United States
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **October 28, 2019**

BiomX Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**0001-38762**	**82-3364020**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

7 Pinhas Sapir St., Floor 2 **Ness Ziona, Israel**	**7414002**
(Address of Principal Executive Offices)	(Zip Code)

Registrant's telephone number, including area code: **+972 723942377**

Chardan Healthcare Acquisition Corp.
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Units, each consisting of one share of Common Stock, $0.0001 par value, and one Warrant entitling the holder to receive one half share of Common Stock	PHGE.U	NYSE American
Shares of Common Stock, $0.0001 par value, included as part of the Units	PHGE	NYSE American
Warrants included as part of the Units	PHGE.WS	NYSE American

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (Sec.230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (Sec.240.12b-2 of this chapter).

Emerging growth company ☒

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

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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This current report on Form 8-K (this "Form 8-K"), including the documents incorporated herein by reference, contains forward-looking statements within the meaning of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, with respect to our disclosure concerning our operations, cash flows and financial position and all other statements that do not relate to historical facts.

Forward-looking statements include statements about our expectations, beliefs, plans, objectives, intentions, assumptions and other statements that are not historical facts. Words or phrases such as "anticipate," "believe," "continue," "estimate," "expect," "intend," "may," "ongoing," "plan," "potential," "predict," "project," "will" or similar words or phrases, or the negatives of those words or phrases, may identify forward-looking statements, but the absence of these words does not necessarily mean that a statement is not forward-looking. You should carefully read the risk factors described in "Risk Factors" herein and in the documents incorporated herein by reference for a description of certain risks that could, among other things, cause our actual results to differ from these forward-looking statements.

Forward-looking statements are based on our current beliefs and expectations of future events or future results and involve risks and uncertainties that are difficult to predict and subject to change. The risks and uncertainties include, but are not limited to:

- our limited operating history;
- the ability to generate revenues, and raise sufficient financing to meet working capital requirements;
- the unpredictable timing and cost associated with our approach to developing product candidates using phage technology;
- the U.S. Food and Drug Administration's ("FDA's") classification of our BX001 product candidate as a drug or cosmetic and the impact of changing regulatory requirements on our ability to develop and commercialize BX001;
- obtaining FDA acceptance of any non-U.S. clinical trials of product candidates;
- the ability to pursue and effectively develop new product opportunities and acquisitions and to obtain value from such product opportunities and acquisitions;
- results from preclinical studies of BiomX's product candidates BX001 and BX002 may not be predictive of the results of clinical trials or later stage clinical development;
- the selected bacterial targets BiomX's phage therapies eradicate may not result in a clinically meaningful effect on the underlying disease;
- the time and cost development for our approach of developing product candidates using phage technology may be difficult to predict, and to BiomX's knowledge, no bacteriophage has thus far been sold as a cosmetic or approved as a drug in the United States or in the European Union;
- penalties and market withdrawal associated with any unanticipated problems with product candidates and failure to comply with labeling and other restrictions;
- expenses associated with our compliance with ongoing regulatory obligations and successful continuing regulatory review;
- market acceptance of our product candidates and ability to identify or discover additional product candidates;
- our ability to obtain high titers for specific phage cocktails necessary for preclinical and clinical testing;
- the availability of specialty raw materials;
- the ability of our product candidates to demonstrate requisite safety and tolerability for cosmetics, safety and efficacy for drug products, or safety, purity and potency for biologics without causing adverse effects;
- the success of expected future advanced clinical trials of our product candidates;
- the ability to obtain required regulatory approvals;

- the ability to enroll patients in clinical trials and achieve anticipated development milestones when expected;
- delays in developing manufacturing processes for our product candidates;
- competition from similar technologies, products that are more effective, safer or more affordable than our product candidates or products that obtain marketing approval before our product candidates;
- the impact of unfavorable pricing regulations, third-party reimbursement practices or health care reform initiatives on our ability to sell product candidates or therapies profitably;
- protection of our intellectual property rights and compliance with the terms and conditions of current and future licenses with third parties;
- infringement on the intellectual property rights of third parties and claims for remuneration or royalties for assigned service invention rights;
- the ability to acquire, in-license or use proprietary rights held by third parties necessary to our product candidates or future development candidates;
- ethical, legal and social concerns about synthetic biology and genetic engineering that may adversely affect market acceptance of our product candidates;
- reliance on third-party collaborators;
- the ability to manage the growth of the business;
- the ability to attract and retain key employees or to enforce the terms of noncompetition agreements with employees;
- the failure to comply with applicable laws and regulations;
- potential security breaches, including cybersecurity incidents;
- political, economic and military instability in the State of Israel;
- costs associated with being a public company; and
- other factors, including those factors described in the section entitled "*Risk Factors*" in Item 2.01 below, and in CHAC's definitive proxy statement dated September 23, 2019 and Supplement No. 1 to the proxy statement dated October 10, 2019 (the "Definitive Proxy Statement"), which is incorporated herein by reference.

Actual results may differ materially from those expressed or implied by forward-looking statements. The information contained in this Form 8-K and the documents incorporated herein by reference is current only as of the date of that information. All forward-looking statements included in such documents are based upon information available at the time such statements are made, and we assume no obligation to update any forward-looking statements.

INTRODUCTORY NOTE

On October 28, 2019 (the "Closing Date"), the Registrant consummated the previously announced business combination (the "Business Combination") following a special meeting of stockholders held on October 23, 2019 (the "Special Meeting") where the stockholders of Chardan Healthcare Acquisition Corp., a Delaware corporation which, immediately following the consummation of the Business Combination, became known as "BiomX Inc." (the "Company", and prior to the consummation of the Business Combination, sometimes referred to as "CHAC"), considered and approved, among other matters, a proposal to adopt that certain Merger Agreement (the "Merger Agreement"), dated as of July 16, 2019 and amended as of October 11, 2019, by and among (i) the Company; (ii) CHAC Merger Sub Ltd., an Israeli company ("Merger Sub"), (iii) BiomX Ltd., an Israeli company ("BiomX"), and (iv) Shareholder Representative Services LLC (the "SRS"), solely in its capacity as the Shareholders' Representative thereunder.

Pursuant to the Merger Agreement, among other things, Merger Sub merged with and into BiomX, with BiomX continuing as the surviving entity and a wholly-owned subsidiary of the Company (the "Merger" and the "Surviving Company"). The Merger became effective on October 28, 2019 (the "Effective Time").

At the Effective Time, all of the issued and outstanding shares and other equity interests in and of BiomX immediately prior to the consummation of the Business Combination were canceled, and, in consideration therefor, CHAC issued (or reserved for issuance) 16,625,000 shares of the Company's common stock, par value $0.0001 per share ("Common Stock") or options or warrants to purchase Common Stock to BiomX security holders. Additional shares of Common Stock have been reserved for issuance in respect of options to purchase ordinary shares of BiomX that are issued, outstanding and unvested immediately prior to the Effective Time.

In addition to the consummation of the Business Combination, at the closing of the Business Combination (the "Closing"):

1. Certain of the Company's public stockholders sold an aggregate of 2,000,000 shares of Common Stock to certain BiomX shareholders at a price of $10.00 per share. In addition, CHAC paid such selling stockholders an amount equal to the difference between the redemption price per share at the Closing minus $10.00 per share. In addition, certain of the Company's public stockholders sold an aggregate of 289,754 shares of Common Stock to certain BiomX shareholders at a price of $10.35 per share (including 19,391 shares of Common Stock expected to be sold after the Closing). In addition, CHAC also agreed to issue such BiomX shareholders the number of additional shares specified below in the aggregate, subject to the achievement of the conditions following the Closing:

    a. If the daily volume weighted average price of a share of Common Stock in any 20 trading days within a 30 trading day period prior to January 1, 2022 is greater than or equal to $16.50 per share, then the Company shall issue 2,000,000 shares of Common Stock.

    b. If the daily volume weighted average price of a share of Common Stock in any 20 trading days within a 30 trading day period prior to January 1, 2024 is greater than or equal to $22.75 per share, then the Company shall issue 2,000,000 shares of Common Stock.

    c. If the daily volume weighted average price of a share of Common Stock in any 20 trading days within a 30 trading day period prior to January 1, 2026 is greater than or equal to $29.00 per share, then the Company shall issue 2,000,000 shares of Common Stock.

2. Certain third parties purchased 1,234,908 shares of Common Stock from certain CHAC public stockholders.

Pursuant to the Merger Agreement, 1,506,906 shares (the "Escrow Shares") were deposited into an escrow account (the "Escrow Account") to serve as security for, and the exclusive source of payment of, the Company's indemnity rights under the Merger Agreement.

As a result of the Business Combination, the Sellers, as the former shareholders of BiomX, became the controlling shareholders of the Company, now owning approximately 77% of the outstanding shares and vested securities of Common Stock, and BiomX became a wholly-owned subsidiary of the Company. The Business Combination was accounted for as a "reverse merger" in accordance with accounting principles generally accepted in the United States of America. For accounting purposes, BiomX is considered to be acquiring CHAC in this transaction. Therefore, for accounting purposes, the Business Combination will be treated as the equivalent of a capital transaction in which BiomX is issuing stock for the net assets of CHAC. The net assets of CHAC will be stated at historical cost, with no goodwill or other intangible assets recorded. The post-acquisition financial statements of CHAC will show the consolidated balances and transactions of CHAC and BiomX as well as comparative financial information of BiomX (the acquirer for accounting purposes).

Prior to the Business Combination, we were a "shell company" (as such term is defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended (the "Exchange Act")). As a result of the Business Combination, we have ceased to be a "shell company" and will continue the existing business operations of BiomX as a publicly traded company under the name "BiomX Inc."

As used in this Form 8-K henceforward, unless otherwise stated or the context clearly indicates otherwise, the terms the "Registrant," "Company," "we," "us" and "our" refer to BiomX Inc., and its subsidiaries at and after the Closing, giving effect to the Business Combination.

Item 1.01. Entry into a Material Definitive Agreement.

The information contained in Item 2.01 below is incorporated herein by reference.

Registration Rights Agreement

Upon Closing, the Company entered into a Registration Rights Agreement (the "Registration Rights Agreement") with certain shareholders of BiomX.

Under the Registration Rights Agreement, the shareholders were granted registration rights that obligate the Company to register for resale under the Securities Act of 1933, as amended (the "Securities Act"), all or any portion of the shares of common stock issued as consideration in the Business Combination (the "Registrable Securities") on or after the six-month anniversary of the Closing upon the demand of the holders of 25% of the Registrable Securities; provided that the Company shall not be obligated to effect more than an aggregate of two demands for registration under the Registration Rights Agreement.

In addition, if at any time on or after the Closing, the Company proposes to file a registration statement under the Securities Act with respect to an offering of equity securities (or securities or other obligations exercisable or exchangeable for, or convertible into, equity securities), the Company shall give written notice of such proposed filing to the holders of the Registrable Securities and offer them an opportunity to register the sale of such number of Registrable Securities as such holders may request in writing, subject to the rights of other persons having registration rights with respect to shares of Common Stock pursuant to written contractual piggy-back registration rights and customary cut-backs.

In addition, subject to certain exceptions, the holders of the Registrable Securities are entitled under the Registration Rights Agreement to request in writing that the Company register the resale of any or all of such Registrable Securities on Form S-3 or any similar short-form registration that may be available at such time.

The Company agrees to use its best efforts to effect the registration and sale of such Registrable Securities as expeditiously as possible.

Under the Registration Rights Agreement, the Company agreed to indemnify the holders of Registrable Securities and each of their respective officers, employees, affiliates, directors, partners, members, attorneys and agents and control persons from and against any expenses, losses, judgments, claims, damages or liabilities, whether joint or several, arising out of or based upon any untrue statement (or allegedly untrue statement) of a material fact in any registration statement or prospectus pursuant to which the sale of such Registrable Securities is registered under the Securities Act, unless such liability arises from any untrue statement or allegedly untrue statement or omission or alleged omission made in such registration statement or prospectus in reliance upon and in conformity with information furnished to the Company by such selling holder expressly for use therein. Each selling holder of Registrable Securities, including Registrable Securities in any registration statement or prospectus, agreed to indemnify the Company and certain persons or entities related to the Company, such as its officers and directors and underwriters, against all losses caused by their misstatements or omissions in those documents.

The Registration Rights Agreement is filed with this Form 8-K as Exhibit 10.1 and is incorporated herein by reference. The foregoing description of the Registration Rights Agreement does not purport to be complete and is subject to, and is qualified in its entirety by, the full text of the Registration Rights Agreement.

Escrow Agreement

On October 28, 2019, the Company entered into an escrow agreement (the "Escrow Agreement") with the SRS and Continental Stock Transfer & Trust Company, as escrow agent (the "Escrow Agent"). Pursuant to the Escrow Agreement and the Merger Agreement, the Escrow Shares were deposited in the Escrow Account to serve as security for, and the exclusive source of payment of, the Company's indemnity rights under the Merger Agreement.

The Escrow Agreement is filed with this Form 8-K as Exhibit 10.2 and is incorporated herein by reference. The foregoing description of the Escrow Agreement does not purport to be complete and is subject to, and is qualified in its entirety by, the full text of the Escrow Agreement.

Voting Agreement

On October 28, 2019, we entered into a voting agreement (the "Voting Agreement") with certain CHAC founders and BiomX security holders which provides that for a period of two years following the Closing, the parties agree to vote:

- in favor of two members of the Board of Directors to be selected by Chardan Investments, LLC;

- in favor of five members of the Board of Directors to be selected by SRS; and

- in favor of maintaining the size of the Board of Directors at seven.

The Voting Agreement is filed with this Form 8-K as Exhibit 10.3 and is incorporated herein by reference. The foregoing description of the Voting Agreement does not purport to be complete and is subject to, and is qualified in its entirety by, the full text of the Voting Agreement.

Waiver Agreement

On October 28, 2019, the Company entered into a waiver agreement (the "Waiver Agreement") whereby the parties to the Merger Agreement waived the requirement pursuant Section 9.8(b)(ii), 10.2(h)(ii) and 10.3(h)(ii) of the Merger Agreement that the balance of available funds contained in the Escrow Account immediately following the Closing equals or exceeds $3,000,000, provided that the balance of the Escrow Account immediately following the Closing equals or exceeds $2,798,250. In addition, the Company waived the closing condition pursuant to Section 10.3(f) of the Merger Agreement requiring that the aggregate amount of indebtedness, expenses and other liabilities of CHAC that remain unpaid prior to the Closing is less than $1,000,000.

The Waiver Agreement is filed with this Form 8-K as Exhibit 10.11 and is incorporated herein by reference. The foregoing description of the Waiver Agreement does not purport to be complete and is subject to, and is qualified in its entirety by, the full text of the Waiver Agreement.

Cornix Purchase Agreement

On October 28, 2019, CHAC entered into a purchase agreement (the "Cornix Purchase Agreement") with Cornix LLC ("Cornix"), an affiliate of Chardan Capital Markets LLC, wherein Cornix agreed to purchase $300,000 shares of Common Stock within three months of the date of the Cornix Purchase Agreement, and until the earlier of six months from the date of the last purchase of such shares and the date that the closing price of the Common Stock has been in excess of $15.00 per share for three consecutive trading days, Cornix agreed that it will not offer for sale, sell, pledge, grant any option to purchase or otherwise dispose of such shares.

The Cornix Purchase Agreement is filed with this Form 8-K as Exhibit 10.12 and is incorporated herein by reference. The foregoing description of the Cornix Purchase Agreement does not purport to be complete and is subject to, and is qualified in its entirety by, the full text of the Cornix Purchase Agreement.

Item 2.01. Completion of Acquisition or Disposition of Assets.

THE MERGER AND RELATED TRANSACTIONS

The disclosure set forth under "Introductory Note" above is incorporated in this Item 2.01 by reference. The material terms and conditions of the Merger Agreement and its related agreements are described on pages 102 to 105 of CHAC's Definitive Proxy Statement in the section entitled "*The Merger Agreement,"* which is incorporated herein by reference.

BUSINESS

The business of the Company after the Business Combination is described in Definitive Proxy Statement in the section entitled "*BiomX Ltd.'s Business*" beginning on page 136, including in the section entitled "*BiomX Ltd.'s Business—Facilities*" beginning on page 172, and in the section entitled "*Government Regulation*" beginning on page 173, and that information is incorporated herein by reference.

RISK FACTORS

The risks associated with the Company's business are described in the Definitive Proxy Statement in the section entitled "*Risk Factors*" beginning on page 15 and are incorporated herein by reference.

SELECTED FINANCIAL DATA

The disclosure contained in the Definitive Proxy Statement in the section entitled "*Selected Historical Consolidated Financial and Operating Data of BiomX Ltd.*" beginning on page 115 is incorporated herein by reference.

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

The disclosure contained in the Definitive Proxy Statement in the section entitled "*Management's Discussion And Analysis of Financial Condition And Results of Operations of BiomX*" beginning on page 117 is incorporated herein by reference.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information regarding the beneficial ownership of our Common Stock as of the Closing (taking in account of the redemption in connection with the Business Combination and automatic exchange of rights into Common Stock at the Closing), based on information obtained from the persons named below, with respect to the beneficial ownership of our Common Stock, by:

- each person known by us to be the beneficial owner of more than 5% of our outstanding Common Stock;
- each of our executive officers and directors that beneficially owns our Common Stock; and
- all our executive officers and directors as a group.

Unless otherwise indicated, we believe that all persons named in the table have sole voting and investment power with respect to all Common Stock beneficially owned by them. As of the Closing, we had 22,835,153 shares of Common Stock issued and outstanding.

Name and Address of Beneficial Owner[(1)]	Amount and Nature of Beneficial Ownership	Percent of Class
Chardan Investments, LLC[(2)]	4,607,500	17.9%
Takeda Pharmaceutical Company Limited Takeda Ventures, Inc.[(3)]	2,470,935	10.8%
OrbiMed Advisors Israel Limited OrbiMed Israel GP Ltd. OrbiMed Israel Partners, Limited Partnership[(4)]	2,290,490	10.0%
Johnson & Johnson Innovation – JJDC, Inc.[(5)]	2,133,402	9.3%
Jonathan Solomon[(6)]	326,440	1.4%
Assaf Oron[(7)]	137,809	*
Sailaja Puttagunta[(8)]	45,985	*
Merav Bassan	0	0
Inbar Gahali-Sass[(9)]	20,692	*
Myriam Golembo[(10)]	26,610	*
Uri Ben-Or	0	0
Russell Greig	0	0
Gbola Amusa[(11)]	527,862	2.3%
Yaron Breski	0	0
Erez Chimovits	0	0
Jonas Grossman[(12)]	4,607,500	17.9
Robbie Woodman	0	0
All directors and officers as a group (Post-Business Combination) (13 persons)	5,692,898	20.0%

* Less than 1%.

(1) Unless otherwise indicated, the business address of each of the individuals is c/o BiomX Ltd., 7 Pinhas Sapir St., Floor 2, Ness Ziona 7414002, Israel.

(2) Represents 1,707,500 shares of Common Stock held by Chardan Investments, LLC and warrants to purchase 2,900,000 shares of Common Stock held by Mount Wood, LLC, which owns approximately 67.96% of Chardan Investments, LLC. Jonas Grossman, a member of our Board of Directors is the managing member of each of Chardan Investments, LLC and Mountain Wood, LLC, and thereby has sole voting and dispositive power over such shares. The business address of each of the foregoing is c/o Chardan Healthcare Acquisition Corp., 17 State Street, 21st Floor, New York, NY 10004.

(3) The business address of Takeda Ventures, Inc. ("Takeda Ventures") is 435 Tasso Street, Suite 300, Palo Alto, CA 94301 USA. Takeda Ventures is a wholly-owned direct subsidiary of Takeda Pharmaceuticals U.S.A., Inc. ("Takeda USA"). Takeda Pharmaceuticals International AG and Takeda Pharmaceutical Company Limited together own 100% of Takeda USA. Takeda Pharmaceuticals International AG is a wholly-owned direct subsidiary of Takeda Pharmaceutical Company Limited. As a result, Takeda Pharmaceutical Company Limited may be deemed to have voting and investment power over all of the shares of Common Stock held by Takeda Ventures, and Takeda Pharmaceutical Company Limited may be deemed to be the indirect beneficial owner of the shares held by Takeda Ventures.

(4) Represents 1,649,151 shares of Common Stock held directly by OrbiMed Israel Partners, Limited Partnership ("OIP LP") and 641,339 shares of Common Stock held directly by OrbiMed Israel Incubator L.P. ("OII LP"). 89 Medinat Hayehudim St., Building E, Herzliya 4614001 Israel. OrbiMed Israel BioFund GP Limited Partnership ("BioFund GP LP") is the general partner of each of OIP LP and OII LP, and OrbiMed Israel GP Ltd. ("Israel GP") is the general partner of BioFund GP LP. OrbiMed Advisors Israel Limited ("Advisors Israel Ltd") is the majority shareholder of Israel GP. As a result, Advisors Israel Ltd and Israel GP may be deemed to have shared voting and investment power over all of the shares of Common Stock held by each of OIP LP and OII LP, and both Advisors Israel Ltd and Israel GP may be deemed to directly or indirectly, including by reason of their mutual affiliation, to be the beneficial owners of the shares held by each of OIP LP and OII LP. Advisors Israel Ltd exercises this investment power through an investment committee comprised of Carl L. Gordon, Jonathan T. Silverstein, Nissim Darvish, Anat Naschitz, and Erez Chimovits, each of whom disclaims beneficial ownership of the shares held by OIP LP and OII LP.

(5) The address for Johnson & Johnson Innovation-JJDC, Inc. ("JJDC") is 410 George Street, New Brunswick, New Jersey 08901. JJDC has voting and dispositive power over 2,133,402 shares of common stock.

(6) Amount represents 326,440 options that will be exercisable within 60 days of the Closing Date.

(7) Amount represents 137,809 options that will be exercisable within 60 days of the Closing Date.

(8) Amount represents 45,985 options that will be exercisable within 60 days of the Closing Date.

(9) Amount represents 20,692 options that will be exercisable within 60 days of the Closing Date.

(10) Amount represents 26,610 options that will be exercisable within 60 days of the Closing Date.

(11) Represents 251,672 shares of Common Stock and warrants to purchase 276,190 shares of Common Stock. Mr. Amusa's business address is c/o Chardan Healthcare Acquisition Corp., 17 State Street, 21st Floor, New York, NY 10004.

(12) See note (2) above regarding shares beneficially owned by Jonas Grosssman.

DIRECTORS, EXECUTIVE OFFICERS, PROMOTERS AND CONTROL PERSONS

Following the Closing, the Board of Directors of the combined company was reconstituted and is now comprised of seven members, classified into three classes, each comprising as nearly as possible one-third of the directors to serve three-year terms. As Class I directors, each of Yaron Breski, Erez Chimovits and Robbie Woodman will serve until the 2020 annual meeting; as Class II directors, each of Gbola Amusa and Jonas Grossman will serve until the 2021 annual meeting; and as Class III directors, each of Russell Greig and Jonathan Solomon will serve until the 2022 annual meeting, or in each case until their respective successors are duly elected and qualified, or until their earlier resignation, removal or death.

The Company's directors and executive officers are:

Name	Age	Position
Jonathan Solomon	42	Chief Executive Officer and Director
Assaf Oron	44	Chief Business Officer
Sailaja Puttagunta	51	Chief Medical Officer
Merav Bassan	54	Chief Development Officer
Inbar Gahali-Sass	46	Vice President of Platform Research & Development
Myriam Golembo	54	Vice President of Development
Uri Ben-Or[(1)]	49	Interim Chief Financial Officer
Russell Greig	67	Director and Chairman of the Board
Gbola Amusa	45	Director
Yaron Breski	41	Director
Erez Chimovits	55	Director
Jonas Grossman	45	Director
Robbie Woodman	41	Director

(1) Sigal Fattal, Chief Financial Officer of BiomX, resigned from her role as the Chief Financial Officer, effective upon the consummation of the Business Combination, and remains employed by BiomX as a consultant to the Chief Executive Officer. The Board of Directors appointed Mr. Uri Ben-Or to join the Company as its Interim Chief Financial Officer, effective October 30, 2019.

Jonathan Solomon has served as the Chief Executive Officer and as a director of the Company since October 2019. Mr. Solomon served as Chief Executive Officer and director of BiomX from May 2017 to October 2019, and from February 2016 to May 2017, he served as a director of BiomX. From July 2007 to December 2015, Mr. Solomon was a co-founder, President, and Chief Executive Officer of ProClara Biosciences Inc. (formerly NeuroPhage Pharmaceuticals Inc.), a biotechnology company pioneering an approach to treating neurodegenerative diseases. Prior to joining ProClara, he served for ten years in a classified military unit of the Israeli Defense Forces. Mr. Solomon holds a B.Sc. magna cum laude in Physics and Mathematics from the Hebrew University, an M.Sc. summa cum laude in Electrical Engineering from Tel Aviv University, and an M.B.A. with honors from the Harvard Business School.

Assaf Oron has served as the Chief Business Officer of the Company since October 2019. Mr. Oron served as Chief Business Officer of BiomX from January 2017 to October 2019. Prior to this position, he served in various roles at Evogene Ltd., an agriculture biotechnology company, which utilizes a proprietary integrated technology infrastructure to enhance seed traits underlying crop productivity, from March 2006 to December 2016, including Executive Vice President of Strategy and Business Development and Executive Vice President of Corporate Development. Prior to joining Evogene, Mr. Oron served as Chief Executive Officer of ChondroSite Ltd., a biotechnology company that develops engineered tissue products in the field of orthopedics and as a senior project manager and strategic consultant at Israeli management consulting company POC Ltd. Mr. Oron holds an M.Sc. in Biology (bioinformatics) and a B.Sc. in Chemistry and Economics, both from Tel Aviv University.

Dr. Sailaja Puttagunta M.D. has served as the Chief Medical Officer of the Company since October 2019. Dr. Puttagunta served as the Chief Medical Officer of BiomX from December 2018 to October 2019. Prior to joining BiomX, Dr. Puttagunta served as Vice President, Development at Iterum Therapeutics plc, a clinical stage pharmaceutical company developing antibiotics against multi-drug resistant pathogens, from January 2016 to December 2018. Prior to Iterum, Dr. Puttagunta served as VP, Medical Affairs for Anti-infectives at pharmaceutical company Allergan plc from January 2015 to January 2016 and was the Vice President of Development and Medical Affairs from August 2014 to December 2014 and the Executive Director of Clinical and Medical Affairs from June 2012 through July 2014 at pharmaceutical company Durata Therapeutics, Inc., an innovative pharmaceutical company focused on the development and commercialization of novel therapeutics for patients with infectious diseases and acute illnesses, prior to its acquisition by Actavis plc. Prior to joining Durata, Dr. Puttagunta led teams within clinical development and medical affairs on various antibiotic compounds at pharmaceutical company Pfizer Inc. Dr. Puttagunta graduated from Gandhi Medical College in Hyderabad, India and completed her residency in Internal Medicine and a fellowship in Infectious Diseases at Yale University School of Medicine. She also holds an M.S. in Biochemistry from the New York University School of Medicine.

Dr. Merav Bassan has served as the Chief Development Officer of the Company since October 2019. Dr. Bassan joined as Chief Development Officer of BiomX in October 2019. Prior to this position, she served in various development roles at Teva Pharmaceutical Industries Limited since 2005, including Vice President, Head of Translational Sciences, Specialty Clinical Development R&D since 2017, Vice President, Pain and Global Internal Medicine, Project Leadership, Innovative Product Development, Global IR&D from 2015 to 2017, and Project Champion, Senior Director, Innovative Product Development, Global IR&D from 2009 to 2015. Dr. Bassan holds a B.Sc. in Biology, a M.Sc. in Human Genetics and a Ph.D. in Neurobiology from Tel Aviv University, and she completed a Post-Doctoral Fellowship in Neuroscience at Harvard Medical School at Harvard University.

Dr. Inbar Gahali-Sass has served as the Vice President of Platform Research & Development of the Company since October 2019. Dr. Gahali-Sass served as Vice President of Platform Research & Development of BiomX from December 2018 to October 2019. Prior to joining BiomX, Dr. Gahali-Sass served as Research & Development Manager at Omrix Biopharmaceuticals, Inc., a biotechnology company focused on developing protein-based biosurgery and passive immunotherapy products and a subsidiary of Ethicon, Inc. and Johnson& Johnson, from May 2012 through November 2018 and as a senior scientist from August 2006 to May 2012. Dr. Gahali-Sass holds a B.Sc. in Biology, an M.Sc. in Microbiology, a Ph.D and a post-Doctoral degree in Microbiology from The Hebrew University, and an M.B.A. from the College of Management Academic Studies.

Dr. Myriam Golembo has served as the Vice President of Development of the Company since October 2019. Dr. Golembo served as the Vice President of Development of BiomX from July 2017 to October 2019. Prior to this position, Dr. Golembo served as the Vice President of Regulatory and Clinical Operations at Efranat Ltd., a biotechnology company focused on the development of cancer therapies, from May 2016 to June 2017. From May 2015 to May 2016, Dr. Golembo served as the Vice President of Development for Otic Pharma Ltd., a pharmaceutical company focusing on the development of ear, nose, and throat products (now Novus Therapeutics, Inc.). Before joining Otic Pharma, Dr. Golembo served as Director of Product Development at Protalix BioTherapeutics, Inc., a biopharmaceutical company manufacturing a plant-based enzyme for the treatment of Gaucher disease, from May 2012 to May 2015 and as Associate Director of Products Development from May 2009 to May 2012. Dr. Golembo holds a B.Sc. in Biology and an M.Sc. in Molecular Biology from The Hebrew University and a Ph.D. in Molecular Genetics from Weizmann Institute of Science.

Uri Ben-Or has served as the Interim Chief Financial Officer, effective October 30, 2019. In January 2007, Mr. Ben-Or founded CFO Direct Ltd., in which he has served as the Chief Executive Officer and through which he provides his services to our company. Mr. Ben-Or is currently the Chief Financial Officer of BiondVax Pharmaceuticals Ltd. (Nasdaq: BVXV), Together Pharma Ltd. (TASE), Cannabics Pharmaceuticals Inc. (OTC: CNBX), Opectra Ltd. (TASE), Geffen Biomed Investments Ltd. (TASE), and Medivie Therapeutic Ltd., and is the Chief Executive Officer and Chief Financial Officer of Maayan Ventures Ltd. (TASE). Mr. Ben-Or was also the Chief Financial Officer of My Size Inc. (Nasdaq: MYSZ; TASE) from September 2010 to May 2016, Intercure Ltd. (TASE) from February 2011 to January 2016, D. Medical Industries Ltd. (TASE) from February 2013 to April 2015, Therapix Biosciences Ltd. from October 2014 to March 2015 (Nasdaq: TRPX), Procognia Ltd. (TASE) from September 2012 to December 2014, Glycominds Ltd. (TASE) from October 2001 to April 2014, and WideMed Ltd. (TASE) from November 2007 to November 2010. Prior to that, Mr. Ben-Or was an auditor at PriceWaterhouseCoopers from May 1997 to July 1999. Mr. Ben-Or holds a B.A. in Accounting from The College of Management Academic Studies, and an M.B.A. from Bar-Ilan University and is a certified public accountant in Israel.

Dr. Russell Greig has served as a director and chairman of the Board of Directors of the Company since October 2019. Dr. Greig has more than 35 years' experience in the pharmaceutical industry, with knowledge and expertise in research and development, business development and commercial operations. He spent the majority of his career at GlaxoSmithKline ("GSK"), where he held a number of positions including GSK's President of Pharmaceuticals International from 2003 to 2008 and Senior Vice President Worldwide Business Development. From 2008 to 2010, Dr. Greig was also President of SR One, GSK's Corporate Venture Group. He is currently Chairman of AM Pharma and Mint Solutions in The Netherlands, and Bionor in Norway. In addition, Dr. Greig serves as a board member of Onxeo S.A. in France, and previously served on the boards of Tigenix N.V. (acquired by Takeda Pharmaceutical Company Limited), and Ablynx N.V. (acquired by Sanofi, France). He is also a Venture Partner at Kurma Life Sciences (France). He was previously Chairman of Syntaxin Ltd (UK) (sold to Ipsen), Novagali Pharma S.A. (France) (acquired by Santen Pharmaceutical Co., Ltd.), and Isconova AB (Sweden) (acquired by Novavax, Inc. (Nasdaq:NVAX)). He served as acting Chief Executive Officer at Genocea Biosciences (Nasdaq: GNCA) and Isconova AB for an interim period. He was also a member of the Scottish Scientific Advisory Committee, reporting to the First Minister of Scotland.

Dr. Gbola Amusa has served as a director of the Company since March 2018, and served as the Executive Chairman of CHAC from March 2018 to October 2019. Dr. Amusa has served as Partner, Director of Research, and Head of Healthcare Equity Research at Chardan Capital Markets LLC since December 2014. At Chardan, he has established the healthcare vision by focusing on disruptive healthcare segments, such as gene therapy/genetic medicines, that have the highest potential for significant investment returns. Dr. Amusa was previously Managing Director, Head of European Pharma Research, and Global Pharma& Biotech Coordinator at UBS (from 2007 to 2013), where he oversaw 25 analysts. Prior to UBS, Dr. Amusa was a Senior Research Analyst and Head of European Pharma research at Sanford Bernstein. He started his career in finance at Goldman Sachs as an Associate in the Healthcare Investment Banking Group, where he worked on large transactions including the Amgen/Immunex merger. Additionally, Dr. Amusa was previously a Healthcare Finance & Strategy Consultant working with governments, companies, leading foundations and think tanks. He holds an M.D. from Washington University Medical School, an M.B.A. with High Honors from the University of Chicago Booth School of Business, and a B.S.E. with Honors from Duke University.

Yaron Breski has served as a director of the Company since October 2019, and served on the Board of Directors of BiomX from November 2018 to October 2019. Mr. Breski is a Partner at RMGP Bio-Pharma Investment Fund, L.P., which he co-founded in May 2017, and has served as Managing Director at RM Global Partners LLC since October 2014. Previously, Mr. Breski served as Executive Director of Business Development at biotechnology company Rosetta Genomics. Mr. Breski holds a B.Sc. in Biology, Magna Cum Laude, research track for honors students from the Tel Aviv University; and an M.B.A from The Wharton School, University of Pennsylvania.

Erez Chimovits has served as a director of the Company since October 2019, and served on the Board of Directors of BiomX from January 2016 to October 2019. Mr. Chimovits has served as Senior Managing Director at healthcare investment firm OrbiMed Advisors LLC since 2010. Prior to joining OrbiMed, Mr. Chimovits was the Chief Executive Officer of pharmaceutical company NasVax Ltd. (now Therapix Biosciences Ltd.) and spent more than seven years with predictive drug discovery and development company Compugen Ltd., serving as President of Compugen USA Inc. and as Executive Vice President of Commercial Operations. Mr. Chimovits earned his M.B.A., M.Sc. in Microbiology, and B.Sc. from Tel Aviv University.

Jonas Grossman has served as a director of the Company since October 2019, and served on the Board of Directors of CHAC from its formation in November 2017 to October 2019. Mr. Grossman has served as Partner and Head of Capital Markets for Chardan Capital Markets LLC, a New York headquartered broker/dealer, since December 2003. Mr. Grossman has served as President of Chardan Capital Markets LLC since September 2015. Since 2003, Mr. Grossman has overseen the firm's deal origination, syndication, secondary market sales and trading and corporate access initiatives. He has extensive transactional experience having led or managed over 400 transactions during his tenure at Chardan. Since December 2006, Mr. Grossman has served as a founding partner for Cornix Advisors, LLC, a New York based hedge fund. From 2001 until 2003, Mr. Grossman worked at Ramius Capital Group, LLC, a global multi-strategy hedge fund where he served as Vice President and Head Trader. Mr. Grossman has served as a director for China Broadband (NASDAQ: SSC) from January 2008 until November 2010. He holds a B.A. in Economics from Cornell University and an M.B.A. from NYU's Stern School of Business.

Dr. Robbie Woodman has served as a director of the Company since October 2019, and served on the Board of Directors of BiomX from June 2018 to October 2019. Dr. Woodman joined Takeda Ventures, Inc. ("TVI") in March 2018 as Senior Partner. Prior to joining TVI, Dr. Woodman served as Director of Healthcare Investments at venture capital and private equity firm Touchstone Innovations Plc (formerly Imperial Innovations) from December 2012 to January 2017 and as Director of Healthcare Ventures from September 2012 through December 2016. Dr. Woodman previously served as Principal in the life science team at venture capital firm Sofinnova Partners. Dr. Woodman holds an M.Sc. in Biochemistry from the University of Oxford and a Ph.D. in Oncology from the University of Cambridge.

Director Independence

The NYSE American Stock Exchange requires that a majority of our Board of Directors be composed of "independent directors," which is defined generally as a person other than an officer or employee of the company or its subsidiaries or any other individual having a relationship, which, in the opinion of the company's Board of Directors would interfere with the director's exercise of independent judgment in carrying out the responsibilities of a director.

Messrs. Gbola Amusa, Yaron Breski, Erez Chimovits, Dr. Russell Greig, Jonas Grossman and Dr. Robbie Woodman are our independent directors. Our independent directors have regularly scheduled meetings at which only independent directors are present.

Committees of the Board of Directors

Audit Committee

The Audit Committee, which is established in accordance with Section 3(a)(58)(A) of the Exchange Act, engages Company's independent accountants, reviewing their independence and performance; reviews the Company's accounting and financial reporting processes and the integrity of its financial statements; the audits of the Company's financial statements and the appointment, compensation, qualifications, independence and performance of the Company's independent auditors; the Company's compliance with legal and regulatory requirements; and the performance of the Company's internal audit function and internal control over financial reporting. The Audit Committee has held three meetings during 2019.

The members of the Audit Committee are Gbola Amusa, Yaron Breski and Erez Chimovits, each of whom is an independent director under NYSE American Stock Exchange's listing standards and satisfies the additional independence requirements of Rule 10A-3 of the Exchange Act. Gbola Amusa is the Chairperson of the Audit Committee. The Board of Directors has determined that Gbola Amusa qualifies as an "audit committee financial expert," as defined under the rules and regulations of the SEC.

Compensation Committee

The Compensation Committee reviews annually the Company's corporate goals and objectives relevant to the officers' compensation, evaluates the officers' performance in light of such goals and objectives, determines and approves the officers' compensation level based on this evaluation; makes recommendations to the Board of Directors regarding approval, disapproval, modification, or termination of existing or proposed employee benefit plans, makes recommendations to the Board of Directors with respect to the compensation of our executive officers, other than the Chief Executive Officer, and administers the Company's incentive-compensation plans and equity-based plans. The Compensation Committee has the authority to delegate any of its responsibilities to subcommittees as it may deem appropriate in its sole discretion. The Chief Executive Officer of the Company may not be present during voting or deliberations of the Compensation Committee with respect to his compensation. The Company's executive officers do not play a role in suggesting their own salaries. Neither the Company nor the Compensation Committee has engaged any compensation consultant who has a role in determining or recommending the amount or form of executive or director compensation. The Compensation Committee has not held any meetings during 2019.

The members of the Compensation Committee are Erez Chimovits, Jonas Grossman and Russell Greig, each of whom is an independent director under NYSE American Stock Exchange's listing standards. Erez Chimovits is the Chairperson of the Compensation Committee.

Nominating Committee

The Nominating Committee is responsible for overseeing the selection of persons to be nominated to serve on our Board of Directors. Specifically, the Nominating Committee makes recommendations to the Board of Directors regarding the size and composition of the Board of Directors, establishes procedures for the director nomination process and screens and recommends candidates for election to the Board of Directors. On an annual basis, the Nominating Committee recommends for approval by the Board of Directors certain desired qualifications and characteristics for Board of Directors membership. Additionally, the Nominating Committee establishes and oversees the annual assessment of the performance of the Board of Directors as a whole and its individual members. The Nominating Committee will consider a number of qualifications relating to management and leadership experience, background and integrity and professionalism in evaluating a person's candidacy for membership on the Board of Directors. The Nominating Committee may require certain skills or attributes, such as financial or accounting experience, to meet specific needs of the Board of Directors that arise from time to time and will also consider the overall experience and makeup of its members to obtain a broad and diverse mix of Board of Directors members. The Nominating Committee does not distinguish among nominees recommended by stockholders and other persons. The Nominating Committee has not held any meetings during 2019.

The members of the Nominating Committee are Russell Greig, Jonas Grossman and Robbie Woodman, each of whom is an independent director under NYSE American Stock Exchange's listing standards. Russell Greig is the Chairperson of the Nominating Committee.

DIRECTOR COMPENSATION

In connection with the Closing of the Merger Agreement, the Board of Directors intends to approve and implement a compensation program that will consist of annual retainer fees and long-term equity awards for our non-employee directors.

EXECUTIVE COMPENSATION

The disclosure contained in the Definitive Proxy Statement in the section entitled "*Compensation of Directors and Executive Officers of BiomX*" beginning on page 204 is incorporated herein by reference.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Certain transactions of CHAC and BiomX are described in the Definitive Proxy Statement in the section entitled "*Certain Transactions*" beginning on page 209 and are incorporated herein by reference.

In connection with the Closing, the Company adopted a new related party transactions approval policy that sets forth the policies and procedures for the review and approval or ratification of related person transactions.

As discussed above in Item 1.01, on October 28, 2019, CHAC entered into a purchase agreement with Cornix, an affiliate of CHAC. For further discussion, see Item 1.01.

DESCRIPTION OF SECURITIES

The disclosure contained in the Definitive Proxy Statement in the section entitled "*Description of CHAC's Securities*" beginning on page 211 is incorporated herein by reference.

LEGAL PROCEEDINGS

From time to time, the Company may be involved in various claims and legal proceedings arising in the ordinary course of business. Neither the Company nor BiomX is currently a party to any such claims or proceedings which, if decided adversely to the Company or BiomX, would either, individually or in the aggregate, have a material adverse effect on the Company's business, financial condition, results of operations or cash flows.

INDEMNIFICATION OF DIRECTORS AND OFFICERS

The information contained in Item 14 of CHAC's Registration Statement on Form S-1 (File No. 333-228533), as originally filed with the Securities and Exchange Commission ("SEC") on November 26, 2018, as amended, is incorporated herein by reference.

In addition, upon the Closing, the Company has entered into indemnification agreements with each of its directors and executive officers. These agreements require the Company to indemnify these individuals to the fullest extent permitted under Delaware law against liabilities that may arise by reason of their service to the Company, and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified.

The Form of the Indemnification Agreement is filed with this Form 8-K as Exhibit 10.4 and is incorporated herein by reference. The foregoing description of the Form of the Indemnification Agreement does not purport to be complete and is subject to, and is qualified in its entirety by, the full text of the Form of the Indemnification Agreement.

Item 3.02. Unregistered Sales of Equity Securities.

The disclosure set forth under Item 2.01 above is incorporated in this Item 3.02 by reference. The 16,625,000 shares of Common Stock issued pursuant to the Merger Agreement were issued in reliance upon an exemption from the registration requirements pursuant to Section 4(a)(2) of the Securities Act. The securityholders of BiomX receiving the shares of Common Stock represented their intentions to acquire the shares for investment only and not with a view to or for sale in connection with any distribution, and appropriate restrictive legends were affixed to the certificates representing the shares. The parties also had adequate access, through business or other relationships, to information about the Company and BiomX.

Item 4.01. Changes in Registrant's Certifying Accountant.

(a) On October 28, 2019, the Company dismissed Marcum LLP ("Marcum") as the Company's independent registered accounting firm. This decision was approved by the Board of Directors.

The reports of Marcum on the Company's consolidated financial statements for the years ended June 30, 2019 and 2018 did not contain any adverse opinion or a disclaimer of opinion, nor were they qualified or modified as to uncertainty, audit scope, or accounting principles.

During the fiscal years ended June 30, 2019 and 2018, and the subsequent interim period through October 28, 2019, there were no (i) disagreements with Marcum on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to their satisfaction, would have caused them to make reference to the subject matter of the disagreement in connection with their report, or (ii) reportable events (as described in Item 304(a)(1)(v) of Regulation S-K).

The Company has provided Marcum with a copy of the above disclosures, and Marcum has furnished the Company with a letter addressed to the SEC stating that it agrees with the statements made above. A copy of Marcum's letter, dated [November 1], 2019, is attached as Exhibit 16.1 to this Form 8-K.

(b) On October 28, 2019, the Board of Directors approved the appointment of Brightman Almagor Zohar & Co. ("Deloitte Israel") as the Company's independent registered accounting firm. During the two most recent fiscal years ended June 30, 2019 and 2018 and during the subsequent interim period through October 28, 2019 neither the Company nor anyone on its behalf consulted Deloitte Israel regarding either (i) the application of accounting principles to a specified transaction, either completed or proposed, or the type of audit opinion that might be rendered on the Company's financial statements, and neither a written report nor oral advice was provided to the Company that Deloitte Israel concluded was an important factor considered by the Company in reaching a decision as to any accounting, auditing or financial reporting issue, or (ii) any matter that was either the subject of a "disagreement" or a "reportable event", each as defined in Regulation S-K Item 304(a)(1)(iv) and 304(a)(1)(v), respectively.

Item 5.01. Changes in Control of Registrant.

The description of the Merger Agreement and the related agreements to effect the Business Combination in the Definitive Proxy Statement in the section entitled "*The Merger Agreement*" beginning on page 102 and "*The Merger Agreement—Additional Agreements*" beginning on page 105, which is incorporated herein by reference. The information contained in Item 2.01 to this Form 8-K is also incorporated herein by reference.

As a result of the issuance of the shares of Common Stock pursuant to the Business Combination and related transactions, a change in control of the Company occurred as of October 28, 2019. Except as described in this Form 8-K, no arrangements or understandings exist among present or former controlling shareholders with respect to the election of members of our Board of Directors and, to our knowledge, no other arrangements exist that might result in a change of control of the Company.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Five incumbent directors of CHAC, George Kaufman, Michael Rice, Richard Giroux, Matthew Rossen, and Eric Kusseluk, M.D., resigned from the Board of Directors upon closing of the Business Combination. Our Board of Directors currently consists of two existing CHAC directors, Mr. Jonas Grossman and Dr. Gbola Amusa, and five newly appointed directors, Dr. Russell Grieg, Chairman of the Board of Directors, Mr. Yaron Breski, Mr. Erez Chimovits, Mr. Jonathan Solomon and Dr. Robbie Woodman.

The information contained in Item 2.01 to this Form 8-K is also incorporated herein by reference.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On October 28, 2019, as a result of the consummation of the Business Combination, the Board of Directors adopted a resolution to change the Company's fiscal year end from June 30 to December 31, effective immediately. The Company is not required to file a transition report on Form 10-KT and plans to report the financial results of the combined company for the fiscal year ended December 31, 2019 on an annual report on Form 10-K.

Item 5.06. Change in Shell Company Status.

On October 28, 2019, as a result of the consummation of the Business Combination, which fulfilled the "initial Business Combination" requirement of CHAC's Amended and Restated Certificate of Incorporation, the Company ceased to be a shell company. The material terms of the Business Combination are described in the Definitive Proxy Statement in the section entitled "*The Business Combination Proposal*" beginning on page 82, which is incorporated herein by reference.

Item 8.01 Other Events.

On October 28, 2019, the Company issued a press release announcing the consummation of the Business Combination. A copy of the press release is filed as Exhibit 99.1 to this Form 8-K and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(a) Financial Statements of Business Acquired.

In accordance with Item 9.01(a), BiomX's audited financial statements for the year ended December 31, 2018 and 2017 are attached to this Form 8-K as Exhibit 99.2 hereto.

(b) Pro Forma Financial Information.

In accordance with Item 9.01(b), unaudited pro forma condensed combined financial statements for the nine months ended September 30, 2019 for CHAC, and for the nine months ended June 30, 2019 for BiomX, are attached to this Form 8-K as Exhibit 99.3 hereto.

(d) Exhibits

Exhibit	Description
2.1	Merger Agreement (Incorporated by reference to Exhibit 2.1 to the registrant's Current Report on Form 8-K filed by the registrant on July 17, 2019)
2.2	Amendment Agreement to the Merger Agreement (Incorporated by reference to Exhibit 2.1 to the registrant's Current Report on Form 8-K filed by the registrant on October 11, 2019)
3.1	Amended and Restated Certificate of Incorporation of the Company, effective on December 11, 2018
3.2	Certificate of Amendment of Certificate of Incorporation of the Company, effective on October 28, 2019
3.3	Amended and Restated Bylaws of the Company, effective as of October [28], 2019
10.1	Registration Rights Agreement dated October 28, 2019
10.2	Escrow Agreement dated October 28, 2019, among Chardan Healthcare Acquisition Corp., Shareholder Representative Services LLC and Continental Stock Transfer & Trust Company
10.3	Voting Agreement dated October 28, 2019
10.4	Form of Indemnification Agreement with each director and officer
10.5*	Research and License Agreement, dated June 22, 2015, between BiomX Ltd. and Yeda Research and Development Company Limited, as amended
10.6*	Exclusive Patent License Agreement dated April 25, 2017, between BiomX Ltd. and the Massachusetts Institute of Technology
10.7*	Exclusive Patent License Agreement, dated December 15, 2017, among BiomX Ltd., Keio University and JSR Corporation, as amended
10.8*	Exclusive Patent License Agreement, dated April 22, 2019, among BiomX Ltd., Keio University and JSR Corporation
10.9*	Share Purchase Agreement, dated November 19, 2017, among BiomX Ltd., RondinX Ltd. and Guy Harmelin, as the Shareholders' Representative
10.10**	Chardan Healthcare Acquisition Corp. 2019 Equity Incentive Plan
10.11	Waiver Agreement, dated October 28, 2019
10.12	Purchase Agreement, dated October 28, 2019, between Cornix LLC and Chardan Healthcare Acquisition Corp.
16.1	Letter from Marcum LLP
17.1	Resignation of George Kaufman
17.2	Resignation of Michael Rice
17.3	Resignation of Richard Giroux
17.4	Resignation of Matthew Rossen
17.5	Resignation of Eric Kusseluk, M.D.
21.1	Subsidiaries of Registrant
99.1	Press Release dated October 28, 2019
99.2	Audited Financial Statements of BiomX Ltd.
99.3	Pro Forma Financial Statements
*	Portions of this exhibit have been omitted pursuant to Rule 601(b)(10) of Regulation S-K. The omitted information is not material and would likely cause competitive harm to the registrant if publicly disclosed.
**	Indicates a management contract or a compensatory plan or agreement.

SIGNATURE

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

BIOMX INC.

November 1, 2019

By: /s/ Jonathan Solomon
Name: Jonathan Solomon
Title: Chief Executive Officer

Exhibit 3.1

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

CHARDAN HEALTHCARE ACQUISITION CORP.

Pursuant to Section 245 of the

Delaware General Corporation Law

Chardan Healthcare Acquisition Corp., a corporation existing under the laws of the State of Delaware, by its Chief Executive Officer, hereby certifies as follows:

1. The name of the corporation is Chardan Healthcare Acquisition Corp. (hereinafter called the “Corporation”).

2. The Corporation’s Certificate of Incorporation was filed in the office of the Secretary of State of the State of Delaware on November 1, 2017, and a Certificate of Amendment changing the total number of shares which the Corporation has the authority to issue to three million (3,000,000) shares of common stock, $0.0001 par value,was filed in the office of the Secretary of the State of Delaware on September 14, 2018.

3. This Amended Restated Certificate of Incorporation restates, integrates and amends the Certificate of Incorporation of the Corporation.

4. This Amended and Restated Certificate of Incorporation was duly adopted by the written consent of the directors and stockholders of the Corporation in accordance with the applicable provisions of Sections 141(f), 228, 242 and 245 of the General Corporation Law of the State of Delaware (“GCL”).

5. The text of the Certificate of Incorporation of the Corporation is hereby amended and restated to read in full as follows:

FIRST: The name of the corporation is Chardan Healthcare Acquisition Corp. (hereinafter called the “Corporation”).

SECOND: The registered office of the Corporation is to be located at 850 New Burton Road, Suite 201, in the City of Dover, in the County of Kent, 19904. The name of its registered agent at that address is Cogency Global Inc.

THIRD: 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 Delaware (“GCL”).

FOURTH: The name and mailing address of the incorporator is: Jaszick Maldonado, c/o Loeb & Loeb LLP, 345 Park Avenue, New York NY 10154.

FIFTH: The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 31,000,000, of which 30,000,000 shares shall be common stock, par value $.0001 per share ("Common Stock") and 1,000,000 shares shall be preferred stock, par value $.0001 per share ("Preferred Stock").

A. Preferred Stock. The Board of Directors is expressly granted authority to issue shares of the Preferred Stock, in one or more series, and to fix for each such series such voting powers, full or limited, and such designations, preferences and relative, participating, optional or other special rights and such qualifications, limitations or restrictions thereof as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issue of such series (a "Preferred Stock Designation") and as may be permitted by the GCL. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by 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, without a separate vote of the holders of the Preferred Stock, or any series thereof, unless a vote of any such holders is required pursuant to any Preferred Stock Designation.

B. Common Stock. Except as otherwise required by law or as otherwise provided in any Preferred Stock Designation, the holders of the Common Stock shall exclusively possess all voting power and each share of Common Stock shall have one vote.

SIXTH: This Article Sixth shall apply during the period commencing upon the filing of this Certificate of Incorporation and terminating upon the consummation of any "Business Combination" (as defined below). A "Business Combination" shall mean any merger, capital stock exchange, asset acquisition, stock purchase, recapitalization, reorganization or other similar business combination involving the Corporation and one or more businesses or entities ("Target Business"), or entering into contractual arrangements that give the Corporation control over such a Target Business, and, if the Corporation is then listed on a national securities exchange, the Target Business has a fair market value equal to at least 80% of the balance in the Trust Fund (defined below), less any taxes payable on interest earned, at the time of signing a definitive agreement in connection with the initial Business Combination. "IPO Shares" shall mean the shares sold pursuant to the registration statement on Form S-1 ("Registration Statement") filed with the Securities and Exchange Commission ("Commission") in connection with the Corporation's initial public offering ("IPO"). The "fair market value" for purposes of this Article Sixth will be determined by the Board of Directors of the Corporation based upon one or more standards generally accepted by the financial community (such as actual and potential sales, earnings, cash flow and/or book value). If the Board of Directors is unable to independently determine the fair market value of the Target Business, the Corporation will obtain an opinion from an independent investment banking firm, or another independent entity that commonly renders valuation opinions, with respect to the satisfaction of such criteria.

A. Prior to the consummation of a Business Combination, the Corporation shall either (i) submit any Business Combination to its holders of Common Stock for approval ("Proxy Solicitation") pursuant to the proxy rules promulgated under the Securities Exchange Act of 1934, as amended ("Exchange Act"), or (ii) provide its holders of IPO Shares with the opportunity to sell their shares to the Corporation by means of a tender offer ("Tender Offer").

B. If the Corporation engages in a Proxy Solicitation with respect to a Business Combination, the Corporation will consummate the Business Combination only if a majority of the then outstanding shares of Common Stock present and entitled to vote at the meeting to approve the Business Combination are voted for the approval of such Business Combination.

C. In the event that a Business Combination is consummated by the Corporation or the Corporation holds a vote of its stockholders to amend its Certificate of Incorporation, any holder of IPO Shares who (i) voted on the proposal to approve such Business Combination or amend the Certificate of Incorporation, whether such holder voted in favor or against such Business Combination or amendment, and followed the procedures contained in the proxy materials to perfect the holder's right to convert the holder's IPO Shares into cash, if any, or (ii) tendered the holder's IPO Shares as specified in the tender offer materials therefore, shall be entitled to receive the Conversion Price (as defined below) in exchange for the holder's IPO Shares. The Corporation shall, promptly after consummation of the Business Combination or the filing of the amendment to the Certificate of Incorporation with the Secretary of State of the State of Delaware, convert such shares into cash at a per share price equal to the quotient determined by dividing (i) the amount then held in the Trust Fund (as defined below) less any income taxes owed on such funds but not yet paid, calculated as of two business days prior to the consummation of the Business Combination or the filing of the amendment, as applicable, by (ii) the total number of IPO Shares then outstanding (such price being referred to as the "Conversion Price"). "Trust Fund" shall mean the trust account established by the Corporation at the consummation of its IPO and into which the amount specified in Registration Statement is deposited. Notwithstanding the foregoing, a holder of IPO Shares, together with any affiliate of his or any other person with whom he is acting in concert or as a "group" (within the meaning of Section 13(d)(3) of the Exchange Act) ("Group") with, will be restricted from demanding conversion in connection with a proposed Business Combination with respect to 20.0% or more of the IPO Shares. Accordingly, all IPO Shares beneficially owned by such holder or any other person with whom such holder is acting in concert or as a Group with in excess of 20.0% or more of the IPO Shares will remain outstanding following consummation of such Business Combination in the name of the stockholder and not be converted.

D. The Corporation will not consummate any Business Combination unless it has net tangible assets of at least $5,000,001 upon consummation of such Business Combination.

E. In the event that the Corporation does not consummate a Business Combination by 24 months from the consummation of the IPO (such date being referred to as the “Termination Date”), the Corporation shall (i) cease all operations except for the purposes of winding up, (ii) as promptly as reasonably possible but not more than ten business days thereafter redeem 100% of the IPO Shares for cash for a redemption price per share as described below (which redemption will completely extinguish such holders’ rights as stockholders, including the right to receive further liquidation distributions, if any), and (iii) as promptly as reasonably possible following such redemption, subject to approval of the Corporation’s then stockholders and subject to the requirements of the GCL, including the adoption of a resolution by the Board of Directors pursuant to Section 275(a) of the GCL finding the dissolution of the Corporation advisable and the provision of such notices as are required by said Section 275(a) of the GCL, dissolve and liquidate the balance of the Corporation’s net assets to its remaining stockholders, as part of the Corporation’s plan of dissolution and liquidation, subject (in the case of (ii) and (iii) above) to the Corporation’s obligations under the GCL to provide for claims of creditors and other requirements of applicable law. In such event, the per-share redemption price shall be equal to a pro rata share of the Trust Account plus any pro rata interest earned on the funds held in the Trust Account and not previously released to the Corporation for its working capital requirements or necessary to pay its taxes divided by the total number of IPO Shares then outstanding.

F. A holder of IPO Shares shall only be entitled to receive distributions from the Trust Fund in the event (i) he demands conversion of his shares in accordance with paragraph C above or (ii) that the Corporation has not consummated a Business Combination by the Termination Date as described in paragraph E above. In no other circumstances shall a holder of IPO Shares have any right or interest of any kind in or to the Trust Fund.

G. Prior to a Business Combination, the Board of Directors may not issue (i) any shares of Common Stock or any securities convertible into Common Stock; or (ii) any securities which participate in or are otherwise entitled in any manner to any of the proceeds in the Trust Fund or which vote as a class with the Common Stock on a Business Combination.

SEVENTH: The following provisions are inserted for the management of the business and for the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

A. Election of directors need not be by ballot unless the by-laws of the Corporation so provide.

B. The Board of Directors shall have the power, without the assent or vote of the stockholders, to make, alter, amend, change, add to or repeal the by-laws of the Corporation as provided in the by-laws of the Corporation.

C. The directors in their discretion may submit any contract or act for approval or ratification at any annual meeting of the stockholders or at any meeting of the stockholders called for the purpose of considering any such act or contract, and any contract or act that shall be approved or be ratified by the vote of the holders of a majority of the stock of the Corporation which is represented in person or by proxy at such meeting and entitled to vote thereat (provided that a lawful quorum of stockholders be there represented in person or by proxy) shall be as valid and binding upon the Corporation and upon all the stockholders as though it had been approved or ratified by every stockholder of the Corporation, whether or not the contract or act would otherwise be open to legal attack because of directors' interests, or for any other reason.

D. In addition to the powers and authorities hereinbefore or by statute expressly conferred upon them, 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; subject, nevertheless, to the provisions of the statutes of Delaware, of this Amended and Restated Certificate of Incorporation, and to any bylaws from time to time made by the stockholders; provided, however, that no bylaw so made shall invalidate any prior act of the directors which would have been valid if such bylaw had not been made.

EIGHTH:

A. 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, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the GCL, or (iv) for any transaction from which the director derived an improper personal benefit. If the GCL is amended 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 GCL, as so amended. Any repeal or modification of this paragraph A by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation with respect to events occurring prior to the time of such repeal or modification.

B. The Corporation, to the full extent permitted by Section 145 of the GCL, as amended from time to time, shall indemnify all persons whom it may indemnify pursuant thereto. Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative, or investigative action, suit or proceeding for which such officer or director may be entitled to indemnification hereunder shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized hereby.

C. Notwithstanding the foregoing provisions of this Article Eighth, no indemnification nor advancement of expenses will extend to any claims made by the Company's officers and directors to cover any loss that such individuals may sustain as a result of such individuals' agreement to pay debts and obligations to target businesses or vendors or other entities that are owed money by the Corporation for services rendered or contracted for or products sold to the Corporation, as described in the Registration Statement.

NINTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be signed by Jonas Grossman, its Chief Executive Officer, as of the 13th day of December, 2018.

/s/ Jonas Grossman
Jonas Grossman, Chief Executive Officer

Exhibit 3.2

STATE OF DELAWARE
CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
CHARDAN HEALTHCARE ACQUISITION CORP.

Chardan Healthcare Acquisition Corp., a Delaware corporation (the "Corporation"), does hereby certify that:

First: That the Board of Directors and stockholders of the Corporation by unanimous written consent dated as of September 11, 2018, adopted resolutions setting forth an amendment to the Certificate of Incorporation of the Corporation. The resolutions setting forth the amendment are as follows:

RESOLVED, that the Corporation's Certificate of Incorporation be amended as follows:

1) ARTICLE FIFTH is amended and restated in its entirety to read as follows:

"The total number of shares which the Corporation shall have authority to issue is three million (3,000,000) shares of common stock, $0.0001 par value."

Second: That, pursuant to §228 of the General Corporation Law of the State of Delaware, a written consent approving the amendment set forth above was signed by the holders of outstanding voting stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting on such date at which all shares entitled to vote thereon were present and voted.

Third: That said amendment was duly adopted in accordance with the provisions of §242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said corporation has caused this certificate to be signed this 11th day of September 2018.

By:	/s/ Jonas Grossman
Name:	Jonas Grossman
Title:	Chief Executive Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:42 PM 11/01/2017
FILED 12:42 PM 11/01/2017
SR 20176883533 - File Number 6600337

CERTIFICATE OF INCORPORATION

OF

CHARDAN HEALTHCARE ACQUISITION CORP.

THE UNDERSIGNED, for the purpose of incorporating and organizing a corporation under the General Corporation Law of the State of Delaware, does hereby execute this Certificate of Incorporation and does hereby certify as follows:

FIRST: The name of the corporation is Chardan Healthcare Acquisition Corp. (hereinafter called the "Corporation").

SECOND: The registered office of the Corporation is to be located at 28 Old Rudnick Lane, in the City of Dover, in the County of Kent, Delaware 19901. The name of its registered agent at that address is Corp l, Inc.

THIRD: 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 Delaware.

FOURTH: The name and mailing address of the incorporator is: Jaszick Maldonado, c/o Loeb & Loeb LLP, 345 Park Avenue, New York NY 10154,

FIFTH: The total number of shares which the Corporation shall have authority to issue is two million (2,000,000) shares of common stock, $0.0001 par value.

SIXTH: A Director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director of the Corporation, except to the extent that exculpation from liability is not permitted under the General Corporation Law of the State of Delaware as in effect at the time such liability is determined. No amendment or repeal of this paragraph shall apply to or have any effect on the liability or alleged liability of any Director of the Corporation for or with respect to any acts or omissions of such Director occurring

SEVENTH: In furtherance and not in imitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to make, alter or repeal the By-Laws of the Corporation; provided, however, that no By-Laws hereafter adopted by the Board of Directors or stockholders shall invalidate any prior act of the Directors which would have been valid if such By-Laws had not been adopted.

EIGHTH: The Corporation shall, to the maximum extent permitted from time to time under the law of the State of Delaware, indemnify and upon request advance expenses to any person who is or was a party or is threatened to be made a party to any threatened, pending or completed action, suit, proceeding or claim, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was or has agreed to be a Director or officer of the Corporation or while a Director or officer is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of any corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys' fees and expenses), judgments, fines, penalties and amounts paid in settlement incurred (and not otherwise recovered) in connection with the investigation, preparation to defend or defense of such action, suit, proceeding or claim; provided, however, that the foregoing shall not require the Corporation to indemnify or advance expenses to any person in connection with any action, suit, proceeding, claim or counterclaim initiated by or on behalf of such person, Such indemnification shall not be exclusive of other indemnification rights arising under any By-Law, agreement, vote of Directors or stockholders or otherwise and shall inure to the benefits of the heirs and legal representatives of such person. Any person seeking indemnification under this paragraph shall be deemed to have met the standard of conduct required for such indemnification unless the contrary shall be established. Any repeal or modification of the foregoing provisions of this paragraph shall not adversely affect any right or protection of a Director or officer of the Corporation with respect to any acts or omissions of such Director or officer occurring prior to such repeal or modification.

NINTH: In furtherance of and not in limitation of powers conferred by statute, it is further provided:

1. Election of Directors need not be by written ballot unless the By-Laws of the Corporation so provide,

2. Meetings of stockholders may be held within or without the State of Delaware, as the By Laws may provide,

3. To the extent permitted by law, 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 of Directors or in the By-Laws of the Corporation.

TENTH: Except as otherwise provided herein, the Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

IN WITNESS WHEREOF, the undersigned, being the incorporator herein before named, has executed this Certificate of Incorporation this 1" day of November, 2017.

/s/ Jaszick Maldonado
Jaszick Maldonado, Incorporator

Exhibit 3.3

AMENDED AND RESTATED
BYLAWS
OF
BIOMX INC.

ARTICLE I

MEETINGS OF STOCKHOLDERS

Section 1. Place of Meetings. All meetings of the stockholders shall be held at such place within or outside the State of Delaware as may be fixed from time to time by the Board of Directors or the chief executive officer, or if not so designated, at the registered office of the corporation.

Section 2. Annual Meeting. An annual meeting of stockholders shall be held at such date, time and place as designated by the Board of Directors or the chief executive officer and stated in the notice of meeting. At the annual meeting the stockholders shall elect by a plurality vote those directors to hold office based on the number of directors in the class whose terms are expiring and do so for a term of three (3) years until the annual meeting of stockholders coinciding with the end of such term.

At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business either (i) must be specified in a written notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors or the chief executive officer or secretary of the corporation, (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (iii) otherwise properly brought before the meeting by a stockholder. In addition to any other applicable requirements, for business to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the secretary of the corporation. To be timely, a stockholder's notice must be delivered to or mailed and received at one of the principal executive office(s) of the corporation, not less than ninety (90) calendar days nor more than one-hundred and twenty (120) calendar days prior to the annual meeting; provided, however, that in the event that less than forty-five (45) calendar days' notice or prior public disclosure of the date of the annual meeting is given or made to stockholders, notice by the stockholder to be timely must be so received not later than the close of business on the tenth (10th) business day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure was made. A stockholder's notice to the secretary of the corporation shall set forth as to each matter the stockholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (ii) the name and record address of the stockholder proposing such business, (iii) the class and number of shares of the corporation which are beneficially owned by the stockholder and (iv) any material interest of the stockholder in such business. In no event shall the adjournment or postponement of an annual meeting commence a new notice time period (or extend any notice time period).

Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at the annual meeting except in accordance with the procedures set forth in this Section 2 by any stockholder of any business properly brought before the annual meeting in accordance with said procedure.

The chairperson of an annual meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting in accordance with the provisions of this Section 2, or is otherwise not compliant with these bylaws, and if the chairperson should so determine, the chairperson shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

Section 3. Special Meetings. Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the corporation's certificate of incorporation, may be called only by the chief executive officer at his or her discretion, or by a resolution adopted by the affirmative vote of a majority of the Board of Directors. Business transacted at any special meeting shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

Section 4. Notice of Meetings. Except as otherwise provided by law, written notice of each meeting of stockholders, annual or special, stating the place, date and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given not less than ten (10) nor more than sixty (60) calendar days before the date of the meeting, to each stockholder entitled to vote at such meeting. Without limiting the manner by which notices of meetings otherwise may be given to stockholders, any such notice may be given by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law and as that statute may be amended. Notice of any meeting need not be given to any stockholder who, either before or after the meeting, shall submit a waiver of notice or who shall attend such meeting, except when the stockholder attends 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 the meeting shall be bound by the proceedings of the meeting in all respects as if due notice thereof had been given.

Section 5. Voting List. The officer responsible for the stock ledger of the corporation shall prepare and make, at least ten (10) calendar days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and 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 limited to any purpose germane to the meeting for a period of at least ten (10) calendar days before the meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list was provided with the notice of the meeting; (b) during ordinary business hours, at the principal place of business of the corporation; or (c) either at a place within the city or town where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list also shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. Except as provided by applicable law, the stock ledger of the corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger and the list of stockholders or to vote in person or by proxy at any meeting of stockholders.

Section 6. **Quorum.** The holders of one-third (1/3) of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of stockholders for transaction of business, except as otherwise provided by statute, the certificate of incorporation or these bylaws. A quorum, once established, shall not be broken by subsequent withdrawal of enough votes to leave less than a quorum.

Section 7. **Adjournments.** Any meeting of stockholders may be adjourned from time to time to any other time and/or any other place at which a meeting of stockholders may be held under these bylaws, which time and place shall be announced at the meeting, by a majority of the stockholders present in person or represented by proxy at the meeting and entitled to vote, though less than a quorum, or, if no stockholder is present or represented by proxy, by any officer entitled to preside at or to act as corporate secretary of such meeting, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) calendar 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 8. **Action at Meetings.** When a quorum is present at any meeting, the vote of the holders of a majority of the stock present in person or represented by proxy and entitled to vote on the question shall decide any question brought before such meeting, unless the question is one upon which by express provision of law, the corporation's certificate of incorporation or these bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Section 9. **Voting and Proxies.** Unless otherwise provided in the corporation's certificate of incorporation, each stockholder shall at every meeting of the stockholders be entitled to one vote, in person or by proxy, for each share of capital stock having voting power held of record by such stockholder. Each stockholder entitled to vote at a meeting of stockholders, or to express consent or dissent to corporate action in writing without a meeting, may authorize another person or persons to act for such stockholder by proxy; provided that the instrument authorizing such proxy to act shall have been executed in writing (which shall include telegraphing, cabling or other means of electronically transmitted written copy) and signed and dated by the stockholder personally or by the stockholder's duly authorized attorney in fact. No such proxy shall be voted or acted upon after three (3) years from its effective date, unless the proxy expressly provides for a longer period.

Section 10. **Action by Consent.** Unless otherwise restricted by the corporation's certificate of incorporation or these bylaws, any action required or permitted to be taken at any annual or special meeting of the stockholders of the corporation may be taken without a meeting, if a majority of the stockholders of the corporation consent thereto in writing or by electronic transmission.

ARTICLE II

DIRECTORS

Section 1. Number, Election, Tenure and Qualification. The number of directors which shall constitute the whole board shall not be less than five (5) nor more than nine (9); provided, however, the board shall be comprised of an odd number of directors. Within and according to such limit, the actual number of directors shall be determined by resolution of the Board of Directors, or by the stockholders at the annual , or at any special meeting of stockholders. The directors shall be elected at the annual meeting or at any special meeting of the stockholders, except as provided in Section 3 of this Article, and each director elected shall hold office until such director's successor is elected and qualified or until the director's earlier death, resignation, disqualification, or removal. Directors need not be stockholders. Directors shall serve according to a set of staggered terms such that in any given year there is no more than twenty-five percent (25%) turnover of the Board.

Section 2. Enlargement. The number of the Board of Directors may be increased at any time by vote of a majority of the directors then in office, subject to maintaining an odd number for the Board.

Section 3. Nominations. Subject to the rights of holders of any class or series of stock having a preference over the common stock as to dividends or upon liquidation, nominations for election to the Board of Directors of the corporation at a meeting of stockholders may be made on behalf of the board by the nominating committee appointed by the board, or by any stockholder of the corporation entitled to vote for the election of directors at such meeting. Such nominations, other than those made by the nominating committee on behalf of the board, shall be made by notice in writing delivered or mailed by first class United States mail or a nationally recognized courier service, postage prepaid, to the secretary or assistant secretary of the corporation, and received by such officer not less than one hundred-twenty (120) calendar days prior to any meeting of stockholders called for the election of directors; provided, however, that if less than ninety (90_ calendar days' notice of the meeting is given to stockholders, such nomination shall have been mailed or delivered to the secretary or the assistant secretary of the corporation not later than the close of business on the seventh (7th) calendar day following the day on which the notice of meeting was mailed. Such notice shall set forth as to each proposed nominee who is not an incumbent director (i) the name, age, business address and, if known, residence address of each nominee proposed in such notice, (ii) the principal occupation or employment of each such nominee, (iii) the number of shares of stock of the corporation which are owned beneficially by each such nominee and by the nominating stockholder, (iv) any other information concerning the nominee that must be disclosed of nominees in proxy solicitations regulated by Regulation 14A of the Securities Exchange Act of 1934, as amended, and (v) a written questionnaire with respect to the background and qualification of such nominee (which questionnaire shall be provided by the corporate secretary upon written request) and a written statement and agreement executed by each such nominee acknowledging that such person consents to being named in the corporation's proxy statement as a nominee and to serving as a director if elected.

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

Section 4. **Vacancies.** Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office until the next annual election at which the term of the class to which they have been elected expires and until their successors are duly elected and shall qualify or until the director's earlier death, resignation, disqualification, or removal. If there are no directors in office, then an election of directors may be held in the manner provided by statute. In the event of a vacancy in the Board of Directors, the remaining directors, except as otherwise provided by law or these bylaws, may exercise the powers of the full board until the vacancy is filled.

Section 5. **Resignation and Removal.** Any director may resign at any time for any reason upon giving written or electronic notice to the corporation at its principal place of business or to the chief executive officer or the secretary of the corporation. Such resignation shall be effective upon receipt of such notice by any of the foregoing unless the notice specifies such resignation to be effective at some other time or upon the happening of some other event. Any director or the entire Board of Directors may be removed, but only for cause, by the holders of a majority of the shares then entitled to vote at an election of directors, unless otherwise specified by law or the certificate of incorporation of the corporation.

Section 6. **General Powers.** The business and affairs of the corporation shall be managed by its Board of Directors, which may exercise all powers of the corporation and do all such lawful acts and things as are not by statute or by the certificate of incorporation or by these bylaws directed or required to be exercised or done solely by the stockholders.

Section 7. **Chairperson of the Board.** If the Board of Directors appoints a chairperson of the board, such chairperson, when present, shall preside at all meetings of the stockholders and the Board of Directors. The chairperson shall perform such duties and possess such powers as are customarily vested in the office of the chairperson of the board or as may be vested in the chairperson by the Board of Directors.

Section 8. **Place of Meetings.** The Board of Directors may hold meetings, both regular and special, either within or outside the State of Delaware to the extent held in the United States of America.

Section 9. **Regular Meetings.** Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by the board; provided that any director who is absent when such a determination is made shall be given prompt written notice of such determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders. Notwithstanding the foregoing, the board shall meet at a minimum frequency of quarterly.

Section 10. Special Meetings. Special meetings of the board may be called by the chief executive officer, secretary of the corporation, or on the written request of three (3) or more directors, or by one (1) director in the event that there is only one (1) director in office. Four (4) hours' notice to each director, either personally or by e-mail or other electronic transmission, commercial delivery service or similar means sent to such director's business or home address, or three (3) calendar days' notice by written notice deposited in the mail or delivered by a nationally recognized courier service, shall be given to each director by the secretary of the corporation or by the officer or one of the directors calling the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.

Section 11. Quorum, Action at Meeting, Adjournments. At all meetings of the board, a majority of directors then in office, but in no event less than one third (1/3) of the entire board, shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be provided otherwise specifically by law or by the corporation's certificate of incorporation. For purposes of this Section 11, the term "entire board" shall mean the number of directors last fixed by the stockholders or directors, as the case may be, in accordance with law and these bylaws; provided, however, that if less than all the number so fixed of directors were elected, the "entire board" shall mean the greatest number of directors so elected to hold office at any one time pursuant to such authorization. If a quorum shall not be present at any meeting of the Board of Directors, a majority of the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 12. Action by Consent. 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 or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or transmission or transmissions are filed with the minutes of proceedings of the board or committee.

Section 13. Telephonic Meetings. Unless otherwise restricted by the certificate of incorporation or these bylaws, members of the Board of Directors or of any committee thereof may participate in a meeting of the Board of Directors or of any committee, as the case may be, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

Section 14. Committees. The Board of Directors, by resolution passed by a majority of the whole board, may designate one or more committees of the board, each committee to consist of one or more of the directors of the corporation; provided, however, the total number of Committee members shall be an odd number. 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. Any such committee, to the extent 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 amending the certificate of incorporation of the corporation or these bylaws, adopting an agreement of merger, acquisition or consolidation of the corporation in its entirety, recommending to the stockholders the sale, lease or exchange of all or substantially all of the corporation's property and assets, recommending to the stockholders a dissolution of the corporation or a revocation of a dissolution; and, unless the resolution designating such committee or the corporation's certificate of incorporation expressly so provide, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock or stock options or warrants. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and make such reports to the Board of Directors as the Board of Directors may request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business in compliance with applicable laws and these bylaws and the corporation's certificate of incorporation, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these bylaws for the conduct of its business by the Board of Directors.

Section 15. Compensation. Unless otherwise restricted by the certificate of incorporation of this corporation or these bylaws, the Board of Directors shall have the authority to fix from time to time the compensation of directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and the performance of their responsibilities as directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors and/or a stated salary as director. Payment may be by cash or by stock or stock option or warrant, as determined by the Board of Directors otherwise in accordance with these bylaws. No such payment shall preclude any director from serving the corporation or its parent or subsidiary corporations in any other capacity and receiving compensation therefor. The Board of Directors may also allow compensation for members of special or standing committees for service on such committees.

ARTICLE III

OFFICERS

Section 1. Enumeration. The officers of the corporation shall be chosen by the Board of Directors and shall be a president, a secretary and a treasurer and such other officers with such titles, terms of office and duties as the Board of Directors may from time to time determine, including one or more vice-presidents, and one or more assistant secretaries and assistant treasurers. If authorized by resolution of the Board of Directors, the chief executive officer may be empowered to appoint from time to time assistant secretaries and assistant treasurers. Any number of offices may be held by the same person, unless the certificate of incorporation or these bylaws otherwise provide.

Section 2. Election. The Board of Directors at its first meeting after each annual meeting of stockholders shall choose a president, a secretary and a treasurer. Other officers may be appointed by the Board of Directors at such meeting, at any other meeting, or by written consent.

Section 3. Tenure. The officers of the corporation shall hold office until their successors are chosen and qualify, unless a different term is specified in the vote choosing or appointing such officer, or until such officer's earlier death, resignation or removal. Any officer elected or appointed by the Board of Directors or by the chief executive officer may be removed at any time by the affirmative vote of a majority of the Board of Directors or a committee of the board duly authorized to do so, except that any officer appointed by the chief executive officer also may be removed at any time by the chief executive officer. Any vacancy occurring in any office of the corporation may be filled by the Board of Directors, at its discretion. Any officer may resign by delivering such officer's written or electronic resignation to the corporation at its principal place of business or to the chief executive officer or the secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Section 4. President. The president shall be the chief executive officer unless the Board of Directors otherwise provides. The president, unless the Board of Directors provides otherwise in a specific instance or generally, shall (i) preside at all meetings of the stockholders and the Board of Directors, (ii) conduct general and active management of the business of the corporation, and (iii) be responsible that all orders and resolutions of the Board of Directors are implemented. The president further shall execute bonds, mortgages, and other contracts requiring a seal, under the seal of the corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the corporation.

Section 5. Vice-Presidents. In the absence of the president or in the event of the president's inability or refusal to act, the vice-president, or if there be more than one vice-president, the vice-presidents in the order designated by the Board of Directors or the chief executive officer (or in the absence of any designation, then in the order determined by their tenure in office) shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice-presidents shall perform such other duties and have such other powers as the Board of Directors or the chief executive officer may from time to time prescribe.

Section 6. Secretary. The secretary shall have such powers and perform such duties as are incident to the office of secretary. The secretary shall maintain a stock ledger and prepare lists of stockholders and their addresses as required and shall be the custodian of corporate records. The secretary shall attend all meetings of the Board of Directors and all meetings of the stockholders and record all the proceedings of the meetings of the corporation and of the Board of Directors in a book to be kept for that purpose and shall perform like duties for the standing committees when required. The secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, and shall perform such other duties as may be from time to time prescribed by the Board of Directors or chief executive officer, under whose supervision the secretary shall be. The secretary shall have custody of the corporate seal of the corporation and the secretary, or an assistant secretary, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by the secretary's signature or by the signature of such assistant secretary. The Board of Directors may give general authority to any other officer to affix the seal of the corporation and to attest the affixing by such officer's signature.

Section 7. Chief Financial Officer. The chief financial officer shall be the principal financial officer of the corporation and shall have such powers and perform such duties as may be assigned by the Board of Directors or the chief executive officer.

Section 8. Other Officers. Such other officers as the Board of Directors may choose shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors.

Section 9. Bond. If required by the Board of Directors, any officer shall give the corporation a bond in such sum and with such surety or sureties and upon such terms and conditions as shall be satisfactory to the Board of Directors, including without limitation a bond for the faithful performance of the duties of such officer's office and for the restoration to the corporation of all books, papers, vouchers, money and other property of whatever kind in such officer's possession or under such officer's control and belonging to the corporation.

Section 10. Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

ARTICLE IV

NOTICES

Section 1. Delivery. Whenever, under the provisions of law, or of the certificate of incorporation or these bylaws, written notice is required to be given by the corporation to any director, officer or stockholder, such notice may be given by mail, addressed to such director, officer or stockholder, at such person's address as it appears on the records of the corporation, with postage thereon prepaid, and such notice shall be deemed to be given at the time when the same shall be deposited by the corporation in the United States mail or delivered to a nationally recognized courier service. Unless written notice by mail is required by law, written notice may also be given by e-mail or electronic transmission, commercial delivery services or similar means, addressed to such director, officer or stockholder at such person's e-mail or address as it appears on the records of the corporation, in which case such notice shall be deemed to be given when delivered by the corporation into the control of the persons charged with effecting such transmission, the transmission charge to be paid by the corporation or the person sending such notice and not by the addressee. Oral notice or other in-hand delivery, in person or by telephone, shall be deemed given at the time it actually is given.

Section 2. Waiver of Notice. Whenever any notice is required to be given by the corporation under the provisions of law or of the certificate of incorporation or of these bylaws, a waiver thereof in writing, signed and dated by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

ARTICLE V

INDEMNIFICATION

Section 1. Actions Other than by or in the Right of the Corporation The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, investigative or otherwise (other than an action by or in the right of the corporation) by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding 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 corporation, and, with respect to any criminal action or proceedings, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

Section 2. Actions by or in the Right of the Corporation. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, investigative or otherwise, by or in the right of the corporation to procure a judgment or legally binding decision in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action, suit or proceeding 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 corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence, fraud or misconduct in the performance of such person's duty or obligations to the corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery of the State of Delaware or such other court shall deem proper.

Section 3. Success on the Merits. To the extent that any person described in Section 1 or 2 of this Article V has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in said Sections, or in defense of any claim, issue or matter therein, such person shall be indemnified by the corporation against their expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

Section 4. **Specific Authorization.** Any indemnification under Section 1 or 2 of this Article V (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of any person described in said Sections is proper in the circumstances because such person has met the applicable standards of conduct set forth in said Sections. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by a majority vote of a quorum of the stockholders of the corporation.

Section 5. **Advance Payment.** Expenses incurred in defending a civil, criminal, administrative, investigative or other action, suit or proceeding for which indemnification is appropriate under these bylaws may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the manner provided for in Section 4 of this Article V upon receipt of an undertaking by or on behalf of any person described in said Section to repay such amount unless it ultimately is determined that such person is entitled to indemnification by the corporation as authorized in this Article V.

Section 6. **Non-Exclusivity.** The indemnification provided by this Article V shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise, both as to action in such person's official capacity and as to action in any other capacity while holding such office, and shall continue as to a person who has ceased to be director, officer, employee or agent of the corporation and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 7. **Insurance.** The Board of Directors may authorize, by a vote of the majority of the full board, the corporation to purchase and maintain insurance of any type and amount on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of this Article V or applicable law.

Section 8. **Severability.** If any word, clause or provision of this Article V or any award made hereunder shall for any reason be determined to be invalid, the provisions hereof shall not be affected otherwise thereby but shall remain in full force and effect.

Section 9. **Intent of Article.** The intent of this Article V is to provide for indemnification to the fullest extent permitted by section 145 of the General Corporation Law of Delaware or any other applicable law. To the extent that such Section or any successor section, or other applicable law, may be amended or supplemented from time to time, this Article V shall be amended automatically and construed so as to permit indemnification to the fullest extent from time to time permitted by the law.

ARTICLE VI

CAPITAL STOCK

Section 1. **<u>Certificates of Stock</u>.** Every holder of stock in the corporation shall be entitled to have a certificate, signed by, or in the name of the corporation by, the chairperson or vice-chairperson of the Board of Directors, or the president or a vice-president and 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 such officer, transfer agent or registrar at the date of issue. Certificates may be issued for partly paid shares and in such case upon the face or back of the certificates issued to represent any such partly paid shares, the total amount of the consideration to be paid therefor, and the amount paid thereon shall be specified.

Section 2. **<u>Lost Certificates</u>.** The Board of Directors may direct a new stock certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed stock certificate or certificates, or such owner's legal representative, to give reasonable evidence of such loss, theft or destruction, to advertise the same in such manner as it shall require and/or to give the corporation a bond in such sum 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 or the issuance of such new certificate.

Section 3. **<u>Transfer of Stock</u>.** Upon surrender to the corporation or the transfer agent of the corporation of a certificate for shares, duly endorsed or accompanied by proper evidence of succession, assignment, or authority to transfer, and proper evidence of compliance with other conditions to rightful transfer, it shall be the duty of the corporation to issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction upon its books.

Section 4. **<u>Record Date for Action at a Meeting or for Other Purposes</u>.** 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, 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, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) calendar days nor less than ten (10) calendar days before the date of such meeting, nor more than sixty (60) calendar days prior to any other action to which such record date relates. 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. If no record date is fixed, 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 before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held. The record date for determining stockholders for any other purpose within this Section 4 of Article VI shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

Section 5. Registered Stockholders. The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and any other rights related to ownership of these shares, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, 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 VII

CERTAIN TRANSACTIONS

Section 1. Transactions with Interested Parties. No contract or transaction between the corporation and one or more of its directors or officers, or between the corporation and any other corporation, partnership, association or other organization in which one or more of the corporation's directors or officers also are directors or have a financial interest, shall be void or voidable solely for these reasons, or solely because the director or officer is present at or participates in the meeting of the board or committee thereof which authorizes the contract or transaction, or solely because the vote or votes of such director or officer are counted for such purpose, if:

(a) the material facts as to such person's relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee of the board, and the board or committee in good faith authorizes the contract or transaction by written consent or the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or

(b) the material facts as to such person's 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 specifically is approved in good faith by written consent or a majority vote of a quorum of the stockholders; or

(c) the contract or transaction is fair and reasonable as to the corporation as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof, or the stockholders.

Section 2. Quorum. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Dividends. Dividends upon the capital stock of the corporation, if any, may be declared by the Board of Directors at any regular or special meeting of the board or stockholders, or by written consent, pursuant to applicable law. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the certificate of incorporation.

Section 2. Reserves. The directors may set apart out of any funds of the corporation available for dividends a reserve or reserves for any proper purpose and, separately, may abolish any such reserve.

Section 3. Checks. All checks or demands for money and notes of the corporation shall be signed either by the corporation's chief financial officer, chief accounting officer, or such officer or officers, or such other person or persons, as the Board of Directors may from time to time designate in writing.

Section 4. Fiscal Year. The fiscal year of the corporation shall be fixed by resolution of the Board of Directors and may change at the discretion of the board.

Section 5. Seal. The Board of Directors, by resolution, may adopt a corporate seal but is not required to do so. The corporate seal shall have inscribed thereon the name of the corporation, the year of its organization, and the word "Delaware". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced. The seal may be altered from time to time by the Board of Directors.

ARTICLE IX

AMENDMENTS

The Board of Directors is expressly empowered to adopt, amend or repeal these bylaws, provided, however, that any adoption, amendment or repeal of these bylaws by the Board of Directors shall require the approval of at least sixty-six and two-thirds percent (66 ⅔%) of the total number of authorized directors (whether or not there exist any vacancies in previously authorized directorships at the time any resolution providing for adoption, amendment or repeal is presented to the board). The stockholders also shall have power to adopt, amend or repeal these bylaws, provided, however, that in addition to any vote of the holders of any class or series of stock of this corporation required by law or by the certificate of incorporation of this corporation, the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 ⅔%) of the voting power of all of the then outstanding shares of the stock of the corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for such adoption, amendment or repeal by the stockholders of any provisions of these bylaws.

Exhibit 10.1

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this "**Agreement**") is entered into as of the 23rd day of October, 2019, by and among Chardan Healthcare Acquisition Corp., a Delaware corporation (the "**Company**") and the undersigned parties listed under Stockholder on the signature page hereto (each, an "Stockholder" and collectively, the "**Stockholders**").

WHEREAS, pursuant to a Merger Agreement dated as of July 16, 2019 ("**Merger Agreement**") by and among the Company, the Stockholders and certain other persons and entities, the Stockholders agreed to accept the Merger Shares (i.e., Common Stock of the Company) in exchange for their shares of Capital Stock of BiomX Ltd., an Israeli company ("**BiomX**");

WHEREAS, pursuant to the terms of the Merger Agreement, the Company agreed to register the Merger Shares (as defined below) held by the Stockholders for resale under the Securities Act (as defined below and the Stockholders and the Company desire to enter into this Agreement to provide the Stockholders with certain rights relating to the registration of the securities held by them as of the date hereof;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS. The following capitalized terms used herein have the following meanings:

"**Agreement**" means this Agreement, as amended, restated, supplemented, or otherwise modified from time to time.

"**BiomX Securityholder Purchase Agreements**" means those certain BiomX Stakeholder Stock Purchase Agreements, substantially in the form attached as an exhibit to the Merger Agreement, to be entered into among the Company, certain BiomX shareholders and persons who hold Company Securities.

"**Business Combination**" means the acquisition of direct or indirect ownership through a merger, share exchange, asset acquisition, share purchase, recapitalization, reorganization or other similar type of transaction, of one or more businesses or entities.

"**Commission**" means the Securities and Exchange Commission, or any other Federal agency then administering the Securities Act or the Exchange Act.

"**Common Stock**" means the common stock, par value $0.0001 per share, of the Company.

"**Company**" is defined in the preamble to this Agreement.

"Demand Registration" is defined in Section 2.1.1.

"Demanding Holder" is defined in Section 2.1.1.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder, all as the same shall be in effect at the time.

"**Form S-3**" is defined in Section 2.3.

"**Indemnified Party**" is defined in Section 4.3.

"**Indemnifying Party**" is defined in Section 4.3.

"**Stockholder Indemnified Party**" is defined in Section 4.1.

"**Maximum Number of Shares**" means the number of shares of Common Stock of the Company in an underwritten offering, if the managing Underwriter or Underwriters advises the Company in writing that the dollar amount or number of shares of Registrable Securities which the Stockholders desire to sell, taken together with all other shares of Common stock or other securities which the Company desires to sell and the shares of Common Stock, if any, as to which registration has been requested pursuant to written contractual registration rights held by other stockholders of the Company who desire to sell, which exceeds the maximum dollar amount or maximum number of shares that can be sold in such offering without adversely affecting the proposed offering price, the timing, the distribution method, or the probability of success of such offering such maximum dollar amount or maximum number of shares.

“**Merger Shares**” means the shares of Common Stock of the Company issued or issuable to the Stockholders pursuant to the terms of the Merger Agreement and shares of Common Stock of the Company issued or issuable pursuant to warrants to purchase Common Stock of the Company under Section 4.1(c) of the Merger Agreement.

“**Notices**” is defined in Section 6.2.

“**Piggy-Back Registration**” is defined in Section 2.2.1.

“**Prior Agreement**” is defined in Section 2.2.2.

“**Pro Rata**” is defined in Section 2.1.4.

“**Register**,” “**Registered**” and “**Registration**” mean a registration effected by preparing and filing a registration statement or similar document in compliance with the requirements of the Securities Act, and the applicable rules and regulations promulgated thereunder, and such registration statement becoming effective.

“**Registrable Securities**” means (i) the Merger Shares, (ii) any shares of Common Stock acquired by the Stockholders pursuant to the BiomX Securityholder Purchase Agreements or otherwise in connection with the Business Combination and (iii) any warrants, shares of capital stock or other securities of the Company issued as a dividend or other distribution with respect to or in exchange for or in replacement of such Merger Shares. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when: (a) a Registration Statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been sold, transferred, disposed of or exchanged in accordance with such Registration Statement; (b) such securities shall have been otherwise transferred, new certificates for them not bearing a legend restricting further transfer shall have been delivered by the Company and subsequent public distribution of them shall not require registration under the Securities Act; (c) such securities shall have ceased to be outstanding, or (d) the Registrable Securities are freely saleable under Rule 144 without volume limitations.

“**Registration Statement**” means a registration statement filed by the Company with the Commission in compliance with the Securities Act and the rules and regulations promulgated thereunder for a public offering and sale of equity securities, or securities or other obligations exercisable or exchangeable for, or convertible into, equity securities (other than a registration statement on Form S-4 or Form S-8, or their successors, or any registration statement covering only securities proposed to be issued in exchange for securities or assets of another entity).

“**SEC**” means the Securities and Exchange Commission.

“**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder, all as the same shall be in effect at the time.

“**Stockholder**” is defined in the preamble to this Agreement.

“**Underwriter**” means a securities broker-dealer who purchases any Registrable Securities as principal in an underwritten offering and not as part of such broker-dealer’s market-making activities.

2. REGISTRATION RIGHTS.

2.1 Demand Registration.

2.1.1 Request for Registration. At any time and from time to time on or after the six month anniversary of the closing of the transactions contemplated by the Merger Agreement, the holders of twenty-five percent (25%) of such Registrable Securities, may make a written demand for registration under the Securities Act of all or part of their Registrable Securities (a “Demand Registration”). Any demand for a Demand Registration shall specify the number of Registrable Securities proposed to be sold and the intended method(s) of distribution thereof. The Company will within ten (10) days of the Company’s receipt of the Demand Registration notify all holders of Registrable Securities of the demand, and each holder of Registrable Securities who wishes to include all or a portion of such holder’s Registrable Securities in the Demand Registration (each such holder including shares of Registrable Securities in such registration, a “Demanding Holder”) shall so notify the Company within fifteen (15) days after the receipt by the holder of the notice from the Company. Upon any such request, the Demanding Holders shall be entitled to have their Registrable Securities included in the Demand Registration, subject to Section 2.1.4 and the provisos set forth in Section 3.1.1. The Company shall not be obligated to effect more than an aggregate of two (2) Demand Registrations under this Section 2.1.1 in respect of all Registrable Securities.

2.1.2 Effective Registration. A registration will not count as a Demand Registration until the Registration Statement filed with the Commission with respect to such Demand Registration has been declared effective and the Company has complied with all of its obligations under this Agreement with respect thereto; provided, however, that if, after such Registration Statement has been declared effective, the offering of Registrable Securities pursuant to a Demand Registration is interfered with by any stop order or injunction of the Commission or any other governmental agency or court, the Registration Statement with respect to such Demand Registration will be deemed not to have been declared effective, unless and until, (i) such stop order or injunction is removed, rescinded or otherwise terminated, and (ii) a majority-in-interest of the Demanding Holders thereafter elect to continue the offering; provided, further, that the Company shall not be obligated to file a second Registration Statement until a Registration Statement that has been filed is counted as a Demand Registration or is terminated.

2.1.3 Underwritten Offering. If a majority-in-interest of the Demanding Holders so elect and such holders so advise the Company as part of their written demand for a Demand Registration, the offering of such Registrable Securities pursuant to such Demand Registration shall be in the form of an underwritten offering. In such event, the right of any holder to include its Registrable Securities in such registration shall be conditioned upon such holder's participation in such underwriting and the inclusion of such holder's Registrable Securities in the underwriting to the extent provided herein. All Demanding Holders proposing to distribute their Registrable Securities through such underwriting shall enter into an underwriting agreement in customary form with the Underwriter or Underwriters selected for such underwriting by a majority-in-interest of the holders initiating the Demand Registration.

2.1.4 Reduction of Offering. If the managing Underwriter or Underwriters for a Demand Registration that is to be an underwritten offering advises the Company and the Demanding Holders in writing that the dollar amount or number of shares of Registrable Securities which the Demanding Holders desire to sell, taken together with all other shares of Common Stock or other securities which the Company desires to sell and the shares of Common Stock, if any, as to which registration has been requested pursuant to written contractual piggy-back registration rights held by other stockholders of the Company who desire to sell, exceeds the maximum dollar amount or maximum number of shares that can be sold in such offering without adversely affecting the proposed offering price, the timing, the distribution method, or the probability of success of such offering (such maximum dollar amount or maximum number of shares, as applicable, the "Maximum Number of Shares"), then the Company shall include in such registration: (i) first, the Registrable Securities as to which Demand Registration has been requested by the Demanding Holders (pro rata in accordance with the number of shares that each such Demanding Holder has requested be included in such registration, regardless of the number of shares held by each such Demanding Holder (such proportion is referred to herein as "Pro Rata")) that can be sold without exceeding the Maximum Number of Shares; (ii) second, to the extent that the Maximum Number of Shares has not been reached under the foregoing clause (i), the shares of Common Stock or other securities that the Company desires to sell that can be sold without exceeding the Maximum Number of Shares; and (iii) third, to the extent that the Maximum Number of Shares has not been reached under the foregoing clauses (i) and (ii), the shares of Common Stock or other securities for the account of other persons that the Company is obligated to register pursuant to written contractual arrangements with such persons and that can be sold without exceeding the Maximum Number of Shares.

2.1.5 Withdrawal. If a majority-in-interest of the Demanding Holders disapprove of the terms of any underwriting or are not entitled to include all of their Registrable Securities in any offering, such majority-in-interest of the Demanding Holders may elect to withdraw from such offering by giving written notice to the Company and the Underwriter or Underwriters of their request to withdraw prior to the effectiveness of the Registration Statement filed with the Commission with respect to such Demand Registration. If the majority-in-interest of the Demanding Holders withdraws from a proposed offering relating to a Demand Registration, then such registration shall not count as a Demand Registration provided for in Section 2.1.2.2 Piggy-Back Registration.

2.2.1 Piggy-Back Rights. If at any time on or after the date of this Agreement the Company proposes to file a Registration Statement under the Securities Act with respect to an offering of equity securities, or securities or other obligations exercisable or exchangeable for, or convertible into, equity securities, by the Company for its own account or for stockholders of the Company for their account (or by the Company and by stockholders of the Company), other than a Registration Statement (i) filed in connection with any employee stock option or other benefit plan, (ii) for an exchange offer or offering of securities solely to the Company's existing stockholders, (iii) for an offering of debt that is convertible into equity securities of the Company or (iv) for a dividend reinvestment plan, then the Company shall (x) give written notice of such proposed filing to the holders of Registrable Securities as soon as practicable but in no event less than ten (10) days before the anticipated filing date, which notice shall describe the amount and type of securities to be included in such offering, the intended method(s) of distribution, and the name of the proposed managing Underwriter or Underwriters, if any, of the offering, and (y) offer to the holders of Registrable Securities in such notice the opportunity to register the sale of such number of shares of Registrable Securities as such holders may request in writing within five (5) days following receipt of such notice (a "**Piggy-Back Registration**"). The Company shall cause such Registrable Securities to be included in such registration and shall use its best efforts to cause the managing Underwriter or Underwriters of a proposed underwritten offering to permit the Registrable Securities requested to be included in a Piggy-Back Registration on the same terms and conditions as any similar securities of the Company and to permit the sale or other disposition of such Registrable Securities in accordance with the intended method(s) of distribution thereof. All holders of Registrable Securities proposing to distribute their securities through a Piggy-Back Registration that involves an Underwriter or Underwriters shall enter into an underwriting agreement in customary form with the Underwriter or Underwriters selected for such Piggy-Back Registration.

