or responsible to the other Party or be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement (other than an obligation to make payments) when such failure or delay is caused by or results from events beyond the reasonable control of the non-performing Party, including fires, floods, earthquakes, hurricanes, embargoes, shortages, epidemics, quarantines, war, acts of war (whether war be declared or not), terrorist acts, insurrections, riots, civil commotion, strikes, lockouts or other labor disturbances (whether involving the workforce of the non-performing Party or of any other Person), acts of God or acts, omissions or delays in acting by any governmental authority (except to the extent such delay results from the breach by the non-performing Party or any of its Affiliates of any term or condition of this Agreement). The non-performing Party shall notify the other Party of such force majeure within thirty (30) days after such occurrence by giving written notice to the other Party stating

the nature of the event, its anticipated duration and any action being taken to avoid or minimize its effect. The suspension of performance shall be of no greater scope and no longer duration than is necessary and the non-performing Party shall use commercially reasonable efforts to remedy its inability to perform. Without limitation to the foregoing, if the suspension of performance continues for ninety (90) days after the date of the occurrence and such suspension of performance would constitute a material breach of this Agreement in the absence of this Section 10.1, AstraZeneca shall have the right to terminate this Agreement pursuant to Section 9.2 without regard to this Section 10.1, except that in such event no cure period shall apply and AstraZeneca shall have the right to effect such termination upon written notice to Licensee, in its sole discretion.

10.2 Export Control. This Agreement is made subject to any restrictions concerning the export of products or technical information from the United States or other countries that may be imposed on the Parties from time to time. Each Party agrees that it will not export, directly or indirectly, any technical information acquired from the other Party under this Agreement or any products using such technical information to a location or in a manner that at the time of export requires an export license or other governmental approval, without first obtaining the written consent to do so from the appropriate agency or other governmental entity in accordance with Applicable Law.

10.3 Assignment. Neither Party may assign its rights or, except as provided in Section 3.7, delegate its obligations under this Agreement, whether by operation of law or otherwise, in whole or in part without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, except that (a) AstraZeneca shall have the right, without such consent, to (i) perform any or all of its obligations and exercise any or all of its rights under this Agreement through any of its Affiliates or its or their (sub)licensees and (ii) assign any or all of its rights and delegate any or all of its obligations under this Agreement to any Person who acquires all or substantially all of the business to which this Agreement relates, and (b) each Party shall have the right, without such consent, to assign any or all of its rights and delegate any or all of its obligations under this Agreement to any of its Affiliates or its or their (sub)licensees or to any successor in interest as a result of a Change of Control; *provided* that each Party shall provide written notice to the other Party within thirty (30) days after such assignment or delegation. Any permitted successor of a Party or any permitted assignee of all of a Party's rights under this Agreement that has also assumed all of such Party's obligations hereunder in writing shall, upon any such succession or assignment and assumption, be deemed to be a party to this Agreement as though named herein in substitution for the assigning Party, whereupon the assigning Party shall cease to be a party to this Agreement and shall cease to have any rights or obligations under this Agreement. All validly assigned rights of a Party shall inure to the benefit of and be enforceable by, and all validly delegated obligations of such Party shall be binding on and be enforceable against, the permitted successors and assigns of such Party. Any attempted assignment or delegation in violation of this Section 10.3 shall be void and of no effect.

10.4 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law and if the rights or obligations of either Party under this Agreement will not be materially and adversely affected thereby, (i) such provision shall be fully severable, (ii) this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (iii) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom and (iv) in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and reasonably acceptable to the Parties. To the fullest extent permitted by Applicable Law, each Party hereby waives any provision of law that would render any provision hereof illegal, invalid or unenforceable in any respect.

10.5 Dispute Resolution.

10.5.1 Except as provided in Section 4.11 or 10.9, if a dispute arises between the Parties in connection with or relating to this Agreement or any document or instrument delivered in connection herewith (a “**Dispute**”), then either Party shall have the right to refer such Dispute to the Senior Officers for attempted resolution by good faith negotiations during a period of ten (10) Business Days. Any final decision mutually agreed to by the Senior Officers in writing shall be conclusive and binding on the Parties.

10.5.2 If such Senior Officers are unable to resolve any such Dispute within such ten (10) – Business Day period, either Party shall be free to institute binding arbitration in accordance with this Section 10.5.2 upon written notice to the other Party (an “**Arbitration Notice**”) and seek such remedies as may be available. Upon receipt of an Arbitration Notice by a Party, the applicable Dispute shall be resolved by final and binding arbitration before a panel of three experts with relevant industry experience (the “**Arbitrators**”). Each of Licensee and AstraZeneca shall promptly select one Arbitrator, which selections shall in no event be made more than thirty (30) days after the date of the Arbitration Notice. The third Arbitrator shall be chosen promptly by mutual agreement of the Arbitrator chosen by Licensee and the Arbitrator chosen by AstraZeneca, but in no event more than thirty (30) days after the date that the last of such Arbitrators was appointed. The Arbitrators shall determine what discovery will be permitted, consistent with the goal of reasonably controlling the cost and time that the Parties must expend for discovery; *provided* that the Arbitrators shall permit such discovery as they deem necessary to permit an equitable resolution of the dispute. The arbitration shall be administered by the American Arbitration Association (“**AAA**”) (or its successor entity) in accordance with the then-current Commercial Rules of the American Arbitration Association including the Procedures for Large, Complex Commercial Disputes (including the Optional Rules for Emergency Measures of Protection), except as modified in this Agreement. The arbitration shall be held in New York, and the Parties shall use reasonable efforts to expedite the arbitration if requested by either Party. The Arbitrators shall, within fifteen (15) days after the conclusion of the arbitration hearing, issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The decision or award rendered by the Arbitrators shall be final and non-appealable, and judgment may be entered upon it in accordance with Applicable Law in the State of Delaware or any other court of competent jurisdiction. The Arbitrators shall be authorized to award compensatory damages, but shall not be authorized to reform, modify or materially change this Agreement or any other agreements contemplated hereunder.

10.5.3 Each Party shall bear its own counsel fees, costs, and disbursements arising out of the dispute resolution procedures described in this Section 10.5, and shall pay an equal share of the fees and costs of the Arbitrators, and all other general fees related to any arbitration described in Section 10.5.2; *provided*, however, the Arbitrators shall be authorized to determine whether a Party is the prevailing Party, and if so, to award to that prevailing Party reimbursement for its reasonable counsel fees, costs and disbursements (including expert witness fees and expenses, photocopy charges, or travel expenses), or the fees and costs of the Arbitrators. Unless the Parties otherwise agree in writing, during the period of time that any arbitration proceeding described in Section 10.5.2, as applicable, is pending under this Agreement, the Parties shall continue to comply with all those terms and provisions of this Agreement that are not the subject of such pending arbitration proceeding. Nothing contained in this Agreement shall deny any Party the right to seek injunctive or other equitable relief from a court of competent jurisdiction in the context of a bona fide emergency or prospective irreparable harm, and such an action may be filed and maintained notwithstanding any ongoing arbitration proceeding. All arbitration proceedings and decisions of the Arbitrator, as applicable, under Section 10.5, shall be deemed Confidential Information of both Parties under Article 6.

10.6 Governing Law, Jurisdiction and Service.

10.6.1 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction.

10.6.2 Jurisdiction. Subject to Section 10.5 and Section 10.9, the Parties hereby irrevocably and unconditionally consent to the exclusive jurisdiction of the courts of the State of Delaware for any action, suit or proceeding (other than appeals therefrom) arising out of or relating to this Agreement and agree not to commence any action, suit or proceeding (other than appeals therefrom) related thereto except in such courts. The Parties irrevocably and unconditionally waive their right to a jury trial.

10.6.3 Venue. The Parties further hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding (other than appeals therefrom) arising out of or relating to this Agreement in the courts of Delaware and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

10.6.4 Service. Each Party further agrees that service of any process, summons, notice or document by registered mail to its address set forth in Section 10.7.2 shall be effective service of process for any action, suit or proceeding brought against it under this Agreement in any such court.

10.7 Notices.

10.7.1 Notice Requirements. Any notice, request, demand, waiver, consent, approval or other communication permitted or required under this Agreement shall be in writing, shall refer specifically to this Agreement and shall be deemed given only if delivered by hand delivered or sent by an internationally recognized overnight delivery service, costs prepaid, addressed to the Parties at their respective addresses specified in Section 10.7.2 (or to such other address as the Party to whom notice is to be given may have provided to the other Party in accordance with this Section 10.7.1). A copy of the communication shall also be e-mailed to the Parties as specified in Section []. Such Notice shall be deemed to have been given as of the date delivered by hand or on the second Business Day (at the place of delivery) after deposit with an internationally recognized overnight delivery service. This Section 10.7.1 is not intended to govern the day-to-day business communications necessary between the Parties in performing their obligations under the terms of this Agreement.

10.7.2 Address for Notice.

If to Licensee, to:

Arcutis, Inc.
70 Willow Road
Suite 200
Menlo Park, CA 94025
Attention: Chief Executive Officer

with an e-mail copy (which shall not constitute notice) to:

tfw@arcutis.com

If to AstraZeneca, to:

AstraZeneca Pharmaceuticals LP
1800 Concord Pike
Wilmington, DE 19803
Attention: Vice President, Scientific Partnering & Alliances

with an e-mail copy (which shall not constitute notice) to:

legalnotices@astrazeneca.com

10.8 Entire Agreement; Amendments. This Agreement, together with the Schedules attached hereto, sets forth and constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and all prior agreements, understandings, promises and representations, whether written or oral, with respect thereto are superseded hereby. Each Party confirms that it is not relying on any representations or warranties of the other Party except as specifically set forth in this Agreement. No amendment, modification, release or discharge shall be binding on the Parties unless in writing and duly executed by authorized representatives of both Parties. In the event of any inconsistencies between this Agreement and any schedules or other attachments hereto, the terms of this Agreement shall control.

10.9 Equitable Relief. Each Party acknowledges and agrees that the restrictions set forth in Article 5 and Article 6 are reasonable and necessary to protect the legitimate interests of the other Party and that such other Party would not have entered into this Agreement in the absence of such restrictions and that any breach or threatened breach of any provision of such Articles may result in irreparable injury to such other Party for which there will be no adequate remedy at law. In the event of a breach or threatened breach of any provision of such Articles, the Non-breaching Party shall be authorized and entitled to seek from any court of competent jurisdiction injunctive relief, whether preliminary or permanent, specific performance and an equitable accounting of all earnings, profits and other benefits arising from such breach, which rights shall be cumulative and in addition to any other rights or remedies to which such Non-breaching Party may be entitled in law or equity. Nothing in this Section 10.9 is intended or should be construed, to limit either Party's right to equitable relief or any other remedy for a breach of any other provision of this Agreement.

10.10 Waiver and Non-Exclusion of Remedies. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. The waiver by either Party hereto of any right hereunder or of the failure to perform or of 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. The rights and remedies provided herein are cumulative and do not exclude any other right or remedy provided by Applicable Law or otherwise available except as expressly set forth herein.

10.11 No Benefit to Third Parties. Except as provided in Article 8, covenants and agreements set forth in this Agreement are for the sole benefit of the Parties hereto and their successors and permitted assigns and they shall not be construed as conferring any rights on any other Persons.

10.12 Further Assurance. Each Party shall duly execute and deliver or cause to be duly executed and delivered, such further instruments and do and cause to be done such further acts and things, including the filing of such assignments, agreements, documents and instruments, as may be necessary or as the other Party may reasonably request in connection with this Agreement or to carry out more effectively the provisions and purposes hereof or to better assure and confirm unto such other Party its rights and remedies under this Agreement.

10.13 Relationship of the Parties. It is expressly agreed that AstraZeneca, on the one hand and Licensee, on the other hand, shall be independent contractors and that the relationship between the two Parties shall not constitute a partnership, joint venture or agency. Neither AstraZeneca, on the one hand, nor Licensee, on the other hand, shall have the authority to make any statements, representations or commitments of any kind or to take any action, that will be binding on the other, without the prior written consent of the other Party to do so. All persons employed by a Party shall be employees of such Party and not of the other Party and all costs and obligations incurred by reason of any such employment shall be for the account and expense of such first Party.

10.14 References. Unless otherwise specified, (i) references in this Agreement to any Article, Section or Schedule shall mean references to such Article, Section or Schedule of this Agreement, (ii) references in any Section to any clause are references to such clause of such Section and (iii) references to any agreement, instrument or other document in this Agreement refer to such agreement, instrument or other document as originally executed or, if subsequently amended, replaced or supplemented from time to time, as so amended, replaced or supplemented and in effect at the relevant time of reference thereto.

10.15 Construction. Except where the context otherwise requires, wherever used, the singular shall include the plural, the plural the singular, the use of any gender shall be applicable to all genders and the word “or” is used in the inclusive sense (and/or). Whenever this Agreement refers to a number of days, unless otherwise specified, such number refers to calendar days. The captions of this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement. The term “including,” “include,” or “includes” as used herein shall mean including, without limiting the generality of any description preceding such term. The language of this Agreement shall be deemed to be the language mutually chosen by the Parties and no rule of strict construction shall be applied against either Party hereto.

10.16 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile, PDF format via email or other electronically transmitted signatures and such signatures shall be deemed to bind each Party hereto as if they were original signatures.

[SIGNATURE PAGE FOLLOWS.]

THIS AGREEMENT IS EXECUTED by the authorized representatives of the Parties as of the date first written above.

ASTRAZENECA AB

By: /s/ Anders Holmén
Anders Holmén
Vice President, Pharmaceutical Sciences

ARCUTIS, INC.

By: /s/ Frank Watanabe
Name: Frank Watanabe
Title: President and CEO

Schedule 1.12
AstraZeneca Patents

[***]

AstraZeneca Regulatory Documentation

[**]

CERTAIN IDENTIFIED INFORMATION HAS BEEN OMITTED FROM THIS DOCUMENT BECAUSE IT IS BOTH NOT MATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED, AND HAS BEEN MARKED WITH “[***]” TO INDICATE WHERE OMISSIONS HAVE BEEN MADE.

EXECUTION VERSION 2 JANUARY 2018

EXCLUSIVE OPTION AND LICENSE AGREEMENT

This EXCLUSIVE OPTION AND LICENSE AGREEMENT (this “*Agreement*”) is entered into as of January 4th, 2018 (the “*Effective Date*”), by and between Arcutis, Inc., a United States corporation incorporated in the State of Delaware with offices at 70 Willow Road, Suite 200, Menlo Park, CA 94025 (“*Arcutis*”) and Jiangsu Hengrui Medicine Co., Ltd., a Chinese corporation with offices at 7 Kunlunshan Road, Economy and Technology Development Zone, Lianyungang, Jiangsu, China (“*Hengrui*”). Hereinafter, “*Parties*” shall mean Arcutis and Hengrui together, and “*Party*” shall mean Arcutis or Hengrui, as the context requires.

RECITALS

WHEREAS, Arcutis is a biopharmaceutical company in the business of developing and commercializing therapeutic products;

WHEREAS, Hengrui Controls the active pharmaceutical ingredient named by Hengrui as SHR0302; and

WHEREAS, Arcutis is interested in conducting preliminary studies on SHR0302 and related compounds as described herein with an option to exclusively license the same for development of topical therapeutic products.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein, the Parties hereby agree as follows:

ARTICLE I DEFINITIONS

1.1 “Affiliate” means any individual, corporation, association or other business entity that directly or indirectly controls, is controlled by, or is under common control with the Party or other entity in question. As used in this definition of “Affiliate,” the term “control” shall mean the direct or indirect ownership of more than fifty percent (>50%) of the stock having the right to vote for directors thereof or the ability to otherwise control the management of the corporation or other business entity whether through the ownership of voting securities, by contract, resolution, regulation or otherwise.

1.2 “Applicable Law” means, with respect to any Party or other person or entity, any federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, executive order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority that is binding upon or applicable to such Party, person or entity.

1.3 "**Business Day**" means any day other than a Saturday, a Sunday or a day on which banks in New York, New York are authorized or obligated by law or governmental order to close.

1.4 "**Calendar Quarter**" means each period of three (3) consecutive calendar months, ending March 31, June 30, September 30, and December 31.

1.5 "**Calendar Year**" means the period of time beginning on January 1 and ending December 31, except for (a) the first year which shall begin on the Effective Date and end on December 31 and (b) any year in which this Agreement is terminated or expires prior to December 31, in which case the Calendar Year shall be from January 1 of that year to the date of expiration or termination.

1.6 "**Commercially Reasonable Efforts**" shall mean, with respect to a Party's obligations under this Agreement, including to develop, commercialize or manufacture the Licensed Products, those efforts and resources dedicated are consistent with such Party's efforts in pursuing the development, commercialization or manufacture of any other comparable pharmaceutical products that are of similar market potential as Licensed Product, taking into account all relevant factors including product labeling or anticipated labeling, present and future market potential, past performance of such Licensed Product, financial return, medical and clinical considerations, present and future regulatory environment and competitive market conditions. Further, Commercially Reasonable Efforts with respect to a Licensed Product requires that a Party: (a) set and seek to achieve reasonable objectives for carrying out its obligations in a timely manner, subject to adjustment or modification of such objectives taking into account all relevant factors, and (b) make and implement decisions and allocate appropriate resources for the purpose of advancing progress with respect to achieving such objectives.

1.7 "**Control**" means (as an adjective or as a verb including conjugations and variations such as "**Controls**" "**Controlled**" or "**Controlling**") (a) with respect to Patent Rights, the possession by a Party of the ability to grant a license or sublicense of such Patent Rights without violating the terms of any agreement or arrangement between such Party and any other party and (b) with respect to scientific or technical information, results, materials, and data, whether or not patentable, the possession by a Party of the ability to supply the same to the other Party as provided herein without violating the terms of any agreement or arrangement between such Party and any other party. For clarity, Control may be based upon ownership as well as upon license or other rights.