2.2.2 Reduction of Offering. If the managing Underwriter or Underwriters for a Piggy-Back Registration under this Agreement or a demand registration on behalf of other holders of the Company's securities under that certain Registration Rights Agreement dated as of December 13, 2018 ("**Prior Agreement**") that is to be an underwritten offering advises the Company and the holders of Registrable Securities hereunder in writing that the dollar amount or number of shares of Common Stock which the Company desires to sell, taken together with the shares of Common Stock, if any, as to which registration has been demanded pursuant to the Prior Agreement, the Registrable Securities as to which registration shall otherwise be required under this Section 2.2, and the shares of Common Stock, if any, as to which registration has been requested pursuant to the this Agreement and the Prior Agreement, exceeds the Maximum Number of Shares in an underwritten offering, then the Company shall include in any such registration:

a) If the registration is undertaken for the Company's account and the Company has previously complied with a demand registration made pursuant to the Prior Agreement or the date of the initial filing of the registration statement for such offering is more than 12 months after the date of this Agreement: (A) first, the shares of Common Stock or other securities that the Company desires to sell that can be sold without exceeding the Maximum Number of Shares; (B) second, to the extent that the Maximum Number of Shares has not been reached under the foregoing clause (A), the shares of Common Stock or other securities, if any, comprised of Registrable Securities, as to which registration has been requested pursuant to the applicable piggy-back registration rights of security holders party to this Agreement, and the holders of securities under the Prior Agreement, Pro Rata, that can be sold without exceeding the Maximum Number of Shares; and (C) third, to the extent that the Maximum Number of Shares has not been reached under the foregoing clauses (A) and (B), the shares of Common Stock or other securities for the account of other persons that the Company is obligated to register pursuant to written contractual piggy-back registration rights with such persons and that can be sold without exceeding the Maximum Number of Shares;

(b) If the registration is undertaken for the Company's account and the Company has not complied with a demand registration made pursuant to the Prior Agreement or the date of the initial filing of the registration statement for such offering is within 12 months of the date of this Agreement: (A) first, the shares of Common Stock or other securities that the Company desires to sell that can be sold without exceeding the Maximum Number of Shares; (B) second, to the extent that the Maximum Number of Shares has not been reached under the foregoing clause (A), to the holders of securities party to the Prior Agreement, (C) third, to the extent that the Maximum Number of Shares has not been reached under the foregoing clauses (A) and (B), the shares of Common Stock or other securities, if any, comprised of Registrable Securities, as to which registration has been requested pursuant to the applicable piggy-back registration rights of security holders party to this Agreement, and the holders of securities under the Prior Agreement, Pro Rata, that can be sold without exceeding the Maximum Number of Shares; and (D) fourth, to the extent that the Maximum Number of Shares has not been reached under the foregoing clauses (A), (B) and (C), the shares of Common Stock or other securities for the account of other persons that the Company is obligated to register pursuant to written contractual piggy-back registration rights with such persons and that can be sold without exceeding the Maximum Number of Shares;

c) If the registration is a "demand" registration undertaken at the demand of persons, (A) first, the shares of Common Stock or other securities for the account of the demanding persons under the Prior Agreement that can be sold without exceeding the Maximum Number of Shares; (B) second, to the extent that the Maximum Number of Shares has not been reached under the foregoing clause (A), the shares of Common Stock or other securities that the Company desires to sell that can be sold without exceeding the Maximum Number of Shares; (C) third, to the extent that the Maximum Number of Shares has not been reached under the foregoing clauses (A) and (B), collectively the shares of Common Stock or other securities comprised of Registrable Securities, Pro Rata, as to which registration has been requested pursuant to the terms hereof, that can be sold without exceeding the Maximum Number of Shares; and (D) fourth, to the extent that the Maximum Number of Shares has not been reached under the foregoing clauses (A), (B) and (C), the shares of Common Stock or other securities for the account of other persons that the Company is obligated to register pursuant to written contractual arrangements with such persons, that can be sold without exceeding the Maximum Number of Shares.

2.2.3 Withdrawal. Any holder of Registrable Securities may elect to withdraw such holder's request for inclusion of Registrable Securities in any Piggy-Back Registration by giving written notice to the Company of such request to withdraw prior to the effectiveness of the Registration Statement. The Company (whether on its own determination or as the result of a withdrawal by persons making a demand pursuant to written contractual obligations) may withdraw a Registration Statement at any time prior to the effectiveness of such Registration Statement. Notwithstanding any such withdrawal, the Company shall pay all expenses incurred by the holders of Registrable Securities in connection with such Piggy-Back Registration as provided in Section 3.3.

2.2.4 Unlimited Piggy-Back Registration Rights. For purposes of clarity, any Registration effected pursuant to Section 2.2 hereof shall not be counted as a Registration pursuant to a Demand Registration effected under Section 2.1 hereof.

2.3 Registrations on Form S-3. The holders of Registrable Securities may at any time and from time to time, request in writing that the Company register the resale of any or all of such Registrable Securities on Form S-3 or any similar short-form registration which may be available to the Company under the Securities Act and he rules and regulations of the SEC at such time ("**Form S-3**"); provided, however, that the Company shall not be obligated to effect such request through an underwritten offering. Upon receipt of such written request, the Company will promptly give written notice of the proposed registration to all other holders of Registrable Securities, and, as soon as practicable thereafter, effect the registration of all or such portion of such holder's or holders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities or other securities of the Company, if any, of any other holder or holders joining in such request as are specified in a written request given within fifteen (15) days after receipt of such written notice from the Company; provided, however, that the Company shall not be obligated to effect any such registration pursuant to this Section 2.3: (i) if Form S-3 is not available for such offering; or (ii) if the holders of the Registrable Securities, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) at any aggregate price to the public of less than $500,000. Registrations effected pursuant to this Section 2.3 shall not be counted as Demand Registrations effected pursuant to Section 2.1.

3. REGISTRATION PROCEDURES.

3.1 Filings; Information. Whenever the Company is required to effect the registration of any Registrable Securities pursuant to Section 2, the Company shall use its best efforts to effect the registration and sale of such Registrable Securities in accordance with the intended method(s) of distribution thereof as expeditiously as practicable, and in connection with any such request:

3.1.1 Filing Registration Statement. The Company shall use its best efforts to, as expeditiously as possible and in any event within thirty (30) days after receipt of a request for a Demand Registration pursuant to Section 2.1, prepare and file with the Commission a Registration Statement on any form for which the Company then qualifies or which counsel for the Company shall deem appropriate and which form shall be available for the sale of all Registrable Securities to be Registered thereunder in accordance with the intended method(s) of distribution thereof, and shall use its best efforts to cause such Registration Statement to become effective and use its best efforts to keep it effective for the period required by Section 3.1.3; provided, however, that the Company shall have the right to defer any Demand Registration for up to thirty (30) days, and any Piggy-Back Registration for such period as may be applicable to deferment of any Demand Registration to which such Piggy-Back Registration relates, in each case if the Company shall furnish to the holders a certificate signed by the President or Chairman of the Company stating that, in the good faith judgment of the Board of Directors of the Company, it would be materially detrimental to the Company and its stockholders for such Registration Statement to be effected at such time; provided further, however, that the Company shall not have the right to exercise the right set forth in the immediately preceding proviso more than once in any 365-day period in respect of a Demand Registration hereunder.

3.1.2 Copies. The Company shall, prior to filing a Registration Statement or prospectus, or any amendment or supplement thereto, furnish without charge to the holders of Registrable Securities included in such registration, and such holders' legal counsel, copies of such Registration Statement as proposed to be filed, each amendment and supplement to such Registration Statement (in each case including all exhibits thereto and documents incorporated by reference therein), the prospectus included in such Registration Statement (including each preliminary prospectus), and such other documents as the holders of Registrable Securities included in such registration or legal counsel for any such holders may request in order to facilitate the disposition of the Registrable Securities owned by such holders.

3.1.3 Amendments and Supplements. The Company shall prepare and file with the Commission such amendments, including post-effective amendments, and supplements to such Registration Statement and the prospectus used in connection therewith as may be necessary to keep such Registration Statement effective and in compliance with the provisions of the Securities Act until all Registrable Securities and other securities covered by such Registration Statement have been disposed of in accordance with the intended method(s) of distribution set forth in such Registration Statement or such securities have been withdrawn.

3.1.4 Notification. After the filing of a Registration Statement, the Company shall promptly, and in no event more than two (2) business days after such filing, notify the holders of Registrable Securities included in such Registration Statement of such filing, and shall further notify such holders promptly and confirm such advice in writing in all events within two (2) business days of the occurrence of any of the following: (i) when such Registration Statement becomes effective; (ii) when any post-effective amendment to such Registration Statement becomes effective; (iii) the issuance or threatened issuance by the Commission of any stop order (and the Company shall take all actions required to prevent the entry of such stop order or to remove it if entered); and (iv) any request by the Commission for any amendment or supplement to such Registration Statement or any prospectus relating thereto or for additional information or of the occurrence of an event requiring the preparation of a supplement or amendment to such prospectus so that, as thereafter delivered to the purchasers of the securities covered by such Registration Statement, such prospectus will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and promptly make available to the holders of Registrable Securities included in such Registration Statement any such supplement or amendment; except that before filing with the Commission a Registration Statement or prospectus or any amendment or supplement thereto, including documents incorporated by reference, the Company shall furnish to the holders of Registrable Securities included in such Registration Statement and to the legal counsel for any such holders, copies of all such documents proposed to be filed sufficiently in advance of filing to provide such holders and legal counsel with a reasonable opportunity to review such documents and comment thereon, and the Company shall not file any Registration Statement or prospectus or amendment or supplement thereto, including documents incorporated by reference, to which such holders or their legal counsel shall object.

3.1.5 State Securities Laws Compliance. The Company shall use its best efforts to (i) register or qualify the Registrable Securities covered by the Registration Statement under such securities or "blue sky" laws of such jurisdictions in the United States as the holders of Registrable Securities included in such Registration Statement (in light of their intended plan of distribution) may request and (ii) take such action necessary to cause such Registrable Securities covered by the Registration Statement to be registered with or approved by such other governmental authorities as may be necessary by virtue of the business and operations of the Company and do any and all other acts and things that may be necessary or advisable to enable the holders of Registrable Securities included in such Registration Statement to consummate the disposition of such Registrable Securities in such jurisdictions; provided, however, that the Company shall not be required to qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this paragraph or subject itself to taxation in any such jurisdiction.

3.1.6 Agreements for Disposition. The Company shall enter into customary agreements (including, if applicable, an underwriting agreement in customary form) and take such other actions as are reasonably required in order to expedite or facilitate the disposition of such Registrable Securities. The representations, warranties and covenants of the Company in any underwriting agreement which are made to or for the benefit of any Underwriters, to the extent applicable, shall also be made to and for the benefit of the holders of Registrable Securities included in such registration statement. No holder of Registrable Securities included in such registration statement shall be required to make any representations or warranties in the underwriting agreement except, if applicable, with respect to such holder's organization, good standing, authority, title to Registrable Securities, lack of conflict of such sale with such holder's material agreements and organizational documents, and with respect to written information relating to such holder that such holder has furnished in writing expressly for inclusion in such Registration Statement or as otherwise provided herein.

3.1.7 Cooperation. The principal executive officer of the Company, the principal financial officer of the Company, the principal accounting officer of the Company and all other officers and members of the management of the Company shall cooperate fully in any offering of Registrable Securities hereunder, which cooperation shall include, without limitation, the preparation of the Registration Statement with respect to such offering and all other offering materials and related documents, and participation in meetings with Underwriters, attorneys, accountants and potential stockholders.

3.1.8 Records. The Company shall make available for inspection by the holders of Registrable Securities included in such Registration Statement, any Underwriter participating in any disposition pursuant to such registration statement and any attorney, accountant or other professional retained by any holder of Registrable Securities included in such Registration Statement or any Underwriter, all financial and other records, pertinent corporate documents and properties of the Company, as shall be necessary to enable them to exercise their due diligence responsibility, and cause the Company's officers, directors and employees to supply all information requested by any of them in connection with such Registration Statement.

3.1.9 Opinions and Comfort Letters. Upon request, the Company shall furnish to each holder of Registrable Securities included in any Registration Statement a signed counterpart, addressed to such holder, of (i) any opinion of counsel to the Company delivered to any Underwriter and (ii) any comfort letter from the Company's independent public accountants delivered to any Underwriter. In the event no legal opinion is delivered to any Underwriter, the Company shall furnish to each holder of Registrable Securities included in such Registration Statement, at any time that such holder elects to use a prospectus, an opinion of counsel to the Company to the effect that the Registration Statement containing such prospectus has been declared effective and that no stop order is in effect.

3.1.10 Earnings Statement. The Company shall comply with all applicable rules and regulations of the Commission and the Securities Act, and make available to its stockholders, as soon as practicable, an earnings statement covering a period of twelve (12) months, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder.

3.1.11 Listing. The Company shall use its best efforts to cause all Registrable Securities included in any registration to be listed on such exchanges or otherwise designated for trading in the same manner as similar securities issued by the Company are then listed or designated or, if no such similar securities are then listed or designated, in a manner satisfactory to the holders of a majority of the Registrable Securities included in such registration.

3.1.12 Road Show. If the registration involves the registration of Registrable Securities involving gross proceeds in excess of $5,000,000, the Company shall use its reasonable efforts to make available senior executives of the Company to participate in customary "road show" presentations that may be reasonably requested by the Underwriter in any underwritten offering.

3.2 Obligation to Suspend Distribution. Upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3.1.4(iv), or, in the case of a resale registration on Form S-3 pursuant to Section 2.3 hereof, upon any suspension by the Company, pursuant to a written insider trading compliance program adopted by the Company's Board of Directors, of the ability of all "insiders" covered by such program to transact in the Company's securities because of the existence of material non-public information, which period shall not exceed more than thirty (30) days, each holder of Registrable Securities included in any registration shall immediately discontinue disposition of such Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until such holder receives the supplemented or amended prospectus contemplated by Section 3.1.4(iv) or the restriction on the ability of "insiders" to transact in the Company's securities is removed, as applicable, and, if so directed by the Company, each such holder will deliver to the Company all copies, other than permanent file copies then in such holder's possession, of the most recent prospectus covering such Registrable Securities at the time of receipt of such notice.

3.3 Registration Expenses. The Company shall bear all costs and expenses incurred in connection with any Demand Registration pursuant to Section 2.1, Piggy-Back Registration pursuant to Section 2.2, and any registration on Form S-3 effected pursuant to Section 2.3, and all expenses incurred in performing or complying with its other obligations under this Agreement, whether or not the Registration Statement becomes effective, including, without limitation: (i) all registration and filing fees; (ii) fees and expenses of compliance with securities or "blue sky" laws (including fees and disbursements of counsel in connection with blue sky qualifications of the Registrable Securities); (iii) printing expenses; (iv) the Company's internal expenses (including, without limitation, all salaries and expenses of its officers and employees); (v) the fees and expenses incurred in connection with the listing of the Registrable Securities as required by Section 3.1.12; (vi) Financial Industry Regulatory Authority fees; (vii) fees and disbursements of counsel for the Company and fees and expenses for independent certified public accountants retained by the Company (including the expenses or costs associated with the delivery of any opinions or comfort letters requested pursuant to Section 3.1.9); (viii) the reasonable fees and expenses of any special experts retained by the Company in connection with such registration and (ix) the reasonable fees and expenses of one legal counsel selected by the holders of a majority-in-interest of the Registrable Securities included in such registration. The Company shall have no obligation to pay any underwriting discounts or selling commissions attributable to the Registrable Securities being sold by the holders thereof, which underwriting discounts or selling commissions shall be borne by such holders. Additionally, in an underwritten offering, all selling stockholders and the Company shall bear the expenses of the Underwriter pro rata in proportion to the respective amount of shares each is selling in such offering.

3.4 Information. The holders of Registrable Securities shall provide such information as may reasonably be requested by the Company, or the managing Underwriter, if any, in connection with the preparation of any Registration Statement, including amendments and supplements thereto, in order to effect the registration of any Registrable Securities under the Securities Act pursuant to Section 2 and in connection with the Company's obligation to comply with Federal and applicable state securities laws. In addition, the holders of Registrable Securities shall comply with all prospectus delivery requirements under the Securities Act and applicable SEC regulations.

4. INDEMNIFICATION AND CONTRIBUTION.

4.1 Indemnification by the Company. The Company agrees to indemnify and hold harmless each Stockholder and each other holder of Registrable Securities, and each of their respective officers, employees, affiliates, directors, partners, members, attorneys and agents, and each person, if any, who controls an Stockholder and each other holder of Registrable Securities (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) (each, an "**Stockholder Indemnified Party**"), from and against any expenses, losses, judgments, claims, damages or liabilities, whether joint or several, arising out of or based upon any untrue statement (or allegedly untrue statement) of a material fact contained in any Registration Statement under which the sale of such Registrable Securities was registered under the Securities Act, any preliminary prospectus, final prospectus or summary prospectus contained in the Registration Statement, or any amendment or supplement to such Registration Statement, or arising out of or based upon any omission (or alleged omission) to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or any violation by the Company of the Securities Act or any rule or regulation promulgated thereunder applicable to the Company and relating to action or inaction required of the Company in connection with any such registration; and the Company shall promptly reimburse the Stockholder Indemnified Party for any legal and any other expenses reasonably incurred by such Stockholder Indemnified Party in connection with investigating and defending any such expense, loss, judgment, claim, damage, liability or action; provided, however, that the Company will not be liable in any such case to the extent that any such expense, loss, claim, damage or liability arises out of or is based upon any untrue statement or allegedly untrue statement or omission or alleged omission made in such Registration Statement, preliminary prospectus, final prospectus, or summary prospectus, or any such amendment or supplement, in reliance upon and in conformity with information furnished to the Company, in writing, by such selling holder expressly for use therein. The Company also shall indemnify any Underwriter of the Registrable Securities, their officers, affiliates, directors, partners, members and agents and each person who controls such Underwriter on substantially the same basis as that of the indemnification provided above in this Section 4.1.

4.2 Indemnification by Holders of Registrable Securities. Each selling holder of Registrable Securities will, in the event that any registration is being effected under the Securities Act pursuant to this Agreement of any Registrable Securities held by such selling holder, indemnify and hold harmless the Company, each of its directors and officers and each Underwriter (if any), and each other selling holder and each other person, if any, who controls another selling holder or such Underwriter within the meaning of the Securities Act, against any losses, claims, judgments, damages or liabilities, whether joint or several, insofar as such losses, claims, judgments, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or allegedly untrue statement of a material fact contained in any Registration Statement under which the sale of such Registrable Securities was registered under the Securities Act, any preliminary prospectus, final prospectus or summary prospectus contained in the Registration Statement, or any amendment or supplement to the Registration Statement, or arise out of or are based upon any omission or the alleged omission to state a material fact required to be stated therein or necessary to make the statement therein not misleading, if the statement or omission was made in reliance upon and in conformity with information furnished in writing to the Company by such selling holder expressly for use therein, and shall reimburse the Company, its directors and officers, and each other selling holder or controlling person for any legal or other expenses reasonably incurred by any of them in connection with investigation or defending any such loss, claim, damage, liability or action. Each selling holder's indemnification obligations hereunder shall be several and not joint and shall be limited to the amount of any net proceeds actually received by such selling holder.

4.3 Conduct of Indemnification Proceedings. Promptly after receipt by any person of any notice of any loss, claim, damage or liability or any action in respect of which indemnity may be sought pursuant to Section 4.1 or 4.2, such person (the "**Indemnified Party**") shall, if a claim in respect thereof is to be made against any other person for indemnification hereunder, notify such other person (the "**Indemnifying Party**") in writing of the loss, claim, judgment, damage, liability or action; provided, however, that the failure by the Indemnified Party to notify the Indemnifying Party shall not relieve the Indemnifying Party from any liability which the Indemnifying Party may have to such Indemnified Party hereunder, except and solely to the extent the Indemnifying Party is actually prejudiced by such failure. If the Indemnified Party is seeking indemnification with respect to any claim or action brought against the Indemnified Party, then the Indemnifying Party shall be entitled to participate in such claim or action, and, to the extent that it wishes, jointly with all other Indemnifying Parties, to assume control of the defense thereof with counsel satisfactory to the Indemnified Party. After notice from the Indemnifying Party to the Indemnified Party of its election to assume control of the defense of such claim or action, the Indemnifying Party shall not be liable to the Indemnified Party for any legal or other expenses subsequently incurred by the Indemnified Party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that in any action in which both the Indemnified Party and the Indemnifying Party are named as defendants, the Indemnified Party shall have the right to employ separate counsel (but no more than one such separate counsel) to represent the Indemnified Party and its controlling persons who may be subject to liability arising out of any claim in respect of which indemnity may be sought by the Indemnified Party against the Indemnifying Party, with the fees and expenses of such counsel to be paid by such Indemnifying Party if, based upon the written opinion of counsel of such Indemnified Party, representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, consent to entry of judgment or effect any settlement of any claim or pending or threatened proceeding in respect of which the Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such judgment or settlement includes an unconditional release of such Indemnified Party from all liability arising out of such claim or proceeding.

4.4 Contribution.

4.4.1 If the indemnification provided for in the foregoing Sections 4.1, 4.2 and 4.3 is unavailable to any Indemnified Party in respect of any loss, claim, damage, liability or action referred to herein, then each such Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such loss, claim, damage, liability or action in such proportion as is appropriate to reflect the relative fault of the Indemnified Parties and the Indemnifying Parties in connection with the actions or omissions which resulted in such loss, claim, damage, liability or action, as well as any other relevant equitable considerations. The relative fault of any Indemnified Party and any Indemnifying Party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by such Indemnified Party or such Indemnifying Party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

4.4.2 The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 4.4 were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding Section 4.4.1.

4.4.3 The amount paid or payable by an Indemnified Party as a result of any loss, claim, damage, liability or action referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such Indemnified Party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 4.4, no holder of Registrable Securities shall be required to contribute any amount in excess of the dollar amount of the net proceeds (after payment of any underwriting fees, discounts, commissions or taxes) actually received by such holder from the sale of Registrable Securities which gave rise to such contribution obligation. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

5. RULE 144.

5.1 Rule 144. The Company covenants that it shall file any reports required to be filed by it under the Securities Act and the Exchange Act and shall take such further action as the holders of Registrable Securities may reasonably request, all to the extent required from time to time to enable such holders to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 under the Securities Act, as such Rules may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission.

6. MISCELLANEOUS.

6.1 Assignment; No Third Party Beneficiaries. This Agreement and the rights, duties and obligations of the Company hereunder may not be assigned or delegated by the Company in whole or in part. This Agreement and the rights, duties and obligations of the holders of Registrable Securities hereunder may be freely assigned or delegated by such holder of Registrable Securities in conjunction with and to the extent of any transfer of Registrable Securities by any such holder. This Agreement and the provisions hereof shall be binding upon and shall inure to the benefit of each of the parties, to the permitted assigns of the Stockholders or holder of Registrable Securities or of any assignee of the Stockholders or holder of Registrable Securities. This Agreement is not intended to confer any rights or benefits on any persons that are not party hereto other than as expressly set forth in Article 4 and this Section 6.1.

6.2 Notices. All notices, demands, requests, consents, approvals or other communications (collectively, "**Notices**") required or permitted to be given hereunder or which are given with respect to this Agreement shall be in writing and shall be personally served, delivered by reputable air courier service with charges prepaid, or transmitted by hand delivery, telegram, telex or facsimile, addressed as set forth below, or to such other address as such party shall have specified most recently by written notice. Notice shall be deemed given on the date of service or transmission if personally served or transmitted by telegram, telex or facsimile; provided, that if such service or transmission is not on a business day or is after normal business hours, then such notice shall be deemed given on the next business day. Notice otherwise sent as provided herein shall be deemed given on the next business day following timely delivery of such notice to a reputable air courier service with an order for next-day delivery.

To the Company:

Chardan Healthcare Acquisition Corp.
17 State Street, Floor 21
New York, NY 10004
Attn: Jonas Grossman, President

with a copy to (which shall not constitute notice):

Loeb& Loeb LLP
345 Park Avenue
New York, NY 10154
Attention: Giovanni Caruso

To a Stockholder, to the address set forth below such Stockholder's name on Exhibit A hereto.

6.3 Severability. This Agreement shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of this Agreement or of any other term or provision hereof. Furthermore, in lieu of any such invalid or unenforceable term or provision, the parties hereto intend that there shall be added as a part of this Agreement a provision as similar in terms to such invalid or unenforceable provision as may be possible that is valid and enforceable.

6.4 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

6.5 Entire Agreement. This Agreement (including all agreements entered into pursuant hereto and all certificates and instruments delivered pursuant hereto and thereto) constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements, representations, understandings, negotiations and discussions between the parties, whether oral or written.

6.6 Modifications and Amendments. No amendment, modification or termination of this Agreement shall be binding upon the Company unless executed in writing by the Company. No amendment, modification or termination of this Agreement shall be binding upon the holders of the Registrable Securities unless executed in writing by the holders of a majority of the Registrable Securities.

6.7 Titles and Headings. Titles and headings of sections of this Agreement are for convenience only and shall not affect the construction of any provision of this Agreement.

6.8 Waivers and Extensions. Any party to this Agreement may waive any right, breach or default which such party has the right to waive, provided that such waiver will not be effective against the waiving party unless it is in writing, is signed by such party, and specifically refers to this Agreement. Waivers may be made in advance or after the right waived has arisen or the breach or default waived has occurred. Any waiver may be conditional. No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof nor of any other agreement or provision herein contained. No waiver or extension of time for performance of any obligations or acts shall be deemed a waiver or extension of the time for performance of any other obligations or acts.

6.9 Remedies Cumulative. In the event that the Company fails to observe or perform any covenant or agreement to be observed or performed under this Agreement, the Stockholder or any other holder of Registrable Securities may proceed to protect and enforce its rights by suit in equity or action at law, whether for specific performance of any term contained in this Agreement or for an injunction against the breach of any such term or in aid of the exercise of any power granted in this Agreement or to enforce any other legal or equitable right, or to take any one or more of such actions, without being required to post a bond. None of the rights, powers or remedies conferred under this Agreement shall be mutually exclusive, and each such right, power or remedy shall be cumulative and in addition to any other right, power or remedy, whether conferred by this Agreement or now or hereafter available at law, in equity, by statute or otherwise.

6.10 Governing Law. This Agreement shall be governed by, interpreted under, and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed within the State of New York, without giving effect to any choice-of-law provisions thereof that would compel the application of the substantive laws of any other jurisdiction.

6.11 Waiver of Trial by Jury. Each party hereby irrevocably and unconditionally waives the right to a trial by jury in any action, suit, counterclaim or other proceeding (whether based on contract, tort or otherwise) arising out of, connected with or relating to this Agreement, the transactions contemplated hereby, or the actions of the Stockholder in the negotiation, administration, performance or enforcement hereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be executed and delivered by their duly authorized representatives as of the date first written above.

COMPANY:

CHARDAN HEALTHCARE ACQUISITION CORP.

By: /s/ Jonas Grossman
Name: Jonas Grossman
Title: President

STOCKHOLDERS:

____

____

____

Exhibit 10.2

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("**Agreement**") is made and entered into as of October 28, 2019, by and between: Chardan Healthcare Acquisition Corp., a Delaware corporation ("**Parent**"), Shareholder Representative Services LLC, a Colorado limited liability company, (the "**Stockholder Representative**"), solely in its capacity as representative of the stockholders of the Company, and Continental Stock Transfer & Trust Company, a New York corporation (the "**Escrow Agent**").

WHEREAS, the Purchaser, CHAC Merger Sub Ltd., a wholly-owned subsidiary of Parent ("**Merger Sub**"), Biomx Ltd. (the "**Company**"), the stockholders of the Company, and the Stockholder Representative entered into a Merger Agreement, dated July 16, 2019, as amended and restated on October 11, 2019 (the "**Merger Agreement**"), providing for, among other things, the merger of Merger Sub with and into the Company and the conversion of shares of Company Common Stock (excluding any shares held in the treasury of the Company) into the right to receive the Applicable Per Share Merger Consideration in accordance with the terms set forth in the Merger Agreement; and

WHEREAS, pursuant to Section 11.3 of the Merger Agreement, the Purchaser is required to deposit shares of Purchaser Common Stock, par value $0.0001 per share (the "**Escrow Shares**"), which Escrow Shares would otherwise be issuable to the Escrow Participants (as defined in the Merger Agreement), with the Escrow Agent on the date hereof in connection with the indemnification obligations of the Escrow Participants as contemplated by the Merger Agreement; and

WHEREAS, the Parent and Company have waived the requirement pursuant to Section 4.1(c) of the Merger Agreement to deposit the number of shares of Purchaser Common Stock issuable upon conversion of each Ordinary Warrant and Preferred A-1 Warrant held by an Escrow Participant and assumed by Purchaser as of the Effective Time (each such capitalized term as defined in the Merger Agreement).

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

I. **Appointment; Defined Terms.**

(a) The Parent and the Stockholder Representative hereby appoint the Escrow Agent as its escrow agent for the purposes set forth herein, and the Escrow Agent hereby accepts such appointment under the terms and conditions set forth herein.

(b) All capitalized terms with respect to the Escrow Agent shall be defined herein. The Escrow Agent shall act only in accordance with the terms and conditions contained in this Agreement and shall have no duties or obligations with respect to the Underlying Agreement.

2. Escrow Shares.

(a) The Parent agrees to deposit with the Escrow Agent 1,506,906 Escrow Shares on the date hereof. The Escrow Agent shall hold the Escrow Shares as a book-entry position registered in the name of the stockholders of the Company as indicated on **Exhibit A**.

(b) **Escrow Shares.**

(i) With respect to any matter for which the Escrow Shares are permitted to vote, the Escrow Agent shall vote, or cause to be voted, the Escrow Shares in the manner directed by the Stockholder Representative. In the absence of an instruction from the Stockholder Representative, the Escrow Agent shall not vote any of the shares comprising the Escrow Shares.

(ii) Any dividends paid with respect to the Escrow Shares shall be deemed part of the Escrow Shares and be delivered to the Escrow Agent to be held in a bank account and be deposited in one or more interest-bearing accounts to be maintained by the Escrow Agent in the name of the Escrow Agent.

(iii) In the event of any stock split, reverse stock split, stock dividend, recapitalization, reorganization, merger, consolidation, combination, exchange of shares, liquidation, spin-off or other similar change in capitalization or event, or any distribution to holders of the common stock of Parent other than a regular cash dividend, the Escrow Shares under Section 2(a) above shall be appropriately adjusted on a pro rata basis and consistent with the terms of any applicable Agreements.

3. Disposition and Termination.

(a) In the event that the Escrow Agent receives an instruction letter signed by the Purchaser and the Stockholder Representative, the Escrow Agent shall promptly distribute all or any portion of the Escrow Shares as directed by such instruction letter.

4. Escrow Agent.

(a) The Escrow Agent shall have only those duties as are specifically and expressly provided herein, which shall be deemed purely ministerial in nature, and no other duties shall be implied. The Escrow Agent shall neither be responsible for, nor chargeable with, knowledge of, nor have any requirements to comply with, the terms and conditions of any other agreement, instrument or document between Purchaser and any other person or entity, in connection herewith, if any, including without limitation the Underlying Agreement or nor shall the Escrow Agent be required to determine if any person or entity has complied with any such agreements, nor shall any additional obligations of the Escrow Agent be inferred from the terms of such agreements, even though reference thereto may be made in this Agreement. In the event of any conflict between the terms and provisions of this Agreement , those of the Merger Agreement, any schedule or exhibit attached to this Agreement, or any other agreement between Purchaser and any other person or entity, the terms and conditions of this Agreement shall control. The Escrow Agent may rely upon and shall not be liable for acting or refraining from acting upon any written notice, document, instruction or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the applicable person without inquiry and without requiring substantiating evidence of any kind. The Escrow Agent shall not be liable to any beneficiary or other person for refraining from acting upon any instruction setting forth, claiming, containing, objecting to, or related to the transfer or distribution of the Escrow Shares, or any portion thereof, unless such instruction shall have been delivered to the Escrow Agent in accordance with Section 10 below and the Escrow Agent has been able to satisfy any applicable security procedures as may be required hereunder and as set forth in Section 10. The Escrow Agent shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document, notice, instruction or request. The Escrow Agent shall have no duty to solicit any payments which may be due it or the Escrow Shares nor shall the Escrow Agent have any duty or obligation to confirm or verify the accuracy or correctness of any amounts deposited with it hereunder.

(b) The Escrow Agent shall not be liable for any action taken, suffered or omitted to be taken by it in good faith except to the extent that a final adjudication of a court of competent jurisdiction determines that the Escrow Agent's gross negligence or willful misconduct was the primary cause of any loss. The Escrow Agent may execute any of its powers and perform any of its duties hereunder directly or through affiliates or agents. The Escrow Agent may consult with counsel, accountants and other skilled persons to be selected and retained by it. The Escrow Agent shall not be liable for any action taken, suffered or omitted to be taken by it in accordance with, or in reliance upon, the advice or opinion of any such counsel, accountants or other skilled persons except to the extent that a final adjudication of a court of competent jurisdiction determines that the Escrow Agent's gross negligence or willful misconduct was the primary cause of any loss. In the event that the Escrow Agent shall be uncertain or believe there is some ambiguity as to its duties or rights hereunder or shall receive instructions, claims or demands which, in its opinion, conflict with any of the provisions of this Agreement, it shall be entitled to refrain from taking any action and its sole obligation shall be to keep safely all property held in escrow until it shall be given a direction in writing which eliminates such ambiguity or uncertainty to the satisfaction of the Escrow Agent or by a final and non-appealable order or judgment of a court of competent jurisdiction.

5. Succession.

(a) The Escrow Agent may resign and be discharged from its duties or obligations hereunder by giving thirty (30) days' advance notice in writing of such resignation to the other parties hereto specifying a date when such resignation shall take effect, *provided that* such resignation shall not take effect until a successor escrow agent has been appointed in accordance with this Section 5. If the parties hereto have jointly failed to appoint a successor escrow agent prior to the expiration of thirty (30) days following receipt of the notice of resignation, the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon all of the parties hereto. The Escrow Agent's sole responsibility after such thirty (30) day notice period expires shall be to hold the Escrow Shares and to deliver the same to a designated substitute escrow agent, if any, or in accordance with the directions of a final order or judgment of a court of competent jurisdiction, at which time of delivery the Escrow Agent's obligations hereunder shall cease and terminate, subject to the provisions of Section 7 below. In accordance with Section 7 below, the Escrow Agent shall have the right to withhold, as security, an amount of shares equal to any dollar amount due and owing to the Escrow Agent, plus any costs and expenses the Escrow Agent shall reasonably believe may be incurred by the Escrow Agent in connection with the termination of this Agreement.

(b) Any entity into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any entity to which all or substantially all the escrow business may be transferred, shall be the Escrow Agent under this Agreement without further act.

6. Compensation and Reimbursement. The Escrow Agent shall be entitled to compensation for its services under this Agreement as Escrow Agent and for reimbursement for its reasonable out-of-pocket costs and expenses, in the amounts and payable as set forth on Schedule 2. All amounts owing under the foregoing sentence shall be paid by Purchaser. The Escrow Agent shall also be entitled to payment of any amounts to which the Escrow Agent is entitled under the indemnification provisions contained herein as set forth in Section 7; *provided, however, that* such compensation, expenses, disbursements and advances shall not be paid from the Escrow Shares. The obligations of Purchaser set forth in this Section 6 shall survive the resignation, replacement or removal of the Escrow Agent or the termination of this Agreement.

7. Indemnity.

a) The Escrow Agent shall be indemnified and held harmless by Purchaser from and against any expenses, including counsel fees and disbursements, or loss suffered by the Escrow Agent in connection with any action, suit or other proceeding involving any claim which in any way, directly or indirectly, arises out of or relates to this Agreement, the services of the Escrow Agent hereunder, other than expenses or losses arising from the gross negligence or willful misconduct of the Escrow Agent. Promptly after the receipt by the Escrow Agent of notice of any demand or claim or the commencement of any action, suit or proceeding, the Escrow Agent shall notify the other parties hereto in writing. In the event of the receipt of such notice, the Escrow Agent, in its sole discretion, may commence an action in the nature of interpleader in the any state or federal court located in New York County, State of New York.

b) The Escrow Agent shall not be liable for any action taken or omitted by it in good faith and in the exercise of its own best judgment, and may rely conclusively and shall be protected in acting upon any order, notice, demand, certificate, opinion or advice of counsel (including counsel chosen by the Escrow Agent), statement, instrument, report or other paper or document (not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and acceptability of any information therein contained) which is believed by the Escrow Agent to be genuine and to be signed or presented by the proper person or persons. The Escrow Agent shall not be bound by any notice or demand, or any waiver, modification, tem1ination or rescission of this Agreement unless evidenced by a writing delivered to the Escrow Agent signed by the proper party or parties and, if the duties or rights of the Escrow Agent are affected, unless it shall have given its prior written consent thereto.

c) The Escrow Agent shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the rights or powers conferred upon it by this Agreement, and may consult with counsel of its own choice and shall have full and complete authorization and indemnification, for any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

d) This Section 7 shall survive termination of this Agreement or the resignation, replacement or removal of the Escrow Agent for any reason.

8. Patriot Act Disclosure/Taxpayer Identification Numbers/Tax Reporting.

(a) **Patriot Act Disclosure.** Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("**USA PATRIOT Act** ") requires the Escrow Agent to implement reasonable procedures to verify the identity of any person that opens a new account with it. Accordingly, parties hereto acknowledge that Section 326 of the USA PATRIOT Act and the Escrow Agent's identity verification procedures require the Escrow Agent to obtain information which may be used to confirm identity, including without limitation name, address and organizational documents ("identifying information"). The parties hereto agree to provide the Escrow Agent with information and consent to the Escrow Agent obtaining from third parties any such identifying information required as a condition of opening an account with or using any service provided by the Escrow Agent.
(b) The underlying transaction does not constitute an installment sale requiring any tax reporting or withholding of imputed interest or original issue discount to the IRS or other taxing authority.

9. Notices. All notices and communications hereunder shall be deemed to have been duly given and made if in writing and if (i) served by personal delivery upon the party for whom it is intended, (ii) delivered by registered or certified mail, return receipt requested, or by Federal Express or similar overnight courier, or (iii) sent by facsimile or email, provided that the receipt of such facsimile or email is promptly confirmed, by telephone, electronically or otherwise, to the party at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such party:

If to Purchaser:

If to the Stockholder Representative:

Shareholder Representative Services LLC
950 17th Street, Suite 1400
Denver, Colorado 80202
Attention: Managing Director
Facsimile No.: (303)623-0294
Email: deals@srsacquiom.com

If to the Escrow Agent:

Continental Stock Transfer and Trust
One State Street - 30th Floor
New York, New York 10004
Facsimile No: (212) 616-7615
Attention:

Notwithstanding the above, in the case of communications delivered to the Escrow Agent, such communications shall be deemed to have been given on the date received by an officer of the Escrow Agent or any employee of the Escrow Agent who reports directly to any such officer at the above-referenced office. In the event that the Escrow Agent, in its sole discretion, shall determine that an emergency exists, the Escrow Agent may use such other means of communication as the Escrow Agent deems appropriate. For purposes of this Agreement, "**Business Day**" shall mean any day other than a Saturday, Sunday or any other day on which the Escrow Agent located at the notice address set forth above is authorized or required by law or executive order to remain closed.

10. Security Procedures. Notwithstanding anything to the contrary as set forth in Section 9, any instructions setting forth, claiming, containing, objecting to, or in any way related to the transfer or distribution, including but not limited to any transfer instructions that may otherwise be set forth in a written instruction permitted pursuant to Section 3 of this Agreement, may be given to the Escrow Agent only by confirmed facsimile or other electronic transmission (including e-mail) and no instruction for or related to the transfer or distribution of the Escrow Shares, or any portion thereof, shall be deemed delivered and effective unless the Escrow Agent actually shall have received such instruction by facsimile or other electronic transmission (including e-mail) at the number or e-mail address provided to Purchaser and the Stockholder Representative by the Escrow Agent in accordance with Section 9 and as further evidenced by a confirmed transmittal to that number.

(a) In the event transfer instructions are so received by the Escrow Agent by facsimile or other electronic transmission (including e-mail), the Escrow Agent is authorized to seek confirmation of such instructions by telephone call-back to the person or persons designated on Schedule 1 hereto, and the Escrow Agent may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for call-backs may be changed only in a writing actually received and acknowledged by the Escrow Agent.

(b) Assuming compliance with the provisions of this Agreement, Purchaser acknowledges that the Escrow Agent is authorized to deliver the Escrow Shares to the custodian account or recipient designated by Purchaser and the Stockholder Representative in writing.

11. Compliance with Court Orders. In the event that any escrow property shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a com1, or any order, judgment or decree shall be made or entered by any court order affecting the property deposited under this Agreement, the Escrow Agent is hereby expressly authorized, in its sole discretion, to obey and comply with all writs, orders or decrees so entered or issued, which it is advised by opinion of legal counsel of its own choosing is binding upon it, whether with or without jurisdiction, and in the event that the Escrow Agent reasonably obeys or complies with any such writ, order or decree it shall not be liable to any of the parties hereto or to any other person, entity, firm or corporation, by reason of such compliance notwithstanding such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

12. .. Miscellaneous. Except for changes to transfer instructions as provided in Section 10, the provisions of this Agreement may be waived, altered, amended or supplemented, in whole or in part, only by a writing signed by the Escrow Agent and the other parties hereto. Neither this Agreement nor any right or interest hereunder may be assigned in whole or in part by the Escrow Agent or any other party hereto without the prior consent of all the other parties hereto. This Agreement shall be governed by and construed under the laws of the State of New York. Each of the parties hereto irrevocably waives any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consents to service of process by mail or in any other manner permitted by applicable law and consents to the jurisdiction of any court of the State of New York or United States federal court, in each case, sitting in New York County, New York. To the extent that in any jurisdiction any party may now or hereafter be entitled to claim for itself or its assets, immunity from suit, execution attachment (before or after judgment), or other legal process, such party shall not claim, and it hereby irrevocably waives, such immunity. The parties further hereby waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. No party to this Agreement is liable to any other party for losses due to, or if it is unable to perform its obligations under the terms of this Agreement because of, acts of God, fire, war, terrorism, floods, strikes, electrical outages, equipment or transmission failure, or other causes reasonably beyond its control. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. All signatures of the parties to this Agreement may be transmitted by facsimile or other electronic transmission (including e-mail), and such facsimile or other electronic transmission (including e-mail) will, for all purposes, be deemed to be the original signature of such party whose signature it reproduces, and will be binding upon such party. If any provision of this Agreement is determined to be prohibited or unenforceable by reason of any applicable law of a jurisdiction, then such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof, and any such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. A person who is not a party to this Agreement shall have no right to enforce any term of this Agreement. The parties represent, warrant and covenant that each document, notice, instruction or request provided by such party to the other party shall comply with applicable laws and regulations. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby irrevocably waived by the parties hereto to the fullest extent permitted by law, to the end that this Agreement shall be enforced as written. Except as expressly provided in Section 7 above, nothing in this Agreement, whether express or implied, shall be construed to give to any person or entity other than the Escrow Agent and the other parties hereto any legal or equitable right, remedy, interest or claim under or in respect of this Agreement or the Escrow Shares escrowed hereunder.

[remainder of page intentional left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

PURCHASER:

CHARDAN HEALTHCARE ACQUISITION CORP.

By: /s/ Jonas Grossman
Name: Jonas Grossman
Title: Member
Telephone:

STOCKHOLDER REPRESENTATIVE:

SHAREHOLDER REPRESENTATIVE SERVICES LLC,
solely in its capacity as the Stockholder Representative.

By: /s/ Sam Riffe
Name: Sam Riffe
Title: Managing Director
Telephone: (303) 648-4085

ESCROW AGENT:

CONTINENTAL STOCK TRANSFER AND TRUST

By: /s/ George Dalton
Name: George Dalton
Title: Account Administrator
Telephone: 212-845-3291

[Signature Page to Escrow Agreement]

Schedule l

Telephone Number(s) and authorized signature(s) for
<u>Person(s) Designated to give Escrow Shares Transfer Instructions</u>

Name	Telephone Number	Signature
Purchaser:		
Stockholder Representative:		
Chris Letang	303-957-2855	
Casey McTigue	415-363-6081	
Lon LeClair	303-222-2078	
Paul Koenig	303-957-2850	

* *Please complete call-backs in the order indicated above (i.e., call Chris Letang first, Casey McTigue second, etc.)*

EXHIBIT A

Shareholder	Escrow Shares
Yeda Research And Development Company Limited	19,340
FutuRx Ltd.	41,171
OrbiMed Israel Incubator LP	64,133
OrbiMed Israel Partners Limited Partnership	132,509
Johnson and Johnson Innovation – JJDC, Inc.	183,158
Takeda Ventures, Inc.	212,137
SBI JI Innovation Fund LP	69,348
Dr. Juerg F. Geigy	23,655
Hans W. Schoepflin Trust	62,833
Stichting Lichfield	62,418
Stichting Administratiekantoor the invisible hand at work	7,747
Health for Life Capital S.C.A. SICAR	60,191
Health for Life Capital FPCI ALPHA Compartment	34,972
MiraeAsset Capital Co., Ltd	35,484
2016 KIF-MIRAE ASSET ICT Venture Fund	17,741
MIRAE ASSET Young Start-Up Investment Fund	17,741
MiraeAsset-Celltrion New Growth Fund I	21,997
8VC Angel Fund I, L.P	34,667
8VC Fund I Associates, L.P	816
8VC Fund I, L.P	86,819
8VC Entrepreneurs Fund I, L.P.	1,412
RMGP Bio-Pharma Investment Fund LP	68,584
Chong Kun Dang Pharmaceutical Corp.	42,865
Handok Inc.	34,292
Rhee, Joo Won	6,858
Rhee, Joo Kyung	5,144
Rhee, Joo Ah	5,144
CFAM 2017 LLC	429
Telmina Ltd.	68,584
KB Investment Co., Ltd	20,575
KB Digital Innovation Investment Fund Limited Partnership	30,863
Baruch Family Revocable Trust	4,731
Elevator Venture Holdings, Ltd.	5,914
Nhaft LLC	2,365
Tamar Lifshitz	1,183
Noa Eliasaf-Shoham	1,183
33Steps Ltd.	1,183
Gigi Levy	3,548
Rafi Gidron	3,812
Guy Harmelin	874
Alon Hirsch	170
Altsuler Shaham Trusts (Behalf of Einat Zisman)	2,210
Altshuler Shaham Trusts Ltd (behalf of Ronald Ellis)	1,103
Altshuler Shaham Trusts Ltd (Behalf of Moshe Talbi)	442
Altshuler Shaham Trusts Ltd (Behalf of Limor Miara)	442
Altshuler Shaham Trusts Ltd (Behalf of Kobi Sudakov)	1,571
Altshuler Shaham Trusts Ltd (Behalf of Boris Vaisman)	2,330
Altshuler Shaham Trusts Ltd (Behalf of Alina Shitrit)	218
TOTAL	1,506,906

Exhibit 10.3

CHARDAN HEALTHCARE ACQUISITION CORP.

VOTING AGREEMENT

This Voting Agreement (this "Agreement") is made as of October 28, 2019 by and among Chardan Healthcare Acquisition Corp., a Delaware corporation (the "Company"), BiomX Ltd., an Israeli company ("BiomX"), Chardan Investments, LLC ("Chardan") and each of the individuals and entities set forth on the signature page hereto (each a "Voting Party" and collectively, the "Voting Parties"). For purposes of this Agreement, capitalized terms used and not defined herein shall have the respective meanings ascribed to them in the Merger Agreement (as defined below).

RECITALS

WHEREAS, the Company, BiomX, CHAC Merger Sub Ltd., an Israeli company ("Merger Sub"), and Shareholder Representative Services LLC, as the representative of the shareholders of the Company (the "Shareholders' Representative") entered into a Merger Agreement, dated July 16, 2019 (the "Merger Agreement"); and

WHEREAS, each of the Voting Parties, currently owns, or on closing of the transactions contemplated by the Merger Agreement, will own, shares of the Company's capital stock, and wishes to provide for orderly elections of the Company's board of directors as described herein.

NOW THEREFORE, in consideration of the foregoing and of the promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Agreement to Vote. During the term of this Agreement, each Voting Party agrees to vote all securities of the Company that may vote in the election of the Company's directors that such Voting Party owns from time to time (hereinafter referred to as the "Voting Shares") in accordance with the provisions of this Agreement, whether at a regular or special meeting of stockholders or any class or series of stockholders or by written consent.

2. Election of Boards of Directors.

2.1 Voting. During the term of this Agreement, each Voting Party agrees to vote all Voting Shares in such manner as may be necessary to elect (and maintain in office) as members of the Company's Board of Directors the following persons:

(a) Two (2) person(s) (each a "Chardan Designee") designated by Chardan to serve for two (2) years from the Closing Date (as defined in the Merger Agreement); and

(b) Five (five) person(s) (each a "Stockholder Designee," and collectively, the "Stockholder Designees") designated below, which may be subsequently (following Closing) changed by the Shareholders' Representative; and

2.2 Initial Designees. The initial Chardan Designees are Jonas Grossman and Gbola Amusa. The initial Stockholder Designees are Jonathan Solomon, Yaron Breski, Erez Chimovitz, Robbie Woodman and one vacancy.

2.3 Size of the Board. The parties hereto agree that they shall, and that they shall cause their respective designees to, maintain the size of the Company's Board of Directors at seven (7) persons for two (2) years from the Closing Date.

2.4 Obligations; Removal of Directors; Vacancies. The obligations of the Voting Parties pursuant to this Section 2 shall include any stockholder vote to amend the Company's Amended and Restated Certificate of Incorporation as required to effect the intent of this Agreement. Each of the Voting Parties and the Company agree not to take any actions that would contravene or materially and adversely affect the provisions of this Agreement and the intention of the parties with respect to the composition of the Company's Board of Directors as herein stated. The parties acknowledge that the fiduciary duties of each member of the Company's Board of Directors are to the Company's stockholders as a whole. In the event any director elected pursuant to the terms hereof ceases to serve as a member of the Company's Board of Directors, the Company and the Voting Parties agree to take all such action as is reasonable and necessary, including the voting of shares of capital stock of the Company by the Voting Parties as to which they have beneficial ownership, to cause the election or appointment of such other person designated by the Company or the Shareholders' Representative (after Closing) , as the case may be, to the Board of Directors as may be designated on the terms provided herein.

3. Approval of Amendment to the BiomX 2015 Equity Incentive Plan. During the term of this Agreement each Voting Party agrees to vote all Voting Shares in such manner as may be necessary to approve an amended BiomX 2015 Employee Stock Option Plan (the "Equity Incentive Plan"), (or the adoption of a new equity incentive plan having the same effect) that will be assumed by Company as of the Effective Time), subject to and in accordance with Section 9.11 of the Merger Agreement.

4. Successors in Interest of the Voting Parties and the Company. The provisions of this Agreement shall be binding upon the successors in interest of any Voting Party with respect to any of such Voting Party's Voting Shares or any voting rights therein, unless such shares are sold into the public markets. Each Voting Party shall not, and the Company shall not, permit the transfer of any Voting Party's Voting Shares (except for sales of Voting Shares into the public markets), unless and until the person to whom such securities are to be transferred shall have executed a written agreement pursuant to which such person becomes a party to this Agreement and agrees to be bound by all the provisions hereof as if such person was a Voting Party hereunder.

5. Covenants. The Company and each Voting Party agrees to take all actions required to ensure that the rights given to each Voting Party hereunder are effective and that each Voting Party enjoys the benefits thereof. Such actions include, without limitation, the use of best efforts to cause the nomination of the designees, as provided herein, for election as directors of the Company. Neither the Company nor any Voting Party will, by any voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be performed hereunder by the Company or any such Voting Party, as applicable, but will at all times in good faith assist in the carrying out of all of the provisions of this Agreement and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of each Voting Party hereunder against impairment.

6. Grant of Proxy. The parties agree that this Agreement does not constitute the granting of a proxy to any party or any other person; provided, however, that should the provisions of this Agreement be construed to constitute the granting of proxies, such proxies shall be deemed coupled with an interest and are irrevocable for the term of this Agreement.

7. Specific Enforcement. It is agreed and understood that monetary damages would not adequately compensate an injured party for the breach of this Agreement by any party hereto, that this Agreement shall be specifically enforceable, and that any breach of this Agreement shall be the proper subject of a temporary or permanent injunction or restraining order. Further, each party hereto waives any claim or defense that there is an adequate remedy at law for such breach or threatened breach and agrees that a party's rights would be materially and adversely affected if the obligations of the other parties under this Agreement were not carried out in accordance with the terms and conditions hereof.

8. Manner of Voting. The voting of shares pursuant to this Agreement may be effected in person, by proxy, by written consent or in any other manner permitted by applicable law.

9. Termination. This Agreement shall terminate upon the first to occur of the following:

9.1 The date that is two (2) years from the Closing Date; or

9.2 immediately prior to a transaction pursuant to which a person or group other than current shareholders of the Company or the Voting Parties, or their respective affiliates, will control greater than 50% of the Company's voting power with respect to the election of directors of the Company.

10. Amendments and Waivers. Except as otherwise provided herein, any provision of this Agreement may be amended or the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of (a) the Company, and (b) the holders of a majority of Voting Shares then held by the Voting Parties and the Shareholders' Representative, voting separately as a class; *provided, however*, that the right of the Company to nominate the Company Designee shall not be amended without the written consent of a majority in interest of the stockholders of the Company; and *provided further*, that the right of the Shareholders' Representative to nominate the Stockholder Designees shall not be amended without the written consent of the Shareholders' Representative.

11. Stock Splits, Stock Dividends, etc. In the event of any stock split, stock dividend, recapitalization, reorganization or the like, any securities issued with respect to Voting Shares held by Voting Parties shall become Voting Shares for purposes of this Agreement.

12. Severability. In the event that any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

13. Governing Law. This Agreement and the legal relations between the parties arising hereunder shall be governed by and interpreted in accordance with the laws of the State of New York without reference to its conflicts of laws provisions, except that all matters relating to the fiduciary duties of the Company's Board of Directors shall be subject to the laws of Delaware.

14. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

15. Successors and Assigns. Except as otherwise expressly provided in this Agreement, the provisions hereof shall inure to the benefit of, and be binding upon, the successors and assigns of the parties hereto.

16. Entire Agreement. This Agreement constitutes the full and entire understanding and agreement among the parties, and supersedes any prior agreement or understanding among the parties, with regard to the subjects hereof and thereof, and no party shall be liable or bound to any other party in any manner by any warranties, representations or covenants except as specifically set forth herein or therein.

[*Remainder of page intentionally left blank; signature page follows*]

This Voting Agreement is hereby executed effective as of the date first set forth above.

"COMPANY"

CHARDAN HEALTHCARE ACQUISITION CORP.,
a Delaware corporation

By: /s/ Jonas Grossman
Name: Jonas Grossman
Title: President

"CHARDAN"

CHARDAN INVESTMENTS, LLC
a Delaware limited liability company

By: /s/ Jonas Grossman
Name: Jonas Grossman
Title: Managing Member

"BiomX"

BIOMX LTD.,
an Israeli company

By: /s/ Jonathan Solomon
Name: Jonathan Solomon
Title: Chief Executive Officer

[SHAREHOLDERS]

____

This Voting Agreement is hereby executed effective as of the date first set forth above.

Yeda Research and Development Company Limited

By: /s/ Gil Granot-Mayer
Name: Gil Granot-Mayer
Title: C.E.O.

By: /s/ Mudi Sheves
Name: Mudi Sheves
Title: Chairman

ORBIMED ISRAEL PARTNERS, LIMITED PARTNERSHIP
and
ORBIMED ISRAEL INCUBATOR L.P.

By: OrbiMed Israel Biofund GP, L.P., its general partner;

and

By: OrbiMed Israel GP Limited, its general partner

By: /s/ Erez Chimovits
Name: Erez Chimovits
Title: Senior Managing Director

By: /s/ Nissim Darvish
Name: Nissim Darvish
Title: Senior Managing Director

JOHNSON & JOHNSON INNOVATION-JJDC, INC.

By: /s/ Zeev Zehavi
Name: Zeev Zehavi
Title: Vice President

TAKEDA VENTURES, INC.

By: /s/ Michael Martin
Name: Michael Martin
Title: President

SBI JI INNOVATION FUND LIMITED PARTNERSHIP

By: SBI JI Innovation Partners Ltd.,
its General Partner

By: /s/ Yusuke Inaba
Name: Yusuke Inaba
Title: Director

HANS W. SCHOEPFLIN TRUST

By: /s/ Hans Schoepflin
Name: Hans Schoepflin
Title:

STICHTING LICHFIELD

By: /s/ J.M. Wolkers
Name: J.M. Wolkers
Title: Director

STICHTING ADMINISTRATIEKANTOOR THE INVISIBLE HAND AT WORK

By: /s/ Hendrik Brulleman
Name: Hendrik Brulleman
Title: Director

HEALTH FOR LIFE CAPITAL S.C.A. SICAR

By: Health For Life Management /s/ Isabelle de Cremoux
Name: Isabelle de Cremoux
Title: Manager

HEALTH FOR LIFE CAPITAL FPCI – ALPHA COMPARTMENT

By: SEVENTURE PARTNERS
Name: Isabelle de Cremoux
Title: CEO

MIRAE ASSET CAPITAL CO. LTD.

By: /s/ Ji Kwang Chung
Name: Ji Kwang Chung
Title: Managing Director

MIRAE ASSET VENTURE INVESTMENT, CO, LTD. (THROUGH MIRAE ASSET YOUNG START-UP INVESTMENT FUND)

By: /s/ Eung Suk Kim
Name: Eung Suk Kim
Title: CEO

MIRAE ASSET VENTURE INVESTMENT, CO, LTD. (THROUGH 2016 KIF-MIRAE ASSET ICT VENTURE FUND)

By: /s/ Eung Suk Kim
Name: Eung Suk Kim
Title: CEO

MIRAE ASSET-CELLTRION NEW GROWTH FUND I

By: /s/ Jikwang Chung
Name: Jikwang Chung
Title: Managing Director

[Voting Agreement]

8VC ANGEL FUND I, L.P.

By: 8VC Angel GP I, LLC,
its General Partner

By: /s/ Drew Oetting
Name: Drew Oetting
Title: Managing Member

8VC ANGEL FUND I ASSOCIATES, L.P.

By: 8VC Angel GP I, LLC,
its General Partner

By: /s/ Drew Oetting
Name: Drew Oetting
Title: Managing Member

8VC FUND I, L.P.

By: 8VC GP I, LLC
its General Partner

By: /s/ Joe Lonsdale
Name: Joe Lonsdale
Title: Managing Member

8VC ENTREPRENEURS FUND I, L.P.

By: 8VC GP I, LLC
its General Partner

By: /s/ Joe Lonsdale
Name: Joe Lonsdale
Title: Managing Member

RMGP BIO-PHARMA INVESTMENT FUND, L.P.

By: RMGP Bio-Pharma Investments, L.P., its general partner

By: RMGP Bio-Pharma General Partner Ltd., its general partner

By: /s/ Asset Korat
Name: Asset Korat
Title: Partner
July 15 2019

CHONG KUN DANG PHARMACEUTICAL CORP.

By: /s/ Young Joo Kim
Name: Young Joo Kim
Title: President

HANDOK INC.

By: /s/ Jeong Yol Cho
Name: Jeong Yol Cho
Title: President

[Voting Agreement]

/s/ RHEE, JOO WON
RHEE, JOO WON

/s/ RHEE, JOO KYUNG
RHEE, JOO KYUNG

/s/ RHEE, JOO AH
RHEE, JOO AH

CFAM 2017 LLC

By: /s/ Neil L. Cohen
Name: Neil L. Cohen
Title: Special Member

TELMINA LTD.

For and on behalf of Champel Directors Limited

By: /s/ Tobias Reinmann
Name: Tobias Reinmann
Title: Corporate Director

KB INVESTMENT CO., LTD.

By: /s/ Jong Pil Kim
Name: Jong Pil Kim
Title: Chief Executive Officer

KB DIGITAL INNOVATION INVESTMENT FUND LIMITED PARTNERSHIP

By: /s/ Jong Pil Kim
Name: Jong Pil Kim
Title: Chief Executive Officer

BARUCH FAMILY REVOCABLE TRUST

By: /s/ Thomas Baruch
Name: Thomas Baruch
Title: Manager

/s/ RAFI GIDRON
RAFI GIDRON

/s/ GUY HARMELIN
GUY HARMELIN

/s/ ALON HIRSCH
ALON HIRSCH

/s/ GBOLA AMUSA
GBOLA AMUSA

Exhibit 10.4

BIOMX INC.

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this "Agreement") is made as of ________________, by and between BiomX Inc., a Delaware corporation (the "Company"), and __________________________ ("Indemnitee").

RECITALS

The Company and Indemnitee recognize the increasing difficulty in obtaining liability insurance for directors, officers and key employees, the significant increases in the cost of such insurance and the general reductions in the coverage of such insurance. The Company and Indemnitee further recognize the substantial increase in corporate litigation in general, subjecting directors, officers and key employees to expensive litigation risks at the same time as the availability and coverage of liability insurance has been severely limited. Indemnitee does not regard the current protection available as adequate under the present circumstances, and Indemnitee may not be willing to continue to serve in Indemnitee's current capacity with the Company without additional protection. The Company desires to attract and retain the services of highly qualified individuals, such as Indemnitee, and to indemnify its directors, officers and key employees so as to provide them with the maximum protection permitted by law.

AGREEMENT

In consideration of the mutual promises made in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company and Indemnitee hereby agree as follows:

1. **Indemnification.**

(a) **Third-Party Proceedings.** To the fullest extent permitted by applicable law, the Company shall indemnify Indemnitee, if Indemnitee was, is or is threatened to be made, a party to or a participant (as a witness or otherwise) in any Proceeding (other than a Proceeding by or in the right of the Company to procure a judgment in the Company's favor), against all Expenses, judgments, fines and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld) actually and reasonably incurred by Indemnitee in connection with such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal Proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful.

(b) **Proceedings By or in the Right of the Company.** To the fullest extent permitted by applicable law, the Company shall indemnify Indemnitee, if Indemnitee was, is or is threatened to be made a party to or a participant (as a witness or otherwise) in any Proceeding by or in the right of the Company to procure a judgment in the Company's favor, against all Expenses actually and reasonably incurred by Indemnitee in connection with such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, except that no indemnification shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudicated by court order or judgment to be liable to the Company unless and only to the extent that the Court of Chancery or the court in which such Proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) **<u>Success on the Merits</u>.** To the fullest extent permitted by applicable law and to the extent that Indemnitee has been successful on the merits or otherwise in defense of any Proceeding referred to in Section 1(a) or Section 1(b) hereof or the defense of any claim, issue or matter therein, in whole or in part, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee in connection therewith. Without limiting the generality of the foregoing, if Indemnitee is successful on the merits or otherwise as to one or more but less than all claims, issues or matters in a Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee in connection with such successfully resolved claims, issues or matters to the fullest extent permitted by applicable law. If any Proceeding is disposed of on the merits or otherwise (including a disposition without prejudice), without (i) the disposition being adverse to Indemnitee, (ii) an adjudication that Indemnitee was liable to the Company, (iii) a plea of guilty by Indemnitee, (iv) an adjudication that Indemnitee did not act in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and (v) with respect to any criminal Proceeding, an adjudication that Indemnitee had reasonable cause to believe Indemnitee's conduct was unlawful, Indemnitee shall be considered for the purposes hereof to have been wholly successful with respect thereto.

(d) **<u>Witness Expenses</u>.** To the fullest extent permitted by applicable law and to the extent that Indemnitee is a witness or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee in connection with such Proceeding.

2. **<u>Indemnification Procedure</u>.**

(a) **<u>Advancement of Expenses</u>.** To the fullest extent permitted by applicable law, the Company shall advance all Expenses actually and reasonably incurred by Indemnitee in connection with a Proceeding within thirty (30) days after receipt by the Company of a statement requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Such advances shall be unsecured and interest free and shall be made without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement. Indemnitee shall be entitled to continue to receive advancement of Expenses pursuant to this Section 2(a) unless and until the matter of Indemnitee's entitlement to indemnification hereunder has been finally adjudicated by court order or judgment from which no further right of appeal exists. Indemnitee hereby undertakes to repay such amounts advanced only if, and to the extent that, it ultimately is determined that Indemnitee is not entitled to be indemnified by the Company under the other provisions of this Agreement. Indemnitee shall qualify for advances upon the execution and delivery of this Agreement, which shall constitute the requisite undertaking with respect to repayment of advances made hereunder and no other form of undertaking shall be required to qualify for advances made hereunder other than the execution of this Agreement.

(b) **Notice and Cooperation by Indemnitee.** Indemnitee shall promptly notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter for which indemnification will or could be sought under this Agreement. Such notice to the Company shall include a description of the nature of, and facts underlying, the Proceeding, shall be directed to the Chief Executive Officer of the Company and shall be given in accordance with the provisions of Section 13(e) below. In addition, Indemnitee shall give the Company such additional information and cooperation as the Company may reasonably request. Indemnitee's failure to so notify, provide information and otherwise cooperate with the Company shall not relieve the Company of any obligation that it may have to Indemnitee under this Agreement, except to the extent that the Company is adversely affected by such failure.

(c) **Determination of Entitlement.**

(i) **Final Disposition.** Notwithstanding any other provision in this Agreement, no determination as to entitlement to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding.

(ii) **Determination and Payment.** Subject to the foregoing, promptly after receipt of a statement requesting payment with respect to the indemnification rights set forth in Section 1 hereof, to the extent required by applicable law, the Company shall take the steps necessary to authorize such payment in the manner set forth in Section 145 of the Delaware General Corporation Law. The Company shall pay any claims made under this Agreement, under any statute, or under any provision of the Company's Certificate of Incorporation or Bylaws providing for indemnification or advancement of Expenses, within thirty (30) days after a written request for payment thereof has first been received by the Company, and if such claim is not paid in full within such thirty (30) day-period, Indemnitee may, but need not, at any time thereafter bring an action against the Company in the Delaware Court of Chancery to recover the unpaid amount of the claim and, subject to Section 12 hereof, Indemnitee shall also be entitled to be paid for all Expenses actually and reasonably incurred by Indemnitee in connection with bringing such action. It shall be a defense to any such action (other than an action brought to enforce a claim for advancement of Expenses under Section 2(a) hereof) that Indemnitee has not met the standards of conduct which make it permissible under applicable law for the Company to indemnify Indemnitee for the amount claimed. In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement and the Company shall have the burden of proof to overcome that presumption with clear and convincing evidence to the contrary. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, or, in the case of a criminal Proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful. In addition, it is the parties' intention that if the Company contests Indemnitee's right to indemnification, the question of Indemnitee's right to indemnification shall be for the court to decide, and neither the failure of the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its stockholders) to have made a determination that indemnification of Indemnitee is proper in the circumstances because Indemnitee has met the applicable standard of conduct required by applicable law, nor an actual determination by the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its stockholders) that Indemnitee has not met such applicable standard of conduct, shall create a presumption that Indemnitee has or has not met the applicable standard of conduct. If any requested determination with respect to entitlement to indemnification hereunder has not been made within ninety (90) days after the final disposition of the Proceeding, the requisite determination that Indemnitee is entitled to indemnification shall be deemed to have been made.

(d) **Payment Directions.** To the extent payments are required to be made hereunder, the Company shall, in accordance with Indemnitee's request (but without duplication), (i) pay such Expenses on behalf of Indemnitee, (ii) advance to Indemnitee funds in an amount sufficient to pay such Expenses, or (iii) reimburse Indemnitee for such Expenses.

(e) **Notice to Insurers.** If, at the time of the receipt of a notice of a claim pursuant to Section 2(b) hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable 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 policies.

(f) **Defense of Claim and Selection of Counsel.** In the event the Company shall be obligated under Section 2(a) hereof to advance Expenses with respect to any Proceeding, the Company, if appropriate, shall be entitled to assume the defense of such Proceeding, with counsel reasonably acceptable to Indemnitee, upon the delivery to Indemnitee of written notice of its election so to do. After delivery of such notice, approval of such counsel by Indemnitee and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees of counsel subsequently incurred by Indemnitee with respect to the same Proceeding, provided that (i) Indemnitee shall have the right to employ counsel in any such Proceeding at Indemnitee's expense; and (ii) if (A) the employment of counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and Indemnitee in the conduct of any such defense or (C) the Company shall not, in fact, have employed counsel to assume the defense of such Proceeding, then the fees and expenses of Indemnitee's counsel shall be at the expense of the Company. In addition, if there exists a potential, but not an actual, conflict of interest between the Company and Indemnitee, the actual and reasonable legal fees and expenses incurred by Indemnitee for separate counsel retained by Indemnitee to monitor the Proceeding (so that such counsel may assume Indemnitee's defense if the conflict of interest between the Company and Indemnitee becomes an actual conflict of interest) shall be deemed to be Expenses that are subject to indemnification hereunder. The existence of an actual or potential conflict of interest, and whether such conflict may be waived, shall be determined pursuant to the rules of attorney professional conduct and applicable law. The Company shall not be required to obtain the consent of Indemnitee for the settlement of any Proceeding the Company has undertaken to defend if the Company assumes full and sole responsibility for each such settlement; provided, however, that the Company shall be required to obtain Indemnitee's prior written approval, which shall not be unreasonably withheld, before entering into any settlement which (1) does not grant Indemnitee a complete release of liability, (2) would impose any penalty or limitation on Indemnitee, or (3) would admit any liability or misconduct by Indemnitee.

3. **Additional Indemnification Rights.**

(a) **Scope.** Notwithstanding any other provision of this Agreement, the Company hereby agrees to indemnify Indemnitee to the fullest extent permitted by law, notwithstanding that such indemnification is not specifically authorized by the other provisions of this Agreement, the Company's Certificate of Incorporation, the Company's Bylaws or by statute. In the event of any change, after the date of this Agreement, in any applicable law, statute, or rule which expands the right of a Delaware corporation to indemnify a member of its board of directors or an officer, such changes shall be deemed to be within the purview of Indemnitee's rights and the Company's obligations under this Agreement. In the event of any change in any applicable law, statute or rule which narrows the right of a Delaware corporation to indemnify a member of its board of directors or an officer, such changes, to the extent not otherwise required by such law, statute or rule to be applied to this Agreement shall have no effect on this Agreement or the parties' rights and obligations hereunder.

(b) **Non-exclusivity.** The indemnification provided by this Agreement shall not be deemed exclusive of any rights to which Indemnitee may be entitled under the Company's Certificate of Incorporation, its Bylaws, any agreement, any vote of stockholders or disinterested members of the Company's Board of Directors, the Delaware General Corporation Law, or otherwise, both as to action in Indemnitee's official capacity and as to action in another capacity while holding such office.

(c) **Interest on Unpaid Amounts.** If any payment to be made by the Company to Indemnitee hereunder is delayed by more than ninety (90) days from the date the duly prepared request for such payment is received by the Company, interest shall be paid by the Company to Indemnitee at the legal rate under Delaware law for amounts which the Company indemnifies or is obligated to indemnify for the period commencing with the date on which Indemnitee actually incurs such Expense or pays such judgment, fine or amount in settlement and ending with the date on which such payment is made to Indemnitee by the Company.

(d) **Third-Party Indemnification.** The Company hereby acknowledges that Indemnitee has or may from time to time obtain certain rights to indemnification, advancement of expenses and/or insurance provided by one or more third parties (collectively, the "Third-Party Indemnitors"). The Company hereby agrees that it is the indemnitor of first resort (*i.e.,* its obligations to Indemnitee are primary and any obligation of the Third-Party Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by Indemnitee are secondary), and that the Company will not assert that the Indemnitee must seek expense advancement or reimbursement, or indemnification, from any Third-Party Indemnitor before the Company must perform its expense advancement and reimbursement, and indemnification obligations, under this Agreement. No advancement or payment by the Third-Party Indemnitors on behalf of Indemnitee with respect to any claim for which Indemnitee has sought indemnification from the Company shall affect the foregoing. The Third-Party Indemnitors shall be subrogated to the extent of such advancement or payment to all of the rights of recovery which Indemnitee would have had against the Company if the Third-Party Indemnitors had not advanced or paid any amount to or on behalf of Indemnitee. If for any reason a court of competent jurisdiction determines that the Third-Party Indemnitors are not entitled to the subrogation rights described in the preceding sentence, the Third-Party Indemnitors shall have a right of contribution by the Company to the Third-Party Indemnitors with respect to any advance or payment by the Third-Party Indemnitors to or on behalf of the Indemnitee.

4. **Partial Indemnification.** If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of the Expenses, judgments, fines or amounts paid in settlement, actually and reasonably incurred in connection with a Proceeding, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion of such Expenses, judgments, fines and amounts paid in settlement to which Indemnitee is entitled.

5. **Director and Officer Liability Insurance.**

(a) **D&O Policy.** The Company shall, from time to time, make the good faith determination whether or not it is practicable for the Company to obtain and maintain a policy or policies of insurance with reputable insurance companies providing the directors and officers of the Company with coverage for losses from wrongful acts, or to ensure the Company's performance of its indemnification obligations under this Agreement. Among other considerations, the Company will weigh the costs of obtaining such insurance coverage against the protection afforded by such coverage. In all policies of director and officer liability insurance, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits as are accorded to the most favorably insured of the Company's directors, if Indemnitee is a director; or of the Company's officers, if Indemnitee is not a director of the Company but is an officer; or of the Company's key employees, if Indemnitee is not an officer or director but is a key employee. Notwithstanding the foregoing, the Company shall have no obligation to obtain or maintain such insurance if the Company determines in good faith that such insurance is not reasonably available, if the premium costs for such insurance are disproportionate to the amount of coverage provided, if the coverage provided by such insurance is limited by exclusions so as to provide an insufficient benefit, or if Indemnitee is covered by similar insurance maintained by a parent or subsidiary of the Company.

(b) **Tail Coverage.** In the event of a Change of Control or the Company's becoming insolvent (including being placed into receivership or entering the federal bankruptcy process and the like), 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 Indemnitee, for a period of seven years thereafter.

6. **Severability.** Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. The Company's inability, pursuant to court order, to perform its obligations under this Agreement shall not constitute a breach of this Agreement. If this Agreement or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify Indemnitee to the full extent permitted by any applicable portion of this Agreement that shall not have been invalidated, and the balance of this Agreement not so invalidated shall be enforceable in accordance with its terms.

7. **Exclusions.** Any other provision of this Agreement to the contrary notwithstanding, the Company shall not be obligated pursuant to the terms of this Agreement:

(a) **Claims Initiated by Indemnitee.** To indemnify or advance Expenses to Indemnitee with respect to Proceedings initiated or brought voluntarily by Indemnitee and not by way of defense, except with respect to Proceedings brought to establish, enforce or interpret a right to indemnification under this Agreement or any other statute or law or otherwise as required under Section 145 of the Delaware General Corporation Law, but such indemnification or advancement of Expenses may be provided by the Company in specific cases if the Board of Directors finds it to be appropriate; provided, however, that the exclusion set forth in the first clause of this subsection shall not be deemed to apply to any investigation initiated or brought by Indemnitee to the extent reasonably necessary or advisable in support of Indemnitee's defense of a Proceeding to which Indemnitee was, is or is threatened to be made, a party;

(b) **Lack of Good Faith.** To indemnify Indemnitee for any Expenses incurred by Indemnitee with respect to any Proceeding instituted by Indemnitee to establish, enforce or interpret a right to indemnification under this Agreement or any other statute or law or otherwise as required under Section 145 of the Delaware General Corporation Law, if a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such proceeding was not made in good faith or was frivolous;

(c) **Insured Claims.** To indemnify Indemnitee for Expenses to the extent such Expenses have been paid directly to Indemnitee by an insurance carrier under an insurance policy maintained by the Company; or

(d) **Certain Exchange Act Claims.** To indemnify Indemnitee in connection with any claim made against Indemnitee for (i) an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act or any similar successor statute or any similar provisions of state statutory law or common law, or (ii) any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by 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 Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection 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); provided, however, that to the fullest extent permitted by applicable law and to the extent Indemnitee is successful on the merits or otherwise with respect to any such Proceeding, the Expenses actually and reasonably incurred by Indemnitee in connection with any such Proceeding shall be deemed to be Expenses that are subject to indemnification hereunder.

8. **Contribution Claims.**

(a) If the indemnification provided in Section 1 hereof is unavailable in whole or in part and may not be paid to Indemnitee for any reason other than those set forth in Section 7 hereof, then in respect to any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), to the fullest extent permitted by applicable law, the Company, in lieu of indemnifying Indemnitee, shall pay, in the first instance, the entire amount incurred by Indemnitee, whether for Expenses, judgments, fines or amounts paid in settlement, in connection with any Proceeding without requiring Indemnitee to contribute to such payment, and the Company hereby waives and relinquishes any right of contribution it may have at any time against Indemnitee.

(b) With respect to a Proceeding brought against directors, officers, employees or agents of the Company (other than Indemnitee), to the fullest extent permitted by applicable law, the Company shall indemnify Indemnitee from any claims for contribution that may be brought by any such directors, officers, employees or agents of the Company (other than Indemnitee) who may be jointly liable with Indemnitee, to the same extent Indemnitee would have been entitled to such indemnification under this Agreement if such Proceeding had been brought against Indemnitee.

9. No Imputation. The knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Company or the Company itself shall not be imputed to Indemnitee for purposes of determining any rights under this Agreement.

10. Determination of Good Faith. For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or the Board of Directors of the Enterprise or any counsel selected by any committee of the Board of Directors of the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser, investment banker, compensation consultant, or other expert selected with reasonable care by the Enterprise or the Board of Directors of the Enterprise or any committee thereof. The provisions of this Section 10 shall not be deemed to be exclusive or to limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct. Whether or not the foregoing provisions of this Section are satisfied, it shall in any event be presumed that Indemnitee has at all times acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company.

11. **Defined Terms and Phrases**. For purposes of this Agreement, the following terms shall have the following meanings:

(a) "Beneficial Owner" and "Beneficial Ownership" shall have the meanings set forth in Rule 13d-3 promulgated under the Exchange Act as in effect on the date hereof.

(b) "Change of Control" shall be deemed to occur upon the earliest of any of the following events:

(i) Acquisition of Stock by Third Party. Any Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing 15% or more of the combined voting power of the Company's then outstanding securities entitled to vote generally in the election of directors, unless (1) the change in the relative Beneficial Ownership of the Company's securities by any Person results solely from a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors, or (2) such acquisition was approved in advance by the Continuing Directors and such acquisition would not constitute a Change of Control under part (iii) of this definition.

(ii) Change in Board of Directors. Individuals who, as of the date of this Agreement, constitute the Company's Board of Directors (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 of the directors then still in office who were directors on the date of this Agreement (collectively, the "Continuing Directors"), cease for any reason to constitute at least a majority of the members of the Board.

(iii) Corporate Transaction. The effective date of a reorganization, merger, or consolidation of the Company (a "Business Combination"), in each case, unless, following such Business Combination: (1) all or substantially all of the individuals and entities who were the Beneficial Owners of securities entitled to vote generally in the election of directors immediately prior to such Business Combination beneficially own, directly or indirectly, more than 51% of the combined voting power of the then outstanding securities of the Company entitled to vote generally in the election of directors resulting from such Business Combination (including a corporation which as a result of such transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Business Combination, of the securities entitled to vote generally in the election of directors and with the power to elect at least a majority of the Board or other governing body of the surviving entity; (2) no Person (excluding any corporation resulting from such Business Combination) is the Beneficial Owner, directly or indirectly, of 15% or more of the combined voting power of the then outstanding securities entitled to vote generally in the election of directors of such corporation except to the extent that such ownership existed prior to the Business Combination; and (3) at least a majority of the Board of Directors of the corporation resulting from such Business Combination were Continuing Directors at the time of the execution of the initial agreement, or of the action of the Board of Directors, providing for such Business Combination.

(iv) Liquidation. The approval by the Company's stockholders of a complete liquidation of the Company or an agreement or series of agreements for the sale or disposition by the Company of all or substantially all of the Company's assets, other than factoring the Company's current receivables or escrows due (or, if such approval is not required, the decision by the Board to proceed with such a liquidation, sale or disposition in one transaction or a series of related transactions).

(v) Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item or any similar schedule or form) promulgated under the Exchange Act whether or not the Company is then subject to such reporting requirement.

(c) "Company" 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 if Indemnitee 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, trustee, general partner, managing member, fiduciary, employee or agent of any other enterprise, Indemnitee shall stand in the same position under the provisions of this Agreement with respect to the resulting or surviving corporation as Indemnitee would have with respect to such constituent corporation if its separate existence had continued.

(d) "Enterprise" means the Company and any other enterprise that Indemnitee was or is serving at the request of the Company as a director, officer, partner (general, limited or otherwise), member (managing or otherwise), trustee, fiduciary, employee or agent.

(e) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(f) "Expenses" shall include all direct and indirect costs, fees and expenses of any type or nature whatsoever, including all attorneys' fees and costs, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, fees of private investigators and professional advisors, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payment under this Agreement (including taxes that may be imposed upon the actual or deemed receipt of payments under this Agreement with respect to the imposition of federal, state, local or foreign taxes), fax transmission charges, secretarial services and all other disbursements, obligations or expenses in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, settlement or appeal of, or otherwise participating in a Proceeding. Expenses also shall include any of the forgoing expenses incurred in connection with any appeal resulting from any Proceeding, including the principal, premium, security for, and other costs relating to any costs bond, supersedes bond, or other appeal bond or its equivalent. Expenses also shall include any interest, assessment or other charges imposed thereon and costs incurred in preparing statements in support of payment requests hereunder. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) "Person" shall have the meaning as set forth in Section 13(d) and 14(d) of the Exchange Act as in effect on the date hereof; provided, however, that "Person" shall exclude: (i) the Company; (ii) any direct or indirect majority owned subsidiaries of the Company; (iii) any employee benefit plan of the Company or any direct or indirect majority owned subsidiaries of the Company or of any corporation owned, directly or indirectly, by the Company's stockholders in substantially the same proportions as their ownership of stock of the Company (an "Employee Benefit Plan"); and (iv) any trustee or other fiduciary holding securities under an Employee Benefit Plan.

(h) "Proceeding" shall include any actual, threatened, pending or completed action, suit, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by a third party, a government agency, the Company or its Board of Directors or a committee thereof, whether in the right of the Company or otherwise and whether of a civil (including intentional or unintentional tort claims), criminal, administrative, legislative or investigative (formal or informal) nature, including any appeal therefrom, in which Indemnitee was, is, will or might be involved as a party, potential party, non-party witness or otherwise by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, by reason of any action (or failure to act) taken by Indemnitee or of any action (or failure to act) on Indemnitee's part while acting as a director, officer, employee or agent of the Company, or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, partner (general, limited or otherwise), member (managing or otherwise), trustee, fiduciary, employee or agent of any other enterprise, in each case whether or not serving in such capacity at the time any liability or expense is incurred for which indemnification, reimbursement or advancement of expenses can be provided under this Agreement.

(i) In addition, references to "other enterprise" shall include another corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or any other enterprise; references to "fines" shall include any excise taxes assessed on Indemnitee with respect to an employee benefit plan; references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by Indemnitee with respect to an employee benefit plan, its participants, or beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Agreement; references to "include" or "including" shall mean include or including, without limitation; and references to Sections, paragraphs or clauses are to Sections, paragraphs or clauses in this Agreement unless otherwise specified.

12. **Attorneys' Fees.** In the event that any Proceeding is instituted by Indemnitee under this Agreement to enforce or interpret any of the terms hereof, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee in connection with such Proceeding, unless a court of competent jurisdiction determines that each of the material assertions made by Indemnitee as a basis for such Proceeding were not made in good faith or were frivolous. In the event of a Proceeding instituted by or in the name of the Company under this Agreement or to enforce or interpret any of the terms of this Agreement, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee in connection with such Proceeding (including with respect to Indemnitee's counterclaims and cross-claims made in such action), unless a court of competent jurisdiction determines that each of Indemnitee's material defenses to such action were made in bad faith or were frivolous.

13. **Miscellaneous.**

(a) **Governing Law.** The validity, interpretation, construction and performance of this Agreement, and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the state of Delaware, without giving effect to principles of conflicts of law.

(b) **Entire Agreement; Binding Effect.** Without limiting any of the rights of Indemnitee described in Section 3(b) hereof, this Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions and supersedes any and all previous agreements between them covering the subject matter herein. The indemnification provided under this Agreement applies with respect to events occurring before or after the effective date of this Agreement, and shall continue to apply even after Indemnitee has ceased to serve the Company in any and all indemnified capacities.

(c) **Amendments and Waivers.** No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance.

(d) **Successors and Assigns.** This Agreement shall be binding upon the Company and its 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) and assigns, and inure to the benefit of Indemnitee and Indemnitee's heirs, executors, administrators, legal representatives and assigns. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all or substantially all 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 in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

(e) **Notices.** Any notice, demand or request required or permitted to be given under this Agreement shall be in writing and shall be deemed sufficient when delivered personally or by overnight courier or sent by email, or 48 hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party's address as set forth on the signature page, as subsequently modified by written notice, or if no address is specified on the signature page, at the most recent address set forth in the Company's books and records.

(f) **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

(g) **Construction.** This Agreement is the result of negotiations between and has been reviewed by each of the parties hereto and their respective counsel, if any; accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of or against any one of the parties hereto.

(h) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and all of which together shall constitute one and the same agreement. Execution of a facsimile copy will have the same force and effect as execution of an original, and a facsimile signature will be deemed an original and valid signature.

(i) **No Employment Rights.** Nothing contained in this Agreement is intended to create in Indemnitee any right to continued employment.

(j) **Company Position.** The Company shall be precluded from asserting, in any Proceeding brought for purposes of establishing, enforcing or interpreting any right to indemnification under this Agreement, that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court that the Company is bound by all the provisions of this Agreement and is precluded from making any assertion to the contrary.

(k) **Subrogation.** 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 to effectively bring suit to enforce such rights.

[Signature Page Follows]

The parties have executed this Agreement as of the date first set forth above.

THE COMPANY:

BIOMX INC.

By: ____________________________
(Signature)

Name:
Title:

Address:

AGREED TO AND ACCEPTED:

INDEMNITEE:

(Signature)

Address:

Email:

Exhibit 10.5

PURSUANT TO ITEM 601(B)(10) OF REGULATION S-K, CERTAIN PORTIONS OF THIS EXHIBIT HAVE BEEN REDACTED AND, WHERE APPLICABLE, HAVE BEEN MARKED "[***]," SUCH REDACTIONS ARE IMMATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

RESEARCH AND LICENCE AGREEMENT

between

YEDA RESEARCH AND DEVELOPMENT COMPANY LIMITED

and

MBCURE LTD.

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Execution Version

RESEARCH AND LICENCE AGREEMENT

Between

YEDA RESEARCH AND DEVELOPMENT COMPANY LIMITED

a company duly registered under the laws of Israel of P O Box 95, Rehovot 76100, Israel

(hereinafter, **"Yeda"**)

and

MBCURE LTD.

a company duly registered under the laws of Israel with company number 51-522055-6, having its principal place of business at 2 Ilan Ramon Street, Science Part, Ness Ziona, 7403635, Israel

(hereinafter, **"the Company"**)

PREAMBLE:

WHEREAS: (A) in the course of research conducted at the Weizmann Institute of Science (**"the Institute"**), under the supervision of Dr. Eran Elinav of Department of Immunology and Professor Rotem Sorek of the Department of Molecular Genetics (**"the Scientists"**), the Scientists together with other scientists of the Institute (all of the aforementioned persons collectively **"the Inventors"**) created and/or generated the know-how and/or materials and other information described in **Appendix A** hereto, using the Institute's state of the art preclinical germ-free mouse facility, anaerobic facility, robotic facility for high throughput phage discovery and sequencing facility (**"the Existing Know-How"**); and

(B) the Company is: (i) interested in the performance of further research at the Institute under the supervision of the Scientists in the field of the Technology (as hereinafter defined), as specified in the Research Program (as hereinafter defined) (**"the Research"**); and (ii) willing, subject to and in accordance with the terms and conditions of this Agreement, to finance the performance of the Research in accordance with the Research Budget (as hereinafter defined); and

(C) Yeda is willing, subject to and in accordance with the terms and conditions of this Agreement, to procure the performance of the Research at the Institute as aforesaid; and

(D) by operation of Israeli law and/or under the terms of employment of the Inventors at the Institute and pursuant to an agreement between the Institute, Yeda and the Inventors, all right, title and interest of the Institute and the Inventors in and to the Know How and in and to the Initial Research Results and the Subsequent Results (all as hereinafter defined) vests and shall vest in Yeda; and

(E) it is contemplated that following the commencement of the Research, there will be collaborative activity between the Inventors and the Company, for example by way of the provision by the Inventors of phages for validation by the Company;

(F) subject to and in accordance with the terms of this Agreement, the Company wishes to receive, and Yeda is willing to grant to the Company, the License in respect of the Licensed Information and Yeda's rights in the Subsequent Results and under the Yeda Patents and Yeda's rights in the Joint Patents (all as hereinafter defined), all subject to and in accordance with the terms and conditions of this Agreement; and

(G) the Company warrants and represents that: (i) the Company was duly incorporated on 3 March 2015, its initial purpose being to implement an "incubator project" (as such term is defined in section 2.13 of Directive No. 8.22 of the Director-General of the Ministry of the Economy ("**the Ministry**")) (**"the Incubators Directive"**) for the development and commercialisation of Products (**"the Project"**); (ii) the Project has been accepted by the biotechnological incubator FutuRX Limited ("**FutuRx**"); (iii) pursuant to a written authorisation ("**the Letter of Approval**") dated 29 December 2014 as amended on 3 March 2015, the Project was approved by the "biotechnology incubators committee" at the Ministry (as defined in section 3 of the Incubators Directive (**"the Incubators Committee"**) on the terms set out therein for receipt of government support (including grants) and incubator services pursuant to the Incubators Directive and applicable law; and (iv) FutuRx has undertaken to invest the amount of [***] in the Company over the course of a [***] period in excess of the investment therein required of FutuRx as an incubator pursuant to law and regulations.

NOW THEREFORE IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. **PREAMBLE, APPENDICES AND INTERPRETATION**

1.1. The Preamble and Appendices hereto form an integral part of this Agreement.

1.2. In this Agreement the terms below shall bear the meanings assigned to them below, unless the context shall indicate a contrary intention:

1.2.1. **"Affiliated Entity"** - shall mean, with respect to any body, any company, corporation, other entity or person (hereinafter, collectively, **"entity"**), which directly or indirectly, is controlled by, or controls, or is under common control with, such body. For the purposes of this definition, **"control"** shall mean the ability, directly or indirectly, to direct the activities of the relevant entity (save for an ability flowing solely from the fulfilment of the office of director or another office) and shall include, the holding, directly or indirectly, of more than [***] of the issued share capital or of the voting power of the relevant entity or the holding, directly or indirectly, of a right to appoint more than [***] of the directors of such entity or of a right to appoint the chief executive officer of such entity;

1.2.2. **“Companion Diagnostic Kits”** - shall mean with respect to any Product or Other Product, a Diagnostic Kit as referred to in clause 1.2.17 below used in the development and/or application of such Product or Other Product;

1.2.3. **“Company Products”** - shall mean Group 1 Company Products and Group 2 Company Products;

1.2.4. **“Company Results”** - shall mean all and any inventions, products, materials, compounds, compositions, substances, methods, processes, techniques, know-how, data, information, discoveries and other results of whatsoever nature covering or constituting Group 2 Company Products Discovered or occurring in the course of, or arising from, the performance of activities of any nature by the Company outside the facilities of the Institute which are not joint or collaborative with the Scientists (including via consultancy or other agreements or arrangements), WIS or Yeda and to which the Scientists have not contributed in any way;

1.2.5. **“Development Program”** - shall mean, with respect to any Product or Products, a development program specifying the activities and timetable necessary to develop such Products to commercialisation;

1.2.6. **“Discovered”** - shall mean, with regard to a Group 2 Product, the time when such Product or any part thereof was first identified, whether by way of a claim in a patent application or in any written record;

1.2.7. **"Distributor"** shall mean an independent third party not affiliated with either the Company or any Sublicensee with whom there is a bona fide distribution, reseller or similar agreement pursuant to which such third party does not have any rights under the Licensed Information, the Subsequent Results or the Patents and purchases Products or Other Products from the Company or a Sublicensee or from another Distributor in consideration for the purchase price therefor only (and no other consideration), solely for resale and/or distribution in the same form (meaning without any change and/or reconfiguration thereof or incorporation thereof into any other product) to another Distributor or to end-users, for monetary consideration only;

1.2.8. **"Exchange Rate"** - shall mean, with respect to any amount to be calculated, or which is paid or received in a currency other than US Dollars, the average of the selling and buying exchange rates of such currency (in respect of cheques and remittances) and the US Dollar prevailing at Bank Hapoalim B.M. at the end of business on the date of calculation, payment or receipt, as the case may be;

1.2.9. **"First Commercial Sale"** - shall mean, with respect to any Product in any country, the first commercial sale of such Product in such country after new drug approval by the U.S. Food and Drug Administration (**"the FDA"**), or, in the case of any member state of the European Union, the European Medicines Agency (**"the EMA"**) or any other national medicinal agency marketing approval or equivalent approval in such country has been obtained for such Product;

1.2.10. **"Group 1 Company Products"** - shall mean drug products (other than WIS Products) for the treatment of any indication based on the drug product candidates detailed in the Research Program, containing bacteriophages for use as antibacterial agents where such bacteriophages were specifically developed under the Research Plan;

1.2.11. **"Group 2 Company Products"** - shall mean drug products (other than WIS Products or Group 1 Company Products) for the treatment of any indication which contain bacteriophages for use as microbiome or Microbiota antibacterial agents or modulators, which products were developed or discovered by the Company during a period of [***] commencing on the date hereof; however, if at the expiration of such [***] period there are fewer than [***] Company Products which are drugs, such period will be extended until there are [***] Company Products in total which are drugs;

1.2.12. **"Incubator Period"** - shall mean the period during which the Company receives services from FuturRx, as approved by the OCS from time to time, being approximately [***] in total as from the commencement date indicated in the Letter of Approval;

1.2.13. **"Initial Development Program"** - shall mean a program detailing the research and development activities which the Company aims to accomplish during the Incubator Period, as submitted to the Incubators Committee and amended on an annual basis during the Incubator Period, and which will include all activities to be funded by the Company during the Incubator Period;

1.2.14. **“Initial Research Results”** - shall mean all and any inventions, products, materials (which may include bacteria and phages), compounds, compositions, substances, methods, processes, techniques, know-how, data, information, discoveries and other results of whatsoever nature discovered or occurring in the course of, or arising from, the performance of:

(i) the Research; or

(ii) activities of any nature which are joint or collaborative between the Inventors (including via consultancy or other agreements or arrangements) and the Company,

in either case related to or underlying WIS Products (or to any Companion Diagnostic Kits to such WIS Products) as described in clause 1.2.30 below;

1.2.15. **“Investment”** - shall mean any amount received by or invested in the Company in return for the issuance of either equity or debt, and any amounts received by the Company from the Incubators Committee or otherwise from the Office of the Chief Scientist of the Ministry of Economics (the “**OCS**”);

1.2.16. **"Know-How"** - shall mean (i) the Existing Know-How; (ii) any non-patented information disclosed to the Company hereunder and which is not in the public domain, including information obtained during the Research (other than the Initial Research Results); (iii) proprietary materials emanating from the Research or part of the Existing Know How (which may include bacteria and phages); and (iv) any future developments, improvements or inventions by either of the Scientists of or related to the Technology, provided that during the calendar year in which the creation thereof occurs the Company is providing funding for research related to the Technology at the laboratories of the Scientists at the Institute in the sum of at least [***] per calendar year per each of the two laboratories (above and beyond any amounts directly required for the purchase of mice);

1.2.17. **"Licence"** - shall mean an exclusive worldwide licence under:

(i) the Licensed Information;

(ii) Yeda's rights in the Subsequent Results; and

(iii) Yeda's rights in the Yeda Patents and the Joint Patents;

for (a) the development, testing manufacture, production, and sale of Products, (b) for the development, testing manufacture, production, and sale of drug products, other than Products, for the treatment of any indication which contain bacteriophages for use as microbiome or Microbiota antibacterial agents or modulators (**"Other Products"**); and (c) for the use of bacteriophages in kits to be used only for diagnosis in the development of any Product or Other Product or for the purpose of diagnosis in applying any Product or Other Product (**"Diagnostic Kits"**), but for the avoidance of doubt not for sale by the Company unless such Diagnostic Kits are sold with labelling showing that such Diagnostic Kits may be used only in order to determine which Product or Other Product, if any, may appropriately be used (and not for any other form of diagnosis, including with respect to products, other than a Product or Other Product), all the above in this clause 1.2.17, subject to the provisions of clause 7.1 below and the other terms and conditions of this Agreement. Notwithstanding anything to contrary in this Agreement, the Licence shall not include the use of bacteriophages to treat against free-living bacteria (such as for environmental treatment) outside the human organism, but there shall be no restriction on the Company developing such treatments independently of the Institute without any use of the Licensed Information or the Subsequent Results;

1.2.18. **"Licensed Information"** - shall mean: (i) the Know-How; and (ii) the Initial Research Results. Specific genes or proteins for targeted anti-bacterial treatment which are identified and/or developed by any of the Scientists shall not be regarded as Technology and shall not be included in the Licensed Information;

1.2.19. **"Microbiota"** - shall mean the community of commensal, symbiotic, and pathogenic microorganisms found within the human body;

1.2.20. **"Net Sales"** - shall mean:

(i) the total amount invoiced by the Company or any Affiliated Entity thereof and the total amount invoiced by each Sublicensee in connection with the sale of WIS Products (including any Companion Diagnostic Kits of any WIS Products, whether sold together with or separately from any WIS Products); and

(ii) the total amount invoiced by the Company or any Affiliated Entity thereof in connection with the sale of Company Products (including any Companion Diagnostic Kits of any Company Products, whether sold together with or separately from any Company Products);

(for the avoidance of doubt, whether such sales are made before or after the First Commercial Sale of any Product in any country); in all cases after deduction of:

(i) sales taxes (including value added taxes) to the extent applicable to such sale and included in the invoice in respect of such sale;

(ii) freight and insurance charges to the extent such items are separately itemised on invoices;

(iii) credits or allowances, if any, actually granted on account of price adjustments, recalls, rejections or returns of Products previously sold;

(iv) bad debts (as determined in accordance with relevant GAAP rules) deriving from Net Sales in respect of which royalties were paid by the Company hereunder;

provided that:

(a) with respect to sales which are not at arms-length and/or are not in the ordinary course of business and/or are not according to then current market conditions for such a sale, the term **"Net Sales"** shall mean the total amount that would have been due in an arms-length sale made in the ordinary course of business and according to the then current market conditions for such sale or, in the absence of such current market conditions, according to market conditions for sale of products similar to the Products (or Companion Diagnostic Kits, as applicable); and

(b) with respect to sales by the Company of Products (or Companion Diagnostic Kits, as applicable) and/or sales by a Sublicensee of WIS Products (or Companion Diagnostic Kits, as applicable), as applicable, to any Affiliated Entity of the Company or of such Sublicensee, as the case may be, the term, **"Net Sales"** shall mean the higher of: (A) "Net Sales", as defined in paragraph (a) above; and (B) the total amount invoiced by such Affiliated Entity on resale to an independent third party purchaser after the deductions specified in subparagraphs (i) and (ii) above, to the extent applicable;

1.2.21. **"Patents"** - shall mean:

(i) all patent applications or applications for certificates of invention covering portions of the Licensed Information and all patents or certificates of invention which may be granted thereon ("**the Yeda Patents**"); and

(ii) all patent applications or applications for certificates of invention (if any) covering all or some of the Subsequent Results and all patents or certificates of invention which may be granted thereon ("**the Joint Patents**");

in each case as well as all continuations, continuations-in-part, patents of addition, divisions, renewals, reissues and extensions (including any patent term extension) of any of the aforegoing patents, but excluding: (a) patents that have been invalidated or cancelled pursuant to the final (*i.e.,* unappealed or unappealable) judgment of a competent court; and (b) patent applications that have been withdrawn or have expired, in each case such exclusion to be effective only from the date of such invalidation, cancellation, withdrawal or expiry, as the case may be.

For the purposes of this Agreement, the term **"Patent"** shall also mean Supplementary Protection Certificate (within the meaning of such term under Council Regulation (EU) No. 1768/92) or any application therefor or any other similar statutory protection (by way of patent extension or otherwise) or application therefor in any jurisdiction;

1.2.22. **"Products"** - shall mean WIS Products and Company Products;

1.2.23. **"Research Budget"** - shall mean the agreed research budget for the first [***] of the Research Period attached hereto and marked **Appendix B**, and any further research budget as may be agreed by the parties in writing from time to time;

1.2.24.	**"Research Period"**	-	shall mean the [***] period commencing on May 1, 2015, as such period may be extended from time to time by agreement in writing of the parties;
1.2.25.	**"Research Program"**	-	shall mean the research program agreed upon for the first [***] of the Research Period attached hereto and marked **Appendix C**, and any further research program as maybe agreed by the parties in writing from time to time;
1.2.26.	"**Subcontract**" and "**Subcontractor**"	-	shall mean a *bona fide* written subcontracting agreement pursuant to which a contractor is engaged on a pure work order basis for the sole purpose of manufacturing or development of a product (or part thereof) on the Company's behalf, for monetary consideration only;
1.2.27.	**"Sublicence"** and **"Sublicensee"**	-	**"Sublicence"** shall mean any right granted, licence given, or agreement entered into, by the Company to or with any other person or entity, permitting any use of the Licensed Information and/or the Subsequent Results and/or the Yeda Patents and/or the Joint Patents (or any part thereof), including for the development and/or testing and/or manufacture and/or production and/or marketing and/or sale of Products (whether or not such grant of rights, licence given or agreement entered into is described as a sublicence or as an agreement with respect to the development and/or testing and/or manufacture and/or production and/or marketing and/or sale of Products or otherwise) and/or use of the Company Results for the development and/or testing and/or manufacture and/or production and/or marketing and/or sale of Group 2 Company Products and the term **"Sublicensee"** shall be construed accordingly. For the purposes of this Agreement, "Sublicensee" shall not include a Subcontractor or a Distributor, as defined herein;

1.2.28. **“Sublicensing Receipts”** - shall mean consideration, whether monetary or otherwise, including fees and lump sum payments, received (for the avoidance of doubt, whether received before or after the First Commercial Sale in any country) by the Company for or from the grant of Sublicences and/or pursuant thereto, or in connection with the grant of an option for a Sublicence (where such option is in return for consideration) (for the further avoidance of doubt, including amounts received by the Company which constitute royalties based on sales of Company Products by Sublicensees), except for:

(i) amounts received by the Company which constitute royalties based on sales of WIS Products by Sublicensees in respect of which royalties are payable to Yeda hereunder;

(ii) amounts received by the Company from:

(1) a Sublicensee to cover direct costs of Product-related research or development activities to be performed by the Company for such Sublicensee after the date of signature of the relevant Sublicence (or, as the case may be, option for a Sublicence) or

(2) governmental or philanthropic sources, including the Incubators Committee, for Product-related research or development activities

and actually expended by the Company (as evidenced by invoices, receipts or other appropriate documentation), provided that:

(a) any such amounts constitute research and/or development funding only and not payment for Products nor any other type of grant or benefit,

(b) such research and/or development activities are performed pursuant to a defined research and development program and research and development budget agreed with the relevant Sublicensee, a copy of which is provided to Yeda; and

(c) the Company submits to Yeda a written expense report, confirmed by the Company's independent accountant or chief financial officer, setting out the time and materials utilised, and reasonable overhead costs and other expenses actually incurred by the Company in the conduct of the said research and development activities, which report demonstrates that such amounts have actually been expended by the Company in the conduct of such research and/or development activities in accordance with such work program and budget and at the times set out therein,

it being agreed, for the avoidance of doubt, that any amounts received by the Company as aforesaid, but not expended as set out in this sub-clause (ii), shall be deemed to be Sublicensing Receipts;

(iii) amounts received by the Company which are used by the Company for the purpose of the payment of costs and fees incurred in the preparation, filing, prosecution and the like of patent applications filed in accordance herewith and the maintenance of any patents granted thereon; and

(iv) investments in the equity or debt of the Company to the extent such investments are at fair value (amounts above fair value will be deemed Sublicensing Receipts);

1.2.29. **"Subsequent Results"** - shall mean all and any inventions, products, materials (which may include bacteria and phages), compounds, compositions, substances, methods, processes, techniques, know-how, data, information, discoveries and other results of whatsoever nature discovered or occurring in the course of, or arising from, the performance of

(i) the Research; or

(ii) activities of any nature which are joint or collaborative between the Inventors (including via consultancy or other agreements or arrangements) and the Company,

in either case related to or underlying Group 1 Company Products (including any Companion Diagnostic Kits of any Group 1 Company Products);

1.2.30. **"Technology"** - shall mean a technology for identification and/or development of bacteriophages as candidates for targeted anti-bacterial treatment through human-body associated microbiome or Microbiota modulation;

1.2.31. **"WIS Products"** - shall mean drug products based on the first two drug product candidates, as detailed in the Research Program (being in respect of colorectal cancer and inflammatory bowel disease), which are submitted to the Incubators Committee by the Company within the framework of the Project, containing bacteriophages for use as antibacterial agents where such bacteriophages were initially identified in the Licensed Information.

1.2.32. the terms: **"Yeda"**, **"the Company"**, **"the Institute"**, **"the Scientists"**, **"the Inventors"**, **"the Existing Know-How"**, **"the Research"**, "**the Ministry**", **"the Incubators Directive"**, **"the Project"**, "**FutuRx**", "**the Letter of Approval**" and **"the Incubators Committee"** - shall bear the definitions assigned to them respectively in the heading or the preamble hereto, as the case may be.

1.3. In this Agreement:

1.3.1. words importing the singular shall include the plural and *vice-versa* and words importing any gender shall include all other genders and references to persons shall include partnerships, corporations and unincorporated associations;

1.3.2. any reference in this Agreement to the term “patent” shall also include any re-issues, divisions, continuations or extensions thereof (including measures having equivalent effect);

1.3.3. any reference in this Agreement to the term “patent applications” shall include any provisional patent applications, PCT, national or regional patent applications, applications for continuations, continuations-in-part, divisions, patents of addition or renewals, as well as any other applications or filings for similar statutory protection;

1.3.4. any reference in this Agreement to the term “sale” shall include the sale, lease, rental or other disposal of any Product; and

1.3.5. **“including”** and **“includes”** means including, without limiting the generality of any description preceding such terms.

2. **PERFORMANCE OF THE RESEARCH**

2.1. In consideration of the sums to be paid by the Company to Yeda pursuant to clause 3 below and, subject to the execution of such payments, Yeda undertakes, subject to clause 2.2 below, to procure the performance of the Research at the Institute under the supervision of the Scientists during the Research Period. By written agreement of the parties, the Research Period may be extended by such period and upon such terms and conditions as the parties shall so agree.

2.2. If either or both of the Scientists shall cease to be available for the supervision of the performance of the Research, such cessation shall not constitute a breach of this Agreement by Yeda. In the event that either or both of the Scientists shall cease to be available as aforesaid, Yeda shall use its reasonable efforts to find from amongst the scientists of the Institute replacement scientists acceptable to the Company (such acceptance to be in writing, and not to be unreasonably withheld), but no undertaking to find such replacements is given by Yeda. If no such acceptable replacement scientists can be found within [***] of either or both of the Scientists becoming unavailable as aforesaid, then the Company shall be entitled, by written notice to Yeda, to terminate the Research Period, in which event the Research Period and the performance of Research hereunder shall cease at the end of the calendar quarter during which such written notice was given. During the period between the date of such notice by the Company and the cessation of the Research, Yeda shall make reasonable efforts to procure the minimising of further Research expenses (save with respect to any obligations already undertaken which cannot be cancelled or reduced) and in co-operation with the Company shall make reasonable efforts to procure that experiments covered by the Research Budget applicable until the date of such cessation are completed. In the event of such termination, Yeda shall be released from any obligation to procure the performance of the Research during the period after such termination, and the Company shall be released from any obligation to finance the Research in respect of the period commencing after such termination, but without affecting the Licence and all the other terms and conditions of this Agreement which shall remain in full force and effect (save for those relating to the performance and financing of the Research). In the event of such termination, Yeda shall make reasonable efforts to provide to the Company all data including any raw data generated in the course of the Research.

2.3. It is agreed that if the performance of the Research shall involve the conduct of experiments on and/or using animals, the performance of the Research and the Research Program shall be subject to the Israeli Anti-Cruelty Law, 1994 and to the approval of, and any modifications requested by, the Institutional Animal Care and Use Committee and the Safety Committee of the Institute, in order to ensure compliance with the above law. It is agreed that, in view of the fact that the performance of the Research may involve the conduct of experiments using human material (such as cells, blood, tissue, DNA, RNA, lysates, or body fluids) the performance of the Research and the Research Program shall be subject to the approval of, and any modifications requested by the Safety Committee of the Institute and the Institutional Review Board for Human Experimentation.

2.4. It is further agreed that if the performance of the Research shall involve generators of biological diseases, as defined in the Regulation of Research into Generators of Biological Diseases Law, 2008 (**"the Biological Research Law"**), the performance of the Research and the Research Program shall be subject to the provisions of the Biological Research Law and to the obtaining of all the necessary approvals required thereunder. In the event that if, during the performance of Research for which initially no approval was required pursuant to the Biological Research Law, there shall be discovered findings which may increase the aggressiveness, transferability or host range of biological diseases, which findings require the suspension of the Research until the approvals required pursuant to the Biological Research Law are obtained, any such suspension of the Research shall not constitute a breach of this Agreement by Yeda.

2.5. For the avoidance of doubt, it is agreed that nothing in this Agreement shall constitute a representation or warranty by Yeda, express or implied, (i) that any patent applications relating to the Licensed Information or the Subsequent Results or any portion thereof respectively will be granted; or (ii) that the patents obtained on any of the said patent applications are or will be valid or will afford proper protection; or (iii) that any portion of the Licensed Information or the Subsequent Results is or will be commercially exploitable or of any other value; or (iv) that the exploitation of the Patents, the Licensed Information or the Subsequent Results will not infringe the rights of any third party, save that Yeda confirms that as of the date hereof it is not aware of any allegations by any third party as to the infringement by the Licensed Information of any patent or as to the misappropriation of the Licensed Information or as to the right of Yeda to license any of the foregoing. Yeda furthermore makes no warranties and representations, express or implied, whatsoever as to the Research, the Initial Research Results, the Subsequent Results or the Licensed Information.

3. **FUNDING THE RESEARCH**

3.1. The Company undertakes to pay to Yeda the total amount (in US Dollars) of the Research Budget, as follows: during each year of the Research Period, [***] of the proportionate amount due in respect of such year in [***], payable in advance at the beginning of each [***] period during such year, the first such payment to be made on the [***] of such year (which in respect of the first year of the Research Period is the date of Company activation as indicated in the Letter of Approval), with the remaining [***] of such annual amount to be paid immediately following the delivery to the Company of the twelve-monthly research report and transfer of the reagents both as referred to in clause 4.1 below due at the end of each year of the Research Period.

3.2. An invoice in respect of an instalment paid as aforesaid shall be issued by Yeda promptly after the receipt by Yeda of such instalment. All payments of the Research Budget shall be made by direct wire transfer to Yeda's bank account, the details of which are set out in clause 19.8 below.

3.3. For the avoidance of doubt, nothing contained in this Agreement shall prevent Yeda and/or the Institute from obtaining further finance for the Research from other entities, provided that such other entities are not granted any rights in respect of the Research or the Licensed Information which prejudice any rights granted to the Company under the Licence.

4. **RECORDS AND REPORTING BY YEDA**

4.1. Yeda shall procure that the Scientists (and any persons participating in the performance of the Research at the Institute under the supervision of the Scientists) will prepare and keep in accordance with practice at the Institute records of all Research activities and results. The Company will be entitled to have through Yeda reasonable access to such records, following written request from the Company to Yeda.

4.2. Yeda will procure the preparation by the Scientists of, and shall submit to the Company: (i) an interim written report on the progress of the Research in each [***] period during the Research Period, within [***] of the end of each such [***] period, and of a written report summarising the results of the Research within [***] of the end of the Research Period; and (ii) reports of any significant findings in the Research promptly upon such findings being made.

4.3. Yeda shall submit to the Company, with respect to each [***] period of the Research Period, a financial report setting forth the monies received and expended in connection with the Research during such [***] period. Each report as aforesaid shall be submitted to the Company not later than [***] after the end of the period covered by such report.

5. **TITLE**

5.1. Subject only to the Licence:

5.1.1. all right, title and interest in and to the Existing Know-How and the Yeda Patents covering all or part of the Existing Know How, vest and shall vest in Yeda;

5.1.2. all right, title and interest in and to the Know-How (other than the Existing Know-How), the Initial Research Results, the Subsequent Results, the Yeda Patents (other than the Yeda Patents covering all or part of the Existing Know How) and the Joint Patents, shall vest jointly in Yeda and the Company in equal shares.

5.2. For the avoidance of doubt, all right, title and interest in and to the Company Results and all right, title and interest in and to all other data, results, information, know-how, and any new invention generated by the Company in connection with its activities hereunder not falling within clause 5.1.1. or 5.1.2 above (as between the Company and Yeda) vest and shall vest in the Company.

5.3. In the event of the termination of this Agreement for any reason whatsoever, any interest which the Company shall have in the Initial Research Results and in those Yeda Patents referred to in clause 5.1.2 shall be automatically assigned to Yeda. To secure such assignment as aforesaid, concurrently with the execution of this Agreement, the Company shall execute an irrevocable Power of Attorney in the form attached hereto as **Appendix D**, authorising the automatic assignment of all rights of the Company in the Initial Research Results and such Yeda Patents to Yeda, upon Yeda's written instructions, which instructions Yeda may issue in the event of the termination of this Agreement for any reason whatsoever. Such Power of Attorney shall be held in escrow by patent counsel chosen by the parties. It is understood and agreed that such patent counsel shall have no discretion, shall release such Power of Attorney to Yeda upon notice from Yeda to such patent counsel confirming that this Agreement has been terminated, and shall act upon Yeda's instructions by virtue thereof, upon Yeda's first demand. The Company [***] shall execute any additional document and perform any acts as may be required to do so. Notwithstanding the foregoing, any such transfer shall be subject, if required, to the consent of the Incubators Committee and/or to Yeda's undertaking to comply with and assume any regulatory obligations in respect thereof, including the payment of royalties to the OCS.

6. **PATENTS; PATENT INFRINGEMENTS**

6.1.

6.1.1. At the initiative of either party, the parties shall consult with one another regarding the filing of patent applications in respect of any portion of the Licensed Information and/or the Subsequent Results, including the jurisdictions in which such applications should be filed, the timing of the filing of such applications and the contents thereof. Following such consultations, Yeda shall (subject to payment by the Company under clause 6.2 below) retain outside patent counsel approved by the Licensee to prepare, file and prosecute patent applications in respect of any portion of the Licensed Information, and the Company shall retain outside patent counsel to prepare, file and prosecute patent applications in respect of any portion of the Subsequent Results, in each case in such jurisdiction or jurisdictions as shall be determined by the parties in consultation as aforesaid. Each of Yeda and the Company (in the case of Yeda, subject to clause 6.3 below) shall also maintain at the applicable patent office any patents granted as a result of any of the above patent applications made by them respectively as aforesaid. The parties agree that their joint policy will be to seek comprehensive patent protection for all Licensed Information and Subsequent Results licensed to the Company hereunder at least in the following countries: [***], unless, with respect to any country as aforesaid and any patent application, all of the subject matter claims in such patent application are as a matter of law not patentable in such country. The Company and Yeda shall co-operate fully in the preparation, filing, prosecution and maintenance of all such patent applications and patents as aforesaid.

6.1.2. Without derogating from the aforegoing, the Company shall [***] take all necessary steps in order to obtain, or, at Yeda's election in the case of patents covering any part of the Licensed Information, assist Yeda to obtain, the extension of each patent referred to in this clause 6.1 above, or, in the case of a patent in any member state of the European Union, a Supplementary Protection Certificate as referred to in clause 1.2.20 above (including, the preparation and filing of applications for such extensions and Supplementary Protection Certificates), within the period prescribed therefor under applicable law and, if applicable, take all necessary steps in order to obtain "Orphan Drug" status (within the meaning of such term under the US Orphan Drug Act or under Council Regulation (EU) No. 141/2000, as the case may be), or paediatric use approval, within the period prescribed therefor under applicable law. The Company shall notify Yeda promptly in writing and shall provide a copy to Yeda of each marketing authorisation granted in respect of each Product in each country and, if applicable, of "Orphan Drug" or paediatric use approval granted in respect of a Product and shall keep Yeda informed and shall provide copies to Yeda of all documents regarding all applications, activities and/or proceedings regarding such extensions and/or any Supplementary Protection Certificates and/or "Orphan Drug" or paediatric use approval, as aforesaid.

6.1.3. All applications to be filed in accordance with the provisions of clauses 6.1.1 and 6.1.2 above covering any part of the Existing Know-How shall be filed in the name of Yeda or, should the law of the relevant jurisdiction so require, in the name of the relevant inventors and then assigned to Yeda. All applications to be filed in accordance with the provisions of clauses 6.1.1 and 6.1.2 above covering any part of the Know-How (other than the Existing Know-How), the Initial Research Results and the Subsequent Results shall be filed in the joint names of Yeda and the Company or, should the law of the relevant jurisdiction so require, in the name of the relevant inventors and then assigned to Yeda and the Company in joint names.

6.2.

6.2.1. The Company shall bear and pay all costs and fees incurred in the preparation, filing, prosecution and the like of all patent applications filed in accordance with the provisions of clauses 6.1.1 and 6.1.2 above, and the maintenance at the appropriate patent office and like of all patent applications referred to above, and all costs and fees incurred in undertaking any activities referred to in clause 6.1.2 above.

6.2.2. Unless otherwise instructed by Yeda in writing, the Company shall, where applicable, pay directly to Yeda's relevant outside patent counsel amounts payable by the Company pursuant to this clause 6.2 above or otherwise pursuant to this clause 6 above.

6.3.

6.3.1. Should the Company determine that a third party is infringing one or more of the Patents or misappropriating all or some of the Licensed Information or the Subsequent Results, then the Company shall notify Yeda promptly in writing, giving full particulars of such infringement or misappropriation. The Company shall within [***] of such notification (**"Notification Deadline"**) indicate to Yeda in writing as to whether the Company wishes to sue for such infringement or misappropriation (the Company not being obliged to sue for such infringement or misappropriation). In the event that the Company shall fail to give any indication in writing to Yeda as aforesaid, the Company shall be deemed to have decided not to sue for such infringement or misappropriation.

6.3.2. In the event that the Company shall notify Yeda that it wishes to sue for such infringement or misappropriation, the Company shall, as part of such notification, advise Yeda of its proposed choice of legal counsel to represent the Company in such suit. Yeda shall, within [***] of such notification, notify the Company in writing whether it approves such proposed legal counsel (such approval not to be unreasonably withheld). In the event that Yeda shall fail to respond to the Company during such [***] period, Yeda shall be deemed to have approved such legal counsel.

6.3.3. Yeda may elect, at its own initiative, to join as a party to such suit, or Yeda may consent (in response to a request by the Company) to being named as a party to such suit (and will consent with regard to any jurisdiction where this is required in order for suit to be brought). Yeda may elect to be represented in such suit by the Company's choice of legal counsel, or at any time during such suit, engage its own legal counsel therein.

6.3.4. Any consent by Yeda to being named as a party to such suit may be conditional upon,*inter alia*, the provision by the Company of security, satisfactory to Yeda, for the payment of any expenses or costs or other liabilities incurred in connection with such suit (including the fees and costs of Yeda's legal counsel, and attorneys' fees, costs or other sums awarded to the counterparty in such suit) (such expenses or costs **"Litigation Expenses"**).

6.3.5. All Litigation Expenses in connection with any such suit where Yeda consents to be named as a party shall be borne by the Company, which shall indemnify Yeda against any such expenses or costs or other liabilities (without derogating from the provisions of clause 12 below). Provided, however, that if Yeda shall have approved the Company's choice of legal counsel in accordance with clause 6.3.2 above but shall have engaged its own legal counsel, Yeda shall bear the fees and costs of such legal counsel, unless such engagement shall be due to the perception of the joint legal counsel as aforesaid, whether at the commencement of such suit or thereafter, that there is or may be a conflict of interests between the Company and Yeda, or due to the Company's legal counsel having declined to represent Yeda, in which case the Litigation Expenses shall be borne by the Company. Should Yeda elect to join such suit and choose its own legal counsel, then Yeda shall bear its own Litigation Expenses.

6.3.6. In the event that the Company: (a) shall not have notified Yeda of the Company's intention to commence suit by the Notification Deadline; or (b) shall not have commenced such suit within [***] thereafter, then Yeda shall have the right (but not the obligation) to commence suit for such infringement [or misappropriation.

6.4.

6.4.1. Should the Company discover any allegation by a third party that, or be sued on the grounds that, the manufacture, use or sale of a Product by it or by a Sublicensee under any of the Patents infringes upon the patent rights of a third party, then the Company shall notify Yeda promptly in writing, giving full particulars thereof, and the Company shall, after first having consulted Yeda, be entitled to defend such suit, subject to clause 6.4.2 below.

6.4.2. If a suit as referred to in clause 6.4.1 above includes (or it is reasonable to assume that it will include) a Patent Challenge (as hereinafter defined), then the following provisions shall apply:

6.4.2.1. the Company shall, as part of such notification, advise Yeda of its proposed choice of legal counsel to represent the Company in such suit. Yeda shall, within [***] of such notification, notify the Company in writing whether it approves such proposed legal counsel (such approval not to be unreasonably withheld). In the event that Yeda shall fail to respond to the Company during such [***] period, Yeda shall be deemed to have approved such legal counsel;

6.4.2.2. Yeda may elect, at its own initiative, to join as a party to such suit; and

6.4.2.3. Yeda may elect to be represented in such suit by the Company's choice of legal counsel, or at any time during such suit, engage its own legal counsel therein.

6.5. With regard to any action or proceeding to which the Company is a party referred to in clauses 6.3 and 6.4 above (**"Company Litigation"**):

6.5.1. Subject to the Company's compliance with its obligation to bear Litigation Expenses as aforesaid, Yeda shall cooperate and shall use its reasonable efforts to cause the Scientists to cooperate with the Company in prosecuting or defending such Company Litigation, as relevant.

6.5.2. No settlement, consent order, consent judgment or other voluntary final disposition of any Company Litigation may be entered into without the prior written consent of Yeda, which consent shall not be unreasonably withheld in the case of settlements for monetary damages payable by the Company or by the counterparty in such Company Litigation only. Moreover, Yeda shall not unreasonably delay its response to any request for such consent.

6.5.3. Any recovery in any Company Litigation shall first be applied to cover costs and thereafter shall be deemed to be Sublicensing Receipts, entitling Yeda to consideration in respect thereof as set out in clause 9 below and divided between the Company and Yeda accordingly.

6.5.4. The Company shall promptly keep Yeda informed and provide copies to Yeda of all documents regarding all Company Litigation instituted by or against the Company.

6.6. The provisions of clauses 6.4 and 6.5 notwithstanding, if any proceeding of any nature which could lead to the invalidity of the Yeda Patents is brought before any authority (a **"Patent Challenge"**), then Yeda shall have the right (but not the obligation) to take over the sole defence of such Patent Challenge.

6.7. If Yeda shall take over the sole defence of a Patent Challenge as aforesaid, or shall commence suit for infringement and misappropriation in accordance with clause 6.3.6 above, then Yeda shall take the relevant action or proceedings at Yeda's expense, and the Company shall co-operate in such Patent Challenge or suit (either such matter an **"Action"**) at the Company's expense and, if required under applicable law or contract, consent to be named as a party to any such Action. Yeda shall have full control of such Action and shall have full authority to settle such Action on such terms as Yeda shall determine. Any recovery in any such Action shall first be applied to cover the parties' respective costs (pro rata if the recovery amount is insufficient to cover such costs in full), and shall thereafter be applied as follows: if deriving from a suit for infringement and misappropriation commenced by Yeda in accordance with clause 6.3.6 above, to be for the account of Yeda only; but if deriving from the assumption by Yeda of the sole defence of a Patent Challenge brought within the framework of a suit for infringement or misappropriation brought by the Company as aforesaid, to be split between the parties pro rata to the out-of-pocket costs that each of them incurred in connection with such proceedings.

7. **LICENCE**

7.1. Yeda hereby grants the Licence to the Company, and the Company hereby accepts the Licence from Yeda, during the period, for the consideration and subject to the terms and conditions set out in this Agreement. For the avoidance of doubt: (i) no licence is granted hereunder with regard to any patents or patent applications or other intellectual property (owned now or in the future by Yeda or the Institute), other than the Patents and intellectual property in the Know-How; and (ii) no licence is granted with respect to the use of bacteriophages to treat against free-living bacteria (such as for environmental treatment) outside the human organism, provided that there shall be no restriction on the Company developing such treatments independently of the Institute or Yeda without any use of the Licensed Information or the Subsequent Results;

7.2. The Licence shall remain in force in each country in the world (with respect to each Product (if not previously terminated in accordance with the provisions of this Agreement) until the later of:

7.2.1. the date of expiry in such country of the last of any Patent (including, for the avoidance of doubt, any patent application, as referred to in the definition of "Patents" in clause 1.2.20 above) in such country covering such Product to expire; or

7.2.2. if there is any Licensed Information, Initial Research Results or Subsequent Results that is or are identifiable, secret and of value relating to such Product, the date of expiry of a period of 11 (eleven) years commencing on the date of First Commercial Sale by the Company or a Sublicensee of such Product in such country.

For the purposes of clause 7.2.1 above and clause 9.1.2 below, a Product shall be deemed to be covered by a Patent in any country even after the Patent in such country covering such Product has expired, in the event that, and for so long as, such Product is protected and/or covered by "Orphan Drug" status as referred to in clause 6.1.2 above, paediatric use approval and/or by any type of data exclusivity (including any exclusivity granted in respect of biological products pursuant to the US Biologics Price Competition and Innovation Act) or data protection or by any other regulations and/or provisions granting similar statutory or regulatory protection of such Product in such country (each of the aforegoing, **"Additional Protection"**).

The Company shall notify Yeda in writing immediately upon the making of each such First Commercial Sale referred to in clause 7.2.2 above, specifying its date, the country in which such sale took place and the type of Product sold.

At the end of the term of the Licence in a country or countries with respect to any Product as set forth above, subject to the Company's continued compliance with the terms of this Agreement, the Company shall have a fully paid-up, royalty-free, exclusive, freely sublicenseable and assignable, perpetual and irrevocable licence in relation to the intellectual property included in the Licence and constituting know-how in such country or countries with respect to such Product which has not at such time become part of the public domain.

With respect to each Other Product, the Licence shall remain in force in each country in the world for so long as this Agreement has not been terminated in accordance with the provisions of this Agreement.

7.3. A Sublicence under the Licence with respect to Products may be granted by the Company without the prior written consent of Yeda, provided that:

7.3.1. the proposed Sublicence is for monetary consideration or money's worth only;

7.3.2. the proposed Sublicence is to be granted in a *bona fide* arms-length commercial transaction, or if the proposed Sublicence is to be granted to an Affiliated Entity or a shareholder of the Company, such Sublicence shall be granted on market terms;

7.3.3. a draft of the proposed Sublicence (either final or close to final) is submitted to Yeda at least [***] prior to the signature thereof;

7.3.4. the proposed Sublicence is made by written agreement, the provisions of which are consistent with the terms of the Licence and contain, *inter alia*, the following terms and conditions:

7.3.4.1. the Sublicence shall expire automatically on the termination of the Licence for any reason, provided, however, that if pursuant to such Sublicence, such Sublicensee is granted an exclusive worldwide Sublicence in respect of one or more Products, and if such Sublicensee is not at the time of such termination in breach of its Sublicence with the Company such that the Company would have the right to terminate such Sublicence, Yeda shall be obligated, if such Sublicensee shall so request within [***] from the date of such termination, to negotiate in good faith with such Sublicensee the grant to such Sublicensee of a licence upon the same terms and conditions as this Agreement, or if applicable, in view of the scope of the Sublicence, substantially the same terms and conditions as this Agreement, for the development, testing manufacture, production, and sale of such Product or Products, *mutatis mutandis*, as if such Sublicensee had been the original licensee hereunder in respect of such Product or Products, provided that such Sublicensee has also agreed to indemnify Yeda, to Yeda's satisfaction, against any losses or damage (including legal costs) resulting from or in connection with any claims brought by the Company following or in connection with such termination;

7.3.4.2. the Company shall have audit rights vis-à-vis the Sublicensee consistent with Yeda's rights under clause 9.5, and should the Company fail to exercise its rights thereunder, following Yeda's demand, Yeda shall be entitled to appoint its representative to carry out such inspection in the Company's stead.

7.3.4.3. the Sublicensee shall be bound by provisions substantially similar to those in clause 10 below relating to confidentiality binding the Company (the obligations of the Sublicensee so arising being addressed also to Yeda directly);

7.3.4.4. an exclusion of liability and indemnification undertaking in the same form, *mutatis mutandis*, as the provisions of clause 12 below (the indemnification obligations of the Sublicensee to be given also in favour of, and shall be actionable by Yeda, the Institute, any director, officer or employee of Yeda or of the Institute, or by the Inventors);

7.3.4.5. all terms necessary to enable performance by the Company of its obligations hereunder;

7.3.4.6. that the Sublicence shall not be assignable, otherwise transferable or further sublicenseable, save that the Sublicence shall be further sublicenseable (**"Further Sublicence"**) provided that:

(i) the proposed Further Sublicence shall be consistent, *mutatis mutandis*, with the provisions of clauses 7.3.1, 7.3.2, 7.3.4.1 (other than the proviso thereto) to 7.3.4.5, this clause 7.3.4.6 and 7.3.4.7 as if references in such clauses to "Sublicence" or "Sublicensee" were references to "Further Sublicence" or "Further Sublicensee" respectively;

(ii) the proposed Further Sublicence shall not be assignable, otherwise transferable or further sublicenseable; and

(ii) any act or omission by the Further Sublicensee which would have constituted a breach of this Agreement by the Company had it been the act or omission of the Company shall constitute a breach of the Further Sublicence entitling the Sublicensee to terminate the Sublicence, and the Company hereby undertakes to procure that the Sublicensee will be obliged to inform the Company of such breach, to inform Yeda forthwith upon receipt of knowledge by the Company of such breach and, at the request of Yeda, and at the Company's cost and expense, to procure that the Sublicensee shall exercise such right of termination.

In the event that a Further Sublicence shall be granted, all references in this Agreement to a Sublicensee shall be deemed to include references to a Further Sublicensee (for the avoidance of doubt, including in the definition of Net Sales and with respect to all payment obligations pursuant to clause 9 below).

7.3.4.7. that: (i) a copy of the agreement granting the Sublicence shall be made available to Yeda, within [***] of its execution; (ii) no amendments shall be made to any such Sublicence agreement which are not consistent with the criteria set out in this clause 7.3.4; and (iii) the Company shall submit to Yeda copies of all such amendments (as approved by Yeda, if required), promptly upon execution thereof;

and

7.3.5. any act or omission by the Sublicensee which would have constituted a breach of this Agreement by the Company had it been the act or omission of the Company, and which is not cured during the relevant cure period pursuant to this Agreement shall constitute a breach of the Sublicence with the Company entitling the Company to terminate the Sublicence, and the Company hereby undertakes to inform Yeda forthwith upon receipt of knowledge by the Company of such uncured breach and, at the request of Yeda, and at the Company's cost and expense, to exercise such right of termination.

7.4. A Sublicence under the Licence with respect to Other Products may be granted by the Company without the prior written consent of Yeda, provided only that the provisions of clauses 7.3.4.1 (other than the proviso thereto), 7.3.4.3, 7.3.4.4 and 7.3.5 above shall apply thereto.

7.5. For the avoidance of doubt, the Company shall not be entitled to grant, directly or indirectly, to any person or entity any right of whatsoever nature to exploit or use in any way the Licensed Information, the Subsequent Results, the Yeda Patents or the Joint Patents with respect to Products or Other Products or to develop, test, manufacture, produce and/or sell the Products or Other Products or any part of any of the aforegoing, save by way of Sublicence within the meaning of such term in clause 1.2.26 above or by way of a Subcontract with a Subcontractor and a distribution agreement with a Distributor and subject to the conditions of this clause 7 relating to any such grant.

7.6. The Company and/or its Sublicensees shall be entitled to enter into Subcontracts with Subcontractors and distribution agreements with Distributors without obtaining Yeda's consent, provided that: (i) with regard to any agreement with such Distributor the terms of clauses 7.3.4.1, 7.3.4.2 and 7.3.4.4 and 7.3.4.5 are observed, *mutatis mutandis*; (ii) without in any way derogating from the Company's obligations under this Agreement, the Company shall be liable to Yeda for any loss or damage caused to Yeda in connection with or resulting from the grant of such rights; and (iii) any sales of Products made by any Distributor shall only be without making any alteration to such Products. The Company shall provide Yeda with a copy of all agreements entered into with Distributors as part of any audit carried out by Yeda pursuant to clause 9.5 below.

7.7. The parties acknowledge that the Scientists plan to attempt to develop outside of the Research Program at the Institute a unique animal model intended to combine genetic and Microbiota simulation of inflammatory bowel disease (**"Currently Planned Model"**). In addition, the Scientists may develop, outside of the Research Program, other unique animal models intended to combine genetic and Microbiota simulation of human diseases, which Yeda and the Company may (without being under any obligation to do so) expressly agree are to be used within the framework of an agreed Research Program (such other unique animal models as aforesaid, which Yeda and the Company have in fact expressly agreed are to be used within the framework of an agreed Research Program, **"Other Models"**). In the event that the Currently Planned Model or any Other Models (collectively **"Models"**) are developed as aforesaid, then, during the term hereof, for such time as such Models are reasonably available, Yeda will use good faith efforts to procure that the Company will be provided with (and shall be granted a non-exclusive licence to use) such Models (if and when developed and, with respect to Other Models, for the avoidance of doubt, if Yeda and the Company have in fact expressly agreed that such Other Models are to be used within the framework of an agreed Research Program), at the actual cost of provision of such service, solely for the purpose of use as tools in enhancing the development of Products within the framework of the development of Products as referred to in clause 8 below, with no additional consideration being due to Yeda or to the Scientists in respect of such use, subject to the compliance by the Company with all conditions (determined by Yeda, the Institute, the Scientists or otherwise) necessary to permit such use (including, if so required by Yeda, the signature of a separate material transfer or services agreement) and subject to Yeda's obligations to any third party that may fund or own the Models or components thereof (though the Company will not be afforded entry to the facility where the Models are kept). For purposes hereof, actual cost of the provision of such services means the actual out-of-pocket cost, plus overhead, in accordance with the Institute's customary terms, of providing the Models, and not any development costs. For the avoidance of doubt, all right, title and interest in the Models shall remain with Yeda, and any data and results that may be generated from the Company's use of the Models shall be deemed Subsequent Results and jointly owned pursuant to clause 5.1.2. The parties acknowledge that the Research Program (Appendix C) envisages the use of the Currently Planned Model, if developed and available in the course of the Research.

7.8. For the avoidance of doubt, nothing contained in this Agreement shall prevent Yeda or the Institute or the Inventors from using the Licensed Information, the Subsequent Results, the Yeda Patents and the Joint Patents for internal academic research, which shall include transfer to other scientists of the Institute. Yeda and the Institute shall not transfer phages or sequences of phages created within the framework of the Research financed by the Company in accordance with the provisions of this Agreement, to any third party, including scientists at institutions other than the Institute. Other materials and data created within the framework of the Research financed by the Company in accordance with the provisions of this Agreement may be transferred by Yeda and the Institute to scientists at institutions other than the Institute solely for academic research purposes and only under a Material Transfer Agreement in the form attached hereto as **Appendix E**.

8. <u>**DEVELOPMENT AND COMMERCIALISATION**</u>

8.1. The Initial Development Program is attached hereto as **Appendix F**. The Company will submit to Yeda copies of all additional or amended Development Programs for the development of Products as approved by the Company's board of directors from time to time following the date hereof, as soon as practicable after the date of approval (each such Development Program a **"Development Program"**). The foregoing notwithstanding, the Company undertakes to submit copies of the following Development Programs: (i) during the Incubator Period, such development programs as are filed with the OCS, and (ii) within [***] of the end of the Incubator Period, a Development Program covering the period up to the end of Phase I clinical studies for at least [***] Products, to include milestones at intervals of no more than [***].

8.2. The Company is of the opinion that the Existing Know-How is revolutionary and that to the best of its knowledge, no product containing phages has been approved as a therapeutic to date. As the scientific, technical and regulatory hurdles that will be encountered in developing, producing, testing and registering Licensed Products cannot be assessed at present, the Company cannot commit to carrying out the Development Programs within set time frames. The Company does undertake, however, at its own expense, to use commercially reasonable efforts to expedite the commencement of the commercial sale of the Products (compliance with such obligation will be evaluated on the basis of current industry standards for research and development activities applicable to companies of similar size as the Company as generally applied to products of similar potential at similar stages in their life cycles), and to make commercially reasonable efforts to raise sufficient funds to carry out the Development Programs. The Company further undertakes to continue with development and/or commercialisation of at least [***] Products diligently throughout the period of the Licence.

8.3. During the Incubator Period, the Company shall provide Yeda with copies of the reports that it submits to the OCS. Thereafter, on [***] of each calendar year, the Company shall provide Yeda with written progress reports (**"Progress Reports"**) which shall include descriptions of the progress and results, if any, of: (i) the tests and trials (if applicable) conducted and all other actions taken by the Company pursuant to the Initial Development Program or any other Development Program; (ii) manufacturing, sublicensing, marketing and sales; (iii) the Company's plans in respect of the testing, undertaking of trials (if applicable) or commercialisation of Products; and (v) the amount of money invested in the Company during the preceding [***]. If the Company has provided a Development Program for more than 1 (one) Product, then such Progress Report shall provide such information separately for each such Product. The Company shall also provide any reasonable additional data that Yeda requires to evaluate the performance of the Company hereunder.

8.4. For the avoidance of doubt, without derogating from the remaining provisions of this clause 8 or of clause 13.2 below, nothing contained in this Agreement shall be construed as a warranty by the Company that any Development Program to be carried out by it as aforesaid will actually achieve its aims and the Company makes no warranties whatsoever as to any results to be achieved in consequence of the carrying out of any such Development Program.

8.5. The Company shall mark, and cause all its Sublicensees and Distributors to mark, all Products (including any Companion Diagnostic Kits of any Products) that are manufactured or sold under this Agreement with the number or numbers of each Patent applicable to such Product (or Companion Diagnostic Kit, as applicable).

8.6. Without derogating from the aforegoing in this clause 8, the Company undertakes that an average of [***], calculated on a [***] rolling basis (meaning, in respect of [***]), (but no less than [***]) will be invested (by the Company and/or by a Sublicensee, if a Sublicence has been entered into) in the development of Products, [***].

9. **ROYALTIES**

9.1. In consideration for the grant of the Licence, the Company shall pay Yeda:

9.1.1. a non-refundable licence fee of US $10,000 (ten thousand) United States Dollars) per year (or part thereof) during the term of this Agreement (**"the Annual Licence Fee"**) to be paid in advance at [***] during the term of this Agreement, commencing on [***] following the date on which the written report at the end of the Research Period, as referred to in clause 4.1 above, was provided to the Company, and thereafter on each 1 January during the term of the Licence;

9.1.2. the following royalty amounts:

9.1.2.1. a royalty of the following percentages of Net Sales of WIS Products (including any Companion Diagnostic Kits of any such WIS Products) by or on behalf of the Company or any Sublicensees:

a) [***] on Net Sales [***];

b) [***] on Net Sales [***]; and

c) [***] on Net Sales [***];

and

9.1.2.2. a royalty of the following percentages of Net Sales by or on behalf of the Company of Company Products (including any Companion Diagnostic Kits of any such Company Products):

a) [***] on Net Sales [***];

b) [***] on Net Sales [***]; and

c) [***] on Net Sales [***];

provided that in respect of Group 2 Company Products which were Discovered during the [***] period commencing [***], such rates will be payable [***], and in respect of Group 2 Company Products which were Discovered during subsequent [***] periods commencing [***], such rates will be payable [***] per each [***] period starting as from [***].

provided further that:

i) in the event that there are any sales of a Product in any country that are not, at the time of such sales, covered by a Patent (within the meaning of such term in clause 1.2.20 above) and/or by Additional Protection as referred to in the third last paragraph of clause 7.2 above, in such country, then the royalty rate referred to in clauses 9.1.2.1 and 9.1.2.2 above shall, with respect to Net Sales of such Product made in such country during the period such Product is not so covered by a Patent as aforesaid, be reduced by [***], or by [***] upon the commencement of sale in such country of a product which is a Generic Equivalent to such Product. In this clause 9.1.2, **"a Generic Equivalent"** shall, with respect to any Product, mean a product in respect of which the following applies: (1) such product has the same active ingredient as such Product; and (2) such product has a full and unchallenged marketing approval as a generic equivalent of such Product by the appropriate regulatory authority and, in each case, is administered by a mode of administration substantially similar to such Product; and

ii) if, after arm's length bona fide negotiations, the Company enters into a licence agreement with any third party the subject matter of which licence is employed in the provision of technologies for production, manufacturing, stabilisation, storage, quality assurance or delivery of a Product or other active ingredients thereof, or which licence is required in order to prevent the infringement by a Product of the rights of such third party, the Company may reduce the royalty rate applicable hereunder (only with respect to any Product and in any country to which such licence relates) by [***] of the additional royalty rate beyond the first [***] payable to such third party; provided, however, that in no event will the royalty rate otherwise due to Yeda be reduced to less than [***] of the percentages set out in 9.1.2.1(a) to (c) and 9.1.2.2(a) to (c) above;

and

9.1.3. the following percentages of all Sublicensing Receipts:

a) [***] of all Sublicensing Receipts [***];

b) [***] of all Sublicensing Receipts [***];

c) [***] of all Sublicensing Receipts [***];

d) [***] of all Sublicensing Receipts [***];

provided, however, that:

i) the amount payable to Yeda as a percentage of Sublicensing Receipts in respect of amounts received by the Company which constitute royalties based on sales of Company Products by Sublicensees shall not be less than an amount equal to [***] of the Net Sales of [***]; and

ii) in the event that payment from a Sublicensee to the Company in respect of Net Sales of Company Products shall, pursuant to the relevant Sublicence, cease due to lack of exclusivity or Patent protection as aforesaid, the Company will be relieved of its obligations to pay royalties on Net Sales of Company Products by Sublicensees pursuant to clause 9.1.2.1;

iii) for the avoidance of doubt, Yeda shall be entitled to receive percentages of Sublicensing Receipts which constitute royalties based on sales of Group 2 Company Products by Sublicensees in respect of the entire term of such Sublicence, including after the term of this Agreement; the provisions of this clause shall survive the termination or expiry of this Agreement; and

iv) Yeda shall not be entitled to receive percentages of Sublicensing Receipts under Sublicenses that pertain solely to Other Products.

For the avoidance of doubt, the Company undertakes that all sales (within the meaning of such term in clause 1.3.4 above) of Products by the Company and each Sublicensee shall be for cash consideration only, save for reasonable quantities of Products provided for testing, registration and marketing purposes.

9.2. In calculating Net Sales, Sublicensing Receipts, all amounts shall be expressed in US Dollars and any amount received or invoiced in a currency other than US Dollars shall be translated into US Dollars, for the purposes of calculation, in accordance with the Exchange Rate between the US Dollar and such currency on the date of such receipt or invoice, as the case may be. For the avoidance of doubt, in calculating amounts received by the Company, whether by way of Net Sales or Sublicensing Receipts, any amount deducted or withheld in connection with any payment to the Company, on account of taxes on net income (including income taxes, capital gains tax, taxes on profits or taxes of a similar nature) payable by the Company in any jurisdiction, shall be deemed, notwithstanding such deduction or withholding, as having been received by the Company; provided that, in the case of a deduction or withholding in respect of Sublicensing Receipts only, in the event that the Company would not under Israeli or other applicable law be entitled to claim a corresponding tax credit or reimbursement in respect of the amount deducted or withheld, even assuming that in the relevant tax year the Company were to be liable to pay tax in Israel or other applicable jurisdiction, such amount would not be deemed to be a Sublicensing Receipt.

9.3.

9.3.1. Amounts payable to Yeda in terms of this clause 9 shall be paid to Yeda in US Dollars: (i) in the case of Net Sales, on a [***] and no later than [***] after the end of each [***] (provided that with respect only to the first [***] in which any Net Sales are made, the payment for such [***] will be made within [***] after the end of the [***]); or (ii) in the case of Sublicensing Receipts, no later than [***] after any such Sublicensing Receipts are received by the Company from any Sublicensees.

9.3.2. The Company shall submit to Yeda: (i) no later than [***] after any Sublicensing Receipts are received, an interim written report setting out amounts owing to Yeda in respect of such Sublicensing Receipts, and (ii) no later than [***] after the end of each [***], commencing with the [***] in which any Net Sales are made or Sublicensing Receipts are received by the Company, a report, in a form acceptable to Yeda, certified as being correct by the chief financial officer of the Company, setting out all amounts owing to Yeda in respect of such previous [***] (or with respect to the [***] in which any Net Sales are made, the [***]) to which the report refers, and with full details of:

9.3.2.1. (i) the sales made by the Company and Sublicensees, including a breakdown of Net Sales according to country, identity of seller, currency of sales, dates of invoices, number and type of Products (including any Companion Diagnostic Kits of any Products)sold;

(ii) the Sublicensing Receipts, including a breakdown of Sublicensing Receipts according to identity of Sublicensees, countries, the currency of the payment and date of receipt thereof;

(iii) deductions applicable, as provided in the definition of "Net Sales"; and

(iv) any other matter necessary to enable the determination of the amounts of royalties payable hereunder.

9.4. The Company shall keep and shall contractually oblige its Sublicensees to keep complete, accurate and correct books of account and records consistent with sound business and accounting principles and practices and in such form and in such details as to enable the determination of the amounts due to Yeda in terms hereof. The Company shall supply Yeda at the end of each [***], commencing with the [***] in which any amount is payable by the Company to Yeda under this clause 9, a report signed by the Company's chief financial officer in respect of the amounts due to Yeda pursuant to this clause 9 in respect of the year covered by the said report and containing details in accordance with clause 9.3 above in respect of the [***] reports. The Company shall retain and shall require and contractually oblige its Sublicensees to supply it with similar reports which may be divulged to Yeda's representatives pursuant clause 9.5 and to retain the aforegoing books of account for [***] after the end of each [***] during the period of this Agreement, and, if this Agreement is terminated for any reason whatsoever, for [***] after the end of the [***] in which such termination becomes effective.

9.5. At Yeda's expense, Yeda shall be entitled to appoint representatives to inspect during normal business hours and to make copies of the Company's books of account, records and other documentation (including technical data and lab books) to the extent relevant or necessary for the ascertainment or verification of the amounts due to Yeda under this clause 9, provided however that Yeda shall coordinate such inspection with the Company in advance. The Company shall take all steps necessary so that all such books of account, records and other documentation of the Company is available for inspection as aforesaid at a single location. Yeda shall not be entitled to exercise this right more than [***] a year. In the event that any inspection as aforesaid reveals any underpayment by the Company to Yeda in respect of any year of the Agreement in an amount exceeding [***] of the amount actually paid by the Company to Yeda in respect of such year then the Company shall (in addition to paying Yeda the shortfall together with interest thereon in accordance with clause 18.7 below), bear the costs of such inspection. The Company shall inspect and obtain copies of any Sublicensee's books of account, records and other documentation (including technical data and lab books) to the extent relevant or necessary for the ascertainment or verification of the amounts due to Yeda under this clause 9 in accordance with the provisions of this clause 9.5, *mutatis mutandis*, provided that if the Company shall fail, following Yeda's demand, to carry out such inspection, Yeda shall be entitled to exercise such rights of inspection with regard to any Sublicensee. The provisions of this clause 9.5 shall survive the termination of this Agreement for whatsoever reason for a period of [***] after the end of the calendar year in which such termination becomes effective.

10. CONFIDENTIALITY

10.1. The Company shall maintain in confidence all information or data relating to the Patents, the Licensed Information, the Subsequent Results, this Agreement and the terms hereof (hereinafter, collectively referred to as **"the Confidential Information"**), except and to the extent that the Company can prove that any such information or data is in the public domain at the date of the signing hereof or becomes part of the public domain thereafter (other than through a violation by the Company or a Sublicensee or a Distributor of this obligation of confidentiality) and except with regard to that portion, if any, of the Confidential Information expressly released by Yeda from this obligation of confidentiality by notice in writing to the Company to such effect. Notwithstanding the foregoing, the Company may disclose to its personnel, Distributors and Sublicensees, potential investors, FutuRx and the Incubators Committee the Confidential Information to the extent necessary for the exercise by it of its rights hereunder or in the fulfilment of its obligations hereunder, provided that it shall bind any such persons or entities with a similar undertaking of confidentiality in writing. The Company shall be responsible and liable to Yeda for any breach by its personnel or any Distributor or any Sublicensee of such undertakings of confidentiality as if such breach were a breach by the Company itself.

10.2. In addition to and without derogating from the aforegoing, the Company undertakes not to make mention of the names of Yeda, the Inventors, the Institute or any scientists or other employees of the Institute or any employee of Yeda in any manner or for any purpose whatsoever in relation to this Agreement, its subject-matter and any matter arising from this Agreement or otherwise, unless the prior written approval of Yeda thereto has been obtained.

10.3. Notwithstanding the provisions of clauses 10.1 and 10.2 above, the Company shall not be prevented from mentioning the name of Yeda, the Inventors, the Institute and/or any scientists or other employees of the Institute or any employee of Yeda or from disclosing any information if, and to the extent that, such mention or disclosure is to competent authorities for the purposes of obtaining approval or permission for the exercise of the Licence, or in the fulfilment of any legal duty owed to any competent authority (including a duty to make regulatory filings); The text that the Company may use in context of fundraising such as in a private placement memorandum or a public offering registration statement is attached hereto as **Appendix G**. Any other mention shall be subject to Yeda's consent, which consent shall not be withheld unreasonably.

10.4. Yeda shall maintain in confidence all information received by Yeda from the Company which has been designated by the Company in writing and in advance as confidential as well as all plans and reports received from the Company hereunder (including reports originating with its Affiliated Entities and Sublicensees), except and to the extent that: (i) any such information or data is in the public domain at the date of the signing hereof or becomes part of the public domain thereafter (other than through a violation by Yeda of this obligation of confidentiality) or is released by the Company from this obligation of confidentiality by notice in writing; (ii) Yeda is required to disclose such information in order to fulfil its obligations under this Agreement (including in connection with the filing and prosecution of patent applications in accordance with the provisions of clause 6 above); or (iii) Yeda is required to disclose such information in fulfilment of any legal duty owed to any competent authority (the Company hereby acknowledging that it is aware that such competent authority may not be bound by any confidentiality obligations and may disclose or be required to disclose such information to a third party, whether by order of court or by law or otherwise). For the avoidance of doubt, the provisions of this clause 10.4 shall not apply in respect of any information (not being Licensed Information) independently developed at the Institute without reference to the confidential information received from the Company.

10.5. For the avoidance of doubt, Yeda shall have the right to allow the scientists of the Institute to publish articles relating to the Licensed Information and the Subsequent Results in scientific journals or posters or to give lectures or seminars to third parties relating to the Licensed Information, on the condition that, to the extent that the information to be published or disclosed is Licensed Information which is not in the public domain, a draft copy of the said contemplated publication or disclosure shall have been furnished to the Company at least [***] before the making of any such publication or disclosure and the Company shall have failed to notify Yeda in writing, within [***] from receipt of the said draft publication or disclosure, of its opposition to the making of the contemplated publication or disclosure. Should the Company notify Yeda in writing within [***] from the receipt of the draft contemplated publication or disclosure that it opposes the making of such publication or disclosure because it includes material (which has been specified in said notice) in respect of which there are reasonable grounds (which have also been specified in said notice) requiring the postponement of such publication or disclosure so as not adversely to affect the Company's interests under the Licence because such Licensed Information is patentable subject-matter for which patent protection pursuant to clause 6.1 above should be sought, then Yeda shall not permit such publication or disclosure unless and until there shall first have been filed an appropriate patent application in respect of the material to be published or disclosed as aforesaid. The Company acknowledges that it is aware of the importance to the researchers of publishing their work and, accordingly, the Company will use its best efforts not to oppose such publications. In no event may any such publications contain the Confidential Information of the Company.

10.6. The obligations of the parties under this clause 10 shall survive any termination of this Agreement for a period of [***] (other than Yeda's obligations pursuant to clause 10.5 which shall terminate upon the termination of this Agreement), but without derogating from Yeda's right to commercialise pursuant to clause 13.5 below.

11. **ASSIGNMENT**

The Company may assign or encumber all of its rights or obligations under this Agreement or arising therefrom, provided that (save where any such assignment would constitute an event entitling Yeda to an Exit Fee as set out in clause 15 below) any consideration received by the Company in respect of an assignment as aforesaid shall be deemed to be Sublicensing Receipts, entitling Yeda to consideration as set out in clause 9.1.3(b) to (d) above, and to which the other relevant provisions of clause 9 above shall apply, *mutatis mutandis*. Any assignment permitted under this clause 11 shall be subject to the assignee undertaking to Yeda in writing, in a form reasonably acceptable to Yeda, to be bound by all obligations of the Company under this Agreement.

12. **EXCLUSION OF LIABILITY AND INDEMNIFICATION**

12.1. Yeda, the Inventors, the Institute and the directors, officers and employees of Yeda and/or of the Institute (hereinafter collectively **"the Indemnitees"**) shall not be liable for any claims, demands, liabilities, costs, losses, damages or expenses (including legal costs and attorneys' fees) of whatever kind or nature (all of the aforegoing, collectively, **"Liabilities"**) caused to or suffered by any person or entity (including the Company or any Sublicensee or Further Sublicensee or Distributor of either) that directly or indirectly arise out of or result from or are encountered in connection with this Agreement or the exercise of the Licence, including directly or indirectly arising out of or resulting from or encountered in connection with: (i) the development, manufacture, sale or use of any of the Products or Other Products (including any Companion Diagnostic Kits of any Products or Other Products) by the Company, any Sublicensee, any Further Sublicensee, any Distributor or any person acting in the name of or on behalf of any of the aforegoing, or acquiring, directly or indirectly, any of the Products or Other Products (including any Companion Diagnostic Kits of any Products or Other Products) from any of the aforegoing; or (ii) the exploitation or use by the Company or any Sublicensee or any Further Sublicensee or any Distributor of the Licensed Information or any part thereof, including of any data or information given, if given, in accordance with this Agreement.

12.2. In the event that any of the Indemnitees should incur or suffer any Liabilities that directly or indirectly arise out of or result from or are encountered in connection with this Agreement or the exercise of the Licence as aforesaid in clause 12.1 above, or shall be requested or obliged to pay to any person or entity any amount whatsoever as compensation for any Liabilities as aforesaid in clause 12.1 above, then the Company shall indemnify and hold harmless such Indemnitees from and against any and all such Liabilities (including, for the avoidance of doubt, legal costs and attorneys' fees). Without limiting the generality of the aforegoing, the Company's indemnification as aforesaid and the exclusion of liability in clause 12.1 above shall extend to product liability claims and to damages, claims, demands, liabilities, losses, costs and expenses (in each case whether based in tort, contract or otherwise) attributable to death, personal injury or property damage or to penalties imposed on account of the violation of any law, regulation or governmental requirement.

12.3. The Company shall at its own expense insure its liability pursuant to clause 12.2 above during the period beginning on the date of the signing of this Agreement and continuing during the entire period that the Licence is in force in any country, plus an additional period of [***]. Such insurance shall be in reasonable amounts and on reasonable terms in the circumstances, having regard, in particular, to the nature of the Products, and shall be subscribed for from a reputable insurance company. The named insured under such insurances shall be the Company, the Inventors, Yeda and the Institute and the beneficiaries thereof shall include also the respective employees, officers and directors of Yeda and the Institute. The policy or policies so issued shall include a "cross-liability" provision pursuant to which the insurance is deemed to be separate insurance for each named insured (without right of subrogation as against any of the insured under the policy, or any of their representatives, employees, officers, directors or anyone in their name) and shall further provide that the insurer will be obliged to notify each insured in writing at least [***] in advance of the expiry or cancellation of the policy or policies. The Company hereby undertakes to comply punctually with all obligations imposed upon it under such policy or policies and in particular, without limiting the generality of the aforegoing, to pay in full and punctually all premiums and other payments for which it is liable pursuant to such policy or policies. The Company shall be obliged to submit to Yeda copies of the aforesaid insurance policy or policies within [***] of the date of issue of each such policy.

12.4. The provisions of this clause 12 shall survive the termination of this Agreement for whatsoever reason but without derogating from Yeda's right to commercialise pursuant to clause 13.5 below.

13. **TERM AND TERMINATION**

13.1. Save as set out hereunder or unless otherwise agreed to in writing, this Agreement shall terminate upon the occurrence of the later of the following:

13.1.1. the date of expiry of the last of the Patents; or

13.1.2. the expiry of a continuous period of 15 (fifteen) years during which there shall not have been a First Commercial Sale of any Product in any country.

13.2. The Company shall have the right to terminate this Agreement by [***] advance written notice to Yeda at any time prior to the First Commercial Sale in respect of the first Product, provided that such notice is accompanied by a written undertaking to Yeda that (i) the Company will not and does not intend to develop, test, manufacture, produce or sell WIS Products or Group 1 Company Products; and (ii) should the Company develop, test, manufacture, produce or sell Group 2 Company Products, the financial provisions of this Agreement relating thereto, including clauses 9.1.2.2 and 9.1.3, solely as relating to Group 2 Company Products, shall continue to apply in accordance with their terms, as though this Agreement had remained in force and effect.

13.3. Notwithstanding anything to the contrary contained in this Agreement:

13.3.1. Yeda shall be entitled (without derogating from clause 7.3.4.1 above) to terminate the Licence hereunder, by written notice to the Company (effective immediately), such termination being its sole remedy in respect of the matters set out below, if:

13.3.1.1. the Company shall fail to meet the requirement set out in clause 8.6; or

13.3.1.2. the Company shall, at any given time, have fewer than [***] Products in active development or continuous sales (where "continuous sales" in relation to a Product shall mean that there shall not have been a period of [***] or more during which no sales of such Product shall have taken place (except as a result of force majeure or other factors beyond the control of the Company); or

13.3.1.3. a Phase I clinical study in respect of at least [***] Product shall not have commenced within [***] from the date projected by the Company pursuant to clause 8.1, unless the Company can demonstrate that it is making diligent efforts to achieve commencement of Phase I clinical studies as aforesaid.

13.3.2. Without derogating from the aforegoing, Yeda shall be entitled to terminate this Agreement (unless previously terminated in accordance with the provisions of this Agreement), by written notice to the Company (effective immediately), if the Company challenges the validity of any of the Patents. If any such challenge is unsuccessful, the Company shall (in addition to Yeda's right to terminate pursuant to this clause 13.3.2) pay to Yeda liquidated damages in the amounts of [***], such liquidated damages being a genuine pre-estimate of the damage that would be incurred by Yeda as a result of any such challenge.

13.4. Without derogating from the parties' rights hereunder or by law to any other or additional remedy or relief, it is agreed that either Yeda or the Company may terminate this Agreement and the Licence hereunder by serving a written notice to that effect on the other upon or after: (i) the commitment of a material breach hereof by the other party, which material breach cannot be cured or, if curable, which has not been cured by the party in breach within [***] (or, in the case of failure by the Company to pay any amount due from the Company to Yeda pursuant to or in connection with this Agreement on or before the due date of payment, [***] after receipt of a written notice from the other party in respect of such breach, or (ii) the granting of a winding-up order in respect of the other party, or upon an order being granted against the other party for the appointment of a receiver, or if such other party passes a resolution for its voluntary winding-up, or if a temporary or permanent liquidator or receiver is appointed in respect of such other party, or if a temporary or permanent attachment order is granted on such other party's assets, or a substantial portion thereof, or if such other party shall seek protection under any laws or regulations, the effect of which is to suspend or impair the rights of any or all of its creditors, or to impose a moratorium on such creditors, or if anything analogous to any of the aforegoing in this clause 13.3 above under the laws of any jurisdiction occurs in respect of such other party; provided that in the case that any such order or act is initiated by any third party, the right of termination shall apply only if such order or act as aforesaid is not cancelled within [***] of the grant of such order or the performance of such act. Notwithstanding the foregoing, any delay in payment by the Company of no more than [***], occurring no more than [***] per year, caused by a corresponding delay in receiving payment from a Sublicensee, which occurs in the ordinary course of business, shall not be grounds for termination by Yeda pursuant to this clause 13.4.

13.5. Upon the termination of this Agreement for whatever reason, except for the termination of this Agreement due to the passage of time: (i) all rights in and to the Licensed Information and the Yeda Patents and Yeda's rights in the Subsequent Results and the Joint Patents shall revert to Yeda and the Company shall not be entitled to make any further use thereof and the Company shall deliver to Yeda all drawings, plans, diagrams, specifications, other documentation, models or any other physical matter in the Company's possession in any way containing, representing or embodying the Licensed Information; and (ii) the Company shall grant to Yeda a non-exclusive, irrevocable, perpetual, fully paid-up, sublicenseable, worldwide licence in respect of the Company's rights in the Subsequent Results and the Company's Information (subject, if required, to the consent of the Incubators Committee and/or to Yeda's undertaking to comply with any regulatory obligations and to assume any royalty obligations in respect thereof). In this clause 13.5, the term **"the Company's Information"** shall mean any invention, product, material, method, process, technique, know-how, data, information or other result which does not form part of the Licensed Information, the Initial Research Results or the Subsequent Results, discovered or occurring in the course of or arising from the performance by the Company of the development work pursuant to clause 8 above, including any regulatory filing or approval, filed or obtained by the Company in respect of WIS Products and Group I Products (including any Companion Diagnostic Kits of any WIS Products or Group 1 Products, all communications with the regulatory authorities, the drug master file and any data, information or document covered by data protection or data exclusivity. Yeda shall bear all out-of-pocket costs reasonably incurred by the Company in order to comply with the provisions of this clause 13.5. For the avoidance of doubt, nothing in the foregoing shall be construed as an obligation on the part of the Company to deliver to Yeda any physical matter relating to Group 2 Company Products or to any Other Products.

13.6. In the event that this Agreement shall be terminated, other than by way of termination by Yeda pursuant to clause 13.4 above, and that Yeda shall grant to a third party a licence in respect of the Subsequent Results, the Joint Patents and/or the Company's Information (either without or together with the Licensed Information and the Yeda Patents) and Yeda shall receive in respect of such licence consideration, then, subject to the Company having complied and continuing to comply with all its obligations under this Agreement which remain in existence following termination of this Agreement as aforesaid, Yeda shall pay to the Company an amount equal to [***] of the Net Proceeds actually received by Yeda in respect of such a licence to Company Products and [***] of the Net Proceeds actually received by Yeda in consideration of such a licence to WIS Products, until such time as the Company shall have received, in aggregate, an amount equal to (i) [***] the amount invested by the Company (not including grants funding and any payments made to Yeda hereunder or to the Scientists under any consultancy agreement for research into Group 1 Products) in the development of the Products included within the scope of such licences and (ii) the amount of any obligations of the Company to repay or pay royalties in respect of grants awarded for the development of any Products incorporating such Subsequent Results, Joint Patents and/or Company's Information included within the scope of such licences, but only to the extent such obligations are not assumed by Yeda. The provisions of clauses 9.3 through 9.5 shall apply with respect to payments to the Company in respect of Net Proceeds, *mutatis mutandis*.

For the purpose of this clause 13.6, **"Net Proceeds"** means any consideration actually received by Yeda in respect of such licence in cash or in kind (excluding funds or grants for research and/or development at the Institute or payments for the supply of services) after deduction of all costs, fees and expenses incurred by Yeda in connection with such licence (including, without limitation, patent related costs, and all attorneys' fees and expenses and other costs and expenses in connection with the negotiation, conclusion and administration of such licence).

13.7. The termination of this Agreement for any reason shall not relieve the Company of any obligations which shall have accrued prior to such termination.

14. **EQUITY**

14.1. The Company will, on the date of signature of this Agreement, issue to Yeda, in consideration for their nominal value, a number of ordinary shares of the Company, representing, immediately after the issue thereof, [***] of the Company's issued and outstanding share capital of the Company, on a Fully Diluted Basis ("**Yeda's Shares**"), as per the cap table attached hereto as **Appendix H**. The rights to be attached to Yeda's Shares will be identical to those rights attached to any ordinary shares in the Company issued or transferred to the incorporating shareholders of the Company. In this clause 14, **"Fully Diluted Basis"** shall mean, after taking into account all issued and outstanding share capital of the Company, all securities issuable upon the conversion of any then-existing convertible securities or loans, the exercise of all outstanding warrants or options and any other right granted to any third party to receive shares in the Company, as if all such matters had been converted or exercised, as applicable. For the avoidance of doubt, commitments by the shareholders to invest further funds in the Company against receipt of preferred shares of nominal value NIS 0.01 each of the Company (the "**Preferred Shares**"), beyond the Ordinary Share Investment (defined below) shall not be taken into account for the purpose of calculating the Fully Diluted Basis. [REINSTATED]

14.2. The Company undertakes that Yeda's percentage ownership of the Company as aforesaid will not be diluted by grants from the OCS which are invested in the Company within the framework of the biotechnological incubator operated by FutuRx pursuant to Directive 8.22 of the Director General of the Israeli Ministry of Economy (**"FutuRx Investment Amount"**) or by investments in the Company by way of irredeemable ordinary share capital, including ordinary share capital invested by way of matching funds to the FutuRx Investment Amount as required under the terms of the OCS grants (the "**Ordinary Share Investment**"), in the aggregate amount of [***].

14.3. Upon expiry of the Incubator Period, in the event that the sum of the FutuRx Investment Amount and the Ordinary Share Investment shall equal or exceed [***] in aggregate, then no further shares of the Company shall be issued to Yeda. To the extent that such sum shall be less than [***] in aggregate, then the Company shall issue to Yeda further fully-paid up ordinary shares in the Company as per the formula shown in **Appendix I** attached hereto.

14.4. Yeda shall be entitled, free of any restriction, whether in the Company's articles of association or otherwise, to transfer any or all of the Shares to the Institute or to any scientist, employee or any other person entitled to receive shares under the rules of the Institute or to a trust created for the benefit of any of the aforementioned persons (all such entities "**Permitted Transferees**").

14.5. In the event that the Company shall propose at any time to issue (any such proposed issue a "**Share Issue**") any shares therein or other securities convertible into shares of any class or nature ("**Additional Shares**"), Yeda shall have the same right as afforded to the incorporating shareholders of the Company or contractually granted thereto, to participate in such Share Issue pro rata to Yeda's then percentage shareholding in the Company, on the same terms and conditions as are offered to other prospective acquirers of Additional Shares in each such Share Issue (such right a "**Right of Participation**"), all in accordance with the articles of association of the Company.

14.6. Yeda shall be entitled, by written notice to the Company, to assign, at any time any particular Right of Participation, in whole or in part, or all Rights of Participation, to one or more Permitted Transferees or to Osage University Partners. Any Participation Notice confirming participation in a Share Issue shall further indicate whether the relevant Right of Participation is being exercised by Yeda, by Permitted Transferees, by Osage University Partners or a combination thereof.

14.7. The provisions of clauses 14.3 to 14.6 shall survive the termination of this Agreement.

15. **EXIT FEE**

In the event of any M&A Transaction (as defined in the Company's articles of association), including: (i) a merger of the Company with or into another entity; or (ii) the sale of substantially all of the Company's shares or assets (any of the aforegoing an "**Exit**"), the Company confirms and undertakes that Yeda shall, in addition to any entitlement as a shareholder of the Company, within [***] of the closing of the relevant Exit, receive from the Company an amount equal to 1% (one per cent) of the total consideration (of whatever kind) received by the Company's shareholders as a result of the Exit, following, where relevant, the payment of all deemed liquidation preferences.

For the avoidance of doubt, in the event of an Exit, Yeda shall not be entitled to any share in the consideration received in connection therewith other than the Exit Fee and the proceeds of the sale of any shares issued to Yeda as referred to in clause 14 above.

16. **NOTICES**

Any notice or other communication required to be given by one party to the other under this Agreement shall be in writing and shall be deemed to have been served: (i) if personally delivered, when actually delivered; or (ii) if sent by facsimile, the next business day after receipt of confirmation of transmission; or (iii) 10 (ten) days after being mailed by certified or registered mail, postage prepaid (for the purposes of proving such service—it being sufficient to prove that such notice was properly addressed and posted) to the respective addresses of the parties set out below, or to such other address or addresses as any of the parties hereto may from time to time in writing designate to the other party hereto pursuant to this clause 16:

16.1. to Yeda at:

P.O. Box 95
Rehovot 76100
Israel
Attention: *the CEO*
Facsimile: *(08) 9470739*

16.2. to the Company at:

2 Ilan Ramon Street, Science Park
Ness Ziona 7403635
Israel
Attention: *the CEO*
Facsimile: *(08) 9553111*

with a copy that will not constitute notice to:

Pearl Cohen Zedek Latzer Baratz
1 Azrieli Centre,
Round Tower, 18th floor
Tel-Aviv 6702101
Attention: [***]
Facsimile: (03) 6073778

17. **VALUE ADDED TAX**

The Company shall pay to Yeda all amounts of Value Added Tax imposed on Yeda in connection with the transactions under this Agreement. All amounts referred to in this Agreement shall be exclusive of Value Added Tax.

18. **GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed in all respects by the laws of Israel and the parties hereby submit to the exclusive jurisdiction of the competent Israeli courts, except that Yeda may bring suit against the Company in any other jurisdiction outside Israel in which the Company has assets or a place of business.

19. **MISCELLANEOUS**

19.1. The headings in this Agreement are intended solely for convenience or reference and shall be given no effect in the interpretation of this Agreement.

19.2. This Agreement constitutes the entire agreement between the parties hereto in respect of the subject-matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject-matter hereof (including the Memorandum of Understanding between Yeda and the Company dated 30 September 2014) and this Agreement may be amended only by a written document signed by both parties hereto. No party has, in entering into this Agreement, relied on any warranty, representation or undertaking, except as may be expressly set out herein.

19.3. This Agreement may be executed in any number of counterparts (including counterparts transmitted by telecopier or fax), each of which shall be deemed to be an original, but all of which taken together shall be deemed to constitute one and the same instrument.

19.4. No waiver by any party hereto, whether express or implied, of its rights under any provision of this Agreement shall constitute a waiver of such party's rights under such provisions at any other time or a waiver of such party's rights under any other provision of this Agreement. No failure by any party hereto to take any action against any breach of this Agreement or default by another party hereto shall constitute a waiver of the former party's rights to enforce any provision of this Agreement or to take action against such breach or default or any subsequent breach or default by such other party.

19.5. If any provision of this Agreement is held to be unenforceable under applicable law, then such provision shall be modified as set out below and the balance of this Agreement shall be interpreted as if such provision were so modified and shall be enforceable in accordance with its terms. The parties shall negotiate in good faith in order to agree on the terms of an alternative provision which complies with applicable law and achieves, to the greatest extent possible, the same effect as would have been achieved by the invalid or unenforceable provision.

19.6. Nothing contained in this Agreement shall be construed to place the parties in a relationship of partners or parties to a joint venture or to constitute either party an agent, employee or a legal representative of the other party and neither party shall have power or authority to act on behalf of the other party or to bind the other party in any manner whatsoever.

19.7. Any amount payable hereunder by one of the parties to the other that has not been paid by its due date of payment shall bear interest from its due date of payment until the date of actual payment, at the rate of the lower of [***] or the highest rate permitted under applicable law or *pro rata* for part thereof.

19.8. All payments to be made to Yeda hereunder shall be made in US Dollars or in Euros by banker's cheque or by bank transfer to Yeda's bank account, the details of which are as follows: Bank Leumi le–Israel B.M., Rehovot business branch, 2 Ilan Ramon Street, Ness Ziona, branch #[***], account no. [***]; swift: [***], Routing Number: [***], IBAN no. [***].

19.9. All payments to be made to Yeda hereunder shall be made free and clear of, and without any deduction for or on account of, any set-off, counterclaim or tax.

19.10. Each party agrees to execute, acknowledge and deliver such further documents and instruments and do any other acts, from time to time, as may be reasonably necessary, to effectuate the purposes of this Agreement.

19.11. None of the provisions of this Agreement shall be for the benefit of, or enforceable by, any person who is not a party to this Agreement, save for clauses 10 and 12 above.

IN WITNESS WHEREOF the parties hereto have set their signatures as of this 22 day of June 2015.

for	**YEDA RESEARCH AND DEVELOPMENT COMPANY LIMITED**	for	**MBCURE LTD.**
Signature:	/s/ Prof. Mudi Sheves	Signature:	/s/ Dr. Naomi Zak
Name	Prof. Mudi Sheves	Name:	Dr. Naomi Zak
Title	Chairman	Title:	CEO
		Signature:	/s/ Dr. Einat Zisman
		Name:	Dr. Einat Zisman
		Title:	Director

List of Appendices:

A	**Existing Know-How**
B	**The Research Budget**
C	**The Research Program**
D	**Letter of Instructions/Power of Attorney**
E	**MTA**
F	**Initial Development Program**
G	**Approved Text**
H	**Capitalization Table**
I	**Yeda Anti-Dilution Calculation**

<u>Appendix D</u>
Letter of Instructions - Patent Counsel

Date:
To:

The undersigned, on its own behalf and, as applicable, on behalf of its permitted successors and/or assigns, hereby empowers, authorises, directs and instructs you, to:

release the Power of Attorney attached hereto as Annex 1 (the "**POA**") to Yeda Research and Development Company Limited and/or, as applicable, its respective successors and/or assigns ("**Yeda**"), upon Yeda's first demand to you in writing to such effect (the "**Demand**"); and

act upon and in accordance with Yeda's other instructions as may be included in the Demand and/or in any other writing issued to you by Yeda.

You shall hold the POA in escrow pending your receipt of the Demand or Yeda's other instructions as aforesaid, and upon and as from your receipt of the Demand or Yeda's other instructions as aforesaid, you shall act solely in accordance therewith, and in no other manner. Without limiting the foregoing, you shall not be entitled to act upon the demand and/or instructions of any person or entity, other than Yeda.

Yeda shall be deemed a third party beneficiary of this Letter of Instructions.

This Letter of Instructions and any of its terms are irrevocable and unconditional on the part of the undersigned and, as applicable, on the part of the undersigned's permitted successors and/or assigns.

IN WITNESS WHEREOF, the undersigned has executed this Letter of Instructions as of the date hereof, by its duly authorized representatives:

____
MBCure LTD.

By: ____________________________
Name: ____________________________
Title: ____________________________

Agreed and accepted,

____

Annex 1

Power of Attorney

Date:

To: Yeda Research and Development Company Ltd.

The undersigned, on its own behalf and, as applicable, on behalf of its permitted successors and/or assigns, hereby empowers and authorises Yeda Research and Development Company Ltd. and/or, as applicable, its respective successors and/or assigns ("**Yeda**") and/or any of Yeda's officers, and appoints Yeda and/or any of Yeda's officers as the undersigned's attorney-in-fact, to execute any document and/or instrument including without limitation any deeds of assignment and patent forms and perform any other acts, all on behalf of the undersigned and on behalf of its permitted successors and/or assigns, as Yeda may deem necessary or appropriate for purposes of the assignment to Yeda of the undersigned's part interest in the Yeda Patents (as such term is defined in the Research and Licence Agreement by and between MBCure LTD. and Yeda of June 22, 2015).

This Power of Attorney and any of its terms are worldwide, and this Power of Attorney is given for the benefit of a third party, and since a third party's rights are dependent upon the validity of this power of attorney, it is irrevocable and unconditional on the part of the undersigned and, as applicable, on the part of the undersigned's permitted successors and/or assigns.

IN WITNESS WHEREOF, the undersigned has executed this Power of Attorney as of the date hereof, by its duly authorised representatives:

____
MBCure Ltd.

By: ________________________
Name: ________________________
Title: ________________________

Appendix I

[***]

[***]

Exhibit 10.6

PURSUANT TO ITEM 601(B)(10) OF REGULATION S-K, CERTAIN PORTIONS OF THIS EXHIBIT HAVE BEEN REDACTED AND, WHERE APPLICABLE, HAVE BEEN MARKED “[***],” SUCH REDACTIONS ARE IMMATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

EXCLUSIVE PATENT LICENSE AGREEMENT

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MASSACHUSETTS INSTITUTE OF TECHNOLOGY
EXCLUSIVE PATENT LICENSE AGREEMENT

This Agreement, effective as of the date set forth above the signatures of the parties below (the "EFFECTIVE DATE"), is between the Massachusetts Institute of Technology ("M.I.T."), a Massachusetts corporation, with a principal office at 77 Massachusetts Avenue, Cambridge, MA 02139-4307 and MBcure Ltd. ("COMPANY"), a company formed under the laws of Israel, having its principal office at 2 Ilan Ramon, Ness Ziona, Israel.

R E C I T A L S

WHEREAS, M.I.T. is the owner of certain PATENT RIGHTS (as later defined herein) relating [***] and has the right to grant licenses under said PATENT RIGHTS;

WHEREAS, Timothy Kuan-Ta Lu, an inventor of the PATENT RIGHTS and current employee of M.I.T., has or will shortly acquire equity in COMPANY, the Conflict Avoidance Statement of inventor name is attached as Exhibit A hereto;

WHEREAS, M.I.T. desires to have the PATENT RIGHTS developed and commercialized to benefit the public and is willing to grant a license thereunder;

WHEREAS, COMPANY has represented to M.I.T., to induce M.I.T. to enter into this Agreement, that COMPANY shall commit itself to a diligent program of exploiting the PATENT RIGHTS so that public utilization shall result therefrom; and

WHEREAS, COMPANY desires to obtain a license under the PATENT RIGHTS upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, M.I.T. and COMPANY hereby agree as follows:

1. DEFINITIONS.

1.1 "AFFILIATE" shall mean any legal entity (including, but not limited to, a corporation, partnership, or limited liability company) that is controlled by COMPANY. For the purposes of this definition, the term "control" means (i) beneficial ownership of at least fifty percent (50%) of the voting securities of a corporation or other business organization with voting securities or (ii) a fifty percent (50%) or greater interest in the net assets or profits of a partnership or other business organization without voting securities.

1.2 "COVERED MATERIAL" shall mean any active ingredient for use in the Field that, in whole or in part:

(i) absent the license granted hereunder, would infringe one or more valid claims of the PATENT RIGHTS; or

(ii) is manufactured using a LICENSED PROCESS or that, when used, practices a LICENSED PROCESS; and/or

(iii) contains an IDENTIFIED PRODUCT

1.3 "FIELD" shall mean (a) the treatment, prevention or diagnosis of any disease or condition within the labeled indications: [***] and (b) the treatment, prevention or diagnosis of any other human disease or condition by specifically targeting any of the following: [***].

COMPANY may request, from time to time, the inclusion of one or more additional bacteria to the FIELD; if MIT has not granted an exclusive license with respect to such requested bacteria that would prevent the inclusion of such bacteria in the license, the parties will negotiate in good faith the possibility of including such additional bacteria to the FIELD.

1.4 "IDENTIFIED PRODUCT" shall mean any product that in whole or in part is created, developed, discovered, identified or selected by the use of LICENSED PROCESS(ES) by the COMPANY or AFFILIATES or SUBLICENSEES. Notwithstanding the foregoing, any IDENTIFIED PRODUCT that also falls within the definition of LICENSED PRODUCT shall still be deemed a LICENSED PRODUCT for the purposes of the AGREEMENT and COMPANY shall make all payments due for a LICENSED PRODUCT

1.5 "IMPROVEMENT" shall mean any patentable or potentially patentable invention that:

(i) is made under an M.I.T. research program in the laboratory of Timothy Kuan-Ta Lu as the Principal Investigator ("Principal Investigator");

(ii) is disclosed to the M.I.T. Technology Licensing Officer within [***] of the EFFECTIVE DATE;

(iii) is dominated by claims of the PATENT RIGHTS licensed under this Agreement and listed in Appendix A as of the EFFECTIVE DATE; and

(iv) is available for licensing after satisfaction of any obligations to third parties, including without limitation sponsors of the research leading to such invention.

1.6 "LICENSED PRODUCT" shall mean any product that, in whole or in part:

(i) absent the license granted hereunder, would infringe one or more valid claims of the PATENT RIGHTS; or

(ii) is manufactured by using a LICENSED PROCESS or that, when used, practices a LICENSED PROCESS.

1.7 "LICENSED PROCESS" shall mean any process the practice of which, absent the license granted hereunder, would infringe one or more valid claims of the PATENT RIGHTS or which uses a LICENSED PRODUCT.

1.8 "NET SALES" shall mean the gross amount billed by COMPANY and its AFFILIATES and SUBLICENSEES for LICENSED PRODUCTS, IDENTIFIED PRODUCTS, and LICENSED PROCESSES, less the following:

(i) customary trade, quantity, or cash discounts to the extent actually allowed and taken;

(ii) amounts repaid or credited by reason of rejection or return;

(iii) portions of invoiced amounts written off by COMPANY or its AFFILIATES as uncollectable (if such amounts are subsequently collected, they will be deemed NET SALES in the quarter in which they are collected); and

(iv) to the extent separately stated on purchase orders, invoices, or other documents of sale, any taxes or other governmental charges levied on the production, sale, transportation, delivery, or use of a LICENSED PRODUCT, IDENTIFIED PRODUCT or LICENSED PROCESS which is paid by or on behalf of COMPANY, its AFFILIATE or a SUBLICENSEE; and

(v) outbound transportation (including packaging, freight, shipping and insurance) costs if separately stated on the invoice.

No deductions shall be made for commissions paid to individuals whether they be with independent sales agencies or regularly employed by COMPANY and on its payroll, or for cost of collections. NET SALES shall occur on the date of billing for a LICENSED PRODUCT, IDENTIFIED PRODUCT or LICENSED PROCESS. If a LICENSED PRODUCT, IDENTIFIED PRODUCT or a LICENSED PROCESS is distributed at a discounted price that is substantially lower than the customary price charged by COMPANY for sales to similarly situated customers (e.g. customers of similar size, buying power and/or strategic value in the same or similar territory, taking into consideration factors such as government imposed pricing and local pricing of therapeutics) or distributed for non-monetary consideration (whether or not at a discount), NET SALES shall be calculated based on the average price (the average price is not calculated using sale prices of LICENSED PRODUCTS, IDENTIFIED PRODUCTS or LICENSED PROCESSES that are substantially lower than customary price or that are distributed for non-monetary consideration) of the same LICENSED PRODUCT, IDENTIFIED PRODUCT or LICENSED PROCESS charged to an independent third party in the same territory during the same REPORTING PERIOD or, in the absence of such sales, on the fair market value of the LICENSED PRODUCT, IDENTIFIED PRODUCTS or LICENSED PROCESS.

Non-monetary consideration shall not be accepted by COMPANY, any AFFILIATE, or any SUBLICENSEE for any LICENSED PRODUCTS, IDENTIFIED PRODUCTS or LICENSED PROCESSES without the prior written consent of M.I.T.

If a LICENSED PRODUCT or IDENTIFIED PRODUCT is sold in any country in the form of a combination product containing one or more active ingredients in addition to the Covered Material ("Combination Product"), [***]. If, in a specific country, the Covered Material or the other active ingredient(s) is not sold separately, a market price for the Covered Material and the other active ingredient(s) in the Combination Product shall be determined by Company in good faith and in accord with generally accepted accounting practices. If MIT disagrees with the market price attributed by Company to the Covered Material and/or other active ingredient(s) in the Combination Product as set forth in any royalty report provided by Company to MIT, MIT will be entitled to notify Company in writing of such disagreement within [***] of receipt of the relevant report and the parties will resolve such disagreement in accordance with the following "baseball arbitration" procedure:

(a) If MIT notifies Company of any disagreement with respect to the market price values attributed by Company to any priced components of any Combination Product as set forth in a royalty report provided by Company pursuant to Section 5.2 ("Attributed Market Price"), executive officers of each of the parties shall meet within [***] of such notice to negotiate in good faith and agree on such Attributed Market Prices provided, however, that Company shall provide, in advance of such meeting, and to MIT's reasonable satisfaction, detailed written information sufficient for such executive offices to understand the full rationale for Company's Attributed Market Price. If the dispute has not been resolved within [***] after the commencement of such meeting or if meeting has not commenced within [***] after MIT's notice of disagreement, then either Party may initiate a demand for arbitration under the International Chamber of Commerce Rules of Arbitration as then in effect and, except as set forth herein, the dispute will be arbitrated in accordance with such rules. The arbitration shall be final and binding.

(b) The arbitration shall be conducted before a panel of [***] arbitrators, each (i) with significant expertise and experience in the marketing and sale of products in the field of the Combination Product and (ii) not then nor previously employed by either party or any of their respective Affiliates, nor (unless agreed otherwise by the parties) serving or having served as a consultant of either of the parties and/or their respective Affiliates. The arbitration shall be held in a mutually agreeable location or, if the parties cannot agree upon a location within [***] after the arbitrator panel has been constituted, at a location deemed fair to the Parties by the arbitrators. The arbitration shall be conducted in English.

(d) Within [***] after the selection of the arbitration panel, each party shall submit to the arbitrators and exchange with each other its arguments regarding the Attributed Market Price at issue.

(e) Within [***] after the date of the delivery to the arbitrator(s) of such arguments by the parties, the arbitrator(s) shall deliver its/their decision to the parties by facsimile and electronic transmission. The arbitrator shall be limited to awarding only one or the other of the two figures submitted. The decision of the arbitrator(s) shall be determinative with respect to the Attributed Market Price at issue.

(f) Each Party shall bear the costs of its own counsel fees and expenses and half of the costs of the arbitration, unless the arbitrators determine that the non-prevailing Party should bear more of the costs and expenses. Judgment upon an award rendered by the arbitrators may be entered by any court having jurisdiction thereof.

However, provided that in the case the Combination Product is sold under a Sublicense agreement and the other active ingredient(s) included in such Combination Product are not ingredient(s) licensed by Company nor its Affiliates to the Sublicensee, the market price attributed by Company to the Covered Material and the other active ingredient(s) in the Combination Product will be deemed to be fair market price if they are the same as the prices attributed to the Covered Material and the other active ingredient(s) in the Combination Product under the Sublicense agreement.

Notwithstanding the above, "Net Sales" shall not include: (i) the provision of LICENSED PRODUCTS or IDENTIFIED PRODUCTS by COMPANY, its AFFILIATES or SUBLICENSEES for use in clinical trials or compassionate treatment or the distribution of LICENSED PRODUCTS or IDENTIFIED PRODUCTS through a not-for-profit foundation to eligible patients provided that COMPANY, its AFFILIATE or SUBLICENSEE, as applicable, receives no consideration from such clinical trials or not-for-profit foundation for such use of LICENSED PRODUCTS or IDENTIFIED PRODUCTS and (ii) LICENSED PRODUCTS or IDENTIFIED PRODUCTS provided as samples to promote additional Net Sales or for test marketing purposes, in amounts consistent with normal business practices of COMPANY, its AFFILITATES or SUBLICENSEES, provided that COMPANY, its AFFILIATE or SUBLICENSEE, as applicable, receives no consideration for such samples.

1.9 "PATENT CHALLENGE" shall mean the commencement of a legal action or administrative proceeding challenging the validity or patentability and/or non-infringement of any of the PATENT RIGHTS (as defined below) or otherwise seeking to invalidate any of the PATENT RIGHTS.

1.10 "PATENT RIGHTS" shall mean:

(a) the United States and international patents listed on Appendix A;

(b) the United States and international patent applications and/or provisional applications listed on Appendix A and the resulting patents;

(c) any patent applications resulting from the provisional applications listed on Appendix A, and any divisionals, continuations, continuation-in-part applications, and continued prosecution applications (and their relevant international equivalents) of the patent applications listed on Appendix A and of such patent applications that result from the provisional applications listed on Appendix A, to the extent the claims are directed to subject matter specifically described in the patent applications listed on Appendix A and the resulting patents;

(d) any patents resulting from reissues, reexaminations, or extensions (and their relevant international equivalents) of the patents described in (a), (b), and (c) above; and

(e) international (non-United States) patent applications and provisional applications filed after the EFFECTIVE DATE claiming priority to any of the applications described above and the relevant international equivalents to divisionals, continuations, continuation-in-part applications and continued prosecution applications of such patent applications to the extent the claims are directed to subject matter specifically described in the patents or patent applications referred to in (a), (b), (c), and (d) above, and the resulting patents.

1.11 "REPORTING PERIOD" shall begin on the first day of each [***] and end on the last day of such [***].

1.12 "RESEARCH SUPPORT PAYMENTS" shall mean payments to COMPANY or an AFFILIATE from a SUBLICENSEE or corporate partner that are expressly intended only to fund or pay for (i) the purchase or use of equipment, supplies, products or services, or (ii) the use of employees and/or consultants, to achieve a *bona fide* research or development goal for the commercialization of LICENSED PRODUCTS, IDENTIFIED PRODUCTS, or LICENSED PROCESSES, as indicated by their inclusion as specific line items in a written agreement between COMPANY or AFFILIATE and the SUBLICENSEE or corporate partner.

1.13 "SUBLICENSE INCOME" shall mean any payments that COMPANY or an AFFILIATE receives from a SUBLICENSEE in consideration of the sublicense of the rights granted COMPANY and AFFILIATES under Section 2.1, including without limitation license fees, milestone and bonus payments, option payments, license maintenance fees, and other payments**,** but specifically excluding royalties on NET SALES payable under Sections 4.1(d) and 4.1(e). For clarity, SUBLICENSE INCOME specifically excludes: (a) reimbursement of the patent expenses paid by COMPANY to MIT; (b) RESEARCH SUPPORT PAYMENTS; (c) equity investments at fair market value (excluding premiums paid as consideration for the sublicense); and (d) amounts received from a SUBLICENSEE in connection with a bona fide, fully repayable, market rate loan made by SUBLICENSEE to Company (unless such loans are forgiven prior to complete repayment).

1.14 “SUBLICENSEE” shall mean any non-AFFILIATE sublicensee of the rights granted COMPANY under Section 2.1.

1.15 “TERM” shall mean the term of this Agreement, which shall commence on the EFFECTIVE DATE and shall remain in effect until the expiration or abandonment of all issued patents and filed patent applications within the PATENT RIGHTS, unless earlier terminated in accordance with the provisions of this Agreement.

1.16 “TERRITORY” shall mean world-wide.

2. GRANT OF RIGHTS.

2.1 License Grants. Subject to the terms of this Agreement, including without limitation Section 2.5, M.I.T. hereby grants to COMPANY and its AFFILIATES for the TERM an exclusive, royalty-bearing license under the PATENT RIGHTS to develop, have developed, make, have made, use, have used, sell, have sold, offer to sell, lease, import and have imported LICENSED PRODUCTS and IDENTIFIED PRODUCTS in the FIELD in the TERRITORY and to develop and perform LICENSED PROCESSES for use in the FIELD in the TERRITORY.

2.3 Sublicenses.

(a) So long as COMPANY remains the exclusive licensee of the PATENT RIGHTS in the FIELD, COMPANY shall have the right to grant sublicenses of its rights under Section 2.1; SUBLICENSEES shall not have the right to grant sublicenses, without the prior written approval of MIT who will have the sole discretion. COMPANY shall incorporate terms and conditions into its sublicense agreements sufficient to enable COMPANY to comply with this Agreement. COMPANY shall also include provisions in all sublicenses to provide that in the event that SUBLICENSEE brings a PATENT CHALLENGE against M.I.T. or assists another party in bringing a PATENT CHALLENGE against M.I.T. (except as required under a court order or subpoena) then COMPANY may terminate the sublicense.

(b) COMPANY shall promptly furnish M.I.T. with a fully signed photocopy of any sublicense agreement; provided that COMPANY may redact from such copies any information COMPANY or the SUBLICENSEE deems confidential information of the parties thereto, and to the extent that it does not impair M.I.T.'s ability to ensure compliance with this Agreement.

(c) Upon termination of this Agreement for any reason, any direct SUBLICENSEE of COMPANY not then in material breach of the sublicense agreement shall have the right to obtain, upon notice to M.I.T. within [***] of termination of this Agreement, a license directly from M.I.T. on substantially similar terms and conditions as set forth herein. M.I.T. shall not be obligated to grant to any such SUBLICENSEE any rights under the PATENT RIGHTS that are broader than the rights previously granted by COMPANY to such SUBLICENSEE, or inconsistent with the rights granted to COMPANY under this Agreement. Each such SUBLICENSEE shall be deemed a third party beneficiary for purposes of this Section 2.3.

2.4 U.S. Manufacturing. As applicable to this Agreement, COMPANY agrees to comply with the requirements of 35 U.S.C. § 204 "Preference for United States Industry", as amended, or any successor statutes or regulations.

2.5 Retained Rights.

(a) Research and Educational Use. M.I.T. retains the right on behalf of itself and all other non-profit research institutions to practice under the PATENT RIGHTS for academic research, teaching, and educational purposes.

(b) Federal Government. COMPANY acknowledges that the U.S. federal government retains a royalty-free, non-exclusive, non-transferable license to practice any government-funded invention claimed in any PATENT RIGHTS as set forth in 35 U.S.C. §§ 201-211, and the regulations promulgated thereunder, as amended, or any successor statutes or regulations.

2.6 Option to Improvements. To the extent that an IMPROVEMENT is available for licensing, and subject to the consent of M.I.T.'s Principal Investigator, M.I.T. hereby grants to COMPANY a first option (the "OPTION") to add M.I.T.'s interest in such IMPROVEMENT to this Agreement, by amendment, in accordance with this Section 2.6. Promptly after the M.I.T. Technology Licensing Office receives disclosure of an IMPROVEMENT, the M.I.T. Technology Licensing Office shall notify COMPANY in writing of the IMPROVEMENT, furnishing COMPANY a copy of the invention disclosure and/or any related patent application(s). Such invention disclosure and any related patent application(s) shall be kept confidential by COMPANY. Notwithstanding the foregoing, M.I.T. shall be under no obligation to file patent applications for any IMPROVEMENT unless COMPANY exercises its OPTION with respect to such IMPROVEMENT. COMPANY may exercise its OPTION to obtain a license to patent rights on such IMPROVEMENT by notifying M.I.T. thereof in writing within [***] after M.I.T.'s notice of such IMPROVEMENT (the "OPTION PERIOD"). If COMPANY does not exercise its OPTION within the OPTION PERIOD, COMPANY's rights under this Section 2.6 shall expire and M.I.T. shall be free to license such IMPROVEMENT to any third party. For each OPTION so exercised, COMPANY will pay M.I.T. an Improvement Addition Fee of [***] (the "Improvement Addition Fee"), and shall be responsible for the payment of fees and costs relating to the filing, prosecution and maintenance of the patent rights covering such IMPROVEMENT, subject to Section 6.4. Upon COMPANY'S exercise of such right and payment of the Improvement Addition Fee, the parties shall amend this Agreement to add the patent application(s) covering such IMPROVEMENT under applicable terms and conditions.

2.7. No Additional Rights. Except as set forth in Section 2.6, nothing in this Agreement shall be construed to confer any rights upon COMPANY by implication, estoppel, or otherwise as to any technology or patent rights of M.I.T. or any other entity other than the PATENT RIGHTS, regardless of whether such technology or patent rights shall be dominant or subordinate to any PATENT RIGHTS.

3. COMPANY DILIGENCE OBLIGATIONS.

3.1 Diligence Requirements. COMPANY shall use commercially reasonable diligent efforts, alone and/or through its AFFILIATES and/or SUBLICENSEES, to develop LICENSED PRODUCTS and/or IDENTIFIED PRODUCTS and to introduce LICENSED PRODUCTS and/or IDENTIFIED PRODUCTS into the commercial market; thereafter, COMPANY alone and/or through its AFFILIATES and/or Sublicensees, shall use reasonable efforts to make LICENSED PRODUCTS and/or IDENTIFIED PRODUCTS reasonably available to the relevant patient population. Specifically, COMPANY or AFFILIATE shall fulfill the following obligations:

(a) Within [***] after the EFFECTIVE DATE, COMPANY shall furnish M.I.T. with a written research and development plan describing the major tasks to be achieved in order to bring to market a LICENSED PRODUCT and/or IDENTIFIED PRODUCT, specifying the number of staff and other resources to be devoted to such research and development effort.

(b) Within [***] after the end of each calendar year, COMPANY shall furnish M.I.T. with a written report (consistent with Section 5.1(a)) on the progress of its efforts during the immediately preceding calendar year to develop and (when applicable) commercialize LICENSED PRODUCTS, IDENTIFIED PRODUCTS, or LICENSED PROCESSES. The report shall also contain a discussion of intended efforts for the year in which the report is submitted.

(c) COMPANY or an AFFILIATE or SUBLICENSEE shall develop a candidate of a LICENSED PRODUCT or IDENTIFIED PRODUCT and test such candidate in a pre-clinical proof of concept study (demonstration of efficacy in lysing the target bacteria under an *in vitro* and model animal setting) on or before the [***] of the EFFECTIVE DATE. Upon successful completion of such proof of concept, the relevant candidate will be designated as a "Candidate Product" and within [***] of such a designation, COMPANY will notify M.I.T. in writing.

(d) COMPANY and/or AFFILIATES shall permit an in-plant inspection by M.I.T. on or before [***], and thereafter permit in-plant inspections by M.I.T. at regular intervals with at least [***] between each such inspection.

(e) COMPANY, alone or together with its AFFILIATES and/or SUBLICENSEE(s), shall expend at least the amounts set forth below on research and/or development of LICENSED PRODUCTS and/or IDENTIFIED PRODUCTS in each calendar year (pro-rated for partial years) and ending with the first commercial sale of a LICENSED PRODUCT or IDENTIFIED PRODUCT:

[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

(f) By the [***] of the [***], COMPANY or an AFFILIATE or SUBLICENSEE shall [***] with a LICENSED PRODUCT or IDENTIFIED PRODUCT [***].

(g) By the [***] of the [***], COMPANY or an AFFILIATE or SUBLICENSEE shall [***] with a LICENSED PRODUCT or IDENTIFIED PRODUCT.

(h) By the [***] of the [***], COMPANY or an AFFILIATE or SUBLICENSEE shall [***] for a LICENSED PRODUCT or IDENTIFIED PRODUCT.

(i) By the [***] of the [***], COMPANY or an AFFILIATE or SUBLICENSEE shall [***] for a LICENSED PRODUCT or IDENTIFIED PRODUCT and shall [***] LICENSED PRODUCTS and/or IDENTIFIED PRODUCTS.

(j) By the [***] of the [***], COMPANY or an AFFILIATE or SUBLICENSEE shall [***] of a LICENSED PRODUCT or IDENTIFIED PRODUCT.

(k) By the [***] of the [***], COMPANY or an AFFILIATE or SUBLICENSEE shall [***] for a [***] LICENSED PRODUCT or IDENTIFIED PRODUCT in the [***].

In the event that M.I.T. reasonably determines that COMPANY (together with its AFFILIATES and SUBLICENSEES) has failed to fulfill any of its obligations under this Section 3.1, then M.I.T. may treat such failure as a material breach in accordance with Section 12.3(b), subject to the applicable cure periods therein. Notwithstanding the foregoing, in the event that COMPANY anticipates a failure to meet an obligation in any of Sections 3.1(f)-(k) due to unexpected technical, adverse events or regulatory difficulties, COMPANY will promptly advise M.I.T. in writing, and representatives of each party will meet to review the reasons for anticipated failure and discuss in good faith a potential revision to the diligence schedule. COMPANY and M.I.T. will enter into a written amendment to this Agreement with respect to any mutually agreed upon change(s) to the relevant obligation(s). Any such future changes to these diligence obligations that would extend the first commercial sale of the first LICENSED PRODUCT or IDENTIFIED PRODUCT past [***] post the date of [***] would be subject to [***] extension fee of [***].

M.I.T. will not terminate the Agreement for COMPANY's failure to meet its diligence obligations found in sections 3.1 (f-j) if LICENSED PRODUCTS or IDENTIFIED PRODUCTS have entered the clinical phase. However, M.I.T. at its sole discretion, may remove from the FIELD the subfield ([***]) that COMPANY is failing to meet its diligence obligations for as defined in sections 3.1 (g) or 3.1 (k) ("NON-DILIGENT FIELD"), except with respect to LICENSED PRODUCTS or IDENTIFIED PRODUCTS in such field that entered the clinical phase and any COVERED MATERIAL included in such products, and all of COMPANY's and its AFFILIATE's rights in the NON-DILIGENT FIELD shall terminate except with respect to such LICENSED PRODUCTS or IDENTIFIED PRODUCTS in such subfield that entered the clinical phase and any COVERED MATERIAL included in such products. The removal of the NON-DILIGENT FIELD will not affect the remaining terms of this Agreement or COMPANY's rights with respect to LICENSED PRODUCTS or IDENTIFIED PRODUCTS in such field that entered the clinical phase and any COVERED MATERIAL included in such products.

4. ROYALTIES AND PAYMENT TERMS.

4.1 Consideration for Grant of Rights.

(a) License Issue Fee and Patent Cost Reimbursement. COMPANY shall pay to M.I.T. within [***] of the EFFECTIVE DATE a license issue fee of twenty-five thousand dollars ($25,000), and, in accordance with Section 6.3, [***]. These payments are nonrefundable.

(b) License Maintenance Fees. COMPANY shall pay to M.I.T. the following license maintenance fees on the dates set forth below:

[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

This annual license maintenance fee is nonrefundable; however, the license maintenance fee may be credited to running royalties subsequently due on NET SALES earned during the same calendar year, if any. License maintenance fees paid in excess of running royalties due in such calendar year shall not be creditable to amounts due for future years.