1.8 "**Cover**" means (as an adjective or as a verb including conjugations and variations such as "Covered," "Coverage" or "Covering"), with respect to a claim of a pending or issued patent, that the developing, making, using, offering for sale, promoting, selling, exporting or importing of a given compound, formulation or product would infringe such claim in the absence of a license under or ownership in the Patent Rights to which such claim pertains. The determination of whether a compound, formulation, process or product is Covered by a particular claim shall be made on a country-by-country basis.

1.9 "**Dollars**" or "**\$**" means the legal tender of the U.S.

1.10 “Exploit” and “Exploitation” mean to make, have made, import, use, sell, or offer for sale, reproduce, modify, publish, distribute, including to sublicense (through multiple tiers), research, develop, commercialize, register, hold, or keep (whether for disposal or otherwise), have used, transport, distribute, promote, market, or have sold or otherwise dispose of.

1.11 “Field” means any topical formulations for the treatment of skin diseases, disorders and conditions, excluding any other formulations such as for ingestion or injection (either subcutaneous or intravenous or otherwise).

1.12 “First Commercial Sale” means on a country-by-country basis, the first sale of a Licensed Product by a Selling Party following the receipt of all Regulatory Approval required for the commercial sale of such Licensed Product in such country.

1.13 “Generic Competition” means with respect to a Licensed Product in a country, when one or more Generic Product(s) are being marketed in such country and all Licensed Patent Rights Covering such Licensed Product in such country have expired.

1.14 “Generic Product” means a product (a) whose active pharmaceutical ingredient is rated as equivalent to the Licensed Product being sold in a country, (b) that obtained Regulatory Approval solely by means of establishing such equivalence to such Licensed Product, and (c) that is legally marketed in such country by an entity other than a Selling Party hereunder.

1.15 “Governmental Authority” means any transnational, or domestic or foreign federal, state or local, governmental authority, department, court, agency or official, including any political subdivision thereof.

1.16 “IND” shall mean an Investigational New Drug application, or similar application to commence human clinical testing of a Licensed Product for use in the Field submitted to the U.S. Food and Drug Administration pursuant to Title 21 of the Code of Federal Regulations, Part 312, or its foreign equivalent.

1.17 “Invention” means any new and nonobvious process, method, composition of matter, article of manufacture, result, data, know-how, software, works of authorship, or information, whether or not patentable or copyrightable.

1.18 “Licensed Compound” means the chemical compound or compounds that are or have been at any time prior to or as of the Effective Date referred to internally or externally by Hengrui as “SHR0302”.

1.19 “Licensed Know-How” means all scientific or technical information, results, materials, and data, including safety and efficacy data, formulae, procedures, final and preliminary protocols, techniques, and results (negative or positive) of experimentation and testing, whether or not patentable that, in each case, are (a) Controlled by Hengrui or its Affiliates at any time prior to or as of the Effective Date or at any time during the Term of this Agreement and (b) materially related to a Licensed Compound or otherwise necessary for the Exploitation of Licensed Products.

1.20 “Licensed Patent Rights” means all Patent Rights in and to (a) the patents and patent applications listed in Exhibit A hereto, together with any and all current or future divisionals, continuations, continuations-in-part, provisionals, converted provisionals, and continued prosecution applications claiming priority to any of such listed patents or patent applications or to any application to which such listed patents or patent applications claim priority, and any and all patents that have issued or in the future issue from any of the foregoing, including utility models, petty patents and design patents and certificates of invention, and any and all adjustments, extensions or restorations by existing or future adjustment, extension or restoration mechanisms, including revalidations, reissues, re-examinations, term adjustments, and extensions (including any supplementary protection certificates and the like), of any thereof; and (b) any and all foreign counterparts of any of the foregoing in any nation, jurisdiction, or patent authority in the Territory.

1.21 “Licensed Product” means on a country b) country basis, any pharmaceutical product or component that comprises a Licensed Compound.

1.22 “Licensed Technology” means either or both of the Licensed Patent Rights and the Licensed Know-How.

1.23 “Net Sales” means the gross invoiced sales amount of Licensed Products paid to a Selling Party for the sale or other commercial disposition of Licensed Products in the Territory during the Royalty Term applicable to the country of sale or disposition, less the following items listed to the extent actually taken or incurred with respect to such sale, in accordance with standard allocation procedures, allowance methodologies and accounting methods consistently applied:

(a) customary credits or allowances for Licensed Product returns during such quarter, including, but not limited to, credits for returned, recalled, damaged, unsold, or short-dated Licensed Product, allowances granted or included in the invoice, discounts, customer program accruals (overbills, administrative fees, Third Party rebates, sales brokerage, and volume rebates), other adjustments and rebates, including but not limited to Medicaid and other state or governmental rebates, charge backs, floor stock adjustments, and similar items that may be estimated in accordance with GAAP/IFRS;

(b) import, export, sales (including VAT or its equivalent) and excise taxes, customs duties, other consumption taxes, or other governmental charges to the extent actually included in gross sales; and

(c) costs of freight, insurance, packaging costs and other transportation charges to the extent actually included in gross sales.

Sales among the Selling Party and its Affiliates or Sublicensees shall be excluded from the computation of Net Sales, except where such Affiliates or Sublicensees are end users, and sales from one Party or its Affiliate or Sublicensee to the other Party or its Affiliate or Sublicensee for use in development activities, in the further manufacture of Products, or for resale shall be excluded from the computation of Net Sales; provided, however, in each case that any subsequent resale shall be included within Net Sales. In addition, the Selling Party may exclude

from Net Sales a reasonable provision for uncollectible accounts, consistently applied across all product lines of the particular Party, until such amounts are actually collected. The computation of Net Sales shall not include Licensed Products provided for use in clinical trials or other research or development activities, or Licensed Products given as samples or for humanitarian or charitable purposes, in each case at or below cost.

For purposes of determining whether a given sale occurs during a computation period, a Licensed Product will be considered sold as of the date of shipment by the applicable Selling Party to its customers, wholesalers, or distributors, as applicable.

No multiple payments on the same Net Sales shall be payable hereunder, regardless of whether the relevant Licensed Products are covered by more than one Valid Claim or otherwise.

If a Licensed Product consists of at least one Licensed Compound and at least one active ingredient that is not a Licensed Compound, then for purposes of the calculation of Net Sales of such Licensed Product, such Net Sales, prior to the royalty calculations set forth above, first shall be multiplied by the fraction $A/(A+B)$, where A is the market value of the Licensed Compound(s) in such Licensed Product as reasonably determined and agreed by Arcutis and Hengrui, and B is the market value of the non-Licensed Compound(s) as reasonably determined and agreed by Arcutis and Hengrui, it being understood that the amount resulting from such calculation shall be the "Net Sales" for the applicable combination Licensed Product which shall be determined on a country-by-country basis. In the case that market values of A and B cannot be reasonably determined and agreed by Arcutis and Hengrui, both agree to, on a country-by-country basis, select most comparable marketed products of A and B to determine a median market value for each.

1.24 "Option Period" means the period of time commencing on the Effective Date and ending eighteen (18) months after the Effective Date.

1.25 "Option Period Studies" means studies of the nature and for the purposes outlined in **Exhibit B** hereto, intended to allow Arcutis determine whether or not it will exercise the Option.

1.26 "Option Period Study Results" means any and all Inventions, scientific or technical information, results, materials, and data, including safety and efficacy data, formulae procedures, final and preliminary protocols, techniques, and results (negative or positive) of experimentation and testing, that are first discovered, made, or developed in the course of conducting the Option Period Studies.

1.27 "Patent Controversy" means any dispute between the Parties to the extent that it involves an issue relating to the inventorship, claim scope or interpretation, infringement, enforceability, patentability, defense, or validity of any Patent Right hereunder, and including any such issues relevant to any prosecution activities hereunder.

1.28 "Patent Right(s)" means all rights and privileges in, to, or under any patent or pending patent application anywhere in the world.

1.29 “Phase I Clinical Trial” shall mean a human clinical trial in any country in the Territory, which provides for the first introduction into humans of a Licensed Product, conducted in healthy volunteers or patients to obtain information on product safety, tolerability, pharmacological activity, or pharmacokinetics, as described in 21 CFR 312.21(a), or its foreign equivalent.

1.30 “Phase II Clinical Trial” shall mean a human clinical trial in any country in the Territory, which is prospectively designed to establish the safety, dose ranging and efficacy of a Licensed Product, as further defined in 21 CFR 312.21(b), or its foreign equivalent.

1.31 “Phase III Clinical Trial” shall mean a human clinical trial in any country in the Territory, the results of which could be used to establish safety and efficacy of a Licensed Product as a basis to satisfy the requirements of 21 CFR 312.21(c), or its foreign equivalent.

1.32 “POC Study” means a proof-of-concept clinical study to be conducted as part of the Option Period Studies.

1.33 “Prosecute” means to have primary responsibility for preparing, filing, prosecuting (including interference and opposition proceedings) and maintaining (including interferences, reissue, re-examination, post-grant reviews, inter-partes reviews, derivation proceedings and opposition proceedings), including discontinuing or abandoning Patent Rights.

1.34 “Regulatory Approval” means with respect to a country, extra-national territory, province, state, or other regulatory jurisdiction, any and all approvals, licenses, registrations or authorizations of any Regulatory Authority necessary in order to Exploit a product in such country, state, province, or some or all of such extra-national territory or regulatory jurisdiction, which shall include any pricing and reimbursement approvals.

1.35 “Regulatory Authority” means, with respect to a particular country, extra-national territory, province, state, or other regulatory jurisdiction, any applicable Governmental Authority involved in granting Regulatory Approval, including but not limited to the FDA, the EMA, the European Commission, and the MHLW, and in each case including any successor thereto.

1.36 “Regulatory Materials” means regulatory applications, submissions, dossiers, notifications, registrations, Regulatory Approvals and or other filings made to or with, or other approvals granted by, a Regulatory Authority that are necessary or reasonably desirable in order to Exploit a Licensed Product in a particular country or regulatory jurisdiction, including INDs, MAAs and NDAs.

1.37 “Royalty Term” means, with respect to a given Licensed Product sold or commercially distributed in a given country, on a country-by-country basis, the time period commencing on the date of the First Commercial Sale of the Licensed Product in such country and ending on the later of (i) the expiration of the last Valid Claim in such country Covering such Licensed Product or its use, and (ii) the expiration of the last applicable period of effective regulatory-based exclusivity, if any, for such Licensed Product in such country.

1.38 “Selling Party” means, as applicable, Arcutis, its Affiliate, its Sublicensee, or an Affiliate of a Sublicensee.

1.39 "Territory" means (a) the United States, (b) Japan, (c) the countries of the European Union as of the Effective Date (including the United Kingdom and all of its component nations, as of the Effective Date), whether or not remaining in the European Union following the Effective Date, (d) any other country that becomes part of the European Union at any time following the Effective Date, and (e) any territory or possession of any of the foregoing.

1.40 "Third Party" means a person or entity other than (a) Arcutis or any of its Affiliates or (b) Hengrui or any of its Affiliates.

1.41 "Valid Claim" means (a) a claim of any pending patent application included in the Licensed Patent Rights, that has not been pending in excess of fifteen (15) years, and/or (b) a claim of an issued and unexpired patent included within the Licensed Patent Rights that which has not been held permanently revoked, unenforceable, or invalid by an unappealable (or unappealed within the time allowed for appeal) decision of a court or other Governmental Authority of competent jurisdiction, and which has not been dedicated to the public, abandoned, or admitted to be invalid or unenforceable through reissue or disclaimer or otherwise.

ARTICLE II OPTION AND OPTION PERIOD STUDIES

2.1 Upfront Payment. Within thirty (30) Business Days following the Effective Date of this Agreement, Arcutis will pay Four Hundred Thousand US Dollars (\$400,000) to Hengrui (the "**Upfront Payment**"). which amount shall be non-creditable and non-refundable.

2.2 Transfer of Data and Information. Within thirty (30) Business Days following Hengrui's receipt of the Upfront Payment, Hengrui shall without charge deliver to Arcutis, in English, all Licensed Know-How in Hengrui's possession or otherwise readily available to it; provided, however, that Hengrui shall not be required to transfer to Arcutis any Licensed Know-How relating solely to the chemical structure, formulation or manufacture of Licensed Compounds (and not required for submission to Regulatory Authorities) unless or until the Option is exercised by Arcutis. From time to time during the Option Period, or promptly upon Arcutis's each of reasonable requests. Hengrui shall without charge transfer any additional Licensed Know-How in Hengrui's possession (other than Licensed Know-How relating solely to the chemical structure, formulation or manufacture of Licensed Compounds and not required for submission to Regulatory Authorities) to the extent not previously delivered. Any Licensed Know-How that is required for submission to Regulatory Authorities and that was originally created in Chinese but translated to English will be delivered in both the original Chinese and translated English, along with (i) a verification that the translation is complete and accurate, and (ii) the name, address, and a brief statement of the qualifications of the person making the translation.

2.3 Option Period Supply. Subject to the terms and conditions of the Material Transfer Agreement ("**MTA**") dated January 2, 2018 by and between Hengrui and Arcutis, during the Option Period, Hengrui shall supply to Arcutis Licensed Compound in quantities at [***], at places and times, and informs, as shall be reasonably agreed between the Parties, and otherwise as may be reasonably required for Arcutis to conduct the Option Period Studies (the "**Option Period Materials**"). This cost to supply is set forth in the MTA. Arcutis shall not, and

shall not cause any Affiliate, service providers, collaborators or Third Parties to, use or transfer any Option Period Materials for any purpose other than to conduct the Option Period Studies. In addition, Arcutis may not, and may not cause any Affiliate, service providers, collaborators or Third Parties to, reverse engineer, copy, disassemble or otherwise attempt to reconstruct any Option Period Materials.

2.4 Grant of Option and Option Period License. Hengrui hereby grants to Arcutis during the Option Period:

2.4.1 an exclusive option, exercisable in Arcutis's sole discretion at any time during the Option Period, to obtain from Hengrui the license rights described in Section 3.1 (the "Option"); and

2.4.2 a non-transferable, non-sublicensable (other than to Arcutis's Affiliates, service providers and collaborators who directly participate in the Option Period Studies), fully-paid, royalty-free license under the Licensed Technology to perform the Option Period Studies as contemplated herein (the "**Option Period License**").

2.5 Option Period Studies. During the Option Period, Arcutis will design, control, and conduct those Option Period Studies deemed appropriate by Arcutis in its discretion. Arcutis shall exert Commercially Reasonable Efforts to conduct the POC Study and to complete it and the analysis of it within [***] following the Effective Date, which timeframe may be extended by Arcutis with the written consent of Hengrui (such consent not to be unreasonably withheld or delayed). During this [***] period, Arcutis will promptly notify Hengrui in writing if it is evaluating other chemical compound or compounds specifically designed for, or otherwise useful for, JAK1/2.3 (Janus kinase 1/13) inhibition, that are not Controlled by Hengrui.

2.6 Option Exercise. In the event Arcutis elects to exercise the Option, it shall prior to 11:59pm Pacific time on the last day of the Option Period, (i) deliver to Hengrui a written notice specifying that Arcutis has elected to exercise the Option ("**Option Notice**"), and (ii) pay to Hengrui a non-refundable, non-creditable fee of One Million Five Hundred Thousand Dollars (\$1,500,000) (the "**Option Exercise Payment**"). The date, if any, on which Arcutis has exercised the Option by having fulfilled both (i) and (ii) in the preceding sentence, shall be the "**License Effective Date.**"

2.7 Expiration and Termination of the Option Period. The Option, the Option Period, and the Option Period License will expire if the Option is not exercised on or prior to the last day of the Option Period. Arcutis may earlier terminate the Option Period at any time and for any reason, effective upon written notice to Hengrui.

2.8 Effect of Expiration or Termination of the Option Period. Upon expiration or termination of the Option Period, other than due to the occurrence of the License Effective Date. (1) the Option Period License immediately terminates and all rights associated with Licensed Technology automatically revert back to Hengrui, without requiring any act on either Party, and (2) Arcutis shall (a) immediately cease all work on the Option Period Studies, and (b) within thirty (30) days of such expiration or termination, (i) deliver to Hengrui the Option Period Study Results in writing or computer-readable form and any remaining Option Study Materials; and (ii) return or destroy, at Hengrui's choice, any physical embodiments of the Licensed Know-How provided to it by Hengrui.

**ARTICLE III
LICENSES**

3.1 Licenses to Arcutis.

3.1.1 Hengrui hereby grants to Arcutis, effective as of the License Effective Date, a royalty-bearing license, with the right to sublicense (through multiple tiers) as set forth in Section 3.4, under the Licensed Technology to Exploit Licensed Products in the Field in the Territory during the Term. The foregoing license shall be sole and exclusive (including as to Hengrui and its Affiliates) with respect to the Licensed Patent Rights and non-exclusive with respect to the Licensed Know-How.

3.1.2 Hengrui will make available to Arcutis for its review all future Patent Rights Controlled by Hengrui in the Territory that are improvements to a Licensed Compound or otherwise reasonably useful for the Exploitation of Licensed Products (“Improvements”), subject to any preexisting rights of Third Parties and for a limited period of six (6) months from the date of disclosure by Hengrui to Arcutis of such Improvements. Arcutis will have no rights to Exploit the Improvements under this Agreement, unless and until a mutually agreeable license agreement or one or more mutually agreeable amendments to this Agreement specifying the terms and conditions of such Exploitation is executed by the Parties.

3.2 Licenses to Hengrui. Arcutis hereby grants to Hengrui (i) a non-exclusive, non-sublicenseable (other than to Hengrui’s Affiliates, service providers and collaborators), royalty-free license to use the Option Period Study Results for internal research purposes (except in the Field in the Territory), and (ii) if Arcutis exercises the Option as set forth in Section 2.1, a nonexclusive, royalty-free license with the right to sublicense (through multiple tiers) as set forth in Section 3.5, effective as of the License Effective Date, to use (except in the Field in the Territory) the Option Period Study Results and Patent Right(s) arising from the performance of the Option Period Studies that are Controlled by Arcutis.

3.3 No Other Licenses. Neither Party grants to the other Party any rights or licenses in or to any intellectual property, whether by implication, estoppel, or otherwise, other than the license rights that are expressly granted under this Agreement.