(c) Milestone Payments. COMPANY shall pay to M.I.T. the following payments within [***] following the achievement of the relevant Milestone Event set forth below for each LICENSED PRODUCT or IDENTIFIED PRODUCT (for clarity, two or more products that contain the same COVERED MATERIAL will be deemed the same LICENSED PRODUCT or IDENTIFIED PRODUCT), regardless of whether such milestone is achieved by COMPANY or by an AFFILIATE or a SUBLICENSEE:

Milestone Event	Payment
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

If COMPANY receives a payment constituting SUBLICENSE INCOME that is directly attributable to the occurrence of a Milestone Event or circumstance substantially equivalent to such Milestone Event and COMPANY has paid or is obligated to pay to M.I.T. its due share of such payment under the clause entitled “Sublicense Income”), such payment on account of such SUBLICENSE INCOME shall be fully creditable against the Milestone Payment due to MIT such that M.I.T. shall receive either the total value of its due share of SUBLICENSE INCOME only or it’s due share of the Milestone Payment only, whichever is greater, but not the sum of both amounts.

Furthermore, in the case of any future changes to the diligence obligations in Section 3.1 that would extend the first commercial sale of the first LICENSED PRODUCT past [***] post the date of first designation of a Candidate Product, and if the COMPANY has not paid [***] of the milestones payments in Section 4.1 (c) at least [***], or in the instance that a IDENTIFIED PRODUCT is being carried forward instead of a LICENSED PRODUCT and in recognition of the value of the PATENT RIGHTS and the time it takes to bring LICENSED PRODUCTS to market, COMPANY agrees that COMPANY’s obligation to pay these milestone payments with respect to the first LICENSED PRODUCT or IDENTIFIED PRODUCT to reach the relevant milestone shall survive expiration of all issued patents and filed patent applications within the PATENT RIGHTS (“Surviving Milestone Obligations”). In addition this obligation to pay Surviving Milestone Obligations shall survive termination of the AGREEMENT as specified in Section 12.6(a).

(d) Running Royalties for LICENSED PRODUCTS. COMPANY shall pay to M.I.T. running royalties for LICENSED PRODUCT(S) on annual Net Sales, as follows:

- [***] royalties on the [***] of NET SALES of LICENSED PRODUCT(S) in the relevant calendar year;
- [***] royalties on the next [***] NET SALES of LICENSED PRODUCT(S) in the relevant calendar year (i.e. the portion of such NET SALES in such calendar year [***].
- [***] royalties on Net Sales of such LICENSED PRODUCT(S) [***] (i.e. the portion of such NET SALES in such calendar year [***]).

(e) Running Royalties for IDENTIFIED PRODUCTS. COMPANY shall pay to M.I.T. running royalties for IDENTIFIED PRODUCT(S) on annual Net Sales, as follows:

- [***] royalties on the [***] of NET SALES of IDENTIFIED PRODUCT(S) in the relevant calendar year;
- [***] royalties on the next [***] NET SALES of IDENTIFIED PRODUCT(S) in the relevant calendar year (i.e. the portion of such NET SALES in such calendar year [***]).
- [***] royalties on Net Sales of such IDENTIFIED PRODUCT(S) [***] (i.e. the portion of such NET SALES in such calendar year [***]).

For the convenience of the parties, in recognition of the value of the PATENT RIGHTS and LICENSED PROCESSES in identifying IDENTIFIED PRODUCTS, and in the time it takes to bring IDENTIFIED PRODUCTS to market, COMPANY agrees to pay royalties under this Section on each IDENTIFIED PRODUCT for [***] after first commercial sale of such IDENTIFIED PRODUCT in the first country in which it is sold. For clarity, two or more products that contain the same COVERED MATERIAL will be deemed the same IDENTIFIED PRODUCT and the royalties will be due for a period of [***] from the first commercial sale of the first such IDENTIFIED PRODUCT. The obligation to pay running royalties on each IDENTIFIED PRODUCT shall survive termination of the AGREEMENT as specified in Section 12.6(a).

Running Royalties shall be payable for each REPORTING PERIOD and shall be due to M.I.T. within [***] of the end of each REPORTING PERIOD.

(f) Sharing of SUBLICENSE INCOME. COMPANY shall pay M.I.T. the following percentage on SUBLICENSE INCOME received by COMPANY or AFFILIATES:

(i) [***] if the sublicense agreement, under which such SUBLICENSE INCOME is paid, is signed [***] in Company reaches [***];
(ii) [***] if the sublicense agreement, under which such SUBLICENSE INCOME is paid, is signed [***] in Company reaches [***];
(iii) [***] if the sublicense agreement, under which such SUBLICENSE INCOME is paid, is signed [***] in Company reach [***].

Such amount shall be payable for each REPORTING PERIOD and shall be due to M.I.T. within [***] of the end of each REPORTING PERIOD.

(g) Consequences of a PATENT CHALLENGE. In the event that (i) COMPANY or any of its AFFILIATES brings a PATENT CHALLENGE against M.I.T., or (ii) COMPANY or any of its AFFILIATES assists another party in bringing a PATENT CHALLENGE against M.I.T. (except as required under a court order or subpoena), and (iii) M.I.T. does not choose to exercise its rights to terminate this Agreement pursuant to Section 12.4, then the running royalties due hereunder shall be [***] for the remainder of the term of the AGREEMENT. In the event that such a PATENT CHALLENGE is successful, COMPANY will have no right to recoup any royalties paid during the period of challenge. In the event that a PATENT CHALLENGE is unsuccessful, COMPANY shall reimburse M.I.T. for all reasonable legal fees and expenses incurred in its defense against the PATENT CHALLENGE.

(h) No Multiple Royalties. If the manufacture, use, lease, or sale of any LICENSED PRODUCT or the performance of any LICENSED PROCESS is covered by more than one of the PATENT RIGHTS, multiple royalties shall not be due.

(i) Royalty Offset. In the event that COMPANY is contractually or by court decision required to make royalty payments to one or more third parties in order to design, discover, develop, make, use, or sell LICENSED PRODUCTS or IDENTIFIED PRODUCTS, COMPANY may offset a total of [***] of such third-party payments against any royalty payments that are due to M.I.T. in the same REPORTING PERIOD, provided, however, that in no event shall the royalty payments under Sections 4.1 (d) or 4.1 (e) when aggregated with any other offsets and credits allowed under this Agreement, be less than [***] of NET SALES for LICENSED PRODUCT(S) or [***] of NET SALES of IDENTIFIED PRODUCT(S) in any REPORTING PERIOD.

4.2 Payments.

(a) Method of Payment. All payments under this Agreement should be made payable to "Massachusetts Institute of Technology" and sent to the address identified in Section 14.1. Each payment should reference this Agreement and identify the obligation under this Agreement that the payment satisfies.

(b) Payments in U.S. Dollars. All payments due under this Agreement shall be payable in United States dollars. Conversion of foreign currency to U.S. dollars shall be made at the conversion rate existing in the United States (as reported by the Federal Reserve Bank of St. Louis) on the last working day of the calendar quarter of the applicable REPORTING PERIOD. Such payments shall be without deduction of exchange, collection, or other charges, and, specifically, without deduction of withholding or similar taxes or other government imposed fees or taxes, except as permitted in the definition of NET SALES. MIT will cooperate with COMPANY to provide such information and records as COMPANY may require in connection with any application to the tax authorities in any country, including attempt to obtain an exemption or a credit for any withholding tax due in any country on account of the payments made by COMPANY to MIT hereunder.

(c) Late Payments. Any payments by COMPANY that are not paid on or before the date such payments are due under this Agreement shall bear interest, to the extent permitted by law, at [***] of interest as reported by the Federal Reserve Bank of St. Louis on the last business day of the calendar quarterly reporting period to which such royalty payments relate.

5. REPORTS AND RECORDS.

5.1 Frequency of Reports.

(a) Before First Commercial Sale. Prior to the first commercial sale of any LICENSED PRODUCT or first commercial performance of any LICENSED PROCESS, COMPANY shall deliver reports to M.I.T. annually, within [***] of the end of each calendar year, containing information concerning the immediately preceding calendar year, as described in Section 3.1(b).

(b) Upon First Commercial Sale of a LICENSED PRODUCT or IDENTIFIED PRODUCT. COMPANY shall report to M.I.T. the date of first commercial sale of a LICENSED PRODUCT or IDENTIFIED PRODUCT within [***] of occurrence in each country.

(c) After First Commercial Sale. After the first commercial sale of a LICENSED PRODUCT or IDENTIFIED PRODUCT, COMPANY shall deliver reports to M.I.T. within [***] of the end of each REPORTING PERIOD, containing information concerning the immediately preceding REPORTING PERIOD, as further described in Section 5.2.

5.2 Content of Reports and Payments. Each report delivered by COMPANY to M.I.T. shall contain at least the following information for the immediately preceding REPORTING PERIOD:

(i) the number of LICENSED PRODUCTS and/or IDENTIFIED PRODUCTS relevant to the calculation of NET SALES sold, leased or distributed by COMPANY, its AFFILIATES and SUBLICENSEES to independent third parties in each country, and, if applicable, the number of LICENSED PRODUCTS and/or IDENTIFIED PRODUCTS used by COMPANY, its AFFILIATES and SUBLICENSEES in the provision of services for a fee in each country;

(ii) the gross amount charged by COMPANY, its AFFILIATES and SUBLICENSEES for LICENSED PRODUCTS and/or IDENTIFIED PRODUCTS;

(iii) with respect to each unique Combination Product sold, the price values assigned to A and B, as used to determine the proration factor with respect to NET SALES of Combination Products (for the avoidance of doubt, M.I.T. hereby retains the right to request and receive any documentation used by COMPANY and or its consultants and advisors to determine such values, specifically without the need to invoke the procedures outlined in Section 5.4, below);

(iv) calculation of NET SALES for the applicable REPORTING PERIOD in each country, including a listing of applicable deductions;

(v) total royalty payable on NET SALES in U.S. dollars, together with the exchange rates used for conversion;

(vi) the amount of SUBLICENSE INCOME received by COMPANY from each SUBLICENSEE and the amount due to M.I.T. from such SUBLICENSE INCOME, including an itemized breakdown of the sources of income comprising the SUBLICENSE INCOME; and

If no amounts are due to M.I.T. for any REPORTING PERIOD, the report shall so state.

5.3 Financial Statements. Within [***] of the Company's receipt of its audited financial statements for a given year or by [***], whichever comes first, COMPANY shall provide M.I.T. with a copy of such audited financial statements.

5.4 Records. COMPANY shall maintain, and shall cause its AFFILIATES and shall ensure that its SUBLICENSEES undertake to maintain, complete and accurate records relating to LICENSED PRODUCTS and IDENTIFIED PRODUCTS developed, made, sold, leased or distributed by COMPANY, its AFFILIATES and SUBLICENSEES and SUBLICENSE INCOME received which records shall contain sufficient information to permit M.I.T. to confirm the accuracy of any reports delivered to M.I.T. under Section 5 and compliance in other respects with this Agreement. The relevant party shall retain such records for at least [***] following the end of the calendar year to which they pertain, during which time M.I.T., shall have the right, at M.I.T.'s expense, to cause an independent, certified public accountant inspect such records during normal business hours to verify any reports and payments made or compliance in other respects under this Agreement; provided in each case, that such accountant signs a confidentiality and non-use agreement in a form acceptable to COMPANY, in its reasonable discretion. The foregoing notwithstanding, the auditor shall have sole discretion to determine the scope of information required to effect the review required by this section, and such scope shall not be subject to approval by COMPANY. In the event that any audit performed under this Section reveals an underpayment in excess of [***], COMPANY shall bear the full cost of such audit and shall remit any amounts due to M.I.T. within [***] of receiving notice thereof from M.I.T. The parties agree that all applicable statutes of limitation and time-based defenses (including, but not limited to, estoppel and laches) shall be tolled upon any request by M.I.T. for an audit under this Section. The parties shall cooperate in taking any actions necessary to achieve this result.

6. PATENT PROSECUTION.

6.1 Responsibility for PATENT RIGHTS. M.I.T. shall prepare, file, prosecute, and maintain all of the PATENT RIGHTS using patent counsel reasonably acceptable to COMPANY. COMPANY shall have reasonable opportunities to advise M.I.T. and shall cooperate with M.I.T. in such filing, prosecution, and maintenance. M.I.T. shall instruct its patent counsel to copy COMPANY on all patent prosecution documents relating to the PATENT RIGHTS and shall provide COMPANY a reasonable opportunity to review and comment on such materials. M.I.T. shall consider in good faith any comments received from COMPANY relating to prosecution and maintenance of the PATENT RIGHTS

6.2 International (non-United States) Filings. Appendix B is a list of countries in which patent applications corresponding to the United States patent applications listed in Appendix A shall be filed, prosecuted, and maintained. Appendix B may be amended by mutual agreement of COMPANY and M.I.T.

6.3 Payment of Expenses. Subject to Section 6.4, payment of all documented, out-of-pocket fees and costs, including attorneys' fees, relating to the filing, prosecution, and maintenance of the PATENT RIGHTS ("Patent Expenses") shall be the responsibility of COMPANY and other commercial licensees of the PATENT RIGHTS as they exist from time to time (as used herein a "Commercial Licensee" shall mean a for-profit entity that has been granted a license by M.I.T. under the PATENT RIGHTS to develop and sell products). Subject to Section 6.4, COMPANY shall be responsible for a pro rata share of all Patent Expenses, whether such amounts were incurred before or after the EFFECTIVE DATE. As of the EFFECTIVE DATE, COMPANY's pro rata share is [***] of the total, and M.I.T. has incurred approximately [***] for such patent-related fees and costs, with respect to which M.I.T. will provide COMPANY with supporting documentation. As commercial licensees are added over time, COMPANY's pro rata share will decrease on a going forward basis only. No credits shall be allowed for payments due prior to each new commercial licensee. COMPANY shall reimburse [***] of all patent costs incurred prior to the EFFECTIVE DATE, that have not already been reimbursed, within thirty days of the EFFECTIVE DATE. COMPANY will reimburse the remaining [***] within [***] of the EFFECTIVE DATE of this Agreement or immediately upon termination of this Agreement if this Agreement is terminated prior to the [***] of this Agreement as long as there are no additional commercial licensees prior to these dates. If there are additional Commercial Licensees then COMPANY will not have to pay this remaining [***]. COMPANY will be responsible for its pro rata share for all patent expenses incurred after the EFFECTIVE DATE. COMPANY shall reimburse all amounts due pursuant to this Section within [***] of invoicing, supported by appropriate documentation; late payments shall accrue interest at [***]. In all instances, M.I.T. shall pay the fees prescribed for large entities to the United States Patent and Trademark Office. Subject to Section 6.4, payment of all fees and costs, including attorneys' fees, relating to the filing, prosecution and maintenance of the PATENT RIGHTS (including without limitation interferences, reexaminations and reissues) shall be the responsibility of COMPANY, whether such amounts were incurred before or after the EFFECTIVE DATE subject to the terms agreed upon in this section.

6.4. Abandonment. Notwithstanding the above, in the event that COMPANY desires to discontinue its support of any patent or patent application within the PATENT RIGHTS, in any particular country or countries, COMPANY shall provide M.I.T. with at least [***] prior written notice of such intended discontinuance of support. In such event, (i) any such patent or patent application, on a country by country basis, (the "RETURNED RIGHTS") shall be removed from the definition of PATENT RIGHTS under this Agreement, (ii) the licenses granted to COMPANY and its AFFILIATES as to such RETURNED RIGHTS shall terminate, and (iii) COMPANY shall have no further obligation with respect to such RETURNED RIGHTS pursuant to Section 6.3, M.I.T. shall have the unrestricted right to license such RETURNED RIGHTS to third parties. Such notice to discontinue its support of any patent or patent application shall not relieve COMPANY from the obligations to pay for costs with respect to the filing, prosecution, and maintenance of such PATENT RIGHTS incurred prior to the expiration of the [***] notice period.

7. INFRINGEMENT.

7.1 Notification of Infringement. Each party agrees to provide written notice to the other party promptly after becoming aware of any infringement of the PATENT RIGHTS in the FIELD.

7.2 Right to Prosecute Infringements.

(a) COMPANY Right to Prosecute. So long as COMPANY remains the exclusive licensee of the PATENT RIGHTS in the FIELD in the TERRITORY, COMPANY, to the extent permitted by law, shall have the right, under its own control and at its own expense, to prosecute any third party infringement of the PATENT RIGHTS in the FIELD in the TERRITORY, subject to Sections 7.4 and 7.5. If required by law, M.I.T. shall permit any action under this Section to be brought in its name, including being joined as a party-plaintiff, provided that COMPANY shall hold M.I.T. harmless from, and indemnify M.I.T. against, any costs, expenses, or liability that M.I.T. incurs in connection with such action.

Prior to commencing any such action, COMPANY shall consult with M.I.T. and shall consider the views of M.I.T. regarding the advisability of the proposed action and its effect on the public interest. COMPANY shall not enter into any settlement, consent judgment, or other voluntary final disposition of any infringement action under this Section that will adversely affect the validity, enforceability or scope of the PATENT RIGHTS, without the prior written consent of M.I.T, which consent shall not be unreasonably withheld or delayed.

(b) M.I.T. Right to Prosecute. In the event that COMPANY fails to have initiated an infringement action within a reasonable time after COMPANY first becomes aware of the basis for such action (and provided that the Company has been unsuccessful in persuading the alleged infringer to desist), M.I.T. shall have the right, at its sole discretion, to prosecute such infringement under its sole control and at its sole expense, and any recovery obtained shall belong to M.I.T.

7.3 Declaratory Judgment Actions. In the event that a PATENT CHALLENGE is brought against M.I.T. or COMPANY by a third party, M.I.T., at its option, shall have the right within [***] after commencement of such action to take over the sole defense of the action at its own expense. If M.I.T. does not exercise this right, COMPANY may take over the sole defense of the action at COMPANY's sole expense, subject to Sections 7.4 and 7.5.

7.4 Offsets. COMPANY may offset a total of [***] of any expenses incurred under Sections 7.2 and 7.3 against any payments due to M.I.T. under Article 4, provided that in no event shall such payments under Article 4, when aggregated with any other offsets and credits allowed under this Agreement, be reduced by more than [***] in any REPORTING PERIOD.

7.5 Recovery. Any recovery obtained in an action brought by COMPANY under Sections 7.2 or 7.3 shall be distributed as follows: (i) each party shall be reimbursed for any expenses incurred in the action (including the amount of any royalty or other payments withheld from M.I.T. as described in Section 7.4), (ii) as to ordinary damages, COMPANY shall receive an amount equal to its lost profits or a reasonable royalty on the infringing sales, or whichever measure of damages the court shall have applied, and COMPANY shall pay to M.I.T. based upon such amount a reasonable approximation of the royalties and other amounts that COMPANY would have paid to M.I.T. if COMPANY had sold the infringing products, processes and services rather than the infringer, and (iii) as to special or punitive damages, the parties shall share equally in any award.

7.6 Cooperation. Each party agrees to cooperate in any action under this Article which is controlled by the other party, provided that the controlling party reimburses the cooperating party promptly for any out-of-pocket costs and expenses incurred by the cooperating party in connection with providing such assistance.

7.7 Right to Sublicense. So long as COMPANY remains the exclusive licensee of the PATENT RIGHTS in the FIELD in the TERRITORY, COMPANY shall have the sole right to sublicense any alleged infringer in the FIELD in the TERRITORY for future use of the PATENT RIGHTS in accordance with the terms and conditions of this Agreement relating to sublicenses. Any revenues to COMPANY pursuant to such sublicense shall be treated as set forth in Article 4.

8. INDEMNIFICATION AND INSURANCE.

8.1 Indemnification.

(a) Indemnity. COMPANY shall indemnify, defend, and hold harmless M.I.T. and its trustees, officers, faculty, students, employees, and agents and their respective successors, heirs and assigns (the "Indemnitees"), against any liability, damage, loss, or expense (including reasonable attorneys' fees and expenses) incurred by or imposed upon any of the Indemnitees as a result of any third party claims, suits, actions, demands or judgments resulting from the exercise of any rights granted to COMPANY under this Agreement or any breach of this Agreement by COMPANY, except in each case to the extent caused by the gross negligence or willful misconduct of M.I.T.

(b) Procedures. The Indemnitees agree to provide COMPANY with prompt written notice of any claim, suit, action, demand, or judgment for which indemnification is sought under this Agreement. COMPANY agrees, at its own expense, to provide attorneys reasonably acceptable to M.I.T. to defend against any such claim. The Indemnitees shall cooperate fully with COMPANY in such defense and will permit COMPANY to conduct and control such defense and the disposition of such claim, suit, or action (including all decisions relative to litigation, appeal, and settlement); provided, however, that any Indemnitee shall have the right to retain its own counsel, at the expense of COMPANY, if representation of such Indemnitee by the counsel retained by COMPANY would be inappropriate because of actual conflicts in the interests of such Indemnitee and any other party represented by such counsel. COMPANY agrees to keep M.I.T. informed of the progress in the defense and disposition of such claim and to consult with M.I.T. with regard to any proposed settlement.

8.2 Insurance. COMPANY shall obtain and carry in full force and effect commercial general liability insurance, and at the time as COMPANY commences clinical trials with respect to LICENSED PRODUCTS or IDENTIFIED PRODUCTS will carry products/completed operations coverage and errors and omissions liability insurance which shall protect COMPANY and Indemnitees with respect to events covered by Section 8.1(a) above. Such insurance (i) shall be issued by an insurer pre-approved by M.I.T., such approval not to be unreasonably withheld, (ii) shall list M.I.T. as an additional insured thereunder, for the commercial general liability policy only, and (ii) shall require [***] written notice to be given to M.I.T. prior to any cancellation or material change thereof. The limits of the commercial general liability insurance shall not be less than [***] with an aggregate of [***] for bodily injury including death, property damage, and products/completed operations coverage. The limits of the errors and omissions liability insurance shall not be less than [***]. At M.I.T.'s request, from time to time, COMPANY shall provide M.I.T. with Certificates of Insurance evidencing ongoing compliance with this Section. COMPANY shall continue to maintain such insurance after the expiration or termination of this Agreement during any period in which COMPANY or any AFFILIATE or SUBLICENSEE continues (i) to make, use, or sell a product that was a LICENSED PRODUCT under this Agreement or (ii) to perform a service that was a LICENSED PROCESS under this Agreement, and thereafter for a period of [***], if the coverage is under a claims-made policy.

9. REPRESENTATIONS AND WARRANTIES.

9.1 M.I.T. hereby represents and warrants that, as of the EFFECTIVE DATE of this Agreement (a) all named inventors of the PATENT RIGHTS have duly executed instruments assigning their entire right, title and interest in the PATENT RIGHTS to M.I.T. as assignee; (b) to its knowledge there is no action, suit, proceeding or investigation pending or threatened against M.I.T. that challenges the right of M.I.T. to enter into this Agreement, or to consummate the transactions contemplated hereby; (c) M.I.T. has the authority to grant the licenses as granted herein; and (d) M.I.T. has not granted to any third party any rights under the PATENT RIGHTS that would conflict with this Agreement.

9.2 EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, M.I.T. MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND CONCERNING THE PATENT RIGHTS AND HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF M.I.T. OR THIRD PARTIES, VALIDITY, ENFORCEABILITY AND SCOPE OF PATENT RIGHTS, WHETHER ISSUED OR PENDING, AND THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE.

9.3 Neither Party will be responsible to the other for incidental or consequential damages of any kind, including economic damages or injury to property and lost profits regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this Agreement, and regardless of whether it was advised or had reason to know of the possibility of incurring such damages in advance.

10. ASSIGNMENT.

This Agreement is personal to COMPANY and no rights or obligations may be assigned by Company without the prior written consent of M.I.T., which consent shall not be unreasonably withheld, except that COMPANY may assign its rights and obligations under this Agreement without such a consent to an AFFILIATE or another successor corporation in connection with the merger, consolidation, or sale (with or to such corporation) of all or substantially all of its assets or that portion of its business to which this Agreement relates; provided, however , that(i) any payment amounts due to M.I.T. (including royalties and all patent expense amounts owed to M.I.T. under this Agreement, that are actually due as of the effective date of such assignment) shall be received by M.I.T. in full within [***] of any such transaction; and (ii) such successor shall agree in writing to be bound by the terms and conditions of this Agreement on or before the effective date of such transaction. Any assignment purported or attempted to be made in violation of the terms of this Section shall be null and void and of no legal effect.

11. GENERAL COMPLIANCE WITH LAWS

11.1 Compliance with Laws. COMPANY shall use reasonable commercial efforts to comply with all commercially material applicable local, state, federal, and international laws and regulations relating to the development, manufacture, use, and sale of LICENSED PRODUCTS and LICENSED PROCESSES under this Agreement.

11.2 Export Control. COMPANY and its AFFILIATES and SUBLICENSEES shall comply with all United States laws and regulations controlling the export of certain commodities and technical data, including without limitation all Export Administration Regulations of the United States Department of Commerce. Among other things, these laws and regulations prohibit or require a license for the export of certain types of commodities and technical data to specified countries. COMPANY hereby gives written assurance that it will comply with, and will cause its AFFILIATES and will ensure that its SUBLICENSEES undertake to comply with, all United States export control laws and regulations, that as between COMPANY and M.I.T. it bears sole responsibility for any violation of such laws and regulations by itself or its AFFILIATES or SUBLICENSEES, and that it will indemnify, defend, and hold M.I.T. harmless (in accordance with Section 8.1) for the consequences of any such violation.

11.3 Non-Use of M.I.T. Name. COMPANY and its AFFILIATES and SUBLICENSEES shall not use the name of "Massachusetts Institute of Technology," "Lincoln Laboratory" or any variation, adaptation, or abbreviation thereof, or of any of its trustees, officers, faculty, students, employees, or agents, or any trademark owned by M.I.T., or any terms of this Agreement in any promotional material or other public announcement or disclosure relating to this Agreement without the prior written consent of M.I.T, which consent M.I.T. may withhold in its sole discretion. The foregoing notwithstanding, without the consent of M.I.T., COMPANY may make factual statements during the term of this Agreement that COMPANY has a license from M.I.T. under one or more of the patents and/or patent applications comprising the PATENT RIGHTS in business literature and public announcements. Such statements may not be used in marketing, promotion, or advertising.

11.4 Marking of LICENSED PRODUCTS and IDENTIFIED PRODUCTS. To the extent commercially feasible and consistent with prevailing business practices, COMPANY shall mark, and shall cause its AFFILIATES and ensure that its SUBLICENSEES undertake to mark, all LICENSED PRODUCTS and IDENTIFIED PRODUCTS that are sold under this Agreement in countries in which there are issued patents within the PATENT RIGHTS with the number of each issued patent under the PATENT RIGHTS that applies to such LICENSED PRODUCT.

12. TERMINATION.

12.1 Voluntary Termination by COMPANY. COMPANY shall have the right to terminate this Agreement, for any reason, (i) upon at least ninety (90) days prior written notice to M.I.T., such notice to state the date at least ninety (90) days in the future upon which termination is to be effective, and (ii) upon payment of all amounts due to M.I.T. through such termination effective date.

12.2 Cessation of Business. If COMPANY ceases to carry on its business related to this Agreement, M.I.T. shall have the right to terminate this Agreement immediately upon written notice to COMPANY.

12.3 Termination for Default.

(a) Nonpayment. In the event COMPANY fails to pay any amounts due and payable to M.I.T. hereunder, and fails to make such payments within [***] after receiving written notice of such failure, M.I.T. may terminate this Agreement immediately upon written notice to COMPANY.

(b) Material Breach. If either party commits a material breach of its obligations under this Agreement, except for breach as described in Section 12.3(a), and fails to cure that breach within [***] after receiving written notice thereof from the other party, the non-breaching party may terminate this Agreement immediately upon written notice to COMPANY.

12.4 Termination as a Consequence of Patent Challenge.

(a) By COMPANY. If COMPANY or any of its AFFILIATES brings a PATENT CHALLENGE against M.I.T., or assists or causes others to bring a PATENT CHALLENGE against M.I.T. (except as required under a court order or subpoena), then M.I.T. may immediately terminate this Agreement.

(b) By SUBLICENSEE. If a SUBLICENSEE brings a PATENT CHALLENGE or assists another party in bringing a PATENT CHALLENGE (except as required under a court order or subpoena), then M.I.T. may send a written demand to COMPANY to terminate such sublicense. If COMPANY fails to so terminate such sublicense [***] after M.I.T.'s demand, M.I.T. may immediately terminate this Agreement.

12.5 Disputes regarding Termination. If COMPANY disputes any termination by M.I.T. under this Section, it must notify M.I.T. of the nature of such dispute and the proposed manner in which to resolve the dispute within [***] of receipt of certified notification of termination by M.I.T., whichever is sooner. If the parties do not resolve such dispute within [***] of such notification, then COMPANY shall be required to initiate the dispute resolution procedures outlined in Section 13.3(a) immediately. If it does not do so, COMPANY shall be considered to have waived its rights to dispute the termination.

12.6 Effect of Termination.

(a) Survival. The following provisions shall survive the expiration or termination of this Agreement:

- Article 1 ("Definitions");
- Article 8 ("Indemnification and Insurance");
- Article 9 ("Representations and Warranties");
- Article 13 ("Dispute Resolution");
- Article 14 ("Miscellaneous");
- The last paragraph of Section 4.1(c) ("Milestone Payments"), solely with respect to Surviving Milestone Payments
- Section 4.1 (e) (Running Royalties for IDENTIFIED PRODUCTS)
- Section 5.2 ("Content of Reports and Payments") with respect to sales of LICENSED PRODUCTS made and SUBLICENSE INCOME received prior to termination;
- Section 5.4 ("Records");
- Section 11.1 ("Compliance With Laws");
- Section 11.2 ("Export Control");
- Section 12.5 ("Disputes regarding Termination"); and
- Section 12.6 ("Effect of Termination").

(b) Pre-termination Obligations. In no event shall termination of this Agreement release COMPANY from the obligation to pay any amounts that became due on or before the effective date of termination.

13. DISPUTE RESOLUTION.

13.1 Mandatory Procedures. The parties agree that any dispute arising out of or relating to this Agreement shall be resolved solely by means of the procedures set forth in this Article, and that such procedures constitute legally binding obligations that are an essential provision of this Agreement. If either party fails to observe the procedures of this Article, as may be modified by their written agreement, the other party may bring an action for specific performance of these procedures in any court of competent jurisdiction.

13.2 Equitable Remedies. Although the procedures specified in this Article are the sole and exclusive procedures for the resolution of disputes arising out of or relating to this Agreement, either party may seek a preliminary injunction or other provisional equitable relief if, in its reasonable judgment, such action is necessary to avoid irreparable harm to itself or to preserve its rights under this Agreement.

13.3 Dispute Resolution Procedures.

(a) Mediation. In the event of any dispute arising out of or relating to this Agreement, either party may initiate mediation upon written notice to the other party ("Notice Date") pursuant to Section 14.1, whereupon both parties shall be obligated to engage in a mediation proceeding. The mediation shall commence within [***] of the Notice Date. The mediation shall be conducted by a single mediator in Boston, Massachusetts. The party requesting mediation shall designate two (2) or more nominees for mediator in its notice. The other party may accept one of the nominees or may designate its own nominees by notice addressed to the American Arbitration Association (AAA) and copied to the requesting party. If within, [***] following the request for mediation, the parties have not selected a mutually acceptable mediator, a mediator shall be appointed by the AAA according to the Commercial Mediation Rules. The mediator shall attempt to facilitate a negotiated settlement of the dispute, but shall have no authority to impose any settlement terms on the parties. The expenses of the mediation shall be borne equally by the parties, but each party shall be responsible for its own counsel fees and expenses.

(b) Trial Without Jury. If the dispute is not resolved by mediation within [***] after commencement of mediation, each party shall have the right to pursue any other remedies legally available to resolve the dispute, provided, however, that the parties expressly waive any right to a jury trial in any legal proceeding under this Article.

13.4 Performance to Continue. Each party shall continue to perform its undisputed obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement; provided, however, that a party may suspend performance of its undisputed obligations during any period in which the other party fails or refuses to perform its undisputed obligations. Nothing in this Article is intended to relieve COMPANY from its obligation to make undisputed payments pursuant to Articles 4 and 6 of this Agreement.

13.5 Statute of Limitations. The parties agree that all applicable statutes of limitation and time-based defenses (including, but not limited to, estoppel and laches) shall be tolled while the procedures set forth in Sections 13.3(a) are pending. The parties shall cooperate in taking any actions necessary to achieve this result.

14. MISCELLANEOUS.

14.1 Notice. Any notices required or permitted under this Agreement shall be in writing, shall specifically refer to this Agreement, and shall be sent by hand, recognized national overnight courier, registered or certified mail, postage prepaid, in each case return receipt requested or (except with respect to notice of termination) confirmed facsimile transmission or confirmed electronic mail, to the following addresses or facsimile numbers of the parties:

If to M.I.T.:

Massachusetts Institute of Technology
Technology Licensing Office, Room NE18-501
255 Main Street, Kendall Square
Cambridge, MA 02142-1601
Attention: Director
Tel: [***]
Fax: [***]

If to COMPANY: MBcure Ltd.
Science Part, Ness Ziona
7403635, Israel
Attention: Chief Business Officer
Tel: [***]
Fax: [***]

If, to COMPANY, notices regarding financial matters, including invoices:

Contact Name: Sigal Fattal, CFO
Department: Financial
Address:
Science Part, Ness Ziona,
7403635, Israel
Tel: [***]
Fax: [***]
Email: [***]

All notices under this Agreement shall be deemed effective upon receipt. A party may change its contact information immediately upon written notice to the other party in the manner provided in this Section.

14.2 Governing Law. This Agreement and all disputes arising out of or related to this Agreement, or the performance, enforcement, breach or termination hereof, and any remedies relating thereto, shall be construed, governed, interpreted and applied in accordance with the laws of the State of New York, U.S.A., without regard to conflict of laws principles, except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent shall have been granted. The state and federal courts having jurisdiction over the City of New York, New York, USA, provide the exclusive forum for any PATENT CHALLENGE and/or any court action between the parties relating to this Agreement. Each of the parties submits to the jurisdiction of such courts and waives any claim that such court lacks jurisdiction over it or its AFFILIATES or constitutes an inconvenient or improper forum.

14.3 Confidentiality.

14.3.1 M.I.T. shall keep confidential, not disclose to any third party and not use for any purpose other than monitoring COMPANY's performance under this Agreement all reports, notices, documents and information provided to M.I.T. by COMPANY under this Agreement; provided, however, that M.I.T. may include in its annual reports totals derived from information received from COMPANY (without attribution to COMPANY) that show revenues generated by the patents and patent applications licensed under this Agreement; and provided further that the non-disclosure and non-use obligations shall not apply to any information that (a) is or becomes part of the public domain other than by breach by M.I.T. of this Section 14.3.1, or (b) is required to be disclosed by M.I.T. pursuant to interrogatories, requests for information or documents, subpoena, civil investigative demand issued by a court or governmental agency of competent jurisdiction or as otherwise required by law (provided that, in such case, M.I.T. shall notify COMPANY promptly upon receipt thereof and give COMPANY sufficient advance notice to permit it to seek a protective order or other similar order with respect to such information). To the extent that it is reasonably necessary, M.I.T. may disclose information it is otherwise obligated under this Section 14.3.1 not to disclose to (i) its employees and consultants on a need-to-know basis and on condition that such employees abide by the obligations set forth in this Section 14.3.1 and (ii) in confidence, to lawyers, accountants and financial advisors.

14.3.2 Each party shall keep the terms of this Agreement confidential and not disclose them to third parties other than in confidence to its and its Affiliates' employees and consultants without the prior consent of the other party, except that (a) COMPANY may disclose this Agreement and/or the terms hereof in confidence to any bona fide prospective investor in or acquirer of COMPANY, or any bona fide prospective purchaser or licensee of a business or technology to which this Agreement pertains, (b) COMPANY shall have the right to disclose this Agreement as required by any securities laws or regulations or the regulations of any stock exchange, and (c) each party may disclose the existence of the relationship created by this Agreement without the disclosure of any financial details of this Agreement.

14.4 Force Majeure. Neither party will be responsible for delays resulting from causes beyond the reasonable control of such party, including without limitation fire, explosion, flood, war, strike, or riot, provided that the nonperforming party uses commercially reasonable efforts to avoid or remove such causes of nonperformance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed.

14.5 Amendment and Waiver. This Agreement may be amended, supplemented, or otherwise modified only by means of a written instrument signed by both parties. Any waiver of any rights or failure to act in a specific instance shall relate only to such instance and shall not be construed as an agreement to waive any rights or fail to act in any other instance, whether or not similar.

14.6 Severability. In the event that any provision of this Agreement shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any other provision of this Agreement, and the parties shall negotiate in good faith to modify the Agreement to preserve (to the extent possible) their original intent. If the parties fail to reach a modified agreement within [***] after the relevant provision is held invalid or unenforceable, then the dispute shall be resolved in accordance with the procedures set forth in Article 13. While the dispute is pending resolution, this Agreement shall be construed as if such provision were deleted by agreement of the parties.

14.7 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

14.8 Headings. All headings are for convenience only and shall not affect the meaning of any provision of this Agreement.

14.9 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements or understandings between the parties relating to its subject matter.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

The EFFECTIVE DATE of this Agreement is 25th April 2017.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

By: /s/ Lesley Millar-Nicholson
Name: Lesley Millar-Nicholson
Title: Director, Technology Licensing Office

MBCURE LTD.

By: /s/ Johnathan Solomon
Name: Johnathan Solomon
Title: CEO

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

By: /s/ Maria T. Zuber
Name: Maria T. Zuber
Title: Vice President for Research
E. A. Griswold Professor of Geophysics

APPENDIX A

List of Patent Applications and Patents

I. United States Patents and Applications

[***]

II. International (non-U.S.) Patents and Applications

APPENDIX B

List of Countries (excluding United States) for which
PATENT RIGHTS Applications Will Be Filed, Prosecuted and Maintained

[***]

EXHIBIT A

CONFLICT AVOIDANCE STATEMENT

Name: ______________________

Dept. or Lab.: ______________________

Company: ______________________

Address: ______________________

____

Licensed Technology: ______________________

Because of the M.I.T. license granted to the above company and my equity position with this company, I acknowledge the potential for a possible conflict of interest between the performance of research at M.I.T. and my contractual or other obligations to this company. Therefore, I will not:

1) use students at M.I.T. for research and development projects for the company;

2) restrict or delay access to information from my M.I.T. research;

3) take direct or indirect research support from the company in order to support my activities at M.I.T.; or

4) employ students at the company, except in accordance with Section 4.5.2, “Faculty and Students,” in the Policies and Procedures Guide.

In addition, in order to avoid the appearance of a conflict, I will attempt to differentiate clearly between the intellectual directions of my M.I.T. research and my contributions to the company. To that end, I will expressly inform my department head/laboratory director annually of the general nature of my activities on behalf of the company.

Signed: ______________________
Date: ______________________

Approved by: ______________________

Name (print): ______________________
(Dept. Head or Lab Dir)

***** “Equity” includes stock, options, warrants or other financial instruments convertible into stock, which are directly or indirectly controlled by the inventor.

Exhibit 10.7

Execution Copy

PURSUANT TO ITEM 601(B)(10) OF REGULATION S-K, CERTAIN PORTIONS OF THIS EXHIBIT HAVE BEEN REDACTED AND, WHERE APPLICABLE, HAVE BEEN MARKED "[***]," SUCH REDACTIONS ARE IMMATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

EXCLUSIVE PATENT LICENSE AGREEMENT

This License Agreement ("Agreement") is made as of the 15th of December, 2017 ("Effective Date"), by and among BiomX Ltd., a Israeli corporation, having its principal place of business at 2 Ilan Ramon St. Ness Tziona, Israel (the "Company"), Keio University, a university duly organized and existing under the laws of Japan, having its principal address at 2-15-45 Mita, Minato-ku, Tokyo 108-8345, Japan (the "University"), and JSR Corporation, a company duly organized and existing under the laws of Japan, having its principal place of business at 1-9-2, Higashi-Shimbashi, Minato-ku, Tokyo, 105-8640, Japan ("JSR"), each referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the University, by virtue of its role as an educational institution, carries out scientific research through its faculty, staff and students, and is committed to bringing the results of that research into widespread use;

WHEREAS, the University is the owner, by assignment from inventors, of valuable invention(s) entitled[***] (the "Technology");

WHEREAS, JSR has been granted by the University the exclusive license, with the right to sublicense, to use of the Technology;

WHEREAS, University, Yeda Research and Development Company Ltd. (the technology commercialization subsidiary of the Weizmann Institute of Science, "Yeda") and Company are joint owners of an invention entitled [***] developed using the Technology, and have filed a patent application with respect to such invention;

WHEREAS, the Company has represented to the University and JSR, to induce the University and JSR to enter into this Agreement, that the Company is dedicated to using commercially reasonable efforts (alone and/or through sublicensees) to develop, produce, manufacture, market, and sell Products (as later defined herein) and that it shall commit itself to a diligent program of exploiting the Patent Rights (as later defined herein) with respect to Products so that public utilization shall result therefrom; and

WHEREAS, the Company desires to be granted a license under the corresponding Patent Rights and an exclusive license under University's interest in the Joint Patent Rights (as defined below) within the License Field (as later defined herein).

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants set forth below, the parties hereto agree as follows:

1. CERTAIN DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings, unless the context requires otherwise.

1.1 "Affiliate" shall mean any legal entity (such as a corporation, partnership, or limited liability company) that is controlled by a Party. For the purposes of this definition, the term "control" means (a) beneficial ownership of at least fifty percent (50%) of the voting securities of a corporation or other business organization with voting securities or (b) a fifty percent (50%) or greater interest in the net assets or profits of a partnership or other business organization without voting securities.

1.2 "Commercially Reasonable Efforts" shall mean the efforts and resources comparable to those undertaken by a biopharmaceutical or biotechnology company of comparable size and resources as the Company relating to the development or commercialization of a similar product owned by such company, or to which such company has exclusive rights, with comparable market potential and at a similar stage in its lifecycle. All relevant factors, as measured by the facts and circumstances at the time such efforts are due, shall be taken into account, including, as applicable and without limitation, stage of development, efficacy and safety relative to competitive products in the marketplace, actual or anticipated Regulatory Approval labeling, the nature and extent of market exclusivity (including patent coverage, proprietary position and regulatory exclusivity), and the cost and time required for and likelihood of obtaining Regulatory Approval, but excluding from such consideration the obligation of the Company to make payments requirement to be made by the Company to JSR under this Agreement.

1.3 "Commencement" shall mean, with respect to a clinical trial, the first dosing of a patient with a Product in such clinical trial.

1.4 "Confidential Information" shall have the meaning set forth in **Appendix A**.

1.5 "Cover," "Covering" or "Covered" means, with respect to a product, technology, process or method, that, but for a license granted to a person under a Valid Claim of any patent under which such license is granted, the development, manufacture, commercialization and/or other use of such product or the practice of such technology, process or method, by such person would infringe such Valid Claim.

1.6 "Covered Molecule" means any Phage-Based Molecule that (a) cannot be manufactured, used, leased, or sold, in whole or in part, without infringing at least one then current Valid Claim of the Patent Rights and/or Joint Patent Rights and/or (b) is developed through the use of Materials transferred to Company by University or JSR, provided that such Materials are not available from other sources at the time of such transfer.

1.7 “Distributor” shall mean any third-party entity to whom the Company, an Affiliate of Company or a Sublicensee has granted, express or implied, the right to distribute any Product pursuant to Section 2.1(c)(ii).

1.8 “First Commercial Sale” shall mean the initial Sale anywhere in the applicable License Territory of a Product other than Excluded Transfers as defined in Section 1.16(d).

1.9 “Joint Invention” shall mean any patentable invention (i) for which (a) at least one inventor is an employee or a researcher of University and/or JSR and (b) at least one inventor is an employee of the Company or (ii) obtained from the use of the Materials delivered or transferred by the University or JSR to the Company, provided that such Materials are not available from other sources at the time of such use. The Parties should take reasonable methods and/or actions to prevent any person, other than a Personnel of a Party (“Third Person”) from being as an inventor of Joint Invention. For the avoidance of doubt, JSR and University understand that Professors Rotem Sorek and Eran Elinav of the Weizmann Institute of Science who are founders of the Company (the “WIS Founders”) consult the Company and may be inventors on Joint Inventions. In such case, the inventorship interests of the WIS Founders would be owned by Yeda and licensed to the Company in accordance with the Company’s agreement with Yeda. In case any Third Person, including the WIS Founders, is an inventor of the Joint Invention either because of the consulting of the WIS Founders or under some unavoidable situation, the Party who initiated the communication with a third party to which a Third Person belongs (“Responsible Party”) should cause such third party to accept all obligations with respect to the Joint Invention and/or Joint Patent Rights the Responsible Party owes hereunder as if such third party is the Responsible Party or in case of WIS Founders to have Yeda sign a letter agreement in a form substantially similar to the one attached hereto as Appendix B (if a Third Person does not belong to any entity, this sentence shall be read to replace “such third party” with “Third Person”). In addition if other Parties than the Responsible Party request the document to demonstrate such third party’s acceptance of the obligations hereunder, the Responsible Party shall submit such document satisfactory to other Parties without delay. “Personnel” of a Party means an employee, other researcher, consultant or contractor of a Party who is required to assign all of his/her/its rights in the Joint Invention to such Party.

1.10 “Joint Patent Rights” shall mean: (i) [***] (including any PCT and/or U.S. utility application claiming priority to such application) and the resulting patents; (ii) any foreign counterparts of the foregoing; (iii) any divisionals, continuations, continuation-in-part applications, continued prosecution applications, or any other application claiming priority to one or more of the patents applications and the resulting patents described in this Section 1.10 (i) or (ii); (iv) any patent or patent application claiming a Joint Invention; (v) any patents resulting from reissues, reexaminations, extensions, or restorations (and their relevant international equivalents) of any of the patent applications or patents described in this Section 1.10 (i), (ii), (iii) or (iv) .

1.11 “License Field” shall mean any therapeutic, wellness, nutritional and/or preventive use for humans and/or animals. For the avoidance of doubt, the field of diagnostic methods to identify the strains or to identify target indications is not included in the License Field.

1.12 "License Territory" shall mean anywhere in the world.

1.13 "Material Breach" shall mean a breach of this Agreement that is so dominant or pervasive so as to frustrate the purpose of the undertaking of this Agreement, which shall be evaluated based on: (a) the extent to which the non-breaching party will be deprived of the benefit which it reasonably expected from this Agreement; (b) the extent to which the non-breaching party can be adequately compensated for the part of the benefit of which it will be deprived due to such breach; (c) the extent to which the breaching party will suffer forfeiture; (d) the likelihood that the breaching party will cure its failure, taking account of all the circumstances including any reasonable assurances; and (e) the extent to which the behavior of the breaching party comports with standards of good faith and fair dealing.

1.14 "Materials" shall mean [***], which are owned by University and were provided by University to Company under the MTA prior to the Effective Date and are listed in Schedule A of Appendix C. In addition, during the [***] following the Effective Date, upon request from the Company, University will provide information of [***]. Such information shall include [***]. If Company informs University in writing that it wishes to include any such strain as Materials under this Agreement, such strain shall be added to Appendix C and shall be deemed added to this definition and University or JSR shall provide such strain to Company under the same terms of the MTA.

1.15 "MTA" means the material transfer agreement between Keio and the Company made and entered as of October 1st, 2016.

1.16 "Net Sales" shall be calculated as set forth in this Section 1.16.

(a) Subject to the conditions set forth below, "Net Sales" shall mean:

(i) the gross amount invoiced, or if no invoice is issued, the amount received, for any Sale of any Product by the Company or any Affiliates (a "Selling Person"), to a non-Affiliate of the Selling Person,

(ii) less the following deductions, in each case to the extent specifically related to the Product and taken by or granted by the Selling Person or otherwise paid by the Selling Person:

A. trade, cash, promotional and quantity discounts;

B. taxes on gross sales (such as excise, sales or use taxes or value added taxes) to the extent imposed upon and paid directly with respect to the sales price;

C. freight, transit insurance and other transportation that are invoiced in a manner that clearly specifies the charges applicable to the applicable Product(s);

D. amounts repaid or credits taken by reason of damaged goods, rejections, defects, expired dating, recalls, returns or because of retroactive price reductions;

E. charge back payments and rebates granted to (a) managed healthcare organizations, (b) federal, state and/or provincial and/or local governments or other agencies, (c) purchasers and reimbursers, or (d) trade customers, including wholesalers and chain and pharmacy buying groups; and

F. customs duties actually paid by the Selling Person,

(iii) and only when i) the Product contains an API (active pharmaceutical ingredient) other than Covered Molecule(s) and ii) the procurement cost of such single API exceeds 30 (thirty) percent of cost of goods for the Product, also less the deduction of such API's procurement cost.

(b) Specifically excluded from the definition of "Net Sales" are amounts attributable to any Sale of any Product between or among the Company and any Affiliate of Company.

(c) No deductions shall be made for any commissions paid to any individuals or for any costs or expenses of collections.

(d) The Company may accept any non-cash consideration for any Product only if (a) such transaction is with a non-Affiliate and (b) Net Sales relating to such transaction are calculated based on the cash amount charged to an independent third party for the Product during the same Reporting Period or, in the absence of such transaction, on the fair market value of the Product. Products provided by the Company and Affiliates free of charge or at cost, solely for research purposes, or solely for administration to patients enrolled in clinical trials, or distributed through a not-for-profit foundation at no charge to patients, or as free samples to promote additional Net Sales or for test marketing purposes, in amounts consistent with normal business practices of Company or its Affiliate, shall not be included in Net Sales (such provision of Products collectively referred to as "<u>Excluded Transfers</u>").

(e) Notwithstanding Section 1.16 (b) above, if any Product manufactured by the Company is used by the Company or any Affiliate as an end-user, such Product shall be deemed sold by the Company or the Affiliate and Net Sales of such Product shall be calculated based on the cash amount charged to an independent third party for the Product during the same Reporting Period or, in the absence of such transaction, on the fair market value of the Product.

(f) If a product is sold in any country in the form of a combination product containing (a) a product containing one or more Covered Molecule(s) and which may include other API(s), which product is or has been sold as a separate product ("Product A") on the one hand and (b) a product containing one or more other API(s) (i.e. API(s) not contained in Product A), which product is or has been sold as a separate product ("Product B") on the other hand, such product which is composed of Product A and Product B shall be referred to as a "Combination Product" under this Agreement. JSR and the Company agree to treat Combination Products as follows:

[***] If, in a specific country, the Product A or the Product B is not sold, an average market price for the Product A or the Product B, as the case may be, in such country shall be determined by good faith negotiation. In such a case, firstly Company will provide JSR with a written explanation for its proposal based upon the market price of Product A or Product B in other countries with respect to an average market price for the Product A or the Product B. If JSR disagrees with the market price attributed by Company, JSR will be entitled to notify Company in writing of such disagreement within [***] of receipt of such explanation. If JSR provides such written notice within such [***] period, the parties will resolve such disagreement in accordance with the procedure set forth in Appendix D.

1.17 "Patent Rights" shall mean:

(a) the patent applications listed on **Appendix E** and the resulting patents;

(b) any foreign counterparts

(c) any divisionals, continuations, continuation-in-part applications, continued prosecution applications, or any other application claiming priority to one or more of the patent applications listed in Section 1.17(a) or 1.17(b), and the resulting patents; and

(d) any other patent or patent application owned or controlled by University that claims Materials.

(e) any patents resulting from reissues, reexaminations, extensions, or restorations (and their relevant international equivalents) of the patents described in this Section 1.17(a), (b), (c) or (d) above.

1.18 "Phage-Based Molecule" shall mean any active ingredient that is bacterial-phage/s, bacterial-phage derived molecule/s or other molecule that has a motif or fragment of a bacteriophage or any protein that is encoded by a bacteriophage such as endolysin.

1.19 "Product" shall mean any product for use in the License Field that contains a Covered Molecule as an active ingredient.

1.20 "Reporting Period" shall mean each three-month period ending March 31, June 30, September 30 and December 31.

1.21 "Regulatory Approval" means, collectively with respect to a particular jurisdiction, all governmental approvals (including all pricing and reimbursement approvals practically required to launch in the country), product and/or establishment licenses, registrations or authorizations necessary for the manufacture, use, storage, import, export, transport, marketing and sale of a pharmaceutical product as a pharmaceutical in such jurisdiction. For the avoidance of doubt, if Regulatory Approval for a particular jurisdiction consists of multiple components (for example, approval of both the manufacturing process used to produce the drug in the facility where it is used and in addition approval of the safety and efficacy of the drug itself and permission to market it), the Regulatory Approval for such jurisdiction for purposes of this Agreement is not deemed to occur until the last component is approved.

1.22 "Royalty Term" means, on a Product-by-Product basis, the period commencing as of the date of First Commercial Sale of such Product in any country within the License Territory and ending upon the later of: (a) the date on which such Product ceases to be covered by any Valid Claim in the US, EU or Japan, or (b) five (5) years following the First Commercial Sale of such Product in the first country within the License Territory. For purposes of the Royalty Term, two Products with the same Covered Molecule will be deemed the same Product.

1.23 "Sell" (and "Sale" and "Sold" as the case may be) shall mean to sell or have sold, to lease or have leased, or otherwise to transfer or have transferred a Product for valuable consideration (in the form of cash or otherwise).

1.24 "Sublicense" shall mean a sublicense or any other right, license, privilege or immunity to any non-Affiliate third party, including any cross-licensing agreements, non-suit covenants and the like, under the rights granted in Section 2.1(a) and (b) to make, have made, use, have used, Sell or have Sold Products in accordance with Section 2.1(a)(iii). For clarity, any rights granted under Section 2.1(c) and (d) shall not be deemed a Sublicense.

1.25 "Sublicense Income" shall mean royalty and non-royalty consideration in any form received by the Company under Sublicense Agreements as consideration for the grant of Sublicenses. Sublicense Income shall include without limitation any license signing fee, license maintenance fee, distribution or joint marketing fee, and milestone payments; provided that Sublicense Income shall not include research and development funding, or reimbursement of patent-related expenses, or any consideration received for an equity interest in, extension of credit to, or other investment in the Company or its Affiliates.

1.26 "Sublicense Agreement" shall mean any agreement, covenant or contract in which the Company grants a Sublicense.

1.27 "Sublicensee" shall mean any person or entity granted a Sublicense. For purpose of this Agreement, a Distributor of a Product shall not be included in the definition of Sublicensee unless such Distributor (a) is granted any right to make, have made, use or have used Products in accordance with Section 2.1(a)(ii), or (b) has agreed to pay to the Company or Affiliate(s) royalties on such Distributor's sales of Products, in which case such Distributor shall be a Sublicensee for all purposes of this Agreement.

1.28 "Valid Claim" shall mean (a) any issued and unexpired claim of any Patent Right or Joint Patent Rights that has not been (i) permanently revoked, nor held unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction that is unappealable or unappealed in the time allowed for appeal, nor (ii) rendered unenforceable through disclaimer or otherwise, nor (iii) abandoned or lost through interference or opposition proceeding without any right of appeal or review(an "Issued Valid Claim"), or (b) any claim of a pending patent application of any Patent Right or Joint Patent Right that (i) has been asserted and continues to be prosecuted in good faith, and (ii) has not been abandoned or finally rejected without the possibility of appeal or re-filing, provided that such pending patent application, if issued, would be an Issued Valid Claim.

2. SUBLICENSE/LICENSE

2.1 Grant of Sublicense.

(a) Subject to the terms of this Agreement, including the limitations set forth in Section 2.3 below, JSR hereby grants to the Company:

(i) in the License Field in the License Territory, an exclusive, royalty-bearing, perpetual (subject to termination in accordance with this Agreement), sublicense under its rights in the Patent Rights, Joint Patent Rights, Joint Inventions and related know-how to research, develop, make, have made, use, sell, have sold, import and have imported Products;

(ii) a non-exclusive, world-wide, royalty-bearing, perpetual (subject to termination in accordance with this Agreement) sublicense under its rights in the Patent Rights to research, develop, make, have made, use, sell, have sold, import and have imported diagnostic products intended for use in conjunction with Products; and

(iii) the right to grant further sublicenses under the rights granted in Section 2.1(a)(i) and 2.1(a)(ii) to Sublicensees.

(b) The sublicenses granted to Company under Sections 2.1(a) and any licenses that may be granted by University in accordance with Section 2.7 (if any) include the right to have some or all of Company's rights under Section 2.1(a) or 2.7, as applicable, exercised or performed by one or more of Company's and/or any Sublicensees' Affiliates and/or contractors on Company's or Sublicensee's (as applicable) or its Affiliate's behalf only for Company's or Sublicensee's benefit without such right being deemed a Sublicense; provided, however, that:

(i) no such Affiliate or contractor shall be entitled to grant, directly or indirectly, to any third party any right of whatever nature under the rights granted in Section 2.1(a); and

(ii) any act or omission taken or made by an Affiliate or contractor of Company under this Agreement will be deemed an act or omission by Company under this Agreement.

(c) The sublicense granted in Section 2.1(a) above and any licenses that may be granted by University in accordance with Section 2.7 (if any) include:

(i) the right to grant to the final purchaser, user or consumer of Products the right to use such purchased Products within the License Field and License Territory; and

(ii) the right to grant a Distributor the right to Sell (but not to make, have made, use or have used) Products Sold to such Distributor by or on behalf of the Company, Affiliates and Sublicensees in a manner consistent with this Agreement.

(d) The sublicenses granted in Section 2.1(a) above and any licenses that may be granted by University in accordance with Section 2.7 (if any) include:

(i) the right to grant to the final purchaser, user or consumer of diagnostic products intended for use in conjunction with Products the right to use such diagnostic products; and

(ii) the right to grant a Distributor the right to Sell (but not to make, have made, use or have used) diagnostic products intended for use in conjunction with Products Sold to such Distributor by or on behalf of the Company, Affiliates and Sublicensees in a manner consistent with this Agreement.

2.2 Further Sublicenses. The Company shall have the right to grant sublicenses under the rights granted in Section 2.1 and Section 2.7 (if any) at its sole discretion provided that it is not in material breach of its material obligations set forth herein and it complies with the terms hereof. Each sublicense granted hereunder shall be consistent with and comply with all terms of this Agreement, and shall incorporate terms and conditions which Company reasonably believes are sufficient to enable the Company to comply with this Agreement. Any sublicense which is not in accordance with the forgoing provisions shall be null and void. Prior to or shortly following the signing of a Sublicense agreement, Company may request in writing that JSR confirm in writing that the relevant Sublicensee is an appropriate potential direct licensee (i.e. an entity that is capable of further developing and/or commercializing a Product that is the subject to the Sublicense) for purposes of Section 10.6.4. If Company provides such a request, JSR shall not unreasonably withhold or delay providing such confirmation. Copies of all Sublicense Agreements, including all amendments thereto, shall be provided to JSR within [***] of execution thereof with confidential information that is not relevant to JSR redacted. The Company may redact from such copies any information the Company or its sublicensee deems confidential that does not affect the obligations of the Company under this Agreement or JSR's or University's ability to monitor the Company's compliance with its payment obligations under this Agreement. University and JSR shall maintain such copies of Sublicense Agreements in strict confidence and use them solely for the purposes of monitoring JSR's and University's rights under this Agreement. The Company shall not sublicense the Patent Rights to a patent holding company or other similar non-operating entity that would not reasonably be expected to enable Company to fulfill the due diligence obligations set forth in Section 3.1.

2.3 Retained Rights; Requirements. The University and JSR retain the right to practice under the Patent Rights in the License Field in the License Territory solely for educational and non-commercial research purposes; provided that the University and JSR shall be prohibited from transferring any materials that are Covered by the Patent Rights to any third party, unless (a) as a condition to such transfer, such third party undertakes not to use such materials and not to allow others to use such materials in the License Field in the License Territory, without the Company's prior written consent or (b) such transfer is to a not-for-profit research institute and such research institute undertakes to use such materials solely for non-commercial, academic research purposes. Furthermore, this Agreement shall not be construed to grant any license or sublicense to the Company outside the License Field with respect to the Patent Rights. The University and JSR retain the full right under the Patent Rights outside the License Field or outside the License Territory. For the avoidance of doubt, any researcher of University and the same researcher who will move to non-commercial organization (i.e. another university or non-commercial research organization) and collaborators of his or her laboratory in the future may use Patent Rights and/or Joint Patent Rights only for educational and non-commercial research purposes.

2.4 Delivery of Materials. The Company acknowledges that it already received some Materials of the bacterial strains Covered by the Patent Rights from the University prior to the Effective Date under the MTA. JSR and the Company shall enter into a Material Transfer Agreement substantially in the form attached to this Agreement as Appendix C upon the execution of this License Agreement and whenever the Company receives new Material from JSR or University. For the avoidance of doubt, the Company may use the Materials received before the execution of this License Agreement for the purpose described in Appendix C after the execution of this License Agreement.

2.5 Treatment of the Joint Patent Rights. The Joint Patent Rights shall be jointly owned by a) the Company and b) the University and/or JSR, as the case may be. The University and JSR hereby consent (a) to the Company grant of sublicenses with respect to the Joint Inventions and Joint Patent Rights for use outside the License Field, freely without any payment to the University or JSR and (b) to Yeda's grant of an exclusive license to Company under Yeda's interest in the Joint Patent Rights. The Company hereby consents to the University's grant of sublicenses with respect to the Joint Inventions and Joint Patent Rights solely for use outside the License Field to JSR freely without any payment to the Company. The University hereby licenses its right under the Joint Patent Rights and to practice and use the Joint Inventions to JSR exclusively with the right to sublicense within the License Field, including the sublicenses granted to Company under this Agreement; and Company consents to University's license of its rights under the Joint Patent Rights and Joint Inventions as set forth in this sentence. JSR and University shall not license the right under such Joint Patent Right or the license to practice and use the Joint Inventions within the License Field to any third party except JSR (in case of University) and the Company (in case of JSR) and shall not practice the inventions claimed in the Joint Patent Right within the License Field, except for research purposes that do not involve administration to humans, during the term of this Agreement.

2.6 AMED Research Program; Requirements. The Company shall acknowledge that i) the University shall be responsible for the requirement of the Innovative Advanced Research and Development Support Project Unit Type of Japan titled “CREST” and “LEAP” under the Japanese version of Bayh-Dole provision and the obligation to report inventions to AMED, ii) the University must report created inventions, etc. obtained from AMED Research Program and the status of such rights to the government or funding agencies without delay and iii) this is a condition for patent rights to remain with the University. The Company agrees to cooperate in any action necessary for the University to meet its requirements stipulated in this Section 2.6 at the Company’s own cost and acknowledges that this License Agreement will be affected by the application of the Japanese version of Bayh-Dole provision.

2.7 License from the University.

If the license between JSR and the University with respect to the Patent Rights, the Joint Patent Rights, Joint Inventions and/or Materials is terminated due to any reason not attributable to the Company, then the University shall negotiate with the Company with respect to direct licenses from the University to the Company reasonably and in good faith and the University agrees to keep the same financial conditions in accordance with Section 4 hereunder, license scope and other rights in accordance with Section 2 hereunder and termination conditions in accordance with Section 10 hereunder in such direct licenses. Company and University shall make good faith diligent efforts to enter into such a direct license agreement within [***] from such termination. During such a good faith negotiation between the University and the Company up to[***] period from the termination of the license between JSR and the University, the Company shall have an exclusive license from University in the same license scope in accordance with Section 2 hereunder with the same financial terms in accordance with Section 4 hereunder and the Company owes the same obligations under Section 3 and 5 of this Agreement, provided, however, that the Company shall reimburse the University directly for all documented, out-of-pocket fees and costs, including attorney’s fees, incurred by the University relating to the filing, prosecution and maintenance of the Patent Rights, which have not been reimbursed by JSR or a third party, in each case within [***] from the University’s request. If the Company and the University does not reach the agreement within such [***] period, the Company shall have non-exclusive license in the same license scope in accordance with Section 2 hereunder, except for the exclusivity, with the same financial terms in accordance with Section 4 hereunder for additional [***] after initial [***] period of negotiation and the Company owes the same obligations under Section 3 and 5 of this Agreement, provided, however, that the Company shall reimburse the University directly for all documented, out-of-pocket fees and costs, including attorney’s fees, incurred by the University relating to the filing, prosecution and maintenance of the Patent Rights, which have not been reimbursed by JSR or a third party, in each case within [***] from the University’s request. For the avoidance of doubt, except as otherwise agreed between the University and the Company, the University will not succeed JSR’s legal status as a licensor under this Agreement, including, but not limited to, the terms in Section 7 and Section 9.

3. DUE DILIGENCE OBLIGATIONS

3.1 Diligence Requirements. The Company hereby represents that it accepts the license granted hereunder with a view towards developing Products and making Products available to the public. The Company, alone and/or through its Affiliates and/or Sublicensees, as applicable, shall use, Commercially Reasonable Efforts to develop and make available to the public Products in the License Territory in the License Field. If JSR believes that the Company has failed to fulfill its obligations under this Section 3.1, then JSR may notify Company of such failure in writing, which notification will include an explanation for JSR's belief. If Company does not respond to such notification within [***], JSR may treat such failure as a default and may terminate this Agreement and/or any license granted hereunder in accordance with Section 10.4. If Company reasonably believes that it has not failed to fulfill its obligations under this Section 3.1, it may provide JSR with a written explanation of the basis for its belief.

If Company provides a bona fide written explanation within [***] of the receipt of JSR's notice, JSR will not be entitled to terminate this Agreement nor any license granted hereunder in accordance with Section 10.4 without first undergoing the following process:

(a) If JSR does not accept the Company's explanation, JSR may request that the matter be escalated to the chief executive officers of JSR and the Company to discuss the matter and find a solution within [***] of JSR's request;

(b) If the chief executive officers of JSR and the Company cannot reach agreement within such [***] period, either party may initiate mediation upon written notice to the other party, in which case both parties shall be obligated to engage in a mediation proceeding. The mediation shall commence within [***] of such notice. The mediation shall be conducted by a single mediator in San Francisco, California and will be conducted in the English language. The party requesting mediation shall designate two (2) or more nominees for mediator in its notice. The other party may accept one of the nominees or may designate its own nominees by notice addressed to the Internal Chamber of Commerce in San Francisco, CA and copied to the requesting party. If within, [***] following the request for mediation, the parties have not selected a mutually acceptable mediator, a mediator shall be appointed by the International Chamber of Commerce according to its rules. The mediator shall attempt to facilitate a negotiated settlement of the dispute, but shall have no authority to impose any settlement terms on the parties. The expenses of the mediation shall be borne by Company, but each party shall be responsible for its own counsel fees and expenses. If JSR and Company are unable to reach a resolution of the matter, the dispute shall be resolved in accordance with Section 12.8.

3.2 Progress Reports. The Company shall, upon request of JSR received within [***], provide JSR with a report on the status of its commercial development efforts with respect to Products and its commercial efforts to make Products available to the public within [***] during the Term.

4. PAYMENTS AND ROYALTIES

4.1 License Issue Fee. Within [***] after the Effective Date, the Company shall pay to JSR ten thousand US dollars ($10,000).

4.2 Annual License Fee. Within [***] after the [***] anniversaries of the Effective Date, the Company shall pay to JSR fifteen thousand dollars ($15,000) and within [***] after each subsequent anniversary of the Effective Date during the Term, the Company shall pay to JSR twenty-five thousand US dollars ($25,000).

4.3 Milestone Payments. In addition to the payments set forth in Sections 4.1 and 4.2 above, the Company shall pay to JSR milestone payments, as follows:

Milestones	Amount Paid to JSR
[***]	[***]
[***]	[***]

The Parties acknowledge that for the purposes of milestone payments, two products that contain same Covered Molecule (e.g. they have different formulations) will be deemed the same Product. For the avoidance of doubt, the Parties acknowledge that all such milestones are to be paid only once regardless of whether achieved multiple times, by multiple entities. Milestone payments shall be paid to JSR within [***] following achievement of the applicable milestone.

4.4 Royalties.

(a) Royalties on Net Sales.

(i) Beginning with the First Commercial Sale in any country in the License Territory, the Company shall pay to JSR royalties based on the total annual Net Sales in the License Territory by the Company and its Affiliates on a Product-by-Product basis during the Royalty Term for such Product, in the amounts as follows:

Annual Net Sales in the Territory	Royalty Rate
[***]*	[***]
[***]*	[***]
[***]*	[***]

* [***].

(ii) The royalty rates set forth in Section 4.4(a)(i) are incremental or tiered rates, which apply only for the respective increment of annual Net Sales of a given Product described in the annual Net Sales column. Thus, once a total annual Net Sales figure with respect to such Product is achieved for a given year, the royalties owed on any lower tier portion of annual Net Sales are not adjusted up to the higher tier rate for such year. Furthermore, the obligation to pay royalties pursuant to Section 4.4(a)(i) is imposed only once with respect to the same unit of a Product, regardless of how many patents may Cover the Product.

(iii) All payments due to JSR under this Section 4.4(a) shall be due and payable by the Company within[***] for the relevant royalty on Net Sales, and shall be accompanied by a report as set forth in Section 5.2.. For the avoidance of doubt, if the manufacture, use, lease, or sale of any Product is Covered by more than one of the Patent Rights and/or Joint Patent Rights, multiple royalties shall not be due.

(b) Royalties on Sublicense Income.

(i) The Company shall pay to JSR a percentage of all Sublicense Income received by the Company or its Affiliates in accordance with the below schedule based on the amount spent by the Company on the development of the Product(s) that are covered by the applicable Sublicense Agreement before the execution of such Sublicense Agreement:

Amount Spent	**Percentage of Sublicense Income Paid to JSR**
[***]	[***]
[***]	[***]
[***]	[***]

(ii) All payments due to JSR under this Section 4.4(b) shall be due and payable by the Company within[***] in which the relevant Sublicense Income was received, and shall be accompanied by a report as set forth in Section 5.3. For the avoidance of doubt, if the manufacture, use, lease, or sale of any Product is Covered by more than one of the Patent Rights and/or Joint Patent Rights, multiple royalties shall not be due.

(c) If the Company enters into a license agreement with an unaffiliated third party for the license of intellectual property rights that are not specific to API(s) contained in Product B included in the Combination Product and that the Company believes, in its good faith judgment, are needed for the making, using or selling of the relevant Product with respect to which royalties are due on Net Sales or that may be subject to a sublicense agreement with respect to which royalties are due on Sublicense Income, the Company will be entitled to deduct up to [***] of any amounts paid under such license agreement with respect to such Products or Sublicense Income against amounts due for Net Sales or Sublicense Income described above, as applicable; provided that in no event shall any payments to JSR in any quarter be reduced by more than [***] of the amount otherwise due [***].

4.5 Form of Payment. All payments due under this Agreement shall be payable in United States dollars. Each payment shall reference this Agreement and identify the obligation under this Agreement that the payment satisfies. Conversion of foreign currency to U.S. dollars shall be made at the conversion rate existing in the United States, as reported in The Wall Street Journal, on the last working day of the applicable Reporting Period. Such payments shall be without deduction of exchange, collection or other charges. If Company is required to withhold any amounts payable hereunder to JSR due to the applicable laws of any country, such amount will be deducted from the payment to be made by Company and remitted to the appropriate taxing authority for the benefit of JSR. Company will withhold only such amounts as are required to be withheld by applicable law in the country from which payment is being made. Company shall submit to JSR originals of the remittance voucher and the official receipt evidencing the payment of the corresponding taxes with the applicable royalty report. Company will cooperate with JSR to provide such information and records as JSR may require in connection with any application by JSR to the tax authorities in any country, including attempt to obtain an exemption or a credit for any withholding tax paid in any country. All payments due under this Agreement shall be payable by wire transfer to a bank account to be designated by JSR. Bank fees shall be paid by the Company and shall not be deducted from any amount payable to JSR.

4.6 Payment to the University. The payment under this Section 4 represents all consideration that will be due for the rights granted to the Company (including under any rights owned or licensed by JSR) under this Agreement. JSR will be responsible for paying the University any amounts the University may be due on account of the rights granted to the Company through JSR, out of the amounts paid to JSR. When Section 2.7 shall apply, JSR and University shall promptly notify Company of such. Following Company's receipt of such notification, (a) all references in this Agreement to payments to JSR shall be changed to University, (b) Company shall make such payments to University instead of JSR and (c) JSR shall have no further right to receive such payments from Company.

5. REPORTS AND RECORDS

5.1 Diligence Reports. Within [***] following JSR's written request therefor, the Company shall report in writing to JSR on progress made toward the objectives set forth in Section 3.1 during such preceding [***] period, including, without limitation, progress on research and development, status of applications for Regulatory Approvals, manufacturing, marketing, and the number of sublicenses entered into; provided that JSR shall make such request not more frequently than [***] per calendar year.

5.2 Sales Reports. The Company shall deliver reports to JSR within [***] after the end of each Reporting Period, commencing with first Reporting Period in which there are Net Sales. Each report under this Section 5.2 shall contain at least the following information as may be pertinent to a royalty accounting hereunder for that Reporting Period:

(a) the number of Products Sold by the Company and/or its Affiliates in each country;

(b) the amounts, invoiced and received by the Company and/or its Affiliates for each Product, in each country, and total amount invoiced by the Company and/or its Affiliates or payments made (in cases where no invoice was issued) to the Company and/or its Affiliates for all Products;

(c) calculation of Net Sales for the applicable Reporting Period in each country, including an itemized listing of permitted offsets and deductions; and

(d) total royalties payable on Net Sales in U.S. dollars, together with any exchange rates used for conversion.

5.3 Sublicense Income Reports. The Company shall, along with delivering payment as set forth in Section 4.4(b), report to JSR within [***] of receipt the amount of all Sublicense Income received by the Company, and the Company's calculation of the amount due and paid to JSR from such income, including an itemized listing of the source of income comprising such consideration, and the name and address of each entity making such payments.

5.4 Deduction Report. If the Company enters into a license agreement pursuant to Subsection 4.4(c) and deducts the applicable amount from the payment due to JSR hereunder, the Company shall submit a report to JSR describing the calculation of such deduction in detail with the evidence of such payment for the applicable Reporting Period.

5.5 Audit Rights. The Company shall maintain, and shall cause each Affiliate and Sublicensee to maintain, complete and accurate records relating to the rights and obligations under this Agreement and any amounts payable to JSR in relation to this Agreement, which records shall contain sufficient information to permit JSR and its representatives to confirm the accuracy of any payments and reports delivered to JSR and compliance in all other respects with this Agreement. The Company shall retain and make available, and shall cause each Affiliate to retain and make available, such records for at least [***] following the end of the calendar year to which they pertain. During such period, JSR shall be entitled to have an independent certified public accounting firm that is acceptable to Company, such acceptance not to be unreasonably withheld or delayed, and upon at least [***] advance written notice, inspect during normal business hours, such records in order to verify any reports and payments made and/or compliance in other respects under this Agreement. Such accountants shall sign a customary confidentiality and non-use agreement and shall not be entitled to disclose to JSR or University any information obtained or generated in such audit other than other than information relating to the accuracy of reports and payments delivered under this Agreement. The parties shall reconcile any underpayment or overpayment within [***] after the accountant delivers the results of the audit. If any such examination conducted pursuant to the provisions of this Section 5.4 show an underreporting or underpayment of [***] in any payment due to JSR hereunder, the Company shall bear the full cost of such audit and shall remit any amounts due to JSR within [***] of receiving notice thereof from JSR. The Company shall include similar audit rights provisions in Sublicense Agreements, requiring Sublicensees to maintain records with respect to Products covered by such Sublicense and permitting Company to audit such Sublicensee's records. In addition, at JSR's request and expense, Company shall exercise its rights to audit any such Sublicensee. If any such audit requested by JSR reveals an underpayment of [***] in any payment due by such Sublicensee, the Company shall bear the cost of such audit.

6. PATENT PROSECUTION AND MAINTENANCE

6.1 Responsibility for Patent Prosecution. The Company and other joint owner(s) will prepare, file, prosecute, and maintain all of the Joint Patent Rights. The joint owner(s) and JSR (if JSR is not the joint owner), shall have reasonable opportunities to advise the Company and shall cooperate with the Company in filing, prosecution and maintenance of the Joint Patent Rights. The Company shall consult with the joint owner(s) and JSR (if JSR is not the joint owner) before taking any action that would have a material adverse impact on the scope of claims within the Joint Patent Rights. The Company shall furnish or instruct attorneys to furnish to the University and JSR copies of documents relevant to any such filing, prosecution or maintenance at least [***] prior to any anticipated actions and shall consider in good faith any revisions reasonably requested by the University and/or JSR with respect to such filings, provided that Company will retain final decision making authority. Payment of all out of pocket fees and costs, including attorney's fees, incurred by joint owner(s) relating to the filing, prosecution and maintenance of Joint Patent Rights shall be borne by the Company.

6.2 Patent Rights Prosecution. JSR shall furnish to the Company copies of documents relevant to any filing, prosecution or maintenance of Patent Rights licensed to the Company hereunder at least [***] prior to any anticipated actions. The Company may advise JSR and/or the University in selecting patent attorneys, suggesting countries where patent filings are made and whether pending claims are to be pursued.

7. INFRINGEMENT.

7.1 Notification of Infringement. Each Party agrees to provide written notice to the other Party promptly after becoming aware of any infringement of the Patent Rights and/or the Joint Patent Rights in the License Field.

7.2 Right to Prosecute Infringements.

(a) During the term of this Agreement, the Company may commence and prosecute at its own expense and in its name alone all actions for past and future infringements of the Patent Rights and/or the Joint Patent Right in the License Field ("Infringement Actions by the Company"), provided that the Company obtains JSR's prior written consent on each Infringement Action by the Company with respect to Patent Rights. JSR shall not withhold its consent on any Infringement Action by the Company without reasonable ground. For example, if participation of the University in an Infringement Action by the Company is required by the laws of the jurisdiction where such action is commenced, or requested by the Company, it shall be reasonable ground for JSR to withhold its consent on the Infringement Action by the Company. For clarity, Company will not be required to obtain JSR's or University's consent with respect to an Infringement Action by the Company relating to the Joint Patent Rights and shall have the sole right to commence such an Infringement Action by the Company. The total cost of any Infringement Action by the Company shall be borne by the Company and the Company shall keep any recovery or damages for past or future infringement obtained.

(b) If required by the laws of the jurisdiction where an Infringement Action by the Company is commenced, and to the extent reasonably available under such laws, i) JSR and the University shall cooperate the Company in giving the Company the legal status to commence the Infringement Action by the Company or ii) JSR shall cooperate with the Company in participating in an Infringement Action by the Company as a licensor at the Company's sole expense. The Company shall reimburse JSR and the University for all documented, out-of-pocket costs incurred by JSR and/or the University due to such cooperation. JSR or the University shall not have any obligation of cooperation in, or action relating to, any Infringement Action by the Company except as provided for in this Section 7.2(b) or in Section 7(a).

7.3 Declaratory Judgment Actions. In the event that a declaratory judgment action is brought against JSR, the University or the Company by a third party alleging invalidity, unenforceability, or non-infringement of the Patent Rights, JSR, at its option, shall have the right within [***] after commencement of such action to take over or cause the University to take over the sole defense of the action at JSR's expense. If JSR does not exercise this right, the Company may take over the sole defense of the action at the Company's sole expense. For clarity, no rights are granted under this Section 7.3 to JSR or University with respect to Joint Patent Rights.

7.4 Recovery. Any recovery obtained in an action brought by the Company under Sections 7.2 or 7.3 shall be distributed as follows: (a) each Party shall be reimbursed pari passu for any expenses incurred in the action from the proceeds of such action or settlement, (b) as to ordinary damages, such amount shall be treated as Net Sales, and the Company shall pay to JSR based upon such amount a reasonable approximation of the royalties and other amounts that the Company would have paid to JSR if the Company had sold the infringing products, processes and services rather than the infringer and (c) as to special or punitive damages, JSR shall receive [***] of such damages and the remaining [***] shall be retained by Company.

7.5 Cooperation. Subject to Section 7.2(b), each Party agrees to cooperate in any action under this Article which is controlled by the other Party, provided that the controlling Party reimburses the cooperating Party promptly for any costs and expenses incurred by the cooperating Party in connection with providing such assistance.

7.6 Right to Sublicense. So long as the Company remains the exclusive licensee of the Patent Rights and/or Joint Patent Rights in the License Field in the License Territory, the Company shall have the sole right to sublicense any alleged infringer in the License Field in the License Territory for use of the Patent Rights and/or Joint Patent Rights, as applicable, in accordance with the terms and conditions of this Agreement relating to Sublicense Agreements.

7.7 Confidentiality of Prosecution and Maintenance Information. The Company agrees to treat all information related to prosecution and maintenance of Patent Rights as Confidential Information in accordance with the provisions of **Appendix A.** JSR and University agree to treat all information related to prosecution and maintenance of Joint Patent Rights as Confidential Information of Company in accordance with the provisions of **Appendix A**.

8. INDEMNIFICATION

8.1 The Company shall indemnify, defend and hold harmless the University and JSR and their respective trustees, directors, officers, medical and professional staff, employees, and agents and their respective successors, heirs and assigns (the "Indemnitees"), against any liability, damage, loss or expense (including reasonable attorney's fees and expenses of litigation) (a "Loss") incurred by or imposed upon the Indemnitees or any one of them as a result of any third party claims, suits, actions, demands or judgments arising out of any theory of product liability (including, but not limited to, actions in the form of contract, tort, warranty, or strict liability) concerning any product, process or service made, used, or sold or performed pursuant to any right or license granted to Company pursuant to Sections 2.1 and 2.2 (including pursuant to any sublicenses granted by Company) under this Agreement ("Claim"); provided that the Company shall not have any liability for any Loss arising out of the willful misconduct or gross negligence of any Indemnitee.

8.2 If any Indemnitee receives notice of any Claim, such Indemnitee shall, as promptly as is reasonably possible, give Company notice of such Claim; provided, however, that failure to give such notice promptly shall only relieve Company of any indemnification obligation it may have hereunder to the extent such failure diminishes the ability of Company to respond to or to defend the Indemnitee against such Claim. The Company agrees, at its own expense, to provide attorneys reasonably acceptable to JSR and/or the University, as the case may be, to defend against any actions brought or filed against any Indemnitee with respect to the subject of indemnity contained herein, whether or not such actions are rightfully brought; provided, however, that any Indemnitee shall have the right to retain its own counsel, at the expense of the Company, if representation of such Indemnitee by counsel retained by the Company would be inappropriate because of conflict of interests of such Indemnitee and any other party represented by such counsel. The Company agrees to keep JSR and/or the University, as the case may be, informed of the progress in the defense and disposition of such claim and to consult with JSR and/or the University, as the case may be, prior to any proposed settlement.

8.3 This Section 8 shall survive expiration or termination of this Agreement.

9. REPRESENTATIONS

9.1. JSR hereby represents and warrants to the Company that:

(a) JSR has the full right, power, and authority to grant the rights and licenses granted herein;

(b) the Patent Rights licensed to the Company under this Agreement are, to JSR's knowledge at the time of execution of this Agreement, neither invalid nor unenforceable, in whole or in part, nor subject to a proceeding seeking to hold such Patent Rights invalid or unenforceable, in whole or in part;

(c) to JSR's knowledge at the time of execution of this Agreement, the practice of the Patent Rights licensed to the Company under this Agreement will not infringe any existing issued patent owned or possessed by any third party;

(d) there are no judgments or settlements against or owed by JSR, nor are there any pending or threatened claims or litigation, in each case relating to the Patent Rights licensed to the Company under this Agreement at the time of execution of this Agreement;

(e) to JSR's knowledge at the time of execution of this Agreement, no third party has infringed, misappropriated or violated, or is infringing, misappropriating or violating, the Patent Rights; and

(f) JSR is the sole licensee of the University under the Patent Rights and Joint Patent Rights in the License Field and is authorized to grant sublicenses to Company under its licenses to the Patent Rights and Joint Patent Rights in the License Field.

9.3 Nothing in this Agreement will be construed as:

(a) A representation or warranty by JSR or the University as to the patentability, validity, scope, or usefulness of the Patent Rights and/or the Joint Patent Rights;

(b) A representation or warranty by JSR or the University that anything made, used, sold, or otherwise disposed of under any license granted in this Agreement is or will be free from infringement of third-party patents or other proprietary rights, or other patents or other proprietary rights not included in the Patent Rights;

(c) An obligation to bring or prosecute actions or suits against third parties for patent infringement; or

(d) An obligation to furnish any know-how not provided in Patent Rights.

JSR AND THE UNVERSITY EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, PERTAINING TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PATENT RIGHTS, THE PRODUCTS, OR ANYTHING ELSE LICENSED, DISCLOSED, OR OTHERWISE PROVIDED TO THE COMPANY AND SUBLICENSEES UNDER THIS AGREEMENT. TOTAL LIABILITY OF THE UNIVERSITY UNDER THIS AGREEMENT IS LIMITED TO THE COSTS AND FEES PAID TO JSR UNDER THIS AGREEMENT AND EXCEPT FOR DAMAGES RESULTING FROM A BREACH OF ANY OF THE REPRESENTATIONS OR WARRANTIES IN THIS SECTION 9 OR A BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER 12.13, TOTAL LIABILITY OF JSR UNDER THIS AGREEMENT IS LIMITED TO THE COSTS AND FEES PAID TO JSR UNDER THIS AGREEMENT.

10. TERM AND TERMINATION

10.1 Term. The term of this Agreement ("Term") shall commence on the Effective Date and, unless this Agreement is terminated earlier in accordance with any of the other provisions of Section 10, shall remain in effect until the later of (a) the date on which all issued patents and filed patent applications within the Patent Rights and/or the Joint Patent Rights have expired, or been abandoned, withdrawn, rejected, revoked or invalidated, and (b) the expiration of the Royalty Term. Following the expiration of this Agreement pursuant to this Section 10.1 (and provided the Agreement has not been earlier terminated pursuant to any of the provisions of Sections 10.2 through 10.5), the licenses granted to Company under Section 2 shall remain in effect and shall become fully-paid up, royalty-free, perpetual and irrevocable.

10.2 Termination for Failure to Pay. If the Company fails to make any undisputed payment due hereunder, JSR shall have the right to terminate this Agreement upon [***] written notice, unless the Company makes such payments within said [***] notice period. If such payments are not made within such [***] period, JSR may immediately terminate this Agreement at the end of said [***] period.

10.3 Termination for Bankruptcy Related Events.

10.3.1 JSR shall have the right to terminate this Agreement immediately upon written notice to the Company with no further notice obligation or opportunity to cure if the Company: (a) shall make an general assignment for the benefit of creditors or (b) or shall have a bona fide petition in bankruptcy filed for or against it which petition is not dismissed within [***]. Notwithstanding the foregoing, in the event Company has entered into a settlement with its creditors or a bona fide petition in bankruptcy filed for or against it, and Company is otherwise meeting its obligations pursuant to this Agreement, JSR shall not be entitled to terminate this Agreement as contemplated under Section 10.3.1 during such period.

10.3.2 In case of termination due to bankruptcy related event of the Company, the Company agrees to offer to sell or license any interest in Joint Patent Rights of the Company to JSR prior to offering to any third party, provided that such Joint Patent Rights are not subject to a license or sublicense to a third party. The Company shall negotiate in good faith with JSR for a period of at least [***] prior to offering such sale or license of any interest in Joint Patent Rights of the Company to any third party. If the Company and JSR cannot agree on the terms for entering into purchase or license agreement after negotiation in good faith for a period of up to [***] ("Negotiation Period"), then the Company may offer to sell or license any interest in Joint Patent Rights of the Company to third parties; provided however, that for a period of [***] after the Negotiation Period, Company shall not sell or license such interest in the Joint Patent Rights of the Company to a third party on terms and conditions, when taken as a whole (including, without limitation, financial terms and the likelihood of that products will be developed under such rights in a timely manner), are less favorable to Company than those offered to JSR, without first offering such terms and conditions to JSR and providing JSR with [***] to accept such terms and conditions.

10.4 Termination for Non-Financial Default. If the Company breaches its obligations under this Agreement not otherwise covered by the provisions of Sections 10.2 and 10.3, and if such breach has not been cured within [***] after notice by JSR in writing of such breach, JSR may immediately terminate this Agreement, and/or any license granted hereunder in whole or in part, at the end of said [***] period. Notwithstanding the foregoing, JSR shall be entitled to terminate this Agreement in accordance with this Section 10.4 only if a breach by the Company is a Material Breach. For the avoidance of doubt, Company shall use reasonable efforts to cure any undisputed breach which could be cured within such [***] and JSR may claim its damages incurred by any breach by the Company even in case JSR shall not terminate this Agreement.

10.5 Termination by the Company. The Company shall have the right to terminate this Agreement by giving [***] advance written notice to JSR and upon such termination shall immediately cease all use and Sales of Products, subject to Section 10.7.

10.6 Effects of Termination of Agreement.

10.6.1 Upon termination of this Agreement or any of the licenses hereunder for any reason, final reports in accordance with Section 5 shall be submitted to JSR and all royalties and other payments accrued or due to JSR as of the termination date shall become immediately payable. In the case of termination in accordance with Section 10.2., 10.3. or 10.4, the Company shall cease, and shall cause Affiliates and Sublicensees to cease under any sublicense granted by the Company, all Sales and uses of Products covered by any Valid Claims, subject to Section 10.7.

10.6.2. The termination or expiration of this Agreement or any license granted hereunder shall not relieve the Company, Affiliates or Sublicensees of obligations arising before such termination or expiration. Upon termination of this Agreement, each of Company and University shall have the full right to practice and to grant licenses to third parties under its interest in Joint Patent Rights without any obligation to seek the consent of the other or to account for any profits made as a result of any such license.

10.6.3. If at the time of the termination of this Agreement more than one direct Sublicensee exists, upon notice by each Sublicensee to JSR or the University (as applicable) within [***] of the termination of this Agreement, so far as such Sublicensee of the Company continues to pay JSR i) the annual license fee, ii) the royalties (such royalties should be a) royalties on Net Sales by Sublicensee and its Affiliates as stipulated in sub-Section 4.4 (a) and b) royalties on Sublicense Income (as defined in Section 1.25, but with reference to amounts received by the Sublicensee and its Affiliates and not to Company and its Affiliates) received by such Sublicensee and its Affiliate in the percentages stipulated in sub-Section 4.4 (b) (based on the amount spent by such Sublicensee on the development of the Product(s) that are covered by the applicable further sublicense agreement before the execution of such sublicense agreement), in case of a further sublicense by such Sublicensee) under the same terms of this Agreement as if such Sublicensee were Company and iii) the milestone payments under the same terms of this Agreement [***] (i.e. if the Sublicensee were to meet a milestone described in Section 4.3, it would have to pay [***] set forth in Section 4.3 for such milestone), such Sublicensee may retain the same license scope it enjoys under this Agreement for the period up to [***], provided, however, that such Sublicensee owes the same obligations under Section 3 and Section 5 of this Agreement. Company and JSR shall make good faith diligent efforts to enter into such a direct license agreement within [***] from such termination. For the avoidance of doubt, the royalty in accordance with this sub-Section 10.6.3 should be calculated based upon global Sales of the same Product by all Sublicensees. During such [***] period, JSR and such Sublicensee shall have a good-faith, diligent and reasonable negotiation with respect to the terms of a direct license between JSR and such Sublicensee, including but not limited to, the financial conditions. The financial conditions of a new license agreement between JSR and such Sublicensee should be at least the same as the one under this Agreement however should not exceed financial conditions under the agreement between the Company and such Sublicensee.

10.6.4. If at the time of the termination of this Agreement only a single direct Sublicensee exists and such Sublicensee was confirmed by JSR as an appropriate potential direct licensee in accordance with Section 2.2 prior to or shortly following the time of execution of Sublicense Agreement between such Sublicensee and the Company, then JSR agrees to keep the same financial terms on [***]. JSR shall not unreasonably withhold or delay its confirmation, provided, however, that JSR shall have a commercially reasonable access to information which is necessary for JSR to make such confirmation. During a good faith negotiation for direct license between JSR and such Sublicensee up to [***] period from the termination of this Agreement, such Sublicensee shall have an exclusive license in the same license scope in accordance with Section 2 hereunder with the same financial terms in accordance with Section 4 as described above in this Section 10.6.4. If JSR and such Sublicensee do not reach the agreement within such [***] period, such Sublicensee shall have non-exclusive license in the same license scope in accordance with Section 2 hereunder, except for the exclusivity, with the same financial terms in accordance with Section 4 hereunder (as described above in this Section 10.6.4) so far as the Sublicensee continues to negotiate in good faith after the [***] period of negotiation. For the avoidance of doubt, except for the direct licenses described above during the negotiations period or as otherwise agreed between JSR and such Sublicensee, such Sublicensee will not automatically succeed the Company's legal status as a licensee under this Agreement.

10.7 Inventory. Upon early termination of this Agreement, the Company, Affiliates and Sublicensees may complete and Sell any work-in-progress and inventory of Products that exist as of the effective date of termination provided that (a) the Company pays to JSR the applicable running royalty or other amounts due on such Net Sales in accordance with the terms and conditions of this Agreement, and (b) the Company, Affiliates and Sublicensees shall use reasonable efforts to complete and Sell all work-in-progress and inventory of Products within [***] after the effective date of termination.

10.8 Results.

(a) If this Agreement is terminated by JSR pursuant to Section 10.2, 10.3 or 10.4 , or by the Company pursuant to Section 10.5, in each case prior to the grant of the first Sublicense to a pharmaceutical or biotechnology company for continued clinical development under this Agreement, upon the written request of JSR, to be provided within [***] of termination, the Company shall grant to JSR of a non-exclusive license to data and other results obtained by the Company in the clinical development and other activities under the rights granted in this Agreement as well as documents prepared for Regulatory Approvals (collectively, "Results") on commercially reasonable terms. If JSR provides such written request within such [***] period, the parties will enter into good faith, diligent efforts to agree on such terms. If the parties are unable to reach agreement on such terms within [***] of JSR's written request, the terms will be determined in accordance with procedure set forth in Appendix D.

(b) Provided that if JSR has reasonably determined that it is necessary for JSR or any Affiliate of JSR to have a license of any technology of a non-Affiliate third party in order to make, use or Sell the relevant Product, JSR shall thereafter be entitled to deduct [***] of the amount of the royalties paid to such third party by JSR or any Affiliate of JSR on Sales of such Products made using such technology from the payments due to Company under Section 10.8(b), provided that in no event shall the total of such deductions reduce the amounts payable to Company by more than [***] in any Reporting Period. For the purpose of this Section 10.8 only, the term "the Company" appearing in Section 1.16 (the definition of "Net Sales") is replaced by the term "JSR", and the term "JSR" appearing in Section 1.16 is replaced by the term "the Company".

11. COMPLIANCE WITH LAW

The Company shall have the sole obligation for compliance with, and shall ensure that any Affiliates comply with, all government statutes and regulations that relate to Products developed under this Agreement. The Company agrees that it shall be solely responsible towards JSR and University that any necessary licenses to export, re-export, or import Products developed under this Agreement are obtained. The Company shall indemnify and hold harmless the University and JSR, in accordance with Section 8, for any damages caused by any breach of the Company's obligations under this Section 11.

12. MISCELLANEOUS

12.1 Force Majeure. Neither Party will be responsible for delays resulting from causes beyond its reasonable control, including, without limitation, fire, explosion, flood, war, strike or riot; provided that the non-performing Party uses commercially reasonable efforts to avoid or remove such causes of non-performance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed.

12.2 Press Release. The parties will issue a joint press release in form and substance to be agreed upon by the parties in good faith.

12.3 Entire Agreement. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof.

12.4 Notices. Any notices, reports, waivers, correspondences or other communications required under or pertaining to this Agreement shall be in writing and shall be delivered by hand, or sent by a reputable overnight mail service (e.g., Federal Express), to the other party. Notices will be deemed effective (a) three (3) working days if sent by overnight mail, or (b) the same day if delivered by hand. Unless changed in writing in accordance with this Section 12.4, the notice address for JSR, the University and the Company shall be as follows:

If to JSR:	JSR Corporation 1-9-2, Higashi-Shimbashi Minato-ku, Tokyo, 105-8640, Japan Attention: Director, Intellectual Property Department [***]
If to the University	Keio University 2-15-45, Mita, Minato-ku, Tokyo Japan Attention: Office of Research Development and Sponsored Projects
If to the Company:	BiomX Ltd. Attention: CEO 7 Sapir St. P.O.Box 4044 Ness Ziona 7403630 Israel

Notwithstanding anything to the contrary, any notice related to termination of this Agreement shall be delivered by a reputable overnight mail service (e.g., Federal Express) or by first class mail (certified or registered).

12.5 Amendment; Waiver. This Agreement may be amended and any of its terms or conditions may be waived only by a written instrument executed by an authorized signatory of the Parties or, in the case of a waiver, by the Party waiving compliance. The failure of either Party at any time or times to require performance of any provision hereof shall in no manner affect its rights at a later time to enforce the same. No waiver by either Party of any condition or term shall be deemed as a further or continuing waiver of such condition or term or of any other condition or term.

12.6 Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the Parties hereto and their respective permitted successors and assigns.

12.7 Assignment. This Agreement may not be assigned by any of the Parties without the consent of the other Parties, which consent shall not be unreasonably withheld, except that each Party may, without such consent, assign this Agreement and the rights, obligations and interests of such Party to any of its Affiliates, to any purchaser of all or substantially all of its assets or research to which the subject matter of this Agreement relates, or to any successor corporation resulting from any merger or consolidation of such Party with or into such corporation; provided, in each case, that the assignee agrees in writing to be bound by the terms of this Agreement.

12.8 Governing Law and Arbitration. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of California, United States, excluding with respect to conflict of laws, except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent shall have been granted. Except with respect to actions seeking relief other than monetary compensation, any disputes, controversies or differences which may arise between the Parties out of or in relation to or in connection with this Agreement shall be finally settled by arbitration in Tokyo, Japan, in accordance with the Rules of the Arbitration of the International Chamber of Commerce. Any arbitration award granted shall be final and binding on the parties and shall not be subject to appeal and shall be enforceable in any court of competent jurisdiction. The language for the arbitration procedure shall be English and there shall be three arbitrators. Each Party shall nominate an arbitrator. The two party-appointed arbitrators shall then nominate the third and presiding arbitrator in consultation with the Parties.

12.9 Severability. If any provision(s) of this Agreement are or become invalid, are ruled illegal by any court of competent jurisdiction or are deemed unenforceable under then current applicable law from time to time in effect during the term hereof, it is the intention of the parties that the remainder of this Agreement shall not be affected thereby. It is further the intention of the parties that in lieu of each such provision which is invalid, illegal or unenforceable, there be substituted or added as part of this Agreement a provision which shall be as similar as possible in economic and business objectives as intended by the parties to such invalid, illegal or enforceable provision, but shall be valid, legal and enforceable.

12.10 Survival. In addition to any specific survival references in this Agreement, Sections 1, 8, 10, 12 and Appendix D shall survive termination or expiration of this Agreement. Any other rights, responsibilities, obligations, covenants and warranties which by their nature should survive this Agreement shall similarly survive and remain in effect.

12.11 Interpretation. The parties hereto are sophisticated, have had the opportunity to consult legal counsel with respect to this transaction and hereby waive any presumptions of any statutory or common law rule relating to the interpretation of contracts against the drafter.

12.12 Headings. All headings are for convenience only and shall not affect the meaning of any provision of this Agreement.

12.13 Confidentiality.

12.13.1 Beginning on the Effective Date of this Agreement and continuing throughout the term of this Agreement and thereafter for a period of [***], the Parties shall comply with confidentiality obligation in accordance with the provisions of **Appendix A** with respect to information disclosed by the parties in connection with this Agreement. Notwithstanding the forgoing JSR shall keep all information with respect to Sublicense Agreement and/or the reports submitted to JSR in accordance with Section 5 in confidence throughout the term of this Agreement and after the termination of this Agreement until such information falls within a public domain.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date first written above.

BIOMX Ltd.

BY: /s/ [***]
Name: [***]

TITLE: Chief Executive Officer

DATE: 24/12/17

Keio University

BY: /s/ [***]
Name: [***]

TITLE: President

DATE: 12/1/2018

JSR Corporation

BY: /s/ [***]
Name: [***]

TITLE: Representative Director and President

DATE: 2019/12/28

Appendix A

CONFIDENTIALITY TERMS AND CONDITIONS

1. Definition of Confidential Information. "Confidential Information" shall mean any information, including but not limited to data, techniques, protocols or results, or business, financial, commercial or technical information, disclosed by one Party ("Discloser" as applicable) to the other Party ("Recipient" as applicable) in connection with the Exclusive Patent License Agreement dated 15th of December, 2017 (the "License Agreement") and identified as confidential at the time of disclosure. JSR's Confidential Information shall also include all information disclosed by the University to the Company in connection with the License Agreement. Capitalized terms used in this Appendix that are not otherwise defined herein have the meanings ascribed in the License Agreement to which this Appendix is attached and made a part thereof.

2. Exclusions. "Confidential Information" under the License Agreement shall not include any information that (a) is or becomes publicly available through no wrongful act of Recipient or the Receiving Individuals (as defined below); (b) was known by Recipient prior to disclosure by Discloser without confidentiality obligation, as evidenced by tangible records; (c) becomes known to Recipient without restriction on disclosure from a third party having an apparent bona fide right to disclose it; (d) is independently developed or discovered by Recipient without use of Discloser's Confidential Information, as evidenced by tangible records. The obligations of confidentiality and non-use set forth in this Appendix A shall not apply with respect to any information that Recipient is required to disclose or produce pursuant to applicable law, court order or other valid legal process provided that Recipient promptly notifies Discloser prior to such required disclosure, discloses such information only to the extent so required and cooperates reasonably with Discloser's efforts to contest or limit the scope of such disclosure.

3. Permitted Purpose. Recipient shall have the right to, and agrees that it will, use Discloser's Confidential Information solely for exercising its rights and performing its obligations under the License Agreement (the "Purpose"), except as may be otherwise specified in a separate definitive written agreement negotiated and executed between the parties.

4. Restrictions. For the term of the License Agreement and a period of [***] thereafter, Recipient agrees that: (a) it will not use such Confidential Information for any purpose other than the Purpose; (b) it will not disclose such Confidential Information to any other person or entity except as expressly permitted hereunder; and (c) it will use reasonable efforts (but no less than the efforts used to protect its own confidential and/or proprietary information of a similar nature) (i) not to use such Confidential Information for any purpose other than the Purpose, and (ii) not to disclose such Confidential Information to any other person or entity except as expressly permitted hereunder. Recipient may, however, disclose Discloser's Confidential Information only on a need-to-know basis to its, its Affiliates', its contractors' and Sublicensees' employees, staff members, consultants and agents ("Receiving Individuals") who are directly participating in the Purpose and who are informed of and obligated to maintain the confidential nature of such information, provided Recipient shall be responsible for compliance by Receiving Individuals with the terms of the License Agreement and any breach thereof. This Section 4 shall survive termination or expiration of the License Agreement.

5. Right to Disclose. Discloser represents that to the best of its knowledge it has the right to disclose to Recipient all of Discloser's Confidential Information that will be disclosed hereunder.

6. Ownership. All Confidential Information disclosed pursuant to the License Agreement, including without limitation all written and tangible forms thereof, shall be and remain the property of Discloser. Upon termination of the License Agreement, if requested by Discloser, Recipient shall destroy all of Discloser's Confidential Information, provided that Recipient shall be entitled to keep one copy of such Confidential Information in a secure location solely for the purpose of determining Recipient's legal obligations hereunder.

7. No License. Nothing in this Appendix A or the License Agreement shall be construed as granting or conferring, expressly or impliedly, any rights by license or otherwise, under any patent, copyright, or other intellectual property rights owned or controlled by Discloser relating to Confidential Information, except as specifically set forth in the License Agreement or other written agreement.

8. Remedies. Each party acknowledges that any breach of this License Agreement by it may cause irreparable harm to the other party and that each party is entitled to seek injunctive relief and any other remedy available at law or in equity.

9. General. This Appendix A, along with the License Agreement, contain the entire understanding of the parties with respect to the subject matter hereof, and supersede any prior oral or written understandings between the parties relating to confidential treatment of information. Sections 1, 2, 4, 6, 7, 8 and 9 of this Appendix A shall survive any expiration or termination of the License Agreement.

Appendix B

[***]

Appendix C

MATERIAL TRANSFER AGREEMENT

THIS MATERIAL TRANSFER AGREEMENT (this "Agreement") is made and entered into effective as of 15th of December, 2017 by and between **JSR Corporation**, a Japanese corporation, having its principal place of business at 1-9-2, Higashi-Shimbashi, Minato-ku, Tokyo, 105-8640, Japan ("JSR") and BiomX Ltd., a Israeli corporation, having its principal place of business at 2 Ilan Ramon St. Ness Tziona, Israel ("Recipient"). Each of JSR and Recipient may be referred to herein individually as a '**Party**" or collectively as the "**Parties**".

In consideration of the mutual covenants and promises herein contained, JSR and Recipient agree as follows:

Article 1 TRANSFER OF MATERIAL.

Recipient acknowledges that it received from Keio University ("University") the following materials owned by University (including its progeny, propagations or derivatives if the material is DNA, cells, seeds or other propagative, proliferous material; collectively, the "Material") for the Purpose of Use (as defined in Article 2 hereof) use by Recipient in a research project, subject to the terms and conditions set forth in this Agreement.

[***]

Description of Material: Exhibited in Schedule A

[***]

[***]

Consideration: As provided for in the Exclusive Patent License Agreement dated 15th of December, 2017 between the Parties ("License Agreement")

Article 2 PURPOSE AND TERMS OF USE.

2.1 Subject to Recipient's continued compliance with the terms and conditions of this Agreement, JSR hereby grants to Recipient a non-exclusive license to use the Material during the term of this Agreement solely for the following purpose ("Purpose of Use") and under the following terms of use.

Purpose of Use: Research, development, manufacturing and commercialization of live bacterial cocktails for therapeutic or prophylactic use; all related activities (including, without limitation, determination of sequences of the Material or any strain therein); and such other uses contemplated in this Appendix B or the License Agreement or to support or exercise the rights granted to Recipient under the License Agreement.

Terms of Use: As set forth in this Appendix C or the License Agreement

2.2 Recipient may not use the Material for any purpose other than the Purpose of Use. Recipient may not disclose or transfer the Material to any third party other than Recipient's consultant, attorneys and/or agents who have agreed to abide by the terms of this Agreement without the prior written consent of JSR. Recipient shall be liable for any breach of such obligations by any such Recipient's consultant, attorneys and/or agents.

2.3 Recipient may not use any Material that constitutes DNA, cells or drugs, or any derivatives thereof, for research or testing in humans or in animals intended for human consumption.

2.4 Recipient shall use the Material in compliance with all Japanese and foreign laws, governmental regulations, guidelines that may be applicable to the transfer, use, handling, storage or disposition of the Material.

Article 3 RECIPIENT RESEARCHER; PLACE OF USE.

3.1 The Material shall be accessed and used only by the following person (the 'Recipient Researcher") and laboratory personnel under Recipient Researcher's immediate and direct supervision and control, and only at the following place ("Place of Use"). Recipient may change the Recipient Researcher and Place of Use subject to the prior written consent of JSR.

Recipient Researcher:

Place of Use : BiomX facilities

3.2 JSR may, in its sole discretion, provide Recipient with information regarding use, maintenance or control of the Material to the extent necessary to facilitate the Purpose of Use.

Article 4 CONSIDERATION; COST.

4.1 In consideration of JSR's transfer of the Material hereunder, Recipient shall pay to JSR the consideration set forth in**Article 1** plus any applicable consumption tax thereon. Recipient shall pay such consideration and consumption tax (if any) on or prior to the due date set forth in **Article 1** via wire transfer to the bank account as separately designated by JSR. Any and all costs incurred in connection with the wire transfer shall be borne by Recipient.

4.2 Any and all costs and expenses incurred in connection with the delivery, maintenance, repair, modification, return or any other use or disposal of the Material shall be borne by Recipient.

4.3 Any late payment hereunder shall bear interest of[***] per annum from the due date until JSR's receipt of full payment.

4.4 JSR will not be required to return any payment made hereunder for any reason whatsoever unless the Material is determined to be non-viable (i.e. is incapable of growth under the conditions set forth by JSR) and JSR is unable to provide a viable form of the Material.

Article 5 TITLE TO MATERIAL; NO TRANSFER OF RIGHTS.

Legal title and all other ownership interests in and to the Material shall at all times remain with JSR or University. The transfer of the Material under this Agreement shall not grant or be deemed to grant to Recipient any rights, title or interest in or to the Material other than those specifically set forth in this Agreement. Without limiting the generality of the foregoing, JSR does not, expressly or impliedly, grant to Recipient any license to any rights under or associated with (i) patents, utility models, designs, trademarks, copyrights or applications therefor, or any similar, corresponding or equivalent rights to any of the foregoing, anywhere in the world, or (ii) knowhow (collectively, " Intellectual Property Rights") in or to the Material as a result of the transfer of the Material hereunder.

Article 6 MODIFICATION.

Except to exercise its rights in the Purpose of Use, Recipient may not, without JSR's prior written consent, (i) modify the Material, whether or not such modification is necessary for the Purpose of Use, or (ii) reverse-engineer or otherwise attempt to determine the chemical structure or sequence of the Material.

Article 7 LOSS OR DAMAGE.

If Recipient loses or damages the Material, JSR may require Recipient to submit a report regarding the loss of or damage to the Material and including any information related thereto that JSR may request. In case such loss or damage is caused by disaster, fire or theft, Recipient shall attach to the report a certificate issued by a governmental authority or insurance company evidencing the loss of or damage to the Material.

Article 8 RETURN AND DISPOSAL OF MATERIAL.

Upon expiration or termination of this Agreement, Recipient shall, in accordance with JSR's instructions, return, destroy or otherwise dispose of the unused Material and used Material.

Article 9 RESEARCH RESULTS.

9.1 In consideration of the Material is transferred to Recipient under the License Agreement, Recipient agrees that any invention, discovery, improvement, development, or other technology developed, conceived or reduced to practice solely by Recipient in connection with the use of the Material (collectively, "Inventions") shall be jointly owned by Recipient and University. Recipient agrees that University shall include Inventions into the granted rights under License Agreement and shall grant to licensees and sublicensees the same license under Inventions in the License Agreement. For the avoidance of doubt, in the event that Recipient becomes sublicensee of the License Agreement, granted right to sublicensee shall include the same license under Inventions under the License Agreement.

Article 10 PUBLICATIONS.

Any publication of research results using the Material shall be subject to JSR's prior written consent as to the content, timing and manner of such publication. Recipient and Recipient Researcher shall, at the request of JSR, acknowledge JSR and/or University as the source of the Material in any such publication.

Article 11 NO WARRANTY.

JSR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE OWNERSHIP, NONINFRINGEMENT OF ANY MATERIAL OR ANY PATENT OR OTHER PROPRIETARY RIGHTS OF ANY PERSON, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE MATERIAL, OR THE ABSENCE OF LATENT OR OTHER DEFECTS IN THE MATERIAL, WHETHER OR NOT DISCOVERABLE.

Article 12 INDEMNIFICATION; LIABILITY LIMITS.

Recipient shall, at all times during the term of this Agreement and thereafter, indemnify, defend and hold JSR and University, its trustees, directors, officers, employees, agents and students, harmless against all claims, proceedings, demands and liabilities of any kind or nature whatsoever, including reasonable attorneys' fees and legal expenses, (i) arising out of the death of or injury to any person or persons or out of any damage to property, or resulting from the use, handling, storage or disposition of the Material, or (ii) arising out of or in connection with the performance or breach by Recipient of any obligation of Recipient or Recipient Researcher hereunder. In no event shall JSR or University be liable for any use of the Material by Recipient, the Recipient Researcher or its laboratory personnel, or for any loss, claim, damage or liability of any kind or nature, that may arise from or in connection with this Agreement or the use, handling, storage or disposition of the Material.

Article 13 CONFIDENTIALITY.

13.1 For the purposes of this Agreement, the term "Confidential Information" means any and all technical information furnished by one Party (the 'Disclosing Party") to the other Party (the "Receiving Party") that (i) is in electronic, written or other tangible form and clearly marked as "Confidential," or (ii) is disclosed orally or visually and designated as confidential at the time of the oral or visual disclosure and, further, within thirty days after the oral or visual disclosure, the summary of which is furnished to Receiving Party in writing clearly marked as "Confidential" and/or materials, including, but not limited to, the Material.

13.2 The term "Confidential Information" does not, however, include information that (i) is or becomes within the public domain through no act of the Receiving Party or its Representatives (as defined below) in breach of this Agreement; (ii) is already in the Receiving Party's possession without obligation of confidentiality at the time of disclosure and the Receiving Party; (iii) has been lawfully obtained by the Receiving Party from a third party having the right to make the disclosure who places no obligation of confidence upon the Receiving Party; or (iv) is independently developed by the Receiving Party without access to or use of the Confidential Information of the Disclosing Party.

13.3 The Receiving Party shall keep the Confidential Information confidential and shall not, without the Disclosing Party's prior written consent, disclose any Confidential Information in any manner whatsoever, in whole or in part, to any third party; provided, however, that the Receiving Party may disclose the Confidential Information or portions thereof to its directors, officers, employees, advisors and, in the case of JSR, University (collectively, "Representatives") (i) who need to know the Confidential Information for the purposes of this Agreement and (ii) who have been advised of by the Receiving Party and have agreed to maintain the confidential nature of the Confidential Information. The Receiving Party agrees to be responsible for any and all breaches of this **Article 13** by its Representatives.

13.4 The Receiving Party shall use any Confidential Information of the Disclosing Party solely for the purposes of this Agreement and shall not use, directly or indirectly, any Confidential Information in whole or in part for any other purpose whatsoever. The Receiving Party shall protect all Confidential Information with at least the same degree of care with which the Receiving Party would treat Confidential Information of its own.

13.5 In the event that the Receiving Party or any of its Representatives are requested pursuant to, or required by, applicable law, regulation or legal process to disclose any of the Confidential Information, the Receiving Party shall (unless prohibited by applicable law) immediately notify the Disclosing Party of the existence, terms and circumstances surrounding such request or requirement, and consult with the Disclosing Party on the advisability of taking legally available steps to resist or narrow the request. In the event that disclosure of any Confidential Information is legally required, the Receiving Party or its Representatives, as the case may be, shall furnish only that portion of the Confidential Information which is legally required and exercise all reasonable efforts to obtain reliable assurance that confidential treatment shall be accorded to such Information.

13.6 At any time upon the request of the Disclosing Party, the Receiving Party shall, at its own expense, promptly deliver to the Disclosing Party, or at the Disclosing Party's request, destroy, all copies of the Confidential Information (whether in written, electronic or other tangible format) in the Receiving Party's or its Representatives' possession that was delivered to the Receiving Party by the Disclosing Party. Notwithstanding the foregoing, the Receiving Party and its Representatives shall be permitted to retain Confidential Information that would be unreasonably burdensome to destroy (such as archived computer records) or to the extent required to comply with applicable law, rules and regulations, provided that any information so retained herein shall remain subject to the terms of this Agreement.

13.7 This **Article 13** will survive for five years after the termination of this Agreement.

Article 14 EXPORT CONTROL.

Recipient covenants that it will not disclose to JSR any information that contains information, technology or data of which use, export, release or transfer is subject to any governmental restriction or prohibitions, including the U.S. Export Administration Regulations, without JSR's prior written consent.

Article 15 TERM AND TERMINATION.

15.1 The term of this Agreement commences on the Effective Date of the License Agreement and continues in force and effect until a date of expiration or termination of the License Agreement, unless earlier terminated in accordance with this Agreement.

15.2 JSR may terminate this Agreement upon written notice to Recipient:

(i) if Recipient has breached any of its covenants or obligations contained in this Agreement, and such breach has not been cured within a period of thirty days after written notice of such breach from JSR;

(ii) in case of appointment of a trustee or receiver for all or any part of the assets of Recipient, insolvency, liquidation or dissolution of Recipient, filing of a petition in bankruptcy against or concerning Recipient, a general assignment by Recipient for the benefit of creditor(s), or suspension of payment or banking transactions by Recipient;

(iii) in case of any change in control of Recipient, consolidation or merger of Recipient with or into a third party, the sale of all or substantially all of Recipient's assets to a third party, in each case that would render it infeasible to continue this Agreement; or

(iv) in case of any other event that would render it infeasible to continue this Agreement.

15.3 Termination of this Agreement does not affect any of the Parties' respective rights accrued or obligations owed before termination, including the rights and obligations as to indemnification under **Article 12**.

15.4 **Article 5, Article 6, Articles 8** through **13, Article 15.4, Articles 16** through **18** shall survive expiration or termination of this Agreement unless otherwise provided in this Agreement.

Article 16 GOVERNING LAW.

This Agreement shall be governed in accordance with the laws of Japan, excluding with respect to conflict of laws, except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent shall have been granted.

Article 17 DISPUTE RESOLUTION.

Except with respect to actions seeking relief other than monetary compensation, any disputes, controversies or differences which may arise between the Parties out of or in relation to or in connection with this Agreement shall be finally settled by arbitration in Tokyo, Japan, in accordance with the Rules of the Arbitration of the International Chamber of Commerce. Any arbitration award granted shall be final and binding on the parties and shall not be subject to appeal and shall be enforceable in any court of competent jurisdiction. The language for the arbitration procedure shall be English and there shall be three arbitrators. Each Party shall nominate an arbitrator. The two party-appointed arbitrators shall then nominate the third and presiding arbitrator in consultation with the Parties.

Article 18 GENERAL.

18.1 Any notice or communication required or permitted to be given hereunder shall be given in writing and either by personal delivery, by facsimile, by registered or certified mail (with all postage and other charges prepaid) or by e-mail to the address shown below. Any notice delivered by personal delivery, facsimile or e-mail shall be deemed given and effective at the time of delivery. Any notice delivered by registered or certified mail shall be deemed given at the end of the tenth business day after it is posted.

[***] [***]

18.2 No provision of this Agreement may be waived, amended or modified, in whole or in part, nor any consent given, unless approved in writing by a duly authorized officer of the Parties hereto.

18.3 Neither Party may assign, transfer or grant a security interest in, in whole or in part, either this Agreement or any of its rights or interests hereunder, or delegate, in whole or in part, any of its obligations hereunder, without the prior written approval of the other Party.

18.4 This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes any, written or oral, understandings, proposals, or representations by and between the Parties.

18.5 In the event that any provision of this Agreement is deemed invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

18.6 The headings contained in this Agreement are inserted for convenience only and do not affect in any way the meaning or interpretation of this Agreement.

18.7 This Agreement may be executed and delivered in separate counterparts, including by facsimile or other electronic transmission, each of which, when so executed and delivered, shall be deemed to be an original, but such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in duplicate by their duly authorized representatives as of the date first above written.

JSR:	Recipient:
JSR Corporation	BiomX Ltd.
Name: [***] Title: Representative Director and President	Name: [***] Title: Chief Executive Officer

[***]

Appendix D
Determination of Attributed Value or License Terms

[***]

Appendix E

[***]

Exhibit 10.8

Execution Copy April 22,2019

PURSUANT TO ITEM 601(B)(10) OF REGULATION S-K, CERTAIN PORTIONS OF THIS EXHIBIT HAVE BEEN REDACTED AND, WHERE APPLICABLE, HAVE BEEN MARKED "[***]," SUCH REDACTIONS ARE IMMATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

EXCLUSIVE PATENT LICENSE AGREEMENT

This License Agreement ("Agreement") is made as of the April 22, 2019 ("Effective Date"), by and among BiomX Ltd., a Israeli corporation, having its principal place of business at 7 Sapir St. Ness Tziona, Israel (the "Company"), Keio University, a university duly organized and existing under the laws of Japan, having its principal address at 2-15-45 Mita, Minato-ku, Tokyo 108-8345, Japan (the "University"), and JSR Corporation, a company duly organized and existing under the laws of Japan, having its principal place of business at 1-9-2, Higashi-Shimbashi, Minato-ku, Tokyo, 105-8640, Japan ("JSR"), each referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the University, by virtue of its role as an educational institution, carries out scientific research through its faculty, staff and students, and is committed to bringing the results of that research into widespread use;

WHEREAS, the University is the owner, by assignment from inventors, of valuable invention(s) entitled[***] (the "Technology");

WHEREAS, JSR has been granted by the University the exclusive license, with the right to sublicense, to use of the Technology;

WHEREAS, Company and University have entered into a material transfer agreement (as defined below, the "MTA") pursuant to which University provided Company with certain bacterial strains included in the Technology; and

WHEREAS, Company is conducting activities to discover bacteriophage that are active against such bacterial strains;

WHEREAS, the Company has represented to the University and JSR, to induce the University and JSR to enter into this Agreement, that the Company is dedicated to using commercially reasonable efforts (alone and/or through sublicensees) to develop, produce, manufacture, market, and sell Products (as later defined herein) and that it shall commit itself to a diligent program of exploiting the Patent Rights (as later defined herein) with respect to Products so that public utilization shall result therefrom; and

WHEREAS, the Company desires to be granted a license under the corresponding Patent Rights and an exclusive license under University's interest in the Joint Patent Rights (as defined below) within the License Field (as later defined herein); and

WHEREAS, the parties have entered into discussions regarding a possible Collaborative Research Agreement (as defined below) pursuant to which Company would perform a research project with Dr. Takanori Kanai and members of his research team at University relating to the Technology.

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants set forth below, the parties hereto agree as follows:

1. CERTAIN DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings, unless the context requires otherwise.

1.1 "Affiliate" shall mean any legal entity (such as a corporation, partnership, or limited liability company) that is controlled by a Party. For the purposes of this definition, the term "control" means (a) beneficial ownership of at least fifty percent (50%) of the voting securities of a corporation or other business organization with voting securities or (b) a fifty percent (50%) or greater interest in the net assets or profits of a partnership or other business organization without voting securities.

1.2 "Collaborative Research Agreement" shall mean, if entered into between Company and University and acknowledged by JSR, the collaborative research agreement excluding any such agreement for the academic purpose, being discussed by the parties pursuant to which Company would perform a research project with Dr. Takanori Kanai and members of his research team at University relating to the Technology. If Company and University enter into the Collaborative Research Agreement, such agreement will reference this Agreement and will be added as Appendix F to this Agreement.

1.3. "Commercially Reasonable Efforts" shall mean the efforts and resources comparable to those undertaken by a biopharmaceutical or biotechnology company of comparable size and resources as the Company relating to the development or commercialization of a similar product owned by such company, or to which such company has exclusive rights, with comparable market potential and at a similar stage in its lifecycle. All relevant factors, as measured by the facts and circumstances at the time such efforts are due, shall be taken into account, including, as applicable and without limitation, stage of development, efficacy and safety relative to competitive products in the marketplace, actual or anticipated Regulatory Approval labeling, the nature and extent of market exclusivity (including patent coverage, proprietary position and regulatory exclusivity), and the cost and time required for and likelihood of obtaining Regulatory Approval, but excluding from such consideration the obligation of the Company to make payments requirement to be made by the Company to JSR under this Agreement.

1.4 "Commencement" shall mean, with respect to a clinical trial, the first dosing of a patient with a Product in such clinical trial.

1.4 "Confidential Information" shall have the meaning set forth in **Appendix A**.

1.5 "Cover," "Covering" or "Covered" means, with respect to a product, technology, process or method, that, but for a license granted to a person under a Valid Claim of any patent under which such license is granted, the development, manufacture, commercialization and/or other use of such product or the practice of such technology, process or method, by such person would infringe such Valid Claim.

1.6 "Covered Molecule" means any Phage-Based Molecule that (a) cannot be manufactured, used, leased, or sold, in whole or in part, without infringing at least one then current Valid Claim of the Patent Rights and/or Joint Patent Rights, (b) is developed through the use of Materials transferred to Company by University or JSR, provided that such Materials are not available from other sources at the time of such transfer, and/or (c) if the Collaborative Research Agreement is entered into, is developed through the use of Validated Material (as shall be defined in the Collaborative Research Agreement) and acknowledged and confirmed by JSR.

1.7 "Distributor" shall mean any third-party entity to whom the Company, an Affiliate of Company or a Sublicensee has granted, express or implied, the right to distribute any Product pursuant to Section 2.1(c)(ii).

1.8 "First Commercial Sale" shall mean the initial Sale anywhere in the applicable License Territory of a Product other than Excluded Transfers as defined in Section 1.16(d).

1.9 "Joint Invention" shall mean any patentable invention (i) for which (a) at least one inventor is an employee or a researcher of University and/or JSR and (b) at least one inventor is an employee of the Company or (ii) obtained from the use of the Materials delivered or transferred by the University or JSR to the Company including without limitation any Invention (as defined in the MTA), provided that such Materials are not available from other sources at the time of such use. In addition, if the Collaborative Research Agreement is entered into, Joint Invention shall include Validated Material IP (as shall be defined in the Collaborative Research Agreement and acknowledged and confirmed by JSR.) The Parties should take reasonable methods and/or actions to prevent any person, other than a Personnel of a Party ("Third Person") from being as an inventor of Joint Invention. For the avoidance of doubt, JSR and University understand that Professors Rotem Sorek and Eran Elinav of the Weizmann Institute of Science who are founders of the Company (the "WIS Founders") consult the Company and may be inventors on Joint Inventions. In such case, the inventorship interests of the WIS Founders would be owned by Yeda Research and Development Company Ltd. ("Yeda") and licensed to the Company in accordance with the Company's agreement with Yeda. In case any Third Person, including the WIS Founders, is an inventor of the Joint Invention either because of the consulting of the WIS Founders or under some unavoidable situation, the Party who initiated the communication with a third party to which a Third Person belongs ("Responsible Party") should cause such third party to accept all obligations with respect to the Joint Invention and/or Joint Patent Rights the Responsible Party owes hereunder as if such third party is the Responsible Party or in case of WIS Founders to have Yeda sign a letter agreement in a form substantially similar to the one attached hereto as Appendix B (if a Third Person does not belong to any entity, this sentence shall be read to replace "such third party" with "Third Person"). In addition if other Parties than the Responsible Party request the document to demonstrate such third party's acceptance of the obligations hereunder, the Responsible Party shall submit such document satisfactory to other Parties without delay. "Personnel" of a Party means an employee, other researcher, consultant or contractor of a Party who is required to assign all of his/her/its rights in the Joint Invention to such Party.

1.10 "Joint Patent Rights" shall mean (i) any patent or patent application claiming a Joint Invention; (ii) any patents resulting from reissues, reexaminations, extensions, or restorations (and their relevant international equivalents) of any of the patent applications or patents described in this Section 1.10 (i) . In addition, if the Collaborative Research Agreement is entered into, Patent Rights shall include Validated Material Patent Rights (as shall be defined in the Collaborative Research Agreement) and acknowledged and confirmed by JSR.

1.11 "License Field" shall mean any therapeutic, wellness, nutritional and/or preventive use for humans and/or animals. For the avoidance of doubt, the field of diagnostic methods to identify the strains or to identify target indications is not included in the License Field.

1.12 "License Territory" shall mean anywhere in the world.

1.13 "Material Breach" shall mean a breach of this Agreement that is so dominant or pervasive so as to frustrate the purpose of the undertaking of this Agreement, which shall be evaluated based on: (a) the extent to which the non-breaching party will be deprived of the benefit which it reasonably expected from this Agreement; (b) the extent to which the non-breaching party can be adequately compensated for the part of the benefit of which it will be deprived due to such breach; (c) the extent to which the breaching party will suffer forfeiture; (d) the likelihood that the breaching party will cure its failure, taking account of all the circumstances including any reasonable assurances; and (e) the extent to which the behavior of the breaching party comports with standards of good faith and fair dealing.

1.14 "Materials" shall mean [***], which are owned by University and were provided by University to Company under the MTA prior to the Effective Date and are listed in Schedule A of Appendix C. In addition, during the [***] following the Effective Date, upon request from the Company, University will provide information of [***]. Such information shall include [***]. If Company informs University in writing that it wishes to include any such strain as Materials under this Agreement, such strain shall be deemed added to this definition and University or JSR shall provide such strain to Company under the terms of the form MTA attached as Appendix C-1.

1.15 "MTA" means the material transfer agreement between Keio and the Company made and entered as of May 17th, 2018 and any material transfer entered into in accordance with Section 2.4.

1.16 "Net Sales" shall be calculated as set forth in this Section 1.16.

(a) Subject to the conditions set forth below, "Net Sales" shall mean:

(i) the gross amount invoiced, or if no invoice is issued, the amount received, for any Sale of any Product by the Company or any Affiliates (a "Selling Person"), to a non-Affiliate of the Selling Person,

(ii) less the following deductions, in each case to the extent specifically related to the Product and taken by or granted by the Selling Person or otherwise paid by the Selling Person:

A. trade, cash, promotional and quantity discounts;

B. taxes on gross sales (such as excise, sales or use taxes or value added taxes) to the extent imposed upon and paid directly with respect to the sales price;

C. freight, transit insurance and other transportation that are invoiced in a manner that clearly specifies the charges applicable to the applicable Product(s);

D. amounts repaid or credits taken by reason of damaged goods, rejections, defects, expired dating, recalls, returns or because of retroactive price reductions;

E. charge back payments and rebates granted to (a) managed healthcare organizations, (b) federal, state and/or provincial and/or local governments or other agencies, (c) purchasers and reimbursers, or (d) trade customers, including wholesalers and chain and pharmacy buying groups; and

F. customs duties actually paid by the Selling Person,

(iii) and only when i) the Product contains an API (active pharmaceutical ingredient) other than Covered Molecule(s) and ii) the procurement cost of such single API exceeds 30 (thirty) percent of cost of goods for the Product, also less the deduction of such API's procurement cost.

(b) Specifically excluded from the definition of "Net Sales" are amounts attributable to any Sale of any Product between or among the Company and any Affiliate of Company.

(c) No deductions shall be made for any commissions paid to any individuals or for any costs or expenses of collections.

(d) The Company may accept any non-cash consideration for any Product only if (i) such transaction is with a non-Affiliate and (ii) Net Sales relating to such transaction are calculated based on the cash amount charged to an independent third party for the Product during the same Reporting Period or, in the absence of such transaction, on the fair market value of the Product. Products provided by the Company and Affiliates free of charge or at cost, solely for research purposes, or solely for administration to patients enrolled in clinical trials, or distributed through a not-for-profit foundation at no charge to patients, or as free samples to promote additional Net Sales or for test marketing purposes, in amounts consistent with normal business practices of Company or its Affiliate, shall not be included in Net Sales (such provision of Products collectively referred to as "Excluded Transfers").

(e) Notwithstanding Section 1.16 (b) above, if any Product manufactured by the Company is used by the Company or any Affiliate as an end-user, such Product shall be deemed sold by the Company or the Affiliate and Net Sales of such Product shall be calculated based on the cash amount charged to an independent third party for the Product during the same Reporting Period or, in the absence of such transaction, on the fair market value of the Product.

(f) If a product is sold in any country in the form of a combination product containing (i) a product containing one or more Covered Molecule(s) and which may include other API(s), which product is or has been sold as a separate product ("Product A") on the one hand and (ii) a product containing one or more other API(s) (i.e. API(s) not contained in Product A), which product is or has been sold as a separate product ("Product B") on the other hand, such product which is composed of Product A and Product B shall be referred to as a "Combination Product" under this Agreement. JSR and the Company agree to treat Combination Products as follows:

[***] If, in a specific country, the Product A or the Product B is not sold, an average market price for the Product A or the Product B, as the case may be, in such country shall be determined by good faith negotiation. In such a case, firstly Company will provide JSR with a written explanation for its proposal based upon the market price of Product A or Product B in other countries with respect to an average market price for the Product A or the Product B. If JSR disagrees with the market price attributed by Company, JSR will be entitled to notify Company in writing of such disagreement within [***] of receipt of such explanation. If JSR provides such written notice within such [***] period, the parties will resolve such disagreement in accordance with the procedure set forth in Appendix D.

1.17 "Patent Rights" shall mean:

(a) the patent applications listed on **Appendix E** and the resulting patents;

(b) any foreign counterparts

(c) any divisionals, continuations, continuation-in-part applications, continued prosecution applications, or any other application claiming priority to one or more of the patent applications listed in Section 1.17(a) or 1.17(b), and the resulting patents; and

(d) any other patent or patent application owned or controlled by University that claims Materials.

(e) any patents resulting from reissues, reexaminations, extensions, or restorations (and their relevant international equivalents) of the patents described in this Section 1.17(a), (b), (c) or (d) above.

1.18 “Phage-Based Molecule” shall mean any active ingredient that is bacterial-phage/s, bacterial-phage derived molecule/s or other molecule that has a motif or fragment of a bacteriophage or any protein that is encoded by a bacteriophage such as endolysin.

1.19 “Product” shall mean any product for use in the License Field that contains a Covered Molecule as an active ingredient.

1.20 “Reporting Period” shall mean each three-month period ending March 31, June 30, September 30 and December 31.

1.21 “Regulatory Approval” means, collectively with respect to a particular jurisdiction, all governmental approvals (including all pricing and reimbursement approvals practically required to launch in the country), product and/or establishment licenses, registrations or authorizations necessary for the manufacture, use, storage, import, export, transport, marketing and sale of a pharmaceutical product as a pharmaceutical in such jurisdiction. For the avoidance of doubt, if Regulatory Approval for a particular jurisdiction consists of multiple components (for example, approval of both the manufacturing process used to produce the drug in the facility where it is used and in addition approval of the safety and efficacy of the drug itself and permission to market it), the Regulatory Approval for such jurisdiction for purposes of this Agreement is not deemed to occur until the last component is approved.

1.22 “Royalty Term” means, on a Product-by-Product basis, the period commencing as of the date of First Commercial Sale of such Product in any country within the License Territory and ending upon the later of: (a) the date on which such Product ceases to be covered by any Valid Claim in the US, EU or Japan, or (b) five (5) years following the First Commercial Sale of such Product in the first country within the License Territory. For purposes of the Royalty Term, two Products with the same Covered Molecule will be deemed the same Product.

1.23 “Sell” (and “Sale” and “Sold” as the case may be) shall mean to sell or have sold, to lease or have leased, or otherwise to transfer or have transferred a Product for valuable consideration (in the form of cash or otherwise).

1.24 “Sublicense” shall mean a sublicense or any other right, license, privilege or immunity to any non-Affiliate third party, including any cross-licensing agreements, non-suit covenants and the like, under the rights granted in Section 2.1(a) and (b) to make, have made, use, have used, Sell or have Sold Products in accordance with Section 2.1(a)(iii). For clarity, any rights granted under Section 2.1(c) and (d) shall not be deemed a Sublicense.

1.25 “Sublicense Income” shall mean royalty and non-royalty consideration in any form received by the Company under Sublicense Agreements as consideration for the grant of Sublicenses. Sublicense Income shall include without limitation any license signing fee, license maintenance fee, distribution or joint marketing fee, and milestone payments; provided that Sublicense Income shall not include research and development funding, or reimbursement of patent-related expenses, or any consideration received for an equity interest in, extension of credit to, or other investment in the Company or its Affiliates.

1.26 “Sublicense Agreement” shall mean any agreement, covenant or contract in which the Company grants a Sublicense.

1.27 “Sublicensee” shall mean any person or entity granted a Sublicense. For purpose of this Agreement, a Distributor of a Product shall not be included in the definition of Sublicensee unless such Distributor (a) is granted any right to make, have made, use or have used Products in accordance with Section 2.1(a)(ii), or (b) has agreed to pay to the Company or Affiliate(s) royalties on such Distributor’s sales of Products, in which case such Distributor shall be a Sublicensee for all purposes of this Agreement.

1.28 “Valid Claim” shall mean (a) any issued and unexpired claim of any Patent Right or Joint Patent Rights that has not been (i) permanently revoked, nor held unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction that is unappealable or unappealed in the time allowed for appeal, nor (ii) rendered unenforceable through disclaimer or otherwise, nor (iii) abandoned or lost through interference or opposition proceeding without any right of appeal or review(an “Issued Valid Claim”), or (b) any claim of a pending patent application of any Patent Right or Joint Patent Right that (i) has been asserted and continues to be prosecuted in good faith, and (ii) has not been abandoned or finally rejected without the possibility of appeal or re-filing, provided that such pending patent application, if issued, would be an Issued Valid Claim.

2. SUBLICENSE/LICENSE

2.1 Grant of Sublicense.

(a) Subject to the terms of this Agreement, including the limitations set forth in Section 2.3 below, JSR hereby grants to the Company:

(i) in the License Field in the License Territory, an exclusive, royalty-bearing, perpetual (subject to termination in accordance with this Agreement), sublicense under its rights in the Patent Rights, Joint Patent Rights, Joint Inventions and related know-how to research, develop, make, have made, use, sell, have sold, import and have imported Products;

(ii) a non-exclusive, world-wide, royalty-bearing, perpetual (subject to termination in accordance with this Agreement) sublicense under its rights in the Patent Rights to research, develop, make, have made, use, sell, have sold, import and have imported diagnostic products intended for use in conjunction with Products; and

(iii) the right to grant further sublicenses under the rights granted in Section 2.1(a)(i) and 2.1(a)(ii) to Sublicensees.

(b) The sublicenses granted to Company under Sections 2.1(a) and any licenses that may be granted by University in accordance with Section 2.7 (if any) include the right to have some or all of Company's rights under Section 2.1(a) or 2.7, as applicable, exercised or performed by one or more of Company's and/or any Sublicensees' Affiliates and/or contractors on Company's or Sublicensee's (as applicable) or its Affiliate's behalf only for Company's or Sublicensee's benefit without such right being deemed a Sublicense; provided, however, that:

(i) no such Affiliate or contractor shall be entitled to grant, directly or indirectly, to any third party any right of whatever nature under the rights granted in Section 2.1(a); and

(ii) any act or omission taken or made by an Affiliate or contractor of Company under this Agreement will be deemed an act or omission by Company under this Agreement.

(c) The sublicense granted in Section 2.1(a) above and any licenses that may be granted by University in accordance with Section 2.7 (if any) include:

(i) the right to grant to the final purchaser, user or consumer of Products the right to use such purchased Products within the License Field and License Territory; and

(ii) the right to grant a Distributor the right to Sell (but not to make, have made, use or have used) Products Sold to such Distributor by or on behalf of the Company, Affiliates and Sublicensees in a manner consistent with this Agreement.

(d) The sublicenses granted in Section 2.1(a) above and any licenses that may be granted by University in accordance with Section 2.7 (if any) include:

(i) the right to grant to the final purchaser, user or consumer of diagnostic products intended for use in conjunction with Products the right to use such diagnostic products; and

(ii) the right to grant a Distributor the right to Sell (but not to make, have made, use or have used) diagnostic products intended for use in conjunction with Products Sold to such Distributor by or on behalf of the Company, Affiliates and Sublicensees in a manner consistent with this Agreement.

2.2 Further Sublicenses. The Company shall have the right to grant sublicenses under the rights granted in Section 2.1 and Section 2.7 (if any) at its sole discretion provided that it is not in material breach of its material obligations set forth herein and it complies with the terms hereof. Each sublicense granted hereunder shall be consistent with and comply with all terms of this Agreement, and shall incorporate terms and conditions which Company reasonably believes are sufficient to enable the Company to comply with this Agreement. Any sublicense which is not in accordance with the forgoing provisions shall be null and void. Prior to or shortly following the signing of a Sublicense agreement, Company may request in writing that JSR confirm in writing that the relevant Sublicensee is an appropriate potential direct licensee (i.e. an entity that is capable of further developing and/or commercializing a Product that is the subject to the Sublicense) for purposes of Section 10.6.4. If Company provides such a request, JSR shall not unreasonably withhold or delay providing such confirmation. Copies of all Sublicense Agreements, including all amendments thereto, shall be provided to JSR within [***] of execution thereof with confidential information that is not relevant to JSR redacted. The Company may redact from such copies any information the Company or its sublicensee deems confidential that does not affect the obligations of the Company under this Agreement or JSR's or University's ability to monitor the Company's compliance with its payment obligations under this Agreement. University and JSR shall maintain such copies of Sublicense Agreements in strict confidence and use them solely for the purposes of monitoring JSR's and University's rights under this Agreement. The Company shall not sublicense the Patent Rights to a patent holding company or other similar non-operating entity that would not reasonably be expected to enable Company to fulfill the due diligence obligations set forth in Section 3.1.

2.3 Retained Rights; Requirements. The University and JSR retain the right to practice under the Patent Rights in the License Field in the License Territory solely for educational and non-commercial research purposes; provided that the University and JSR shall be prohibited from transferring any materials that are Covered by the Patent Rights to any third party, unless (a) as a condition to such transfer, such third party undertakes not to use such materials and not to allow others to use such materials in the License Field in the License Territory, without the Company's prior written consent or (b) such transfer is to a not-for-profit research institute and such research institute undertakes to use such materials solely for non-commercial, academic research purposes. Furthermore, this Agreement shall not be construed to grant any license or sublicense to the Company outside the License Field with respect to the Patent Rights. The University and JSR retain the full right under the Patent Rights outside the License Field or outside the License Territory. For the avoidance of doubt, any researcher of University and the same researcher who will move to non-commercial organization (i.e. another university or non-commercial research organization) and collaborators of his or her laboratory in the future may use Patent Rights and/or Joint Patent Rights only for educational and non-commercial research purposes.

2.4 Delivery of Materials. The Company acknowledges that it already received some Materials of the bacterial strains Covered by the Patent Rights from the University prior to the Effective Date under the MTA. JSR and the Company shall enter into a Material Transfer Agreement substantially in the form attached to this Agreement as Appendix C-1 upon the execution of this License Agreement and whenever the Company receives new Material from JSR or University. For the avoidance of doubt, the Company may use the Materials received before the execution of this License Agreement for the purpose described in Appendix C-1 after the execution of this License Agreement. For clarity, any limitations on Company's use of Results and Inventions, as defined in the MTA, are superseded by any rights and licenses granted to Company under this Agreement. In the case of any inconsistency between the terms of this Agreement and the terms of an MTA, the terms of this Agreement shall prevail.

2.5 Treatment of the Joint Patent Rights. The Joint Patent Rights shall be jointly owned by a) the Company and b) the University and/or JSR, as the case may be. The University and JSR hereby consent (a) to the Company grant of sublicenses with respect to the Joint Inventions and Joint Patent Rights for use outside the License Field, freely without any payment to the University or JSR and (b) in the event either WIS Founder is an inventor on such Joint Patent Rights, to Yeda's grant of an exclusive license to Company under Yeda's interest in the Joint Patent Rights. The Company hereby consents to the University's grant of sublicenses with respect to the Joint Inventions and Joint Patent Rights solely for use outside the License Field to JSR freely without any payment to the Company. The University hereby licenses its right under the Joint Patent Rights and to practice and use the Joint Inventions to JSR exclusively with the right to sublicense within the License Field, including the sublicenses granted to Company under this Agreement; and Company consents to University's license of its rights under the Joint Patent Rights and Joint Inventions as set forth in this sentence. JSR and University shall not license the right under such Joint Patent Right or the license to practice and use the Joint Inventions within the License Field to any third party except JSR (in case of University) and the Company (in case of JSR) and shall not practice the inventions claimed in the Joint Patent Right within the License Field, except for research purposes that do not involve administration to humans, during the term of this Agreement.

2.6 AMED Research Program; Requirements. The Company shall acknowledge that i) the University shall be responsible for the requirement of the Innovative Advanced Research and Development Support Project Unit Type of Japan titled "CREST" under the Japanese version of Bayh-Dole provision and the obligation to report inventions to AMED, ii) the University must report created inventions, etc. obtained from AMED Research Program and the status of such rights to the government or funding agencies without delay and iii) this is a condition for patent rights to remain with the University. The Company agrees to cooperate in any action necessary for the University to meet its requirements stipulated in this Section 2.6 at the Company's own cost and acknowledges that this License Agreement will be affected by the application of the Japanese version of Bayh-Dole provision.

2.7 License from the University.

If the license between JSR and the University with respect to the Patent Rights, the Joint Patent Rights, Joint Inventions and/or Materials is terminated due to any reason not attributable to the Company, then the University shall negotiate with the Company with respect to direct licenses from the University to the Company reasonably and in good faith and the University agrees to keep the same financial conditions in accordance with Section 4 hereunder, license scope and other rights in accordance with Section 2 hereunder and termination conditions in accordance with Section 10 hereunder in such direct licenses. Company and University shall make good faith diligent efforts to enter into such a direct license agreement within [***] from such termination. During such a good faith negotiation between the University and the Company up to[***] period from the termination of the license between JSR and the University, the Company shall have an exclusive license from University in the same license scope in accordance with Section 2 hereunder with the same financial terms in accordance with Section 4 hereunder and the Company owes the same obligations under Section 3 and 5 of this Agreement, provided, however, that the Company shall reimburse the University directly for all documented, out-of-pocket fees and costs, including attorney's fees, incurred by the University relating to the filing, prosecution and maintenance of the Patent Rights, which have not been reimbursed by JSR or a third party, in each case within [***] from the University's request. If the Company and the University does not reach the agreement within such [***] period, the Company shall have non-exclusive license in the same license scope in accordance with Section 2 hereunder, except for the exclusivity, with the same financial terms in accordance with Section 4 hereunder for additional [***] after initial [***] period of negotiation and the Company owes the same obligations under Section 3 and 5 of this Agreement, provided, however, that the Company shall reimburse the University directly for all documented, out-of-pocket fees and costs, including attorney's fees, incurred by the University relating to the filing, prosecution and maintenance of the Patent Rights, which have not been reimbursed by JSR or a third party, in each case within [***] from the University's request. For the avoidance of doubt, except as otherwise agreed between the University and the Company, the University will not succeed JSR's legal status as a licensor under this Agreement, including, but not limited to, the terms in Section 7 and Section 9.

3. DUE DILIGENCE OBLIGATIONS

3.1 Diligence Requirements. The Company hereby represents that it accepts the license granted hereunder with a view towards developing Products and making Products available to the public. The Company, alone and/or through its Affiliates and/or Sublicensees, as applicable, shall use, Commercially Reasonable Efforts to develop and make available to the public Products in the License Territory in the License Field. If JSR believes that the Company has failed to fulfill its obligations under this Section 3.1, then JSR may notify Company of such failure in writing, which notification will include an explanation for JSR's belief. If Company does not respond to such notification within [***], JSR may treat such failure as a default and may terminate this Agreement and/or any license granted hereunder in accordance with Section 10.4. If Company reasonably believes that it has not failed to fulfill its obligations under this Section 3.1, it may provide JSR with a written explanation of the basis for its belief.

If Company provides a bona fide written explanation within [***] of the receipt of JSR's notice, JSR will not be entitled to terminate this Agreement nor any license granted hereunder in accordance with Section 10.4 without first undergoing the following process:

(a) If JSR does not accept the Company's explanation, JSR may request that the matter be escalated to the chief executive officers of JSR and the Company to discuss the matter and find a solution within [***] of JSR's request;

(b) If the chief executive officers of JSR and the Company cannot reach agreement within such [***] period, either party may initiate mediation upon written notice to the other party, in which case both parties shall be obligated to engage in a mediation proceeding. The mediation shall commence within [***] of such notice. The mediation shall be conducted by a single mediator in San Francisco, California and will be conducted in the English language. The party requesting mediation shall designate two (2) or more nominees for mediator in its notice. The other party may accept one of the nominees or may designate its own nominees by notice addressed to the Internal Chamber of Commerce in San Francisco, CA and copied to the requesting party. If within, [***] following the request for mediation, the parties have not selected a mutually acceptable mediator, a mediator shall be appointed by the International Chamber of Commerce according to its rules. The mediator shall attempt to facilitate a negotiated settlement of the dispute, but shall have no authority to impose any settlement terms on the parties. The expenses of the mediation shall be borne by Company, but each party shall be responsible for its own counsel fees and expenses. If JSR and Company are unable to reach a resolution of the matter, the dispute shall be resolved in accordance with Section 12.8.

3.2 Progress Reports. The Company shall, upon request of JSR received within [***], provide JSR with a report on the status of its commercial development efforts with respect to Products and its commercial efforts to make Products available to the public within [***] during the Term.

4. PAYMENTS AND ROYALTIES

4.1 License Issue Fee. Within [***] after the Effective Date, the Company shall pay to JSR Twenty thousand US dollars ($20,000).

4.2 Annual License Fee. Within [***] after the [***] anniversaries of the Effective Date, the Company shall pay to JSR fifteen thousand dollars ($15,000) and within [***] after each subsequent anniversary of the Effective Date during the Term, the Company shall pay to JSR twenty-five thousand US dollars ($25,000).

4.3 Milestone Payments. In addition to the payments set forth in Sections 4.1 and 4.2 above, the Company shall pay to JSR milestone payments, as follows:

Milestones	Amount Paid to JSR
[***]	[***]
[***]	[***]

The Parties acknowledge that for the purposes of milestone payments, two products that contain same Covered Molecule (e.g. they have different formulations) will be deemed the same Product. For the avoidance of doubt, the Parties acknowledge that all such milestones are to be paid only once regardless of whether achieved multiple times, by multiple entities. Milestone payments shall be paid to JSR within [***] following achievement of the applicable milestone.

4.4 Royalties.

(a) Royalties on Net Sales.

(i) Beginning with the First Commercial Sale in any country in the License Territory, the Company shall pay to JSR royalties based on the total annual Net Sales in the License Territory by the Company and its Affiliates on a Product-by-Product basis during the Royalty Term for such Product, in the amounts as follows:

Annual Net Sales in the Territory	Royalty Rate
[***]*	[***]
[***]*	[***]
[***]*	[***]

* [***].

(ii) The royalty rates set forth in Section 4.4(a)(i) are incremental or tiered rates, which apply only for the respective increment of annual Net Sales of a given Product described in the annual Net Sales column. Thus, once a total annual Net Sales figure with respect to such Product is achieved for a given year, the royalties owed on any lower tier portion of annual Net Sales are not adjusted up to the higher tier rate for such year. Furthermore, the obligation to pay royalties pursuant to Section 4.4(a)(i) is imposed only once with respect to the same unit of a Product, regardless of how many patents may Cover the Product.

(iii) All payments due to JSR under this Section 4.4(a) shall be due and payable by the Company [***] for the relevant royalty on Net Sales, and shall be accompanied by a report as set forth in Section 5.2.. For the avoidance of doubt, if the manufacture, use, lease, or sale of any Product is Covered by more than one of the Patent Rights and/or Joint Patent Rights, multiple royalties shall not be due.

(b) Royalties on Sublicense Income.

(i) The Company shall pay to JSR a percentage of all Sublicense Income received by the Company or its Affiliates in accordance with the below schedule based on the amount spent by the Company on the development of the Product(s) that are covered by the applicable Sublicense Agreement before the execution of such Sublicense Agreement:

Amount Spent	Percentage of Sublicense Income Paid to JSR
[***]	[***]
[***]	[***]
[***]	[***]

(ii) All payments due to JSR under this Section 4.4(b) shall be due and payable by the Company within[***] in which the relevant Sublicense Income was received, and shall be accompanied by a report as set forth in Section 5.3. For the avoidance of doubt, if the manufacture, use, lease, or sale of any Product is Covered by more than one of the Patent Rights and/or Joint Patent Rights, multiple royalties shall not be due.

(c) If the Company enters into a license agreement with an unaffiliated third party for the license of intellectual property rights that are not specific to API(s) contained in Product B included in the Combination Product and that the Company believes, in its good faith judgment, are needed for the making, using or selling of the relevant Product with respect to which royalties are due on Net Sales or that may be subject to a sublicense agreement with respect to which royalties are due on Sublicense Income, the Company will be entitled to deduct up to [***] of any amounts paid under such license agreement with respect to such Products or Sublicense Income against amounts due for Net Sales or Sublicense Income described above, as applicable; provided that in no event shall any payments to JSR in any quarter be reduced by more than [***] of the amount otherwise due[***].

4.5 Form of Payment. All payments due under this Agreement shall be payable in United States dollars. Each payment shall reference this Agreement and identify the obligation under this Agreement that the payment satisfies. Conversion of foreign currency to U.S. dollars shall be made at the conversion rate existing in the United States, as reported in The Wall Street Journal, on the last working day of the applicable Reporting Period. Such payments shall be without deduction of exchange, collection or other charges. If Company is required to withhold any amounts payable hereunder to JSR due to the applicable laws of any country, such amount will be deducted from the payment to be made by Company and remitted to the appropriate taxing authority for the benefit of JSR. Company will withhold only such amounts as are required to be withheld by applicable law in the country from which payment is being made. Company shall submit to JSR originals of the remittance voucher and the official receipt evidencing the payment of the corresponding taxes with the applicable royalty report. Company will cooperate with JSR to provide such information and records as JSR may require in connection with any application by JSR to the tax authorities in any country, including attempt to obtain an exemption or a credit for any withholding tax paid in any country. All payments due under this Agreement shall be payable by wire transfer to a bank account to be designated by JSR. Bank fees shall be paid by the Company and shall not be deducted from any amount payable to JSR.

4.6 Payment to the University. The payment under this Section 4 represents all consideration that will be due for the rights granted to the Company (including under any rights owned or licensed by JSR) under this Agreement. JSR will be responsible for paying the University any amounts the University may be due on account of the rights granted to the Company through JSR, out of the amounts paid to JSR. When Section 2.7 shall apply, JSR and University shall promptly notify Company of such. Following Company's receipt of such notification, (a) all references in this Agreement to payments to JSR shall be changed to University, (b) Company shall make such payments to University instead of JSR and (c) JSR shall have no further right to receive such payments from Company.

5. REPORTS AND RECORDS

5.1 Diligence Reports. Within [***] following JSR's written request therefor, the Company shall report in writing to JSR on progress made toward the objectives set forth in Section 3.1 during such preceding [***] period, including, without limitation, progress on research and development, status of applications for Regulatory Approvals, manufacturing, marketing, and the number of sublicenses entered into; provided that JSR shall make such request not more frequently than [***] per calendar year.

5.2 Sales Reports. The Company shall deliver reports to JSR within [***] after the end of each Reporting Period, commencing with first Reporting Period in which there are Net Sales. Each report under this Section 5.2 shall contain at least the following information as may be pertinent to a royalty accounting hereunder for that Reporting Period:

(a) the number of Products Sold by the Company and/or its Affiliates in each country;

(b) the amounts, invoiced and received by the Company and/or its Affiliates for each Product, in each country, and total amount invoiced by the Company and/or its Affiliates or payments made (in cases where no invoice was issued) to the Company and/or its Affiliates for all Products;

(c) calculation of Net Sales for the applicable Reporting Period in each country, including an itemized listing of permitted offsets and deductions; and

(d) total royalties payable on Net Sales in U.S. dollars, together with any exchange rates used for conversion.

5.3 Sublicense Income Reports. The Company shall, along with delivering payment as set forth in Section 4.4(b), report to JSR within [***] of receipt the amount of all Sublicense Income received by the Company, and the Company's calculation of the amount due and paid to JSR from such income, including an itemized listing of the source of income comprising such consideration, and the name and address of each entity making such payments.

5.4 Deduction Report. If the Company enters into a license agreement pursuant to Subsection 4.4(c) and deducts the applicable amount from the payment due to JSR hereunder, the Company shall submit a report to JSR describing the calculation of such deduction in detail with the evidence of such payment for the applicable Reporting Period.

5.5 Audit Rights. The Company shall maintain, and shall cause each Affiliate and Sublicensee to maintain, complete and accurate records relating to the rights and obligations under this Agreement and any amounts payable to JSR in relation to this Agreement, which records shall contain sufficient information to permit JSR and its representatives to confirm the accuracy of any payments and reports delivered to JSR and compliance in all other respects with this Agreement. The Company shall retain and make available, and shall cause each Affiliate to retain and make available, such records for at least [***] following the end of the calendar year to which they pertain. During such period, JSR shall be entitled to have an independent certified public accounting firm that is acceptable to Company, such acceptance not to be unreasonably withheld or delayed, and upon at least [***] advance written notice, inspect during normal business hours, such records in order to verify any reports and payments made and/or compliance in other respects under this Agreement. Such accountants shall sign a customary confidentiality and non-use agreement and shall not be entitled to disclose to JSR or University any information obtained or generated in such audit other than other than information relating to the accuracy of reports and payments delivered under this Agreement. The parties shall reconcile any underpayment or overpayment within [***] after the accountant delivers the results of the audit. If any such examination conducted pursuant to the provisions of this Section 5.4 show an underreporting or underpayment of [***] in any payment due to JSR hereunder, the Company shall bear the full cost of such audit and shall remit any amounts due to JSR within [***] of receiving notice thereof from JSR. The Company shall include similar audit rights provisions in Sublicense Agreements, requiring Sublicensees to maintain records with respect to Products covered by such Sublicense and permitting Company to audit such Sublicensee's records. In addition, at JSR's request [***], Company shall exercise its rights to audit any such Sublicensee. If any such audit requested by JSR reveals an underpayment of[***] in any payment due by such Sublicensee, the Company shall bear the cost of such audit.

6. PATENT PROSECUTION AND MAINTENANCE

6.1 Responsibility for Patent Prosecution. The Company and other joint owner(s) will prepare, file, prosecute, and maintain all of the Joint Patent Rights. The joint owner(s) and JSR (if JSR is not the joint owner), shall have reasonable opportunities to advise the Company and shall cooperate with the Company in filing, prosecution and maintenance of the Joint Patent Rights. The Company shall consult with the joint owner(s) and JSR (if JSR is not the joint owner) before taking any action that would have a material adverse impact on the scope of claims within the Joint Patent Rights. The Company shall furnish or instruct attorneys to furnish to the University and JSR copies of documents relevant to any such filing, prosecution or maintenance at least [***] prior to any anticipated actions and shall consider in good faith any revisions reasonably requested by the University and/or JSR with respect to such filings, provided that Company will retain final decision making authority. Payment of all out of pocket fees and costs, including attorney's fees, incurred by joint owner(s) relating to the filing, prosecution and maintenance of Joint Patent Rights shall be borne by the Company.

6.2 Patent Rights Prosecution. JSR shall furnish to the Company copies of documents relevant to any filing, prosecution or maintenance of Patent Rights licensed to the Company hereunder at least [***] prior to any anticipated actions. The Company may advise JSR and/or the University in selecting patent attorneys, suggesting countries where patent filings are made and whether pending claims are to be pursued.

7. INFRINGEMENT.

7.1 Notification of Infringement. Each Party agrees to provide written notice to the other Party promptly after becoming aware of any infringement of the Patent Rights and/or the Joint Patent Rights in the License Field.

7.2 Right to Prosecute Infringements.

(a) During the term of this Agreement, the Company may commence and prosecute at its own expense and in its name alone all actions for past and future infringements of the Patent Rights and/or the Joint Patent Right in the License Field ("Infringement Actions by the Company"), provided that the Company obtains JSR's prior written consent on each Infringement Action by the Company with respect to Patent Rights. JSR shall not withhold its consent on any Infringement Action by the Company without reasonable ground. For example, if participation of the University in an Infringement Action by the Company is required by the laws of the jurisdiction where such action is commenced, or requested by the Company, it shall be reasonable ground for JSR to withhold its consent on the Infringement Action by the Company. For clarity, Company will not be required to obtain JSR's or University's consent with respect to an Infringement Action by the Company relating to the Joint Patent Rights and shall have the sole right to commence such an Infringement Action by the Company. The total cost of any Infringement Action by the Company shall be borne by the Company and the Company shall keep any recovery or damages for past or future infringement obtained.

(b) If required by the laws of the jurisdiction where an Infringement Action by the Company is commenced, and to the extent reasonably available under such laws, i) JSR and the University shall cooperate the Company in giving the Company the legal status to commence the Infringement Action by the Company or ii) JSR shall cooperate with the Company in participating in an Infringement Action by the Company as a licensor at the Company's sole expense. The Company shall reimburse JSR and the University for all documented, out-of-pocket costs incurred by JSR and/or the University due to such cooperation. JSR or the University shall not have any obligation of cooperation in, or action relating to, any Infringement Action by the Company except as provided for in this Section 7.2(b) or in Section 7(a).

7.3 Declaratory Judgment Actions. In the event that a declaratory judgment action is brought against JSR, the University or the Company by a third party alleging invalidity, unenforceability, or non-infringement of the Patent Rights, JSR, at its option, shall have the right within [***] after commencement of such action to take over or cause the University to take over the sole defense of the action at JSR's expense. If JSR does not exercise this right, the Company may take over the sole defense of the action at the Company's sole expense. For clarity, no rights are granted under this Section 7.3 to JSR or University with respect to Joint Patent Rights.

7.4 Recovery. Any recovery obtained in an action brought by the Company under Sections 7.2 or 7.3 shall be distributed as follows: (a) each Party shall be reimbursed pari passu for any expenses incurred in the action from the proceeds of such action or settlement, (b) as to ordinary damages, such amount shall be treated as Net Sales, and the Company shall pay to JSR based upon such amount a reasonable approximation of the royalties and other amounts that the Company would have paid to JSR if the Company had sold the infringing products, processes and services rather than the infringer and (c) as to special or punitive damages, JSR shall receive [***] of such damages and the remaining [***] shall be retained by Company.

7.5 Cooperation. Subject to Section 7.2(b), each Party agrees to cooperate in any action under this Article which is controlled by the other Party, provided that the controlling Party reimburses the cooperating Party promptly for any costs and expenses incurred by the cooperating Party in connection with providing such assistance.

7.6 Right to Sublicense. So long as the Company remains the exclusive licensee of the Patent Rights and/or Joint Patent Rights in the License Field in the License Territory, the Company shall have the sole right to sublicense any alleged infringer in the License Field in the License Territory for use of the Patent Rights and/or Joint Patent Rights, as applicable, in accordance with the terms and conditions of this Agreement relating to Sublicense Agreements.

7.7 Confidentiality of Prosecution and Maintenance Information. The Company agrees to treat all information related to prosecution and maintenance of Patent Rights as Confidential Information in accordance with the provisions of **Appendix A.** JSR and University agree to treat all information related to prosecution and maintenance of Joint Patent Rights as Confidential Information of Company in accordance with the provisions of **Appendix A**.

8. INDEMNIFICATION

8.1 The Company shall indemnify, defend and hold harmless the University and JSR and their respective trustees, directors, officers, medical and professional staff, employees, and agents and their respective successors, heirs and assigns (the "Indemnitees"), against any liability, damage, loss or expense (including reasonable attorney's fees and expenses of litigation) (a "Loss") incurred by or imposed upon the Indemnitees or any one of them as a result of any third party claims, suits, actions, demands or judgments arising out of any theory of product liability (including, but not limited to, actions in the form of contract, tort, warranty, or strict liability) concerning any product, process or service made, used, or sold or performed pursuant to any right or license granted to Company pursuant to Sections 2.1 and 2.2 (including pursuant to any sublicenses granted by Company) under this Agreement ("Claim"); provided that the Company shall not have any liability for any Loss arising out of the willful misconduct or gross negligence of any Indemnitee.

8.2 If any Indemnitee receives notice of any Claim, such Indemnitee shall, as promptly as is reasonably possible, give Company notice of such Claim; provided, however, that failure to give such notice promptly shall only relieve Company of any indemnification obligation it may have hereunder to the extent such failure diminishes the ability of Company to respond to or to defend the Indemnitee against such Claim. The Company agrees, at its own expense, to provide attorneys reasonably acceptable to JSR and/or the University, as the case may be, to defend against any actions brought or filed against any Indemnitee with respect to the subject of indemnity contained herein, whether or not such actions are rightfully brought; provided, however, that any Indemnitee shall have the right to retain its own counsel, at the expense of the Company, if representation of such Indemnitee by counsel retained by the Company would be inappropriate because of conflict of interests of such Indemnitee and any other party represented by such counsel. The Company agrees to keep JSR and/or the University, as the case may be, informed of the progress in the defense and disposition of such claim and to consult with JSR and/or the University, as the case may be, prior to any proposed settlement.

8.3 This Section 8 shall survive expiration or termination of this Agreement.

9. REPRESENTATIONS

9.1. JSR hereby represents and warrants to the Company that:

(a) JSR has the full right, power, and authority to grant the rights and licenses granted herein;

(b) the Patent Rights licensed to the Company under this Agreement are, to JSR's knowledge at the time of execution of this Agreement, neither invalid nor unenforceable, in whole or in part, nor subject to a proceeding seeking to hold such Patent Rights invalid or unenforceable, in whole or in part;

(c) to JSR's knowledge at the time of execution of this Agreement, the practice of the Patent Rights licensed to the Company under this Agreement will not infringe any existing issued patent owned or possessed by any third party;

(d) there are no judgments or settlements against or owed by JSR, nor are there any pending or threatened claims or litigation, in each case relating to the Patent Rights licensed to the Company under this Agreement at the time of execution of this Agreement;

(e) to JSR's knowledge at the time of execution of this Agreement, no third party has infringed, misappropriated or violated, or is infringing, misappropriating or violating, the Patent Rights; and

(f) JSR is the sole licensee of the University under the Patent Rights and Joint Patent Rights in the License Field and is authorized to grant sublicenses to Company under its licenses to the Patent Rights and Joint Patent Rights in the License Field.

9.3 Nothing in this Agreement will be construed as:

(a) A representation or warranty by JSR or the University as to the patentability, validity, scope, or usefulness of the Patent Rights and/or the Joint Patent Rights;

(b) A representation or warranty by JSR or the University that anything made, used, sold, or otherwise disposed of under any license granted in this Agreement is or will be free from infringement of third-party patents or other proprietary rights, or other patents or other proprietary rights not included in the Patent Rights;

(c) An obligation to bring or prosecute actions or suits against third parties for patent infringement; or

(d) An obligation to furnish any know-how not provided in Patent Rights.

JSR AND THE UNVERSITY EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, PERTAINING TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PATENT RIGHTS, THE PRODUCTS, OR ANYTHING ELSE LICENSED, DISCLOSED, OR OTHERWISE PROVIDED TO THE COMPANY AND SUBLICENSEES UNDER THIS AGREEMENT. TOTAL LIABILITY OF THE UNIVERSITY UNDER THIS AGREEMENT IS LIMITED TO THE COSTS AND FEES PAID TO JSR UNDER THIS AGREEMENT AND EXCEPT FOR DAMAGES RESULTING FROM A BREACH OF ANY OF THE REPRESENTATIONS OR WARRANTIES IN THIS SECTION 9 OR A BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER 12.13, TOTAL LIABILITY OF JSR UNDER THIS AGREEMENT IS LIMITED TO THE COSTS AND FEES PAID TO JSR UNDER THIS AGREEMENT.

10. TERM AND TERMINATION

10.1 Term. The term of this Agreement (“Term”) shall commence on the Effective Date and, unless this Agreement is terminated earlier in accordance with any of the other provisions of Section 10, shall remain in effect until the later of (a) the date on which all issued patents and filed patent applications within the Patent Rights and/or the Joint Patent Rights have expired, or been abandoned, withdrawn, rejected, revoked or invalidated, and (b) the expiration of the Royalty Term. Following the expiration of this Agreement pursuant to this Section 10.1 (and provided the Agreement has not been earlier terminated pursuant to any of the provisions of Sections 10.2 through 10.5), the licenses granted to Company under Section 2 shall remain in effect and shall become fully-paid up, royalty-free, perpetual and irrevocable.

10.2 Termination for Failure to Pay. If the Company fails to make any undisputed payment due hereunder, JSR shall have the right to terminate this Agreement upon [***]written notice, unless the Company makes such payments within said [***] notice period. If such payments are not made within such [***] period, JSR may immediately terminate this Agreement at the end of said [***] period.

10.3 Termination for Bankruptcy Related Events.

10.3.1 JSR shall have the right to terminate this Agreement immediately upon written notice to the Company with no further notice obligation or opportunity to cure if the Company: (a) shall make an general assignment for the benefit of creditors or (b) or shall have a bona fide petition in bankruptcy filed for or against it which petition is not dismissed within [***]. Notwithstanding the foregoing, in the event Company has entered into a settlement with its creditors or a bona fide petition in bankruptcy filed for or against it, and Company is otherwise meeting its obligations pursuant to this Agreement, JSR shall not be entitled to terminate this Agreement as contemplated under Section 10.3.1 during such period.

10.3.2 In case of termination due to bankruptcy related event of the Company, the Company agrees to offer to sell or license any interest in Joint Patent Rights of the Company to JSR prior to offering to any third party, provided that such Joint Patent Rights are not subject to a license or sublicense to a third party. The Company shall negotiate in good faith with JSR for a period of at least [***] prior to offering such sale or license of any interest in Joint Patent Rights of the Company to any third party. If the Company and JSR cannot agree on the terms for entering into purchase or license agreement after negotiation in good faith for a period of up to [***] ("Negotiation Period"), then the Company may offer to sell or license any interest in Joint Patent Rights of the Company to third parties; provided however, that for a period of [***] after the Negotiation Period, Company shall not sell or license such interest in the Joint Patent Rights of the Company to a third party on terms and conditions, when taken as a whole (including, without limitation, financial terms and the likelihood of that products will be developed under such rights in a timely manner), are less favorable to Company than those offered to JSR, without first offering such terms and conditions to JSR and providing JSR with [***] to accept such terms and conditions.

10.4 Termination for Non-Financial Default. If the Company breaches its obligations under this Agreement not otherwise covered by the provisions of Sections 10.2 and 10.3, and if such breach has not been cured within [***] after notice by JSR in writing of such breach, JSR may immediately terminate this Agreement, and/or any license granted hereunder in whole or in part, at the end of said [***] period. Notwithstanding the foregoing, JSR shall be entitled to terminate this Agreement in accordance with this Section 10.4 only if a breach by the Company is a Material Breach. For the avoidance of doubt, Company shall use reasonable efforts to cure any undisputed breach which could be cured within such [***] and JSR may claim its damages incurred by any breach by the Company even in case JSR shall not terminate this Agreement.

10.5 Termination by the Company. The Company shall have the right to terminate this Agreement by giving [***] advance written notice to JSR and upon such termination shall immediately cease all use and Sales of Products, subject to Section 10.7.

10.6 Effects of Termination of Agreement.

10.6.1 Upon termination of this Agreement or any of the licenses hereunder for any reason, final reports in accordance with Section 5 shall be submitted to JSR and all royalties and other payments accrued or due to JSR as of the termination date shall become immediately payable. In the case of termination in accordance with Section 10.2., 10.3. or 10.4, the Company shall cease, and shall cause Affiliates and Sublicensees to cease under any sublicense granted by the Company, all Sales and uses of Products covered by any Valid Claims, subject to Section 10.7.

10.6.2. The termination or expiration of this Agreement or any license granted hereunder shall not relieve the Company, Affiliates or Sublicensees of obligations arising before such termination or expiration. Upon termination of this Agreement, each of Company and University shall have the full right to practice and to grant licenses to third parties under its interest in Joint Patent Rights without any obligation to seek the consent of the other or to account for any profits made as a result of any such license.

10.6.3. If at the time of the termination of this Agreement more than one direct Sublicensee exists, upon notice by each Sublicensee to JSR or the University (as applicable) within [***] of the termination of this Agreement, so far as such Sublicensee of the Company continues to pay JSR [***]. Company and JSR shall make good faith diligent efforts to enter into such a direct license agreement within [***] from such termination. For the avoidance of doubt, the royalty in accordance with this sub-Section 10.6.3 should be calculated based upon global Sales of the same Product by all Sublicensees. During such [***] period, JSR and such Sublicensee shall have a good-faith, diligent and reasonable negotiation with respect to the terms of a direct license between JSR and such Sublicensee, including but not limited to, the financial conditions. The financial conditions of a new license agreement between JSR and such Sublicensee should be at least the same as the one under this Agreement however should not exceed financial conditions under the agreement between the Company and such Sublicensee.

10.6.4. If at the time of the termination of this Agreement only a single direct Sublicensee exists and such Sublicensee was confirmed by JSR as an appropriate potential direct licensee in accordance with Section 2.2 prior to or shortly following the time of execution of Sublicense Agreement between such Sublicensee and the Company, then JSR agrees to keep the same financial terms on i) the annual license fee, ii) the royalties under this Agreement (such royalties should be a) royalties on Net Sales by Sublicensee and its Affiliates as stipulated in sub-Section 4.4 (a) and b) royalties on Sublicense Income (as defined in Section 1.25, but with reference to amounts received by the Sublicensee and its Affiliates and not to Company and its Affiliates) received by such Sublicensee and its Affiliates in the percentages stipulated in sub-Section 4.4 (b) (based on the amount spent by such Sublicensee on the development of the Product(s) that are covered by the applicable further sublicense agreement before the execution of such sublicense agreement), in case of a further sublicense by such Sublicensee) and iii) the milestone payments under this Agreement [***] (i.e. if the Sublicensee were to meet a milestone described in Section 4.3, it would have to pay [***] set forth in Section 4.3 for such milestone), with the same license scope including exclusivity as well as the same termination terms in a direct license agreement with such Sublicensee so far as such Sublicensee owes the same obligations under Section 3 and 5 of this Agreement. JSR shall not unreasonably withhold or delay its confirmation, provided, however, that JSR shall have a commercially reasonable access to information which is necessary for JSR to make such confirmation. During a good faith negotiation for direct license between JSR and such Sublicensee up to [***] period from the termination of this Agreement, such Sublicensee shall have an exclusive license in the same license scope in accordance with Section 2 hereunder with the same financial terms in accordance with Section 4 as described above in this Section 10.6.4. If JSR and such Sublicensee do not reach the agreement within such [***] period, such Sublicensee shall have non-exclusive license in the same license scope in accordance with Section 2 hereunder, except for the exclusivity, with the same financial terms in accordance with Section 4 hereunder (as described above in this Section 10.6.4) so far as the Sublicensee continues to negotiate in good faith after the [***] period of negotiation. For the avoidance of doubt, except for the direct licenses described above during the negotiations period or as otherwise agreed between JSR and such Sublicensee, such Sublicensee will not automatically succeed the Company’s legal status as a licensee under this Agreement.

10.7 Inventory. Upon early termination of this Agreement, the Company, Affiliates and Sublicensees may complete and Sell any work-in-progress and inventory of Products that exist as of the effective date of termination provided that (a) the Company pays to JSR the applicable running royalty or other amounts due on such Net Sales in accordance with the terms and conditions of this Agreement, and (b) the Company, Affiliates and Sublicensees shall use reasonable efforts to complete and Sell all work-in-progress and inventory of Products within [***] after the effective date of termination.

10.8 Results.

(a) If this Agreement is terminated by JSR pursuant to Section 10.2, 10.3 or 10.4 , or by the Company pursuant to Section 10.5, in each case prior to the grant of the first Sublicense to a pharmaceutical or biotechnology company for continued clinical development under this Agreement, upon the written request of JSR, to be provided within [***] of termination, the Company shall grant to JSR of a non-exclusive license to data and other results obtained by the Company in the clinical development and other activities under the rights granted in this Agreement as well as documents prepared for Regulatory Approvals (collectively, "Results") on commercially reasonable terms. If JSR provides such written request within such [***] period, the parties will enter into good faith, diligent efforts to agree on such terms. If the parties are unable to reach agreement on such terms within [***] of JSR's written request, the terms will be determined in accordance with procedure set forth in Appendix D.

(b) Provided that if JSR has reasonably determined that it is necessary for JSR or any Affiliate of JSR to have a license of any technology of a non-Affiliate third party in order to make, use or Sell the relevant Product, JSR shall thereafter be entitled to deduct [***] of the amount of the royalties paid to such third party by JSR or any Affiliate of JSR on Sales of such Products made using such technology from the payments due to Company under Section 10.8(b), provided that in no event shall the total of such deductions reduce the amounts payable to Company by more than [***] in any Reporting Period. For the purpose of this Section 10.8 only, the term "the Company" appearing in Section 1.16 (the definition of "Net Sales") is replaced by the term "JSR", and the term "JSR" appearing in Section 1.16 is replaced by the term "the Company".

11. COMPLIANCE WITH LAW

The Company shall have the sole obligation for compliance with, and shall ensure that any Affiliates comply with, all government statutes and regulations that relate to Products developed under this Agreement. The Company agrees that it shall be solely responsible towards JSR and University that any necessary licenses to export, re-export, or import Products developed under this Agreement are obtained. The Company shall indemnify and hold harmless the University and JSR, in accordance with Section 8, for any damages caused by any breach of the Company's obligations under this Section 11.

12. MISCELLANEOUS

12.1 Force Majeure. Neither Party will be responsible for delays resulting from causes beyond its reasonable control, including, without limitation, fire, explosion, flood, war, strike or riot; provided that the non-performing Party uses commercially reasonable efforts to avoid or remove such causes of non-performance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed.

12.2 Press Release. The parties will issue a joint press release in form and substance to be agreed upon by the parties in good faith.

12.3 Entire Agreement. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof.

12.4 Notices. Any notices, reports, waivers, correspondences or other communications required under or pertaining to this Agreement shall be in writing and shall be delivered by hand, or sent by a reputable overnight mail service (e.g., Federal Express), to the other party. Notices will be deemed effective (a) three (3) working days if sent by overnight mail, or (b) the same day if delivered by hand. Unless changed in writing in accordance with this Section 12.4, the notice address for JSR, the University and the Company shall be as follows:

If to JSR:	JSR Corporation 1-9-2, Higashi-Shimbashi Minato-ku, Tokyo, 105-8640, Japan Attention: Director, Intellectual Property Department [***]
If to the University	Keio University 2-15-45, Mita, Minato-ku, Tokyo Japan Attention: Office of Research Development and Sponsored Projects
If to the Company:	BiomX Ltd. Attention: CEO 7 Sapir St. P.O.Box 4044 Ness Ziona 7403630 Israel

Notwithstanding anything to the contrary, any notice related to termination of this Agreement shall be delivered by a reputable overnight mail service (e.g., Federal Express) or by first class mail (certified or registered).

12.5 Amendment; Waiver. This Agreement may be amended and any of its terms or conditions may be waived only by a written instrument executed by an authorized signatory of the Parties or, in the case of a waiver, by the Party waiving compliance. The failure of either Party at any time or times to require performance of any provision hereof shall in no manner affect its rights at a later time to enforce the same. No waiver by either Party of any condition or term shall be deemed as a further or continuing waiver of such condition or term or of any other condition or term.

12.6 Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the Parties hereto and their respective permitted successors and assigns.

12.7 Assignment. This Agreement may not be assigned by any of the Parties without the consent of the other Parties, which consent shall not be unreasonably withheld, except that each Party may, without such consent, assign this Agreement and the rights, obligations and interests of such Party to any of its Affiliates, to any purchaser of all or substantially all of its assets or research to which the subject matter of this Agreement relates, or to any successor corporation resulting from any merger or consolidation of such Party with or into such corporation; provided, in each case, that the assignee agrees in writing to be bound by the terms of this Agreement.

12.8 Governing Law and Arbitration. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of California, United States, excluding with respect to conflict of laws, except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent shall have been granted. Except with respect to actions seeking relief other than monetary compensation, any disputes, controversies or differences which may arise between the Parties out of or in relation to or in connection with this Agreement shall be finally settled by arbitration in Tokyo, Japan, in accordance with the Rules of the Arbitration of the International Chamber of Commerce. Any arbitration award granted shall be final and binding on the parties and shall not be subject to appeal and shall be enforceable in any court of competent jurisdiction. The language for the arbitration procedure shall be English and there shall be three arbitrators. Each Party shall nominate an arbitrator. The two party-appointed arbitrators shall then nominate the third and presiding arbitrator in consultation with the Parties.

12.9 Severability. If any provision(s) of this Agreement are or become invalid, are ruled illegal by any court of competent jurisdiction or are deemed unenforceable under then current applicable law from time to time in effect during the term hereof, it is the intention of the parties that the remainder of this Agreement shall not be affected thereby. It is further the intention of the parties that in lieu of each such provision which is invalid, illegal or unenforceable, there be substituted or added as part of this Agreement a provision which shall be as similar as possible in economic and business objectives as intended by the parties to such invalid, illegal or enforceable provision, but shall be valid, legal and enforceable.

12.10 Survival. In addition to any specific survival references in this Agreement, Sections 1, 8, 10, 12 and Appendix D shall survive termination or expiration of this Agreement. Any other rights, responsibilities, obligations, covenants and warranties which by their nature should survive this Agreement shall similarly survive and remain in effect.

12.11 Interpretation. The parties hereto are sophisticated, have had the opportunity to consult legal counsel with respect to this transaction and hereby waive any presumptions of any statutory or common law rule relating to the interpretation of contracts against the drafter.

12.12 Headings. All headings are for convenience only and shall not affect the meaning of any provision of this Agreement.

12.13 Confidentiality.

12.13.1 Beginning on the Effective Date of this Agreement and continuing throughout the term of this Agreement and thereafter for a period of [***], the Parties shall comply with confidentiality obligation in accordance with the provisions of **Appendix A** with respect to information disclosed by the parties in connection with this Agreement and the contents of **Appendix B**. Notwithstanding the forgoing JSR shall keep all information with respect to Sublicense Agreement and/or the reports submitted to JSR in accordance with Section 5 in confidence throughout the term of this Agreement and after the termination of this Agreement until such information falls within a public domain.

12.13.2 Company shall cause Yeda to keep the contents of **Appendix B** in confidence under terms and conditions no less restrictive than those of**Appendix A**.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date first written above.

BIOMX Ltd.

BY: /s/ [***] /s/ [***]
Name: [***], [***]

TITLE: Chief Executive Officer

DATE: 5.21.19

Keio University

BY: /s/ [***]
Name: [***]

TITLE: President

DATE: 5/14/2019

JSR Corporation

BY: /s/ [***]
Name: [***]

TITLE: Representative Director and President

DATE: May 7th, 2019

Appendix A

CONFIDENTIALITY TERMS AND CONDITIONS

1. Definition of Confidential Information. "Confidential Information" shall mean any information, including but not limited to data, techniques, protocols or results, or business, financial, commercial or technical information, disclosed by one Party ("Discloser" as applicable) to the other Party ("Recipient" as applicable) in connection with the Exclusive Patent License Agreement dated __________, 2019, (the "License Agreement") and identified as confidential at the time of disclosure. JSR's Confidential Information shall also include all information disclosed by the University to the Company in connection with the License Agreement. Capitalized terms used in this Appendix that are not otherwise defined herein have the meanings ascribed in the License Agreement to which this Appendix is attached and made a part thereof.

2. Exclusions. "Confidential Information" under the License Agreement shall not include any information that (a) is or becomes publicly available through no wrongful act of Recipient or the Receiving Individuals (as defined below); (b) was known by Recipient prior to disclosure by Discloser without confidentiality obligation, as evidenced by tangible records; (c) becomes known to Recipient without restriction on disclosure from a third party having an apparent bona fide right to disclose it; (d) is independently developed or discovered by Recipient without use of Discloser's Confidential Information, as evidenced by tangible records. The obligations of confidentiality and non-use set forth in this Appendix A shall not apply with respect to any information that Recipient is required to disclose or produce pursuant to applicable law, court order or other valid legal process provided that Recipient promptly notifies Discloser prior to such required disclosure, discloses such information only to the extent so required and cooperates reasonably with Discloser's efforts to contest or limit the scope of such disclosure.

3. Permitted Purpose. Recipient shall have the right to, and agrees that it will, use Discloser's Confidential Information solely for exercising its rights and performing its obligations under the License Agreement (the "Purpose"), except as may be otherwise specified in a separate definitive written agreement negotiated and executed between the parties.

4. Restrictions. For the term of the License Agreement and a period of [***] thereafter, Recipient agrees that: (a) it will not use such Confidential Information for any purpose other than the Purpose; (b) it will not disclose such Confidential Information to any other person or entity except as expressly permitted hereunder; and (c) it will use reasonable efforts (but no less than the efforts used to protect its own confidential and/or proprietary information of a similar nature) (i) not to use such Confidential Information for any purpose other than the Purpose, and (ii) not to disclose such Confidential Information to any other person or entity except as expressly permitted hereunder. Recipient may, however, disclose Discloser's Confidential Information only on a need-to-know basis to its, its Affiliates', its contractors' and Sublicensees' employees, staff members, consultants and agents ("Receiving Individuals") who are directly participating in the Purpose and who are informed of and obligated to maintain the confidential nature of such information, provided Recipient shall be responsible for compliance by Receiving Individuals with the terms of the License Agreement and any breach thereof. This Section 4 shall survive termination or expiration of the License Agreement.

5. Right to Disclose. Discloser represents that to the best of its knowledge it has the right to disclose to Recipient all of Discloser's Confidential Information that will be disclosed hereunder.

6. Ownership. All Confidential Information disclosed pursuant to the License Agreement, including without limitation all written and tangible forms thereof, shall be and remain the property of Discloser. Upon termination of the License Agreement, if requested by Discloser, Recipient shall destroy all of Discloser's Confidential Information, provided that Recipient shall be entitled to keep one copy of such Confidential Information in a secure location solely for the purpose of determining Recipient's legal obligations hereunder.

7. No License. Nothing in this Appendix A or the License Agreement shall be construed as granting or conferring, expressly or impliedly, any rights by license or otherwise, under any patent, copyright, or other intellectual property rights owned or controlled by Discloser relating to Confidential Information, except as specifically set forth in the License Agreement or other written agreement.

8. Remedies. Each party acknowledges that any breach of this License Agreement by it may cause irreparable harm to the other party and that each party is entitled to seek injunctive relief and any other remedy available at law or in equity.

9. General. This Appendix A, along with the License Agreement, contain the entire understanding of the parties with respect to the subject matter hereof, and supersede any prior oral or written understandings between the parties relating to confidential treatment of information. Sections 1, 2, 4, 6, 7, 8 and 9 of this Appendix A shall survive any expiration or termination of the License Agreement.

Appendix B

[***]

Appendix C

ORIGIAL MATERIAL TRANSFER AGREEMENT

Appendix C-1

Form Material Tansfer Agreement

MATERIAL TRANSFER AGREEMENT

THIS MATERIAL TRANSFER AGREEMENT (this "Agreement") is made and entered into effective as of _________, 2019 by and between**JSR Corporation,** a company duly organized and existing under the laws of Japan, having its principal place of business at 1-9-2, Higashi-Shimbashi, Minato-ku, Tokyo, 105-8640, Japan ("JSR"), and BiomX Ltd., having its principal place of business at Ilan Ramon St., 3rd Floor, Ness Ziona 7403635, Israel ("Recipient"). Each of JSR and Recipient may be referred to herein individually as a "**Party**" or collectively as the "**Parties**".

In consideration of the mutual covenants and promises herein contained, JSR and Recipient agree as follows:

Article 1 TRANSFER OF MATERIAL.

Recipient acknowledges that it received from Keio University ("University") the following materials owned by University (including its progeny, propagations or unmodified derivatives if the material is DNA, cells, seeds or other propagative, proliferous material; collectively, the "Material") for the Purpose of Use (as defined in Article 2 hereof) use by Recipient in a research project, subject to the terms and conditions set forth in this Agreement..

Name of Material: **[To be added]**

Description of Material: [To be added]

[***]

[***]

[***]

[***]

Article 2 PURPOSE AND TERMS OF USE.

2.1 Subject to Recipient's continued compliance with the terms and conditions of this Agreement, JSR hereby grants to Recipient a non-exclusive license to use the Material during the term of this Agreement solely for the following purpose ("Purpose of Use") and under the following terms of use.

Purpose of Use: Research, development, manufacturing and commercialization of live bacterial cocktails for therapeutic or prophylactic use; all related activities (including, without limitation, determination of sequences of the Material or any strain therein); and such other uses contemplated in this Appendix C-1 or the License Agreement dated April __, 2019 by and among JSR and Keio University ("License Agreement") or to support or exercise the rights granted to Recipient under the License Agreement.

Terms of Use: As set forth in this Appendix C-1 or the License Agreement.

2.2 Recipient may not use the Material for any purpose other than the Purpose of Use. Recipient may not disclose or transfer the Material to any third party other than Recipient's consultants, attorneys and agents who have agreed to abide by the terms of this Agreement without the prior written consent of JSR. Recipient shall be liable for any breach of such obligations by any such Recipient's consultant, attorneys and/or agents.

2.3 Recipient may not use any Material that constitutes DNA, cells or drugs, or any derivatives thereof, for research or testing in humans or in animals intended for human consumption.

2.4 Recipient shall use the Material in compliance with all applicable laws, governmental regulations and guidelines as applicable to the transfer, use, handling, storage or disposition of the Material.

Article 3 RECIPIENT RESEARCHER; PLACE OF USE.

3.1 The Material shall be accessed and used only by the following person (the 'Recipient Researcher") and laboratory personnel under Recipient Researcher's immediate and direct supervision and control, and only at the following place ("Place of Use"). Recipient may change the Recipient Researcher and Place of Use subject to the prior written consent of JSR.

Recipient Researcher: Sharon Kredo Russo

Place of Use : BiomX facilities

3.2 JSR may, in its sole discretion, provide Recipient with information regarding use, maintenance or control of the Material to the extent necessary to facilitate the Purpose of Use.

Article 4 CONSIDERATION; COST.

4.1 In consideration of JSR's transfer of the Material hereunder, Recipient shall pay to JSR the consideration set forth in**Article 1** plus any applicable consumption tax thereon. Recipient shall pay such consideration and consumption tax (if any) on or prior to the due date set forth in **Article 1** via wire transfer to the bank account as separately designated by JSR. Any and all costs incurred in connection with the wire transfer shall be borne by Recipient.

4.2 Any and all costs and expenses incurred in connection with the delivery, maintenance, repair, modification, return or any other use or disposal of the Material shall be borne by Recipient.

4.3 Any late payment hereunder shall bear interest of[***] per annum from the due date until JSR's receipt of full payment.

4.4 JSR will not be required to return any payment made hereunder for any reason whatsoever unless the Material is determined to be non-viable (i.e., is incapable of growth under the conditions set forth by JSR) and JSR is unable to provide a viable form of the Material.

Article 5 EXCLUSIVITY; TITLE TO MATERIAL; NO TRANSFER OF RIGHTS.

5.1 During the Term of this Agreement and during any negotiations of a joint research between the University and Recipient, University will not transfer the Material for research use in bacteriophage-based technology to, nor enter into any joint research concerning the Material for research use in bacteriophage-based technology with, any third party that is a for-profit entity.

5.2 Legal title and all other ownership interests in and to the Material shall at all times remain with JSR or University. The transfer of the Material under this Agreement shall not grant or be deemed to grant to Recipient any rights, title or interest in or to the Material other than those specifically set forth in this Agreement. Without limiting the generality of the foregoing, JSR does not, expressly or impliedly, grant to Recipient any license to any rights under or associated with (i) patents, utility models, designs, trademarks, copyrights or applications therefor, or any similar, corresponding or equivalent rights to any of the foregoing, anywhere in the world, or (ii) knowhow (collectively, "Intellectual Property Rights") in or to the Material as a result of the transfer of the Material hereunder.

Article 6 MODIFICATION.

Except to exercise its rights in the Purpose of Use, Recipient may not, without JSR's prior written consent, (i) modify the Material, whether or not such modification is necessary for the Purpose of Use, or (ii) reverse-engineer or otherwise attempt to determine the chemical structure or sequence of the Material.

Article 7 LOSS OR DAMAGE.

If Recipient loses or damages the Material, JSR may require Recipient to submit a report regarding the loss of or damage to the Material and including any information related thereto that JSR may request. In case such loss or damage is caused by disaster, fire or theft, Recipient shall attach to the report a certificate issued by a governmental authority or insurance company evidencing the loss of or damage to the Material.

Article 8 RETURN AND DISPOSAL OF MATERIAL.

Upon expiration or termination of this Agreement, Recipient shall, in accordance with JSR's instructions, return, destroy or otherwise dispose of the unused Material and used Material.

Article 9 RESEARCH RESULTS.

In consideration of JSR's provision of the Material to Recipient under this Agreement, Recipient agrees that any patentable invention made by Recipient as a result of the use of the Material shall be deemed a Joint Invention under the terms of the License Agreement, shall be jointly owned by Recipient and University and shall be licensed to Recipient automatically under the terms of the License Agreement.

Article 10 PUBLICATIONS.

Any publication of research results using the Material shall be subject to JSR's prior written consent as to the content, timing and manner of such publication. Recipient and Recipient Researcher shall, at the request of JSR, acknowledge JSR and/or University as the source of the Material in any such publication.

Article 11 NO WARRANTY.

JSR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE OWNERSHIP, NONINFRINGEMENT OF ANY MATERIAL OR ANY PATENT OR OTHER PROPRIETARY RIGHTS OF ANY PERSON, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE MATERIAL, OR THE ABSENCE OF LATENT OR OTHER DEFECTS IN THE MATERIAL, WHETHER OR NOT DISCOVERABLE.

Article 12 INDEMNIFICATION; LIABILITY LIMITS.

Recipient shall, at all times during the term of this Agreement and thereafter, indemnify, defend and hold JSR and University, its trustees, directors, officers, employees, agents and students, harmless against all claims, proceedings, demands and liabilities of any kind or nature whatsoever, including reasonable attorneys' fees and legal expenses, (i) arising out of the death of or injury to any person or persons or out of any damage to property, or resulting from the use, handling, storage or disposition of the Material, or (ii) arising out of breach by Recipient of any obligation of Recipient or Recipient Researcher or breach by Recipient's consultants, attorneys or agents hereunder. In no event shall JSR or University be liable for any use of the Material by Recipient, the Recipient Researcher, Recipient Researcher's laboratory personnel, Recipient's consultants, attorneys or agents, or for any loss, claim, damage or liability of any kind or nature, that may arise from or in connection with this Agreement or the use, handling, storage or disposition of the Material.

Article 13 CONFIDENTIALITY.

13.1 For the purposes of this Agreement, the term "Confidential Information" means any and all technical information or materials, including, but not limited to, the Material, furnished by one Party (the "Disclosing Party") to the other Party (the "Receiving Party") that (i) is in electronic, written or other tangible form and clearly marked as "Confidential," or (ii) is disclosed orally or visually and designated as confidential at the time of the oral or visual disclosure and, further, within thirty days after the oral or visual disclosure, the summary of which is furnished to Receiving Party in writing clearly marked as "Confidential".

13.2 The term "Confidential Information" does not, however, include information that (i) is or becomes within the public domain through no act of the Receiving Party or its Representatives (as defined below) in breach of this Agreement; (ii) is already in the Receiving Party's possession without obligation of confidentiality at the time of disclosure and the Receiving Party; (iii) has been lawfully obtained by the Receiving Party from a third party having the apparent right to make the disclosure who places no obligation of confidence upon the Receiving Party; or (iv) is independently developed by or for the Receiving Party without access to or use of the Confidential Information of the Disclosing Party.

13.3 The Receiving Party shall keep the Confidential Information confidential and shall not, without the Disclosing Party's prior written consent, disclose any Confidential Information in any manner whatsoever, in whole or in part, to any third party; provided, however, that the Receiving Party may disclose the Confidential Information or portions thereof to its directors, officers, employees, advisors and, in the case of JSR, University (collectively, "Representatives") (i) who need to know the Confidential Information for the purposes of this Agreement and (ii) who have been advised of by the Receiving Party and have agreed to maintain the confidential nature of the Confidential Information. The Receiving Party agrees to be responsible for any and all breaches of this **Article 13** by its Representatives.

13.4 The Receiving Party shall use any Confidential Information of the Disclosing Party solely for the purposes of this Agreement and shall not use, directly or indirectly, any Confidential Information in whole or in part for any other purpose whatsoever. The Receiving Party shall protect all Confidential Information with at least the same degree of care with which the Receiving Party would treat Confidential Information of its own.

13.5 In the event that the Receiving Party or any of its Representatives are requested pursuant to, or required by, applicable law, regulation or legal process to disclose any of the Confidential Information, the Receiving Party shall (unless prohibited by applicable law) immediately notify the Disclosing Party of the existence, terms and circumstances surrounding such request or requirement so that the Disclosing Party may take legally available steps to resist or narrow the request, neither of which will be opposed by the Receiving Party. In the event that disclosure of any Confidential Information is legally required, the Receiving Party or its Representatives, as the case may be, shall furnish only that portion of the Confidential Information which is legally required and exercise all reasonable efforts to obtain reliable assurance that confidential treatment shall be accorded to such Information.

13.6 At any time upon the request of the Disclosing Party, the Receiving Party shall, at its own expense, promptly deliver to the Disclosing Party, or at the Disclosing Party's request, destroy, all copies of the Confidential Information (whether in written, electronic or other tangible format) in the Receiving Party's or its Representatives' possession that was delivered to the Receiving Party by the Disclosing Party. Notwithstanding the foregoing, the Receiving Party and its Representatives shall be permitted to retain Confidential Information that would be unreasonably burdensome to destroy (such as archived computer records) or to the extent required to comply with applicable law, rules and regulations. The Receiving Party may also retain one copy of each written item of Confidential Information for archival purposes and for determining compliance with this Agreement. Any Confidential Information retained under this Section 13.6 shall remain subject to the terms of this Agreement.

13.7 This **Article 13** will survive for two years after the termination of this Agreement.

Article 14 EXPORT CONTROL.

Recipient covenants that it will not disclose to JSR any information that contains information, technology or data of which use, export, release or transfer is subject to any governmental restriction or prohibitions, including the U.S. Export Administration Regulations, without JSR's prior written consent.

Article 15 TERM AND TERMINATION.

15.1 The term of this Agreement commences on _____________ and continues in force and effect until a date of expiration or termination of the License Agreement, unless earlier terminated in accordance with this Agreement.

15.2 JSR may terminate this Agreement upon written notice to Recipient:

(i) if Recipient has breached any of its covenants or obligations contained in this Agreement, and such breach has not been cured within a period of thirty days after written notice of such breach from JSR;

(ii) in case of appointment of a trustee or receiver for all or any part of the assets of Recipient, insolvency, liquidation or dissolution of Recipient, filing of a petition in bankruptcy against or concerning Recipient, a general assignment by Recipient for the benefit of creditor(s), or suspension of payment or banking transactions by Recipient;

(iii) in case of any change in control of Recipient, consolidation or merger of Recipient with or into a third party, the sale of all or substantially all of Recipient's assets to a third party, in each case that would render it infeasible to continue this Agreement; or

(iv) in case of any other event that would render it infeasible to continue this Agreement.

15.3 Termination of this Agreement does not affect any of the Parties' respective rights accrued or obligations owed before termination, including the rights and obligations as to indemnification under **Article 12**.

15.4 **Article 5, Article 6, Articles 8** through **13, Article 15.4, Articles 16** through **18** shall survive expiration or termination of this Agreement unless otherwise provided in this Agreement.

Article 16 GOVERNING LAW.

This Agreement shall be governed in accordance with the laws of Japan.

Article 17 DISPUTE RESOLUTION.

Except with respect to actions seeking relief other than monetary compensation, any disputes, controversies or differences which may arise between the Parties out of or in relation to or in connection with this Agreement shall be finally settled by arbitration in Tokyo, Japan, in accordance with the Rules of the Arbitration of the International Chamber of Commerce ("ICC"). Any arbitration award granted shall be final and binding on the parties and shall not be subject to appeal and shall be enforceable in any court of competent jurisdiction. The language for the arbitration procedure shall be English and there shall be one arbitrator. Each Party shall agree to an arbitrator. If no agreement can be reached, the ICC will appoint an arbitrator.

Article 18 GENERAL.

18.1 Any notice or communication required or permitted to be given hereunder shall be given in writing and either by personal delivery, by facsimile, by registered or certified mail (with all postage and other charges prepaid) or by e-mail to the address shown below. Any notice delivered by personal delivery, facsimile or e-mail shall be deemed given and effective at the time of delivery. Any notice delivered by registered or certified mail shall be deemed given at the end of the tenth business day after it is posted.

[***] [***]

18.2 No provision of this Agreement may be waived, amended or modified, in whole or in part, nor any consent given, unless approved in writing by a duly authorized officer of the Parties hereto.

18.3 Neither Party may assign, transfer or grant a security interest in, in whole or in part, either this Agreement or any of its rights or interests hereunder, or delegate, in whole or in part, any of its obligations hereunder, without the prior written approval of the other Party.

18.4 This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes any, written or oral, understandings, proposals, or representations by and between the Parties.

18.5 In the event that any provision of this Agreement is deemed invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

18.6 The headings contained in this Agreement are inserted for convenience only and do not affect in any way the meaning or interpretation of this Agreement.

18.7 This Agreement may be executed and delivered in separate counterparts, including by facsimile or other electronic transmission, each of which, when so executed and delivered, shall be deemed to be an original, but such counterparts shall together constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in duplicate by their duly authorized representatives as of the date first above written.

JSR:	Recipient:
JSR Corporation	BiomX
______________________________	______________________________
Name: [***]	Name: [***]
Title Representative Director and President	Title: CEO

Appendix D

Determination of Attributed Value or License Terms

[***]

Appendix E

[***]

Exhibit 10.9

Execution Copy

PURSUANT TO ITEM 601(B)(10) OF REGULATION S-K, CERTAIN PORTIONS OF THIS EXHIBIT HAVE BEEN REDACTED AND, WHERE APPLICABLE, HAVE BEEN MARKED “[***],” SUCH REDACTIONS ARE IMMATERIAL AND WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

SHARE PURCHASE AGREEMENT

by and among

BiomX LTD.

RondinX LTD.,

The Shareholders and Warrant Holders of RondinX LTD.

and

Guy Harmelin

as the Shareholders’ Representative

Dated November 19, 2017

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THIS SHARE PURCHASE AGREEMENT ("**Agreement**") is entered into on the 19 day of November, 2017, by and among:

BIOMX LTD., a company existing under the laws of the State of Israel (the "**Purchaser**");

RONDINX LTD., a company duly and validly organized under the laws of Israel (the "**Company**");

THE SHAREHOLDERS OF THE COMPANY LISTED IN SCHEDULE A-1 HERETO (the "**Shareholders**");

HOLDERS OF COMPANY'S WARRANTS LISTED IN SCHEDULE A-2 HERETO (the "**Company Warrant Holders**", and collectively with the Shareholders, the "**Consideration Recipients**"); and

Guy Harmelin, as the "**Shareholders' Representative**"

(collectively, the "**Parties**" and each of them, a "**Party**").