3.4 Sublicensing by Arcutis.

3.4.1 Arcutis shall have the right to grant sublicenses (including any option to obtain a sublicense, each a “**Sublicense**”) to any of its Affiliates or any Third Party (each, a “**Sublicensee**”), under the license set forth in Section 3.1, provided that: (a) each Sublicense shall be granted pursuant to a written agreement that complies with Section 3.4.2; (b) Arcutis shall provide Hengrui with written notice of the identity of each Sublicensee within thirty (30) days following the execution of each Sublicense, along with a redacted copy of the applicable Sublicense agreement sufficient to demonstrate compliance with clause (a); and (c) Arcutis shall remain responsible for the Sublicensee’s conformity to those portions of this Agreement applicable to such Sublicensee.

3.4.2 Arcutis shall include in each such Sublicense agreement provisions that (a) such Sublicensee is bound by and subject to all applicable terms and conditions of this Agreement (other than terms and obligations bearing on financial considerations and audit rights) in the same manner and to the same extent as Arcutis's bound thereby; (b) Arcutis shall have the right to grant to Hengrui cross-reference rights consistent with Section 4.1.3(a) with respect to Regulatory Filings and Regulatory Approvals generated, filed or obtained by or on behalf of such Sublicensee within the scope of such sublicense or option agreement; (c) the Sublicensee has obligations of confidentiality and non-use regarding Confidential Information that are substantially the same as those undertaken by the Parties pursuant to Section 9.2 hereof; and (d) the Sublicensee has indemnification obligations that are substantially the same as those undertaken by Arcutis pursuant to Section 10.3 hereof.

3.5 Sublicensing by Hengrui.

3.5.1 Hengrui shall have the right to grant Sublicenses under the license set forth in Section 3.2, provided that: (a) each Sublicense shall be granted pursuant to a written agreement that complies with Section 3.5.2; (b) Hengrui shall provide Arcutis with written notice of the identity of each Sublicensee within thirty (30) days following the execution of each Sublicense, along with a redacted copy of the applicable Sublicense agreement sufficient to demonstrate compliance with clause (a); and (c) Hengrui shall remain responsible for the Sublicensee's conformity to those portions of this Agreement applicable to such Sublicensee.

3.5.2 Hengrui shall include in each such Sublicense agreement with respect to each of the licenses under clause (i) and/or clause (ii) of Section 3.2 provisions that (a) such Sublicensee is bound by and subject to all applicable terms and conditions of this Agreement (other than terms and obligations bearing on financial considerations and audit rights) in the same manner and to the same extent as Hengrui is bound thereby; (b) Hengrui shall have the right to grant to Arcutis cross-reference rights consistent with Section 4.1.3(b) with respect to Regulatory Filings and Regulatory Approvals generated, filed or obtained within the scope of such sublicense or option agreement; (c) Hengrui shall have the right to grant to Arcutis a limited license, in the Field and in the Territory only, consistent with Section 3.1 to any and all scientific or technical information, results, materials, and data, whether or not patentable, and Patent Rights developed within the scope of such sublicense or option agreement, solely to the extent that each of the foregoing is an improvement to a Licensed Compound or otherwise reasonably useful for the Exploitation of Licensed Products, (d) the Sublicensee has obligations of confidentiality and non-use regarding Confidential Information that are substantially the same as those undertaken by the Parties pursuant to Section 9.2 hereof, and (e) the Sublicensee has indemnification obligations that are substantially the same as those undertaken by Hengrui pursuant to Section 10.3 hereof.

3.6 Subcontractors. Arcutis may Exploit its rights in the Licensed Technology under this Agreement through one or more Third Party contractors or consultants without meeting the requirements of Section 3.4, provided that (a) Arcutis remains responsible for the performance of such activities by such contractors and consultants, and (b) the contractor or consultant undertakes in writing obligations of confidentiality and non-use regarding Confidential Information that are substantially the same as those undertaken by the Parties pursuant to Section 9.2 hereof.

3.7 Transfer of Licensed Know-How. After the License Effective Date, upon Arcutis's requests, Hengrui shall without charge deliver to Arcutis, in English, all additional existing Licensed Know-How not delivered during the Option Period pursuant to Section 2.2, including (a) all technical data and information within Hengrui's possession that may be required by any Regulatory Authorities in the Territory to initiate an investigational new drug file or dossier (such as an IND, IMPD, or the equivalent); and (b) all existing Licensed Know-How relating to the chemical structure, formulation or manufacture of Licensed Compounds. Any Licensed Know-How that is required for submission to Regulatory Authorities and that was originally created in Chinese but translated to English will be delivered in both the original Chinese and translated English, along with (i) a verification that the translation is complete and accurate, and (ii) the name, address, and a brief statement of the qualifications of the person making the translation. From time to time during the Term, or promptly upon Arcutis's reasonable request, Hengrui shall without charge transfer any additional Licensed Know-How in Hengrui's possession to the extent not previously delivered.

ARTICLE IV DEVELOPMENT, COMMERCIALIZATION, NON-COMPETITION

4.1 Development.

4.1.1 Pre-Clinical and Clinical Activities. From and after the License Effective Date, as between the Parties, Arcutis shall have sole responsibility for the Exploitation of one or more Licensed Products in the Field in the Territory at its cost and expense (including responsibility for all funding, resourcing and decision-making).

4.1.2 Regulatory Filings. As between Arcutis and Hengrui, Arcutis will have sole responsibility for (a) preparing and submitting all Regulatory Materials for Licensed Products in the Field in the Territory and (b) determining all regulatory plans and strategies for Licensed Products in the Field in the Territory. As between the Parties, Arcutis will have the exclusive right to submit to and appear before Regulatory Authorities on any matter with respect to Licensed Products in the Field in the Territory. Arcutis (or its Affiliates or Sublicensees, as applicable) will own all Regulatory Materials (including Regulatory Approvals) for Licensed Products in the Field in the Territory and all such Regulatory Materials shall be submitted in the name of Arcutis (or its Affiliate or Sublicensee, as applicable) in the Field in the Territory. As between the Parties, Arcutis shall have sole decision-making authority for all regulatory matters with respect to Licensed Products in the Field (including the content of any regulatory filing or dossier, pharmacovigilance reports, patient risk management strategies and plans, labeling, safety, the decision to file any MAA, and recalls and withdrawals) in the Territory.

4.1.3 Mutual Cross-Reference Rights. From and after the Licensed Effective Date:

(a) Arcutis will provide Hengrui with any appropriate letters or other similar documentation necessary to authorize Hengrui, its licensees (subject to 9.1.2(i)) and Sublicensees (subject to 3.5.2(b)) to cross-reference and rely (on a non-exclusive basis) upon the contents of any of Regulatory Filings and Regulatory Approvals for the Licensed Products in the Field in the Territory, for the purposes of the filing, obtaining and maintaining of Regulatory Approvals for Licensed Products (except in the Field in the Territory).

(b) Hengrui will provide Arcutis with any appropriate letters or other similar documentation necessary to authorize such Arcutis and its Sublicensees (subject to 3.4.2(b)) to cross-reference and rely (on a non-exclusive basis) upon the contents of any of Regulatory Filings and Regulatory Approvals for the Licensed Products, for the purposes of the filing, obtaining and maintaining of Regulatory Approvals for Licensed Products in the Field in the Territory.

4.1.4 Development Reports. Within sixty (60) days of January 1 of a Calendar Year, Arcutis will provide to Hengrui a high-level annual written report presenting a summary of the development and regulatory activities of Arcutis with respect to Licensed Products in the Field in the Territory (each, a “**Development Report**”). Such reports and the contents thereof shall be Confidential Information of Arcutis.

4.1.5 Support. Upon Arcutis’s request, Hengrui shall (a) provide reasonable assistance, at Arcutis’s cost and expense (at Hengrui’s ordinary FTE rate) to support the Arcutis’s activities under this Section 4.1, including with respect to writing and finalizing any reports necessary to support the filing of an IND with the FDA for the Licensed Product selected.

4.1.6 Timeline. Arcutis agrees, under good faith and Commercially Reasonable Efforts, to develop at least one (1) Licensed Product. If the pace of clinical development of Licensed Product appears unusually slow or challenging, Hengrui and Arcutis agree to meet to review the status of such development. The Parties acknowledge that breach of this Section 4.1.6 is material breach for the purpose of Section 11.2.

4.2 Commercialization.

4.2.1 Marketing and Commercialization Activities. Upon receiving Regulatory Approval for one or more Licensed Product(s) in one or more country(ies) of the Territory, Arcutis will have sole right and responsibility with respect to the marketing and commercialization of such Licensed Product(s) in such country(ies).

4.2.2 Commercialization Report. For each Calendar Year following first Regulatory Approval for a Licensed Product, Arcutis shall provide to Hengrui annually within sixty (60) days after the end of such Calendar Year a high-level report summarizing Arcutis’s activities with respect to the commercialization of Licensed Products in the Field in the Territory in such Calendar Year (“**Commercialization Report**”). Such reports and the contents thereof shall be Confidential Information of Arcutis.

4.2.3 Timeline. Arcutis agrees that, following Regulatory Approval of a licensed Product, it will use good faith and Commercially Reasonable Efforts to commercialize such Licensed Product. If the pace of commercialization of Licensed Product appears unusually slow or challenging, Hengrui and Arcutis agree to meet to review the status of such commercialization. The Parties acknowledge that breach of this Section 4.2.3 is material breach for the purpose of Section 11.2.

4.3 Joint Coordination Committee

(a) Establishment. Within sixty (60) days after the Effective Date, the Parties shall establish a joint coordination committee (“**Joint Coordination Committee**” or the “**JCC**”) to (i) review Arcutis’s Development and commercialization of Licensed Products in the Field in the Territory, (ii) review Hengrui’s Development and commercialization of Licensed Products outside of the Field and/or outside of the Territory and (iii) in the event that both Parties are Developing and/or commercializing the same Licensed Product, coordinate the activities of the Parties with respect to such Licensed Product, including safety data and registration in the respective field and territory; (iv) facilitate communication with respect to each Party’s activities under this Agreement; and (v) perform such other functions as are specifically designated for the JCC in this Agreement or otherwise as agreed by the Parties.

(b) Committee Membership. The JCC shall each be comprised of an equal number of representatives from each Party. Unless otherwise agreed by the Parties, the exact number of such representatives for each of Arcutis and Hengrui shall be three (3). Either Party may replace its respective representatives at any time with prior notice to the other Party, provided that, such replacement is of comparable authority and scope of functional responsibility within that Party’s organization as the person he or she is replacing.

(c) Meetings. The JCC shall each meet at least two (2) times during each year, or as more or less often as otherwise agreed by the Parties, and such meeting may be conducted by telephone, videoconference or in person as determined by the JCC; provided that at least one meeting per year shall be held in person. All in-person meetings shall be held on an alternating basis between Arcutis’s and Hengrui’s facilities, unless otherwise agreed by the Parties. As appropriate, other employee representatives of the Parties may attend Committee meetings as observers, but no Third-Party personnel may attend unless otherwise agreed by the Parties. Each Party may also call for special meetings to resolve particular matters requested by such Party.

(d) Scope of Governance. The JCC shall not have any decision making authority, and each Party shall retain the rights, powers and discretion to decide matters concerning the Development and commercialization of Licensed Products in its respective field and territory, provided that such decisions are consistent with the terms and conditions of this Agreement. In no event shall the JCC be delegated or vested with rights, powers or discretion unless such delegation or vesting is expressly provided herein, or the Parties expressly so agree in writing.

4.4 Non-Competition

4.4.1 Non-competition by Arcutis, During the Option Period, and continuing during the Term after exercise of the Option by Arcutis, if Arcutis acquires rights in, develops, or causes the development of a ligand that binds to Janus Kinase (JAK) I, JAK2 and/or JAK3 in the Field, to the extent such ligand is not Controlled by Hengrui (“**Competing Product**”). Arcutis shall immediately notify Hengrui by writing, and the Parties shall negotiate in good faith whether, in each case as mutually agreed upon:

(a) to terminate all rights and licenses granted under this Agreement, or

(b) to grant to Hengrui a license or sublicense, as the case may be, the right to develop and commercialize the Competing Product in China.

Notwithstanding the foregoing, in the event Arcutis undergoes a Change of Control (as defined in Section 5.3.5), then this Section 4.4.1 shall not apply to any program for the research, development and/or commercialization of a Competing Product that the Third Party acquiror (and/or its Affiliates existing immediately prior to the consummation of such Change of Control) had ongoing immediately prior to the consummation of such Change of Control (each such program, a “**Competing Program**”), provided that (i) no Licensed Technology is used by the acquiror in connection with such Competing Program(s), and (ii) the acquiror segregates the personnel engaged in the research, development and/or commercialization of the Licensed Compound and any Licensed Product from the personnel engaged in the Competing Program(s).

4.4.2 Non-competition by Hengrui.

(a) During the Option Period and continuing during the Term after exercise of the Option by Arcutis, Hengrui shall not develop or commercialize the Licensed Compound or any Licensed Product in the Field in the Territory.

(b) During the Option Period and continuing during the Term after exercise of the Option by Arcutis, if Hengrui decides to grant a license or other rights with respect to the License Compound or any Licensed Product in the Additional Field anywhere in the Territory, Arcutis shall have the right of first refusal for such license or other rights as set forth in this subclasses (b). Prior to granting any such license or other rights to any Third Party, Hengrui shall provide Arcutis written notice (“**Hengrui ROFR Notice**”), which shall identify the rights that Hengrui wishes to grant to such Third Party and the associated financial and other material terms. If, within thirty (30) days following receipt of the Hengrui ROFR Notice, Arcutis notifies Hengrui of its interest to obtain such rights, Hengrui and Arcutis shall negotiate in good faith for a period of ninety (90) days an amendment to this Agreement to incorporate such rights. If (a) Arcutis does not provide such written notice within thirty (30) days or (b) the Parties fail execute such amendment within ninety (90) days following Arcutis’s written notification, then Hengrui shall be free to grant such rights to such Third Party on terms that are no more favorable (when taken as a whole) to such Third Party than those last offered to Arcutis and otherwise shall have no further obligation to Arcutis. “**Additional Field**” means non-topical formulation(s) of Licensed Compound indicated for the treatment of psoriasis, vitiligo, atopic dermatitis, alopecia areata, and, or hidradenitis suppurativa.

(c) [***]

ARTICLE V PAYMENTS

5.1 Milestone Payments. Arcutis shall pay to Hengrui the respective one-time only (for clarity, in each case only for the first Licensed Product), non-refundable milestone payments set forth below upon the first achievement of the applicable milestone event.

<u>Milestone Event</u>	<u>Milestone Payment</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

5.2 Milestone Payment Terms. Arcutis shall notify Hengrui in writing within fifteen (15) Business Days following the achievement of each milestone event set forth in Section 5.1, and, except as noted below, shall make the appropriate milestone payment in Dollars by wire transfer to a bank designated in writing by Hengrui, within sixty (60) days after the achievement of such milestone event. Each milestone payment stated in the table in Section 5.1 shall be paid no more than once under this Agreement, regardless of whether or not similar achievements) are thereafter made for the same or one or more other Licensed Products. [***]

5.3 Royalties.

5.3.1 Royalty Payments. Arcutis shall pay to Hengrui royalties, with respect to Net Sales, at the following royalty rates:

<u>Portion of Aggregate Net Sales during a Calendar Year</u>	<u>Royalty Rate, as of that Portion of Net Sales</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

5.3.2 Step-Down. The royalty rates under Section 5.3.1 shall be reduced, on a country-by-country basis, to [***] of the rates otherwise stated in Section 5.3.1 with respect to any Net Sales made during any portion of the Royalty Term in the country of sale in which there is not at least one (1) Valid Claim under Licensed Patent Rights in such country.

5.3.3 Anti-Stacking. [***]

5.3.4 Generic Competition. Upon commencement of Generic Competition with respect to a Licensed Product in a country within the Territory, and thereafter for so long as such Generic Competition persists, the royalty rates applicable under Section 5.3.1 shall [***].

5.3.5 Sublicensing Income. During the Term, Arcutis shall pay Hengrui a portion of any and all non-royalty sublicense income received by Arcutis in consideration for a Sublicense under the license set forth in Section 3.1, including upfront and milestone payments (“Sublicensing Income”) (each such payment to be made within sixty (60) days of Arcutis’s receipt of the applicable Sublicensing Income), according to the following schedule:

Stage of development of License Product reached by Licensee, Sublicensee or Affiliate in Territory	Percent of Sublicensing Income due to Hengrui
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

[***]

For the purposes of this Section 5.3.5, sublicense income will not include anything of value Arcutis receives as part of a transaction relating to a change of control (“**Change of Control**”). A Change of Control means an occurrence any of the following:

(a) Any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) becomes the “beneficial owner” (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of Arcutis representing more than 50% of the total voting power represented by Arcutis’s then outstanding voting securities; or

(b) The consummation of the sale or disposition by Arcutis all or substantially all of its assets; or

(c) The consummation of a merger or consolidation of Arcutis with any other corporation, other than a merger or consolidation which would result in the voting securities of Arcutis's outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least 50% of the total voting power represented by the voting securities of Arcutis or such surviving entity or its parent outstanding immediately after such merger or consolidation.

5.3.6 Payment Terms. Royalties reportable in each Royalty Report provided for under Section 6.1 shall be due on the date such Royalty Report is due. Royalty payments will be made to Hengrui in Dollars by wire transfer to a bank designated in writing by Hengrui.

5.4 Taxes. Payment shall be made in full, without deduction or withholding for currency exchange fees. Arcutis and Hengrui shall equally split any wire transfer fees. Hengrui shall pay all sales, turnover, income, revenue, value added, and other taxes, levies, and governmental charges ("**Taxes**") levied on account of any milestone and royalty payments accruing or made to Hengrui under this Agreement. If and to the extent that provision is made in law or regulation of any country for withholding of Taxes with respect to any such payment, then Arcutis shall promptly pay such Tax for and on behalf of Hengrui to the proper Governmental Authority, and shall promptly furnish Hengrui with receipt of payment. Arcutis shall be entitled to deduct any such Taxes actually paid from such milestone or other payment due Hengrui, or be promptly reimbursed by Hengrui if no further payments are due to Hengrui. Each Party agrees to reasonably assist the other Party in claiming exemption from such deductions or withholdings under double taxation or similar agreements or treaties from time to time in force and in minimizing the amount required to be so withheld or deducted.

ARTICLE VI ACCOUNTING AND REPORTING

6.1 Royalty Reports. Within [***] after the end of each Calendar Quarter during the term of this Agreement following the First Commercial Sale of a Licensed Product, Arcutis shall furnish to Hengrui a quarterly written report showing in reasonably specific detail (a) the calculation of Net Sales by Arcutis and its Affiliates during such Calendar Quarter; (b) the calculation of Net Sales by Arcutis's non-Affiliate Sublicensees, if during the Calendar Quarter immediately preceding such Calendar Quarter; (c) the calculation of the royalties, if any, that shall have accrued based upon such Net Sales; (d) the withholding taxes, if any, required by law to be deducted with respect to such sales; and (e) the exchange rates, if any, used in determining the amount of Dollars 'a "**Royalty Report**"). With respect to sales of Licensed Products invoiced in Dollars, the gross sales, Net Sales and royalties payable shall be expressed in Dollars. With respect to (i) Net Sales invoiced in a currency other than Dollars and (ii) cash consideration paid in a currency other than Dollars by Sublicensees hereunder, all such amounts shall be expressed both in the currency in which the distribution is invoiced and in the Dollar equivalent. The Dollar equivalent shall be calculated using the average of the exchange rate (local currency per US \$1) published in The Wall Street Journal, Western Edition, under the heading "Currency Trading" on the last business day of each month during the applicable Calendar Quarter, or other newspaper agreed to by the Parties.

6.2 Audits. During the Royalty Term, upon the written request of Hengrui and not more than once in each Calendar Year, Arcutis shall permit an independent certified public accounting firm of nationally recognized standing selected by Hengrui and reasonably acceptable to Arcutis, at Hengrui's expense, to have access during normal business hours to such of the financial records of Arcutis as may be reasonably necessary to verify the accuracy of the payment reports hereunder for the eight (8) Calendar Quarters immediately prior to the date of such request (other than records for which Hengrui has already conducted an audit under this Section).

6.2.1 If such accounting firm concludes that additional amounts were owed during the audited period, Arcutis shall pay such additional amounts within thirty (30) days after the date Hengrui delivers to Arcutis such accounting firm's written report so concluding. The fees charged by such accounting firm shall be paid by Hengrui; provided, however, if the audit discloses that the royalties payable by Arcutis for such period are more than [***] of the royalties actually paid for such period, then Arcutis shall pay the reasonable fees and expenses charged by such accounting firm.

6.2.2 Hengrui shall cause its accounting firm to retain all financial information subject to review under this Section 6.2 in strict confidence; provided, however, that Arcutis shall have the right to require that such accounting firm, prior to conducting such audit, enter into an appropriate non-disclosure agreement with Arcutis regarding such financial information. The accounting firm shall disclose to Hengrui only whether the reports are correct or not and the amount of any discrepancy. No other information shall be shared. Hengrui shall treat all such financial information as Arcutis's Confidential Information.

ARTICLE VII INTELLECTUAL PROPERTIES

7.1 Ownership.

7.1.1 Background Technologies. Other than Option Period Study Results, each Party shall retain all rights, title and interest in and to its respective background technologies and intellectual properties (collectively, the "**Background Technologies**"), including patents, patent applications, rights to patents, confidential information, know-how, programs, and processes in existence prior to the Effective Date or conceived, developed or acquired thereafter. Except for the licenses and rights expressly set forth in this Agreement, neither Party grants or shall be required to grant to the other Party, by implication or otherwise, any license or right under its Background Technologies, nor will a Party be required to disclose any of its Background Technologies to the other Party, except as is explicitly required under this Agreement. For clarity, any Invention, scientific or technical information, results, materials, and data conceived, developed or acquired during the Term, other than Option Period Study Results, shall be part of the Background Technologies, and ownership thereof shall be as determined under the inventorship and authorship rules and precedents prevailing in the United States.

7.1.2 Option Period Study Results. Should any Invention, scientific or technical information, results, materials, and data, whether or not patentable, be conceived, developed or acquired directly in the course of work done in the Option Period Studies, it and all intellectual property and other rights and title therein, including patents, patent applications, rights to patents, confidential information, know-how, programs, and processes (a) shall be owned by Arcutis to the extent the same was conceived, developed or acquired solely by Arcutis

or its personnel; (b) shall be owned by Hengrui to the extent the same was conceived, developed or acquired solely by Hengrui or its personnel; and (c) shall be jointly owned by both Parties if it was conceived, developed or acquired jointly by both Parties or their respective personnel. Inventorship and authorship will be determined under the applicable rules and precedents prevailing in the United States. For clarity, any Option Period Study Results solely or jointly owned by Hengrui shall, to the extent of such interest, be part of Licensed Know-How or Licensed Patents, as the case may be.

7.1.3 Rights of Joint Owners. Subject to the licenses and covenants in this Agreement, including Sections 3.1, 3.2, and 9.1, each of the joint owners of any Option Period Study Results or jointly-owned Background Technologies (if any) shall be entitled during and after the Term to make, use, sell, offer for sale, import, reproduce, modify (and make derivative works from), distribute, perform, display and otherwise exploit and practice any such jointly-owned Option Period Study Results or jointly-owned Background Technologies (if any) and to authorize others to do so, without requirement of consent from or accounting to the other owner of such intellectual property. Nothing in this Section 7.1.3 should be construed as granting any license, implied or express, other than the licenses expressly granted under this Agreement.

7.2 Patent Prosecution and Maintenance.

7.2.1 Hengrui shall Prosecute all Licensed Patent Rights owned solely by Hengrui or jointly by Hengrui and a Third Party in its sole discretion and at its own cost and using prosecution counsel of its choice. Hengrui shall promptly provide to Arcutis copies of all material prosecution communications regarding any such Licensed Patent Rights in the Territory, and will send Arcutis copies of drafts of such material prosecution submissions prior to filing. Hengrui will specifically consider all comments and suggestions provided by Arcutis on such material patent prosecution submissions in good faith and will use reasonable efforts to arrive at joint decisions on responses. If Hengrui decides to abandon or terminate any such Licensed Patent Rights in the Territory, it shall provide written notice to Arcutis no less than thirty (30) days prior to termination and give Arcutis the opportunity to take over, at Arcutis's expense, the prosecution and maintenance of such Patent Rights.

7.2.2 Arcutis shall Prosecute all Patent Rights owned solely by Arcutis or jointly by Arcutis and a Third Party in its sole discretion and at its own cost and using prosecution counsel of its choice.

7.2.3 The Parties shall cooperate in good faith to determine which Party or Parties shall Prosecute Patent Rights owned jointly by Hengrui and Arcutis.

7.3 Enforcement of Patent Rights.

7.3.1 Notice of Infringement. Each Party shall promptly inform the other of any suspected infringement of any of the Licensed Patent Rights or the infringement or misappropriation of Licensed Know-How by a Third Party, to the extent such infringement involves Exploitation in the Field during the Term. Any suspected infringement of any of the Licensed Patent Rights in the Field in the Territory is referred to herein as a "**Covered Infringement**."

7.3.2 First Right to Take Action. If a suspected infringement or misappropriation does not involve a Covered Infringement, Hengrui may take, or refrain from taking, any action Hengrui chooses, and Arcutis shall have no right to take any action with respect to such suspected infringement or misappropriation, nor to any recoveries with respect thereto. Hengrui will exert reasonable efforts to keep Arcutis informed of actions Hengrui may take as described in the preceding sentence. If the suspected infringement involves a Covered Infringement, Arcutis shall, within thirty (30) days of the first notice referred to in Section 7.3.1, inform Hengrui whether or not Arcutis (and/or its Sublicensee) intends to institute suit against such Third Party with respect to such Covered Infringement. Hengrui will not take any steps toward instituting suit against any Third Party involving a Covered Infringement until Arcutis has informed Hengrui of its intention pursuant to the previous sentence.

7.3.3 Action by Arcutis. If Arcutis notifies Hengrui that Arcutis (and/or its Sublicensee) intends to institute suit against a Third Party with respect to a Covered Infringement, and Hengrui does not agree to join in such suit as provided in Section 7.3.4, Arcutis (and/or its Sublicensee) may bring such suit on its own and shall in such event bear all costs of, and shall exercise all control over, such suit. Arcutis (and/or its Sublicensee) may, at its expense, bring such action in the name of Hengrui and/or cause Hengrui to be joined in the suit as a plaintiff. Recoveries, if any, whether by judgment, award, decree or settlement, shall, after reimbursement of Arcutis for the costs of such action, be treated as if they were Net Sales for purposes of calculating royalties under Section 5.3.

7.3.4 Joint Action. If Arcutis notifies Hengrui that it (and/or its Sublicensee) desires to institute suit against such Third Party with respect to a Covered Infringement, and Hengrui notifies Arcutis within thirty (30) days after receipt of such notice that Hengrui desires to institute suit jointly, the suit shall be brought jointly in the names of both Parties and all costs thereof shall be borne equally. Recoveries, if any, whether by judgment, award, decree or settlement, shall, after the reimbursement of each of Hengrui and Arcutis for its share of the joint costs in such action, be shared in relation to the damages suffered by each Party.

7.3.5 Action by Hengrui. If Arcutis notifies Hengrui that it (and or its Sublicensee) does not intend to institute suit against such Third Party with respect to a Covered Infringement (or fails to give any notice in this respect or to actually bring a suit against the Third Party). Hengrui may institute suit on its own. Hengrui shall bear all costs of, and shall exercise all control over, such suit. Recoveries, if any, whether by judgment, award, decree or settlement, shall belong solely to Hengrui.

7.3.6 Abandonment of Actions. Should either Hengrui or Arcutis (and/or its Sublicensee) commence a suit under the provisions of this Section 7.3 and thereafter elect to abandon the same, it shall give timely notice to the other Party, who may, if it so desires, be joined as a plaintiff in the suit (or continue as such if it is already one) and continue prosecution of such suit, provided, however, that the sharing of expenses and any recovery of such suit shall be as equitably agreed upon between Hengrui and Arcutis.

7.3.7 Cooperation. In any suit to enforce and/or defend the Licensed Patent Rights pursuant to this Section 7.3, the Party not in control of such suit shall, at the request and expense of the controlling Party, reasonably cooperate and, to the extent possible, have its employees testify when requested and make available relevant records, papers, information, samples, specimens, and the like.

**ARTICLE VIII
REPRESENTATIONS AND WARRANTIES**

8.1 Mutual Representations and Warranties. Each Party hereby represents and warrants to the other Party as follows:

8.1.1 Such Party is a corporation duly organized, validly existing and in good standing under the laws of the State or country in which it is incorporated.

8.1.2 Such Party (a) has the corporate power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder, and (b) has taken all necessary corporate action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, binding obligation, enforceable against such Party in accordance with its terms.

8.1.3 All necessary consents, approvals and authorizations of all Governmental Authorities and other persons required to be obtained by such Party in connection with this Agreement have been obtained.

8.1.4 The execution and delivery of this Agreement and the performance of such Party's obligations hereunder (a) do not conflict with or violate any requirement of Applicable Law and (b) do not conflict with, or constitute a default under, any contractual obligation of such Party.

8.2 Hengrui Additional Representations and Warranties. Hengrui hereby represents and warrants to Arcutis as follows:

8.2.1 Hengrui and its Affiliates own the Licensed Technology, and, without limiting the foregoing, Hengrui is entitled to grant the licenses specified herein with respect thereto.

8.2.2 Hengrui and its Affiliates have not granted to any Third Party any option, license or other right or interest under the Licensed Patent Rights to Exploit the Licensed Technology in the Field in the Territory as of the Effective Date and during the Term of this Agreement, unless this Agreement is earlier terminated or the Option is not exercised on or prior to the last day of the Option Period, Hengrui will not grant to any Third Party any option, license or other right or interest under the Licensed Patent Rights to Exploit the Licensed Technology in the Field in the Territory.

8.2.3 No employee of Hengrui or its Affiliates has breached any non-use or confidentiality obligations under any agreement with his or her respective prior employers, or has otherwise misappropriated any trade secret or confidential information of such employers, in each case relating to the Licensed Technology.

8.2.4 To the best actual knowledge of Hengrui the development, use, sale and import of Licensed Compounds will not infringe or misappropriate any valid intellectual property rights owned or possessed by any Third Party.

8.2.5 To the best actual knowledge of Hengrui, there are no pending or threatened claims, judgments or settlements against Hengrui or its Affiliates relating to the Licensed Technology.

8.2.6 Hengrui has disclosed, or will disclose to Arcutis in accordance with Section 2.3, all material information in its or its Affiliates' possession regarding the Licensed Compounds (including all clinical trial and safety data, databases and analyses).

8.2.7 To the best actual knowledge of Hengrui, no Third Party has infringed or misappropriated or is infringing or misappropriating any Licensed Technology.

ARTICLE IX COVENANTS

9.1 Exclusivity; Other Agreements.

9.1.1 During the Option Period and continuing during the Term after exercise of the Option by Arcutis, Hengrui and its Affiliates shall not, without Arcutis's prior written consent in each instance: (a) grant or assign to any Third Party any option, license or other right in the Field in the Territory under the Licensed Technology or any portion or aspect thereof, or (b) solicit or enter into or continue any negotiations or discussions with any Third Party with respect to any of the foregoing.

9.1.2 [***]

9.2 Obligations of Confidentiality and Non-Use.

9.2.1 Confidential Information. Except as expressly provided herein, the Parties agree that the receiving Party shall not publish or otherwise disclose and shall not use for any purpose any information furnished to it by the other Party hereto under this Agreement (or prior to the Effective Date) which if disclosed in tangible form is marked "Confidential" or with other similar designation to indicate its confidential or proprietary nature or if disclosed orally is indicated orally to be confidential or proprietary by the Party disclosing such information at the time of such disclosure and is confirmed in writing as confidential or proprietary by the disclosing Party within a reasonable time after such disclosure (collectively, "**Confidential Information**"). Notwithstanding the foregoing, Confidential Information shall not include information that, in each case as demonstrated by written documentation:

(a) was already known to the receiving Party at the time of first disclosure or, as shown by written documentation, was developed by the receiving Party outside the Option Period Studies and independent 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 and other than through any act or omission of the receiving Party in breach of this Agreement; or

(d) was subsequently lawfully disclosed to the receiving Party by a person other than a Party or developed by the receiving Party without reference to any information or materials disclosed by the disclosing Party.

9.2.2 Permitted Disclosures. Notwithstanding the provisions of Section 9.2.1 above, each Party hereto may disclose the other Party's Confidential Information to the extent such disclosure is reasonably necessary to exercise the rights granted to it, or reserved by it under this Agreement, prosecute or defend litigation, prosecute patent applications in accordance with this Agreement, comply with applicable laws or governmental regulations, submit information to tax or other Governmental Authorities, provided that if a Party is required to make any such disclosure of the other Party's Confidential Information, to the extent it may legally do so, it will give reasonable advance notice to such other Party of such disclosure and, save to the extent inappropriate in the case of patent applications or otherwise, will use its reasonable efforts to secure confidential treatment of such information prior to its disclosure (whether through protective orders or otherwise).

9.2.3 Terms of Agreement. Subject to Section 9.2.1, neither Party may disclose the terms of this Agreement without the prior written consent of the other Party; provided, however, that either Party may make such a disclosure (a) to the extent required by law or by the requirements of any nationally recognized securities exchange, quotation system or over-the-counter market on which such Party has or has applied to have its securities listed or traded, (b) to its legal and financial advisors, or (c) to any actual or prospective acquirers, investors, collaborators and lenders (as well as and to their respective legal and financial advisors) who are obligated to keep such information confidential. If such disclosure is required under clause (a), the disclosing Party shall make reasonable efforts to provide the other Party with notice beforehand and to coordinate with the other Party with respect to the wording and timing of any such disclosure.

9.2.4 Publicity. Without limiting the foregoing, and except to the extent required by law or by the requirements of any nationally recognized securities exchange, quotation system or over-the-counter market on which such Party has or has applied to have its securities listed or traded, neither Party shall be permitted to, directly or indirectly, issue any press release or other public statement relating to the terms of this Agreement or the transactions contemplated thereby without the prior approval of the other Party, which shall not be unreasonably withheld or delayed.

9.3 Further Assurances; Consents. Each Party shall use reasonable efforts to take such action as is reasonably necessary or appropriate in order to complete the transactions contemplated hereby on the terms and subject to the conditions set forth herein.

9.4 Transition Services. During the Option Period and thereafter, for a period of [***] from and after the License Effective Date, Hengrui agrees to provide reasonable assistance to Arcutis with respect to understanding and using the Licensed Know-How at no additional cost to Arcutis (the "Transition Services").

ARTICLE X
LIABILITY AND INDEMNITY

10.1 Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES OF ANY KIND ARISING FROM OR RELATING TO ANY PERFORMANCE OR BREACH OF THIS AGREEMENT OR ANY CLAIMS ARISING HEREUNDER, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE). REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS SECTION 10.1 IS INTENDED TO OR WILL LIMIT OR RESTRICT (A) THE INDEMNIFICATION RIGHTS OR OBLIGATIONS OF ANY PARTY UNDER SECTION 10.2. (B) DAMAGES AVAILABLE TO A PARTY

10.2 FOR A BREACH BY THE OTHER PARTY OF THE CONFIDENTIALITY OBLIGATIONS UNDER SECTION 9.2. OR (C) DAMAGES AVAILABLE IN THE CASE OF BREACH OF EXCLUSIVITY UNDER SECTIONS 3.1 AND 9.1.

10.3 Indemnification.

10.3.1 Each Party (the “*Indemnitor*”) shall defend, indemnify, and hold the other Party (the “*Indemnitee*”) harmless from all losses, liabilities, damages and expenses (including attorneys’ fees and costs) incurred as a result of any claim, demand, action or proceeding arising out of any breach of this Agreement by the Indemnitor, or the gross negligence or willful misconduct of the Indemnitor in the performance of its obligations under this Agreement, except in each case to the extent arising from the gross negligence or willful misconduct of the Indemnitee or the breach of this Agreement by the Indemnitee.