WHEREAS:

(A) The Purchaser desires, subject to the terms and conditions set forth in this Agreement, to acquire 100% of the issued and outstanding share capital of the Company on a fully diluted basis (the "**Share Purchase**"), all such outstanding securities being free and clear of any Security Interests, in consideration for certain securities of the Company and other consideration set forth herein, all on the terms and subject to the conditions hereinafter set forth; and

(B) The Shareholders are the owners on the date hereof of 100% of the issued and outstanding share capital of the Company, as detailed in **Schedule A-1** hereto, and have accepted the offer extended by the Purchaser and agreed, subject to the terms and conditions set forth in this Agreement, to sell to the Purchaser all of their outstanding securities in the Company, free and clear of any Security Interests, on the terms and subject to the conditions hereinafter set forth; and

(C) Concurrently with the execution of this Agreement, and as a condition and inducement to Purchaser's willingness to enter into this Agreement, each key employee and consultant of the Company listed in **Schedule B** hereto (each, a "**Key Employee**") shall have executed an employment agreement with Purchaser, in form acceptable to the Purchaser and the applicable Key Employee (the "**Key Employee Agreements**"); and

(D) Concurrently with the execution of this Agreement, and as a condition and inducement to the Company's and Consideration Recipients' willingness to enter into this Agreement, (i) the Purchaser's shareholders possessing voting authority necessary for the requisite Purchaser's shareholders' approval with respect to the execution and consummation of the Transaction and the Amended IRA (as defined below) will execute and deliver an irrevocable voting proxy, in the form of **Schedule C** hereto, providing, among other things, for the voting by such shareholders of their Purchaser's shares in favor of the adoption of this Agreement and the execution and consummation of the Transaction and the Amended IRA; and (ii) the Parties have obtained the Tax Ruling (as defined below) confirming, among other things, that Purchaser and any Person acting on its behalf shall be exempt from Israeli withholding tax in relation to any payments made under this Agreement.

NOW THEREFORE, the Parties agree as follows:

1. INTERPRETATION

1.1. Definitions.

The following terms shall have the following meanings:

Term	Meaning
102 Options	Company Options subject to tax in accordance with Section 102(b)(2) of the ITO.
102 Shares	Ordinary Shares issued upon exercise of 102 Options, if any.
102 Trustee	ESOP Management & Trust Services Ltd., the trustee nominated by the Company as trustee for the Option Plan in accordance with Section 102.
Acquisition Transaction	Any transaction involving: (a) the sale, license, disposition or acquisition of all or a material portion of the Company's business or assets; (b) the issuance, disposition or acquisition of (i) any capital stock or other equity security of the Company (other than Ordinary Shares issued to employees of the Company upon exercise of Company Options), (ii) any option, call, warrant or right (whether or not immediately exercisable) to acquire any capital stock or other equity security of the Company, or (iii) any other security, instrument or obligation that is or may become convertible into or exchangeable for any capital stock or other equity security of the Company; or (c) any merger, consolidation, business combination, reorganization or similar transaction involving the Company.
Affiliate	Any Person controlling, controlled by or under common control with any Person and if such Person as first stated above is a natural person, then the immediate family of such natural person. For the purpose of this definition of Affiliate, "control" shall mean the ability to direct the activities of the relevant entity and shall include the holding of more than 50% of the issued and outstanding share capital, voting rights or other ownership interests of such entity or the right to appoint more than 50% of the directors (or the equivalent thereof) in such entity.
Aggregate Consideration	Means the Closing Shares, the Closing Warrants, Milestone Consideration Shares, Contingent Consideration, Cash Contingent Consideration, Equity Contingent Consideration, Cash Payment Amount and/or the Milestone Payment Amount.
Board of Directors	The board of directors of the Company.
Books and Records	Books and records of the Company.
Business Day	Any day that is neither a Friday nor Saturday, a day on which banking institutions chartered by the State of Israel are required or authorized to be closed, nor any day which is recognized by the Bank of Israel as not being a business day.

Claims	Claims, proceedings, investigations or demands, actions commenced, brought, conducted or heard by or before, or otherwise involving, any court or other Governmental Authority or any arbitrator or arbitration panel.
Company Share Capital	Means Company's Ordinary Shares and Preferred Seed Shares and all options, warrants or other securities exercisable or exchangeable for, or convertible into such shares.
Company Intellectual Property Assets	Company-Controlled Intellectual Property Assets and any other Intellectual Property Assets in-licensed by Company.
Company- Controlled Intellectual Property Assets	All Intellectual Property Assets owned by or exclusively licensed to the Company.
Company Options	Options to purchase Ordinary Shares of the Company granted under the Option Plan.
Companies Law	The Israel Companies Law 5759-1999, as amended from time to time.
Company Material Adverse Effect	Any event, change, effect, condition or circumstance that has occurred which has, or could reasonably be expected to have a material adverse effect upon the business, operations, assets, condition (financial or otherwise), assets, liabilities, business, or operations of the Company; provided, however, that none of the following shall constitute a Company Material Adverse Effect: (a) changes in general economic conditions or financial credit or securities markets in general or changes or developments affecting generally the industry in which the Company operates, (b) national or international political or social conditions, and outbreak of acts of war, armed hostilities or terrorism or any escalation or worsening of any acts of war, armed hostilities or terrorism, or (c) changes in applicable Laws or applicable accounting regulations or principles or interpretations thereof. Notwithstanding the foregoing any material breach by the Company of any of the agreements with Pfizer and/or Estee Lauder shall be deemed to constitute a "Company Material Adverse Effect" hereunder.
Contract	Any written or oral agreement, contract, subcontract, lease understanding obligation, license, arrangement, permit, concession, franchise, purchase order, sales order contract, note, bond, warranty, mortgage, indenture, deed of trust, loan, credit agreement, insurance policy, benefit plan or legally binding commitment or undertaking of any nature.

Debt	(a) all indebtedness for borrowed money, whether current or funded, or secured or unsecured (including all obligations for principal, interest premiums, penalties, fees, expenses and prepayment or breakage costs), (b) all indebtedness for the deferred purchase price of property or services represented by a note or other security, (c) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (d) all indebtedness secured by a purchase money mortgage or other Security Interest to secure all or part of the purchase price of property subject to such mortgage or Security Interest (other than any Security Interest with respect to the Company's leases), (e) all obligations under leases which shall have been or must be, in accordance with GAAP, recorded as capital leases in respect of which such person is liable as lessee, (f) any Liability in respect of banker's acceptances or letters of credit to the extent outstanding, and (g) any amount of unfunded or under-funded pension or severance contributions in accordance with applicable Laws or Contract, in accordance with applicable Laws, and(h) all indebtedness referred to in clauses (a), (b), (c), (d), (e), (f) or (g) above which is guaranteed by the Company.
Fundamental Representations	The representations and warranties contained in Section 4.1 (Constitution and Compliance), Section 4.2 (No Conflict) Section 4.4 (Capitalization), Section 4.22 (No Debt) (all of the forgoing, the "**Company Fundamental Representations**") and Section 5 (Representations and Warranties of Each Shareholder) (the "**Shareholders Fundamental Representations**").
GAAP	Generally accepted accounting principles in effect from time to time in the United States of America, applied on a consistent basis.
Governmental Authority	Any foreign, federal, state, county, city, municipal, local or other government or any subdivision, authority, court, agency, commission board, bureau, administrative panel, or other instrumentality thereof, including any "competent authority," "notified body" or non-governmental self-regulatory organization or other governmental authority and any entity owned or controlled by one of the foregoing.

Intellectual Property Assets	Any and all of the following, as they exist throughout the world: (i) patents and patent applications (which for the purposes of this Agreement will be deemed to include certificates of invention and applications for certificates of invention), including provisional applications, divisionals, continuations, continuations-in-part, reissues, reexaminations, renewals, extensions, supplementary protection certificates, and the like of any such patents and patent applications, and any foreign equivalents thereof (collectively, "**Patents**"); (ii) rights in registered and unregistered trademarks, service marks, trade names, trade dress, logos, packaging design, slogans and Internet domain names, and registrations and applications for registration of any of the foregoing (collectively, "**Marks**"); (iii) copyrights in both published and unpublished works, including without limitation all compilations, rights in databases and computer programs, rights in manuals and other documentation and all copyright registrations and applications, and all derivatives, translations, adaptations and combinations of the above (collectively, "**Copyrights**"); (iv) inventions, discoveries and invention disclosures (whether or not patented) and rights in know-how, trade secrets and confidential or proprietary information, including research in progress, algorithms, data, databases, methodologies, systems, frameworks, playbooks, data collections, designs, processes, formulae, schematics, blueprints, flow charts, models, strategies, prototypes, techniques, source code, source code documentation, and beta testing results and inventions, all of non-public nature (collectively, "**Trade Secrets**"); and (v) any and all other intellectual property rights and/or proprietary rights recognized by Law.
IRS	The United States Internal Revenue Service.
ITA	The Israel Tax Authority.
ITO	The Israeli Income Tax Ordinance [New Version] 1961 and all the regulations, rules and orders promulgated therein.
Law	Any federal, state, county, city, municipal, foreign, or other governmental statute, law, rule, regulation, ordinance, order, code, or requirement (including pursuant to any settlement agreement or consent decree) and any permit or license granted under any of the foregoing, or any requirement under the common law.
Leakage Payments	Any expenses paid or incurred by the Company other than the expenses set forth in **Schedule D** attached hereto.
Legal Requirement	Any Law issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Authority and any orders, writs, injunctions, awards, judgments and decrees issued against or applicable to the Company or any of its respective assets, properties or businesses, as of the date hereof or the Closing Date, as applicable.
Liability	Any and all Debt, liabilities and obligations, whether accrued or fixed, known or unknown, absolute or contingent, matured or unmatured, determined or determinable, accrued or unaccrued, liquidated or unliquidated or due or to become due, and regardless of whether arising out of or based upon any Contract, Law, tort, strict liability or otherwise.

Open Source Software	Any software (in source or object code form) that is subject to (i) a license or other agreement commonly referred to as an open source, free software, copyleft or community source code license (including but not limited to any code or library licensed under the GNU General Public License, GNU Lesser General Public License, BSD License, Apache Software License, or any other public source code license arrangement) or (ii) any other license or other agreement that requires, as a condition of the use, modification or distribution of software subject to such license or agreement, that such software or other software linked with, called by, combined or distributed with such software be (1) disclosed, distributed, made available, offered, licensed or delivered in source code form, (2) licensed for the purpose of making derivative works, (3) licensed under terms that allow reverse engineering, reverse assembly, or disassembly of any kind, or (4) redistributable at no charge, including without limitation any license defined as an open source license by the Open Source Initiative as set forth on www.opensource.org.
M&A Transaction	As defined in the Amended Articles.
Option Plan	The RondinX Ltd. 2016 Share Option Plan.
Order	Any judgment, injunction, order, or decree that is issued by a Governmental Authority.
Ordinary Course of Business	The ordinary and usual course of business of the Company, consistent with past practices.
Ordinary Shares	Ordinary shares of the Company, without par value.
Organizational Documents	In respect of any entity, the memorandum of association (if any) and articles of association or similar corporate documents as per the applicable jurisdiction of incorporation.
Pro Rata Portion	With respect to each Consideration Recipient, the ratio between (a) such portion of the Aggregate Consideration actually paid to such Consideration Recipient at the relevant time of calculation; and (b) such portion of the Aggregate Consideration actually paid to all Consideration Recipients at such relevant time.
IIA	Israel Innovation Authority, formerly the Office of the Chief Scientist of the Israeli Ministry of Economy and Industry.
Optionholder	Holder of Company Options.
Person	Includes any individual, sole proprietorship, partnership, firm, entity, limited partnership, limited liability company, unlimited liability company, corporation, Governmental Authority, association, trust, joint stock company, joint venture, unincorporated organization, governmental or national entity or other entity or organization.

Preferred A-1 Shares	Series A-1 Preferred Shares of the Purchaser with par value NIS 0.01 each.
Preferred Seed Shares	Preferred Seed Shares of the Company without par value.
R&D Law	The Encouragement of Research, Development and Technological Innovation Law, 5744-1984, as amended.
Related Party	With respect to any specified Person, means: (a) any Affiliate of such specified Person, or any director, executive officer, general partner or managing member of such affiliate; (b) any Person who serves as a director, executive officer, partner, member or in a similar capacity of such specified Person; (c) any Immediate Family member of a Person described in clause (b); or (d) any other Person who holds, individually or together with any affiliate of such other Person and any member(s) of such Person's Immediate Family, more than five percent (5%) of the outstanding equity or ownership interests of such specified Person. For the purposes of this definition, "**Immediate Family**," with respect to any specified Person, means such Person's spouse, parents, children and siblings, including adoptive relationships and relationships through marriage, or any other relative of such Person that shares such Person's home.
Representatives	Officers, directors, employees, agents, attorneys, accountants, advisors and representatives.
Registered Intellectual Property Assets	Intellectual Property Assets that are the subject of an application, certificate, filing, registration or other document issued, filed with, or recorded by any Governmental Authority, including any of the following: (i) issued Patents and Patent applications; (ii) Mark registrations, renewals and applications; and (iii) Copyright registrations and applications.
Security Interest	Any interest or equity of any Person (including any right to acquire, option, or right of pre-emption) or any mortgage, charge, pledge, lien (including *ikavon*), attachment, assignment, deed of trust, hypothecation, easement, security interest, right of first refusal, right of preemption, transfer or retention of title agreement, or restriction by way of security of any kind or nature, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership or any other encumbrance or security interest over or in the relevant property.

Subsidiaries	With respect to any Person, (i) any corporation, of which a majority of the aggregate voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote generally in the election of directors thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof or (ii) any limited liability company, partnership, association, or other business entity, of which a majority of the partnership, membership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes of this definition, a Person or Persons will be deemed to have a majority ownership interest in a limited liability company, partnership, association, or other business entity if such Person or Persons will be allocated more than fifty percent (50%) of the limited liability company, partnership, association, or other business entity gains or losses, or is or controls the managing member or general partner of such limited liability company, partnership, association, or other business entity.
Tax	And with the corresponding meaning "***Taxable***": (i) any net income, alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, value added, margins, transfer, franchise, profits, license, payroll, employment (including amounts payable under the Israeli social security or national health insurance payments), excise, severance, stamp, occupation, premium, property, environmental, or windfall profit tax, deductions, charges, withholding required by any Taxing Authority on amounts paid to or by the Company or any of its Affiliates, custom, duty, or other tax, escheat of unclaimed funds or property, governmental fee, or other like assessment or charge of any kind whatsoever, together with any interest, inflation linkage differentials (*hefreshei hatzmadah*), penalty, addition to tax, or additional amount imposed by any Taxing Authority; and (ii) any liability of the Company or any of its Affiliates for the payment of any amounts as a result of being a party to any Tax Sharing Agreements or with respect to the payment of any amounts of any of the foregoing types as a result of any obligation to indemnify any other Person or as a result of being a transferee or successor, by Contract or otherwise.
Taxing Authority	The ITA, the IRS and any other national, regional, municipal or other governmental or regulatory authority or administrative body responsible for the administration of any Taxes.
Tax Return	Any return, declaration, report, claim for refund, or information return or statement relating to Taxes, filed or required to be filed, including any amendment thereof, and including, where permitted or required, combined, consolidated, affiliated or unitary returns for any group of entities that includes the Company or any of its Affiliates.
Tax Ruling	As defined in Section 2.9.

Tax Sharing Agreements	All existing Tax allocation or Tax sharing agreements or arrangements (whether oral or written) binding the Company or any of its Affiliates.
Transaction	The transactions contemplated under the Transaction Documents.
Transaction Documents	This Agreement, its exhibits and schedules and any and all other Contracts, certificates and documents contemplated to be delivered or executed in connection with this Agreement and the transactions contemplated hereby, including, without limitation, the Amended Articles.
Vested Options	Company Options that are vested upon Closing in accordance with their vesting schedule after giving effect to any acceleration duly approved by the Company.
Waterfall	The waterfall attached in **Schedule E**, which may be updated as of the Closing by the Shareholders' Representative solely with regard to the issuance of additional Ordinary Shares deriving from exercise of Vested Options, included in **Schedule 4.4.2** and/or reduction of the Closing Shares and shares under Closing Warrants as a result of Leakage Payments (per the provisions of Section 7.11).

1.2. Certain Rules of Interpretation.

1.1.1 Number and Gender. Words and defined terms denoting the singular number include the plural and vice versa and the use of any gender shall be applicable to all genders.

1.1.2 Headings. The paragraph headings are for the sake of convenience only and shall not affect the interpretation of this Agreement.

1.1.3 Any agreement or instrument defined or referred to herein, or in any agreement or instrument that is referred to herein, means such agreement or instrument as from time to time amended, modified or supplemented. Other terms may be defined elsewhere in the text of this Agreement and shall have the meaning indicated throughout this Agreement.

2. PURCHASE AND SALE OF THE SHARES

2.1. Agreement to Purchase and Sell. Subject to and in accordance with the terms and conditions of this Agreement, at the Closing each of the Shareholders shall sell to the Purchaser, and the Purchaser shall purchase from each of the Shareholders, the Ordinary Shares and the Preferred Seed Shares, owned by each Shareholder as of the Closing, as set forth in the Waterfall (the "**Purchased Shares**"), such that immediately following the Closing, the Purchaser shall be the owner of 100% of the issued and outstanding share capital of the Company, free and clear of Security Interests; and any and all outstanding stock options, warrants, convertible securities, convertible debt and equity equivalents of the Company shall have been exercised, repaid, expired or cancelled prior to Closing as set forth in this Agreement.

2.2. <u>Consideration</u>.

2.2.1. In consideration of the transfer and sale of the Purchased Shares, at the Closing and subject thereof, the Purchaser shall issue to (a) the Shareholders an aggregate of 250,023 Preferred A-1 Shares which shall be deemed as the "**Closing Shares**" and (b) the Company Warrant Holders as listed in the Waterfall, Closing Warrants (as defined in Section 2.6 hereto), all as set forth in Section 2.6 hereof.

2.2.2. In the event that the Tax Ruling is rejected (the "**Trigger Event**") then (i) the 6,426 Closing Shares issued to the Shareholders (according to the allocation between the Shareholders as set forth in the Waterfall) shall be reconveyed to the Purchaser and shall be deemed deferred and not valid; (ii) the Closing Warrant shall be reduced by 1,402 Preferred A-1 Shares according to the allocation between the Company Warrant Holders as set forth in the Waterfall; and (iii) the Purchaser shall transfer to the Consideration Recipients, within seven (7) Business Days following the occurrence of the Trigger Event, an aggregate amount equal to [***], to be split among the Consideration Recipients as provided for in the Waterfall (the "**Cash Payment Amount**").

For purposes of this Agreement, (i) the Tax Ruling shall be deemed to be obtained if the ITA grants a tax ruling containing the Qualified Terms and does not impose any additional limitation, restriction or obligation on the Shareholders other than as set forth in the Qualified Terms or such other terms acceptable to both the Purchaser and the Shareholders Representatives after discussion in good faith by the Parties during a period of 30 days following the receipt of such Tax Ruling; and (ii) the Tax Ruling shall be deemed to be rejected if (x) the Purchaser and the Company receive a rejection in writing from the ITA that cannot be reasonably appealed or challenged, or (y) at least nine (9) months from the Closing have lapsed without obtaining the Tax Ruling and the tax advisors of the Shareholders, the Purchaser and the Company believe that there is no reasonable likelihood of obtaining the Tax Ruling.

"**Qualified Terms**" means the following terms and conditions: (a) the transfer of shares of the Company to the Purchaser pursuant to this Agreement is treated as a "tax exempt" exchange of shares pursuant to Section 103T (103ט(of the ITO; and (b) other than the restrictions set forth in Section 103T (103ט(of the ITO, there shall be no restrictions, limitations or obligations, of any kind, applying to the Shareholders. In case that the Application was rejected as evidenced by a written notice of the ITA, the issuance of the Closing Shares and the Cash Payment Amount shall be subject to withholding Taxes in accordance with Section 2.10 hereto.

2.3. Reserved.

2.4. <u>Additional Issuances and/or Earn-Out Payments</u>.

2.4.1. Issuances of Milestone Shares. In the case of the attainment of a milestone set forth in Section 2 of **<u>Exhibit 2.4.1</u>** hereto (such Exhibit 2.4.1, the "**Milestones Schedule**") prior to the fourth anniversary of the Closing Date or of a milestone set forth in Section 3 of the Milestone Schedule prior to the third anniversary of the Closing Date, then upon the first attainment of any such milestone, the Consideration Recipients listed in the Waterfall will be entitled to receive a one-time payment of an additional aggregate amount of 234,834 ordinary shares of the Purchaser (the "**Milestone Consideration Shares**"). The allocation of the Milestone Consideration Shares shall be made per the allocation set forth in the Waterfall. The issuance of the Milestone Consideration Shares shall be subject to withholding Taxes in accordance with Section 2.10 hereto. If at the time of such payment of Milestone Consideration Shares, the Tax Ruling has not yet obtained or a Trigger Event has occurred (and only in such events), the Purchaser shall, in addition to the issuance of the Milestone Consideration Shares, pay the Consideration Recipients an aggregate amount of US$300,000 to be split among the Shareholders as provided for in the Waterfall (the "**Milestone Payment Amount**"). Issuance of the Milestone Consideration Shares and the payment of the Milestone Payment Amount (if applicable) shall be made by the Purchaser within 30 days from the date that the applicable milestone was met. Each of the milestones set forth in the Milestone Schedule shall be referred hereto as a "**Milestone**". The payment of the Milestone Payment Amount shall be subject to the provisions of Section 2.10 hereto.

2.4.2. Contingent Consideration.

2.4.2.1. In addition to the issuance of the Milestone Consideration Shares (to the extent applicable), subject to and upon meeting of any Milestone during the period listed therein, the Purchaser shall make the applicable and additional payment as listed in the Milestone Schedule in shares and/or in cash (as set forth below) to the Consideration Recipients per the allocation set forth in the Waterfall (the "**Contingent Consideration**").

2.4.2.2. Any payment of the Contingent Consideration, calculated as set forth in the Milestone Schedule, may be paid at the discretion of the Purchaser in one of the following methods (i) all cash, (ii) a combination of cash and remaining consideration payable in the then most senior class of shares of the Purchaser (the allocation to be determined by Purchaser in its sole discretion) or (iii) all consideration payable in the most senior class of shares of the Purchaser authorized or outstanding as of the time that payment is due. In the case of (ii) and (iii), consideration in shares will be based on the lowest price per share paid by any holder of Purchaser's most senior class of shares in consideration for the issuance thereof (such shares "**Equity Contingent Consideration**" and such price, the "**Equity Contingent Consideration Price**"), provided that, to the extent that the Tax Ruling has not yet obtained by that time or a Trigger Event has occurred prior to such date, at least [***] of the applicable Contingent Consideration shall be made in cash (the '**Minimum Cash Contingent Consideration**"). In case that the Application was rejected, the issuance of the Equity Contingent Consideration and the Cash Contingent Consideration shall be subject to withholding Taxes in accordance with Section 2.10 hereto. In case that the Purchaser's shares (or any shares received by the Company's shareholders as part of a merger with a public company) are traded on a public market, then the price per share calculated as part of the payment under the Milestone Schedule, shall be calculated as set forth in Article 13.2 to the Amended Articles, provided that the distribution thereunder shall be deemed as the date of the notice of completion of the applicable Milestone.

2.4.2.3. The Purchaser will notify the Shareholders' Representative, in writing, of its decision of how such Contingent Consideration is to be paid in cash (the "**Cash Contingent Consideration**") or Equity Contingent Consideration within fourteen (14) Business Days from the date that the applicable Milestone was met (the "**Payment Method Notice**").

2.4.2.4. For the avoidance of doubt, in the event that the Tax Ruling has been obtained by the time of the Contingent Consideration is due, then 100% of the Contingent Consideration may be paid by issuance of Equity Contingent Consideration.

2.4.3. Source of Payment of the Milestone Payment, Payment Schedule.

2.4.3.1. If the Purchaser is required to pay the Milestone Payment Amount in accordance with Section 2.4.1, such amount shall be credited against the Contingent Consideration payment due for meeting the Milestone listed under the Milestone Schedule (i.e. Purchaser shall not be required to pay the first [***] in Contingent Consideration).

2.4.3.2. All payments of Cash Contingent Consideration and issuance of the Equity Contingent Consideration due by the Purchaser to the Consideration Recipients shall be made within 30 Business Days from the date of achievement of the applicable Milestone, provided, that with respect to Cash Contingent Consideration other than the Minimum Cash Consideration (if applicable) due on account of Upfront Related Milestones (as defined in Section 4 of the Milestone Schedule) (the "**Upfront Cash Payment**"), such payment will be made[***] from Purchaser's or its Affiliates actual receipt of the payment on account of the relevant Qualifying Upfront Fee). Consideration Recipients shall not have any claim against the Purchaser in case the Purchaser did not actually receive the payment on account of the relevant Qualifying Upfront Fee and as a result did not pay the Consideration Recipients for such Milestone, unless such payment has not been received due to any action or omission of the Purchaser.

2.4.3.3. The issuance of the Milestone Consideration Shares or the payment of the Milestone Payment Amount shall be subject to withholding Taxes in accordance with Section 2.10.

2.4.4. If so elected by the Purchaser, the Shareholders' Representative shall appoint a paying agent (the "**Paying Agent**") to handle all the withholdings and other payments required under applicable Law with respect to receipt of all items of consideration due to the Consideration Recipients herein.

2.4.5. Redemption of Milestones. The Consideration Recipients rights, if any, to receive the Milestone Consideration Shares (or the Milestone Payment Amount, if applicable) and the Contingent Consideration (collectively, the "**Milestone Consideration**") shall not be harmed or otherwise adversely affected in an M&A Transaction and be fully assumed by acquirer or successor thereunder, provided that the acquiring or successor party pursuant to such M&A Transaction shall be entitled, within no later than 30 days after the closing of such M&A Transaction, to redeem itself from any obligations to pay future Contingent Consideration hereunder, by making the one-time payment, calculated as set forth in **Exhibit 2.4.5** attached hereto, to the Consideration Recipients in accordance with the allocation between the Consideration Recipients as set forth in the Waterfall.

2.4.6. Occurrence of a Milestone. The occurrence of an applicable Milestone shall be deemed met in accordance with the procedures set forth in the Milestone Schedule.

2.5. The Purchaser shall use its commercially reasonable efforts to continue and develop the Company's Covered Product Candidates (as defined in the Milestone Schedule) (the "**Development Undertaking**"). Purchaser undertakes to take and perform the actions listed in the Milestone roadmap attached hereto as **Exhibit 2.5** (the "**Milestone Roadmap**"), and its compliance with the Milestone Roadmap shall be deemed as compliance with the forgoing Development Undertaking. Without derogating and subject to the foregoing, the Board of Directors of the Purchaser shall have sole and absolute discretion to define, revise, terminate and amend Purchaser's research, development and strategic growth plans, including taking any act that has implications on the Company's Covered Product Candidates or Computational Platform (as defined in the Milestone Schedule). Additionally, without derogating and subject to the Purchaser undertaking to comply with the Milestone Roadmap, the Purchaser may neglect, revise, abandon (and in the case of abandonment of a patent in all jurisdictions the resolution of the Board of Directors of Purchaser will be required) or discontinue paying any registration or other fees related to Company Intellectual Property Assets as it deems right in its sole and absolute discretion (provided that such actions do not impair Purchaser's undertaking to comply with the Milestone Roadmap).

2.6. Treatment of Warrants. All warrants held by Company Warrant Holders to purchase Company Share Capital, as reflected in the Waterfall (the "**Company Warrants**") shall expire and be cancelled and terminated without payment and without Liability towards the holder thereof, except the right to receive (i) a warrant to purchase such number of Preferred A-1 Shares of the Purchaser (constituting part of the Closing Shares) for no additional consideration, as set forth in the Waterfall, in the form attached hereto as **Exhibit 2.6** (the "**Closing Warrants**"), and (ii) the right to receive additional consideration pursuant to Section 2.4 above in accordance with the allocation set forth in the Waterfall.

2.7. Treatment of Stock Options.

2.7.1. No Company Option (whether vested or unvested) that is outstanding immediately prior to the Closing shall be assumed by Purchaser. Each Company Option (whether vested or unvested) not otherwise exercised before the Closing shall be cancelled immediately prior to the Closing. Any exercise of Company Option prior to the Closing shall be reflected in the list of Shareholders set forth in **Exhibit 2.2.1** and the Waterfall without increasing the amount of the Closing Shares, Closing Warrants or the Cash Payment Amount.

2.7.2. Prior to Closing, the Company shall take all actions under the Company Option Plan and otherwise to cause each of the Company Options to be cancelled and extinguished as of the Closing Date and any other actions necessary to approve and confirm the treatment of the Company Options and any Ordinary Shares issued thereunder as detailed above.

2.8. Allocation of the Consideration. The payment by the Purchaser of any consideration herein to the Consideration Recipients per the allocation listed in the Waterfall shall constitute payment by the Purchaser to the Consideration Recipients and satisfaction of the Purchaser's obligation to pay such amount hereunder.

2.9. Tax Ruling.

2.9.1. The Purchaser and the Company shall make best efforts to obtain a tax ruling from the ITA based on the application filed with the ITA on October 14, 2017 and attached hereto as **Schedule 2.9** (the "**Application**" and the "**Tax Ruling**", respectively).

2.9.2. To the extent that a Tax Ruling shall have been obtained, the Purchaser hereby agrees and undertakes to make reasonable efforts to comply with the terms and conditions of the Purchaser's limitations, restrictions and obligations set forth in the Tax Ruling.

2.9.3. In the event of any non-compliance by the Purchaser with the provisions of the Tax Ruling that results in request of payment of taxes (the "**Tax Payment Request**"), and other than in connection with a transfer of shares pursuant to an M&A Transaction in cash, the parties shall act as if no Tax Ruling has been obtained or a Trigger Event has occurred, such that the provisions of Sections 2.2.2 and 2.4 above shall apply as if no Tax Ruling has been obtained or a Trigger Event has occurred, *mutatis mutandis*.

2.10. Withholding Tax

2.10.1. Each of the Purchaser and the Paying Agent (to the extent appointed) (each, a "**Payor**"), as the case may be, shall be entitled to deduct and withhold (and remit to the appropriate Taxing Authority) from any consideration payable or otherwise deliverable to any Shareholder pursuant to this Agreement such amounts as each Payor determines in good faith to be required to be deducted or withheld therefrom under any Applicable Law, including, without limitation, the Israeli Tax Ordinance, provided, however, that in respect of Taxes arising under Applicable Law, if Payor is provided, at least three (3) Business Days Prior to issuance of any shares or disbursement of funds, with a Valid Certificate or ruling issued by the appropriate Taxing Authority regarding the deduction or withholding of Taxes (including the reduction of Tax to be withheld, an exemption from withholding, or any other instructions regarding the payment of withholding, whether general or referring specifically to any payment under this Agreement) (an "**Israeli Tax Certificate**") from any amounts payable hereunder, then the withholding (if any) of any amounts under Israeli Laws regarding Taxes from the amounts payable hereunder, and the payment of the amounts or any portion thereof, shall be made only in accordance with the provisions of such Israeli Tax Certificate. To the extent that such amounts are so withheld by a Payor, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid in respect of whom such deduction and withholding was made by a Payor. In case no Israeli Tax certificate shall be provided, the Payor shall use any or all of the Cash Payment Amount (if any) for payment of the tax amounts due for such issuance of the Closing Shares. Each of the Consideration Recipients hereby irrevocably agrees and permits the Purchaser to use such Cash Payment Amount for the payment of the withholding tax due for such sale in accordance with applicable Law as the Purchaser reasonably determines is required to be deducted or withheld therefrom. In the event that the Payor shall notify the Shareholders Representative that the such Cash Payment Amount (if any) is not sufficient for the payment of the Taxes due for each payment under this Agreement (including the Contingent Consideration under the Milestone Schedule), each of the Consideration Recipient irrevocably undertakes to transfer within 5 business days from first demand the amount that the Purchaser shall reasonably require to comply with the demands of applicable Law.

2.10.2. a "**Valid Certificate**" shall be deemed as being a valid and applicable certification or ruling issued by the ITA (i) exempting any Consideration Recipient from the duty to withhold Israeli Taxes with respect to a Consideration Recipient, (ii) determining the applicable rate of Israeli Tax to be withheld from such Consideration Recipient, or (iii) providing any other instructions regarding the payment or withholding with respect to the applicable consideration of such Consideration Recipient. For such purpose, the Tax Ruling will be considered a Valid Certificate providing full exemption from withholding.

2.11. Adjustments. In the event of any share split, bonus shares, reverse share split, share dividend (including any dividend or distribution of securities convertible into shares), consolidation, reorganization, reclassification, combination, recapitalization or other like change with respect to the Purchaser' shares occurring following the Closing, all references in this Agreement to specified prices, numbers of shares affected thereby, or any value thereof, and all calculations provided for that are based upon numbers of shares (or value thereof) affected thereby, shall be equitably adjusted to the extent necessary to provide the parties hereto the same economic effect as contemplated by this Agreement prior to such share split, reverse share split, share dividend, reorganization, reclassification, combination, recapitalization or other like change.

3. CLOSING

3.1. The closing of the purchase and sale of the Purchased Shares (the "**Closing**") shall take place at the offices of Zysman, Aharoni & Gayer, 45 Rothschild Blvd., Tel Aviv, Israel, within two (2) Business Days after the satisfaction of all the conditions precedent to Closing as set out herein, or thereafter at such other time, date and place as may be agreed by the Shareholders' Representative and the Purchaser in writing (the time and date of the Closing being herein referred to as the "**Closing Date**").

3.2. At the Closing, the following actions and occurrences will take place, all of which shall be deemed to have occurred simultaneously and no action shall be deemed to have been completed and no document or certificate shall be deemed to have been delivered, until all actions are completed and all documents and certificates delivered:

3.2.1. The Shareholders and the Company shall deliver to the Purchaser the following documents or cause the following actions to be completed:

3.2.1.1. share transfer forms for the Purchased Shares in the form attached hereto as **Schedule 3.2.1.1**, duly executed by each Shareholder or, in the case of 102 Shares, by the 102 Trustee, transferring the Purchased Shares to of the Purchaser;

3.2.1.2. Duly executed letters of resignation effective as of the Closing Date, by each of the existing directors of the Company in the form attached hereto as **Schedule 3.2.1.2**;

3.2.1.3. A true and correct copy of the resolutions of the Board of Directors, substantially in the form attached hereto as **Schedule 3.2.1.3(a)**, approving, inter alia, the (i) execution and delivery by the Company of this Agreement and the other Transaction Documents to which the Company is a party and the transactions contemplated hereby and thereby, including the transfer by the Shareholders of the Purchased Shares to the Purchaser, (ii) the treatment of Company Options and 102 Shares as detailed in this Agreement; (iii) purchase a run off, or tail insurance policy (the "**Tail Insurance Policy**"); and (iv) approving the Shareholders Registrar in the form of **Schedule 3.2.1.3(b)**.

3.2.1.4. True and correct copy of the resolutions of the shareholders of the Company, in substantially the form attached hereto as **Schedule 3.2.1.4**, approving, among other things, the execution and delivery by the Company of this Agreement, and purchase of the Tail Insurance Policy;

3.2.1.5. Validly executed new share certificates covering the Purchased Shares, issued in the name of the Purchaser, in substantially the form attached hereto as **Schedule 3.2.1.5**;

3.2.1.6. A true and complete copy of the Register of the Directors of the Company as in effect immediately prior to Closing in the form of **Schedule 3.2.1.6**;

3.2.1.7. A certificate of the Company duly executed by its Chief Executive Officer, dated as of the Closing Date, in the form attached hereto as **Schedule 3.2.1.7**;

3.2.1.8. Reserved.

3.2.1.9. The original copies of all of the Shareholders' share certificates or in the event that any certificates shall have been lost, stolen or destroyed, such Shareholders shall provide an affidavit to this effect substantially in the form attached hereto as **Schedule 3.2.1.9**.

3.2.1.10. Each of the Shareholders shall have delivered an executed Shareholders Certificate, in the form attached hereto as **Schedule 3.2.1.10**.

3.2.1.11. Each of the Option holders shall have delivered an executed Instrument, Waiver and Consent, in the form attached hereto as **Schedule 3.2.1.11**.

3.2.1.12. The Company shall deliver to the Purchaser a certificate signed by an officer of the Company and setting forth an extract from the Company's bank(s) providing the Company's bank accounts balance status as of three (3) Business Days prior to the Closing and a good faith estimate of the amount of cash of the Company and the amount of Debt as of the Closing (the "**Closing Certificate**") in the form attached hereto as **Schedule 3.2.1.12**.

3.2.1.13. Executed termination notices of all of the employees of the Company and waiver of certain rights in connection with termination of employment signed by all of the employees of the Company in the form of **Schedule 3.2.1.13**.

3.2.1.14. A copy of a certificate of good standing for the Company from the Israeli Companies Registrar, as of a date within ten (10) Business Days of the Closing Date.

3.2.1.15. Each of the Consideration Recipients other than 8VC Angel Fund I, LP and 8VC Angel Fund I Associates L.P. shall have executed an irrevocable Proxy for the benefit of the Shareholders' Representative to vote the shares held by the Shareholders at any shareholders meeting or resolution, receive any information from the Company and otherwise represent such Consideration Recipient in any communications with the Company, all as set forth in and substantially in the form of **Schedule 3.2.1.15**.

3.2.1.16. Any Consideration Recipient who is not a resident of the State of Israel that holds, as of immediately post-Closing, more than 5% of Purchaser's issued and outstanding share capital shall execute a Letter of Undertaking to the IIA with respect to the subscription made under this Agreement in the form attached hereto as **Schedule 3.2.1.16**.

3.2.1.17. 8VC Angel Fund I LP shall execute a termination letter with respect to its right to appoint an observer to the Company's Board in the form attached hereto as **Schedule 3.2.1.17**.

3.2.1.18. Proof of cancellation of the credit and debit cards of the Company.

3.2.1.19. True and correct copies of any third party consents to the transaction contemplated under this Agreement as listed in **Schedule 3.2.1.19**.

3.2.1.20. A non-competition and non-solicitation letter of undertaking executed by each of Shareholders listed on **Schedule 3.2.1.20(a)** in the form attached hereto as **Schedule 3.2.1.20(b)**.

3.2.2. The Company shall record the transfer of the Purchased Shares to the Purchaser as contemplated hereunder, on the Company's register of shareholders, reflecting the ownership of 100% of the Company share capital by the Purchaser, and shall provide the Purchaser with a certified copy of the Company's register of shareholders as of immediately after the Closing in the form attached hereto as **Schedule 3.2.2**.

3.2.3. The Purchaser shall issue and transfer to the Shareholders the Closing Shares to be allocated to the Shareholder per the Waterfall and deliver to each Consideration Recipient validly executed new share certificates covering its applicable Closing Shares, in substantially the form attached hereto as **Schedule 3.2.3**.

3.2.4. The Purchaser shall issue and transfer to the Warrant Holders the Closing Warrants to be allocated to the Warrant Holders per the Waterfall and deliver to each Shareholder validly executed Closing Warrants.

3.2.5. The Consideration Recipients, the Purchaser and the requisite shareholders who are parties to the existing Investors Rights Agreement of the Purchaser (the "**Existing IRA**") shall execute an amendment to such Investors Rights Agreement granting the Consideration Recipients certain rights, in the form attached hereto as **Schedule 3.2.5** (the "**Amended IRA**"), and the Purchaser shall provide to the Consideration Recipients a copy of the Amended IRA, executed by the Purchaser and the requisite shareholders who are parties to the Existing IRA.

3.2.6. Copy of the amended and restated articles of association of the Purchaser's, to be in effect immediately following the Closing in the forms attached hereto as **Schedule 3.2.6** (the "**Amended Articles**"), which shall be provided to the Consideration Recipients.

3.2.7. The Purchaser shall deliver to the Consideration Recipients a true and correct copy of the resolutions of the Board of Directors of the Purchaser, substantially in the form attached hereto as **Schedule 3.2.7(a)** and true and correct copy of the resolutions of the shareholders of the Purchaser, in substantially the form attached hereto as **Schedule 3.2.7(b)**.

3.2.8. The Purchaser shall record the issuance of the Closing Shares to the Shareholders as contemplated hereunder, on the Purchaser's register of shareholders, and shall provide the Consideration Recipients with a certified copy of the Purchaser's register of shareholders as of immediately after the Closing in the form attached hereto as **Schedule 3.2.8**.

3.3. Conditions to Closing of Each Party. The obligations of the Company, the Purchaser and the Consideration Recipients to consummate the Transaction are subject to the satisfaction of the following condition:

3.3.1. No Injunction. No temporary restraining order, preliminary or permanent injunction or other order or decree issued by any Governmental Authority of competent jurisdiction shall be in effect and no applicable Law shall have been enacted or be deemed applicable to the Transaction which could reasonably be expected to impair, prevent or prohibit the consummation of the Transaction.

3.4. Purchaser's Conditions to Closing. The Purchaser's obligations to consummate the purchase of the Purchased Shares hereunder are subject to the fulfilment, prior to or at the Closing, of each of the following conditions (any or all of which may be waived by the Purchaser):

3.4.1. The representations and warranties of the Company and the Consideration Recipients contained herein were true and correct in all material respects when made and shall be true and correct in all material respects at the time of the Closing as though made again at the Closing Date, except (i) for those representations and warranties qualified by material, materiality or similar expressions which shall be true and correct in all respects, (ii) changes contemplated by this Agreement, and (iii) for those representations and warranties that address matters only as of a particular date, which representations and warranties shall have been true and correct as of such particular date.

3.4.2. The Consideration Recipients and the Company shall have performed and complied in all material respects with the obligations and covenants required by this Agreement to be performed or complied with by them prior to or at the Closing.

3.4.3. No action, proceeding or investigation shall have been instituted, threatened or proposed before any court or Governmental Authority and no Order shall be in effect to enjoin, alter, prevent, restrain , prohibit, materially delay, restrict the consummation of the Closing, or that shall impact materially and adversely the operation of the business following the Closing. No proceeding challenging this Agreement, the Transaction Documents or the Transactions contemplated by the Transaction Documents or seeking to obtain substantial damages in respect of, or which is related to, or arises out of, the Transaction Documents or the consummation of the Transaction, shall have been instituted by any Person before any Governmental Authority and be pending.

3.4.4. The execution, delivery and performance of the Transaction by the Company and the Consideration Recipients shall be duly authorized by the Board of Directors and the shareholders of the Company. Copies of the resolutions adopted by the Board of Directors and the shareholders of the Company, respectively approving this Agreement substantially in the form attached hereto as **Schedule 3.2.7(a)** and **Schedule 3.2.7(b)** shall have been provided to the Purchaser at or prior to the Closing.

3.4.5. All outstanding options, warrants and any other securities convertible or exercisable into Ordinary Shares or Preferred Seed Shares, including those set out in **Schedule 3.4.5**, shall have been exercised, converted, expired, repaid or cancelled, and all outstanding Security Interests on the Purchased Shares shall have been discharged, such that immediately following the Closing, the Purchaser shall be the owner of 100% of the issued and outstanding share capital of the Company on such date, free and clear of all Security Interests.

3.4.6. There shall have been no Company Material Adverse Effect.

3.4.7. The Purchaser and the Key Employees have executed the Key Employment Agreements, between the Purchaser and each of the Key Employees.

3.4.8. All Closing deliverables set forth in Section 3.2 and Section 3.2.2 above shall have been duly received to the satisfaction of Purchaser.

3.4.9. The Closing Certificate provided shall indicate that there is no Debt in the Company, other than as set forth in **Schedule 4.22** of the Disclosure Schedule.

3.4.10. The Company shall have duly approved the purchase of, and shall actually purchased the Tail Insurance Policy.

3.4.11. The Company shall have purchased a general third party liability insurance policy (the "**Third Party Insurance**").

3.5. Consideration Recipients' Conditions to Closing. Consideration Recipients' obligations to consummate the sale of the Purchased Shares to the Purchaser at the Closing are subject to the fulfilment, prior to or at the Closing, of each of the following conditions (any or all of which may be waived by the Shareholders' Representative):

3.5.1. All representations and warranties of the Purchaser contained herein were true and correct when made and shall be true and correct, in all material respects, at the time of the Closing as though made again at the Closing Date.

3.5.2. The Purchaser shall have performed and complied in all material respects with all obligations and covenants required by this Agreement to be performed or complied with by the Purchaser prior to or at the Closing.

3.5.3. All Closing deliverables set forth in Sections 3.2 – 3.2.8 above shall have been duly received to the satisfaction of the Consideration Recipients.

3.5.4. No action, proceeding or investigation shall have been instituted, threatened or proposed before any court or Governmental Authority and no Order shall be in effect to enjoin, alter, prevent, restrain, prohibit, materially delay, restrict the consummation of the Closing, or that shall impact materially and adversely the operation of the business following the Closing. No proceeding challenging this Agreement, the Transaction Documents or the Transactions contemplated by the Transaction Documents or seeking to obtain substantial damages in respect of, or which is related to, or arises out of, the Transaction Documents or the consummation of the Transaction, shall have been instituted by any Person before any Governmental Authority and be pending.

4. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company hereby represents and warrants to the Purchaser with respect to the Company as of the date hereof and as of the Closing Date as follows, except as set forth herein or in the Company Disclosure Schedule delivered to the Purchaser concurrently herewith which disclosures shall be deemed to be part of the representations and warranties of the Company):

4.1. Constitution and Compliance.

4.1.1. The Company is validly existing under the laws of the State of Israel, with power and authority to carry on its business as currently conducted and as currently proposed to be conducted. The Company has at all times carried on its business and affairs in all material respects in accordance with its Organizational Documents and all applicable Laws and regulations, and there is no violation or material default with respect to any statute, regulation, Order, decree, or judgment of any court or any Governmental Authority which could have a material adverse effect upon the assets or business of the Company. The Company is duly qualified to do business and is in good standing in each jurisdiction in which the Company currently conducts business.

4.1.2. The Company has all requisite corporate power and authority to execute and deliver the Transaction Documents, and to carry out and perform its obligations thereunder. All corporate action on the part of the Company, its directors, and its shareholders necessary for the authorization and execution of this Agreement by the Company has been taken. This Agreement constitutes the valid and legally binding obligation of the Company, and, assuming due authorization, execution and delivery by the Purchaser and any other party thereto, is enforceable in accordance with its terms, subject, in each case, to (i) laws of general application relating to bankruptcy, insolvency, reorganization, moratorium and the relief of debtors, and (ii) rules of law governing specific performance, injunctive relief and other equitable remedies.

4.2. No Conflict. The execution and delivery by the Company of the Transaction Documents to which the Company is a party does not, and the consummation of the Transaction will not, (i) violate, conflict, or result in a breach of any provisions of any Organizational Documents of the Company, (ii) result in the creation or enforcement of any Security Interest upon any of the properties or assets of the Company, (iii) result in a default (with or without the giving of notice or lapse of time, or both) under, or acceleration or termination of, or the creation in any Person of the right to accelerate, terminate, modify or cancel, any material contract to which any Company is a party, (iv) require the consent or agreement of any governmental body, entity or any other third party, except as provided in, or disclosed by this Agreement, or (v) constitute a material violation (with or without the giving of notice or lapse of time, or both) of Law or any judgment, decree, Order, regulation or rule of any Governmental Authority applicable to the Company or any of .

4.3. Subsidiaries. The Company does not own, directly or indirectly, any capital stock, membership interests, or other securities of any Person. The Company does not have any Subsidiaries. The Company is not a participant in any joint venture, special purpose entity, partnership or similar arrangement.

4.4. Capitalization.

4.4.1. **Schedule 4.4.1** of the Disclosure Schedule sets out the authorized and issued share capital of the Company as of the date of this Agreement and immediately prior to the Closing.

4.4.2. **Schedule 4.4.2** of the Disclosure Schedule sets out, as of the date of this Agreement, a true, correct and complete list of any and all options, warrants and other Company securities convertible into Ordinary Shares or Preferred Seed Shares or other type of shares which were issued by the Company (the "**Options**"). Except for Ordinary Shares or Preferred Seed Shares the Company has not issued any other type or class of shares.

4.4.3. Other than as listed in **Schedules 4.4.1** and **4.4.2** of the Disclosure Schedule, there are no outstanding or authorized subscriptions, options, warrants, calls, rights, commitments, or any other agreements of any character directly or indirectly obligating the Company to issue (i) any additional shares or other securities or (ii) any securities or debt convertible into, or exchangeable for, or evidencing the right to subscribe for, any shares or other securities.

4.4.4. The Purchased Shares constitutes all of the issued and outstanding share capital of the Company as of the Closing Date.

4.5. Financial Statements.

4.5.1. The Company has delivered to the Purchaser audited balance sheets of the Company as of, and the related statements of income and cash flows, for the year ended December 31, 2015 and December 31, 2016, accompanied by the report of the Company's independent public accountants thereon (the "**Financial Statements**") The Financial Statements are attached hereto as**Schedule 4.5.1**.

4.5.2. The Financial Statements (i) have been prepared from the books and records of the Company, (ii) complied as to form in all material respects with applicable accounting requirements with respect thereto as of their respective dates, (iii) have been prepared (other than the management reports) in accordance with GAAP applied on a consistent basis throughout the periods indicated (except as may be indicated therein or in the notes thereto) and consistent with each other and (iv) fairly present in all material respects in accordance with GAAP the financial position of the Company as at the date thereof and, where applicable, the results of their operations and cash flows for the period indicated (except as may be otherwise specified in the notes to such Financial Statements). The Company maintains a standard system of accounting established and administered in accordance with GAAP.

4.5.3. The Company did not receive from its independent auditors, and does not otherwise have knowledge of, any notice with respect to (A) any fraud or fraudulent concealment, whether or not material, that involves the Company's or management or other employees who have a role in the preparation of financial statements or the internal controls utilized by the Company, or (B) any material claim or allegation regarding any of the foregoing.

4.5.4. All Liabilities of the Company, are reflected in or reserved against in the Financial Statements (including the notes thereto) to the extent required by GAAP, other than Liabilities that have arisen in the Ordinary Course of Business since December 31, 2016. Other than Liabilities required to be reflected or reserved in the Financial Statements and other Liabilities that have arisen in the Ordinary Course of Business since December 31, 2016, there are no Liabilities whatsoever of the Company. The Company is not in default with respect to any such Debt or any instrument relating thereto.

4.6. Business to Date.

4.6.1. Except as contemplated by this Agreement and for actions taken in connection with the negotiation of this Agreement and the Transaction which are reflected in **Schedule 4.6.1** to the Disclosure Schedule, since December 31, 2016 until the date hereof (i) the Company conducted their business in the Ordinary Course of Business, and (ii) there has not been any event, change, occurrence or circumstance that has had a Company Material Adverse Effect on the Company. As amplification and not in limitation of the foregoing, except as set forth on **Schedule 4.6.1** to the Disclosure Schedule, since December 31, 2016, there has been:

4.6.1.1. no event, occurrence, development, circumstance, or state of facts event or development which, individually or in the aggregate, has had, or would reasonably be expected to have in the future, a Company Material Adverse Effect;

4.6.1.2. no declaration, setting aside or payment of any dividend or other distribution with respect to, or any direct or indirect redemption or acquisition of, any of the Company's share capital by the Company or by any other Person;

4.6.1.3. no waiver of any valuable right of the Company under any Material Contract;

4.6.1.4. no loan by the Company to any officer, director, employee or shareholder of the Company, or any agreement or commitment therefor, or the engagement by the Company in any transaction with any employee, officer, director or security holder of the Company, other than the payment of normal wages and salaries to employees in the Ordinary Course of Business and advances to employees in the Ordinary Course of Business for travel and similar business expenses;

4.6.1.5. no material loss, destruction or damage to any property or assets of the Company, whether or not insured;

4.6.1.6. no labor disputes or union organizing campaign involving the Company;

4.6.1.7. no acquisition, license or disposition of any material portion of the Company's assets, including any Company Intellectual Property Assets (or any Contract in respect of such assets), otherwise than for fair value in the Ordinary Course of Business;

4.6.1.8. no Security Interest imposed or created on any of the assets or properties of the Company;

4.6.1.9. no assignment, termination, modification or amendment of any Material Contract to which the Company was or is a party, except for any termination, modification or amendment made in the Ordinary Course of Business and which would not, either individually or in the aggregate, be material to the results of operations;

4.6.1.10. no notice to the Company that any Material Contract to which the Company was or is a party has been breached, repudiated or terminated or will be breached, repudiated or terminated, or for which any party other than the Company has made a complaint, demand or claim against the Company for an amount in excess of US$ 10,000 based on such Material Contract;

4.6.1.11. no entering into, adoption or material modification of any employment or similar contract, or any increase in the salary or other compensation of any employee, officer or director of the Company, or any increase in or any addition to other benefits to which any such employee, officer or director may be entitled other than an Ordinary Course of Business annual salary adjustment, in accordance with existing agreement or as required by Law;

4.6.1.12. no compensation, bonus, payment or distribution by the Company or any Affiliate thereof to any employee, officer, director or consultant of the Company not consistent with past practices of the Company;

4.6.1.13. no failure to pay or discharge when due (after the application of any applicable grace periods) any liabilities of the Company, except for liabilities contested in good faith by the Company, provided that, such liabilities have been fully reflected and reserved for in the Financial Statements;

4.6.1.14. no change in any of the accounting principles adopted by the Company, or any change in the Company's accounting policies, procedures, practices or methods (including Tax accounting methods) with respect to applying such principles, other than as required by applicable Law;

4.6.1.15. no settlement or compromise of any Tax liability of the Company, no entry into any material agreement with any Taxing Authority (or any other Governmental Authority) regarding the Company's liability for Taxes, no amendment of a Tax Return of the Company or filing of a claim for refund of Taxes previously paid by or on behalf of the Company, no consent to any extension or waiver of the limitation period applicable to any claim or assessment in respect of material Taxes of the Company;

4.6.1.16. no adoption, revocation or modification of any material Tax election of the Company or filing of any income or other material Tax Return of the Company;

4.6.1.17. no commencement of any legal proceeding by or against the Company;

4.6.1.18. no capital expenditure, purchase or commitment that will still be outstanding or in process at the Closing in excess of [***] or series of capital expenditures, purchases or commitments that will still be outstanding or in process in excess of [***] in the aggregate;

4.6.1.19. no incurrence of Debt by the Company;

4.6.1.20. no audit by any Governmental Authority or receipt of notice (written or, to the knowledge of the Company, verbal) from any regulatory agency with respect to the business of or facilities used by the Company;

4.6.1.21. no settling of a legal dispute or legal proceeding involving the Company; and

4.6.1.22. no agreement, understanding or authorization (written or verbal), for the Company to take any of the actions specified in this Section 4.6.1.

4.6.2. Full and accurate details of all bank accounts, overdrafts, loans, guarantees or other financial facilities outstanding or available to the Company are contained in **Schedule 4.6.2** of the Disclosure Schedule.

4.7. Taxation

4.7.1. The Company has timely filed, in accordance with all applicable Laws, all Tax returns and reports required under applicable Laws to be filed by or on behalf of the Company, and all Taxes required under applicable Law to be paid by or on behalf of the Company as of the date hereof and as of the December 31, 2016 have either been paid by it or are reflected in accordance with GAAP as a reserve for Taxes on the most recent Financial Statements and all such returns and reports are true, correct and complete in all material respects, and the Financial Statements reflect an adequate reserve for all Taxes payable by the Company for all taxable periods and portions thereof through the date of such Financial Statements.

4.7.2. All Taxes required by applicable Laws to be withheld by the Company have been duly and properly withheld or collected and have been (or will be) duly and timely paid to the proper Taxing Authority. No deficiencies, adjustment, underpayment for any Taxes have been proposed, asserted or assessed against the Company that is still pending. Except as set forth in **Schedule 4.7** of the Disclosure Schedule, no requests for waivers of the time to assess any such Taxes have been made that are still pending.

4.7.3. The Company is not, and will not be required to pay any Taxes for periods up to the Closing Date except to the extent adequate provision was made in the Financial Statements.

4.7.4. The Company has not (i) requested any extension of time within which to file any Tax Return or (ii) been granted any extension or waiver of the statute of limitations with respect to any Taxes.

4.7.5. There is no action, suit, proceeding, claim, audit, or investigation currently in progress, pending or, to the knowledge of the Company, threatened by any Taxing Authority against or with respect to the Company in respect of any Tax.

4.7.6. There are no Security Interests for Taxes upon the assets of the Company, except Security Interests for current Taxes not yet due.

4.7.7. The Company is not a party to any Tax indemnity or Tax Sharing Agreement with any Person, and the Company has no liability for the Taxes of any Person (other than the Company) by contract or otherwise.

4.7.8. The Company has made available to Purchaser or its legal counsel or accountants copies of all Tax Returns filed for the Company for all Taxable periods (or portion thereof) ending on or before December 31, 2016 and since incorporation, and all private letter rulings, determination letters, closing agreements and other correspondence received by them from any Taxing Authority since the same date or that may apply to the Company after the December 31, 2016.

4.7.9. The Company is not (i) a party to any “reportable transaction” within the meaning of Section 131(g) and Section 243 of the ITO and the respective regulations, (ii) has been a party to any transaction or arrangement that could reasonably be expected to cause an extension of any statute of limitations related to Taxes, including an extension because the transaction or arrangement was required to be, but was not, reported to any Taxing Authority.

4.7.10. The Company is not engaged in or has ever been engaged in a trade or business through a “permanent establishment” within the meaning of an applicable income Tax treaty in any country other than the country in which the Company is formed or organized.

4.7.11. The Company has not granted a power of attorney to any Person that is currently in force with respect to any Tax matter of the Company.

4.7.12. The Company is registered for VAT purposes and **Schedule 4.7.12** contains full details of such registration, including any group registration details. The Company has not been, a member of any other group of companies for VAT purposes other than the group disclosed on **Schedule 4.7.12**, and no company other than the Company has been a member of such group.

4.7.13. The Company has complied in all material respects with all statutory provisions relating to VAT or other applicable sales Taxes, including requirements with respect to record keeping and the making of returns, and has properly accounted to the relevant Taxing Authority for any such VAT or sales Taxes and, without derogating from the generality of the foregoing, (i) no repayments of VAT have been claimed by the Company in the twelve (12) months prior to the Closing from the Tax authorities of Israel except in accordance with applicable Law and (ii) the Company has collected all amounts on account of any VAT required by applicable Law to be collected by it, and has remitted to the appropriate Taxing Authority any such amounts required by applicable Law within the time prescribed by such requirements. The Company has not deducted any input VAT, received any refund of VAT or claimed zero (0) rate VAT that such it was not so entitled to deduct, receive or claim, as applicable.

4.7.14. The Company currently complies and has always timely complied in the past with all the relevant requirements of Section 102, with respect to any award issued pursuant to the provisions of such section, and the Company has complied with the requirements of Section 3(i) of the ITO with respect to grants to independent contractors or “Controlling Shareholders” (as defined in the ITO). The Option Plan and, if applicable, any amendments thereto, were timely and duly filed with the ITA and with the Company’s 102 Trustee.

4.7.15. Any Related Party transactions subject to Section 85A of the ITO conducted by the Company has been on an arms-length basis in accordance with Section 85A of the ITO and the regulations promulgated thereunder.

4.7.16. The Company and to the knowledge of the Company, any of the holders of the securities (with respect to the securities held by them) is subject to restrictions or limitations pursuant to Part E2 of the ITO or pursuant to any Tax ruling made in connection with the provisions of Part E2 of the ITO.

4.7.17. The Company has not made any application for or received, on its behalf or on behalf on any of its shareholders or employees, and are not otherwise subject to, any “taxation decision” (*hachlatat misui*) or Tax ruling from the ITA, whether or not in connection with the transactions contemplated by this Agreement, other than the Application.

4.7.18. **Schedule 4.7.18** of the Disclosure Schedule sets forth all Tax exemptions, Tax holidays or other Tax reduction agreements or arrangements (including grants or claims of “approved enterprise”, “benefitted enterprise” or “preferred enterprise” status) made with, or applied for by, any of the Company. The Company has provided to Purchaser all documentation relating to any applicable Tax holidays or incentives. Without limiting the generality of the foregoing, **Schedule 4.7.18** of the Disclosure Schedule lists each Tax incentive granted to the Company under Israeli Law and the period for which such Tax incentive applies. The Company has complied with all material requirements of Israeli Law to be entitled to claim all such incentives. Subject to the receipt of the approvals set forth on **Schedule 4.7.18** of the Disclosure Schedule and compliance by the Company with the applicable requirements and conditions, the consummation of the transactions contemplated by this Agreement will not adversely affect the remaining duration or the extent of any incentive or require any recapture of any previously claimed incentive, and no consent, approval, clearance of, or filing with, any Governmental Authority or Taxing Authority is required, prior to the consummation of such transactions in order to preserve the entitlement to any such incentive.

4.8. Suppliers and Collaborators.

4.8.1. **Schedule 4.8** of the Disclosure Schedule sets forth the list of all the suppliers of services ('**Suppliers**") to the Company and all of the collaborations engagements of the Company ("**Customers**") of the Company.

4.8.2. Except as indicated in **Schedule 4.8** of the Disclosure Schedule, the Company has not received any written or verbal notice, of any default or event that with notice or lapse of time, or both, would constitute a default by the Company under any engagement with any Supplier or Customer. None of the Suppliers or Customers has indicated to the Company (nor does the Company has any knowledge of) any intent to discontinue or alter in any manner adverse to the Company the terms of such Supplier's or Customer's relationship with the Company (including with respect to non-renewal of maintenance agreements) or make any claim that would be reasonably expected to give rise to a breach by the Company of its obligations to such Supplier or Customer, and there has been no negative developments with respect to the relationships with any Supplier or Customer. The Company is in full compliance with its obligations under each Contract with its Customers and Suppliers and in the event such Contract is no longer in effect, the Company was in full compliance with their obligations under each Contract until the termination thereof. The Company has provided Purchaser with a copy of all Contracts with Customers and Suppliers and termination agreements for any such Contracts that have since been terminated.

4.8.3. Except as indicated in **Schedule 4.8.3** of the Disclosure Schedule, none of the engagements with any Supplier or any Customer have been terminated.

4.9. Litigation. (1) There is no claim, action, suit, injunction, arbitration, or administrative or other proceeding pending or, to the knowledge of the Company, threatened against the Company or involves the Company's contractual relationships, properties or assets, (2) to the knowledge of the Company, there is no investigation or examination pending or threatened against the Company or that involves the Company's contractual relationships, properties or assets, and, (3) to the knowledge of the Company, there is no basis for any such claim, action, suit, investigation, arbitration, or administrative or other proceeding, including as a result of the consummation of the transactions contemplated by this Agreement, before any court, arbitration tribunal or Governmental Authority. Neither the Company nor any of its respective properties, assets or business, is subject to or bound by any Order.

4.10. Reserved.

4.11. Employees and Contractors.

4.11.1. **Schedule 4.11.1** of the Disclosure Schedule sets forth a complete and accurate list of all employees of the Company ("**Employees**"). The Company has furnished to Purchaser a list of all current Employees employed by the Company as of the date of this Agreement, and such list correctly reflects: (i) their name and dates of hire; (ii) their position, full-time or part-time status, including each Employee's classification as either exempt or non-exempt from the overtime requirements under any applicable Law; (iii) their monthly base salary or hourly wage rate, as applicable; (iv) any other compensation payable to them including housing allowances, compensation payable pursuant to bonus, deferred compensation or commission arrangements, overtime payment, vacation entitlement and accrued vacation or paid time-off balance, travel pay or car maintenance or car entitlement, sick leave entitlement and accrual, recuperation pay entitlement and accrual, entitlement to pension arrangement and/or any other provident fund (including manager's insurance and education fund), their respective contribution rates and the salary basis for such contributions, and notice period entitlement; and (v) any promises or commitments made to the Employees, whether in writing or not, with respect to any future changes or additions to their compensation or benefits. Other than their salary, the Employees are not entitled to any payment or benefit that may be reclassified as part of their determining salary for all intent and purposes, including for the social contributions.

4.11.2. The Company has complied in all material respects with all Laws relating to employment, including without limitation all Laws concerning equal employment opportunity, nondiscrimination, leaves and absences, immigration, wages, hours, benefits, collective bargaining, the payment of social security and similar Taxes, and occupational safety and health. To the knowledge of the Company, no executive, key employee or group of employees has any plans to terminate employment with any of the Company. There are no unresolved employment-related charges, claims, complaints or lawsuits involving the Company. The Company is not a party to or bound by any collective bargaining agreement, collective labor agreement or other Contract or arrangement with a labor union, trade union or other organization or body involving any of its Israeli Employees, nor has it recognized or received a demand for recognition from any collective bargaining representative with respect to any of its Israeli Employees. There are no (i) strikes, work stoppages, work slowdowns or lockouts pending or, to the knowledge of the Company, threatened against or involving the Company, or (ii) unfair labor practice charges, other collective bargaining disputes, grievances or complaints pending or, to the knowledge of the Company, threatened by or on behalf of any employee or group of employees of the Company. The Company has not committed any unfair labor practice. To the knowledge of the Company, there are no labor organizations representing, nor, organizational efforts presently being made or threatened by or on behalf of any labor union with respect to employees of the Company.

4.11.3. The Company's obligations towards the employees to provide severance pay, including statutory severance pay to all Israeli Employees pursuant to the Severance Pay Law -1963, and to redeem unused vacation pursuant to Contract, applicable Law (including the Annual Leave Law – 1951 with respect to Israeli Employees) are fully funded or, if not required to be fully funded, is accrued on the Company's Financial Statements. All of the employees of the Company are subject to Section 14 Arrangement under the Israeli Severance Pay Law - 1963 ("**Section 14 Arrangement**") and the Company has fully complied with all provisions related to such Section 14 Arrangement.

4.11.4. **Schedule 4.11.4(i)** of the Disclosure Schedule contains an accurate and complete list of: (A) all current independent contractors, and Persons that have a consulting or advisory relationship with the Company; (B) the location at which independent contractors, consultants and advisors have been or are providing services; (C) the rate of all regular, bonus or any other compensation payable to the current independent contractors, consultants and advisors; and (D) the start and termination date of any binding Contract between the Company and any Person that has a current consulting or advisory relationship with the Company. Except as set forth on **Schedule 4.11.4** of the Disclosure Schedule, all independent contractors, consultants and advisors of the Company can be terminated immediately and without notice or liability on the part of the Company. The Company has no outstanding obligations with respect to former independent contractors, consultants or advisors.

4.11.5. The Company has no liability (including rights to severance pay, vacation, recuperation pay (*dmei havraa*) and other employee-related statutory and contractual benefits) with respect to any misclassification or treatment of any Person as an independent contractor (including consultant, sub-contractor, or the like) rather than as an "employee" and with respect to any employee leased from another employer, or with respect to any employee currently or formerly classified as exempt from overtime wages.

4.11.6. All employees have entered into written employment agreement with the Company;

4.11.7. The Company is not subject to, and no employees is subject to an extension order ("*tzav harchava*") (other than extension orders that are generally applicable to all employers in Israel);

4.11.8. Except as provided for in **Schedule 4.11.8** of the Disclosure Schedule, the employment of each employee is subject to termination upon up to thirty (30) days' prior written notice under the termination notice provisions included in the applicable employment agreement with such employee or applicable Laws; and

4.11.9. Except as provided for in **Schedule 4.11.9**, there are no unwritten policies, practices or customs of the Company that entitles or could reasonably be expected to entitle any Israeli Employee to benefits materially in addition to what such Israeli Employee is entitled to under applicable Laws or under the terms of such Israeli Employee's employment agreement (including unwritten customs or practices concerning bonuses and the payment of statutory severance pay when it is not required under applicable Laws).

4.11.10. All amounts that the Company is legally or contractually required either (x) to deduct from their employees' salaries or to transfer to such employees' pension or provident, life insurance, incapacity insurance, continuing education fund or other similar funds or (y) to withhold from their employees' salaries and benefits and to pay to any Governmental Authority as required by the ITO and Israeli National Insurance Law have, in each case, been duly deducted, transferred, withheld and paid (other than routine payments, deductions or withholdings to be timely made in the Ordinary Course of Business), and the Company has no any outstanding obligations to make any such deduction, transfer, withholding or payment (other than such that has not yet become due); and

4.11.11. The Company has no unsatisfied obligations to any of its former employees, and their termination was in compliance with all material applicable Laws and agreements.

4.11.12. The Company has not engaged any consultants, sub-contractors, sales agents or freelancers who, according to Israeli Law, would be entitled to the rights of an employee of an Israeli company, including rights to severance pay, vacation, recuperation pay (*dmei havraa*) and other employee-related statutory and contractual benefits. The consultants, sub-contractors, sales agents or freelancers that supply services to the Company has in its engagement agreements customary provisions regarding their non-employee status.

4.11.13. To the knowledge of the Company, no current employee: (i) intends to terminate his or her employment with the Company; or (ii) is a party to or is bound by any confidentiality agreement, noncompetition agreement or other Contract (with any Person other than the Company) that may have an adverse effect on: (A) the performance by such employee of any of his or her duties or responsibilities as an employee of the Company; or (B) the Company's business or operations.

4.11.14. The Company does not engage youth or foreign employees in Israel.

4.12. Insurance. Other than the policies listed in **Schedule 4.12** of the Disclosure Schedule (the "**Policies**"), the Company does not have any insurance policies in effect. The Company's insurance policies are in full force and effect, and the Company has not undertaken any action or omitted to take any action which could reasonably render any of its insurance policies void or voidable. As of the date hereof, no claims by the Company are pending under any of such policies nor has the Company made any claim since inception. All premiums due and payable under the Policies have been paid, and the Company has no liability for any retrospective premium adjustment, audit premium adjustment, experience based liability or loss sharing cost adjustment under any of the Policies. The Company confirms that as of the date hereof the insurance coverage of the Company under the Policies is customary for business entities of similar size engaged in similar lines of business and provides adequate coverage for the risks the Company is exposed to. The Company has not received any written notice regarding any (i) cancellation or invalidation of any Policy, (ii) refusal of any coverage or rejection of any material claim under any Policy or (iii) material adjustment in the amount of premiums payable with respect to any Policy.

4.13. Intellectual Property

4.13.1. **Schedule 4.13.1** of the Disclosure Schedules contains a complete and accurate list of all (i) Company-Controlled Intellectual Property Assets that are Registered Intellectual Property Assets, (ii) all material unregistered Marks or inventions for which the Company intends to file a patent, that are Company Controlled Intellectual Property Assets, (iii) licenses of third party Intellectual Property Assets by the Company that are material to the operation of the Company, other than shrink-wrap or off the shelf licenses ("**Licenses In**"), and (iv) licenses or sublicenses granted by Company with respect to Company-Controlled Intellectual Property Assets to any Person ("**Licenses Out**"). In the case of any licenses or sublicenses disclosed pursuant to the foregoing clauses (iii) or (iv), **Schedule 4.13.1** of the Disclosure Schedules also sets forth whether each such license or sublicense is exclusive or non-exclusive.

Other than as set forth in **Schedule 4.13.1**, the Company Intellectual Property Assets include all Intellectual Property Assets necessary and sufficient for the conduct of the businesses of the Company, free and clear of all Security Interests, without payment to a third party, by Purchaser immediately following the Closing in substantially the same manner as conducted by Company during the twelve (12) month period prior to Closing. Company Intellectual Property Assets constitutes the only Intellectual Property Assets used by the Company.

4.13.2. Except as set forth on **Schedule 4.13.2** of the Disclosure Schedules:

4.13.3. the Company exclusively owns or is the exclusive licensee of all right, title and interest in all Company-Controlled Intellectual Property Assets;

4.13.4. the Company has not transferred ownership of, or agreed to transfer ownership of, or granted any exclusive licenses to, or agreed to grant any exclusive licenses to any Company-Controlled Intellectual Property Assets to any third party. No third party has any joint ownership right to any Intellectual Property Assets owned by Company nor, to Company's knowledge, to any Intellectual Property Assets exclusively licensed to the Company;

4.13.5. all Company Registered Intellectual Property Assets are currently in compliance, in all material respects, with formal Legal Requirements with respect to registration, maintenance and renewal fees, and filing of all necessary documents and articles, for the purpose of maintaining such Company Registered Intellectual Property Assets. All Company Registered Intellectual Property Assets which are owned by Company have been filed in good faith in accordance with regulatory requirements and, to Company's knowledge, are valid and enforceable, with no basis for claims of inequitable conduct. All Company Registered Intellectual Property Assets which are exclusively licensed to the Company are, to the knowledge of the Company, valid and enforceable with no basis, to the knowledge of the Company, for claims of inequitable conduct;

4.13.6. none of the Company Registered Intellectual Property Assets is subject to any filing or maintenance fees or Taxes or actions falling due within ninety (90) days after the Closing Date;

4.13.7. to the Company's knowledge, no Company Registered Intellectual Property Assets has been or is now subject to any terminal disclosure and/or involved in any interference, reissue, re-examination, inter-parties review, post-grant review, or opposition proceeding; to the knowledge of the Company, there is no patent or patent application of any third party that potentially interferes with a Company Registered Intellectual Property Asset;

4.13.8. there are no pending or, to the knowledge of the Company, threatened claims alleging that any Company-Controlled Intellectual Property Assets and/or the operation of the business or any activity by the Company, or manufacture, sale, offer for sale, importation, and/or use or practice of any Company-Controlled Intellectual Property Assets and/product candidates infringes or violates (or in the past infringed or violated) or would infringe or violate the rights of others in or to any Intellectual Property Assets ("**Third Party IP Assets**") or constitutes a misappropriation of (or in the past constituted a misappropriation of) any subject matter of any Third Party IP Assets or that any of the Company Intellectual Property Assets is invalid or unenforceable;

4.13.9. to the Company's knowledge, neither the operation of the business, nor any activity by the Company, nor any Company-Controlled Intellectual Property Assets infringes or violates any Third Party IP Asset or constitutes a misappropriation of any subject matter of any Third Party IP Asset, and, to the Company's knowledge, neither the operation of the business, nor any activity by the Company, nor any Company Intellectual Property Assets infringes or violates (or in the past infringed or violated) the rights of any Person under any Patent;

4.13.10. all rights in, to and under all Intellectual Property Assets created by the Company's founders for or on behalf or in contemplation of the Company (i) prior to the inception of the Company or (ii) prior to their commencement of employment with the Company, have been duly and validly assigned to the Company and all Company's founders have expressly and irrevocably waived, all rights, title and interest in and to all such Intellectual Property Assets;

4.13.11. all former and current employees, consultants and contractors of the Company, and any other individuals who contributed to the discovery or development of any Company Controlled Intellectual Property Assets, have executed written instruments with the Company that (i) assign to the Company, and (ii) expressly and irrevocably waive, all rights, title and interest in and to any and all (A) such contributions and any inventions, improvements, ideas, discoveries, writings, works of authorship, other intellectual property, and information relating to the business of the Company and any of the products or services being researched, developed, manufactured or sold by the Company or that may be used with any such products or services, (B) Intellectual Property Assets relating thereto, and (C) any and all moral rights and rights to receive any compensation and/or royalties in connection with the items included in (A) and (B), including without limitation under Section 134 of the Patents Law, 5727-1967; in each case where a Company Patent is held by the Company by assignment, the assignment has been duly recorded with the United Stated or Israeli Patent and Trademark Office and all similar offices and agencies anywhere in the world in which foreign counterparts are registered or issued;

4.13.12. to the knowledge of the Company, (A) there is no, nor has there been any, infringement or violation by any person or entity of any of the Company Controlled Intellectual Property Assets or the Company's rights therein or thereto and (B) there is no, nor has there been any, misappropriation by any person or entity of any of the Company Controlled Intellectual Property Assets or the subject matter thereof;

4.13.13. the Company has taken commercially reasonable security measures to protect the confidentiality and value of all Trade Secrets owned by the Company or exclusively licensed by Company (the "**Company Trade Secrets**"), including, without limitation, requiring each employee and consultant of the Company and any other Person with access to Company Trade Secrets to execute a binding confidentiality agreement, copies or forms of which have been provided to the Purchaser and, to the knowledge of the Company, there has not been any breach by any party to such confidentiality agreements; and

4.13.14. The Company has not disclosed, delivered or licensed to any Person or agreed or obligated itself to disclose, deliver or license to any Person, or expressly permitted the disclosure or delivery to any escrow agent or other Person of, any source code, other than disclosures to employees and consultants involved in the Company's research and development activity. To the Company's knowledge, no event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time, or both) will, or would reasonably be expected to, result in the disclosure, delivery or license by the Company of any source code, other than disclosures to employees and consultants involved in the Company's research and development activity. Without limiting the foregoing, neither the execution of this Agreement nor any of the transactions contemplated by this Agreement will result in a release from escrow or other delivery to a third party of any source code.

4.13.15. the software within Company Controlled Intellectual Property Asses does not contain, incorporate, link or call to, is not a derivative of and does not otherwise use any Open Source Software, and

4.13.16. the Company is not now nor has ever been a member or promoter of, or a contributor to, any industry standards body or any similar organization that has required or obligated the Company to grant or offer to any other Person any license or right to any Company-Controlled Intellectual Property Assets. The Company has no present obligation to grant or offer to any other Person any license or right to any Company- Controlled Intellectual Property Assets by virtue of the Company's or any other Person's membership in, promotion of, or contributions to any industry standards body or any similar organization.

4.13.17. The electronic data processing software, information system, record keeping software, communications systems, telecommunications systems, hardware, third party software, networks, peripherals and computer systems, including any outsourced systems, services and processes, that are material to the operation of the business of the Company (collectively, "**Technology Systems**") are adequate in all material respects for the operation of its business as conducted as of the date hereof.' The Company owns or holds licenses or applicable rights for the Technology Systems that are necessary for the business.

4.13.18. The Company is and has been in compliance with all applicable privacy and data protection laws in all relevant jurisdictions (including without limitation in respect of security notification obligations and protected health information) and all standards and requirements of any contract or codes of conduct to which the Company is a party in connection with their collection, storage, transfer (including, without limitation, any transfer across national borders) and/or processing of any personally identifiable information of any individuals. The Company is aware of no complaint or claim regarding the Company's collection, storage, transfer and/or processing of any personally identifiable information.

4.14. Grants.

4.14.1. No (A) funding, personnel, contractors, facilities, resources, grants, incentives, exemptions, qualifications or subsidies of any Governmental Authority, medical institution, hospital, university, college, other educational institution, international organization or research center, including any multi-national, bi-national or international project or research funding program (including OCS / IIA grants or other grants under the R&D Law) or (B) funding from any Person (other than funds received in consideration for the Purchased Shares) (collectively, "**Government Grants**"), was used in the development of the Company-Controlled Intellectual Property Assets or any products or services currently under development by the Company.

4.14.2. Except as set forth in **Schedule 4.14.2** of the Company Disclosure Schedule, no current or former director, employee, founder, consultant or independent contractor of the Company (including any employees and consultants thereof) or any other Person, who was involved in, or who contributed to, the creation or development of any Company-Controlled Intellectual Property Assets, has performed services for or otherwise was under restrictions resulting from his/her relations with any government, university, medical institution, hospital, college or any educational institution or research center during a period of time during which any Company-Controlled Intellectual Property Assets were created or during such time that such director, employee, founder, consultant or independent contractor was also performing services for or for the benefit of the Company, nor, has any such person created or developed any Company-Controlled Intellectual Property Assets with any Government Grant.

4.14.3. Except as set forth in **Schedule 4.14.3** of the Company Disclosure Schedule, no approval of, notice to or filing with any Government Authority is required in connection with the execution or delivery of this Agreement or the other Transaction Documents nor for the consummation of the transactions contemplated hereby or thereby.

4.15. Title to Property and Assets. The Company does not own any real estate. Except as set forth in **Schedule 4.15** of the Company Disclosure Schedule, the Company has good and valid title to all of its respective tangible properties, and interests in properties and assets, real and personal, reflected on the Financial Statements, or, with respect to leased tangible or intangible properties and assets, valid leasehold interests in such properties and assets which afford the Company valid leasehold possession of the properties and assets that are the subject of such leases, in each case, free and clear of all Security Interests. The tangible property and equipment of the Company that is used in the operations of its business are in good operating condition and repair, subject to normal wear and tear, and are sufficient to conduct the business of the Company in all material respects. All properties used in the operations of the Company are reflected on the Financial Statements to the extent required under GAAP to be so reflected. **Schedule 4.15** of the Company Disclosure Schedule identifies each parcel of real property leased by the Company. Except as set forth in **Schedule 4.15** of the Company Disclosure Schedule, no third party has any Security Interest (registered or not registered) on any of the Company's assets or rights.

4.16. Compliance with Laws; Permits.

4.16.1. The Company has complied and is currently in compliance with all applicable Laws and Orders in all material respects. The Company has not received, nor to the knowledge of the Company there any issuance or proposed issuance of any notice by any Governmental Authority of any violation or any alleged violation of any Law or Order.

4.16.2. The Company has obtained each governmental consent, license, permit, grant, or other authorization of a Governmental Authority that is required for the operation of the Company's business or the holding of any interest in its assets or properties (all of the foregoing, the "**Company Authorizations**"), and all of such Company Authorizations are in full force and effect. The Company has not received any notice or other communication from any Governmental Authority regarding (i) any actual or possible violation of Law or any Company Authorization or any failure to comply with any term or requirement of any Company Authorization or (ii) any actual or possible revocation, withdrawal, suspension, cancellation, termination or modification of any Company Authorization and to the knowledge of the Company there does not exist any facts or circumstances that would give rise to any such revocation, withdrawal, suspension, cancellation, termination or modification.

4.16.3. None of the Company or, to the knowledge of the Company, any Person affiliated with the Company, including distributors, has directly or indirectly: (i) made any unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity and related to the Company's; (ii) made any unlawful payment to any foreign or domestic government official or employee, foreign or domestic political parties or campaigns, official of any public international organization, or official of any state-owned enterprise; (iii) violated any provision of the Foreign Corrupt Practices Act-1977, as amended, Title 5 of the Israeli Penalty Law (Bribery Transactions), the Israeli Prohibition on Money Laundering Law, 2000, or any other applicable anti-corruption statute; (iv) made any unlawful bribe, favor, payoff, influence payment, kickback, anything of value or other similar unlawful payment; or (v) established or maintained any unlawful fund of the Company's moneys, or other assets, for the purpose of obtaining or paying for: (A) favorable treatment in securing business or (B) any other special concession; or (vi) agreed, committed, offered or attempted to take any of the actions described in clauses (i) through (v) above.

4.16.4. The Company has conducted its business at all times in a manner that is in compliance in all material respects with Israel's Law Governing the Control of Commodities and Services, The Order Governing the Control of Commodities and Services (Engagement in Encryption Items) – 1974, and all other applicable export control Laws administered by Israel's Ministry of Defense and including Israel's Trading With the Enemy Ordinance. None of the technologies, products or services of the Company is regulated under the Israeli Ministry of Defense. The Company is not and is not required to be registered with the Israeli Ministry of Defense as a security exporter. The business of the Company does not involve the use or development of, or engagement in, encryption technology, or other technology whose development, commercialization or export is restricted under Israeli Law, and the business of the Company does not require the Company to obtain a license from the Israeli Ministry of Defense or an authorized body thereof pursuant to Section 2(a) of the Control of Products and Services Declaration (Engagement in Encryption), 1974 or other legislation regulating the development, commercialization or export of technology.

4.17. Contracts.

4.17.1. Except (i) for this Agreement and the Transaction Documents, and (ii) as disclosed on**Schedule 4.17.1** of the Company Disclosure Schedule, the Company is not a party to or bound by any of the following agreements (whether written or oral);

4.17.1.1. any partnership, joint venture, special purpose entity or other similar Contract or arrangement, or any Contract relating to the acquisition or disposition of any business (whether by merger, sale of stock, sale of assets, or otherwise);

4.17.1.2. any Contract relating to borrowed money;

4.17.1.3. any Contract that limits the Company from marketing, selling, or otherwise distributing its products or merchandise or providing its services in any geographic area, or from competing in any line of business or geographic area or with any Person;

4.17.1.4. any Contract or arrangement with (i) any Shareholder or any of its Affiliates, (ii) any Person, that to the Company's knowledge, directly or indirectly owning controlling, or holding with power to vote, five percent (5%) or more of the outstanding voting securities of any Shareholder's Affiliates, or (iii) any director, manager or officer of the Company or with any Affiliate or "family relative" (as such terms are respectively defined in the Companies Law) of any such director, manager or officer;

4.17.1.5. any management service, consulting, or any other similar type of Contract;

4.17.1.6. any warranty, guaranty, or other similar undertaking with respect to a contractual performance extended by the Company other than in the Ordinary Course of Business;

4.17.1.7. any employment, deferred compensation, severance, bonus, retirement, or other similar Contract;

4.17.1.8. any Contract involving payments by or to the Company of more than US $5,000 in the latest twelve month period;

4.17.1.9. any Contract with any agency, dealer, sales representative, or distributor for the marketing, selling and distribution of the Company's products and services;

4.17.1.10. any leases of Company Real Property or material personal property;

4.17.1.11. any Contract with any labor organization;

4.17.1.12. any Contract or commitment providing for payments based in any manner upon the sales, purchases, receipts, income or profits of the Company;

4.17.1.13. any Contract that would prevent consummation of the transactions contemplated by this Agreement and the Transaction Documents; or

4.17.1.14. any agreement with Governmental Authority.

4.17.1.15. any Contract pursuant to which the Company (i) is granted or obtains or agrees to obtain any right to use any material Intellectual Property Right (other than standard form Contracts granting rights to use readily available shrink wrap or click wrap software), (ii) is restricted in its right to use or register any Intellectual Property Rights, or (iii) permits or agrees to permit any other Person to use, enforce, or register the Company owned, used, or held, Intellectual Property Rights, including any license agreements, coexistence agreements, and covenants not to sue related to such Intellectual Property Rights; or

4.17.1.16. any other Contract not made in the Ordinary Course of Business or that is material to the Company.

4.17.2. Each Contract disclosed on **Schedule 4.17.1** of the Company Disclosure Schedule or required to be so disclosed (each a "**Material Contract**") is a valid and binding Contract of the Company and is in full force and effect, and neither the Company nor any of its Affiliates nor, to the knowledge of the Company, any other party thereto, is in default or breach in any material respect under the terms of any such Material Contract. To the knowledge of the Company, there is no event, occurrence, condition, or act (including the consummation of the transactions contemplated by this Agreement and the Transaction Documents) that, with the giving of notice or the passage of time, could reasonably become a default or event of default under any such Material Contract by any of the parties thereto. The Company has delivered to the Purchaser true and complete copies of each written Material Contract and true and complete summaries of all oral Material Contracts.

4.17.3. No party to any Material Contract has given notice to the Company or made a claim against the Company in respect of any breach or default thereunder.

4.18. Environmental Matters. (i) All Hazardous Materials and wastes of the Company has been disposed of in accordance in all material respects with all Environmental and Safety Laws; (ii) the Company has not received any notice of any noncompliance of the Facilities or its past or present operations with Environmental and Safety Laws; (iii) no notices, administrative actions or suits are pending or threatened relating to an actual or alleged violation of any applicable Environmental and Safety Laws by the Company; (iv) to the knowledge of the Company, there have not been in the past, and are not now, any Hazardous Materials on, under or migrating to or from any of the Facilities or any Property; (v) to the knowledge of the Company, there have not been in the past, and are not now, any underground tanks or underground improvements at, on or under any Property, including treatment or storage tanks, sumps, or water, gas or oil wells; and (vi) the Facilities and the Company's uses and activities therein have at all times materially complied with all Environmental and Safety Laws. "**Environmental and Safety Laws**" shall mean any Laws applicable to the Company that are intended to assure the protection of the environment, or that classify, regulate, call for the remediation of, require reporting with respect to, or list or define air, water, groundwater, solid waste, hazardous or toxic substances, materials, wastes, pollutants or contaminants, or which are intended to protect the safety of employees, workers or other persons, including the public. "**Facilities**" shall mean all buildings and improvements on the Property. "**Hazardous Materials**" shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant, or infectious or radioactive substance, material or waste defined in or regulated under any Environmental and Safety Laws, but excludes office and janitorial supplies properly and safely maintained.

4.19. Brokers and Finders. The Company has not employed or made any agreement with any broker, finder or similar agent or any Person (including, for the avoidance of doubt, to any employee of the Company), which will result in the obligation of the Company or the Purchaser to pay any finder's fee, brokerage fees or commission or similar payment in connection with the Transaction.

4.20. Bank Accounts. **Schedule 4.20** of the Disclosure Schedule provides the following information with respect to each account maintained by or for the benefit of the Company at any bank or other financial institution: (i) the name of the bank or other financial institution at which such account is maintained; (ii) the account number; (iii) the type of account; and (iv) the names of all Persons who are authorized to sign checks or other documents with respect to such account

4.21. Interested Party Transactions. **Schedule 4.21** contains a complete list of (i) all amounts and obligations owed between any director, executive officer, Related Party, Shareholder or any of its Affiliates, on the one hand, and the Company, on the other hand, and (ii) transactions and services provided between any director, executive officer Related Party, Shareholder or any of its Affiliates, on the one hand, and the Company, on the other hand. Except as disclosed on **Schedule 4.21**, there has not been any accrual of liability or incurrence of an obligation by the Company to any Shareholder or any of its Affiliates or between the Company and any Shareholder or any of its Affiliates or any action taken (other than this Agreement) or any payment of dividends or other payments of cash or property by the Company to any Shareholder or any of its Affiliates, or the incurrence of any legal or financial obligation to any such Person.

4.22. No Debt. Except as disclosed on **Schedule 4.22** of the Disclosure Schedule, as of, and after giving effect to, the Closing, the Company will not have any Debt.

4.23. Full Disclosure. Neither this Agreement nor any certificates made or delivered by the Company in connection herewith contains any untrue statement of a material fact or omits to state a material fact known to Company necessary to make the statements herein or therein not misleading, in view of the circumstances in which they were made. There is no material fact or information relating to the business, condition (financial or otherwise), affairs, operations, or assets of the Company known by the Company, that has not been disclosed to the Purchaser in writing by the Company in this Agreement, the Transaction Documents or in the schedules hereto except for such material fact or information that would not constitute a Company Material Adverse Effect.

4.24. No Other Representations and Warranties. Except as set forth in this Section 4 (as modified by the Company Disclosure Schedule) the Company, does not make any representation or warranty, express or implied, at law or in equity, in respect of the Company.

5. **REPRESENTATIONS AND WARRANTIES OF EACH CONSIDERATION RECIPIENT**

Each Consideration Recipient, severally with respect to itself only, represents and warrants to the Purchaser as follows, except as set forth herein or in the Consideration Recipients Disclosure Schedule delivered to the Purchaser concurrently herewith which disclosures shall be deemed to be part of the representations and warranties of the Company):

5.1. Incorporation. Such Consideration Recipient (if not an individual) is duly incorporated and validly existing under the Laws of its jurisdiction of incorporation, with power and authority to carry on its business as now being conducted.

5.2. Authority to Transact. Such Consideration Recipient has the capacity and authority to execute and deliver this Agreement, to perform hereunder and to consummate the Transaction. All corporate actions, if applicable, on the part of such Consideration Recipient, its directors, and its shareholders necessary for the authorization and execution of this Agreement, the authorization, sale and delivery of the Purchased Shares (with respect to the Shareholders) and the performance of all of such Consideration Recipient's obligations hereunder, have been taken. This Agreement constitutes and, when signed by its duly authorized representatives, all other documents contemplated hereby will constitute, valid and legally binding obligations of such Consideration Recipient, and, assuming the due authorization, execution and delivery by the Purchaser (if party thereto), enforceable in accordance with their terms, in each case, subject to (a) laws of general application relating to bankruptcy, insolvency and the relief of debtors, and (b) rules of law governing specific performance, injunctive relief and other equitable remedies.

5.3. Purchased Shares.

5.3.1. Each Shareholder has good, valid and marketable title to such number of the Purchased Shares as is set out next to the name of such Shareholder in **Schedule A-1** and such Purchased Shares shall be at the Closing free and clear of Security Interests. Such Shareholder is not a party to any option, warrant, purchase right or other Contract that could require such Shareholder to sell, transfer or otherwise dispose of any Shares (other than this Agreement). Such Shareholder is not a party to any voting trust, proxy or other agreement or understanding with respect to the voting of any Shares. Except as set forth in the Waterfall next to such Shareholder's name, such Shareholder does not own any securities of the Company or any right to acquire any securities of the Company.

5.3.2. Each Shareholder is entitled to sell the full legal and beneficial interest in the Purchased Shares owned by such Shareholder (as set out next to the name of such Shareholder in **Schedule A-1**), or, in the case of Purchased Shares held by a trustee on behalf of such Shareholder, such Shareholder is entitled to sell the full beneficial interest in such Purchased Shares and has directed the trustee to transfer, and there is no legal or other impediment to the trustee transferring, such Purchased Shares, to the Purchaser on the terms set out in this Agreement.

5.4. Non-Contravention; No Consents or Approvals. Neither: (1) the execution, delivery or performance of this Agreement or any of the other agreements, documents or instruments referred to in this Agreement, by each Consideration Recipient; nor (2) any of the transactions contemplated by this Agreement or any such other agreement, document or instrument, will (with or without notice or lapse of time):

5.4.1. contravene, conflict with or result in a violation of any Legal Requirement or any Order, writ, injunction, judgment or decree to which such Consideration Recipient is subject; or

5.4.2. contravene, conflict with or result in a violation or breach of, or result in a default under, any provision of any Contract to which such Consideration Recipient is a party or by which such Consideration Recipient is bound.

5.5. No Consents. Each Consideration Recipient is not (and such Consideration Recipient will not be) required to make any filing with or give any notice to, or to obtain any consent from, any Person in connection with: (x) the performance of this Agreement or any of the other agreements, documents or instruments referred to in this Agreement; or (y) any of the transactions contemplated by this Agreement or by any of the other agreements, documents or instruments referred to in this Agreement; except for such corporate approvals previously obtained by such Consideration Recipient.

5.6. No Legal Proceedings. There is no pending legal proceeding against such Consideration Recipient and, to the knowledge of such Consideration Recipient, no Person has threatened to commence any such legal proceeding, that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, the entry into, performance of, compliance with and enforcement of any of the obligations of such Consideration Recipient under this Agreement. To the knowledge of such Consideration Recipient, no event has occurred, and no claim, dispute or other condition or circumstance exists, that will or would reasonably be expected to give rise to or serve as a reasonable basis for any such legal proceeding.

5.7. No Bankruptcy. The Consideration Recipient is not insolvent, and there has been no request for, nor has there been issued, any bankruptcy decree against the Consideration Recipient, whether temporary or permanent; nor has any legal, administrative or other proceeding concerning the bankruptcy of the Consideration Recipient been commenced.

5.8. Purchase for Own Account. Each Consideration Recipient severally, and not jointly, represents that such Consideration Recipient intends to acquire the shares of the Purchaser for its own account or for the account of its Affiliates and that the shares to be purchased by such Shareholder will be acquired by it for investment for the Shareholder’s own account or for the account of its Affiliates and not with a view to the distribution or resale thereof; subject, nevertheless, to the condition that the disposition of the property of each Consideration Recipient shall at all times be within its control.

5.9. Investment Experience; Disclosure of Information. Without derogating from and subject to the Purchaser’s representations and warranties provided herein, each Consideration Recipient further represents and warrants to the Purchaser with respect to its purchase of the shares of the Purchaser as follows: (a) the Consideration Recipient has the requisite knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of being a shareholder of the Purchaser, and has evaluated the risk of receiving the shares of the Purchaser; (b) the Consideration Recipient is able to bear the economic risk if the value of such Consideration Recipient’s holdings in the Purchaser equity securities is diminished; and (c) the Consideration Recipient acknowledges that it has had an opportunity to ask questions of, and receive answers from the Purchaser concerning the Purchaser’s business and the terms and conditions of this Agreement.

5.10. IIA. Such Consideration Recipient is aware that the Purchaser is subject to IIA regulations and applicable Laws. Each Consideration Recipient acknowledges that the Purchaser has received funds from the IIA and is subject to the Law of Encouragement of Research and Development in the Industry and the rules and regulations promulgated thereunder. Each Consideration Recipient acknowledges that it is specifically aware that production or products developed by the Company with IIA funding anywhere outside of Israel and the transfer of know-how developed by the Company with IIA funding are subject to the Law of Encouragement of Research and Development in the Industry and the rules and regulations promulgated thereunder.

5.11. Further Representations by US Investors. To the extent that the Consideration Recipient is a United States person, the Consideration Recipient hereby represents that such Consideration Recipient has satisfied himself as to the full observance of the laws of his or her jurisdiction in connection with any invitation to subscribe for the shares of the Purchaser or any use of the Agreement, including (a) the legal requirements within his jurisdiction to subscribe for the shares of the Purchaser, (b) any foreign exchange restrictions applicable to such subscription, (c) any governmental or other consents that may need to be obtained, and (d) the income tax and other tax consequences, if any, that may be relevant to the subscription, holding, redemption, sale, or transfer of the shares of the Purchaser. The Consideration Recipient's subscription and his continued beneficial ownership of the shares of the Purchaser, will not violate any applicable securities or other laws of his jurisdiction.

5.12. No Market for Shares. Each Consideration Recipient acknowledges that the Purchaser is a privately held company and that its shares are not registered or listed for trade on any stock exchange.

5.13. No Other Representations and Warranties. Except for representations and warranties expressly and specifically made by such Consideration Recipient in this Section 5 (as modified by the Shareholder Disclosure Schedule) and in any certificate required to be delivered by such Consideration Recipient hereunder, neither such Consideration Recipient nor any Affiliate thereof, makes any representation or warranty, whether expressed or implied, and such Shareholder hereby disclaim all other representations and warranties of any kind or nature, express or implied.

6. REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants to the Consideration Recipients as follows:

6.1. The representations and warranties made by the Purchaser in Section 3 of that certain Series A-1 Preferred Share Purchase Agreement by and among the Purchaser, OrbiMed Israel Partners, Limited Partnership, Johnson and Johnson Innovation – JJDC, Inc., Takeda Ventures, Inc. and other investors, dated February 7, 2017, as amended on March 26, 2017) (the "**Purchaser Investment Agreement**"), including the updated Purchaser Disclosure Schedule attached hereto as **Schedule 6**, are true and correct in all respects as of the Closing, and shall be deemed to be made by Purchaser to the Consideration Recipients under this Agreement, *mutatis mutandis*, provided, that:

6.1.1. any reference to the "Company" under Section 3 of the Purchaser Investment Agreement shall be deemed as reference to the Purchaser herein;

6.1.2. any reference to the "Investors" under Section 3 of the Purchaser Investment Agreement shall be deemed as reference to the Consideration Recipients herein;

6.1.3. any reference to the "Shares" under Section 3 of the Purchaser Investment Agreement shall be deemed as reference to the Closing Shares, the shares included in the Milestone Consideration Shares, and the Equity Contingent Consideration, collectively;

6.1.4. any reference to the "Financial Statements" under Section 3 of the Purchaser Investment Agreement shall be deemed as reference to the Purchaser's audited financial statements as of December 31, 2016;

6.1.5. any reference to the "Current Articles" under Section 3 of the Purchaser Investment Agreement shall be deemed as reference to the Purchaser's articles of association in effect immediately prior to the Closing;

6.1.6. any reference to the "Agreement" and the "Ancillary Agreements" under Section 3 of the Purchaser Investment Agreement shall be deemed as reference to the Agreement and the Transaction Documents herein, respectively;

6.1.7. any reference to the "First Closing" under Section 3 of the Purchaser Investment Agreement shall be deemed as reference to the Closing herein; and

6.2. Authority to Transact. The Purchaser has the capacity and authority to execute and deliver the Transaction Documents and the Amended IRA, to perform hereunder and to consummate the Transaction. All corporate actions on the part of the Purchaser necessary for the authorization and execution of this Agreement, the Transaction Documents, the Amended IRA, the purchase of the Purchased Shares and the performance of all of the Purchaser's obligations hereunder and thereunder have been taken. The Amended IRA and each Transaction Document constitutes and, when signed by its duly authorized representatives, all other documents contemplated hereby will constitute, valid and legally binding obligations of the Purchaser, and, assuming due authorization, execution and delivery by all other parties thereto, enforceable in accordance with their terms, in each case, subject to (a) laws of general application relating to bankruptcy, insolvency and the relief of debtors, and (b) rules of law governing specific performance, injunctive relief and other equitable remedies.

6.3. Execution of Agreement. The execution and delivery of this Agreement by the Purchaser does not, and the consummation of the transactions contemplated hereby will not, violate any provisions of the Organizational Documents of the Purchaser.

6.4. Investment Intent. Purchaser is purchasing the Purchased Shares for investment for its own account and not with a view to, or for sale in connection with, any distribution thereof. Purchaser confirms that it has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks relating to entering into this Agreement.