10.3.2 Arcutis, as the Indemnitor, shall defend, Indemnify, and hold Hengrui (as the Indemnitee) harmless from all losses, liabilities, damages and expenses (including attorneys’ fees and costs) incurred as a result of any claim, demand, action or proceeding arising out of the Exploitation of Licensed Products by Arcutis, its Affiliate or its Sublicensee, except in each case to the extent arising from the gross negligence or willful misconduct of any Indemnitee, or from any breach of this Agreement by Hengrui.

10.3.3 Indemnification Procedures. The Indemnitee promptly shall notify the Indemnitor of any liability or action in respect of which the Indemnitee intends to claim such indemnification, and the Indemnitor shall have the right to assume the defense thereof with counsel selected by the Indemnitor. The indemnity agreement in this Section 10.3 shall not apply to amounts paid in settlement of any loss, claim, damage, liability or action if such settlement is effected without the consent of the Indemnitor, which consent shall not be withheld unreasonably. The failure to deliver notice to the Indemnitor within a reasonable time after the commencement of any such action, if prejudicial to its ability to defend such action, shall relieve

the Indemnitor of any liability to the Indemnitee under this this Section 10.3. The Indemnitee under this Section 10.3, its employees and agents, shall cooperate fully with the Indemnitor and its legal representatives in the investigation and defense of any action, claim or liability covered by this indemnification.

ARTICLE XI TERM AND TERMINATION

11.1 Term. The term of this Agreement (the “*Term*”) shall begin on the Effective Date and, unless earlier terminated in accordance with the terms of this Article II, will continue until the end of the last-to-expire Royalty Term. Upon such expiration, Arcutis shall have, and Hengrui does hereby grant to Arcutis, an exclusive, royalty-free, fully paid-up, perpetual, non-terminable, non-revocable license, with the right to sublicense (through multiple tiers) to use the Licensed Know-How to Exploit Licensed Products in the Field in the Territory.

11.2 Termination for Breach. Each Party shall have the right to terminate this Agreement upon written notice to the other Party if such other Party materially breaches this Agreement and has not cured such breach to the reasonable satisfaction of the other Party within ninety (90) days after notice of such breach from the non-breaching Party; provided, however, that if the alleged breaching Party disputes in good faith the existence or materiality of a breach specified in such notice of breach and such alleged breaching Party provides the other Party notice of such dispute within thirty (30) days after receiving such notice, then the Party that gave the notice of breach shall not have the right to terminate this Agreement under this Section 11.2 unless and until it is determined in accordance with Section 12.2 that the alleged breaching Party has materially breached the Agreement as specified in the notice of breach, and then such breaching Party fails to cure such breach within ninety (90) days following such determination. It is understood and agreed that during the pendency of such dispute, all of the terms and conditions of this Agreement shall remain in effect and the Parties shall continue to perform all of their respective obligations hereunder.

11.3 Termination for Insolvency. Each Party shall have the right to terminate this Agreement upon written notice to the other Party if the other Party incurs an Insolvency Event; *provided*, however, in the case of any involuntary bankruptcy proceeding, such right to terminate shall only become effective if the Party that incurs the Insolvency Event consents to the involuntary bankruptcy or if such proceeding is not dismissed or stayed within thirty (30) days after the filing thereof. “*Insolvency Event*” means circumstances under which a Party (i) has a receiver or similar officer appointed over all or a material part of its assets or business; (ii) passes a resolution for winding-up of all or a material part of its assets or business (other than a winding-up for the purpose of, or in connection with, any solvent amalgamation or reconstruction) or a court enters an order to that effect; (iii) has entered against it an order for relief recognizing it as a debtor under any insolvency or bankruptcy laws (or any equivalent order in any jurisdiction); or (iv) enters into any composition or arrangement with its creditors with respect to all or a material part of its assets or business (other than relating to a solvent restructuring).

11.4 Termination for Convenience. Arcutis shall have the right to terminate this Agreement at any time and for any reason upon ninety (90) days prior written notice to Hengrui, after having discussed or consulted any potential cause or concern in good faith with Hengrui. In the event of termination of this Agreement under this Section 11.4: (i) Arcutis shall pay all amounts then due and owing to Hengrui as of the termination date; (ii) all rights associated with Licensed Technology, to the extent granted by Hengrui to Arcutis, automatically revert back to Hengrui as of the notice date, provided, however, that Arcutis and other Selling Parties, as applicable, shall be permitted to distribute and sell all Licensed Products that were in inventory or in production on an effective termination date for a period of twelve (12) months following the effective termination date (“*Commercialization Wind-Down Period*”). in accordance with the terms of this Agreement; and (iii) except for the surviving provisions set forth in Section 11.5.1, the rights and obligations of the Parties hereunder shall terminate as of the date of such termination.

11.5 Effect of Expiration or Termination. Upon expiration or termination of this Agreement for any reason:

11.5.1 The Parties shall not be relieved of any obligation accruing prior to such expiration or termination, and the provisions of Article 1 (Definitions) (to the extent any of the terms defined therein are used in any or the provisions surviving pursuant to this Section 11.5.1), Section 3.3 (No Other Licenses), Article 5 (Payment) (limited to payments that remain due and owing to Hengrui at the time of such expiration or termination). Sections 6.2 (Audits), 7.1 (Ownership), 7.2 (Patent Prosecution and Maintenance) and 7.3 (Enforcement of Patent Rights) (limited to suits that are pending as of the time of such expiration or termination). Article 8 (Representations and Warranties), Sections 9.2 (Obligations of Confidentiality and Non-Use), 11.1 (Term) (with respect to the second sentence), 11.4 (Termination for Convenience) (with respect to the second sentence), and 11.5 (Effect of Expiration or Termination), and Article 12 (General Provisions) shall survive the expiration or termination of this Agreement.

11.5.2 To the extent the Agreement is only partially terminated, the licenses granted to Arcutis in Section 3.1 shall terminate solely with respect to the Licensed Compound(s), Licensed Product(s) and country(ies) in which the termination becomes effective; provided, however, that Arcutis and other Selling Parties, as applicable, shall be permitted to distribute and sell all Licensed Products that were in inventory or in production on an effective termination date during the Commercialization Wind-Down Period, in accordance with the terms of this Agreement.

11.5.3 Notwithstanding the foregoing, no termination of this Agreement shall be construed as a termination of any Sublicense any Sublicensee hereunder, and thereafter:

(a) each such Sublicensee of Arcutis or of any of its Sublicensees in any tier shall be considered a direct licensee of Hengrui, provided that (i) Arcutis has first represented and warranted to Hengrui that, to Arcutis’s actual knowledge, as of the effective date of such termination, such Sublicensee is then in full compliance with all terms and conditions of its sublicense, and (ii) such Sublicensee agrees in writing to assume all applicable obligations of Arcutis under this Agreement; and

(b) each such Sublicensee of Hengrui or of any of its Sublicensees in any tier shall be considered a direct licensee of Arcutis, provided that (i) Hengrui has first represented and warranted to Arcutis that, to Hengrui's actual knowledge, as of the effective date of such termination, such Sublicensee is then in full compliance with all terms and conditions of its sublicense, and (ii) such Sublicensee agrees in writing to assume all applicable obligations of Hengrui under this Agreement.

11.5.4 Except where inconsistent with any Sublicense that is to survive termination pursuant to Section 11.5.3 above, and subject to Sections 3.3 and 11.5.5, Hengrui shall have the right to Exploit Licensed Products itself or with one or more Third Parties in the Field in the Territory, and shall have the right, without obligation to Arcutis, to take any such actions in connection with such activities as Hengrui (or its designee), at its discretion, deems appropriate.

11.5.5 Except in the case of termination by reason of Hengrui's breach, Arcutis agrees to grant and hereby grants to Hengrui the option, exercisable within sixty (60) days of the effective date of termination or expiration of the Term to negotiate an exclusive or nonexclusive, royalty-bearing license to all or part of Arcutis's Background Technology, if any, in existence on such effective date of termination or expiration and required for Hengrui's Exploitation in the Field in the Territory of those Licensed Products (if any) that were under development, or being commercialized by Arcutis or its Affiliate or Sublicensee in the Field in the Territory as of or within ninety (90) days prior to such effective date of termination or expiration. such license to cover the right to do the foregoing under such Background Technology (the "**Hengrui Option**"). Hengrui may exercise the Hengrui Option by providing written notice to Arcutis of exercise of the Hengrui Option and describing the Background Technology it wishes to license. In such case, the Parties will negotiate in good faith the terms of such a license. In the event the Parties are unable to agree upon such terms within sixty (60) days, neither Party will be obligated to enter into such a license with the other.

ARTICLE XII GENERAL PROVISIONS

12.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to its conflict of laws principles, and shall not be governed by the United Nations Convention of International Contracts on the Sale of Goods (the Vienna Convention).

12.2 Dispute Resolution. The Parties shall meet and discuss in good faith and use reasonable efforts to settle any dispute, controversy or claim arising from or related to this Agreement or the breach thereof. If the Parties do not fully settle any dispute, controversy or claim arising out of or relating to this Agreement, its negotiations, execution or interpretation, or the performance by either Party of its obligations under this Agreement (other than (a) any Patent Controversy, or (b) any bona fide Third Party action or proceeding filed or instituted in an action or proceeding by a Third Party against a Party to this Agreement), whether before or after termination of this Agreement, shall be finally resolved by binding arbitration. Whenever a Party shall decide to institute arbitration proceedings, it shall give prompt written notice to that effect to the other Party. Any such arbitration shall be conducted in the English language under the International Dispute Resolution Procedures and Arbitration Rules of the American Arbitration Association (the "**Rules**") by a panel of three (3) arbitrators appointed in accordance with such

Rules. Any such arbitration shall be held in Hong Kong. The method and manner of discovery in any such arbitration proceedings shall be governed by the Rules. The arbitrators shall have the authority to grant specific performance and to allocate between the Parties the costs of arbitration (including attorneys' fees and expenses of the Parties) in such equitable manner as they determine. Judgment upon the award so rendered may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. In no event shall a demand for arbitration be made after the date when institution of a legal or equitable proceeding based upon such claim, dispute or other matter in question would be barred by the applicable statute of limitations. Notwithstanding the foregoing, either Party shall have the right, without waiving any right or remedy available to such Party under this Agreement or otherwise, to seek and obtain from any court of competent jurisdiction any interim or provisional relief that is necessary or desirable to protect the rights or property of such Party, pending the selection of the arbitrators hereunder or pending the arbitrators' determination of any dispute, controversy or claim hereunder.

12.3 Patent Controversies. Notwithstanding anything in this Agreement to the contrary, any Patent Controversy shall be subject to adjudication in accordance with the Applicable Laws of the country or jurisdiction in which the relevant Patent Right is pending or has been issued. The Parties agree that the venue of any such adjudication involving a Patent Right pending in or issued by the United States shall be a U.S. Federal District Court (or appellate body, as necessary) sitting in San Francisco, California, U.S.A. and for a Patent Right pending in or issued by any other country, any competent court having jurisdiction over the subject of the Patent Controversy sitting in the capital of such country (or if there is not any such competent court in the capital, a location reasonably proximate to the capital), and each Party irrevocably submits to the jurisdiction of such court. Each Party agrees not to raise any objection at any time to the laying or maintaining of the venue of any action, suit or proceeding for such purpose in any such court, irrevocably waives any claim that such action, suit or other proceeding has been brought in an inconvenient forum, including any *forum non conveniens* argument, and further irrevocably waives the right to object, with respect to such action, suit or other proceeding, that such court does not have any jurisdiction over such Party.

12.4 Assignment. Neither Party may assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of the other Party, except that a Party may assign this Agreement without such consent to its Affiliate or its successor in interest by way of merger, acquisition, or sale of all or substantially all of its assets. Any Party making any a permitted assignment shall give the other Party a prompt written notice of such assignment. Any permitted assignment shall be binding on the successors, heirs, and assigns of the assigning Party. Any assignment in violation of this Section 12.4 shall be null and void.

12.5 Publicity — Use of Name. Neither Party shall be permitted to use the name, or any proprietary trademarks, tradenames, trade dress or logos (“Marks”) of the other Party, or its Affiliates, or its Sublicensees, in any publicity, promotion, news release or public disclosure relating to this Agreement or its subject matter, without the prior express written permission of the other Party.

12.6 Severability. If any provision of this Agreement is held to be invalid or unenforceable by an arbitrator or any court of competent jurisdiction from which no appeal can be or is taken, the provision shall to that extent be considered severed from this Agreement, and the remainder of this Agreement will remain in full force and effect. The Parties shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable one such that the Parties' original goals and interests when entering this Agreement may be realized and protected.

12.7 Waiver. Neither Party may waive or release any of its rights or interests in this Agreement except in writing. 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. Any waiver by a Party of a particular breach or default by the other Party shall not operate or be construed as a waiver of any subsequent breach or default by the other Party.

12.8 Agency. Neither Party is, nor will be deemed to be an employee, agent, or representative of the other Party for any purpose. Each Party is an independent contractor, not an employee or partner of the other Party. Neither Party shall have the authority to speak for, represent, or obligate the other Party in any way without prior written authority from the other Party.

12.9 Exhibits. All Exhibits to this Agreement shall form an integral part of this Agreement.

12.10 Entire Understanding. This Agreement contains the entire understanding between the Parties hereto with respect to its subject matter and supersedes any and all prior agreements, understandings and arrangements, whether written or oral.

12.11 Amendments. No amendments of the terms and conditions of this Agreement shall be binding upon either Party hereto unless in writing and signed by both Parties.

12.12 Interpretation. This Agreement has been prepared jointly by the Parties and shall not be strictly construed against either Party. Ambiguities, if any, in this Agreement shall not be construed against any Party, irrespective of which Party may be deemed to have authored the ambiguous provision. The headings of each Article and Section in this Agreement have been inserted for convenience of reference only and are not intended to limit or expand on the meaning of the language contained in the particular Article or Section. Except where the context otherwise requires, the use of any gender shall be applicable to all genders, and the word "or" is used in the inclusive sense (and/or). The term "including" or "includes" as used herein means including or includes, without limiting the generality of any description preceding such term. All references in this Agreement to the singular shall include the plural where applicable.

12.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which together constitute only one agreement between the Parties. The signatures of all the Parties do not need to be on the same counterpart for it to be effective. Delivery of an executed counterpart's signature page of this Agreement, by electronic mail in portable document format (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, has the same effect as delivery of an executed original of this Agreement.

12.14 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by one of the Parties to the other Party shall be in writing, delivered by any lawful means to such other Party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and (except as otherwise provided in this Agreement) shall be effective upon receipt by the addressee.

If to Hengrui: **Jiangsu Hengrui Medicine Co., Ltd.**
7 Kunlunshan Road,
Economy and Technology Development Zone.
Lianyungang, Jiangsu,
China

[***]

with a copy to (which will not constitute notice):

Greenberg Traurig, LLP
One International Place, Suite 2000
Boston, MA 02110
Attention: Fang Xie, Ph.D.

If to Arcutis: **Arcutis, Inc.**
70 Willow Road, Suite 200
Menlo Park, CA 94025 USA
Attention: President

with a copy to (which will not constitute notice):

Fenwick and West, LLP
555 California St.
12th Floor
San Francisco, CA 94104
Attention: Matt Rossiter; Stefano Quintini

[signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date.

Jiangsu Hengrui Medicine Co., Ltd.

By: /s/ Piaojiang Sun

Name: Piaojiang Sun

Title: Chairman of the Board

Arcutis, Inc.

By: /s/ Bhaskar Chaudhuri

Name: Bhaskar Chaudhuri

Title: Executive Chairman

**Exhibit A
Licensed Patent Rights**

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Exhibit B
Option Period Studies

[***]

**AMENDMENT NO. 1 TO
EXCLUSIVE OPTION AND LICENSE AGREEMENT**

THIS AMENDMENT NO. 1 (this "**Amendment**") to the Exclusive Option and License Agreement dated as of January 4, 2018 (the "**Agreement**"), by and between Arcutis, Inc., a United States corporation incorporated in the State of Delaware ("**Arcutis**") and Jiangsu Hengrui Medicine Co., Ltd., a Chinese corporation ("**Hengrui**") is entered into as of _____, 2019 (the "**Amendment Effective Date**").

RECITALS

A. Pursuant to the Agreement, Hengrui granted Arcutis an exclusive option to obtain an exclusive license under the Licensed Technology for the development of topical therapeutic products.

B. The parties now desire to amend the Agreement to extend the Option Period.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Definitions. Except as defined in this Amendment, the capitalized terms used herein shall have the same meanings as ascribed to them in the Agreement.

2. Amendment. Section 1.24 (Option Period) is hereby deleted and replaced with the following:

"Option Period" means the period of time commencing on the Effective Date and ending on January 1, 2020.

3. Effect of Amendment. The parties agree that this Amendment shall be deemed to have been in full force and effective as of the Amendment Effective Date. All the terms and conditions of the Agreement shall continue in full force and effect except as modified by the terms of this Amendment.

4. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which taken together constitute one instrument.

IN WITNESS WHEREOF, Arcutis and Hengrui have caused this Amendment to be executed and delivered by their respective officers thereunto duly authorized, all as of the Amendment Effective Date.

Arcutis, Inc.

Jiangsu Hengrui Medicine Co., Ltd.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

CERTAIN IDENTIFIED INFORMATION HAS BEEN OMITTED FROM THIS DOCUMENT BECAUSE IT IS BOTH NOT MATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED, AND HAS BEEN MARKED WITH “[***]” TO INDICATE WHERE OMISSIONS HAVE BEEN MADE.

FORMULATION COLLABORATION AGREEMENT

THIS FORMULATION COLLABORATION AGREEMENT (this “**Agreement**”) is made as of June 28, 2019 (the “**Effective Date**”), by and between **HAWKEYE THERAPEUTICS, INC.**, a Delaware corporation, with its principal place of business located at 70 Willow Road, Menlo Park, CA 94025 (“**Hawkeye**”), and Arcutis, Inc., a Delaware corporation, having its principal place of business at 2945 Townsgate Road, Suite 110, Westlake Village, CA 91361 (“**Arcutis**”). Hawkeye and Arcutis are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, Hawkeye is a biotechnology company established with the intent to research and develop pharmaceutical products for [***] indications;

WHEREAS, Arcutis is a biopharmaceutical company focused on developing and commercializing pharmaceutical products for dermatological indications, including formulations of roflumilast for dermatological uses; and

WHEREAS, Hawkeye and Arcutis desire to collaborate on the research and development of one or more [***] formulations of roflumilast, all under the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and premises contained in this Agreement, the receipt and sufficiency of which are hereby expressly acknowledged, the Parties hereto agree as follows:

1. CERTAIN DEFINITIONS.

1.1 “Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

1.2 “Arcutis Know-How” shall mean information, procedures, techniques, and other Know-How Controlled by Arcutis as of the Effective Date or at any time during the Term, in each case that are necessary for the development of, or incorporated into, the [***] Formulations.

1.3 “Arcutis Personnel” shall mean: (a) [***]; and (b) any other employees of Arcutis who are engaged to conduct activities under the Collaboration by the Parties’ mutual written agreement.

1.4 “Collaboration” shall mean the activities set forth in the Collaboration Plan for the research and development of [***] Formulations.

1.5 “Collaboration IP” shall mean: (a) any and all Know-How (for clarity including formulations and products) arising from, or developed during, the Collaboration by or on behalf of Arcutis, either solely or jointly with others or with Hawkeye; and (b) any and all intellectual property rights in and to the Know-How described in subsection (a), including any patent applications and patents claiming or describing such Know-How.

1.6 “Collaboration Plan” has the meaning set forth in Section 2.1.

1.7 “Common Stock” means the common stock, par value \$0.0001, of Hawkeye.

1.8 “Control” means, with respect to any information or other intellectual property right, or physical materials, ownership or possession by a Party, or, where expressly provided, its affiliates, of the ability (without taking into account any rights granted by one Party to the other Party under the terms of this Agreement) to grant access, a license or a sublicense to such information or other intellectual property right, or physical materials without violating the terms of any agreement or other arrangement with, or necessitating the consent of, any third party, or without giving rise to any financial or other obligation to any third party, at such time that the Party would be first required under this Agreement to grant the other Party such access, license or sublicense.

1.9 “Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

1.10 “IPO” means Hawkeye’s first underwritten public offering of its Common Stock under the Act.

1.11 “Know-How” means all technical information, know-how, results, data, inventions, discoveries, trade secrets, specifications, instructions, processes, protocols, formulae, compositions of matter, products, formulations, assays, and other physical, biological, or chemical materials, expertise, together with all documents, data, filings and instructions relating thereto. Know-How excludes patent applications and patents.

1.12 “[*] Indications”** shall mean [***]

1.13 “[*] Formulations”** shall mean products containing roflumilast that are formulated [***] which may include but are not limited to [***].

1.14 “Person” means any individual, corporation, partnership, trust, limited liability company, association or other entity.

1.15 “Territory” means worldwide.

2. COLLABORATION.

2.1 Collaboration Plan; Overview. As of the Effective Date, the Parties have agreed on a plan setting forth the scope and timeline of the Collaboration, attached to this Agreement as Exhibit A (the “**Collaboration Plan**”). The Collaboration Plan may be modified only by the Parties’ mutual written consent, provided that neither Party shall unreasonably withhold its

consent to any modification that is reasonably supported by scientific, commercial or intellectual property considerations. Subject to the terms and conditions of this Agreement, during the Term the Parties shall carry out the activities set forth in the Collaboration Plan and collaborate to accomplish the objective of developing one or more [***] Formulations.

2.2 Arcutis Personnel. Arcutis shall carry out the Collaboration through Arcutis Personnel, and shall ensure that such Arcutis Personnel understand and agree to abide by the terms and conditions of this Agreement and to segregate the activities under the Collaboration from other activities carried out by such Arcutis Personnel on behalf of Arcutis. Arcutis shall not engage any employee, consultant or other subcontractor other than the Arcutis Personnel in the Collaboration without the prior written consent of Hawkeye, which consent shall not be unreasonably withheld, conditioned or delayed. [***]

2.3 Compliance with the Law. Each Party shall carry out the Collaboration in a competent and professional manner, in accordance with the terms and conditions contained in this Agreement, and in compliance with all applicable laws, rules and regulations.

2.4 [***]

(a) [***]

(b) [***]

[***]

3. EQUITY AND PAYMENT.

3.1 Common Stock Purchase. As consideration for, and commensurate with, the execution and delivery of this Agreement, Hawkeye will grant Arcutis the right to purchase 995,000 fully-vested shares of Common Stock (equal to 19.9% of the issued and outstanding shares of the Common Stock of Hawkeye, inclusive of the Common Stock issued and sold to Arcutis pursuant to this Section 3.1) at the fair market value as determined by the board of directors of Hawkeye on the date of grant (the “**Grant**”). The Grant will be governed by the terms and conditions of Hawkeye’s standard form of common stock purchase agreement as agreed between the parties.

3.2 Additional Common Stock. Except in the event that this Agreement is terminated pursuant to Section 7.2 due to a material breach by Arcutis, if and when Hawkeye (a) issues and sells to investors in a bona fide equity financing (the “**Series A Financing**”) shares of its preferred stock (the “**Series A Preferred Stock**”), and (b) receives total proceeds of at least \$5,000,000 (excluding the conversion of convertible promissory notes or other convertible securities issued for capital raising purposes (e.g., Simple Agreements for Future Equity)), Hawkeye shall issue to Arcutis a number of fully-paid and fully-vested shares of Common Stock (pursuant to the same form of common stock purchase agreement contemplated in Section 3.1 as applicable) determined by dividing (i) \$2,000,000, by (ii) an amount equal to the cash price paid per share for Series A Preferred Stock by the investors in the Series A Financing, rounded down to the nearest whole share.

3.3 Further Assurances. Arcutis will deliver to Hawkeye any documentation reasonably required by Hawkeye, and consistent with documentation requested of other Hawkeye stockholders, including any purchase agreement, any investor rights agreement, any stockholder or voting agreement, right of first refusal and co-sale agreement and other ancillary agreements, with customary representations and warranties and transfer restrictions (including, without limitation, a lock-up agreement in connection with an initial public offering). Hawkeye shall not be required to issue or deliver the capital stock subject to Section 3.2 until Arcutis has delivered to Hawkeye any such documentation.

3.4 Reimbursement for Services. Hawkeye shall reimburse Arcutis for all expenses incurred by Arcutis during the Term in carrying out activities in accordance with the Collaboration Plan, including support for the Arcutis Personnel at \$[***], and reimbursement for costs of materials and equipment, pass-through expenses, and travel expenses to the extent requested and approved in advance by Hawkeye.

3.5 Invoices; Payment. Unless otherwise agreed by the Parties in writing, Arcutis shall provide to Hawkeye invoices on a monthly basis within ten (10) days after the end of each calendar month, each such invoice summarizing the services performed during that period of time for research and development of [***] Formulations under this Agreement and an accounting of costs and expenses incurred and accrued to date for the reimbursable expenses therefor. Hawkeye shall pay the full undisputed portion of each invoice within thirty (30) days of receipt thereof, and shall concurrently provide Arcutis with a written statement and supporting documentation regarding the unpaid amounts disputed in good faith. Hawkeye shall not be obligated to pay any amounts that exceed the budget set forth in the Collaboration Plan, unless such excess amounts have been approved in writing by Hawkeye in advance.

3.6 Records Audit. Hawkeye, through an independent accounting firm appointed by Hawkeye and reasonably acceptable to Arcutis, subject to written confidentiality obligations at least as protective as those contained herein (such accounting firm, the “**Auditor**”), at Hawkeye’s sole expense, shall have the right to audit Arcutis’s financial records relating to payments received under this Agreement for the sole purpose of verifying the accuracy of such payments during the Term and for three (3) years thereafter; *provided*, that any such audit(s) shall be conducted upon reasonable advance written notice, in any event no less than thirty (30) days prior written notice, to Arcutis and during Arcutis’s normal business hours, in a manner that does not interfere with Arcutis’s business activities. Hawkeye agrees to, and to cause the Auditor to, hold in confidence all information received and all information learned in the course of any audit or inspection, except to the extent that such information is not confidential and/or it is necessary to disclose it to enforce its rights under this Agreement or if disclosure is required by applicable law. For the avoidance of doubt, the information provided by Arcutis pursuant to this Section 3.6 shall be deemed to be Confidential Information of Arcutis hereunder.

4. OWNERSHIP OF COLLABORATION IP.

4.1 Collaboration IP. [***]

4.2 Assignment; Further Action. [***]

4.3 Patent Prosecution. [***]

4.4 Records of Collaboration IP. [***]

4.5 License Grants.

(a) Subject to the terms and conditions of this Agreement, Arcutis hereby grants to Hawkeye a perpetual, irrevocable, fully-paid, royalty-free, non-exclusive license, with the right to grant sublicenses, under the Arcutis Know-How to research, develop, manufacture, have manufactured, use, sell, offer for sale, import, export or otherwise commercialize products [***]

(b) Subject to the terms and conditions of this Agreement, Hawkeye hereby grants to Arcutis a perpetual, irrevocable, fully-paid, royalty-free, exclusive (other than the right to research, manufacture and have manufactured, which shall be non-exclusive) license, with the right to grant sublicenses [***] Hawkeye shall retain the sole and exclusive right (as to Arcutis) to practice and exploit the Collaboration IP for any and all other purposes, including to research, develop, manufacture, have manufactured, use, sell, offer for sale, import, export or otherwise commercialize [***]

4.6 Other Intellectual Property. The licenses granted under Section 4.5 do not include the right for Hawkeye to practice any patent applications, patents or other Know-How other than the Arcutis Know-How, whether owned or in-licensed by Arcutis or a third party (collectively, the “**Excluded IP**”) unless and until the Parties otherwise agree in a separate license agreement. Prior to the use of any Excluded IP in the Collaboration or incorporating any Excluded IP in an [***] Formulation, Arcutis shall notify Hawkeye and identify such Excluded IP and obtain Hawkeye’s written consent to do so.

4.7 No Implied License. Neither Hawkeye nor Arcutis transfers to the other by operation of this Agreement any patent right, copyright right, trademark right or other proprietary right of any Party, except as expressly set forth in this Agreement.

5. CONFIDENTIALITY.

5.1 Confidentiality Obligation. During the term of this Agreement and for a period of five (5) years thereafter, each Party (the “**Receiving Party**”) will maintain all Confidential Information (as defined below) of the other Party (the “**Disclosing Party**”) as confidential and will not disclose any such Confidential Information or use any such Confidential Information for any purpose, except (a) as expressly authorized by this Agreement, (b) as permitted by Section 5.3, for the purpose of exercising its rights or fulfilling its obligations under this Agreement, or (d) to its employees, agents, consultants, subcontractors approved by the Disclosing Party and other representatives who require access to such information to accomplish the purposes of this Agreement, so long as such persons are under obligations regarding the confidentiality of such Confidential Information and the ownership of Collaboration IP that are consistent with, and no less protective to the Disclosing Party than, the terms of this Agreement. The Receiving Party may use the Disclosing Party’s Confidential Information only to the extent required to accomplish the purposes of this Agreement. The Receiving Party will use at least the same standard of care as it uses to protect its own confidential information to ensure that its

employees, agents, consultants, subcontractors approved by the Disclosing Party and other representatives do not disclose or make any unauthorized use of the Disclosing Party's Confidential Information. The Receiving Party will promptly notify the Disclosing Party upon discovery of any unauthorized use or disclosure of the Disclosing Party's Confidential Information.

5.2 Definition. For the purpose of this Agreement, with respect to each Party, "**Confidential Information**" means all information provided by or on behalf of the Disclosing Party to the Receiving Party in connection with this Agreement, whether in oral, written, graphic or electronic form. Notwithstanding the foregoing, a Disclosing Party's Confidential Information will not include any information which a Receiving Party can demonstrate by competent evidence: (a) is now, or hereafter becomes, through no act or failure to act on the part of the Receiving Party or any of its employees, agents, consultants or subcontractors, generally known or available; (b) is known by the Receiving Party at the time of receiving such information or is independently developed by the Receiving Party without access to or use of the Disclosing Party's Confidential Information, as evidenced by the Receiving Party's pre-existing written records; or (c) is hereafter furnished to the Receiving Party by a third party, as a matter of right and without restriction on disclosure. Collaboration IP shall constitute Hawkeye's Confidential Information under this Agreement.

5.3 Authorized Disclosure. Notwithstanding Section 5.1, the Receiving Party may disclose the Disclosing Party's Confidential Information, without violating its obligations under this Agreement, to the extent the disclosure is required by applicable law or by a valid order of a court or other governmental body having jurisdiction, provided that the Receiving Party gives reasonable prior written notice to the Disclosing Party of such required disclosure and, at the Disclosing Party's request and expense, cooperates with the Disclosing Party's efforts to obtain a protective order preventing or limiting the disclosure, requiring that the Disclosing Party's Confidential Information so disclosed be used only for the purposes for which the law or order requires, and/or to obtain other confidential treatment of such Confidential Information.

5.4 Third Party Confidential Information. Neither Party shall disclose to the other Party any confidential or proprietary information that belongs to any third party.

6. REPRESENTATIONS AND WARRANTIES.

6.1 Mutual Representations and Warranties. Each Party represents and warrants that (a) it has full power and authority to enter into this Agreement, (b) this Agreement has been duly authorized, and (c) this Agreement is binding upon it.

6.2 Arcutis Representations and Warranties. Arcutis represents and warrants that: (a) the terms of this Agreement are not inconsistent with its other contractual arrangements; and (b) Arcutis is not constrained by any existing agreement in fulfilling its obligations under this Agreement, including the assignment of rights and grant of the licenses under Article 4.

6.3 Disclaimer of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY TO THE OTHER PARTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

6.4 Limitation of Liability. EXCEPT FOR BREACH OF ARTICLE 5, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, LOST SAVINGS, OR ANY OTHER INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OTHER THAN DAMAGES ARISING OUT OF FRAUD OR WILLFUL MISCONDUCT; *provided, however*, that this Section 6.4 shall not be construed to limit either Party's indemnification obligations under Article 8.

7. TERM AND TERMINATION.

7.1 Term. The term of this Agreement (the "**Term**") shall commence on the Effective Date and shall continue for a period of six (6) months after the Effective Date, unless extended by a written mutual agreement of the Parties.

7.2 Termination of Agreement for Material Breach. A Party may terminate this Agreement for material breach of this Agreement by the other Party upon thirty (30) days' written notice specifying the nature of the breach, if such breach has not been cured within such thirty (30)-day period.

7.3 Effects of Expiration or Termination.

(a) Costs Incurred. In the event of expiration or termination of this Agreement, Hawkeye shall pay to Arcutis all sums owing to Arcutis for Collaboration completed up to the expiration date or effective termination date and all non-cancelable obligations reasonably incurred before such date. Subject to the preceding sentence, Arcutis shall refund to Hawkeye any prepaid amounts not earned by Arcutis prior to the expiration date or effective date of such termination.

(b) Final Report of Collaboration IP. Arcutis shall provide Hawkeye with a final report on the Collaboration IP within thirty (30) days after the expiration date or the effective date of termination, as the case may be.

(c) Survival. Expiration or termination of this Agreement will not relieve the Parties of any obligation accruing prior to such expiration or termination. Articles 1, 5, 8 and 9 and Sections 2.4, 2.5, 3.2 (other than termination of this Agreement under Section 7.2 for Arcutis' material breach), 3.6, 4.1, 4.2, 4.3, 4.4, 4.5, 6.3, 6.4, 7.2 and this 7.3(c) shall survive expiration or termination of this Agreement.

8. INDEMNIFICATION.

8.1 Hawkeye Indemnification. Hawkeye hereby agrees to save, defend, indemnify and hold harmless Arcutis and its officers, directors, employees, consultants and agents ("**Arcutis Indemnitees**") from and against any and all losses, damages, liabilities, expenses and costs, including reasonable legal expense and attorneys' fees ("**Losses**"), to which any such

Arcutis Indemnitee may become subject as a result of any claim, demand, action or other proceeding by any third party to the extent such Losses arise out of the material breach by Hawkeye of any representation, warranty, covenant or agreement made by it under this Agreement, the practice or exploitation of the Arcutis Know-How under the license granted to it under this Agreement, or the gross negligence or willful misconduct of any Hawkeye Indemnitee; except, in each case, to the extent such Losses result from the material breach by Arcutis of any representation, warranty, covenant or agreement made by it under this Agreement or the negligence or willful misconduct of any Arcutis Indemnitee.

8.2 Arcutis Indemnification. Arcutis hereby agrees to save, defend, indemnify and hold harmless Hawkeye and its officers, directors, employees, consultants, contractors and agents (“Hawkeye Indemnitees”) from and against any and all Losses to which any such Hawkeye Indemnitee may become subject as a result of any claim, demand, action or other proceeding by any third party to the extent such Losses arise out of the material breach by Arcutis of any representation, warranty, covenant or agreement made by it under this Agreement, the practice or exploitation of the Collaboration IP under the license granted to it under this Agreement or the gross negligence or willful misconduct of any Arcutis Indemnitee; except, in each case, to the extent such Losses result from the material breach by Hawkeye of any representation, warranty, covenant or agreement made by it under this Agreement or the gross negligence or willful misconduct of any Hawkeye Indemnitee.

8.3 General Conditions of Indemnification. A Party’s agreement to indemnify, defend and hold the other Party (the “**Indemnified Party**”) and its related entities harmless is conditioned upon the Indemnified Party: (a) providing written notice to the first Party (the “**Indemnifying Party**”) of any claim, demand or action arising out of the indemnified activities within thirty (30) days after the Indemnified Party has knowledge of such claim, demand or action; (b) permitting the Indemnifying Party to assume full responsibility and authority to investigate, prepare for and defend against any such claim or demand; (c) assisting the Indemnifying Party, at the Indemnifying Party’s reasonable expense, in the investigation of, preparation for and defense of any such claim or demand; and (d) not compromising or settling such claim or demand without the Indemnifying Party’s written consent.