6.5. No Other Representations and Warranties. Except for representations and warranties expressly and specifically made by the Purchaser in this Section 6.5 (as modified by the Purchaser Disclosure Schedule) and in any certificate required to be delivered by such Purchaser hereunder, neither the Purchaser nor any Affiliate thereof, makes any representation or warranty, whether expressed or implied, and Purchaser hereby disclaim all other representations and warranties of any kind or nature, express or implied.

7. COVENANTS

7.1. Conduct of the Business Pending the Closing. Except as otherwise contemplated by this Agreement or with the prior written consent of Purchaser, during the period commencing on the date of this Agreement and continuing until the earlier of the termination of this Agreement and the Closing (the "**Interim Period**"):

7.1.1. the Company shall conduct its respective businesses and operations only in the Ordinary Course of Business and in substantially the same manner as such business and operations have been conducted prior to the date of this Agreement;

7.1.2. the Company shall use its commercially reasonable efforts to (A) preserve its present business operations, organization and goodwill, (B) preserve its present relationships and goodwill with all of its customers, suppliers, landlords, creditors, employees, consultants and other Persons having business relationships with the Company, and (C) keep available the services of its current employees and consultants;

7.1.3. the Company shall keep in full force all insurance policies referred to in **Schedule 4.12** of the Disclosure Schedule;

7.1.4. the Company shall report regularly (but in no event less frequently than weekly) to Purchaser concerning the status of the Company's business;

7.1.5. the Company shall not declare, accrue, set aside or pay any dividend or make any other distribution in respect of any shares of the Company, and shall not repurchase, redeem or otherwise reacquire any shares or other securities of the Company;

7.1.6. the Company shall not sell, issue or authorize the issuance of (i) any capital stock, except for the issuance of capital stock upon the exercise or conversion of securities that were outstanding prior to the date hereof, (ii) any option or right to acquire any capital stock of the Company, or (iii) any instrument convertible into or exchangeable for any capital stock or other security of the Company;

7.1.7. the Company shall not amend or waive any of its rights under, or permit the acceleration of vesting under, (i) any provision of any share or option plan, (ii) any provision of any agreement evidencing any outstanding securities of the Company, or (iii) any provision of any share purchase agreement;

7.1.8. the Company shall not amend or permit the adoption of any amendment to the Organizational Documents, including all amendments thereto, or effect or permit the Company to become a party to any Acquisition Transaction, recapitalization, reclassification of shares, split, reverse split or similar transaction;

7.1.9. the Company shall not form any Subsidiary or acquire any equity interest or other interest in any other Person;

7.1.10. the Company shall not make any capital expenditure, during the Interim Period in an amount exceeding US $5,000;

7.1.11. the Company shall not, other than in the Ordinary Course of Business consistent with past practice, (i) enter into, or permit any of the assets owned or used by it to become bound by, any Contract that is or would constitute a Material Contract, or (ii) amend or prematurely terminate, or waive any material right or remedy under, any such Contract;

7.1.12. the Company shall not, (i) acquire, lease or license any right or other asset from any other Person, except for rights or other assets acquired, leased or licensed in the Ordinary Course of Business consistent with past practice, (ii) sell or otherwise dispose of, or lease or license, any right or other asset to any other Person, except for rights or other assets disposed of, leased or licensed in the Ordinary Course of Business consistent with past practice, or (iii) waive or relinquish any material right;

7.1.13. the Company shall not (i) lend money to any Person or Persons, except for advances of business expenses in the Ordinary Course of Business consistent with past practice, or (ii) incur or guarantee any Debt for borrowed money;

7.1.14. the Company shall not (i) except as may be required by an applicable Legal Requirement or any Contract then in effect, pay any bonus or make any profit-sharing payment, cash incentive payment or similar payment to, or increase the amount of the wages, salary, commissions, fringe benefits or other compensation or remuneration payable to, any of its directors, officers, employees or consultants, or make any arrangement with regard to any of the foregoing, (ii) hire any new employee or consultant, (iii) amend or prematurely terminate any of the existing agreements with any employees or consultants, or (iv) enter into any arrangement with the Consideration Recipients;

7.1.15. the Company shall not change any of its methods of accounting or accounting practices in any material respect, or alter its practices with respect to the collection of receivables or payment of payables except as required by concurrent changes in GAAP;

7.1.16. the Company shall not make any Tax election;

7.1.17. the Company shall not commence or settle any material legal proceeding;

7.1.18. the Company shall not provide or grant any Security Interest in any of its assets or rights.

7.1.19. the Company shall not enter into any transaction or relationship with any Related Party; and

7.1.20. the Company shall not agree or commit to take any of the actions described in Section 7.1.1 through Section 7.1.20 above.

7.2. During the Interim Period, each Shareholder covenants with the Purchaser that such Shareholder shall not dispose of any interest in the Purchased Shares or any of them or grant any option over or create or allow to exist any Security Interest over the Purchased Shares or any of them.

7.3. During the Interim Period, Each Company Warrant Holder covenants with the Purchaser that such Company Warrant Holder shall not dispose of any interest in the Company Warrants or grant any option over or create or allow to exist any Security Interest over the Company Warrants.

7.4. During the Interim Period, the Company and the Purchaser covenant that they shall co-operate in addressing any third party being a contract party to any Material Contract with the mutual purpose of avoiding the termination or alteration of any material contract due to the change of ownership of the Company contemplated by this Agreement.

7.5. No announcement or other disclosure concerning the sale and purchase of the Purchased Shares, the Transaction or any ancillary matter shall be made before Closing by the Parties save in a form agreed between the Shareholders' Representative and the Purchaser or otherwise as required by Law or as required for the Company or any Shareholder to secure any required consent or approval to the transactions contemplated hereby or by a party to its representatives, management, professional advisors, or to other shareholders or option holders of the Company, in each case subject to strict confidentiality undertakings and to the extent necessary for purposes of the Transaction.

7.6. All of the Parties to this Agreement will after, as well as before and upon, the Closing Date do all acts and things and sign and execute all documents and deeds reasonably required for the purpose of implementing the terms of this Agreement.

7.7. No Negotiation. During the Interim Period, neither the Company, the Consideration Recipients nor any of its Representatives shall directly or indirectly:

7.7.1. solicit or encourage the initiation of any inquiry, proposal or offer from any Person (other than Purchaser) relating to a possible Acquisition Transaction;

7.7.2. participate in any discussions or negotiations or enter into any agreement with, or provide any information to, any Person (other than Purchaser) relating to or in connection with a possible Acquisition Transaction; or

7.7.3. accept any proposal or offer from any Person (other than Purchaser) relating to a possible Acquisition Transaction.

The Company shall promptly notify Purchaser in writing of any inquiry, proposal or offer relating to a possible Acquisition Transaction that is received by the Company or any Representatives thereof during the Interim Period, including the material terms thereof.

7.8. Access to Information.

7.8.1. During the Interim Period, (i) the Company shall afford Purchaser and their accountants, counsel and other Representatives, reasonable access upon reasonable prior notice and during normal business hours to (A) all of the Company's properties, books, Contracts and records and (B) all other information concerning the business, properties and personnel (subject to restrictions imposed by applicable Legal Requirements) of the Company as Purchaser may reasonably request, and (ii) the Company shall make available to Purchaser and their accountants, counsel and other representatives correct and complete copies of the Company's: (a) internal financial statements, (b) Tax Returns, Tax elections and all other records and work papers relating to Taxes and (c) receipts for any Taxes paid to foreign Taxing Authorities, if any.

7.8.2. Subject to compliance with applicable Legal Requirements, during the Interim Period, the Company shall confer from time to time as requested by Purchaser with one or more Representatives of Purchaser to discuss any material changes or developments in the operational matters of the Company the general status of the ongoing operations of the Company.

7.9. Directors' and Officers' Insurance.

7.9.1. Prior to the Closing, the Company shall purchase Tail Insurance Policy for the present and former directors and officers of the Company at any time prior to the Closing and their respective successors and heirs (the "**Covered Persons**"), which shall provide the Covered Persons with coverage for seven (7) years following the Closing Date, to the extent permitted by Law, Purchaser shall cause the Company and its successors and assigns not to cancel or reduce the Tail Insurance Policy and continue to honor the obligations thereunder in accordance with its terms, to the extent permitted by Law.

7.9.2. Without derogating from the other provisions of this Agreement, the Company shall pay for such expense prior to the Closing.

7.10. Immediately following the date hereof (but no later than three (3) Business Days thereafter), each of the Company and the Purchaser shall file with any other Governmental Authority any filings (including without limitation any regulatory filings) that are required for the consummation of the Transaction and shall use its reasonable best efforts to obtain all such approvals.

7.11. No Leakage.

7.11.1. The Company undertakes to the Purchaser that, between the signing of this Agreement and the Closing, the Company will not pay, or accrue, any Leakage Payments.

7.11.2. The Company undertakes to the Purchaser that, if there is a breach of Section 7.11.1, then as a sole remedy, the amount of Closing Shares and the Closing Warrants shall be reduced by dividing the Leakage Payments made or accrued between the signing of this Agreement and the Closing, by US$10.22. Three days before the contemplated Closing hereunder, the Company shall provide to the Purchaser the certified Closing Certificate confirming the amount of Leakage Payments (if any) for the purpose of adjustment of the Waterfall.

8. **RELEASES**

8.1. By signing this Agreement or by accepting payment of the applicable part of the Closing Payment, as of and subject to the Closing each of the Consideration Recipients hereby waives, releases and absolutely and forever discharges the Company, from and against any and all Claims, demands, actions, judgments, liabilities, Damages, losses and Debt of every kind and nature whatsoever, known to such Consideration Recipient, that have arisen or will arise due to actions or events that have occurred prior to the Closing and all reasonable costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing (collectively, "**Consideration Recipient Claims**"); provided, however, that this release does not extend to any Consideration Recipient Claims to enforce the terms of, or any breach of, this Agreement, or any document or agreement delivered hereunder or thereunder or any of the provisions set forth herein or therein (collectively, "**Retained Claims**").

8.2. The Consideration Recipients hereby waive any and all first refusal, first offer, notification, veto or other rights under the Organizational Documents of the Company or any agreement to which any of them are a party with respect to the execution of this Agreement and the consummation of the Transaction.

8.3. Without limitation of the foregoing, each Shareholder and the Company hereby agrees and confirms that effective as of the Closing, each Contract by and between the Company and any Shareholder is hereby terminated, including, without limitation the agreements identified in **Schedule 8.3**, and excluding specifically such agreements identified as such in **Schedule 8.3**.

9. **INDEMNIFICATION AND REMEDIES**

9.1. Survival. The representations and warranties of the Parties contained in this Agreement or in any certificates or other writing delivered pursuant to this Agreement or in connection herewith will survive the Closing for twenty-four (24) months thereafter; provided, however, that (a) the representations and warranties contained in Section 4.7 (Taxation) (the "**Tax Representations**") shall survive the Closing for thirty (30) months thereafter, (b) the representations and warranties contained in Section 4.13 (Intellectual Property) (the "**IP Representations**") shall survive the Closing for forty-two (42) months thereafter, and (d) the Fundamental Representations shall survive the Closing until the expiration of the statute of limitations applicable to the subject matter underlying such Fundamental Representation. The Parties agree that so long as due written notice of a claim in accordance with the terms herein is given on or prior to the applicable survival date with respect to such claim, such claim shall continue to survive until it is finally resolved. All covenants and agreements to be performed in whole or in part after the Closing Date shall survive in accordance with their terms. The right to indemnification hereunder shall not be limited or affected by any diligence conducted or knowledge acquired by any Party, before or after the Closing.

9.2. Subject to the limitations set forth in this Section 9, each Consideration Recipient ('**Indemnifying Parties**"), severally and not jointly agrees to indemnify, and hold the Purchaser and its officers, shareholders, directors, employees and Affiliates (the "**Indemnified Parties**") harmless from and against and in respect of such Consideration Recipient's Pro Rata Portion of the entirety of any and all losses, Debt, liabilities, obligations, damages, fees, interest, costs and expenses, including costs of investigation by Governmental Authority and defense and reasonable fees and expenses of counsel, experts and other professionals (excluding incidental damages) ("**Damages**"), actually incurred or suffered by the Indemnified Parties as a result of, or arising out of:

9.2.1. any failure of any representation or warranty in this Agreement or in any certificate, Schedule or Exhibit to this Agreement made by the Company, to be true and correct as of the date hereof and as of the Closing, except that any such representation and warranties which by their express terms are made solely as of a specified earlier date shall be true, correct and complete only as of such specified earlier date;

9.2.2. any breach of any covenant of the Company in any of the Transaction Documents;

9.2.3. any inaccuracy, misstatement or omission in the allocation of the payments and rights listed in the Waterfall;

9.2.4. any liability for Taxes of the Company attributable to the period prior to the Closing and any Taxes payable in connection with the transfer of the Purchased Shares required to be paid by the holders of Purchased Shares; and

9.2.5. any amount which would have been reimbursed to the Company under, and in accordance with the terms of, the Third Party Insurance due to occurrence of any event prior to Closing, had such Third Party Insurance was in effect upon occurrence of such event.

9.3. Subject to the limitations set forth in this Section 9, each Indemnifying Party, severally and not jointly, agrees to indemnify the Indemnified Parties harmless from and against and in respect of the entirety of any and all Damages actually incurred or suffered by the Indemnified Parties as a result of, or arising out of:

9.3.1. any failure of any representation or warranty made by such Consideration Recipient to be true and correct as of the date hereof and as of the Closing; and

9.3.2. any breach of any covenant of such Consideration Recipient in any of the Transaction Documents.

Notwithstanding anything to the contrary in this Section 9, in the event that an Indemnified Party brings a claim for indemnification under Section 9.3 (a "**Shareholder Claim**"), then, solely for purposes of this Section 9 (i) only the Consideration Recipient(s) that is or are subject to such Shareholder Claim (the "**Indemnifying Shareholder(s)**") shall be considered an Indemnifying Party, and (ii) the Indemnifying Consideration Recipient shall serve the role of Shareholders' Representative for purposes of the Shareholder Claim under this Section 9, *mutatis mutandis* (all of the foregoing, without derogating from any other provision of this Section 9 which shall apply *mutatis mutandis*).

9.4. Notwithstanding anything in this Agreement to the contrary, for purposes of the Parties' indemnification obligations under this Section 9, all of the representations and warranties set forth in this Agreement or any certificate or schedule that are qualified as to "material", "materiality", "Material respects", "Company Material Adverse Effect" or words or similar import or effect shall be deemed to have been made without any such qualification solely for purposes of determining the amount of Damages resulting from, or arising out of any such breach of representation or warranty.

9.5. In no event shall any Indemnifying Party seek contribution or any other legal, financial or equitable relief from the Company or any of its Affiliates in respect of such Indemnifying Party's indemnification obligations.

9.6. Procedures.

9.6.1. Third Party Claims. Promptly after receipt by the Indemnified Party of notice of the commencement of any Claim against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement; the Indemnified Party shall provide the Shareholders' Representative with prompt written notice thereof, but in any event not later than fifteen (15) days after receipt of such written notice of the Claim (including, to the extent possible under applicable law, copies of the applicable statement of Claim and all other court documents which were received) and will provide, when known, the facts constituting the basis of such Claim in reasonable detail and all other available materials and other available information in its possession or control that may be necessary to the defense of such Claim, including the amount of Damages asserted by such third party. Purchaser shall also provide any other additional information reasonably requested by the Shareholders' Representative.

9.6.2. Purchaser shall have the right, at its election, to assume and proceed, through counsel of its own choosing, the defense of any such Claim including the right to consent to any settlement, compromise or discharge (including the consent to entry of any judgment) of the Claim, as specified herein; provided, however, that if the Purchaser settles, adjusts or compromises any such Claim without the consent of the Shareholders' Representative, (i) such settlement, adjustment or compromise shall not include any admission of liability on behalf of any of the Consideration Recipients and shall not be conclusive evidence of the amount of Damages incurred by the Indemnified Party in connection with such Claim (it being understood that if the Purchaser requests that the Shareholders' Representative consent to a settlement, adjustment or compromise, the Shareholders' Representative shall not unreasonably withhold or delay such consent), and (ii) any amount of such settlement in excess of amounts consented to by the Shareholder's Representative shall be deemed a Contested Amount (as defined below). In the event that Purchaser declines or fails to assume and proceed the defense of any Claim described in the preceding sentence within fifteen (15) days of receiving notice of such Claim, the Shareholders' Representative shall be entitled to assume and control the defense of such Claim, at its own expense with counsel selected by the Shareholders' Representative. Should the Shareholders' Representative so elect to assume the defense of a Claim, the Purchaser will reasonably cooperate with the Shareholders' Representative with the defense thereof if requested by the Shareholders' Representative, at the cost and expense of the Shareholders' Representative, and Shareholders' Representative will not be liable to the Indemnified Party for any legal or other expenses subsequently incurred by the Indemnified Party in connection with the defense thereof as long as the Shareholders' Representative diligently conducts such defense provided that, if in Purchaser's reasonable judgment a conflict of interest exists, in the opinion of Purchaser's external legal counsel, in respect of the Claim, Purchaser will have the right to employ separate counsel to represent Purchaser and in that event the reasonable fees and expenses of such separate counsel will be paid by the Shareholders' Representative. Without the prior written consent of the Purchaser (which consent may not be unreasonably withheld or delayed), the Shareholders' Representative will not enter into any settlement of any Claim. The Parties will in any event cooperate with each other in dealing with any Claim with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, other than in the event of a conflict of interest, and, other than in the event of a conflict of interest, will allow their respective representatives and advisers reasonable access to all Books and Records which might be useful for such purpose during normal business hours and at the place where they are normally kept, with full right to make copies thereof or take extracts there from. Such Books and Records shall be subject to a duty of confidentiality except for disclosure necessary for resolving such Claim or otherwise required by applicable Law.

9.6.3. Claims and Procedures. Any claim by an Indemnified Party on account of Damages and which entitles an Indemnified Party to indemnification pursuant to this Section 9, will be asserted by giving the Shareholders' Representative written notice thereof within sixty (60) days after the Indemnified Party becomes aware of such Damages, signed by an officer of the Indemnified Party (a "**Claim Certificate**"):

9.6.3.1. stating that an Indemnified Party determines in good faith that there is a breach of a representation, warranty or covenant contained in this Agreement or that such Indemnified Person is or may otherwise be entitled to indemnification under this Section 9;

9.6.3.2. specifying in reasonable detail the material facts known to the Indemnified Party giving rise to such claim; and

9.6.3.3. containing a good-faith estimated amount, if reasonably practicable, of Damages that has been or may be sustained by the Indemnified Party.

9.6.4. The Shareholders' Representative will have a period of thirty (30) days commencing on the date that a Claim Certificate was duly given pursuant to Section 9.6.3 to respond in writing to such Claim Certificate. If the Shareholders' Representative does not so respond within such thirty (30)-day period, the Shareholders' Representative will be deemed to have accepted such direct Claim.

9.6.5. A failure to give timely notice or to include any specified information in any notice as provided in this Section 9.6 will not affect the rights or obligations of any Party, except and only to the extent that, as a result of such failure, any Party that was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise materially prejudiced as a result of such failure (including in connection with the defense of a Claim).

9.6.6. To the extent that within the thirty (30)-day period referred to in Section 9.6.4 the Shareholders' Representative provides the Indemnified Party with notice of its objection to the Claim Certificate and/or that it disagrees with the amount (the "**Contested Amount**") or method of determination set forth in any such notice (the "**Disagreement Notice**"), the Parties shall resolve such conflict in accordance with the procedures set forth in Section 9.6.7.

9.6.7. If the Shareholders' Representative has provided a Disagreement Notice, the Parties shall attempt in good faith to agree upon the rights of the respective Parties with respect to each of such claims. If the Parties should so agree, a memorandum setting forth such agreement shall be prepared and signed by Purchaser, on the one hand, and the Shareholders' Representative. In the event the parties fail to reach an agreement within thirty (30) days after the date on which the Purchaser received the Disagreement Notice (the "**Dispute Resolution Period**"), the dispute may be submitted by the Indemnified Person seeking indemnification for the formal resolution of such dispute in accordance with Section 11.9, provided, however, that to the extent that the Indemnified Party fails to initiate formal resolution of such dispute by initiation of legal proceedings in accordance with Section 11.9 below within one hundred and twenty (120) days from expiration of the Dispute Resolution Period, the Indemnified Party will be deemed to have waived any indemnification to Damages pursuant to the applicable Claim Certificate.

9.7. Threshold. The Indemnified Parties shall only be entitled to claim Damages pursuant to this Section 9 if and insofar the aggregate amount of all Damages that would otherwise be indemnifiable under this Agreement exceeds US$ 25,000, in which event the Indemnifying Parties shall be liable to indemnify the Indemnified Parties for the full amount of Damages from the first dollar. Notwithstanding, the foregoing threshold shall not apply to claims for Damages resulting from fraud, willful breach or intentional misrepresentation.

9.8. Cap. Other than for claims for Damages resulting from fraud, willful breach or intentional misrepresentation, the maximum aggregate liability for any claims for Damages pursuant to Section 9 shall be limited to an amount equal to [***] Contingent Consideration to be paid to the Indemnifying Party(s), but not more than [***] in the aggregate, provided, however, that:

9.8.1. The maximum aggregate liability for any claims for Damages with respect breach of the IP Representations and the Tax Representations shall be limited to an amount equal to [***] of the Contingent Consideration to be paid to the Indemnifying Party(s);

9.8.2. The maximum aggregate liability for breach of the Company Fundamental Representations and for the events set forth in Sections 9.2.2 - 9.2.5 shall be limited to the Aggregate Consideration actually received by the Consideration Recipients;

9.8.3. The maximum aggregate liability for breach of the Shareholders Fundamental Representations and for the events set forth in Section 9.3 shall be limited to the Aggregate Consideration actually received by the applicable Indemnifying Party(s);

9.8.4. For the avoidance of doubt, , and notwithstanding anything to the contrary in this Agreement, in no event shall a Consideration Recipient be liable for any Damages resulting from any breach of a representation or covenant by another Consideration Recipient.

9.8.5. For the avoidance of doubt, with respect to the caps and limitations provided for in the first paragraph of this Section 9.8, Sub Section 9.8.1, Sub Section 9.8.2, and Sub Section 9.8.3 (each, a "**Caps Alternative**"), any Damages paid under one Cap Alternative shall be deemed to have been paid under and toward all other greater Cap Alternatives with respect to future indemnifiable claims under this Section 9. For purposes of example only: [***].

9.8.6. Furthermore, for the avoidance of doubt and notwithstanding anything to the contrary in this Agreement, in no event shall a Consideration Recipient be liable for any Damages or obligations in excess of its, his or her Pro Rata Portion.

9.9. Exclusive Remedy. The indemnification rights of any Indemnified Party pursuant to this Section 9 shall be the sole and exclusive remedy available to the Indemnified Parties under or in connection with this Agreement and the Transaction Documents against the Consideration Recipients, except for liabilities arising out of or based on fraud, intentional misrepresentation or willful breach or conduct and for equitable remedies.

9.10. Insurance Recovery. In determining the liability of an Indemnifying Party for any Damages pursuant to this Section, no loss, liability, damage or expense shall be deemed to have been sustained by an Indemnified Party to the extent of any proceeds previously received by such Indemnified Party from any insurance recovery (net of (i) all out of pocket costs directly related to such recovery, (ii) increases in premiums or (iii) any deductible incurred in obtaining such recovery).

9.11. Offset as an Exclusive Remedy. Notwithstanding anything to the contrary, any of the Indemnified Parties may collect and recover any and all monetary Damages with respect to which it is entitled to be indemnified under this Section 9, solely by setting off such Damages against future Contingent Consideration to be paid to the applicable Indemnifying Party(s). The above limitation shall not apply to (i) Damages arising out of or based on fraud, intentional misrepresentation or willful breach or conduct, (ii) Damages arising out of or based on any failure of any representation or warranty under the Fundamental Representations, and (iii) Damages pursuant to Sections 9.2.2-9.2.5.

9.12. Method of Payment.

Any indemnification sought pursuant to this Section 9 (either by way of setoff or otherwise) shall be effected in accordance with and in the same proportions of the method of payment of the Contingent Consideration being set-off, as notified under the Payment Method Notice (i.e., (i) in cash, (ii) in Equity Contingent Consideration or (iii) in a combination of cash and Equity Contingent Consideration), or with respect to Damages arising out of or based on any claim for Damages pursuant to this Section 9, any indemnification sought pursuant to this Section 9 with respect to such Damages shall be effected in accordance with and in the same proportions of the portion of the Aggregate Consideration actually paid to the Indemnifying Party(s) as of receipt by such Indemnifying Party(s) of a notice regarding commencement of a Claim under Section 9.6.1 (i.e., (i) in cash, (ii) Purchaser's Shares or (iii) in a combination of both (i) and (ii).

9.13. Consideration Adjustment. The Parties agree that any indemnification payment made pursuant to this Agreement shall be treated as an adjustment to the Aggregate Consideration for Tax purposes, unless otherwise required by Law.

10. TERMINATION

10.1. At any time prior to the Closing, this Agreement may be terminated:

10.1.1. by mutual written consent of the Purchaser and the Shareholders' Representative;

10.1.2. by Purchaser or the Company if the transactions contemplated hereby have not been consummated by December 19, 2017;provided, however, that the Purchaser or the Company, as applicable, will not be entitled to terminate this Agreement pursuant to this Section 10.1.2 if the Purchaser's breach of this Agreement, on the one hand, or the Company's breach of this Agreement, on the other hand, has prevented the consummation of the transactions contemplated by this Agreement.

10.2. In the event of termination of this Agreement as provided in Section 10.1.1 or Section 10.1.2, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of Purchaser or the Company or any Consideration Recipient, or any of their respective directors, officers or other employees, or shareholder, if applicable; provided, however, that each Party hereto shall remain liable for any willful and intentional breaches of this Agreement by such Party that occurred prior to its termination.

11. MISCELLANEOUS

11.1. Communications. All notices or other communications hereunder shall be in writing and shall be given in person, by registered mail (registered international air mail if mailed internationally), by an overnight courier service which obtains a receipt to evidence delivery, by electronic mail or by facsimile transmission (provided that written confirmation of receipt is provided for facsimile transmission) with a copy by mail, addressed as set forth below:

If to the Company:	RondinX LTD HaKfar Hayarok, Ramat Hasharon, 47800 Israel Fax: [***] Attn: [***] Email: [***]
With a mandatory copy (which shall not constitute notice) *to*:	Meitar Liquornik Geva Leshem Tal, Law Offices 16 Abba Hillel Rd Ramat Gan, 5250608 Israel Fax: [***] Attn: [***] Email: [***]
If to the Shareholders:	As stated in **Schedule A-1** hereto.
If to the Consideration Recipients:	As stated in **Schedule A-2** hereto.
If to the Purchaser:	BiomX Ltd. 7 Sapir Street, Ness Ziona, Israel Attn: [***] Email: [***]
With a mandatory copy (which shall not constitute notice) *to*:	Zysman, Aharoni, Gayer & Co. 41-45 Rothschild Blvd., Beit Zion, Tel Aviv 6578401, Israel Fax: [***] Attn: [***] Email: [***]

or such other address as any Party may designate to the other in accordance with the aforesaid procedure. All communications delivered in person or by courier service shall be deemed to have been given upon delivery, those given by electronic mail immediately upon delivery by email (with an electronic confirmation of receipt), or, if transmitted ad received on a non-Business Day, on the first Business Day following transmission and electronic confirmation of full receipt, those given by facsimile transmission shall be deemed given on the Business Day following transmission with confirmed answer back, and all notices and other communications sent by registered mail, return receipt requested, postage prepaid (or air mail if the posting is international) shall be deemed given five (g) Business Days after having been sent.

11.2. Successors and Assignees

11.2.1. No assignment of this Agreement or of any rights or obligations hereunder may be made by either the Consideration Recipients or the Purchaser, without the prior written consent of the other Parties hereto and any attempted assignment without the required consents shall be void. Notwithstanding the foregoing, after or in connection with the Closing, Purchaser may assign all of its respective rights under this Agreement to any of its Affiliate, but no such assignment shall relieve Purchaser of any liability or obligation hereunder or enlarge, alter or change any obligation of any other party hereto due to the Purchaser.

11.2.2. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the Parties and their respective successors and assigns.

11.3. Expenses. All costs, fees and expenses incurred in connection with this Agreement and the other transactions contemplated hereby shall be paid by the party incurring such costs, fees or expenses, whether or not the Closing is consummated.

11.4. Delays or Omissions; Waiver.

11.4.1. The rights of a Party may be waived by such Party only in writing and specifically; the conduct of any one of the Parties shall not be deemed a waiver of any of its rights pursuant to this Agreement or as a waiver or consent on its part as to any breach or failure to meet any of the terms of this Agreement or as an amendment hereto. A waiver by a Party in respect of a breach by the other Party of its obligations shall not be construed as a justification or excuse for a further breach of its obligations.

11.4.2. No delay or omission to exercise any right, power, or remedy accruing to any Party upon any breach or default by the other under this Agreement shall impair any such right or remedy nor shall it be construed to be a waiver of any such breach or default, or any acquiescence therein or in any similar breach or default thereafter occurring.

11.5. Amendment. This Agreement may be amended or modified only by a written document signed by the Purchaser and the Shareholders' Representative (acting exclusively for and on behalf of all of the Consideration Recipients).

11.6. Entire Agreement. This Agreement (together with the recitals, schedules, appendices, annexes and exhibits attached hereto, which are deemed an integral part of this Agreement) contains the entire understanding of the Parties with respect to its subject matter and all prior negotiations, discussions, agreements, commitments and understandings between them with respect thereto not expressly contained herein shall be null and void in their entirety, effective immediately with no further action required.

11.7. Severability.

11.7.1. If a provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect the validity or enforceability in that jurisdiction of any other provision hereof or the validity or enforceability in other jurisdictions of that or any other provision hereof.

11.7.2. Where provisions of any applicable Law resulting in such illegality, invalidity or unenforceability may be waived, they are hereby waived by each Party to the full extent permitted so that this Agreement shall be deemed valid and binding, in each case enforceable in accordance with its terms.

11.8. Counterparts, Facsimile Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A signed Agreement received by a Party via facsimile or electronic mail will be deemed an original, and binding upon the Party who signed it.

11.9. Governing Law and Venue. The Agreement shall be governed by and construed in accordance with the laws of the State of Israel, without giving effect to the principles thereof relating to conflict of Laws. Subject to the arbitration proceedings referred to in the Milestone Schedule, the competent courts of Tel-Aviv Jaffa shall have exclusive jurisdiction to hear all disputes arising in connection with this Agreement and no other courts shall have any jurisdiction whatsoever in respect of such disputes.

11.10. No Third-Party Beneficiaries. Nothing in this Agreement shall create or confer upon any Person, other than the Parties and the Indemnified Parties or their respective successors and permitted assigns, any rights, remedies, obligations or liabilities, except as expressly provided herein.

11.11. Shareholders' Representative.

11.11.1. By virtue of the execution of this Agreement, each Consideration Recipient herby irrevocably agrees, constitutes and appoints Guy Harmelin as the true, exclusive and lawful agent and attorney in fact of the Consideration Recipients (i) to act as the Shareholders' Representative for and on behalf of the Consideration Recipients and to have the right, power and authority to perform all actions (or refrain from taking any actions) the Shareholder's Representative shall deem necessary, appropriate or advisable in connection with, or related to, this Agreement and the transactions contemplated herein (the "**Transaction**"), (ii) to act in the name, place and stead of each Consideration Recipient (A) in connection with the Transaction, in accordance with the terms and provisions of this Agreement, and (B) in any Claim involving this Agreement, and (iii) to do or refrain from doing all such further acts and things, and to execute all such documents as the Shareholders' Representative shall deem necessary or appropriate in connection with the Transaction (including any Transaction Document). Without derogating from the generality of the above, the Shareholders' Representative shall have the right, power and authority to act for the Consideration Recipients in connection with indemnification to be provided under Section 9 and to agree to, negotiate, and enter into settlements, adjustments and compromises of, and comply with orders of courts and awards of arbitrators with respect to, such claims, and to take all other actions that are either (i) necessary or appropriate in the judgment of the Shareholders' Representative for the accomplishment of the foregoing or (ii) specifically mandated or permitted by the terms of this Agreement. The Consideration Recipients will be bound by all actions taken by Shareholders' Representative in connection with the Transaction Documents. The Shareholders' Representative may resign at any time; provided, that the Shareholders' Representative may not be removed unless a majority of the Consideration Recipients (as determined by the vote of the majority holders of the shares issued herein) agree in writing to such removal and that a new substituted Shareholders' Representative is being appointed (whose identity shall be determined by such then majority of Consideration Recipients, as determined by the vote of the holders of the majority of the BiomX shares issued herein). A vacancy (including by way of a Deemed Resignation) in the position of the Shareholders' Representative may be filled by a majority of the Consideration Recipients (as determined by the vote of the majority holders of the shares issued herein) and subject to Purchaser's approval of such successor Shareholders' Representative, not to be unreasonably withheld or delayed. No bond shall be required of the Shareholders' Representative, and the Shareholders' Representative shall not receive any compensation for its services. Notices or communications to or from the Shareholders' Representative shall constitute notice to or from the Consideration Recipients. The Consideration Recipients shall cause a Person to be appointed promptly as the Shareholders' Representative if at any time there is no Person serving as the Shareholders' Representative for any reason.

11.11.2. A decision, act, consent or instruction of the Shareholders' Representative, including an amendment, extension or waiver of the Transaction Documents, shall constitute a decision of all the Consideration Recipients and shall be final, binding and conclusive upon the Consideration Recipients. Purchaser is entitled to rely upon any such decision, act, consent or instruction of the Shareholders' Representative as being the decision, act, consent or instruction of all the Consideration Recipients. The Purchaser is hereby relieved from any Liability to any Person for any acts done by them in accordance with such decision, act, consent or instruction of the Shareholders' Representative.

[Signature Page to Follow]

[Signature Page of Share Purchase Agreement]

IN WITNESS WHEREOF, this Share Purchase Agreement has been duly executed on the date herein above set forth.

BiomX Ltd.

By: /s/ Jonathan Solomon
Name: Jonathan Solomon
Title: CEO

RondinX Ltd.

By: /s/ Guy Harmelin
Name: Guy Harmelin
Title: Director

[Signature Page of Share Purchase Agreement]

IN WITNESS WHEREOF, this Share Purchase Agreement has been duly executed on the date herein above set forth.

/s/ Guy Harmelin
Guy Harmelin (as Shareholder Representative)

/s/ Guy Harmelin
Guy Harmelin

/s/ Rafi Gidron
Rafi Gidron

/s/ Alon Hirsch
Alon Hirsch

8VC Angel Fund I, L.P.

By: 8VC Angel GP I, LLC

Its General Partner

By: /s/ Drew Oetting
Name: Drew Oetting
Title: Managing Member

8VC Angel Fund I Associates, L.P.

By: 8VC Angel GP I, LLC

Its General Partner

By: /s/ Drew Oetting
Name: Drew Oetting
Title: Managing Member

Baruch Family Revocable Trust

By: /s/ Thomas Baruch
Name: Thomas Baruch
Title: Manager

Elevator Venture Holdings Ltd.

By: /s/ Ori Glezer / /s/ Tom Bronfeld / /s/ Lior Prosor
Name: Ori Glezer / Tom Bronfeld / Lior Prosor
Title: Managing Directors

Elinav Research and Biological Services Ltd.

By: /s/ Eran Elinav
Name: Eran Elinav
Title: Professor

/s/ Gigi Levy
Gigi Levy

/s/ Tamar Lifshitz
Tamar Lifshitz

33Steps Ltd.

By: /s/ Yossi Matus
Name: Yossi Matus
Title:

/s/ Noa Eliasaf-Shoham
Noa Eliasaf-Shoham

Nhaft, LLC

By: /s/ Nicholas Haft
Name: Nicholas Haft
Title: Manager

Yeda Research and Development Co. Ltd.

By:	/s/ Gil Granot-Mayer	/	/s/ Prof. Mudi Shevee
	Name: Gil Granot-Mayer	/	Prof. Mudi Shevee
	Title: C.E.O	/	Chairman

Eran Segal Consultancy Ltd.

By: /s/ Eran Segal

Name: Eran Segal

Title: Professor

Exhibit 2.4.1

MILESTONES SCHEDULE

[***].

Appendix 1

[***]

Exhibit 2.4.5

REDEMPTION OF MILESTONES

[***]

Exhibit 2.5

MILESTONE ROADMAP

*Capitalized terms used but not defined in this Schedule shall have the meanings ascribed to them in that certain Share Purchase Agreement by and among the Company, the Purchaser listed therein, the Shareholders listed therein and the Shareholders Representative listed therein, dated November 19, 2017, to which this Milestones Roadmap is attached (the "**Agreement**").*

[***]

Schedule A-1

LIST OF COMPANY SHAREHOLDERS

Shareholders	Address	Type of Shares	Number of Shares
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
[***]	[***]	[***]	[***]
Total			[***]

Schedule A-2

LIST OF COMPANY WARRANT HOLDERS

Name	Address	Number of Warrants
[***]	[***]	[***]
[***]	[***]	[***]
[***]	[***]	[***]

Exhibit 10.10

CHARDAN HEALTHCARE ACQUISITION CORP.

2019 OMNIBUS LONG-TERM INCENTIVE PLAN

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CHARDAN HEALTHCARE ACQUISITION CORP.
2019 OMNIBUS LONG-TERM INCENTIVE PLAN

SECTION 1
GENERAL

1.1. Purpose. The Chardan Healthcare Acquisition Corp. 2019 Omnibus Long-Term Incentive Plan (the “Plan”) has been established by Chardan Healthcare Acquisition Corp., a Delaware corporation, (the “Company”) to (i) attract and retain persons eligible to participate in the Plan; (ii) motivate Participants, by means of appropriate incentives, to achieve long-range goals; (iii) provide incentive compensation opportunities that are competitive with those of other similar companies; and (iv) further align the interests of Participants with those of the Company’s other stockholders through compensation that is based on the Company’s shares; and thereby promote the long-term financial interest of the Company and the Related Companies including the growth in value of the Company’s shares and enhancement of long-term stockholder return. Capitalized terms in the Plan are defined in Section 2.

1.2. Participation. Subject to the terms and conditions of the Plan, the Committee shall determine and designate, from time to time, from among the Eligible Individuals, those persons who will be granted one or more Awards under the Plan, and thereby become “Participants” in the Plan.

1.3. Foreign Participants. In order to assure the viability of Awards granted to Participants who are subject to taxation in foreign countries, the Committee may provide for such special terms as it may consider necessary or appropriate to accommodate differences in local law, tax policy, or custom. Moreover, the Committee may approve such appendixes, supplements to, or amendments, restatements, or alternative versions of, the Plan as it may consider necessary or appropriate for such purposes without thereby affecting the terms of the Plan as in effect for any other purpose; provided, however, that no such supplements, amendments, restatements, or alternative versions shall increase the share limitations contained in Section 3.1 of the Plan.

1.4. Operation and Administration. The operation and administration of the Plan, including the Awards made under the Plan, shall be subject to the provisions of Section 7 (relating to operation and administration).

1.5. History. The Plan was adopted by the Company on September 17, subject to approval by stockholders. To the extent not prohibited by Applicable Laws, Awards which are to use shares of Stock reserved under the Plan that are contingent on the approval by the Company’s stockholders may be granted prior to that meeting contingent on such approval. The Plan shall be unlimited in duration and, in the event of Plan termination, shall remain in effect as long as any Awards under it are outstanding; provided, however, that no Awards may be granted under the Plan after the ten-year anniversary of the date on which the stockholders approved the Plan.

SECTION 2
DEFINITIONS

2.1. “Administrator” means the Board or any of its Committees as will be administering the Plan, in accordance with Section 7.

2.2. “Applicable Laws” means the requirements relating to the administration of equity-based awards under U.S. state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted and the applicable laws of any foreign country or jurisdiction where Awards are, or will be, granted under the Plan.

2.3. “Award Agreement” means the written agreement, including an electronic agreement, setting forth the terms and conditions applicable to each Award granted under the Plan. The Award Agreement is subject to the terms and conditions of the Plan.

2.4. “Award” means any award or benefit granted under the Plan, including, without limitation, the grant of Options and Full Value Awards.

2.5. “Board” means the Board of Directors of the Company.

2.6. “Change in Control” means the first to occur of any of the following:

(a) the consummation of a purchase or other acquisition by any person, entity or group of persons (within the meaning of Section 13(d) or 14(d) of the Exchange Act or any comparable successor provisions, other than an acquisition by a trustee or other fiduciary holding securities under an employee benefit plan or similar plan of the Company or a Related Company), of “beneficial ownership” (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 50% or more of either the outstanding shares of Stock or the combined voting power of the Company’s then outstanding voting securities entitled to vote generally;

(b) the consummation of a reorganization, merger, consolidation, acquisition, share exchange or other corporate transaction of the Company, in each case, with respect to which persons who were stockholders of the Company immediately prior to such reorganization, merger or consolidation do not, immediately thereafter, own more than 50% of the combined voting power entitled to vote generally in the election of directors of the reorganized, merged or consolidated company’s then outstanding securities;

(c) the consummation of any plan of liquidation or dissolution of the Company providing for the sale or distribution of substantially all of the assets of the Company and its Subsidiaries or the consummation of a sale of substantially all of the assets of the Company and its Subsidiaries; or

(d) at any time during any period of two consecutive years, individuals who at the beginning of such period were members of the Board cease for any reason to constitute at least a majority thereof (unless the election, or the nomination for election by the Company’s stockholders, of each new director was approved by a vote of at least two-thirds of the directors still in office at the time of such election or nomination who were directors at the beginning of such period).

2.7. “Code” means the United States Internal Revenue Code of 1986, as amended. A reference to any provision of the Code shall include reference to any successor provision of the Code.

2.8. “Committee” has the meaning set forth in Section 7.1.

2.9. “Common Stock” or “Stock” means the common stock of the Company.

2.10. “Company” has the meaning set forth in Section 1.1.

2.11. “Consultant” means any natural person engaged as a consultant or advisor by the Company or a Parent or Subsidiary or other Related Company (as determined by the Committee) to render bona fide services to such entity and such services are not in connection with the sale of shares of Stock in a capital-raising transaction, and do not directly or indirectly promote or maintain a market for the Company’s securities.

2.12. “Director” means a member of the Board.

2.13. “Eligible Individual” means any Employee, Consultant or Director; provided, however, that to the extent required by the Code, an ISO may only be granted to an Employee of the Company or a Parent or Subsidiary. An Award may be granted to an Employee, Consultant or Director, in connection with hiring, retention or otherwise, prior to the date the Employee, Consultant or Director first performs services for the Company or the Subsidiaries, provided that such Awards shall not become vested prior to the date the Employee, Consultant or Director first performs such services.

2.14. “Employee” means any person, including officers and Directors, employed by the Company or any Parent or Subsidiary of the Company or a Related Company (as determined by the Committee). Neither service as a Director nor payment of a director’s fee by the Company will be sufficient to constitute “employment” by the Company.

2.15. “Exchange Act” means the Securities Exchange Act of 1934, as amended.

2.16. “Exercise Price” of each Option granted under this Plan shall be established by the Committee or shall be determined by a method established by the Committee at the time the Option is granted.

2.17. “Expiration Date” has the meaning set forth in Section 4.6.

2.18. “Fair Market Value” means, as of any date, the value of Common Stock determined as follows:

(a) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the New York Stock Exchange, its Fair Market Value will be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the last previous trading day prior to such date of determination, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable;

(b) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, the Fair Market Value of a share of Stock will be the mean between the high bid and low asked prices for the Common Stock on the last previous trading day prior to such date of determination (or, if no bids and asks were reported on that date, as applicable, on the last trading date such bids and asks were reported), as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable; or

(c) In the absence of an established market for the Common Stock, the Fair Market Value will be determined in good faith by the Administrator.

2.19. A "Full Value Award" is a grant of one or more shares of Stock or a right to receive one or more shares of Stock in the future, with such grant subject to one or more conditions, as determined by the Committee.

2.20. An "Incentive Stock Option" or an "ISO" is an Option that is intended to satisfy the requirements applicable to an "incentive stock option" described in Section 422(b) of the Code.

2.21. A "Non-Qualified Option or an "NQO" is an Option that is not intended to be an "incentive stock option" as that term is described in Section 422(b) of the Code.

2.22. An "Option" entitles the Participant to purchase shares of Stock at an Exercise Price established by the Committee. Any Option granted under this Plan may be either an ISO or an NQO as determined in the discretion of the Committee.

2.23. "Outside Director" means a Director of the Company who is not an officer or employee of the Company or the Related Companies.

2.24. "Parent" means a parent corporation within the meaning of Section 424(e) of the Code.

2.25. "Participant" means the holder of an outstanding Award.

2.26. "Performance Measures" means performance goals based on any one or more of the following Company, Subsidiary, operating unit or division performance measures: (i) earnings, including, but not limited to, operating income, earnings before or after taxes, earnings before or after interest, depreciation, amortization, or extraordinary or special items or book value per share (which may exclude nonrecurring items); (ii) pre-tax income or after-tax income; (iii) earnings per share of Stock (basic or diluted); (iv) operating profit; (v) revenue, revenue growth or rate of revenue growth; (vi) return on assets (gross or net), return on investment, return on capital, or return on equity; (vii) returns on sales or revenues; (viii) operating expenses; (ix) stock price appreciation; (x) cash flow(s); (xi) implementation or completion of critical projects or processes; (xii) economic value created; (xiii) cumulative earnings per share growth; (xiv) operating margin or profit margin; (xv) common stock price or total stockholder return; (xvi) cost targets, reductions and savings, productivity and efficiencies; (xvii) regulatory achievements; and implementation, completion or attainment of measurable objectives with respect to research, development, products or projects, production volume levels; (xviii) the filing of a new drug application ("NDA") or the approval of the NDA by the Food and Drug Administration, the achievement of a launch of a new drug, and research and development milestones; (xix) entry into a collaboration, development, joint venture or licensing agreement relating to product candidates or to commercialization of products; and (xx) any combination of any of the foregoing. Each goal may be expressed on an absolute and/or relative basis, may be based on or otherwise employ comparisons based on internal targets, the past performance of the Company and/or the past or current performance of other companies or may be applied to the performance of the Company relative to a market index, a group of other companies or a combination thereof, and in the case of earnings-based measures, may use or employ comparisons relating to capital, stockholders equity and/or shares outstanding, investments or to assets or net assets, and may (but need not) provide for adjustments for restructurings, extraordinary, and any other unusual, non-recurring, or similar changes.

2.27. "Period of Restriction" means the period during which the transfer of shares of Stock are subject to restrictions and therefore, the shares of Stock are subject to a substantial risk of forfeiture. Such restrictions may be based on the passage of time, the achievement of target levels of performance, or the occurrence of other events as determined by the Administrator.

2.28. "Plan" has the meaning set forth in Section 1.1.

2.29. "Related Company" means any corporation, partnership, joint venture, limited liability company or other entity during any period in which a controlling interest in such entity is owned, directly or indirectly, by the Company (or by any entity that is a successor to the Company), and any other business venture designated by the Committee in which the Company (or any entity that is a successor to the Company) has, directly or indirectly, a significant interest (whether through the ownership of securities or otherwise), as determined in the discretion of the Committee.

2.30. "Securities Act" means the Securities Act of 1933, as amended.

2.31. "Subsidiary" means a "subsidiary corporation," whether now or hereafter existing, as defined in Section 424(f) of the Code.

2.32. "Termination Date" means the date on which a Participant both ceases to be an employee of the Company and the Related Companies and ceases to perform material services for the Company and the Related Companies (whether as a director or otherwise), regardless of the reason for the cessation; provided that a "Termination Date" shall not be considered to have occurred during the period in which the reason for the cessation of services is a leave of absence approved by the Company or the Related Company which was the recipient of the Participant's services; and provided, further that, with respect to an Outside Director, "Termination Date" means the date on which the Outside Director's service as an Outside Director terminates for any reason. If, as a result of a sale or other transaction, the entity for which the Participant performs services ceases to be a Related Company (and such entity is or becomes an entity separate from the Company), the occurrence of such transaction shall be the Participant's Termination Date. With respect to Awards that constitute deferred compensation subject to Section 409A of the Code, references to the Participant's termination of employment (including references to the Participant's employment termination, and to the Participant terminating employment, a Participant's separation from service, and other similar reference) and references to a Participant's termination as a Director (including separation from service and other similar references) shall mean the date that the Participant incurs a "separation from service" within the meaning of Section 409A of the Code.

SECTION 3
SHARES OF STOCK AND PLAN LIMITS

3.1. Shares of Stock and Other Amounts Subject to Plan. The shares of Stock for which Awards may be granted under the Plan shall be subject to the following:

(a) Subject to the following provisions of this Section 3.1, the maximum number of shares of Stock that may be delivered to Participants and their beneficiaries under the Plan shall be 1,000 shares of Stock (which number includes all shares available for delivery under this Section 3.1(a) since the establishment of the Plan, determined in accordance with the terms of the Plan). Shares of Stock issued by the Company in connection with awards that are assumed or substituted in connection with a reorganization, merger, consolidation, acquisition, share exchange or other corporate transaction shall not be counted against the number of shares of Stock that may be issued with respect to Awards under the Plan.

(b) The aggregate number of shares of Stock that may be delivered pursuant to the Plan as specified in Section 3.1(a) will automatically increase on January 1 of each year, for a period of not more than ten (10) years, commencing on January 1 of the year following the year in which the Effective Date occurs and ending on (and including) January 1, 2029, in an amount equal to four percent (4%) of the total number of shares of Stock outstanding on December 31 of the preceding calendar year. Notwithstanding the foregoing, the Committee may act prior to January 1 of a given year to provide that there will be no January 1 increase for such year or that the increase for such year will be a lesser number of Shares than provided herein.

(c) Only shares of Stock, if any, actually delivered to the Participant or beneficiary on an unrestricted basis with respect to an Award shall be treated as delivered for purposes of the determination under Section 3.1(a) above, regardless of whether the Award is denominated in shares of Stock or cash. Consistent with the foregoing:

(i) To the extent any shares of Stock covered by an Award are not delivered to a Participant or beneficiary because the Award is forfeited or cancelled, or the shares of Stock are not delivered on an unrestricted basis (including, without limitation, by reason of the Award being settled in cash), such shares of Stock shall not be deemed to have been delivered for purposes of the determination under Section 3.1(a) above.

(ii) Subject to the provisions of paragraph (i) above, the total number of shares of Stock covered by an Award will be treated as delivered for purposes of this paragraph (b) to the extent payments or benefits are delivered to the Participant with respect to such shares. Accordingly (A) if shares covered by an Award are used to satisfy the applicable tax withholding obligation or Exercise Price, the number of shares held back by the Company to satisfy such withholding obligation or Exercise Price shall be considered to have been delivered; (B) if the Exercise Price of any Option granted under the Plan is satisfied by tendering shares of Stock to the Company (by either actual delivery or by attestation, including shares of Stock that would otherwise be distributable upon the exercise of the Option), the number of shares tendered to satisfy such Exercise Price shall be considered to have been delivered; and (C) if shares of Stock are repurchased by the Company with proceeds received from the exercise of an option issued under this Plan, the total number of such shares repurchased shall be deemed delivered.

(d) The shares of Stock with respect to which Awards may be made under the Plan shall be: (i) shares currently authorized but unissued; (ii) to the extent permitted by Applicable Law, shares currently held or acquired by the Company as treasury shares, including shares purchased in the open market or in private transactions; or (iii) shares purchased in the open market by a direct or indirect wholly-owned subsidiary of the Company (as determined by the Chief Executive Officer or the Chief Financial Officer of the Company). The Company may contribute to the subsidiary or trust an amount sufficient to accomplish the purchase in the open market of the shares of Stock to be so acquired (as determined by the Chief Executive Officer or the Chief Financial Officer of the Company).

3.2. Adjustments. In the event of a corporate transaction involving the Company (including, without limitation, any share dividend, share split, extraordinary cash dividend, recapitalization, reorganization, merger, amalgamation, consolidation, share exchange split-up, spin-off, sale of assets or subsidiaries, combination or exchange of shares), the Committee shall, in the manner it determines equitable in its sole discretion, adjust Awards to reflect the transactions. Action by the Committee may include: (i) adjustment of the number and kind of shares which may be delivered under the Plan; (ii) adjustment of the number and kind of shares subject to outstanding Awards; (iii) adjustment of the Exercise Price of outstanding Options; and (iv) any other adjustments that the Committee determines to be equitable (which may include, without limitation, (A) replacement of Awards with other Awards which the Committee determines have comparable value and which are based on shares of a company resulting from the transaction, and (B) cancellation of the Award in return for cash payment of the current value of the Award, determined as though the Award is fully vested at the time of payment, provided that in the case of an Option, the amount of such payment will be the excess of value of the shares of Stock subject to the Option at the time of the transaction over the Exercise Price). However, in no event shall this Section 3.2 be construed to permit a modification (including a replacement) of an Option if such modification either: (i) would result in accelerated recognition of income or imposition of additional tax under Section 409A of the Code; or (ii) would cause the Option subject to the modification (or cause a replacement Option) to be subject to Section 409A of the Code, provided that the restriction of this clause (ii) shall not apply to any Option that, at the time it is granted or otherwise, is designated as being deferred compensation subject to Section 409A of the Code.

3.3. Plan Limitations. Subject to Section 3.2, the following additional maximums are imposed under the Plan:

(a) The maximum number of shares of Stock that may be delivered to Participants and their beneficiaries with respect to ISOs granted under the Plan shall be 1,000 shares of Stock (which number includes all shares of Stock available for delivery under this Section 3.3(a) since the establishment of the Plan, determined in accordance with the terms of the Plan); provided, however, that to the extent that shares of Stock not delivered must be counted against this limit as a condition of satisfying the rules applicable to ISOs, such rules shall apply to the limit on ISOs granted under the Plan; [provided, further, that such limit will automatically increase on January 1 of each year, for a period of not more than ten (10) years, commencing on January 1 of the year following the year in which the Effective Date occurs and ending on (and including) January 1, 2029, in an amount equal to four percent (4%) of the total number of shares of Stock outstanding on the date that this Plan is adopted].

(b) The maximum total annual compensation, including the value of any Awards made pursuant to this Plan (determined as of the date of grant), that may be paid or granted to any one Participant who is a member of the Board but who is not an employee of the Company or a Related Company during any one-year period for service on the Board shall be $500,000 dollars; provided, that, such limit shall be $750,000 during the first year of service for a member of the Board who is not an employee.

(c) Notwithstanding the provisions of Sections 4.5 and 5.4 of the Plan, the Committee may grant Awards that are not subject to the minimum vesting limitations of Sections 4.5 (with respect to Options) and of Section 5.4 (with respect to Full Value Awards) in certain circumstances as determined by the Committee in its sole discretion.

SECTION 4
OPTIONS

4.1. Grant of Options. Subject to the terms and conditions of the Plan, the Administrator, at any time and from time to time, may grant Options to an Eligible Individual in such amounts as the Administrator, in its sole discretion, will determine. Each Option will be designated in the Award Agreement as either an ISO or an NQO. Notwithstanding a designation for a grant of Options as ISOs, however, to the extent that the aggregate Fair Market Value of the shares of Stock with respect to which 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 $100,000, such Options will be treated as NQOs. For purposes of this Section 4.1, ISOs will be taken into account in the order in which they were granted, the Fair Market Value of the shares of Stock will be determined as of the time the Option with respect to such shares of Stock is granted, and calculation will be performed in accordance with Section 422 of the Code and Treasury Regulations promulgated thereunder.

4.2. Option Agreement. Each Award of an Option will be evidenced by an Award Agreement that will specify the date of grant of the Option, the Exercise Price, the term of the Option, the number of shares of Stock subject to the Option, the exercise restrictions, if any, applicable to the Option, including the dates upon which the Option is first exercisable in whole and/or part, and such other terms and conditions as the Administrator, in its sole discretion, may determine.

4.3. Term of Option. The term of each Option will be stated in the Award Agreement; provided, however, that the term will be no more than 10 years from the date of grant thereof. In the case of an ISO granted to a Participant who, at the time the ISO is granted, owns capital stock representing more than 10% of the total combined voting power of all classes of capital stock of the Company or any Parent or Subsidiary, the term of the ISO will be five years from the date of grant or such shorter term as may be provided in the Award Agreement.

4.4. Exercise Price. The Exercise Price shall not be less than 100% of the Fair Market Value of a share of Stock on the date of grant (or, if greater, the par value, if any, of a share of Stock). In addition, in the case of an ISO granted to an Employee who owns capital stock representing more than 10% of the voting power of all classes of capital stock of the Company or any Parent or Subsidiary, the per share Exercise Price will be no less than 110% of the Fair Market Value per share of Stock on the date of grant. Notwithstanding the foregoing provisions of this Section 4.4, Options may be granted with a per share Exercise Price of less than 100% of the Fair Market Value per share of Stock on the date of grant pursuant to a transaction described in, and in a manner consistent with, Section 424(a) of the Code.

4.5. Minimum Vesting. Notwithstanding the foregoing, and subject to Section 3.3(e), in no event shall an Option granted to any Participant become exercisable or vested prior to the first anniversary of the date on which it is granted (subject to acceleration of exercisability and vesting, to the extent permitted by the Committee, in the event of the Participant's death, disability, Change in Control or involuntary termination).

4.6. Payment of Option Exercise Price. The payment of the Exercise Price of an Option granted under this Section 4 shall be subject to the following:

(a) Subject to the following provisions of this Section 4.8, the full Exercise Price for shares of Stock purchased upon the exercise of any Option shall be paid at the time of such exercise (except that, in the case of an exercise arrangement approved by the Committee and described in Section 4.8(c), payment may be made as soon as practicable after the exercise).

(b) Subject to Applicable Law, the full Exercise Price shall be payable in cash, by promissory note, or by tendering, by either actual delivery of shares or by attestation, shares of Stock acceptable to the Committee (including shares otherwise distributable pursuant to the exercise of the Option), and valued at Fair Market Value as of the day of exercise, or in any combination thereof, as determined by the Committee.

(c) Subject to Applicable Law, if shares are publicly traded, the Committee may permit a Participant to elect to pay the Exercise Price upon the exercise of an Option by irrevocably authorizing a third party to sell shares of Stock (or a sufficient portion of the shares of Stock) acquired upon exercise of the Option and remit to the Company a sufficient portion of the sale proceeds to pay the entire Exercise Price and any tax withholding resulting from such exercise.

4.7. No Repricing. Except for either adjustments pursuant to Section 3.2 (relating to the adjustment of shares of Stock), or reductions of the Exercise Price approved by the Company's stockholders, the Exercise Price for any outstanding Option may not be decreased after the date of grant nor may an outstanding Option granted under the Plan be surrendered to the Company as consideration for the grant of a replacement Option with a lower Exercise Price. Except as approved by Company's stockholders, in no event shall any Option granted under the Plan be surrendered to Company in consideration for a cash payment or the grant of any other Award if, at the time of such surrender, the Exercise Price of the Option is greater than the then current Fair Market Value of a share of Stock. In addition, no repricing of an Option shall be permitted without the approval of Company's stockholders if such approval is required under the rules of any stock exchange on which Stock is listed.

SECTION 5
FULL VALUE AWARDS

5.1. Grant of Full Value Award . Subject to the terms and conditions of the Plan, the Administrator, at any time and from time to time, may grant Full Value Awards to Eligible Individuals in such amounts as the Administrator, in its sole discretion, will determine.

5.2. Full Value Award Agreement. Each Full Value Award will be evidenced by an Award Agreement that will specify the Period of Restriction, the number of shares of Stock granted, and such other terms and conditions as the Administrator, in its sole discretion, may determine.

5.3. Conditions. A Full Value Award may be subject to one or more of the following, as determined by the Committee:

(a) The grant shall be in consideration of a Participant's previously performed services, or surrender of other compensation that may be due.

(b) The grant shall be contingent on the achievement of performance or other objectives during a specified period.

(c) The grant shall be subject to a risk of forfeiture or other restrictions that will lapse upon the achievement of one or more goals relating to completion of service by the Participant, or achievement of performance or other objectives.

The grant of Full Value Awards may also be subject to such other conditions, restrictions and contingencies, as determined by the Committee.

5.4. Minimum Vesting.

(a) Notwithstanding the foregoing, and subject to Section 3.3(e), if a Participant's right to become vested in a Full Value Award is conditioned on the completion of a specified period of service with the Company or the Related Companies, without achievement of performance targets or other performance objectives (whether or not related to performance measures) being required as a condition of vesting, and without it being granted in lieu of other compensation, then the required period of service for vesting shall be not less than one year (subject, to the extent provided by the Committee, to acceleration of vesting in the event of the Participant's death, disability, Change in Control or involuntary termination). The foregoing requirements shall not apply to grants that are a form of payment of earned performance awards or other incentive compensation.

(b) Notwithstanding the foregoing, and subject to Section 3.3(e), if a Participant's right to become vested in a Full Value Award is conditioned on the achievement of performance targets or other performance objectives (whether or not related to performance measures and whether or not such Full Value Award is designated as "Performance-Based Compensation"), then the required performance period for determining the achievement of such performance targets or other performance objectives for vesting shall be not less than one year (subject, to the extent provided by the Committee, to acceleration of vesting in the event of the Participant's death, disability, Change in Control or involuntary termination).

SECTION 6
CHANGE IN CONTROL

6.1. Change in Control. Subject to the provisions of Section 3.2 and the authority of the Committee to take the actions permitted pursuant to Section 6.2, the occurrence of a Change in Control shall have the effect, if any, with respect to any Award as set forth in the Award Agreement or, to the extent not prohibited by the Plan or the Award Agreement, as provided by the Committee.

6.2. Committee Actions On A Change in Control. On a Change in Control, if the Plan is terminated by the Company or its successor without provision for the continuation of outstanding Awards hereunder, the Committee may cancel any outstanding Awards in return for cash payment of the current value of the Award, determined with the Award fully vested at the time of payment, provided that in the case of an Option, the amount of such payment will be the excess of value of the shares of Stock subject to the Option at the time of the transaction over the Exercise Price; provided, further, that in the case of an Option, such Option will be cancelled with no payment if, as of the Change in Control, the value of the shares of Stock subject to the Option at the time of the transaction are equal to or less than the Exercise Price. However, in no event shall this Section 6.2 be construed to permit a payment if such payment would result in accelerated recognition of income or imposition of additional tax under Section 409A of the Code.

SECTION 7
COMMITTEE

7.1. Administration. The authority to control and manage the operation and administration of the Plan shall be vested in a committee (the "Committee") in accordance with this Section 7. The Committee shall be selected by the Board, and shall consist of two or more members of the Board. Unless otherwise provided by the Board, the Compensation Committee of the Board shall serve as the Committee. As a committee of the Board, the Committee is subject to the overview of the Board. If the Committee does not exist, or for any other reason determined by the Board, and to the extent not prohibited by Applicable Law, the Board may take any action under the Plan that would otherwise be the responsibility of the Committee.

7.2. Selection of Committee. So long as the Company is subject to Section 16 of the Exchange Act, the Committee shall be selected by the Board and shall consist of not fewer than two members of the Board or such greater number as may be required for compliance with Rule 16b-3 issued under the Exchange Act and shall be comprised of persons who are independent for purposes of applicable stock exchange listing requirements and who would meet the requirements of a "non-employee director" within the meaning of Rule 16b-3 under the Securities Exchange Act of 1934.

7.3. Powers of Committee. The Committee's administration of the Plan shall be subject to the following:

(a) Subject to the provisions of the Plan, the Committee will have the authority and discretion to select individuals who shall be Eligible Individuals and who, therefore, are eligible to receive Awards under the Plan. The Committee shall have the authority to determine the time or times of receipt of Awards, to determine the types of Awards and the number of shares of Stock covered by the Awards, to establish the terms, conditions, performance targets, restrictions, and other provisions of such Awards, to cancel or suspend Awards, and to accelerate the exercisability or vesting of any Award under circumstances designated by it. In making such Award determinations, the Committee may take into account the nature of services rendered by the respective employee, the individual's present and potential contribution to the Company's or a Related Company's success and such other factors as the Committee deems relevant.

(b) To the extent that the Committee determines that the restrictions imposed by the Plan preclude the achievement of the material purposes of the Awards in jurisdictions outside the United States, the Committee will have the authority and discretion to modify those restrictions as the Committee determines to be necessary or appropriate to conform to applicable requirements or practices of jurisdictions outside of the United States.

(c) The Committee will have the authority and discretion to interpret the Plan, to establish, amend, and rescind any rules and regulations relating to the Plan, to determine the terms and conditions of any Award Agreement made pursuant to the Plan, and to make all other determinations that may be necessary or advisable for the administration of the Plan.

(d) Any interpretation of the Plan by the Committee and any decision made by it under the Plan is final and binding on all persons.

(e) In controlling and managing the operation and administration of the Plan, the Committee shall take action in a manner that conforms to applicable corporate law.

(f) Notwithstanding any other provision of the Plan, no benefit shall be distributed under the Plan to any person unless the Committee, in its sole discretion, determines that such person is entitled to benefits under the Plan.

7.4. Delegation by Committee. Except to the extent prohibited by Applicable Law, the Committee may allocate all or any portion of its responsibilities and powers to any one or more of its members and may delegate all or any part of its responsibilities and powers to any person or persons selected by it. Any such allocation or delegation may be revoked by the Committee at any time.

7.5. Information to be Furnished to Committee. The Company, Subsidiaries and any applicable Related Company shall furnish the Committee with such data and information as it determines may be required for it to discharge its duties. The records of the Company, Subsidiaries and any applicable Related Company as to an employee's or Participant's employment (or other provision of services), termination of employment (or cessation of the provision of services), leave of absence, reemployment and compensation shall be conclusive on all persons unless determined to be incorrect. Participants and other persons entitled to benefits under the Plan must furnish the Committee such evidence, data or information as the Committee considers desirable to carry out the terms of the Plan.

7.6. Liability and Indemnification of Committee. No member or authorized delegate of the Committee shall be liable to any person for any action taken or omitted in connection with the administration of the Plan unless attributable to his own fraud or willful misconduct; nor shall the Company or any Related Company be liable to any person for any such action unless attributable to fraud or willful misconduct on the part of a director or employee of the Company or Related Company. The Committee, the individual members thereof, and persons acting as the authorized delegates of the Committee under the Plan, shall be indemnified by the Company against any and all liabilities, losses, costs and expenses (including legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by or asserted against the Committee or its members or authorized delegates by reason of the performance of a Committee function if the Committee or its members or authorized delegates did not act dishonestly or in willful violation of the law or regulation under which such liability, loss, cost or expense arises. This indemnification shall not duplicate but may supplement any coverage available under any applicable insurance.

SECTION 8
AMENDMENT AND TERMINATION

The Board may, at any time, amend or terminate the Plan, and the Board or the Committee may amend any Award Agreement, provided that no amendment or termination may, in the absence of written consent to the change by the affected Participant (or, if the Participant is not then living, the affected beneficiary), adversely affect the rights of any Participant or beneficiary under any Award granted under the Plan prior to the date such amendment is adopted by the Board (or the Committee if applicable); and further provided that adjustments pursuant to Section 3.2 shall not be subject to the foregoing limitations of this Section 8; and further provided that the provisions of Section 4.7 (relating to Option repricing) cannot be amended unless the amendment is approved by the Company's stockholders. Approval by the Company's stockholders will be required for any material revision to the terms of the Plan, with the Committee's determination of "material revision" to take into account the exemptions under applicable stock exchange rules. No amendment or termination shall be adopted or effective if it would result in accelerated recognition of income or imposition of additional tax under Section 409A of the Code or, except as otherwise provided in the amendment, would cause amounts that were not otherwise subject to Section 409A of the Code to become subject to Section 409A of the Code.

SECTION 9
GENERAL PROVISIONS

9.1. General Restrictions. Delivery of shares of Stock or other amounts under the Plan shall be subject to the following:

(a) Notwithstanding any other provision of the Plan, the Company shall have no obligation to recognize an exercise of an Option or deliver any shares of Stock or make any other distribution of benefits under the Plan unless such exercise, delivery or distribution complies with all Applicable Laws (including, without limitation, the requirements of the United States Securities Act of 1933 and the securities laws of any other applicable jurisdiction), and the applicable requirements of any securities exchange or similar entity or other regulatory authority with respect to the issue of shares and securities by the Company.

(b) To the extent that the Plan provides for issuance of share certificates to reflect the issuance of shares of Stock, the issuance may be effected on a non-certificated basis, to the extent not prohibited by Applicable Law, the By-laws of the Company.

(c) To the extent provided by the Committee, any Award may be settled in cash rather than shares of Stock.

9.2. Tax Withholding. All distributions under the Plan are subject to withholding of all applicable taxes, and the Committee may condition the delivery of any shares of Stock or other benefits under the Plan on satisfaction of the applicable withholding obligations. Except as otherwise provided by the Committee and subject to Applicable Law, such withholding obligations may be satisfied (i) through cash payment by the Participant; (ii) through the surrender of shares of Stock which the Participant already owns; or (iii) through the surrender of shares of Stock to which the Participant is otherwise entitled under the Plan (including shares otherwise distributable pursuant to the Award); provided, however, that such shares of Stock under this clause (iii) may be used to satisfy not more than the maximum individual tax rate for the Participant in applicable jurisdiction for such Participant (based on the applicable rates of the relevant tax authorities (for example, federal, state, and local), including the Participant's share of payroll or similar taxes, as provided in tax law, regulations, or the authority's administrative practices, not to exceed the highest statutory rate in that jurisdiction, even if that rate exceeds the highest rate that may be applicable to the specific Participant).

9.3. Grant and Use of Awards. In the discretion of the Committee, an Eligible Individual may be granted any Award permitted under the provisions of the Plan, and more than one Award may be granted to an Eligible Individual. Subject to Section 4.7 (relating to repricing), Awards may be granted as alternatives to or replacement of awards granted or outstanding under the Plan, or any other plan or arrangement of the Company or a Subsidiary or a Related Company (including a plan or arrangement of a business or entity, all or a portion of which is acquired by the Company or a Subsidiary or a Related Company). Subject to the overall limitation on the number of shares of Stock that may be delivered under the Plan, the Committee may use available shares of Stock as the form of payment for compensation, grants or rights earned or due under any other compensation plans or arrangements of the Company or a Subsidiary or a Related Company, including the plans and arrangements of the Company or a Subsidiary or a Related Company assumed in business combinations. Notwithstanding the provisions of Section 4.4, Options granted under the Plan in replacement for awards under plans and arrangements of the Company or a Subsidiary or a Related Company assumed in business combinations may provide for Exercise Prices that are less than the Fair Market Value of the shares of Stock at the time of the replacement grants, if the Committee determines that such Exercise Price is appropriate to preserve the economic benefit of the award. The provisions of this Section shall be subject to the provisions of Section 9.13.

9.4. Dividends and Dividend Equivalents. An Award (other than an Option) may provide the Participant with the right to receive dividend or dividend equivalent payments with respect to shares of Stock subject to the Award; provided, however, that no dividend or dividend equivalents granted in relation to Full Value Awards that are subject to vesting shall be settled prior to the date that such Full Value Award (or applicable portion thereof) becomes vested and is settled. Any such settlements, and any such crediting of dividends or dividend equivalents or reinvestment in shares of Stock, will be subject to the Company's By-laws as well as Applicable Law and further may be subject to such conditions, restrictions and contingencies as the Committee shall establish, including the reinvestment of such credited amounts in share of Stock equivalents. The provisions of this Section shall be subject to the provisions of Section 9.13.

9.5. Settlement of Awards. The obligation to make payments and distributions with respect to Awards may be satisfied through cash payments, the delivery of shares of Stock, the granting of replacement Awards, or combination thereof as the Committee shall determine. Satisfaction of any such obligations under an Award, which is sometimes referred to as "settlement" of the Award, may be subject to such conditions, restrictions and contingencies as the Committee shall determine. The Committee may permit or require the deferral of any Award payment or distribution, subject to such rules and procedures as it may establish, which may include provisions for the payment or crediting of interest or dividend equivalents, and may include converting such credits into deferred share of Stock equivalents. Except for Options designated at the time of grant or otherwise as intended to be subject to Section 409A of the Code, this Section 9.5 shall not be construed to permit the deferred settlement of Options, if such settlement would result in deferral of compensation under Treas. Reg. §1.409A-1(b)(5)(i)(A)(3) (except as permitted in Sections (i) and (ii) of that section). Each Subsidiary shall be liable for payment of cash due under the Plan with respect to any Participant to the extent that such benefits are attributable to the services rendered for that Subsidiary by the Participant. Any disputes relating to liability of a Subsidiary for cash payments shall be resolved by the Committee. The provisions of this Section shall be subject to the provisions of Section 9.13.

9.6. Transferability. Except as otherwise provided by the Committee, Awards under the Plan are not transferable except as designated by the Participant by will or by the laws of descent and distribution.

9.7. Form and Time of Elections. Unless otherwise specified herein, each election required or permitted to be made by any Participant or other person entitled to benefits under the Plan, and any permitted modification, or revocation thereof, shall be in writing filed with the Committee at such times, in such form, and subject to such restrictions and limitations, not inconsistent with the terms of the Plan, as the Committee shall require.

9.8. Agreement With Company. An Award under the Plan shall be subject to such terms and conditions, not inconsistent with the Plan, as the Committee shall, in its sole discretion, prescribe. The terms and conditions of any Award to any Participant shall be reflected in such form of written (including electronic) document as is determined by the Committee. A copy of such document shall be provided to the Participant, and the Committee may, but need not require that the Participant sign a copy of such document. Such document is referred to in the Plan as an "Award Agreement" regardless of whether any Participant signature is required.

9.9. Action by Company or Subsidiary. Any action required or permitted to be taken by the Company or any Subsidiary or Related Company shall be by resolution of its board of directors, or by action of one or more members of the board (including a committee of the board) who are duly authorized to act for the board, or (except to the extent prohibited by Applicable Law or applicable rules of any stock exchange) by a duly authorized officer of such company.

9.10. Gender and Number. Where the context admits, words in any gender shall include any other gender, words in the singular shall include the plural and the plural shall include the singular.

9.11. Limitation of Implied Rights.

(a) Neither a Participant nor any other person shall, by reason of participation in the Plan, acquire any right in or title to any assets, funds or property of the Company or any Subsidiary or Related Company whatsoever, including, without limitation, any specific funds, assets, or other property which the Company or any Subsidiary or Related Company, in its sole discretion, may set aside in anticipation of a liability under the Plan. A Participant shall have only a contractual right to the shares of Stock or amounts, if any, payable under the Plan, unsecured by any assets of the Company or any Subsidiary or Related Company, and nothing contained in the Plan shall constitute a guarantee that the assets of the Company or any Subsidiary or Related Company shall be sufficient to pay any benefits to any person.

(b) The Plan does not constitute a contract of employment, and selection as a Participant will not give any participating employee or other individual the right to be retained in the employ of the Company or any Subsidiary or Related Company or the right to continue to provide services to the Company or any Subsidiary or Related Company, nor any right or claim to any benefit under the Plan, unless such right or claim has specifically accrued under the terms of the Plan. Except as otherwise provided in the Plan, no Award under the Plan shall confer upon the holder thereof any rights as a stockholder of the Company prior to the date on which the individual fulfills all conditions for receipt of such rights and is registered in the Company's Register of share of stockholders.

(c) All Stock and shares issued under any Award or otherwise are to be held subject to the provisions of the Company's By-laws and each Participant is deemed to agree to be bound by the terms of the Company's By-laws as they stand at the time of issue of any shares of Stock under the Plan.

9.12. Evidence. Evidence required of anyone under the Plan may be by certificate, affidavit, document or other information which the person acting on it considers pertinent and reliable, and signed, made or presented by the proper party or parties.

9.13. Limitations under Section 409A. The provisions of the Plan shall be subject to the following:

(a) Awards will be designed and operated in such a manner that they are either exempt from the application of, or comply with, the requirements of Section 409A of the Code, except as otherwise determined in the sole discretion of the Administrator. The Plan and each Award Agreement under the Plan is intended to meet the requirements of Section 409A of the Code and will be construed and interpreted in accordance with such intent, except as otherwise determined in the sole discretion of the Administrator. To the extent that an Award or payment, or the settlement or deferral thereof, is subject to Section 409A of the Code the Award will be granted, paid, settled or deferred in a manner that will meet the requirements of Section 409A of the Code, such that the grant, payment, settlement or deferral will not be subject to the additional tax or interest applicable under Section 409A of the Code.

(b) Neither Section 9.3 nor any other provision of the Plan shall be construed to permit the grant of an Option if such action would cause the Option being granted or the option or stock appreciation right being replaced to be subject to Section 409A of the Code, provided that this Section (b) shall not apply to any Option (or option or stock appreciation right granted under another plan) being replaced that, at the time it is granted or otherwise, is designated as being deferred compensation subject to Section 409A of the Code.

(c) Except with respect to an Option that, at the time it is granted or otherwise, is designated as being deferred compensation subject to Section 409A of the Code, no Option shall condition the receipt of dividends with respect to an Option on the exercise of such Award, or otherwise provide for payment of such dividends in a manner that would cause the payment to be treated as an offset to or reduction of the Exercise Price of the Option pursuant Treas. Reg. §1.409A-1(b)(5)(i)(E).

(d) The Plan shall not be construed to permit a modification of an Award, or to permit the payment of a dividend or dividend equivalent, if such actions would result in accelerated recognition of taxable income or imposition of additional tax under Section 409A of the Code.

CHARDAN HEALTHCARE ACQUISITION CORP.
2019 OMNIBUS LONG-TERM INCENTIVE PLAN

ISRAELI APPENDIX

This Israeli Appendix (the "**Appendix**") to the 2019 Omnibus Long-Term Incentive Plan (as amended from time to time, the '**Plan**") of CHARDAN HEALTHCARE ACQUISITION CORP. (the "**Company**") shall apply only to Participants (as defined in the Plan) who are, or are deemed to be, residents of the State of Israel for Israeli tax purposes. This Appendix is made pursuant to Section 1.3 of the Plan.

1. GENERAL

1.1. The Committee, in its discretion, may grant Awards to eligible Participants and shall determine whether such Awards intended to be 102 Awards or 3(9) Awards. Each Award shall be evidenced by an Award Agreement, which shall expressly identify the Award type, and be in such form and contain such provisions, as the Committee shall from time to time deem appropriate.

1.2. The Plan shall apply to any Awards granted pursuant to this Appendix, provided, that the provisions of this Appendix shall supersede and govern in the case of any inconsistency or conflict, either explicit or implied, arising between the provisions of this Appendix and the Plan.

1.3. Unless otherwise defined in this Appendix, capitalized terms contained herein shall have the same meanings given to them in the Plan.

2. DEFINITIONS.

2.1. "**3(9) Award** " means any Award representing a right to purchase shares of Common Stock granted by the Company to any Participant who is not an Employee pursuant to Section 3(9) of the Ordinance.

2.2. "**102 Award**" means any Award intended to qualify (as set forth in the Award Agreement) and which qualifies under Section 102, provided it is settled only in shares of Common Stock.

2.3. "**102 Capital Gain Track Award** " means any Award granted by the Company to an Employee pursuant to Section 102(b)(2) or (3) (as applicable) of the Ordinance under the capital gain track.

2.4. "**102 Non-Trustee Award**" means any Award granted by the Company to an Employee pursuant to Section 102(c) of the Ordinance without a Trustee.

2.5. "**102 Ordinary Income Track Award** " means any Award granted by the Company to an Employee pursuant to Section 102(b)(1) of the Ordinance under the ordinary income track.

2.6. "**102 Trustee Awards**" means, collectively, 102 Capital Gain Track Awards and 102 Ordinary Income Track Awards.

2.7. "**Affiliate**" means, for purpose of 102 Trustee Award, an "employing company" within the meaning and subject to the conditions of Section 102(a) of the Ordinance

2.8. "**Applicable Law**" shall mean any applicable law, rule, regulation, statute, pronouncement, policy, interpretation, judgment, order or decree of any federal, provincial, state or local governmental, regulatory or adjudicative authority or agency, of any jurisdiction, and the rules and regulations of any stock exchange, over-the-counter market or trading system on which the common stock of the Company are then traded or listed.

2.9. "**Controlling Stockholder**" means as to such term is defined in Section 32(9) of the Ordinance.

2.10. "**Election**" as defined in Section 3.2 below.

2.11. "**Employee**" means an "employee" within the meaning of Section 102(a) of the Ordinance (which as of the date of the adoption of this Appendix means (i) an individual employed by an Israeli company being an Affiliate, and (ii) an individual who is serving and is engaged personally (and not through an entity) as an "office holder" by an Affiliate, excluding, in any event, Controlling Stockholders).

2.12. "**ITA**" means the Israel Tax Authority**.**

2.13. "**Ordinance**" means the Israeli Income Tax Ordinance (New Version), 1961, including the Rules and any other regulations, rules, orders or procedures promulgated thereunder, as may be amended or replaced from time to time.

2.14. "**Required Holding Period**" as defined in Section 3.5.1 below.

2.15. "**Rules**" means the Income Tax Rules (Tax Reliefs in Stock Issuance to Employees) 5763-2003.

2.16. "**Section 102**" means Section 102 of the Ordinance.

2.17. "**Trust Agreement**" means the agreement to be signed between the Company, an Affiliate and the Trustee for the purposes of Section 102.

2.18. "**Trustee**" means the trustee appointed by the Company's Board of Directors and/or by the Committee to hold the Awards and approved by the ITA.

2.19. "**Withholding Obligations**" as defined in Section 5.5 below.

3. 102 AWARDS

3.1. Tracks. Awards granted pursuant to this Section 3 are intended to be granted as either 102 Capital Gain Track Awards or 102 Ordinary Income Track Awards. 102 Trustee Awards shall be granted subject to the special terms and conditions contained in this Section 3 and the general terms and conditions of the Plan, except for any provisions of the Plan applying to Awards under different tax laws or regulations.

3.2. Election of Track. Subject to Applicable Law, the Company may grant only one type of 102 Trustee Award at any given time to all Participants who are to be granted 102 Trustee Awards pursuant to this Appendix, and shall file an election with the ITA regarding the type of 102 Trustee Award it elects to grant before the date of grant of any 102 Trustee Award (the "**Election**"). Such Election shall also apply to any other securities received by any Participant as a result of holding the 102 Trustee Awards. The Company may change the type of 102 Trustee Award that it elects to grant only after the expiration of at least 12 months from the end of the year in which the first grant was made in accordance with the previous Election, or as otherwise provided by Applicable Law. Any Election shall not prevent the Company from granting 102 Non-Trustee Awards.

3.3. Eligibility for Awards. Subject to Applicable Law, 102 Awards may only be granted to Employees. Such 102 Awards may either be granted to a Trustee or granted under Section 102 without a Trustee.

3.4. 102 Award Grant Date.

(a) Each 102 Award will be deemed granted on the date determined by the Committee, subject to the provisions of the Plan, provided that (i) the Participant has signed all documents required by the Company or pursuant to Applicable Law, and (ii) with respect to any 102 Trustee Award, the Company has provided all applicable documents to the Trustee in accordance with the guidelines published by the ITA.

(b) Unless otherwise permitted by the Ordinance, any grants of 102 Trustee Awards that are made on or after the date of the adoption of the Plan and this Appendix or an amendment to the Plan or this Appendix, as the case may be, that may become effective only at the expiration of thirty (30) days after the filing of the Plan and this Appendix or any amendment thereof (as the case may be) with the ITA in accordance with the Ordinance shall be conditional upon the expiration of such 30-day period, and such condition shall be read and is incorporated by reference into any corporate resolutions approving such grants and into any Award Agreement evidencing such grants (whether or not explicitly referring to such condition), and the date of grant shall be at the expiration of such 30-day period, whether or not the date of grant indicated therein corresponds with this Section. In the case of any contradiction, this provision and the date of grant determined pursuant hereto shall supersede and be deemed to amend any date of grant indicated in any corporate resolution or Award Agreement. Nevertheless, this 30-day period may be waived subject to a special tax ruling to be obtained from the ITA and pursuant to its terms, or may not apply to any exchange of equity pursuant to a special tax ruling and its terms.

3.5. 102 Trustee Awards.

(a) Each 102 Trustee Award, each share of Common Stock issued pursuant to the grant, exercise or vesting of any 102 Trustee Award and any rights granted thereunder, shall be allocated or issued to and registered in the name of the Trustee and shall be held in trust or controlled by the Trustee (pursuant to an approval from the ITA) for the benefit of the Participant for the requisite period prescribed by the Ordinance or such longer period as set by the Committee (the "**Required Holding Period**"). In the event that the requirements under Section 102 to qualify an Award as a 102 Trustee Award are not met, then the Award may be treated as a 102 Non-Trustee Award or 3(9) Award (as determined by the Company), all in accordance with the provisions of the Ordinance. After the expiration of the Required Holding Period, the Trustee may release such 102 Trustee Awards and any such shares of Common Stock, provided that (i) the Trustee has received an acknowledgment from the ITA that the Participant has paid any applicable taxes due pursuant to the Ordinance, or (ii) the Trustee and/or the Company and/or the Affiliate withhold(s) all applicable taxes and compulsory payments due pursuant to the Ordinance arising from the 102 Trustee Awards and/or any shares of Common Stock issued upon exercise or (if applicable) vesting of such 102 Trustee Awards. The Trustee shall not release any 102 Trustee Awards or shares of Common Stock issued upon exercise or (if applicable) vesting thereof, or any rights received with respect to such Awards, prior to the payment in full of the Participant's tax and compulsory payments arising from such 102 Trustee Awards and/or shares of Common Stock or the withholding referred to in (ii) above.

(b) Each 102 Trustee Award shall be subject to the relevant terms of the Ordinance, the Rules and any determinations, rulings or approvals issued by the ITA, which shall be deemed an integral part of the 102 Trustee Awards and shall prevail over any term contained in the Plan, this Appendix or the Award Agreement that is not consistent therewith. Any provision of the Ordinance, the Rules and any determinations, rulings or approvals by the ITA not expressly specified in the Plan, this Appendix or Award Agreement that are necessary to receive or maintain any tax benefit pursuant to Section 102 shall be binding on the Participant. The Participant granted a 102 Trustee Award shall comply with the Ordinance and the terms and conditions of the Trust Agreement entered into between the Company and the Trustee. The Participant shall execute any and all documents that the Company and/or the Affiliate and/or the Trustee determine from time to time to be necessary in order to comply with the Ordinance and the Rules.

(c) During the Required Holding Period, the Participant shall not release from trust or sell, assign, transfer or give as collateral, the shares of Common Stock issuable upon the exercise or (if applicable) vesting of a 102 Trustee Award and/or any securities issued or distributed with respect thereto, until the expiration of the Required Holding Period. Notwithstanding the above, if any such sale, release or other action occurs during the Required Holding Period it may result in adverse tax consequences to the Participant under Section 102 and the Rules, which shall apply to and shall be borne solely by such Participant. Subject to the foregoing, the Trustee may, pursuant to a written request from the Participant, but subject to the terms of the Plan and this Appendix, release and transfer such shares of Common Stock to a designated third party, provided that both of the following conditions have been fulfilled prior to such release or transfer: (i) payment has been made to the ITA of all taxes and compulsory payments required to be paid upon the release and transfer of the shares of Common Stock, and confirmation of such payment has been received by the Trustee and the Company, and (ii) the Trustee has received written confirmation from the Company that all requirements for such release and transfer have been fulfilled according to the terms of the Company's corporate documents, any agreement governing the shares of Common Stock, the Plan, this Appendix, the Award Agreement and any Applicable Law.

(d) If a 102 Trustee Award is exercised or (if applicable) vested, the shares of Common Stock issued upon such exercise or (if applicable) vesting shall be issued in the name of the Trustee for the benefit of the Participant, or shall be deposited with the Trustee, or be subject to the Trustee's control, if approved by the ITA.

(e) Upon or after receipt of a 102 Trustee Award, if required, the Participant may be required to sign an undertaking to release the Trustee from any liability with respect to any action or decision duly taken and executed in good faith by the Trustee in relation to the Plan, this Appendix, or any 102 Trustee Awards granted to such Participant hereunder.

3.6. <u>102 Non-Trustee Awards</u>. The foregoing provisions of this Section 3 relating to 102 Trustee Awards shall not apply with respect to 102 Non-Trustee Awards, which shall, however, be subject to the relevant provisions of Section 102 and the applicable Rules. The Committee may determine that 102 Non-Trustee Awards, the shares of Common Stock issuable upon the exercise or (if applicable) vesting of a 102 Non-Trustee Award and/or any securities issued or distributed with respect thereto, shall be allocated or issued to the Trustee, who shall hold such 102 Non-Trustee Award and all accrued rights thereon (if any) in trust for the benefit of the Participant and/or the Company, as the case may be, until the full payment of tax arising from the 102 Non-Trustee Awards, the shares of Common Stock issuable upon the exercise or (if applicable) vesting of a 102 Non-Trustee Award and/or any securities issued or distributed with respect thereto. The Company may choose, alternatively, to require the Participant to provide the Company with a guarantee or other security, to the satisfaction of each of the Trustee and the Company, until the full payment of the applicable taxes.

3.7. <u>Written Participant Undertaking</u>. With respect to any 102 Trustee Award, as required by Section 102 and the Rules, by virtue of the receipt of such Award, the Participant is deemed to have undertaken and confirmed in writing the following (and such undertaking is deemed incorporated into any documents signed by the Participant in connection with the employment or service of the Participant and/or the grant of such Award). The following written undertaking shall be deemed to apply and relate to all 102 Trustee Awards granted to the Participant, whether under the Plan and this Appendix or other plans maintained by the Company, and whether prior to or after the date hereof:

(a) The Participant shall comply with all terms and conditions set forth in Section 102 with regard to the "Capital Gain Track" or the "Ordinary Income Track", as applicable, and the applicable rules and regulations promulgated thereunder, as amended from time to time;

(b) The Participant is familiar with, and understands the provisions of, Section 102 in general, and the tax arrangement under the "Capital Gain Track" or the "Ordinary Income Track" in particular, and its tax consequences; the Participant agrees that the 102 Trustee Awards and shares of Common Stock that may be issued upon exercise or (if applicable) vesting of the 102 Trustee Awards (or otherwise in relation to the Awards), will be held by a trustee appointed pursuant to Section 102 for at least the duration of the "Holding Period" (as such term is defined in Section 102) under the "Capital Gain Track" or the "Ordinary Income Track", as applicable. The Participant understands that any release of such 102 Trustee Awards or shares of Common Stock from trust, or any sale of the shares of Common Stock prior to the termination of the Holding Period, as defined above, will result in taxation at the marginal tax rate, in addition to deductions of appropriate social security, health tax contributions or other compulsory payments; and

(c) The Participant agrees to the trust deed signed between the Company, his employing company and the trustee appointed pursuant to Section 102.

4. 3(9) AWARDS

4.1. Awards granted pursuant to this Section 4 are intended to constitute 3(9) Awards and shall be granted subject to the general terms and conditions of the Plan, except for any provisions of the Plan applying to Awards under different tax laws or regulations. In the event of any inconsistency or contradictions between the provisions of this Section 4 and the other terms of the Plan, this Section 4 shall prevail.

4.2. To the extent required by the Ordinance or the ITA or otherwise deemed by the Committee to be advisable, the 3(9) Awards and/or any shares of Common Stock or other securities issued or distributed with respect thereto granted pursuant to the Plan and this Appendix shall be issued to a trustee nominated by the Committee in accordance with the provisions of the Ordinance. In such event, the trustee shall hold such Awards and/or any shares of Common Stock or other securities issued or distributed with respect thereto in trust, until exercised by the Participant or (if applicable) vested, and the full payment of tax arising therefrom, pursuant to the Company's instructions from time to time as set forth in a trust agreement, which will have been entered into between the Company and the trustee. If determined by the Committee, and subject to such trust agreement, the Trustee shall be responsible for withholding any taxes to which a Participant may become liable upon issuance of shares of Common Stock, whether due to the exercise or (if applicable) vesting of Awards.

4.3. Shares of Common Stock pursuant to a 3(9) Award shall not be issued, unless the Participant delivers to the Company payment in cash or by bank check or such other form acceptable to the Committee of all withholding taxes due, if any, on account of the Participant acquiring shares of Common Stock under the Award or the Participant provides other assurance satisfactory to the Committee of the payment of those withholding taxes.

5. AGREEMENT REGARDING TAXES; DISCLAIMER

5.1. If the Committee shall so require, as a condition of exercise of an Award or the release of shares of Common Stock by the Trustee, a Participant shall agree that, no later than the date of such occurrence, the Participant will pay to the Company (or the Trustee, as applicable) or make arrangements satisfactory to the Committee and the Trustee (if applicable) regarding payment of any applicable taxes and compulsory payments of any kind required by Applicable Law to be withheld or paid.

5.2. TAX LIABILITY. ALL TAX CONSEQUENCES UNDER ANY APPLICABLE LAW WHICH MAY ARISE FROM THE GRANT OF ANY AWARDS OR THE EXERCISE THEREOF, THE SALE OR DISPOSITION OF ANY SHARES OF COMMON STOCK GRANTED HEREUNDER OR ISSUED UPON EXERCISE OR (IF APPLICABLE) VESTING OF ANY AWARD, THE ASSUMPTION, SUBSTITUTION, CANCELLATION OR PAYMENT IN LIEU OF AWARDS OR FROM ANY OTHER ACTION IN CONNECTION WITH THE FOREGOING (INCLUDING WITHOUT LIMITATION ANY TAXES AND COMPULSORY PAYMENTS, SUCH AS SOCIAL SECURITY OR HEALTH TAX PAYABLE BY THE PARTICIPANT OR THE COMPANY IN CONNECTION THEREWITH) SHALL BE BORNE AND PAID SOLELY BY THE PARTICIPANT, AND THE PARTICIPANT SHALL INDEMNIFY THE COMPANY, THE AFFILIATE AND THE TRUSTEE, AND SHALL HOLD THEM HARMLESS AGAINST AND FROM ANY LIABILITY FOR ANY SUCH TAX OR PAYMENT OR ANY PENALTY, INTEREST OR INDEXATION THEREON. EACH PARTICIPANT AGREES TO, AND UNDERTAKES TO COMPLY WITH, ANY RULING, SETTLEMENT, CLOSING AGREEMENT OR OTHER SIMILAR AGREEMENT OR ARRANGEMENT WITH ANY TAX AUTHORITY IN CONNECTION WITH THE FOREGOING WHICH IS APPROVED BY THE COMPANY.

5.3. NO TAX ADVICE. THE PARTICIPANT IS ADVISED TO CONSULT WITH A TAX ADVISOR WITH RESPECT TO THE TAX CONSEQUENCES OF RECEIVING, EXERCISING OR DISPOSING OF AWARDS HEREUNDER. THE COMPANY DOES NOT ASSUME ANY RESPONSIBILITY TO ADVISE THE PARTICIPANT ON SUCH MATTERS, WHICH SHALL REMAIN SOLELY THE RESPONSIBILITY OF THE PARTICIPANT.

5.4. TAX TREATMENT. THE COMPANY DOES NOT UNDERTAKE OR ASSUME ANY LIABILITY OR RESPONSIBILITY TO THE EFFECT THAT ANY AWARD SHALL QUALIFY WITH ANY PARTICULAR TAX REGIME OR RULES APPLYING TO PARTICULAR TAX TREATMENT, OR BENEFIT FROM ANY PARTICULAR TAX TREATMENT OR TAX ADVANTAGE OF ANY TYPE AND THE COMPANY SHALL BEAR NO LIABILITY IN CONNECTION WITH THE MANNER IN WHICH ANY AWARD IS EVENTUALLY TREATED FOR TAX PURPOSES, REGARDLESS OF WHETHER THE AWARD WAS GRANTED OR WAS INTENDED TO QUALIFY UNDER ANY PARTICULAR TAX REGIME OR TREATMENT. THIS PROVISION SHALL SUPERSEDE ANY DESIGNATION OF AWARDS OR TAX QUALIFICATION INDICATED IN ANY CORPORATE RESOLUTION OR AWARD AGREEMENT, WHICH SHALL AT ALL TIMES BE SUBJECT TO THE REQUIREMENTS OF APPLICABLE LAW. THE COMPANY DOES NOT UNDERTAKE AND SHALL NOT BE REQUIRED TO TAKE ANY ACTION IN ORDER TO QUALIFY ANY AWARD WITH THE REQUIREMENTS OF ANY PARTICULAR TAX TREATMENT AND NO INDICATION IN ANY DOCUMENT TO THE EFFECT THAT ANY AWARD IS INTENDED TO QUALIFY FOR ANY TAX TREATMENT SHALL IMPLY SUCH AN UNDERTAKING. NO ASSURANCE IS MADE BY THE COMPANY OR THE AFFILIATE THAT ANY PARTICULAR TAX TREATMENT ON THE DATE OF GRANT WILL CONTINUE TO EXIST OR THAT THE AWARD WILL QUALIFY AT THE TIME OF EXERCISE OR DISPOSITION THEREOF WITH ANY PARTICULAR TAX TREATMENT. THE COMPANY AND THE AFFILIATE SHALL NOT HAVE ANY LIABILITY OR OBLIGATION OF ANY NATURE IN THE EVENT THAT AN AWARD DOES NOT QUALIFY FOR ANY PARTICULAR TAX TREATMENT, REGARDLESS WHETHER THE COMPANY COULD HAVE TAKEN ANY ACTION TO CAUSE SUCH QUALIFICATION TO BE MET AND SUCH QUALIFICATION REMAINS AT ALL TIMES AND UNDER ALL CIRCUMSTANCES AT THE RISK OF THE PARTICIPANT. THE COMPANY DOES NOT UNDERTAKE OR ASSUME ANY LIABILITY TO CONTEST A DETERMINATION OR INTERPRETATION (WHETHER WRITTEN OR UNWRITTEN) OF ANY TAX AUTHORITY, INCLUDING IN RESPECT OF THE QUALIFICATION UNDER ANY PARTICULAR TAX REGIME OR RULES APPLYING TO PARTICULAR TAX TREATMENT. IF THE AWARDS DO NOT QUALIFY UNDER ANY PARTICULAR TAX TREATMENT IT COULD RESULT IN ADVERSE TAX CONSEQUENCES TO THE PARTICIPANT.

5.5. The Company or the Affiliate may take such action as it may deem necessary or appropriate, in its discretion, for the purpose of or in connection with withholding of any taxes and compulsory payments which the Trustee, the Company or the Affiliate is required by any Applicable Law to withhold in connection with any Awards (collectively, "**Withholding Obligations**"). Such actions may include (i) requiring Participants to remit to the Company in cash an amount sufficient to satisfy such Withholding Obligations and any other taxes and compulsory payments, payable by the Company in connection with the Award or the exercise or (if applicable) vesting thereof; (ii) subject to Applicable Law, allowing the Participants to provide shares of Common Stock, in an amount that at such time, reflects a value that the Committee determines to be sufficient to satisfy such Withholding Obligations; (iii) withholding shares of Common Stock otherwise issuable upon the exercise of an Award at a value which is determined by the Committee to be sufficient to satisfy such Withholding Obligations; or (iv) any combination of the foregoing. The Company shall not be obligated to allow the exercise of any Award by or on behalf of a Participant until all tax consequences arising from the exercise of such Award are resolved in a manner acceptable to the Company.

5.6. Each Participant shall notify the Company in writing promptly and in any event within ten (10) days after the date on which such Participant first obtains knowledge of any tax bureau inquiry, audit, assertion, determination, investigation, or question relating in any manner to the Awards granted or received hereunder or shares of Common Stock issued thereunder and shall continuously inform the Company of any developments, proceedings, discussions and negotiations relating to such matter, and shall allow the Company and its representatives to participate in any proceedings and discussions concerning such matters. Upon request, a Participant shall provide to the Company any information or document relating to any matter described in the preceding sentence, which the Company, in its discretion, requires.

5.7. With respect to 102 Non-Trustee Awards, if the Participant ceases to be employed by the Company or any Affiliate, the Participant shall extend to the Company and/or the Affiliate with whom the Participant is employed a security or guarantee for the payment of taxes due at the time of sale of shares of Common Stock, all in accordance with the provisions of Section 102 and the Rules.

6. RIGHTS AND OBLIGATIONS AS A STOCKHOLDER

6.1. A Participant shall have no rights as a stockholder of the Company with respect to any shares of Common Stock covered by an Award until the Participant exercises the Award, pays the exercise price therefor and becomes the record holder of the subject shares of Common Stock. In the case of 102 Awards or 3(9) Awards (if such Awards are being held by a Trustee), the Trustee shall have no rights as a stockholder of the Company with respect to the shares of Common Stock covered by such Award until the Trustee becomes the record holder for such Common Stock for the Participant's benefit, and the Participant shall not be deemed to be a stockholder and shall have no rights as a stockholder of the Company with respect to the shares of Common Stock covered by the Award until the date of the release of such shares of Common Stock from the Trustee to the Participant and the transfer of record ownership of such shares of Common Stock to the Participant (provided however that the Participant shall be entitled to receive from the Trustee any cash dividend or distribution made on account of the shares of Common Stock held by the Trustee for such Participant's benefit, subject to any tax withholding and compulsory payment). No adjustment shall be made for dividends (ordinary or extraordinary, whether in cash, securities or other property) or distribution of other rights for which the record date is prior to the date on which the Participant or Trustee (as applicable) becomes the record holder of the shares of Common Stock covered by an Award, except as provided in the Plan.