9. MISCELLANEOUS.

9.1 Independent Contractor Relationship. Nothing contained in this Agreement shall be deemed to constitute a partnership, joint venture, or legal entity of any type between Arcutis and Hawkeye, or to constitute one as the agent of the other. Moreover, each Party agrees not to construe this Agreement, or any of the transactions contemplated hereby, as a partnership for any tax purposes. Each Party shall act solely as an independent contractor, and nothing in this Agreement shall be construed to give any Party the power or authority to act for, bind, or commit the other.

9.2 Minimum Financing Amount. Commensurate with this Agreement, Hawkeye shall issue and sell one or more convertible promissory notes having an aggregate principal amount of at least \$500,000.

9.3 Legal Review. Notwithstanding anything contained in this Agreement to the contrary, each of the Parties will be responsible for their own legal fees and associated costs and expenses associated with the matters contemplated in these terms.

9.4 Use of Names. Neither Party shall use the other Party's name or the names of the other Party's employees in any advertising or sales promotional material or in any publication without prior written permission of the other Party.

9.5 Force Majeure. In the event of a delay caused by inclement weather, fire, flood, act of war, act of terrorism, act of God, act of governmental officials or agencies, or any like cause beyond the control of the Parties, the Party or Parties so affected shall be excused from performance hereunder for the period of time attributable to such delay, which may extend beyond the time lost due to one or more of the causes mentioned above. In the event of any such delay, the Parties may, in their sole discretion, revise this Agreement by changing the schedule of payments, the performance period, and other provisions, as appropriate, by mutual written agreement.

9.6 Applicable Law; Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of California, without regard to its conflicts of laws principles. Each Party: (a) irrevocably and unconditionally consents and submits to the jurisdiction of the state and federal courts located in San Francisco, California for purposes of any action, suit or proceeding arising out of or relating to this Agreement; (b) agrees that service of any process, summons, notice or document by U.S. registered mail to the address given on the signature page of this Agreement shall be effective service of process for any such action, suit or proceeding brought against such Party; (c) irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of or relating to this Agreement in any state or federal court located in San Francisco, California; and (d) irrevocably and unconditionally waives the right to plead or claim, and irrevocably and unconditionally agrees not to plead or claim, that any action, suit or proceeding arising out of or relating to this Agreement that is brought in any state or federal court located in San Francisco, California been brought in an inconvenient forum.

9.7 Injunctive Relief. Each Party hereby acknowledges and agrees that in the event of such Party's breach of any provision of this Agreement relating to Confidential Information and/or intellectual property (including, without limitation, Article 4 and Article 5), the other Party would suffer an irreparable injury such that no remedy at law would adequately protect or appropriately compensate such other Party for such injury. Accordingly, each Party agrees that the other Party shall have the right to enforce this Agreement and any of such provisions by injunction, specific performance or other equitable relief, without bond and without prejudice to any other rights and remedies that the other Party may have for a breach of this Agreement.

9.8 Entire Agreement; Amendment. This Agreement constitutes the final, complete and exclusive agreement of the Parties with respect to the subject matter hereof and supersedes all prior understandings and agreements relating to its subject matter. This Agreement may not be changed, modified, amended or supplemented except by a written instrument signed by an authorized representative of each of Hawkeye and Arcutis.

9.9 Successors and Assigns. Neither Party may assign this Agreement without the prior written consent of the other Party; *provided, however,* that each Party may assign this Agreement without the other Party's consent to its affiliates or in connection with the transfer or sale of all or substantially all of its stock, assets or business to which this Agreement relates, whether by merger, sale of stock, sale of assets or otherwise. Any attempted assignment of this Agreement not in compliance with this Section 9.9 shall be null and void. No assignment shall relieve either Party of the performance of any accrued obligation that such Party may then have under this Agreement. This Agreement shall inure to the benefit of and be binding upon each Party signatory hereto, its successors and permitted assigns, subsidiaries and affiliates.

9.10 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable, then such provision will be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Agreement. The remainder of this Agreement will remain in full force and effect, unless the severed provision is essential and material to the rights or benefits received by either Party. In such event, the Parties will negotiate, in good faith, and substitute a valid and enforceable provision or agreement that most nearly implements the Parties' intent in entering into this Agreement.

9.11 Non-Waiver. No failure or delay of one of the Parties to insist upon strict performance of any of its rights or powers under this Agreement shall operate as a waiver thereof, nor shall any other single or partial exercise of such right or power preclude any other further exercise of any rights or remedies provided by law.

9.12 Notices. Any notice to be given under this Agreement must be in writing and delivered either in person, by any method of mail (postage prepaid) requiring return receipt, or by overnight courier, to the Party to be notified at its address(es) given below, or at any address such Party has previously designated by prior written notice to the other. Notice shall be deemed sufficiently given for all purposes upon the earliest of: (a) the date of actual receipt; (b) if mailed, three (3) days after the date of postmark; or (c) if delivered by express courier, the next business day the courier regularly makes deliveries to the addressee's location.

If to Hawkeye:

c/o Frazier Healthcare Partners 70 Willow Rd.
Menlo Park, CA 94025
Attention: Dan Estes

If to Arcutis:

Arcutis, Inc.
2945 Townsgate Road, Suite 110 Westlake
Village, CA, 91361
Attention: President

9.13 Interpretation. The headings of clauses contained in this Agreement preceding the text of the sections, subsections and paragraphs hereof are inserted solely for convenience and ease of reference only and shall not constitute any part of this Agreement, or have any effect on its interpretation or construction. All references in this Agreement to the singular shall include

the plural where applicable. Unless otherwise specified, references in this Agreement to any section shall include all subsections and paragraphs in such Section and references in this Agreement to any subsection shall include all paragraphs in such subsection. All references to days in this Agreement shall mean calendar days, unless otherwise specified. Ambiguities and uncertainties in this Agreement, if any, shall not be interpreted against either Party, irrespective of which Party may be deemed to have caused the ambiguity or uncertainty to exist. This Agreement has been prepared in the English language, and the English language shall control its interpretation. In addition, all notices required or permitted to be given hereunder, and all written, electronic, oral or other communications between the Parties regarding this Agreement, shall be in the English language.

9.14 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile or PDF signatures, which signatures shall have the same force and effect as original signatures.

[signature page follows]

IN WITNESS WHEREOF, the parties have by duly authorized persons executed this Formulation Collaboration Agreement as of the Effective Date.

HAWKEYE THERAPEUTICS, INC.

By: /s/Daniel J. Estes
Name: Daniel J. Estes
Title: Chief Executive Officer
Date: June 28, 2019

ARCUTIS, INC.

By: /s/ Frank Watanabe
Name: Frank Watanabe
Title: President
Date: June 28, 2019

1. [***]

TRANSITION AND AMENDMENT AGREEMENT

This Transition and Amendment Agreement (this “**Agreement**”) is made and entered into as of December 13, 2019 (the “**Transition Date**”) by and between Dr. Bhaskar Chaudhuri (the “**Dr. Chaudhuri**”) and Arcutis Biotherapeutics, Inc., a Delaware limited liability company (the “**Company**”) and together with the Dr. Chaudhuri, the “**Parties**” and each, a “**Party**”).

RECITALS

WHEREAS, the Parties previously entered into that certain Consulting Agreement dated August 16, 2016 (together, the “**Consulting Agreement**”), pursuant to which Dr. Chaudhuri agreed to serve as Chair of the Company’s board of directors (the “**Board**”).

WHEREAS, the Parties have agreed to end Dr. Chaudhuri’s service as Chair of the Board, effective as of the Transition Date.

WHEREAS, in connection with such transition, the Parties also mutually desire, in order to clarify, confirm and harmonize the equity vesting arrangements that will apply to Company equity held by Dr. Chaudhuri in connection with his continued service as a member of the Board, to amend certain terms of (1) that certain Stock Purchase Agreement dated as of August 16, 2016 (the “**Stock Purchase Agreement**”) and (2) that certain Notice of Stock Option Grant and Stock Option Agreement, each dated as of March 13, 2019 (the “**March 2019 Stock Option Agreement**”).

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises herein contained, and for other valid consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Termination of Consulting Agreement. The Parties hereby agree to terminate the Consulting Agreement, effective as of the Transition Date. The Parties each hereby waive any notice requirements with respect to such termination under the Consulting Agreement.

2. Amendment to Section 5(a) of the Stock Purchase Agreement. In connection with Dr. Chaudhuri’s continued service as a member of the Board and in order to confirm that the stock purchased pursuant to the Stock Purchase Agreement will continue to vest in connection with such Board service, the Parties agree that Section 5(a) of the Stock Purchase Agreement is hereby amended to provide that “**employed by the Company,**” as such term is used in the Stock Purchase Agreement, shall mean that Dr. Chaudhuri is rendering substantial services as an officer, employee, consultant, independent contractor or director to the Company or to any affiliate of the Company, as determined by the Board.

3. Amendment to Notice of Stock Option Grant Vesting Schedule. In addition, the Parties agree that the Notice of Stock Option Grant associated with the March 2019 Stock Option Agreement is hereby amended, such that the second paragraph of the section entitled “Vesting Schedule” as set forth on the Notice of Stock Option Grant is replaced in its entirety with the following:

“In addition to the vesting arrangements outlined above and notwithstanding anything to the contrary in the Stock Option Agreement, the following vesting acceleration terms (the “**Vesting Acceleration Terms**”) shall apply:

If a Change of Control occurs prior to the termination of Optionee’s arrangement to provide services to the Corporation, then the vesting of all shares subject to the Option shall accelerate in full, effective as of the closing of the Change of Control.

“**Change of Control**” will mean the occurrence of any of the following events:

- (i) Any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) becomes the “beneficial owner” (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing more than 50% of the total voting power represented by the Company’s then outstanding voting securities; or
- (ii) The consummation of the sale or disposition by the Company of all or substantially all of the Company’s assets; or
- (iii) The consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least 50% of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation.

Notwithstanding the foregoing provisions of this definition, a transaction will not be deemed a Change of Control unless the transaction qualifies as a “change in control event” within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended.”

4. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed and delivered by each of the parties hereto.

5. Governing Law. This Agreement shall be construed exclusively in accordance with, and governed in all respects exclusively by, the internal laws of the State of California (without giving effect to principles of conflicts of laws).

6. Entire Agreement. This Agreement sets forth the entire agreement and understanding between the parties hereto concerning the subject matter herein, and supersedes all prior written and oral understandings relating to such subject matter.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Transition and Amendment Agreement as of the date first written above.

DR. CHAUDHURI

By: /s/ Bhaskar Chaudhuri

Name: Bhaskar Chaudhuri

COMPANY

By: /s/ Todd Franklin Watanabe

Name: Todd Franklin Watanabe

Title: Chief Executive Officer

[SIGNATURE PAGE TO TERMINATION AGREEMENT]

**OPTION NOTICE AND AMENDMENT NO. 2 TO
EXCLUSIVE OPTION AND LICENSE AGREEMENT**

THIS OPTION NOTICE AND AMENDMENT NO. 2 (this “**Notice and Amendment**”) to the Exclusive Option and License Agreement dated as of January 4, 2018 and amended on June 26, 2019 (the “**Agreement**”), by and between Arcutis Biotherapeutics, Inc., a United States corporation incorporated in the State of Delaware (“**Arcutis**”) and Jiangsu Hengrui Medicine Co., Ltd., a Chinese corporation (“**Hengrui**”) is entered into as of 5 December, 2019 (the “**Effective Date**”).

RECITALS

A. Pursuant to the Agreement, Hengrui granted Arcutis an exclusive option to obtain an exclusive license under the Licensed Technology for the development of topical therapeutic products.

B. Arcutis now elects to exercise the Option as set forth in the Agreement, and the parties desire to enter into this Notice and Amendment to confirm the exercise of the Option and amend the term “Territory” under the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Definitions. Except as defined in this Notice and Amendment, the capitalized terms used herein shall have the same meanings as ascribed to them in the Agreement.
2. Exercise of Option.
 - a. Arcutis hereby exercises the Option in accordance with Section 2.6 of the Agreement.
 - b. Arcutis has paid Forty Thousand Dollars (\$40,000) of withholding taxes to the U.S. Department of Treasury Internal Revenue Service on Hengrui’s behalf in addition to and in respect of the Upfront Payment paid to Hengrui on January 30, 2018, and is required to withhold One Hundred and Fifty Thousand Dollars (\$150,000) of withholding taxes on Hengrui’s behalf for the Option Exercise Payment upon the exercise of the Option. Accordingly, the parties agree that One Hundred and Ninety Thousand Dollars (\$190,000) shall be deducted from the payment to Hengrui for Option Exercise Payment.
 - c. Upon execution of this Notice and Amendment by the parties, Arcutis shall pay the remaining Option Exercise Payment in the amount of One Million Three Hundred and Ten Thousand Dollars (\$1,310,000) to Hengrui.
3. Amendment. Section 1.36 (Territory) is hereby deleted and replaced with the following:

“**Territory**” means (a) the United States, (b) Canada, (c) Japan, (d) the countries of the European Union as of the Effective Date (including the United Kingdom and all of its component nations, as of the Effective Date), whether or not remaining in the European Union following the Effective Date, (e) any other country that becomes part of the European Union at any time following the Effective Date, and (f) any territory or possession of any of the foregoing.
4. Effect of Notice and Amendment. The parties agree that this Notice and Amendment shall be deemed to have been in full force and effective as of the Effective Date. All the terms and conditions of the Agreement shall continue in full force and effect except as modified by the terms of this Notice and Amendment.

5. Counterparts. This Notice and Amendment may be executed in counterparts, each of which shall be deemed an original and all of which taken together constitute one instrument.

IN WITNESS WHEREOF, Arcutis and Hengrui have caused this Notice and Amendment to be executed and delivered by their respective officers thereunto duly authorized, all as of the Effective Date.

Arcutis Biotherapeutics, Inc.

By: /s/ Frank Watanabe

Name: Frank Watanabe

Title: President and CEO

Date: 5 December 2019

Jiangsu Hengrui Medicine Co., Ltd.

By: /s/ Lianshan Zhang

Name: Lianshan Zhang

Title: SVP

Date: 2019/12/06

ARCUTIS BIOTHERAPEUTICS, INC.
SEVERANCE & CHANGE IN CONTROL AGREEMENT

This Severance & Change in Control Agreement (the “**Agreement**”), is entered into by and between _____ (the “**Executive**”) and Arcutis Biotherapeutics, Inc., a Delaware (the “**Company**”), and is effective as of the first date on which the Registration Statement on Form S-1 for the initial public offering of the Company’s Common Stock is declared effective by the United States Securities and Exchange Commission (the “**IPO Date**”), or, if later, the date that this Agreement is signed (the “**Effective Date**”).

1. TERM OF AGREEMENT.

This Agreement shall terminate on the earlier of (i) the date Executive’s employment with the Company terminates for a reason other than a Qualifying Termination, or (ii) the date the Company has met all of its obligations under this Agreement following a Qualifying Termination (the “**Expiration Date**”).

2. SEVERANCE BENEFIT.

Executive’s receipt of any payments or benefits under Section 2 is subject to Executive’s delivery to the Company of a general release (in a form prescribed by the Company) of all known and unknown claims that he or she may then have against the Company or persons affiliated with the Company (the “**Release**”), and satisfaction of all conditions to make the Release effective, within sixty (60) days (or such shorter period required by the Company) (the “**Release Period**”) following Executive’s Qualifying Termination, notwithstanding any other provision of this Agreement. In no event will any payment or benefits under Section 2 be paid or provided until the Release becomes effective and irrevocable.

(a) **Qualifying Termination Outside of a Change in Control Period.** If the Executive is subject to a Qualifying Termination outside of a Change in Control Period, the Executive shall be entitled to the following:

(i) **Severance Payments.** The Company shall pay Executive (x) [CEO: twelve (12) months] [C-Level/Senior Vice Presidents: nine (9) months] of Executive’s base salary at the rate in effect immediately prior to the Qualifying Termination (the “**Severance**”). The Severance shall be paid out in substantially equal installments in accordance with the Company’s payroll practice over the total number of months of Severance commencing the first payroll period more than 60 days after the Qualifying Termination, subject to the Release becoming effective prior to such time (with the first payment to include all amounts that otherwise would have been paid through such date). Solely for purposes of Section 409A of the Code, each installment payment is considered a separate payment.

(ii) **Health Care Benefit.** If the Executive elects to continue his or her health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act (“**COBRA**”) following the termination of Executive’s employment, then the Company shall pay, or reimburse, the Executive’s monthly premium for Executive and his or her covered dependents under COBRA until the earliest of (A) [CEO: twelve (12) months] [C-Level/Senior Vice Presidents: nine (9) months], (B) the date when the Executive receives similar coverage with a new employer or (C) the

expiration of the Executive's continuation coverage under COBRA; provided that on the first date such amounts become payable as described above, the Company shall pay to Executive a lump sum cash payment equal to the monthly premiums that would have been paid on behalf of Executive had such payments commenced on the date of the Qualifying Termination. Notwithstanding the foregoing, the Company may elect that, in lieu of paying or reimbursing the premiums, the Company shall instead provide Executive with a monthly cash payment equal to the amount the Company would have otherwise paid pursuant to this Section 2(a)(ii), less applicable tax withholdings.

(b) **Qualifying Termination During a Change in Control Period.** If Executive is subject to a Qualifying Termination during a Change in Control Period, Executive shall be entitled to the following:

(i) **Severance Payments.** The Company shall pay Executive (x) [CEO: eighteen (18) months] [C-Level/Senior Vice Presidents: twelve (12) months] of Executive's base salary at the rate in effect immediately prior to the Qualifying Termination or the Change in Control, whichever is greater, and (y) [CEO: 1.5 times] [C-Level/Senior Vice Presidents: 1 times] Executive's annual bonus for the then-current fiscal year based on 100% of target performance of any applicable performance objectives (together, the "**CIC Severance**"). The CIC Severance shall be paid out in substantially equal installments in accordance with the Company's payroll practice over the total number of months of CIC Severance commencing the first payroll period more than 60 days after the Qualifying Termination, subject to the Release becoming effective prior to such time (with the first payment to include all amounts that otherwise would have been paid through such date). Solely for purposes of Section 409A of the Code, each installment payment is considered a separate payment.

(ii) **Health Care Benefit.** If the Executive elects to continue his or her health insurance coverage under COBRA following the termination of Executive's employment, then the Company shall pay, or reimburse, the Executive's monthly premium for Executive and his or her covered dependents under COBRA until the earliest of (A) [CEO: eighteen (18) months] [C-Level/Senior Vice Presidents: twelve (12) months], (B) the date when the Executive receives similar coverage with a new employer or (C) the expiration of the Executive's continuation coverage under COBRA; provided that on the first date such amounts become payable as described above, the Company shall pay to Executive a lump sum cash payment equal to the monthly premiums that would have been paid on behalf of Executive had such payments commenced on the date of the Qualifying Termination. Notwithstanding the foregoing, the Company may elect that, in lieu of paying or reimbursing the premiums, the Company shall instead provide Executive with a monthly cash payment equal to the amount the Company would have otherwise paid pursuant to this Section 2(b)(ii), less applicable tax withholdings.

(iii) **Equity.** Each of Executive's then-outstanding unvested Equity Awards, other than Performance Awards (defined below), shall accelerate and become vested and exercisable or settleable with respect to 100% of the then-unvested shares subject to the Equity Awards. With respect to awards that would otherwise vest only upon satisfaction of performance criteria ("**Performance Awards**"), the grant agreement for the Performance Award may provide for alternative treatment upon a Qualifying Termination and, absent any such treatment in such grant agreement, the vesting acceleration provided for herein shall be deemed to have been met based on the achievement of the Performance Award at the greater of "at target" or, if determinable, actual performance. The accelerated vesting described above shall be effective as of the later of (x) the fifth (5th) business day following expiration of the Release Period, and (y) the closing of the Change in Control; provided, that if (1) the Company terminates Executive's employment

for any reason other than Cause before a Change in Control, or (2) Executive voluntarily resigns his or her employment for Good Reason before a Change in Control, then any unvested Equity Awards that would otherwise forfeit upon such termination shall remain outstanding and eligible to vest for three (3) months following such termination (provided that in no event will the Equity Awards remain outstanding beyond the expiration of the Equity Award's maximum term) to permit the acceleration described above. For the avoidance of doubt, upon such termination before a Change in Control, any unvested Equity Awards will not vest in the ordinary course and will only be eligible to vest in the event that a Change in Control is completed within such three (3) month period. In the event that a Change in Control is not completed during such three (3) month period, any unvested portion of the Equity Awards will be automatically and permanently forfeited without having vested effective three (3) months following such termination.

(iv) **Non-Assumption of Equity Awards.** Notwithstanding anything to the contrary, if, in connection with a Change in Control, the successor or acquiring corporation (if any) of the Company refuses to assume, convert, replace, or substitute Executive's unvested Equity Awards, then notwithstanding any other provision in this Agreement, or any Equity Award Agreement to the contrary, each of Executive's then-outstanding and unvested Equity Awards, other than Performance Awards, that are not assumed, converted, replaced, or substituted in such Change in Control shall accelerate and become vested and exercisable as to 100% of the then-unvested shares subject to the Equity Awards effective immediately prior to the Change in Control and terminate to the extent not exercised (as applicable) upon the Change in Control. With respect to Performance Awards, the vesting for such Performance Awards will accelerate as set forth in the terms of the applicable performance-based Equity Award agreement; and, absent any such treatment in such grant agreement, the vesting acceleration provided for herein shall be deemed to have been met based on the achievement of the Performance Award at the greater of "at target" or, if determinable, actual performance.

(c) **Accrued Compensation and Benefits.** Notwithstanding anything to the contrary in Section 2 above, in connection with any termination of employment, the Company shall pay Executive's earned but unpaid base salary and other vested but unpaid cash entitlements, including the amount of any bonus earned and payable from a prior year which remains unpaid by the Company as of the date of the termination of employment determined in accordance with customary practice or as required by applicable law and unreimbursed documented business expenses incurred by Executive through and including the date of termination (collectively "**Accrued Compensation and Expenses**"). Any Accrued Compensation and Expenses to which Executive is entitled shall be paid to Executive in cash as soon as administratively practicable, in accordance with the Company's standard payroll schedule and procedures, after the termination, and, in any event, no later than two and one-half (2-1/2) months after the end of the taxable year of Executive in which the termination occurs or at such earlier time as may be required by applicable law.

3. **COMPANY POLICIES.** Executive will be bound by and comply fully with the Company's standard Proprietary Information, Inventions Assignment and Noncompete Agreement (a form of which was been provided to Executive), insider trading policy, code of conduct, and any other policies and programs adopted by the Company regulating the behavior of its employees, as such policies and programs may be amended from time to time to the extent the same are not inconsistent with this Agreement.

4. DEFINITIONS.

(a) "**Board**" means the Company's Board of Directors.

(b) "**Cause**" means the occurrence of any of the following events, as determined by the Company and/or the Board in its and/or their sole and absolute discretion: (i) Executive engaging in any act of fraud, embezzlement or material act of dishonesty or misrepresentation with respect to the Company;

(ii) Executive's violation of any federal or state law or regulation applicable to the business of the Company or its affiliates; (iii) Executive's material breach of any confidentiality agreement or assignment agreement between Executive and the Company (or any affiliate of the Company); (iv) Executive's conviction of or plea of nolo contendere to a felony involving moral turpitude; (v) Executive's unauthorized use or disclosure of confidential information or trade secrets of the Company (or any parent, subsidiary or affiliate); (vi) any intentional misconduct by Executive adversely affecting the business or affairs of the Company (or any parent, subsidiary or affiliate) in any material manner; (vii) Executive has committed any breach of fiduciary or statutory duty that results in (or would reasonably be expected to result in) material harm to the Company; (viii) Executive has breached any material term or condition of this Agreement or any other material agreement with or material policy of the Company; (ix) Executive's willful and repeated failure to perform in any material respect Executive's duties hereunder after fifteen (15) days' notice and an opportunity to cure such failure and a reasonable opportunity to present to the Board Executive's position regarding any dispute relating to the existence of such failure (other than on account of disability); or (x) Executive's failure to attempt in good faith to implement a clear and reasonable directive from the CEO (or the Board).

provided; however that the action or conduct described in clause (viii) above will constitute "Cause" only if such action or conduct continues after the Company has provided Executive with written notice thereof and ten (10) business days to cure the same if such action or conduct is curable. The determination as to the existence of grounds for Executive's termination for Cause shall be made in good faith by the Company or the Board and shall be final and binding on Executive.

(c) "**Code**" means the Internal Revenue Code of 1986, as amended.

(d) "**Change in Control**" means the occurrence of any of the following events: (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total voting power represented by the Company's then outstanding voting securities; (ii) the consummation of the sale or disposition by the Company of all or substantially all of the Company's assets; or (iii) the consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation.

(e) "**Change in Control Period**" means the period (i) within eighteen (18) months following a Change in Control, or (ii) within three (3) months preceding a Change in Control.

(f) "**Equity Awards**" means all awards for the Company common stock granted to Executive, including but not limited to options, stock bonus awards, restricted stock, restricted stock units, and stock appreciation rights.

(g) "**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

(h) "**Good Reason**" means the occurrence of any of the following events or conditions, without Executive's express written consent: (i) a material diminution of Executive's base salary or target annual performance bonus; (ii) a material diminution in Executive's authority, duties or responsibilities; or (iii) any requirement by the Company that Executive's principal place of employment be relocated to a location more than fifty (50) miles from Executive's principal place of employment prior to such change, which relocation materially increases Executive's commuting distance.

A termination of employment for Good Reason shall be effectuated by giving the Company written notice (“**Notice of Termination for Good Reason**”), setting forth in reasonable detail, the specific conduct of the Company that constitutes Good Reason and the specific provision(s) of this Notice on which Executive is relying. Notice of Termination for Good Reason must be provided within ninety (90) days of the condition first arising. The Company will have an opportunity to cure such conduct constituting Good Reason within thirty (30) days of receiving such Notice of Termination for Good Reason. If the Company does not cure such conduct within such thirty (30) day period, a termination of employment for Good Reason shall be effective on the thirty-first (31st) day following the date when the Notice of Termination for Good Reason is received by the Company.

(i) “**Qualifying Termination**” means a Separation resulting from (x) the Company terminating Executive’s employment for any reason other than Cause or (y) Executive voluntarily resigning his or her employment for Good Reason.

(j) “**Separation**” means a “separation from service,” as defined in the regulations under Section 409A of the Code, if required by Section 409A of the Code.

5. SUCCESSORS.

(a) **Company’s Successors.** The Company shall require any successor (whether direct or indirect and whether by purchase, merger, consolidation, liquidation, or otherwise) to all or substantially all of the Company’s business and/or assets to assume this Agreement and to agree expressly to perform this Agreement in the same manner and to the same extent as the Company would be required to perform it in the absence of a succession. For all purposes under this Agreement, the term “**Company**” shall include any successor to the Company’s business and/or assets or which becomes bound by this Agreement by operation of law.

(b) **Executive’s Successors.** This Agreement and all rights of Executive hereunder shall inure to the benefit of, and be enforceable by, Executive’s personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees, and legatees.

6. GOLDEN PARACHUTE TAXES.

(a) **Best After-Tax Result.** In the event that any payment or benefit received or to be received by Executive pursuant to this Agreement or otherwise (“**Payments**”) would (i) constitute a “parachute payment” within the meaning of Section 280G of the Code, and (ii) but for this subsection (a), be subject to the excise tax imposed by Section 4999 of the Code, any successor provisions, or any comparable federal, state, local or foreign excise tax (“**Excise Tax**”), then, subject to the provisions of Section 6(b) hereof, such Payments shall be either (x) provided in full pursuant to the terms of this Agreement or any other applicable agreement, or (y) provided as to such lesser extent which would result in no portion of such Payments being subject to the Excise Tax (“**Reduced Amount**”), whichever of the foregoing amounts, taking into account the applicable federal, state, local, and foreign income, employment and other taxes and the Excise Tax (including, without limitation, any interest or penalties on such taxes), results in the receipt by Executive, on an after-tax basis, of the greatest amount of payments and benefits provided for hereunder or otherwise, notwithstanding that all or some portion of such Payments may be subject to the Excise Tax. Unless the Company and Executive otherwise agree in writing, any determination required under this Section shall be made by independent tax counsel designated by the Company and reasonably acceptable to Executive (“**Independent Tax Counsel**”), whose determination shall be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required under this Section 6(a), Independent Tax Counsel may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G

and 4999 of the Code; provided that Independent Tax Counsel shall assume that Executive pays all taxes at the highest marginal rate. The Company and Executive shall furnish to Independent Tax Counsel such information and documents as Independent Tax Counsel may reasonably request in order to make a determination under this Section. The Company shall bear all costs that Independent Tax Counsel may reasonably incur in connection with any calculations contemplated by this Section. In the event that Section 6(a)(ii)(B) above applies, then based on the information provided to Executive and the Company by Independent Tax Counsel, Executive may, in Executive's sole discretion and within thirty (30) days of the date on which Executive is provided with the information prepared by Independent Tax Counsel, determine which and how much of the Payments (including the accelerated vesting of equity compensation awards) to be otherwise received by Executive shall be eliminated or reduced (as long as after such determination the value (as calculated by Independent Tax Counsel in accordance with the provisions of Sections 280G and 4999 of the Code) of the amounts payable or distributable to Executive equals the Reduced Amount). If the Internal Revenue Service (the "IRS") determines that any Payment is subject to the Excise Tax, then Section 6(b) hereof shall apply, and the enforcement of Section 6(b) shall be the exclusive remedy to the Company.

(b) **Adjustments.** If, notwithstanding any reduction described in Section 6(a) hereof (or in the absence of any such reduction), the IRS determines that Executive is liable for the Excise Tax as a result of the receipt of one or more Payments, then Executive shall be obligated to surrender or pay back to the Company, within one hundred twenty (120) days after a final IRS determination, an amount of such payments or benefits equal to the "**Repayment Amount.**" The Repayment Amount with respect to such Payments shall be the smallest such amount, if any, as shall be required to be surrendered or paid to the Company so that Executive's net proceeds with respect to such Payments (after taking into account the payment of the Excise Tax imposed on such Payments) shall be maximized. Notwithstanding the foregoing, the Repayment Amount with respect to such Payments shall be zero if a Repayment Amount of more than zero would not eliminate the Excise Tax imposed on such Payments or if a Repayment Amount of more than zero would not maximize the net amount received by Executive from the Payments. If the Excise Tax is not eliminated pursuant to this Section 6(b), Executive shall pay the Excise Tax.

7. MISCELLANEOUS PROVISIONS.

(a) **Section 409A.** To the extent (i) any payments to which Executive becomes entitled under this Agreement, or any agreement or plan referenced herein, in connection with Executive's termination of employment with the Company constitute deferred compensation subject to Section 409A of the Code, and (ii) Executive is deemed at the time of such termination of employment to be a "specified" employee under Section 409A of the Code, then such payment or payments shall not be made or commence until the earlier of (x) the expiration of the six (6)-month period measured from the date of Executive's "separation from service" (as such term is at the time defined in regulations under Section 409A of the Code) with the Company; or (y) the date of Executive's death following such separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Executive, including (without limitation) the additional twenty percent (20%) tax for which Executive would otherwise be liable under Section 409A(a)(1)(B) of the Code in the absence of such deferral. Upon the expiration of the applicable deferral period, any payments which would have otherwise been made during that period (whether in a single sum or in installments) in the absence of this paragraph shall be paid to Executive or Executive's beneficiary in one lump sum (without interest).

Except as otherwise expressly provided herein, to the extent any expense reimbursement or the provision of any in-kind benefit under this Agreement (or otherwise referenced herein) is determined to be subject to (and not exempt from) Section 409A of the Code, the amount of any such expenses eligible for reimbursement, or the provision of any in-kind benefit, in one calendar year shall not affect the expenses eligible for reimbursement or in-kind benefits to be provided in any other calendar year, in no event shall any expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive incurred such expenses, and in no event shall any right to reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

To the extent that any provision of this Agreement is ambiguous as to its exemption or compliance with Section 409A, the provision will be read in such a manner so that all payments hereunder are exempt from Section 409A to the maximum permissible extent, and for any payments where such construction is not tenable, that those payments comply with Section 409A to the maximum permissible extent. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this Agreement (or referenced in this Agreement) are intended to constitute separate payments for purposes of Section 1.409A 2(b)(2) of the regulations under Section 409A.

(b) **Other Severance and Acceleration Arrangements.** Except as otherwise specified herein, this Agreement represents the entire agreement between Executive and the Company with respect to any and all severance arrangements, vesting acceleration arrangements, and post-termination stock option exercise period arrangements, and supersedes and replaces any and all prior verbal or written discussions, negotiations, and/or agreements between Executive and the Company relating to the subject matter hereof as may be set forth under, but not limited to, any and all prior agreements governing any Equity Award, any change in control and severance agreements, employment agreement, offer letter, or programs and plans which were previously offered by the Company to Executive, and Executive hereby waives Executive's rights to any and all such other severance arrangements, vesting acceleration arrangements, and post-termination stock option exercise period arrangements, as applicable.

(c) **Dispute Resolution.** To ensure rapid and economical resolution of any and all disputes that might arise in connection with this Agreement, Executive and the Company agree that any and all disputes, claims, and causes of action, in law or equity, arising from or relating to this Agreement or its enforcement, performance, breach, or interpretation, will be resolved solely and exclusively by final, binding, and confidential arbitration, by a single arbitrator, in Los Angeles County, CA, and conducted by the American Arbitration Association under its then-existing employment rules and procedures. Nothing in this section, however, is intended to prevent either party from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Each party to an arbitration or litigation hereunder shall be responsible for the payment of its own attorneys' fees.

(d) **Notice.** Notices and all other communications contemplated by this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid or deposited with an overnight courier, with shipping charges prepaid. In the case of Executive, mailed notices shall be addressed to him or her at the home address which he or she most recently communicated to the Company in writing. In the case of the Company, mailed notices shall be addressed to its corporate headquarters, and all notices shall be directed to the attention of its Secretary.

(e) **Amendment; Waiver.** This Agreement may not be amended or waived except by a writing signed by Executive and by a duly authorized representative of the Company other than Executive. No provision of this Agreement shall be modified, waived, superseded or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company (other than Executive) and, to the extent it supersedes this Agreement, that this Agreement is referred to by date. No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(f) **Withholding Taxes.** All payments made under this Agreement shall be subject to reduction to reflect taxes or other charges required to be withheld by law.

(g) **Severability.** The invalidity or unenforceability of any provision or provisions of this Agreement shall not affect the validity or enforceability of any other provision hereof, which shall remain in full force and effect.

(h) **No Retention Rights.** Nothing in this Agreement shall confer upon Executive any right to continue in service for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Company or any subsidiary of the Company or of Executive, which rights are hereby expressly reserved by each, to terminate his or her service at any time and for any reason, with or without Cause.

(i) **Choice of Law.** The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of California (other than their choice-of-law provisions).

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the parties has executed this **Change in Control Severance Agreement**, as of the day and year first above written.

EXECUTIVE

ARCUTIS BIOTHERAPEUTICS, INC.

[Name]

By:
Title:

[SIGNATURE PAGE TO THE CHANGE IN CONTROL SEVERANCE AGREEMENT]

Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the captions “Experts” and “Selected Financial Data” and to the use of our report dated September 9, 2019, in the Registration Statement (Form S-1) and related Prospectus of Arcutis Biotherapeutics, Inc. dated January 6, 2020.

/s/ Ernst & Young LLP

Los Angeles, CA
January 6, 2020