6.2. With respect to shares of Common Stock issued upon the exercise or (if applicable) vesting of Awards hereunder, any and all voting rights attached to such Common Stock shall be subject to the provisions of the Plan, and the Participant shall be entitled to receive dividends distributed with respect to such shares of Common Stock, subject to the provisions of the Company's Certificate of Incorporation and By-laws, as amended from time to time, and subject to any Applicable Law (after deduction of all applicable tax payments).

7. GOVERNING LAW

7.1. This Appendix shall be governed by, construed and enforced in accordance with the laws of the State of Delaware, without reference to conflicts of law principles, except that applicable Israeli laws, rules and regulations (as amended) shall apply to any mandatory tax matters arising hereunder.

****

Exhibit 10.11

October 28, 2019

Shareholder Representative Services LLC
950 17th Street, Suite 1400
Denver, CO 80202
Attn: Managing Director
Fax: (303) 623-0294
Email: deals@srsacquiom.com

Chardan Healthcare Acquisition Corp.
17 State Street, 21st Floor
New York, NY 10004
Attn: Jonas Grossman
Fax:
e-mail:grossmanj@chardanspac.com

Loeb & Loeb LLP
345 Park Ave
New York, NY 10154
Attention: Giovanni Caruso
Fax: (212) 937-3943
e-mail: gcaruso@loeb.com

Meitar Liquornik Geva Leshem Tal
16 Abba Hillel Road
Ramat Gan, Israel
Attention: Mike Rimon, Adv.
Email: mrimon@meitar.com

To whom it may concern:

Reference is made to the Merger Agreement (as amended on October 11, 2019, the “Merger Agreement”) dated as of July 16, 2019, by and among BiomX Ltd., an Israeli company, Shareholder Representative Services LLC, as the Shareholders’ Representative, Chardan Healthcare Acquisition Corp., a Delaware corporation and CHAC Merger Sub Ltd., an Israeli company. Any terms not defined herein shall have the same meaning as such terms have in Merger Agreement.

Section 9.8(b)(ii) of the Merger Agreement requires that “the immediately available funds contained in the New Investment Escrow Account available for release to Purchaser immediately following the Closing that have not been deposited into the New Investment Escrow Account pursuant to the Company Securityholder Purchase Agreements or the Third Party Purchase Agreements to equal or exceed Three Million Dollars ($3,000,000),” and it is a condition to the Closing pursuant to sections 10.2(h)(ii) and 10.3(h)(ii) of the Merger Agreement that no less than $3,000,000 be invested in the New Investment Escrow Account pursuant to one or more purchase agreements that are not Company Securityholder Purchase Agreements or Third Party Purchase Agreements. By signing below, the parties hereto hereby agree to waive the requirement in Section 9.8(b)(ii), and the closing conditions in Sections 10.2(h)(ii) and 10.3(h)(ii), of the Merger Agreement, provided that the immediately available funds contained in the New Investment Escrow Account available for release to Purchaser immediately following the Closing that have not been deposited into the New Investment Escrow Account pursuant to the Company Securityholder Purchase Agreements or the Third Party Purchase Agreements equals or exceeds Two Million Seven Hundred Ninety Eight Thousand and Two Hundred Fifty Dollars ($2,798,250).

Section 10.3(f) of the Merger Agreement provides that it is a condition to the Closing that the “aggregate amount of Indebtedness, expenses and other liabilities of Purchaser that remain unpaid as of immediately prior to the Closing is less than $1,000,000.” By signing below, the Company hereby agrees to waive the closing condition in Section 10.3(f) of the Merger Agreement,

For the avoidance of doubt, this waiver does not alter the original terms of the Merger Agreement, other than the waivers described above.

Sincerely,

BIOMX LTD.

By: /s/ Jonathan Solomon
Name: Jonathan Solomon
Title: CEO

Acknowledged and Agreed:

CHARDAN HEALTHCARE ACQUISITION CORP.

By: /s/ Jonas Grossman
Name: Jonas Grossman
Title: Chief Executive Officer

CHAC MERGER SUB LTD.

By: /s/ Jonas Grossman
Name: Jonas Grossman
Title: Director

SHAREHOLDER REPRESENTATIVE SERVICES LLC,
solely in its capacity as the Shareholders' Representative

By: /s/ Sam Riffe
Name: Sam Riffe
Title: Managing Director

AGREEMENT

This AGREEMENT (this "Agreement") is made as of this 28th day of October, 2019 by and between Cornix LLC ("Buyer") and Chardan Healthcare Acquisition Corp. ("CHAC").

WHEREAS, CHAC was organized for the purpose of acquiring, through a merger, capital stock exchange, asset acquisition or other similar business combination, an operating business; and

WHEREAS, CHAC has entered into that certain Merger Agreement, dated as of July 16, 2019 by and among CHAC, BiomX Ltd., CHAC Merger Sub Ltd., and Shareholder Representative Services LLC.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I
Purchase and sale

Section 1.01 Buyer hereby agrees with CHAC to purchase $300,000 of shares (the "Shares") of CHAC's common stock in the public markets or in privately negotiated transactions no later than the-three month anniversary after this Agreement is disclosed publicly by CHAC. Buyer will furnish to CHAC trade confirmations (or such other documentation as is reasonably satisfactory to CHAC) to evidence the purchase of the Shares.

Section 1.02 In respect of the Shares, Buyer agrees that it will not (1) offer for sale, sell, pledge, grant any option to purchase or otherwise dispose of (collectively, a "Disposition") any Shares for a period commencing on the date hereof and ending on the termination date of the Agreement, inclusive (the "Lock-Up Period"), (2) exercise or seek to exercise or effectuate in any manner any rights of any nature that Buyer has or may have hereafter to require the Company to register under the Act the undersigned's sale, transfer or other disposition of any of the Shares, or (3) engage, directly or indirectly (including through any entity deemed to be an "affiliate" of Buyer under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (the "Exchange Act")) in any hedging, collar (whether or not for any consideration) or other transaction that is designed to or reasonably expected to lead or result in a Disposition of Shares during the Lock-Up Period, even if such Shares would be disposed of by someone other than such holder, and such prohibited hedging or other transactions would include any short sale or any purchase, sale or grant of any right (including any put or call option or reversal or cancellation thereof) with respect to any Shares or with respect to any security (other than a broad-based market basket or index) that includes, relates to or derives any significant part of its value from Shares.

Section 1.03 The execution and delivery of this Agreement and performance in accordance with the terms of this Agreement have been duly authorized on Buyer's behalf by all necessary action, Buyer's entry into this Agreement and the performance of its obligations hereunder will not in any way be limited by any provision of Buyer's formation and operating agreements or by any other legal, contractual, regulatory or other restrictions to which such entry and performance may be subject. Buyer has made all notifications and obtained all consents, approvals and authorizations required by its formation and operating agreements, the law or any other applicable regulations for or in connection with this Agreement. The purchase of the Shares does not conflict with, result in a breach or violation of, or constitute a default under: (A) any agreement or instrument to which Buyer is a party or by which Buyer or any of its properties or assets is bound; (B) any statute, rule or regulation applicable to, or any order of any court or governmental agency with jurisdiction over Buyer or its assets or properties; and (C) any policy of Buyer or other internal rules or regulations applicable to Buyer, including, but not limited to, Counterparty's window, blackout or other similar policy. Buyer is not aware of any material non-public information (within the meaning of Rule 10b5-1 under the Exchange Act) concerning CHAC and the entry into and performance by it of its obligations under this Agreement does not and will not constitute a violation by it or any of its affiliates of applicable law or regulation prohibiting "insider trading." Neither Buyer nor any person acting on Buyer's behalf has engaged in any behavior which is designed to cause, has caused, or might reasonably be expected to cause, manipulation of the price of any security of CHAC and it is not entering into this Agreement to create actual or apparent trading activity in any Shares (or any security convertible into or exchangeable for any shares of CHAC's capital stock) or to raise or depress or otherwise manipulate the price of any shares of common stock of CHAC (or any security convertible into or exchangeable for any shares of common stock of CHAC) or otherwise in violation of the Exchange Act.

ARTICLE II
Miscellaneous

Section 2.01 *Termination.* This Agreement shall terminate on the earlier of (i) the six month anniversary of the last purchase date of Shares, and (ii) the date that the per share closing price of CHAC's common stock has been in excess $15.00 per share for three consecutive trading days.

Section 2.02 *Counterparts; Facsimile*. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. This Agreement or any counterpart may be executed via facsimile transmission, and any such executed facsimile copy shall be treated as an original.

Section 2.03 *Governing Law*. This Agreement shall for all purposes be deemed to be made under and shall be construed in accordance with the laws of New York. Each of the parties hereby agrees that any action, proceeding or claim against it arising out of or relating in any way to this Agreement shall, to the fullest extent applicable, be brought and enforced first in the Southern District of New York, then to such other court in the State of New York as appropriate and irrevocably submits to such jurisdiction, which jurisdiction shall be exclusive. Each of the parties hereby waives any objection to such exclusive jurisdiction and that such courts represent an inconvenient forum.

Section 2.04 *Remedies Cumulative*. Each of the parties hereto acknowledges and agrees that, in the event of any breach of any covenant or agreement contained in this Agreement by the other party, money damages may be inadequate with respect to any such breach and the non-breaching party may have no adequate remedy at law. It is accordingly agreed that each of the parties hereto shall be entitled, in addition to any other remedy to which they may be entitled at law or in equity, to seek injunctive relief and/or to compel specific performance to prevent breaches by the other party hereto of any covenant or agreement of such other party contained in this Agreement.

Section 2.05 *Severability*. If any term, provision or covenant of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions and covenants of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated

Section 2.06 *Binding Effect; Assignment*. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and permitted assigns.

Section 2.07 *Headings*. The descriptive headings of the Sections hereof are inserted for convenience only and do not constitute a part of this Agreement.

Section 2.08 *Entire Agreement; Changes in Writing*. This Agreement constitutes the entire agreement among the parties hereto and supersedes and cancels any prior agreements, representations and warranties, whether oral or written, among the parties hereto relating to the transaction contemplated hereby. Neither this Agreement nor any provision hereof may be changed or amended orally, but only by an agreement in writing signed by the other party hereto.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth on the first page of this Agreement.

CORNIX LLC

By: /s/ Steven Urbach
Name: Steven Urbach
Title: President

CHARDAN HEALTHCARE ACQUISITION CORP.

By: /s/ Jonas Grossman
Name: Jonas Grossman
Title: Member

Exhibit 16.1

November 1, 2019

Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Commissioners:

We have read the statements made by BiomX Inc. (formerly known as Chardan Healthcare Acquisition Corp.) under Item 4.01 of its Form 8-K dated October 28, 2019. We agree with the statements concerning our Firm in such Form 8-K; we are not in a position to agree or disagree with other statements of BiomX Inc. contained therein.

Very truly yours,

/s/ Marcum llp

Marcum llp

Exhibit 17.1

October 28, 2019

Chardan Healthcare Acquisition Corp.
17 State Street, Floor 21
New York, NY 10004

Attn: Board of Directors

Re: Resignation

To the Board of Directors of
Chardan Healthcare Acquisition Corp.

I hereby resign as Chief Financial Officer, Head of Strategy and Director of Chardan Healthcare Acquisition Corp. (the “Company”), effective as of the date hereof.

Very truly yours,

/s/ George Kaufman

Exhibit 17.2

October 28, 2019

Chardan Healthcare Acquisition Corp.
17 State Street, Floor 21
New York, NY 10004

Attn: Board of Directors

Re: Resignation

To the Board of Directors of
Chardan Healthcare Acquisition Corp.

I hereby resign as Director of Chardan Healthcare Acquisition Corp. (the “Company”), effective as of the date hereof.

Very truly yours,

/s/ Michael Rice

Exhibit 17.3

October 28, 2019

Chardan Healthcare Acquisition Corp.
17 State Street, Floor 21
New York, NY 10004

Attn: Board of Directors

Re: Resignation

To the Board of Directors of
Chardan Healthcare Acquisition Corp.

I hereby resign as Director of Chardan Healthcare Acquisition Corp. (the "Company"), effective as of the date hereof.

Very truly yours,

/s/ Richard Giroux

Exhibit 17.4

October 28, 2019

Chardan Healthcare Acquisition Corp.
17 State Street, Floor 21
New York, NY 10004

Attn: Board of Directors

Re: Resignation

To the Board of Directors of
Chardan Healthcare Acquisition Corp.

I hereby resign as Director of Chardan Healthcare Acquisition Corp. (the "Company"), effective as of the date hereof.

Very truly yours,

/s/ Matthew Rossen

Exhibit 17.5

October 28, 2019

Chardan Healthcare Acquisition Corp.
17 State Street, Floor 21
New York, NY 10004

Attn: Board of Directors

Re: Resignation

To the Board of Directors of
Chardan Healthcare Acquisition Corp.

I hereby resign as Director of Chardan Healthcare Acquisition Corp. (the "Company"), effective as of the date hereof.

Very truly yours,

/s/ Eric Kusseluk M.D.

Exhibit 21.1

BiomX Inc.

Subsidiaries of Registrant

Subsidiary	Jurisdiction of Incorporation
BiomX Ltd.	Israel

Exhibit 99.1

Chardan Healthcare Acquisition Corp. Completes Merger with BiomX Ltd.

Combined company renamed BiomX Inc. will trade on the NYSE American stock exchange under the symbol PHGE beginning October 29, 2019

NEW YORK and Ness Ziona, Israel, October 28, 2019 -- Chardan Healthcare Acquisition Corp. (NYSE: CHAC), a special purpose acquisition company sponsored by affiliates of Chardan Capital Markets LLC ("Chardan"), announced today the closing of its merger with BiomX Ltd. ("BiomX") a microbiome company developing both natural and engineered phage therapies.

In connection with the consummation of the merger, the combined company was renamed BiomX Inc. At closing, CHAC retained more than $60 million in its trust account. The shares of common stock, units, and warrants of the combined company are expected to begin trading on the NYSE American stock exchange on October 29, 2019 under the symbols PHGE, PHGE.U, and PHGE.WS, respectively. The company will continue trading under its current symbols today, October 28, 2019. BiomX's current management team, led by its Chief Executive Officer, Jonathan Solomon, will continue to run the combined company.

"We are excited to have closed our merger with BiomX and look forward to working with the BiomX team and the company's first-rate board to execute on the substantial opportunity that we believe the company's microbiome technology and end markets present," said Jonas Grossman, President of CHAC. Gbola Amusa, M.D., Executive Chairman of CHAC, added "We are thrilled to partner with BiomX ahead of the company's significant 2020 catalysts which, if successful, could lead to a broader market understanding of phage therapeutics as potentially disruptive and safe precision tools for the eradication of specific harmful strains of bacteria that may be causative for certain chronic conditions."

Existing BiomX shareholders and new investors supporting the transaction include OrbiMed, RTW Investment, Johnson & Johnson Innovation - JJDC, Inc. (JJDC), Takeda Ventures, Inc., Seventure Partners' Health for Life Capital I, MiraeAssets, SBI Japan-Israel Innovation Fund, and RM Global Partners (RMGP) BioPharma Investment Fund.

"The financing raised through this transaction and the backing of our existing and new investors will greatly support our pre-clinical and clinical development as we advance toward our upcoming milestones," said Jonathan Solomon, BiomX's CEO. "Phage therapies have an enormous potential to treat multiple chronic diseases, and we are proud to be at the forefront of drug research and development in this field."

Proceeds from the transaction will provide BiomX with growth capital to support the company's pipeline, which includes phage-based products for acne-prone skin, inflammatory bowel disease (IBD), primary sclerosing cholangitis (PSC), and colorectal cancer. BiomX's product for acne-prone skin has recently entered clinical testing, and the company's IBD candidate is expected to enter the clinic in 2020.

About the Merger

As announced on July 16, 2019, CHAC agreed to merge with BiomX, a privately-held biotechnology company.

The description of the transaction contained herein is only a summary and is qualified in its entirety by reference to the merger agreement, a copy of which was filed by CHAC with the Securities and Exchange Commission (SEC).

Advisers

Chardan acted as CHAC's M&A and capital markets adviser. Cantor Fitzgerald acted as capital markets adviser to BiomX. Loeb & Loeb LLP and Meitar Liquornik Geva Leshem Tal represented CHAC. Goodwin Procter LLP, Mayer Brown LLP and ZAG-S&W Zysman Aharoni Gayer & Co represented BiomX.

About BiomX

BiomX is a clinical stage microbiome company developing both natural and engineered phage cocktails designed to target and destroy bacteria that affect the appearance of skin, as well as harmful bacteria in chronic diseases, such as IBD, PSC, and cancer. BiomX discovers and validates proprietary bacterial targets and customizes phage compositions against these targets. See www.biomx.com. No portion of BiomX's website is incorporated by reference into or otherwise deemed to be a part of this press release.

About Chardan Healthcare Acquisition Corp.

CHAC was a special purpose acquisition company formed for the purpose of effecting a merger, acquisition, or similar business combination. CHAC raised $70.0 million in December 2018 for the purpose of combining with a public or privately-held operating business. CHAC was founded and sponsored by affiliates of Chardan Capital Markets LLC. CHAC is Chardan's fifth publicly traded acquisition vehicle.

Safe Harbor Language

This press release contains certain "forward-looking statements" within the meaning of the "safe harbor" provisions of the US Private Securities Litigation Reform Act of 1995. Forward-looking statements can be identified by words such as: "target," "believe," "expect," "will," "may," "anticipate," "estimate," "would," "positioned," "future," and other similar expressions that predict or indicate future events or trends or that are not statements of historical matters. Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they are based only on CHAC and BiomX managements' current beliefs, expectations and assumptions. Because forward-looking statements relate to the future, they are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict and many of which are outside of our control. Actual results and outcomes may differ materially from those indicated in the forward-looking statements. Therefore, you should not rely on any of these forward-looking statements. Important factors that could cause actual results and outcomes to differ materially from those indicated in the forward-looking statements include those under "Risk Factors" found in CHAC's proxy statement on Schedule 14A filed with the SEC by CHAC in connection with the business combination.

CHAC contact:
Jonas Grossman
Chief Executive Officer
Chardan Healthcare Acquisition Corp.
+1-212-920-9000
grossmanj@chardanspac.com

BiomX contact:
Assaf Oron
Chief Business Officer
BiomX
+972-54-2228901
assafo@biomx.com

Exhibit 99.2

BIOMX LTD.

CONSOLIDATED FINANCIAL STATEMENTS

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Shareholders and Board of Directors of BiomX Ltd.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of BiomX Ltd. (the "Company") as of December 31, 2018 and 2017, the related consolidated statements of consolidated loss, changes in shareholders' equity and cash flows for each of the three years in the period ended December 31, 2018, and the related notes (collectively referred to as the "financial statements").

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2018 and 2017 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2018, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audit. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our 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 audit, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

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

/s/ Brightman Almagor Zohar & Co.
Certified Public Accountants
A Firm in the Deloitte Global Network

Tel Aviv, Israel
July 17, 2019

We have served as the Company's auditor since 2015.

BIOMX LTD.
INTERIM CONSOLIDATED BALANCE SHEETS
USD in thousands except share data

	Note	As of June 30, 2019	As of December 31, 2018
		USD In thousands	
ASSETS			
Current assets			
Cash and cash equivalents		16,145	8,604
Restricted cash		92	89
Short-term deposits		18,617	31,055
Other receivables		228	140
Total current assets		35,082	39,888
Property and equipment, net		1,448	887
Lease deposit		5	—
In-process research and development (“R&D”)	5	4,556	4,556
Operating lease right-of-use asset	3	594	—
Total non-current assets		5,155	4,556
		41,685	45,331

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

BIOMX LTD.

INTERIM CONSOLIDATED BALANCE SHEETS (CONTINUED)

USD in thousands except share and per share data

	Note	June 30, 2019	December 31, 2018
		USD In thousands	
LIABILITIES AND SHAREHOLDERS' EQUITY			
Current liabilities			
Short-term lease liabilities	3	202	—
Trade account payables		512	193
Other account payables		1,490	1,396
Related parties		33	50
Total current liabilities		2,237	1,639
Non-current liabilities			
Long-term lease liabilities	3	392	—
Contingent liabilities	4	903	889
Total non-current liabilities		1,295	889
Commitments and Contingent Liabilities	6		
Shareholders' equity	7		
Ordinary shares, NIS 0.01 par value ("Ordinary Shares"); Authorized 14,044,778 shares as of June 30, 2019 and December 31, 2018. Issued and outstanding 954,622 shares as of June 30, 2019 and December 31, 2018.		3	3
Ordinary A shares, NIS 0.01 par value ("Ordinary A Shares"); Authorized 1,000,000 shares as of June 30, 2019 and December 31, 2018. Issued and outstanding 0 as of June 30, 2019 and December 31, 2018.			—
Preferred A shares, NIS 0.01 par value ("Preferred A Shares"); Authorized 6,796,342 shares as of as of June 30, 2019 and December 31, 2018. Issued and outstanding 3,120,412 shares as of as of June 30, 2019 and December 31, 2018.		6	6
Preferred B shares, NIS 0.01 par value ("Preferred B Shares"); Authorized 2,836,880 shares as of June 30, 2019 and December 31, 2018. Issued and outstanding 2,266,314 shares as of June 30, 2019 and 2,138,654 shares as of December 31, 2018.		3	3
Additional paid in capital		66,831	64,400
Accumulated deficit		(28,690)	(21,609)
Total shareholders' equity		38,153	42,803
		41,685	45,331

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

BIOMX LTD.
INTERIM CONSOLIDATED STATEMENTS OF OPERATIONS
USD in thousands except share and per share data

	Three months ended June 30,		Six months ended June 30,	
	2019	**2018**	**2019**	**2018**
Research and development ("R&D") expenses, net	2,864	1,655	5,600	3,643
General and administrative expenses	1,203	788	2,190	1,435
Operating Loss	4,067	2,443	7,790	5,078
Financial expenses (income), net	(289)	229	(787)	300
Net Loss	3,778	2,672	7,003	5,378
Basic and diluted loss per Ordinary Shares and Ordinary A Shares	6.00	3.90	11.32	7.72
Weighted average number of Ordinary Shares and Ordinary A Shares outstanding, basic and diluted	829,361	829,361	829,361	827,228

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

BIOMX LTD.
INTERIM CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY
USD in thousands except share data

	Ordinary Shares		Preferred A Shares		Preferred B Shares		Additional paid in capital	Accumulated deficit	Total shareholders' equity
	Shares	Amount	Shares	Amount	Shares	Amount			
Balance as of December 31, 2018	954,622	3	3,120,412	6	2,138,654	3	64,400	(21,609)	42,803
Issuance of shares	—	—	—	—	127,660	(*)	1,800	—	1,800
Share-based payment	—	—	—	—	—	—	304	—	304
Net loss	—	—	—	—	—	—	—	(3,225)	(3,225)
Balance as of March 31, 2019	954,622	3	3,120,412	6	2,266,314	3	66,504	(24,834)	41,682
Share-based payment	—	—	—	—	—	—	327	—	327
Net loss	—	—	—	—	—	—	—	(3,778)	(3,778)
Balance as of June 30, 2019	954,622	3	3,120,412	6	2,266,314	3	66,831	(28,612)	38,231

(*) Less than $1 thousand.

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

BIOMX LTD.
INTERIM CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY(CONTINUED)
USD in thousands except share data

	Ordinary Shares		Ordinary A Shares		Preferred A Shares		Additional paid in capital	Accumulated deficit	Total shareholders' equity
	Shares	Amount	Shares	Amount	Shares	Amount			
Balance as of December 31, 2017	653,613	3	288,212	(*)	1,867,508	4	20,412	(8,889)	11,530
Issuance of shares	—	—	—	—	1,252,904	2	12,998	—	13,000
Conversion of shares	288,212	(*)	(288,212)	(*)	—	—	—	—	—
Exercise of options	12,797	(*)	—	—	—	—	—	—	—
Share-based payment	—	—	—	—	—	—	212	—	212
Net loss	—	—	—	—	—	—	—	(2,706)	(2,706)
Balance as of March 31, 2018	954,622	3	—	—	3,120,412	6	33,622	(11,595)	22,036
Share-based payment	—	—	—	—	—	—	243	—	243
Net loss	—	—	—	—	—	—	—	(2,672)	(2,672)
Balance as of June 30, 2018	954,622	3	—	—	3,120,412	6	33,865	(14,267)	19,607

(*) Less than $1 thousand.

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

BIOMX LTD.
INTERIM CONSOLIDATED STATEMENTS OF CASH FLOWS
USD in thousands

	For the six months ended June 30,	
	2019	**2018**
CASH FLOWS – OPERATING ACTIVITIES		
Net loss	(7,003)	(5,378)
Adjustments required to reconcile cash flows used in operating activities		
Depreciation	205	100
Share-based compensation	631	455
Revaluation of contingent liabilities	14	11
Changes in operating assets and liabilities:		
Other receivables	(93)	99
Trade account payables	319	(96)
Other account payables	94	(149)
Related parties	(95)	—
Net cash used in operating activities	(5,928)	(4,958)
CASH FLOWS – INVESTING ACTIVITIES		
Decrease (Increase) in short-term deposit	12,438	(1,350)
Purchase of property and equipment	(766)	(155)
Net cash provided by (used in) investing activities	11,672	(1,505)
CASH FLOWS – FINANCING ACTIVITIES		
Issuance of preferred shares	1,800	13,000
Exercise of stock options	—	(*)
Net cash provided by financing activities	1,800	13,000
Increase in cash and cash equivalents and restricted cash	7,544	6,537
Cash and cash equivalents and restricted cash at the beginning of the year	8,693	6,993
Cash and cash equivalents and restricted cash at the end of the year	16,237	13,530
Supplemental non-cash transactions:		
Recognition of right-of-use asset and lease liability upon adoption of ASU 2016-02	645	—

(*) Less than $1 thousand.

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

BIOMX LTD.
NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 — GENERAL

A. Description of business:

BiomX Ltd. (formerly known as MBcure Ltd.) (the "Company") was incorporated in March 2015 and began operations in May 2015. The Company is developing bacteriophage-based therapies for the treatment and prevention of diseases stemming from dysbiosis of the microbiome. On May 11, 2017, the Company changed its name from MBcure Ltd. to BiomX Ltd.

BiomX was formed as an incubator company as part of the FutuRx incubator (the "Incubator" or "FutuRx"). The Company's R&D program was approved by the Israel Innovation Authority (the "IIA") at the Israeli Ministry of Economy and until 2017, the majority of BiomX's funding was from IIA grants and funding by the Incubator, which is supported by the IIA. BiomX continued to apply for and receive IIA grants also after BiomX left the Incubator. The requirements and restrictions for such grants are found in the Israel Encouragement of Research and Development in Industries (the "Research Law").

On November 27, 2017, the Company acquired 100% control and ownership of RondinX Ltd. ("RondinX," see note 5).

B. Risk Factors:

To date, the Company has not generated revenue from its operations. As of June 30, 2019, the Company had unrestricted cash and cash equivalent balance and short-term deposits of approximately $35 million, which management believes is sufficient to fund its operations for more than 12 months from the date of issuance of these financial statements and sufficient to fund its operations necessary to continue development activities of its current proposed products.

Due to continuing R&D activities, the Company expects to continue to incur additional losses for the foreseeable future. The Company plans to continue to fund its current operations, as well as other development activities relating to additional product candidates, through future issuances of either debt and/or equity securities and possibly additional grants from the IIA and other government institutions. The Company's ability to raise additional capital in the equity and debt markets is dependent on a number of factors including, but not limited to, the market demand for the Company's stock, which itself is subject to a number of development and business risks and uncertainties, as well as the uncertainty that the Company would be able to raise such additional capital at a price or on terms that are favorable to the Company.

C. Use of estimates in the preparation of financial statements:

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities in the financial statements and the amounts of expenses during the reported periods. Actual results could differ from those estimates.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Unaudited Interim Financial Statements

These unaudited interim consolidated financial statements have been prepared as of June 30, 2019, and for the three- and six-month periods ended June 30, 2019 and 2018. Accordingly, certain information and footnote disclosures normally included in annual financial statements prepared in accordance with U.S. GAAP have been omitted. These unaudited interim consolidated financial statements should be read in conjunction with the audited financial statements and the accompanying notes of the Company as of and for the years ended December 31, 2018 and 2017.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)

Operating results for the six-month period ended June 30, 2019, are not necessarily indicative of the results that may be expected for the year ending December 31, 2019

Significant Accounting Policies

The significant accounting policies followed in the preparation of these unaudited interim consolidated financial statements are identical to those applied in the preparation of the latest annual audited financial statements with the exception of the following:

A. Leases

In February 2016, the Financial Accounting Standards Board issued ASU 2016-02, Leases (Topic 842). The Company adopted this ASU effective January 1, 2019 using the modified retrospective application, applying the ASU to leases in place as of the adoption date. Prior periods have not been adjusted.

Arrangements that are determined to be leases at inception are recognized as long-term right-of-use assets (“ROU”) and lease liabilities in the interim consolidated balance sheet at lease commencement. Operating lease liabilities are recognized based on the present value of the future lease payments over the lease term at commencement date. As the Company’s leases do not provide an implicit rate, the Company applies its incremental borrowing rate based on the economic environment at commencement date in determining the present value of future lease payments. Lease terms may include options to extend the lease when it is reasonably certain that the Company will exercise that option. Lease expense for operating leases or payments are recognized on a straight-line basis over the lease term.

In accordance with ASC 360-10, management reviews operating lease ROU assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable based on estimated future undiscounted cash flows. If so indicated, an impairment loss would be recognized for the difference between the carrying amount of the asset and its fair value.

B. Stock compensation plans:

In June 2018, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2018-07, “Compensation — Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting”, which simplifies the accounting for nonemployee share-based payment transactions by aligning the measurement and classification guidance, with certain exceptions, to that for share-based payment awards to employees. The amendments expand the scope of the accounting standard for share-based payment awards to include share-based payment awards granted to non-employees in exchange for goods or services used or consumed in an entity’s own operations and supersedes the guidance related to equity-based payments to non-employees. The Company adopted these amendments on January 1, 2019. The adoption of these amendments did not have a material impact on the consolidated financial statements and related disclosures.

C. Recent Accounting Standards:

In June 2016, the FASB issued ASU 2016-13 “Financial Instruments — Credit Losses” to improve information on credit losses for financial assets and net investment in leases that are not accounted for at fair value through net income. The ASU replaces the current incurred loss impairment methodology with a methodology that reflects expected credit losses. The Company plans to adopt this ASU in the first quarter of 2020. The Company does not expect that the adoption of this ASU will have a material impact on its consolidated financial statements.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)

In August 2018, the FASB issued ASU 2018-13, "Changes to Disclosure Requirements for Fair Value Measurements," which will improve the effectiveness of disclosure requirements for recurring and nonrecurring fair value measurements. The standard removes, modifies, and adds certain disclosure requirements and is effective for the Company beginning on January 1, 2020. The Company does not expect that this standard will have a material effect on the Company's consolidated financial statements.

In November 2018, the FASB issued ASU 2018-18 — "Collaborative Arrangements (Topic 808)," which clarifies the interaction between Topic 808 and Topic 606, Revenue from Contracts with Customers. The Company expects to adopt this standard in the first quarter of fiscal year 2020. This standard is not expected to have a material impact on the Company's consolidated financial statements and related disclosures.

NOTE 3 — SHORT-TERM DEPOSIT

Short-term deposits represent time deposits placed with banks with original maturities of greater than three months but less than one year. Interest earned is recorded as interest income in the interim consolidated statement of operations during the periods for which the Company held short-term deposits.

The Company has deposits denominated in U.S. Dollars ("USD") held with Bank Hapoalim US and Bank Leumi Israel that bear fixed annual interest of 2.4% to 3.6%.

NOTE 4 — LEASES

On January 1, 2019, the Company adopted ASU 2016-02 using the modified retrospective approach for all lease arrangements at the beginning period of adoption. Leases existing for the reporting period beginning January 1, 2019 are presented under ASU 2016-02. The Company leases office space under operating leases. At June 30, 2019, the Company's ROU assets and lease liabilities for operating leases totaled $594 thousand each. The impact of adopting ASU 2016-02 was not material to the Company's consolidated statement of operations for the periods presented.

In May 2017, the Company entered into a lease agreement for office space in Ness Ziona, Israel. The agreement is for five years beginning on June 1, 2017 with an option to extend for an additional five years. Monthly lease payments under the agreement are approximately $16 thousand. As part of the agreement, the Company has obtained a bank guarantee in favor of the property owner in the amount of approximately $92 thousand representing four monthly lease and related payments. Lease expenses recorded in the interim consolidated statements of operations were $48 thousand and $96 thousand for the three and six months ended June 30, 2019, respectively. Lease expenses recorded in the interim consolidated statements of operations were $48 thousand and $96 thousand for the three and six months ended June 30, 2018, respectively.

Supplemental cash flow information related to operating leases was as follows (unaudited):

	Three months ended June 30, 2019	Six months ended June 30, 2019
Cash payments for operating leases	48	96

NOTE 4 — LEASES (cont.)

As of June 30, 2019, the Company's operating leases had a weighted average remaining lease term of 3 years and a weighted average discount rate of 3%. Future lease payments under operating leases as of June 30, 2019 were as follows:

		Operating Leases
Remainder of 2019	$	102
2020	$	204
2021	$	204
2022	$	110
Total future lease payments	$	620
Less imputed interest		(26)
Total lease liability balance	$	594

NOTE 5 — ACQUISITION OF SUBSIDIARY

On November 19, 2017, the Company signed a share purchase agreement with the shareholders of RondinX. In accordance with the share purchase agreement, the Company acquired 100% ownership and control of RondinX for consideration valued at $4.5 million. The consideration included the issuance of 250,023 Preferred A Shares, the issuance of warrants to purchase an aggregate of 4,380 Series A-1 Preferred Shares, and additional contingent consideration. The contingent consideration is based on the attainment of future clinical, developmental, regulatory, commercial and strategic milestones relating to product candidates for treatment of primary sclerosing cholangitis or entry into qualifying collaboration agreements with certain third parties and may require the Company to issue 234,834 ordinary shares upon the attainment of certain milestones, as well as make future cash payments and/or issue additional shares of the most senior class of the Company's shares authorized or outstanding as of the time the payment is due, or a combination of both of up to $32 million of the Company within ten years from the closing of the agreement and/or the entering of agreements with certain third parties or their affiliates that include a qualifying up-front fee and is entered into within three years from the closing of the agreement. The Company has the discretion of determining whether milestone payments will be made in cash or by issuance of shares.

The Company completed the RondinX acquisition on November 27, 2017.

The contingent consideration is accounted for at fair value (level 3). There were no changes in the fair value hierarchy leveling during the six months ended June 30, 2019 and the year ended December 31, 2018.

The change in the fair value of the contingent consideration as of June 30, 2019 and December 31, 2018 was as follows:

	Contingent consideration
As of December 31, 2018	889
Revaluation of contingent consideration	14
As of June 30, 2019	903

	Contingent consideration
As of December 31, 2017	1,001
Revaluation of contingent consideration	11
As of June 30, 2018	1,012

NOTE 6 — IN-PROCESS RESEARCH AND DEVELOPMENT

Intangible assets acquired in the RondinX acquisition (see note 5) were determined to be in-process R&D. In accordance with ASC 350-30-35-17A, R&D assets acquired in a business combination are considered an indefinite-lived intangible asset until completion or abandonment of the associated R&D efforts. Once the R&D efforts are complete, the Company will determine the useful life of the R&D assets and will amortize these assets accordingly in the financial statements. As of June 30, 2019, the in-process R&D efforts had not yet been completed nor abandoned. Based on management's analysis, there was no impairment for the six months ended June 30, 2019 and 2018.

NOTE 7 — COMMITMENTS AND CONTINGENT LIABILITIES

A. During 2015, 2016 and 2017, the Company submitted three applications to the IIA for a R&D project for the technological incubators program. The approved budget per year was NIS 2,700,000 (approximately $726 thousand) per application. According to the IIA directives, the IIA transferred to the Company 85% of the approved budget and the rest of the budget was funded by certain shareholders.

During 2018, the Company submitted an additional application to the IIA for the Acne project. The application was approved, at an aggregate budget of s NIS 4,221,370 (approximately $1,206 thousand) from which the IIA's participation is up to 30% of the budget. As of June, 30 2019, the IIA transferred to the Company the amount of NIS 1,078,981 (approximately $299 thousand), which was recognized in the interim consolidated statement of operations for the period ended June 30, 2019.

According to the agreement with the IIA, the Company will pay royalties of 3% to 3.5% of future sales up to an amount equal to the accumulated grant received including annual interest of LIBOR linked to the USD. The Company may be required to pay additional royalties upon the occurrence of certain events as determined by the IIA, that are within the control of the Company. No such events have occurred or were probable of occurrence as of the balance sheet date with respect to these royalties. Repayment of the grant is contingent upon the successful completion of the Company's R&D programs and generating sales. The Company has no obligation to repay these grants if the R&D program fails, is unsuccessful or aborted or if no sales are generated. The Company had not yet generated sales as of June 30, 2019; therefore, no liability was recorded in these consolidated financial statements.

Total research and development income recorded in the interim consolidated statement of operations was $299 thousand and $425 for the three months ended June 30, 2019 and 2018, respectively, and $299 thousand and $646 for the six months ended June 30, 2019 and 2018, respectively. As of June 30, 2019, the Company had a contingent obligation to the IIA in the amount of approximately 2.2 million including annual interest of LIBOR linked to the USD.

B. In June 2015, the Company entered into a Research and License Agreement (the "2015 License Agreement") as amended with Yeda Research and Development Company Limited ("Yeda"), according to which Yeda undertakes to procure the performance of the research. The research includes proof-of-concept studies testing in-vivo phage eradication against a model bacteria in germ free mice, development of an IBD model in animals under germ-free conditions and establishing an in-vivo method for measuring immune induction capability (Th1) of bacteria, followed by testing several candidate IBD inducing bacterial strains. During the research period, as defined in the 2015 License Agreement and subject to the terms and conditions specified in the 2015 License Agreement. The Company contributed an aggregate of approximately $1.8 million to the research budget agreed upon in the license agreement. In addition, Yeda granted the Company with an exclusive worldwide license for the development, production and sale of the products (the "License"), as defined in the 2015 License Agreement and subject to the terms and conditions specified in the 2015 License Agreement. In return for the License, the Company will pay Yeda annual license fees of approximately $10 thousand and royalties on revenues as defined in the 2015 License Agreement. In addition, in the event of certain mergers and acquisitions by the Company, Yeda will be entitled to an amount equivalent to 1% of the consideration received under such transaction (the "exit fee"), as adjusted per the terms of the agreement. Upon the closing of the merger with CHAC, the provisions of the Yeda license agreement related to the exit fee will be amended (see note 10). As the Company has not yet generated revenue from operations, no provision was included in the financial statements with respect to the 2015 License Agreement as of June 30, 2019 and December 31, 2018.

NOTE 7 — COMMITMENTS AND CONTINGENT LIABILITIES (cont.)

C. In May 2017, the Company entered into a lease agreement for office space in Ness Ziona, Israel. The agreement is for five years beginning on June 1, 2017 with an option to extend for an additional five years. Monthly lease payments under the agreement are approximately $16 thousand As part of the agreement, the Company has obtained a bank guarantee in favor of the property owner in the amount of approximately $92 thousand representing four monthly lease payments. Lease expenses recorded in the interim consolidated statements of operations were $96 thousand and $48 thousand for the three and six months ended June 30, 2019, respectively.

D. In May 2017, the Company signed an additional agreement with Yeda (the “2017 License Agreement”). According to which, Yeda provided a license to the Company. As consideration for the license, the Company will pay $10,000 for the term of the 2017 License Agreement, unless earlier terminated by either party, and granted Yeda 244,618 warrants to purchase Ordinary Shares of the Company at NIS 0.01 nominal value. Refer to Note 10 below for the terms of the warrants granted. In the event of certain mergers and acquisitions by the Company, Yeda will be entitled to an amount equivalent to 1% of the consideration received under such transaction, as adjusted per the terms of the agreement, in lieu and without duplication of the exit fee contemplated by the 2015 License Agreement. Upon the closing of the merger with CHAC, the provisions of the Yeda license agreement related to the exit fee will be amended (see note 10). As the Company has not yet generated revenue from operations, no provision was included in the financial statements with respect to the 2017 License Agreement as of June 30, 2019.

E. In April 2017, the Company signed an exclusive patent license agreement with the Massachusetts Institute of Technology (“MIT”) covering methods to synthetically engineer phage. According to the agreement, the Company received an exclusive, royalty-bearing license to certain patents held by MIT. In return, the Company paid an initial license fee of $25,000 during the year ended December 31, 2017 and is required to pay certain license maintenance fees of up to $250,000 in each subsequent year and following the commercial sale of licensed products. The Company is also required to make payments to MIT upon the satisfaction of development and commercialization milestones totaling up to $2.4 million in aggregate as well as royalty payments on future revenues. The consolidated financial statements do not include liabilities with respect to this agreement as the Company has not yet generated revenue and the achievement of certain milestones is not probable.

F. As successor in interest to RondinX, the Company is a party to a license agreement dated March 20, 2016 with Yeda, pursuant to which the Company has a worldwide exclusive license to Yeda’s know-how, information and patents related to the Company’s meta-genomics target discovery platform. As consideration for the license, the Company will pay license fees of $10,000 subject to the terms and conditions of the agreement. Either party has the option to terminate the agreement at any time by way of notice to the other party as outlined in the agreement. In addition, the Company will pay a royalty in the low single digits on revenue from the sale of products. As the Company has not yet generated revenue from operations, no provision was included in the financial statements as of as of June 30, 2019 with respect to the agreement.

NOTE 7 — COMMITMENTS AND CONTINGENT LIABILITIES (cont.)

G. In December 2017, the Company signed a patent license agreement with Keio University and JSR Corporation in Japan. According to the agreement, the Company received an exclusive patent license to certain patent rights related to the Company's inflammatory bowel disease program. In return, the Company will pay annual license fees of between $15 thousand to $25 thousand subject to the terms and conditions specified in the agreement. Additionally, the Company is obligated to pay contingent consideration based upon the achievement of clinical and regulatory milestones up to an aggregate of $3.2 million and royalty payments based on future revenue.

The consolidated financial statements do not include liabilities with respect to this agreement as the Company has not yet generated revenue and the achievement of certain milestones does not meet the probable threshold.

H. In April 2019, the Company signed additional patent license agreement with Keio University and JSR Corporation in Japan. According to the agreement, the Company received an exclusive sublicense by JSR to certain patent license to certain patent rights related to the Company's Primary Sclerosing Cholangitis program. In return, the Company is required (i) to pay a license issue fee of $20,000 and annual license fees ranging from $15,000 to $25,000 and (ii) make additional payments based upon the achievement of clinical and regulatory milestones up to an aggregate of $3.2 million ("milestone payments") and (iii) make tiered royalty payments, in the low single digits based on future revenue. As the Company has not yet generated any revenue, and the achievement of certain milestones is not probable, no provision was included in the interim consolidated financial statements as of as of June 30, 2019 and in the financial statements December 31, 2018 with respect to the agreement.

NOTE 8 — SHAREHOLDERS' EQUITY

A. Share Capital:

Ordinary Shares:

The Ordinary Shares entitle their holders the right to receive notice of, and to participate and vote in, all general meetings, to receive dividends and, subject to the Articles to participate in the distribution of the surplus assets and funds of the Company in a Liquidation Event (as defined in the Articles). The holder of an Ordinary Share has no other right and such holder may waive, in writing, any of the rights set forth above, including the rights to receive notices of, and to participate and vote in, all general meetings; provided, however, that such holder will be entitled to any other mandatory right of a shareholder in a private Company pursuant to the Companies Law which cannot be waived.

Ordinary A Shares:

The Ordinary A Shares are convertible into Ordinary Shares upon the closing of each and every investment round (as defined in the Articles), by providing a notice to this effect to the Company. The holders of the Ordinary A Shares are entitled to the rights, preferences, privileges and restrictions granted to and imposed upon the Ordinary Shares. However, the holders of the Ordinary A Shares do not have voting rights.

Preferred A Shares:

The Preferred A Shares are convertible into 234,147 Ordinary Shares, representing a conversion price of $4.10 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Ordinary Shares and Ordinary A Shares, as well as the right to participate in a distribution of surplus of assets upon liquidation of the Company, merger and acquisition event and distribution of dividend by the Company, at an amount equal to their original issue price plus 8% annual interest accumulated as of the Liquidation Event Date (as defined in the Articles), before any distribution is made to a holder of any Ordinary Shares.

NOTE 8 — SHAREHOLDERS' EQUITY (cont.)

The Preferred A Share conversion price is subject to broad weighted average anti-dilution protection in the event of future funding at an effective share price which is lower than the Preferred A Share conversion price.

Preferred A-1 Shares:

The Preferred A-1 Shares are convertible into 2,500,511 Ordinary Shares, representing a conversion price of $10.22 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Preferred A Shares.

Preferred A-2 Shares:

The Preferred A-2 Shares are convertible into 130,434 Ordinary Shares, representing a conversion price of $9.20 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Preferred A Shares.

Preferred A-4 Shares:

Preferred A-4 Shares are convertible into 255,320 Ordinary Shares, representing a conversion price of $11.75 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Preferred A Shares.

Preferred B Shares:

Preferred B Shares are convertible into 2,266,314 Ordinary Shares, representing a conversion price of $14.1 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Preferred A Shares.

Preferred B Shares entitle their holder to participate in a distribution of surplus of assets upon liquidation of the Company, at an amount equal to their original issue price plus 8% annual interest accumulated as of the Liquidation Event (as defined in the Articles) date, before any distribution is made to holder of any Preferred A Shares (i.e., Preferred A Shares, Preferred A-1 Shares, Preferred A-2 Shares, Preferred A-3 Shares and Preferred A-4 Shares), and any Ordinary Shares.

B. Issuance of Share Capital:

In June 2015, the Company entered into the Incubator Agreement with the Incubator and other investors (the "June 2015 Investors"). In accordance with the Incubator Agreement, the Company issued 812,000 Ordinary Shares at NIS 0.01 nominal value to the June 2015 Investors and an additional 125,261 Ordinary Shares at NIS 0.01 nominal value to a trustee to be held in trust for the sole purpose of allocation of the Ordinary Shares to employees and consultants of the Company.

In addition, the Company issued 234,147 Preferred A Shares at NIS 0.01 nominal value to the investors in consideration for $960 thousands and granted Yeda warrants to purchase 20,360 Preferred A Shares nominal value NIS 0.01.

NOTE 8 — SHAREHOLDERS' EQUITY (cont.)

On February 2017, the Company entered into a share purchase agreement (the "February 2017 SPA") with new and existing investors (the "February 2017 Investors"). In accordance with the February 2017 SPA, On February 15, 2017, the Company issued the February 2017 Investors 1,663,404 Preferred A-1 Shares at NIS 0.01 nominal value ("Preferred A-1 Shares"), and 130,434 Preferred A-2 Shares at NIS 0.01 nominal value in two tranches as follows:

- On February 15, 2017, the Company issued 831,702 Preferred A-1 Shares for a total consideration of $8,500 thousands. In addition, the convertible notes in an amount of $1,200 thousands granted in August 2016 were converted into 130,434 Preferred A-2 Shares at NIS 0.01 nominal value.

- On February 7, 2018, the Company issued 831,702 Preferred A-1 Shares for a total consideration of $8,500 thousands.

On March 26, 2017 the Company entered into share purchase agreement (the "March 2017 SPA") with new investors (the "March 2017 Investors"). In accordance with the March SPA, the Company issued to the March 2017 Investors 587,084 Preferred A-1 Shares in two tranches as follows:

- On March 30, 2017, the Company issued 293,542 Preferred A-1 Shares for a total consideration of $3,000 thousands.

- On February 7, 2018, the Company issued 293,542 Preferred A-1 Shares for a total consideration of $3,000 thousands.

On November 30, 2017, the Company entered into a share purchase agreement (the "November 2017 SPA") with additional investors (the "November 2017 Investors"). In accordance with the November 2017 SPA, the Company issued the November 2017 Investors 255,320 Preferred A-4 Shares at NIS 0.01 nominal value in two tranches as follows:

- On December 7, 2017, the Company issued 127,660 Preferred A-4 Shares for total consideration of $1,500 thousand.

- On February 7, 2018, the Company issued 127,660 Preferred A-4 Shares for a total consideration of $1,500 thousand.

On November 19, 2017, the Company signed an agreement to purchase 100% of RondinX shares (see also Note 6). The consideration transferred included an issuance of 250,023 Preferred A-1 Shares and 4,380 warrants to purchase Preferred A-1 shares for no additional consideration.

In November 2018, the Company entered into a share purchase agreement (the "November 2018 SPA") with new and existing investors (the "November 2018 Investors"). In accordance with the November 2018 SPA, the Company issued to the November 2018 Investors a total of 2,266,314 Preferred B Shares at NIS 0.01 nominal value (the "Preferred B Shares") for total consideration of $31,955 thousand as follows:

- On November 28, 2018 and on December 11, 2018, the Company issued to the November 2018 Investors 2,053,548 and 85,106 Preferred B Shares, respectively, for total consideration of $30,155 thousand in accordance with the November 2018 SPA.

- On January 8, 2019, the Company issued to the November 2018 Investors an additional 127,660 Preferred B Shares for total consideration of $1,800 thousand in accordance with the November 2018 SPA.

NOTE 8 — SHAREHOLDERS' EQUITY (cont.)

C. Share-based compensation:

The Company has a plan whereby it grants options which represent a right to purchase 1 Ordinary Share of the Company in consideration of the payment of an exercise price. The options granted have been in accordance with the "capital gains route" under section 102 and section 3(i) of the Israeli Income Tax Ordinance and section 409A of the Israeli IRS Code.

In 2015, the Company's Board of Directors (the "Board") approved a plan for allocation of options to employees, service providers and officers. As of June 30, 2019, the number of options available for grant under the approved plan was 164,176 options.

On November 2015, the Board approved the grant of 180,139 non- tradable options without consideration to one employee, four consultants and six employees of the Incubator. Based on the considerations in ASC 718-10, the employees of the Incubator were defined as employees based on their relationship with the Company.

The options to two of the consultants were granted at an exercise price of NIS 0.01 per share. 22% of the options vest and become exercisable on the first and second anniversaries of the vesting commencement date of June 2015. Thereafter, the options vest and become exercisable in three equal annual installments of 18.67% each.

The options to the employees of the Incubator and to two consultants were granted at an exercise price of NIS 0.01 per share. 33% of the options vest and become exercisable on the first anniversary of the vesting commencement date of June 2015. Thereafter, the options vest and become exercisable in 8 equal quarterly installments of 8.375% each.

The options to the Company employee were granted at an exercise price of NIS 0.01 per share. 25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

During 2016, the Board approved the grant of an additional 128,260 non-tradable options without consideration to four employees and five consultants.

The options to three employees were granted at an exercise price of NIS 0.01 per share.

25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

The options to one additional employee were granted at an exercise price of $1.3 per share. 13,851 options vest and become exercisable upon appointment as chief executive officer of the Company. The remainder of the options shall vest as follows: 25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

The options to two consultants were granted at an exercise price of NIS 0.01 per share.

22% of the options vest and become exercisable on the first and second anniversaries of the vesting commencement date (June 2015). Thereafter, the options vest and become exercisable in three equal annual installments of 18.67% each.

The options to two additional consultants were granted at an exercise price of $1.3 per share.

25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

NOTE 8 — SHAREHOLDERS' EQUITY (cont.)

The options to one additional consultant were granted at an exercise price of $4.1 per share.

33% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 8 equal quarterly installments of 8.375% each.

During 2017, the Board approved the grant of an additional 448,775 non-tradable options without consideration to 29 employees and 5 consultants.

The options to 29 employees and 3 consultants were granted at an exercise price of $4.089 per share. 25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

The options to 2 additional consultants were granted at an exercise price of NIS 0.01 per share. 22% of the options vest and become exercisable on the first and second anniversaries of the vesting commencement date (June 2015). Thereafter, the options vest and become exercisable in three equal annual installments of 18.67% each.

During October 2017, 4,564 options were exercised to purchase Ordinary Shares at an exercise price of NIS 0.01 per share.

During 2018, the Board approved the grant of an additional 325,026 non-tradable options without consideration to 27 employees and 82,513 non-tradable options without consideration to 2 consultants.

362,555 options were granted at an exercise prices of $4.771-$4.909 per share.

25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

44,984 options were granted at an exercise price of $4.089 per share and vest on variable vesting dates.

During 2018, 12,797 options were exercised to purchase Ordinary Shares at an exercise price of NIS 0.01 per share.

Certain senior employees are entitled to full acceleration of their unvested options upon the occurrence of cumulative two certain events.

In March 2019, the Board approved the grant of an additional 212,900 non-tradable options without consideration to 21 employees and 2,503 non-tradable options without consideration to one consultant.at an exercise prices of $4.91 per share.

25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

The fair value of each option was estimated as of the date of grant or reporting period using the Black-Scholes option-pricing model.

NOTE 8 — SHAREHOLDERS' EQUITY (cont.)

The fair value of options granted during the period was estimated at the date of grant using the following assumptions:

	Six months ended June 30, 2019
Underlying value of ordinary share ($)	4.91
Exercise price ($)	4.91
Expected volatility (%)	93.1
Term of the option (years)	6.25
Risk-free interest rate (%)	2.23

The cost of the benefit embodied in the options granted during the six-month period ended June 30, 2019, based on their fair value as at the grant date, is estimated to be $836 thousand. These amounts will be recognized in statements of operations over the vesting period.

Warrants:

1. In May 2017, in accordance with the 2017 License Agreement (see also Note 6D), the Company issued to Yeda, for no consideration, 244,618 warrants to purchase Ordinary Shares at NIS 0.01 nominal value. The Company recognized expenses of $ 13 thousand and $49 thousand for the three months ended June 30, 2019 and 2018, respectively and $48 thousand and $89 thousand for the six months ended June 30, 2019 and 2018, respectively, which were included in research and development expenses.

   97,847 warrants were fully vested and exercisable on the date of their issuance. The remainder of the warrants will vest and become exercisable subject to achievement of certain milestones specified in the agreement as follows:

   a. 73,385 upon the filing of a patent application covering any Discovered Target or a Product,

   b. 48,924 upon achievement of the earlier of the following milestone by the Company:

      (i) execution of an agreement with a pharmaceutical company with respect to the commercialization of any of the Company's licensed technology or the Consulting IP or a Product (both defined in the 2017 License Agreement) or

      (ii) the filing of a patent application covering any Discovered Target (as defined in the 2017 License Agreement) or a Product.

   c. 24,462 upon completion of a Phase 1 clinical trial in respect of a Product.

2. In November 2017, in accordance with the RondinX share purchase agreement (see also Note 5), the Company issued to Yeda and 2 consultants, for no consideration, 4,380 warrants to purchase Preferred A-1 Shares at NIS 0.01 nominal value.

   The warrants were fully vested and exercisable on the date of their issuance.

NOTE 8 — SHAREHOLDERS' EQUITY (cont.)

(1) A summary of options granted to purchase the Company's Ordinary Shares under the Company's share option plan is as follows:

	For year six months ended June 30, 2019					
	Employees			Consultants		
	Number of Options	Weighted average exercise price	Aggregate intrinsic value	Number of Options	Weighted average exercise price	Aggregate intrinsic value
Outstanding at the beginning of year	772,985	3.81	849	290,534	1.66	944
Granted	212,900	4.91		2,503	4.91	
Forfeited	(49,203)	4.37		—		
Exercised	—			—		
Outstanding at the end of year	936,682	4.03	824	293,037	1.69	944
Vested at end of period	335,618			175,727		
Weighted average remaining contractual life – years as of June 30, 2019	8.94			7.62		

	Warrants issued to Yeda		
	Number of Options	Weighted average exercise price	Aggregate intrinsic value
Outstanding as at June 30, 2019 and December 31, 2018	244,618	(*)	1,200
Vested as at June 30, 2019 and December 31, 2018	97,847		
Weighted average remaining contractual life – years as of June 30, 2019	5.86		
Weighted average remaining contractual life – years as of December 31, 2018	6.36		

(*) Less than $0.01.

(2) The following table sets forth the total share-based payment expenses resulting from options granted, included in the statements of operation:

	Six months ended June 30,	
	2019	2018
R&D	367	174
General and administrative	264	281
	631	455

	Three months ended June 30,	
	2019	2018
R&D	173	103
General and administrative	154	109
	327	212

NOTE 9 — RELATED PARTIES

On October 31, 2018, BiomX entered into a research collaboration agreement with Janssen Research & Development, LLC ("Janssen") an affiliate of shareholder Johnson & Johnson Development Corporation, for a collaboration on biomarker discovery for inflammatory bowel disease ("IBD"). Under the agreement, BiomX is eligible to receive fees totaling $167 thousand in installments of $50 thousand within 60 days of signing of the agreement, $17 thousand upon completion of data processing, and two installments of $50 thousand each, upon delivery of Signature Phase I of the Final Study Report (both terms defined within the agreement). Unless terminated earlier, this agreement will continue in effect, until 30 days after the parties complete the research program and BiomX provide Janssen with a final study report. The research period started during March 2019 and is expected to continue through September 2019. As of June 30, 2019, the Company received $50 thousand with respect to this agreement. and recorded a reduction from research and development expenses of $95 thousand during the six months ended June 30, 2019.

NOTE 10 — SUBSEQUENT EVENTS

In accordance with FASB ASC 855-10-50-1, the Company has analyzed its operations subsequent to June 30, 2019 and up until August 22, 2019, the date these interim consolidated financial statements were issued, and has determined that it does not have any material subsequent events to disclose except as follows:

A. On July 16, 2019, the Company entered into a merger agreement (the "Merger Agreement"), with Chardan Healthcare Acquisition Corp. ("CHAC"), CHAC Merger Sub Ltd. ("Merger Sub"), and Shareholder Representative Services LLC ("SRS"), pursuant to which, among other things, the Company will merge with Merger Sub. with the Company being the surviving entity in accordance with the Israeli Companies Law, 5759-1999 (the "Companies Law"), as a wholly owned direct subsidiary of CHAC (the "Merger"). CHAC is a SPAC (Special Purpose Acquisition Company), a corporation that is publicly traded on the New York Stock Exchange. CHAC raised $70,000,000 in its initial public offering in 2018 and has not conducted any business other than seeking a party to a merger transaction (such as the Merger herein) where the cash CHAC raised, or part of it, will be used to finance the operations of the company it would merge with.

The consideration payable in the Merger consists of an aggregate of 16,625,000 shares of CHAC common stock, subject to reduction for indemnification claims (as described below), that will be issued (or reserved for issuance pursuant to currently exercisable options or warrants) in respect of shares of the Company that are issued and outstanding as of immediately prior to the effective time of the Merger (the "Closing") and options and warrants to purchase shares of the Company, in each case, that are issued, outstanding and vested as of immediately prior to the Closing. Additional shares of CHAC common stock will be reserved for issuance in respect of options and warrants to purchase shares of the Company that are issued, outstanding and unvested as of immediately prior to the closing.

The closing of the Merger is subject to certain closing conditions. As of August 22, 2019, the date these interim consolidated financial statements were issued, the Merger has not closed.

B. In July 2019, the Company has committed to enter into loan agreements in the aggregate amount of up to $1,900 thousand, with certain of its shareholders who are subject to taxation in Israel, pursuant to which the Company will extend to such shareholders loans for the purpose of paying Israeli capital gain taxes payable by them in connection with the issuance to them of CHAC shares in exchange for their shares in the Company upon consummation of the Merger. Such loans are for a period of up to two years, are non-recourse and are secured by CHAC shares issued to them that have a value (based on $10 per share, the attributed price of the CHAC Shares immediately prior to such issuance that equals three times the loan amount.

NOTE 10 — SUBSEQUENT EVENTS (cont.)

C. In July 2019, the Company, Yeda and CHAC amended the 2015 License Agreement and to the 2017 License Agreement with Yeda (the "Amendment"). Pursuant to the Amendment, upon the closing of the Merger, the provisions of the Yeda license agreements related to the exit fee will be amended so that, instead of the exit fee, in the event of any merger or acquisition involving CHAC, CHAC is obliged to pay Yeda a one-time payment as described in the amendment which will not exceed 1% of the consideration received under such transaction.

BIOMX LTD.
CONSOLIDATED BALANCE SHEETS

	Note	As of December 31, 2018	As of December 31, 2017
		USD In thousands	
ASSETS			
Current assets			
Cash and cash equivalents		8,604	6,898
Restricted cash		89	95
Short-term deposits		31,055	1,154
Other receivables	3	140	327
Total current assets		39,888	8,474
Property and equipment, net	4	887	960
In-process research and development (“R&D”)	5	4,556	4,556
		45,331	13,990

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

BIOMX LTD.
CONSOLIDATED BALANCE SHEETS (CONTINUED)

	Note	As of December 31, 2018	As of December 31, 2017
		USD In thousands	
LIABILITIES AND SHAREHOLDERS' EQUITY			
Current liabilities			
Trade account payables		193	421
Other account payables	6	1,396	1,038
Related parties	7	50	—
Total current liabilities		1,639	1,459
Non-current liabilities			
Contingent liabilities	5	889	1,001
Total non-current liabilities		889	1,001
Commitments and Contingent Liabilities	8		
Shareholders' equity			
Ordinary shares, NIS 0.01 par value ("Ordinary Shares"); Authorized 14,044,778 shares as of December 31, 2018 and 10,948,215 shares as of December 31, 2017. Issued and outstanding 954,622 shares as of December 31, 2018 and 653,613 shares as of December 31, 2017		3	3
Ordinary A shares, NIS 0.01 par value ("Ordinary A Shares"); Authorized 1,000,000 shares as of December 31, 2018 and December 31, 2017. Issued and outstanding 0 as of December 31, 2018 and 288,212 shares as of December 31, 2017.		—	(*)
Preferred A shares ("Preferred A Shares"); NIS 0.01 par value; Authorized 6,796,342 shares as of December 31, 2018 and December 31, 2017. Issued and outstanding 3,120,412 shares as of December 31, 2018 and 1,867,508 shares as of December 31, 2017.		6	4
Preferred B shares ("Preferred B Shares"); NIS 0.01 par value; Authorized 2,836,880 shares as of December 31, 2018 and 0 shares as of December 31, 2017. Issued and outstanding 2,138,654 shares as of December 31, 2018 and 0 shares as of December 31, 2017.		3	—
Additional paid in capital		64,400	20,412
Accumulated deficit		(21,609)	(8,889)
Total shareholders' equity		42,803	11,530
		45,331	13,990

(*) Less than $1,000.

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

BIOMX LTD.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS

	Note	Year ended December 31,		
		2018	2017	2016
		USD In thousands		
Research and development (“R&D”) expenses, net	11	9,135	4,176	1,149
General and administrative expenses	12	3,360	2,536	620
Operating Loss		12,495	6,712	1,769
Revaluation of convertible note	9	—	—	133
Financial expenses, net		225	(279)	(2)
Net Loss		12,720	6,433	1,900
Basic and diluted loss per Ordinary Shares and Ordinary A Shares	14	18.41	9.08	2.43
Weighted average number of Ordinary Shares and Ordinary A Shares outstanding, basic and diluted		828,295	813,902	812,000

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

BIOMX LTD.
CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY
USD in thousands except share data

	Ordinary Shares		Ordinary A Shares		Preferred A Shares		Preferred B Shares		Additional paid in capital	Accumulated deficit	Total shareholders' equity (deficit)
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount			
Balance as of January 1, 2016	937,261	3	—	—	234,147	(*)	—	—	1,195	(556)	642
Share-based payment	—	—	—	—	—	—	—	—	247	—	247
Net loss	—	—	—	—	—	—	—	—	—	(1,900)	(1,900)
Balance as of December 31, 2016	937,261	3	—	—	234,147	(*)	—	—	1,442	(2,456)	(1,011)
Issuance of shares (**)	—	—	—	—	1,252,904	2	—	—	13,000	—	13,002
Conversion of Ordinary to Ordinary A Shares	(288,212)		288,212	(*)	—	—	—	—	—	—	—
Shares issued in connection with convertible note conversion	—	—	—	—	130,434	(*)	—	—	1,333	—	1,333
Shares issued in connection with acquisition of subsidiary	—	—	—	—	250,023	2	—	—	3,327	—	3,329
Share-based payment	—	—	—	—	—	—	—	—	1,310	—	1,310
Exercise of options	4,564	(*)	—	—	—	—	—	—	—	—	—
Net loss	—	—	—	—	—	—	—	—	—	(6,433)	(6,433)
Balance as of December 31, 2017	653,613	3	288,212	(*)	1,867,508	4	—	—	20,412	(8,889)	11,530
Issuance of shares (***)	—	—	—	—	1,252,904	2	2,138,654	3	43,037	—	43,042
Conversion of shares	288,212	(*)	(288,212)	(*)	—	—	—	—	—	—	—
Share-based payment	—	—	—	—	—	—	—	—	951	—	951
Exercise of options	12,797	(*)	—	—	—	—	—	—	—	—	—
Net loss	—	—	—	—	—	—	—	—	—	(12,720)	(12,720)
Balance as of December 31, 2018	954,622	3	—	—	3,120,412	6	2,138,654	3	64,400	(21,609)	42,803

(*) Less than $1,000.
(**) Net of issuance expenses in amount of $73,000.
(***) Net of issuance expenses in amount of $114,000.

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

BIOMX LTD.
CONSOLIDATED STATEMENTS OF CASH FLOWS

	For year ended December 31,		
	2018	**2017**	**2016**
	USD In thousands		
CASH FLOWS – OPERATING ACTIVITIES			
Net loss	(12,720)	(6,433)	(1,900)
Adjustments required to reconcile cash flows used in operating activities			
Depreciation	210	95	23
Share-based compensation	951	1,310	247
Accrued interest	—	—	2
Revaluation of convertible notes and contingent liabilities	(112)	—	133
Changes in operating assets and liabilities:			
Other receivables	187	(225)	63
Trade account payables	(228)	407	(15)
Other account payables	358	783	92
Related parties	50	(37)	19
Net cash used in operating activities	(11,304)	(4,100)	(1,336)
CASH FLOWS – INVESTING ACTIVITIES			
Increase in short-term deposit	(29,901)	(1,154)	—
Acquisition of a subsidiary, net of cash acquired	—	(112)	—
Purchase of property and equipment	(137)	(850)	(98)
Net cash used in investing activities	(30,038)	(2,116)	(98)
CASH FLOWS – FINANCING ACTIVITIES			
Issuance of preferred shares, net of issuance costs	43,042	12,953	—
Proceeds from issuance of convertible notes	—	—	1,200
Exercise of stock options	(*)	(*)	—
Net cash provided by financing activities	43,042	12,953	1,200
Increase in cash and cash equivalents and restricted cash	1,700	6,737	(234)
Cash and cash equivalents and restricted cash at the beginning of the year	6,993	256	490
Cash and cash equivalents and restricted cash at the end of the year	8,693	6,993	256

(*) Less than $1,000.

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

BIOMX LTD.
CONSOLIDATED STATEMENTS OF CASH FLOWS (CONTINUED)

	For the year ended December 31,		
	2018	**2017**	**2016**
	USD In thousands		
SUPPLEMENTAL DISCLOSURE OF NON-CASH FINANCING AND INVESTING ACTIVITIES:			
Conversion of convertible notes into Preferred A Shares	—	1,333	—
Appendix A: Acquisitions of subsidiary consolidated for the first time			
Working capital (excluding cash and cash equivalents)	—	(78)	—
Property and equipment, net	—	14	—
In-process R&D	—	4,556	—
Acquisition of a subsidiary, net of cash acquired	—	4,492	—

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

BIOMX LTD.
(FORMERLY KNOWN AS: MBCURE LTD)
NOTES TO CONSOLIDATED THE FINANCIAL STATEMENTS

NOTE 1 — GENERAL

A. General information:

BiomX Ltd. (formerly known as MBcure Ltd.) (the "Company") was incorporated in March 2015 and began operations in May 2015. The Company is developing bacteriophage-based therapies for the treatment and prevention of diseases stemming from dysbiosis of the microbiome. On May 11, 2017, the Company changed its name from MBcure Ltd. to BiomX Ltd.

BiomX was formed as an incubator company as part of the FutuRx incubator (the "Incubator" or "FutuRx"), The Company's R&D program was approved by the Israel Innovation Authority (the "IIA") at the Israeli Ministry of Economy and until 2017, the majority of BiomX's funding was from IIA grants and funding by the Incubator, which is supported by the IIA. BiomX continued to apply for and receive IIA grants also after BiomX left the Incubator. The requirements and restrictions for such grants are found in the Israel Encouragement of Research and Development in Industries (the "Research Law").

On November 27, 2017, the Company acquired 100% control and ownership of RondinX Ltd. ("RondinX," see note 5).

B. Risk factors:

To date, the Company has not generated revenue from its operations. As of July 17, 2019, the Company had unrestricted cash and cash equivalent balance and short-term deposits of approximately $34 million, which management believes is sufficient to fund its operations for more than 12 months from the date of issuance of these financial statements and sufficient to fund its operations necessary to continue development activities of its current proposed products.

Due to continuing R&D activities, the Company expects to continue to incur additional losses for the foreseeable future. The Company plans to continue to fund its current operations, as well as other development activities relating to additional product candidates, through future issuances of either debt and/or equity securities and possibly additional grants from the IIA and other government institutions. The Company's ability to raise additional capital in the equity and debt markets is dependent on a number of factors including, but not limited to, the market demand for the Company's stock, which itself is subject to a number of development and business risks and uncertainties, as well as the uncertainty that the Company would be able to raise such additional capital at a price or on terms that are favorable to the Company.

C. Use of estimates in the preparation of financial statements:

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities in the financial statements and the amounts of expenses during the reported years. Actual results could differ from those estimates.

NOTE 2 — SIGNIFICANT ACCOUNTING POLICIES

The significant accounting policies applied in the preparation of the financial statements on a consistent basis, are as follows:

A. Basis of presentation and principles of consolidation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP") and include the accounts of the Company and its wholly owned subsidiary, RondinX since its acquisition in November 2017. All intercompany accounts and transactions have been eliminated in consolidation.

NOTE 2 — SIGNIFICANT ACCOUNTING POLICIES (cont.)

B. Functional currency and foreign currency translation:

The functional currency of the Company is the U.S dollar ("dollar") since the dollar is the currency of the primary economic environment in which the Company has operated and expects to continue to operate in the foreseeable future.

Transactions and balances denominated in dollars are presented at their original amounts.

Transactions and balances denominated in foreign currencies have been re-measured to dollars in accordance with the provisions of ASC 830-10, "Foreign Currency Translation."

All transaction gains and losses from remeasurement of monetary balance sheet items denominated in non-dollar currencies are reflected in the statements of comprehensive loss as financial income or expenses, as appropriate.

C. Cash and cash equivalents:

The Company considers all highly liquid investments, including unrestricted short-term bank deposits purchased with original maturities of three months or less, to be cash equivalents.

D. Short-term deposits:

Short-term deposits represent time deposits placed with banks with original maturities of greater than three months but less than one year. Interest earned is recorded as interest income in the consolidated statement of comprehensive loss during the years for which the Company held short-term deposits.

The Company has deposits denominated in USD held with Bank Hapoalim US and Bank Leumi Israel that bear fixed annual interest of 2.9% to 3.6%.

E. Property and equipment:

Property and equipment are presented at cost less accumulated depreciation. Depreciation and amortization are calculated based on the straight-line method over the estimated useful lives of the related assets or terms of the related leases, as follows:

	%
Laboratory equipment	15
Computers and software	33
Equipment and furniture	15
Leasehold improvements	Shorter of lease term or useful life

In accordance with ASC 360-10, management reviews long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable based on estimated future undiscounted cash flows. If so indicated, an impairment loss would be recognized for the difference between the carrying amount of the asset and its fair value**.** For the years ended December 31, 2018, 2017, and 2016, no impairment expenses were recorded.

NOTE 2 — SIGNIFICANT ACCOUNTING POLICIES (cont.)

F. Intangible assets:

Intangible R&D assets acquired in a business combination (IPR&D) are recognized at fair value as of the acquisition date and subsequently accounted for as indefinite-lived intangible assets until completion or abandonment of the associated R&D efforts.

Indefinite-lived intangible assets are reviewed for impairment at least annually or whenever there is an indication that the asset may be impaired.

G. Income taxes:

The Company provides for income taxes using the asset and liability approach. Deferred tax assets and liabilities are recorded based on the differences between the financial statement and tax bases of assets and liabilities and the tax rates in effect when these differences are expected to reverse. Deferred tax assets are reduced by a valuation allowance if, based on the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized. As of December 31, 2018 and 2017, the Company had a full valuation allowance against deferred tax assets.

The Company is subject to the provisions of ASC 740-10-25, Income Taxes (ASC 740). ASC 740 prescribes a more likely-than-not threshold for the financial statement recognition of uncertain tax positions. ASC 740 clarifies the accounting for income taxes by prescribing a minimum recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. On a yearly basis, the Company undergoes a process to evaluate whether income tax accruals are in accordance with ASC 740 guidance on uncertain tax positions. The Company has not recorded any liability for uncertain tax positions for the years ended December 31, 2018, 2017, or 2016.

H. Fair value of financial instruments

The Company accounts for financial instruments in accordance with ASC 820, “Fair Value Measurements and Disclosures” (“ASC 820”). ASC 820 establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy under ASC 820 are described below:

Level 1 — Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities.

Level 2 — Quoted prices in non-active markets or in active markets for similar assets or liabilities, observable inputs other than quoted prices, and inputs that are not directly observable but are corroborated by observable market data.

Level 3 — Prices or valuations that require inputs that are both significant to the fair value measurement and unobservable.

There were no changes in the fair value hierarchy leveling during the years ended December 31, 2018, 2017, and 2016.

NOTE 2 — SIGNIFICANT ACCOUNTING POLICIES (cont.)

The following table summarizes the fair value of our financial assets and liabilities that were accounted for at fair value on a recurring basis, by level within the fair value hierarchy, as of December 31, 2018 and 2017:

	December 31, 2018			
	Level 1	Level 2	Level 3	Fair Value
Liabilities				
Contingent consideration	—	1,333	889	889

	December 31, 2017			
	Level 1	Level 2	Level 3	Fair Value
Liabilities				
Contingent consideration	—	—	1,001	1,001

Financial instruments with carrying values approximating fair value include cash and cash equivalents, restricted cash, short-term deposits, other current assets, trade accounts payable and other current liabilities, due to their short-term nature.

I. R&D costs:

R&D costs are charged to statements of comprehensive loss as incurred.

J. Basic and diluted loss per share:

Basic loss per share is computed by dividing net loss by the weighted average number of Ordinary and Ordinary A Shares outstanding during the year. Diluted loss per share is computed by dividing net loss by the weighted average number of Ordinary Shares and Ordinary A Shares outstanding during the year, plus the number of Ordinary Shares and Ordinary A Shares that would have been outstanding if all potentially dilutive Ordinary Shares and Ordinary A Shares had been issued, using the treasury stock method, in accordance with ASC 260-10 “Earnings per Share.” Potentially dilutive Ordinary Shares and Ordinary A Shares were excluded from the calculation of diluted loss per share for all periods presented due to their anti-dilutive effect due to losses in each period.

K. Defined contribution plans:

Under Israeli employment laws, employees of the Company are included under Article 14 of the Severance Compensation Act, 1963 (“Article 14”) for a portion of their salaries. According to Article 14, these employees are entitled to monthly deposits made by the Company on their behalf with insurance companies.

Payments in accordance with Article 14 release the Company from any future severance payments (under the Israeli Severance Compensation Act, 1963) with respect of those employees. The aforementioned deposits are not recorded as an asset on the Company’s balance sheet, and there is no liability recorded as the Company does not have a future obligation to make any additional payments. The Company’s contributions to the defined contribution plans are charged to the consolidated statement of comprehensive loss as and when the services are received from the Company’s employees. Total expenses with respect to these contributions were $283 thousand, $145 thousand, and $42 thousand for the years ended December 31, 2018, 2017, and 2016, respectively.

NOTE 2 — SIGNIFICANT ACCOUNTING POLICIES (cont.)

L. Stock compensation plans:

The Company applies ASC 718-10, “Share-Based Payment,” (“ASC 718-10”) which requires the measurement and recognition of compensation expenses for all share-based payment awards made to employees and directors including employee stock options under the Company’s stock plans based on estimated fair values.

ASC 718-10 requires companies to estimate the fair value of share-based payment awards on the date of grant using an option-pricing model. The fair value of the award is recognized as an expense over the requisite service periods in the Company’s statements of comprehensive loss. The Company recognizes share-based award forfeitures as they occur rather than estimate by applying a forfeiture rate.

The Company accounts for share-based compensation awards to non-employees in accordance with FASB ASC 505-50, “Equity-Based Payments to Non-Employees” (“FASB ASC 505-50”). Under FASB ASC 505-50, the Company determines the fair value of the warrants or share-based compensation awards granted as either the fair value of the consideration received, or the fair value of the equity instruments issued, whichever is more reliably measurable.

All issuances of stock options or other equity instruments to non-employees as consideration for goods or services received by the Company are accounted for based on the fair value of the equity instruments issued. Non-employee share-based payments are recorded as an expense over the service period, as if the Company had paid cash for the services. At the end of each financial reporting period, prior to vesting or prior to the completion of the services, the fair value of the share-based payments will be remeasured and the non-cash expense recognized during the period will be adjusted accordingly. Since the fair value of share- based payments granted to non-employees is subject to change in the future, the amount of the future expense will include fair value remeasurements until the share-based payments are fully vested or the service completed.

The Company recognizes compensation expense for the fair value of non-employee awards over the requisite service period of each award.

The Company estimates the fair value of stock options granted as equity awards using a Black-Scholes options pricing model. The option-pricing model requires a number of assumptions, of which the most significant are share price, expected volatility and the expected option term (the time from the grant date until the options are exercised or expire). Expected volatility is estimated based on volatility of similar companies in the technology sector. The Company has historically not paid dividends and has no foreseeable plans to issue dividends. The risk-free interest rate is based on the yield from governmental zero-coupon bonds with an equivalent term. The expected option term is calculated for options granted to employees and directors using the “simplified” method. Grants to non-employees are based on the contractual term. Changes in the determination of each of the inputs can affect the fair value of the options granted and the results of operations of the Company.

M. Recent Accounting Standards:

In February 2016, the FASB issued ASU 2016-02 “Leases” to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. For operating leases, the ASU requires a lessee to recognize a right-of-use asset and a lease liability, initially measured at the present value of the lease payments, on its balance sheet. The ASU retains the current accounting for lessors and does not make significant changes to the recognition, measurement, and presentation of expenses and cash flows by a lessee.

NOTE 2 — SIGNIFICANT ACCOUNTING POLICIES (cont.)

In July 2018, the FASB issued ASU No. 2018-11, "Targeted Improvements — Leases (Topic 842)." This update provides an optional transition method that allows entities to elect to apply the standard prospectively at its effective date versus recasting the prior periods presented. If elected, an entity would recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. The Company plans to adopt this ASU in the first quarter of 2019.

While the Company continues to assess all of the effects of adoption, it currently believes the most significant effects from implementing this standard relate to the recognition of new right-of-use ("ROU") assets and lease liabilities on its balance sheet for office space operating lease. Upon adoption, the Company currently expects to recognize additional ROU assets and lease liabilities of approximately $377K, based on the present value of the remaining minimum rental payments under current leasing standards for its existing operating lease.

In June 2016, the FASB issued ASU 2016-13 "Financial Instruments — Credit Losses" to improve information on credit losses for financial assets and net investment in leases that are not accounted for at fair value through net income. The ASU replaces the current incurred loss impairment methodology with a methodology that reflects expected credit losses. The Company plans to adopt this ASU in the first quarter of 2020. The Company does not expect the adoption of this ASU will have a material impact on its consolidated financial statements.

In June 2018, the FASB issued ASU No. 2018-07 "Compensation — Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting." These amendments expand the scope of Topic 718, Compensation — Stock Compensation (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 ASU supersedes Subtopic 505-50, Equity — Equity-Based Payments to Non-Employees. The Company plans to adopt this standard in the first quarter of 2019. ASU 2018-07 is not expected to have a material impact on Company's consolidated financial statements.

In August 2018, the FASB issued ASU 2018-13, "Changes to Disclosure Requirements for Fair Value Measurements," which will improve the effectiveness of disclosure requirements for recurring and nonrecurring fair value measurements. The standard removes, modifies, and adds certain disclosure requirements and is effective for the Company beginning on January 1, 2020. The Company does not expect that this standard will have a material effect on the Company's consolidated financial statements.

In November 2018, the FASB issued ASU 2018-18 — "Collaborative Arrangements (Topic 808)," which clarifies the interaction between Topic 808 and Topic 606, Revenue from Contracts with Customers. The Company expects to adopt this standard in the first quarter of fiscal year 2020. This standard is not expected to have a material impact on the Company's consolidated financial statements and related disclosures.

NOTE 3 — OTHER RECEIVABLES

	As of December 31,	
	2018	2017
	USD In thousands	
Government institutions	129	199
Grant income receivable	—	128
Prepaid expenses and others	11	—
	140	327

NOTE 4 — PROPERTY AND EQUIPMENT, NET

	As of December 31,	
	2018	2017
	USD In thousands	
Cost:		
Computers and software	272	236
Laboratory equipment	608	558
Equipment and furniture	132	120
Leasehold improvements	214	175
	1,226	1,089
Depreciation:		
Computers and software	125	60
Laboratory equipment	165	59
Equipment and furniture	4	3
Leasehold improvements	45	7
	339	129
	887	960

NOTE 5 — ACQUISITION OF SUBSIDIARY

On November 19, 2017, the Company signed a share purchase agreement with the shareholders of RondinX Ltd. In accordance with the share purchase agreement, the Company acquired 100% control and ownership of RondinX for consideration valued at $ 4.5 million. The consideration included the issuance of 250,023 Preferred A Shares, the issuance of warrants to purchase an aggregate of 4,380 Series A-1 Preferred Shares, and additional contingent consideration. The contingent consideration is based on the attainment of future clinical, developmental, regulatory, commercial and strategic milestones relating to product candidates for treatment of primary sclerosing cholangitis or entry into qualifying collaboration agreements with certain third parties and may require the Company to issue 234,834 ordinary shares upon the attainment of certain milestones, as well as make future cash payments and/or issue additional shares of the most senior class of the Company's shares authorized or outstanding as of the time the payment is due, or a combination of both of up to $32 million of the Company within ten years from the closing of the agreement and/or the entering of agreements with certain third parties or their affiliates that include a qualifying up-front fee and is entered into within three years from the closing of the agreement. The Company has the discretion of determining whether milestone payments will be made in cash or by issuance of shares.

The Company completed the RondinX acquisition on November 27, 2017.

NOTE 5 — ACQUISITION OF SUBSIDIARY (cont.)

The fair value of the consideration transferred for the business combination was as follows as of November 27, 2017:

	USD In thousands
Cash	124
Preferred shares	2,938
Warrants	51
Contingent consideration	1,391
	4,504

Net cash flow of the acquisition:

	USD In thousands
Consideration paid in cash	124
Net of cash and cash equivalents purchased	(12)
	112

The fair value of assets acquired and liabilities assumed as of November 27, 2017:

	USD In thousands
Cash	12
Other receivables	26
Property and equipment, net	14
In-process R&D	4,556
Other account payables	(96)
Trade account payables	(8)
	4,504

Intangible assets acquired in the acquisition were determined to be in-process R&D. In accordance with ASC 350-30-35-17A, R&D assets acquired in a business combination are considered an indefinite-lived intangible asset until completion or abandonment of the associated R&D efforts. Once the R&D efforts are complete, the Company will determine the useful life of the R&D assets and will amortize these assets accordingly in the financial statements. As of December 31, 2018, the in-process R&D efforts had not yet been completed nor abandoned. Based on management's analysis, there were no impairment indicators present as of December 31, 2018 and 2017.

NOTE 6 — OTHER ACCOUNT PAYABLES

	As of December 31,	
	2018	2017
	USD In thousands	
Employees and related institutions	807	621
Accrued expenses	411	260
Government institutions	120	126
Deferred income	58	—
Other account payables	—	31
	1,396	1,038

NOTE 7 — BALANCES AND TRANSACTION WITH RELATED PARTIES

A. Balances with related parties

	As of December 31,	
	2018	2017
	USD In thousands	
Janssen (See 1 below)	50	—
	50	—

B. Transactions with related parties

	Year ended December 31,		
	2018	2017	2016
	USD In thousands		
R&D expenses (See Note 8D)	—	—	163
General and administration expenses (See 2 below)	28	251	134

1. On October 31, 2018, BiomX entered into a research collaboration agreement with Janssen Research & Development, LLC (“Janssen”) an affiliate of shareholder Johnson & Johnson Development Corporation, for a collaboration on biomarker discovery for inflammatory bowel disease (“IBD”). Under the agreement, BiomX is eligible to receive fees totaling $167,000 in installments of $50,000 within 60 days of signing of the agreement, $17,000 upon completion of data processing, and two installments of $50,000 each, upon delivery of Signature Phase I of the Final Study Report (both terms defined within the agreement). Unless terminated earlier, this agreement will continue in effect, until 30 days after the parties complete the research program and BiomX provide Janssen with a final study report. The Company received the first $50,000 installment during 2018. This amount was deferred as of December 31, 2018, as the Company has not yet completed its performance obligation with respect to the agreement.

2. In June 2015, an incubator company formation and financing agreement (the “Incubator Agreement”) was signed between the Company and other investors. According to the agreement, role of the Incubator (as defined within the agreement) is to provide the Company offices, labs, administrative, finance, legal and other services. In return for these services, the Incubator was entitled to receive fees at amount equal to 20% of the Company’s payroll expenses. Starting from July 2018, the Company no longer received these services from the Incubator. The Company recorded total expenses of $28 thousand, $251 thousand, and $134 thousand for the years ended December 31, 2018, 2017, and 2016, respectively, with respect to this agreement.

3. The Company entered into a credit line agreement with the Incubator in May 2015 (the “Credit Line Agreement”), according to which, during the Incubator Period (as defined within the Credit Line Agreement) of the Company, the Incubator may provide loans to the Company, upon the Company’s request and subject to the Incubator’s discretion. The loans bear annual interest equivalent to the minimal interest amount recognized and attributed by the Israel Tax Authority, and shall be repaid on a date that is the earlier of (i) the occurrence of an acceleration event, liquidation of the Company, initial public offering or realization event, (ii) within 14 days from a written notice sent by the Company, or (iii) within seven months. The Credit Line Agreement ended on May 31, 2018.

   The Company received a loan in the amount of $209 thousand during 2015 that was repaid as of December 31, 2015. The Company received an additional loan during 2016 in the amount of $107 thousand that was repaid in full by December 31, 2016. The loans bore interest of 2.56% and 3.05% during 2016 and 2015, respectively. Total interest expenses recorded during for the year ended December 31, 2016 was approximately $1 thousand.

NOTE 7 — BALANCES AND TRANSACTION WITH RELATED PARTIES (cont.)

4. The Company entered into indemnification agreement with the Incubator on December 13, 2017. According to the agreement, the aggregate amount of the indemnification shall not exceed an aggregate of NIS 2,295,000. In addition, the indemnification is limited only to matters in connection with the Company's compliance with the IIA regulations and that such indemnification undertakings will not derogate from any other indemnification undertakings to which the Company is bound.

NOTE 8 — COMMITMENTS AND CONTINGENT LIABILITIES

A. During 2015, 2016 and 2017, the Company submitted three requests to the IIA for a R&D project for the technological incubators program. The approved budget per year was NIS 2,700,000 (approximately $726 thousand) per request. According to the IIA directives, the IIA transferred to the Company 85% of the approved budget and the rest of the budget was funded by certain shareholders.

According to the agreement with the IIA, the Company will pay royalties of 3% to 3.5% of future sales up to an amount equal to the accumulated grant received including annual interest of LIBOR linked to the Dollar. The Company may be required to pay additional royalties upon the occurrence of certain events as determined by the IIA, that are within the control of the Company. No such events have occurred or were probable of occurrence as of the balance sheet date. with respect to these royalties. Repayment of the grant is contingent upon the successful completion of the Company's R&D programs and generating sales. The Company has no obligation to repay these grants if the R&D program fails, is unsuccessful or aborted or if no sales are generated. The Company had not yet generated sales as of December 31, 2018; therefore, no liability was recorded in these consolidated financial statements.

Total research and development income recorded in the consolidated statement of comprehensive loss was $646 thousand, $660 thousand, and $302 thousand for the years ended December 31, 2018, 2017, and 2016, respectively. As of December 31, 2018, the Company had a contingent obligation to the IIA in the amount of approximately $1.9 million including annual interest of LIBOR linked to the Dollar.

B. In June 2015, the Company entered into a Research and License Agreement (the "2015 License Agreement") as amended with Yeda Research and Development Company Limited ("Yeda"), according to which Yeda undertakes to procure the performance of the research. The research includes proof-of-concept studies testing in-vivo phage eradication against a model bacteria in germ free mice, development of an IBD model in animals under germ-free conditions and establishing in-vivo method for measuring immune induction capability (Th1) of bacteria, followed by testing several candidate IBD inducing bacterial strains. During the research period, as defined in the 2015 License Agreement and subject to the terms and conditions specified in the 2015 License Agreement. The Company contributed an aggregate of approximately $1.8 million to the research budget agreed upon in the license agreement. In addition, Yeda granted the Company with an exclusive worldwide license for the development, production and sale of the products (the "License"), as defined in the 2015 License Agreement and subject to the terms and conditions specified in the 2015 License Agreement. In return for the License, the Company will pay Yeda annual license fees of approximately $10 thousand and royalties on revenues as defined in the 2015 License Agreement. As the Company has not yet generated revenue from operations, no provision was included in the financial statements with respect to the 2015 License Agreement as of December 31, 2018, 2017 and 2016.

NOTE 8 — COMMITMENTS AND CONTINGENT LIABILITIES (cont.)

C. In May 2017, the Company entered into a lease agreement for office space in Ness Ziona, Israel. The agreement is for five years beginning on June 1, 2017 with an option to extend for an additional five years. Monthly lease payments under the agreement are approximately $16,000. As part of the agreement, the Company has obtained a bank guarantee in favor of the property owner in the amount of approximately $91 thousand representing four monthly lease payments. Lease expenses recorded in the consolidated statements of comprehensive loss were $198 thousand and $192 thousand for the years ended December 31, 2018, and 2017, respectively.

D. In May 2017, the Company signed an additional agreement with Yeda (the “2017 License Agreement”). According to which, Yeda provided a license to the Company. As consideration for the license, the Company will pay $10,000 for the term of the 2017 License Agreement, unless earlier terminated by either party, and granted Yeda 244,618 warrants to purchase Ordinary Shares of the Company at NIS 0.01 nominal value. Refer to Note 10 below for the terms of the warrants granted. In the event of certain mergers and acquisitions by the Company, Yeda will be entitled to an amount equivalent to 1% of the consideration received under such transaction, as adjusted per the terms of the agreement. In addition, the 2017 License Agreement includes additional consideration contingent upon future sales or sublicensing revenue. As the Company has not yet generated revenue from operations, no provision was included in the financial statements with respect to the 2017 License Agreement as of December 31, 2018, 2017 and 2016.

E. In April 2017, the Company signed an exclusive patent license agreement with the Massachusetts Institute of Technology (“MIT”) covering methods to synthetically engineer phage. According to the agreement, the Company received an exclusive, royalty-bearing license to certain patents held by MIT. In return, the Company paid an initial license fee of $25,000 during the year ended December 31, 2017 and is required to pay certain license maintenance fees of up to $250,000 in each subsequent year and following the commercial sale of licensed products. The Company is also required to make payments to MIT upon the satisfaction of development and commercialization milestones totaling up to $2.4 million in aggregate as well as royalty payments on future revenues. The consolidated financial statements do not include liabilities with respect to this agreement as the Company has not yet generated revenue and the achievement of certain milestones is not probable.

F. As successor in interest to RondinX, the Company is a party to a license agreement dated March 20, 2016 with Yeda, pursuant to which the Company has a worldwide exclusive license to Yeda’s know-how, information and patents related to the Company’s meta-genomics target discovery platform. As consideration for the license, the Company will pay license fees of $10,000 subject to the terms and conditions of the agreement. Either party has the option to terminate the agreement at any time by way of notice to the other party as outlined in the agreement. In addition, the Company will pay a royalty in the low single digits on revenue of products. As the Company has not yet generated revenue from operations, no provision was included in the financial statements as of December 31, 2018 with respect to the agreement.

G. In December 2017, the Company signed a patent license agreement with Keio University and JSR Corporation in Japan. According to the agreement, the Company received an exclusive patent license to certain patent rights related to the Company’s inflammatory bowel disease program. In return, the Company will pay annual license fees of between $15 thousand to $25 thousand subject to the terms and conditions specified in the agreement. Additionally, the Company is obligated to pay contingent consideration based upon the achievement of clinical and regulatory milestones up to an aggregate of $3.2 million and royalty payments based on future revenue.

NOTE 8 — COMMITMENTS AND CONTINGENT LIABILITIES (cont.)

The consolidated financial statements do not include liabilities with respect to this agreement as the Company has not yet generated revenue and the achievement of certain milestones does not meet the probable threshold.

NOTE 9 — CONVERTIBLE NOTES

On August 9, 2016, the Company and several of its shareholders entered into a Bridge Financing Agreement (the "BFA"). According to the BFA, the Company issued convertible notes and received an aggregate principal amount of $1,200 thousands. The convertible notes did not bear interest and were convertible into Preferred A-2 Shares of the Company, according to the conditions set in the BFA. The fair value of the convertible notes was calculated according to the discount on the Company's Preferred A Shares as described in the BFA. The difference between the fair value of the convertible note and principal amount received was recorded as a finance expense in the consolidated statement of comprehensive loss in the amount of $133 thousand upon issuance of the note. There was no change in the fair value of the note as of December 31, 2016. During 2017, the convertible notes were converted into 130,434 Preferred A-2 Shares. Refer to Note 10.

The Company concluded that the value of the convertible notes were predominantly based on a fixed monetary amount represented by the 10% discount on the Company's Preferred A Shares. Accordingly, the convertible notes were classified as debt and was measured at its fair value, pursuant to the provisions of ASC 480-10, "Accounting for Certain Financial Instruments with Characteristics of Both Liabilities and Equity." The fair value of the convertible note was measured based on observable inputs as the fixed monetary value of the variable number of Preferred A-2 Shares to be issued upon conversion (Level 2 measurement).

NOTE 10 — SHAREHOLDERS' EQUITY

A. Share Capital:

Ordinary Shares:

The Ordinary Shares entitle their holders the right to receive notice of, and to participate and vote in, all general meetings, to receive dividends and, subject to the Articles to participate in the distribution of the surplus assets and funds of the Company in a Liquidation Event (as defined in the Articles). The holder of an Ordinary Share has no other right and such holder may waive, in writing, any of the rights set forth above, including the rights to receive notices of, and to participate and vote in, all general meetings; provided, however, that such holder will be entitled to any other mandatory right of a shareholder in a private Company pursuant to the Companies Law which cannot be waived.

Ordinary A Shares:

The Ordinary A Shares are convertible into Ordinary Shares upon the closing of each and every investment round (as defined in the Articles), by providing a notice to this effect to the Company. The holders of the Ordinary A Shares are entitled to the rights, preferences, privileges and restrictions granted to and imposed upon the Ordinary Shares. However, the holders of the Ordinary A Shares do not have voting rights.

Preferred A Shares:

The Preferred A Shares are convertible into 234,147 Ordinary Shares, representing a conversion price of $4.10 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Ordinary Shares and Ordinary A Shares, as well as the right to participate in a distribution of surplus of assets upon liquidation of the Company, merger and acquisition event and distribution of dividend by the Company, at an amount equal to their original issue price plus 8% annual interest accumulated as of the Liquidation Event Date (as defined in the Articles), before any distribution is made to a holder of any Ordinary Shares.

NOTE 10 — SHAREHOLDERS' EQUITY (cont.)

The Preferred A Share conversion price is subject to broad weighted average anti-dilution protection in the event of future funding at an effective share price which is lower than the Preferred A Share conversion price.

Preferred A-1 Shares:

The Preferred A-1 Shares are convertible into 2,500,511 Ordinary Shares, representing a conversion price of $10.22 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Preferred A Shares.

Preferred A-2 Shares:

The Preferred A-2 Shares are convertible into 130,434 Ordinary Shares, representing a conversion price of $9.20 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Preferred A Shares.

Preferred A-3 Shares:

The Preferred A-3 Shares are convertible into Preferred A-1 Shares upon the closing of each and every investment round (as defined in the Articles), by providing a notice to this effect to the Company. The Preferred A-3 Shares entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Preferred A Shares. However, the Preferred A-3 Shares holders are not entitled to voting rights.

Preferred A-4 Shares:

Preferred A-4 Shares are convertible into 255,320 Ordinary Shares, representing a conversion price of $11.75 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Preferred A Shares.

Preferred B Shares:

Preferred B Shares are convertible into 2,266,314 Ordinary Shares, representing a conversion price of $14.1 per share, and entitle their holders to the rights, preferences, privileges and restrictions granted to and imposed upon the Preferred A Shares.

Preferred B Shares entitle their holder to participate in a distribution of surplus of assets upon liquidation of the Company, at an amount equal to their original issue price plus 8% annual interest accumulated as of the Liquidation Event (as defined in the Articles) date, before any distribution is made to holder of any Preferred A Shares (i.e., Preferred A Shares, Preferred A-1 Shares, Preferred A-2 Shares, Preferred A-3 Shares and Preferred A-4 Shares), and any Ordinary Shares.

B. Issuance of Share Capital:

In June 2015, the Company entered into the Incubator Agreement with the Incubator and other investors (the "June 2015 Investors"). In accordance with the Incubator Agreement, the Company issued 812,000 Ordinary Shares at NIS 0.01 nominal value to the June 2015 Investors and an additional 125,261 Ordinary Shares at NIS 0.01 nominal value to a trustee to be held in trust for the sole purpose of allocation of the Ordinary Shares to employees and consultants of the Company.

NOTE 10 — SHAREHOLDERS' EQUITY (cont.)

In addition, the Company issued 234,147 Preferred A Shares at NIS 0.01 nominal value to the investors in consideration for $960 thousands and granted Yeda warrants to purchase 20,360 Preferred A Shares nominal value NIS 0.01.

In 2016, the Company issued convertible notes, bearing an annual interest at a rate of 0%, for an aggregate consideration of $1,200 thousands. The notes were converted during 2017 to 130,434 Preferred A-2 Shares at NIS 0.01 nominal value.

On February 2017, the Company entered into a share purchase agreement (the "February 2017 SPA") with new and existing investors (the "February 2017 Investors"). In accordance with the February 2017 SPA, On February 15, 2017, the Company issued the February 2017 Investors 1,663,404 Preferred A-1 Shares at NIS 0.01 nominal value ("Preferred A-1 Shares"), and 130,434 Preferred A-2 Shares at NIS 0.01 nominal value in two tranches as follows:

- On February 15, 2017, the Company issued 831,702 Preferred A-1 Shares for a total consideration of $8,500 thousands. In addition, the convertible notes in an amount of $1,200 thousands granted in August 2016 were converted into 130,434 Preferred A-2 Shares at NIS 0.01 nominal value.
- On February 7, 2018, the Company issued 831,702 Preferred A-1 Shares for a total consideration of $8,500 thousands.

On March 26, 2017 the Company entered into share purchase agreement (the "March 2017 SPA") with new investors (the "March 2017 Investors"). In accordance with the March SPA, the Company issued to the March 2017 Investors 587,084 Preferred A-1 Shares in two tranches as follows:

- On March 30, 2017, the Company issued 293,542 Preferred A-1 Shares for a total consideration of $3,000 thousands.
- On February 7, 2018, the Company issued 293,542 Preferred A-1 Shares for a total consideration of $3,000 thousands.

On November 30, 2017, the Company entered into a share purchase agreement (the "November 2017 SPA") with additional investors (the "November 2017 Investors"). In accordance with the November 2017 SPA, the Company issued the November 2017 Investors 255,320 Preferred A-4 Shares at NIS 0.01 nominal value in two tranches as follows:

On December 7, 2017, the Company issued 127,660 Preferred A-4 Shares for a total consideration of $1,500 thousands.

On February 7, 2018, the Company issued 127,660 Preferred A-4 Shares for a total consideration of $1,500 thousands.

On November 19, 2017, the Company signed an agreement to purchase 100% of RondinX shares (see also Note 5). The initial consideration included an issuance of 250,023 Preferred A-1 Shares and 4,380 warrants to purchase Preferred A-1 shares for no additional consideration.

In November 2018, the Company entered into a share purchase agreement (the "November 2018 SPA") with new and existing investors (the "November 2018 Investors"). In accordance with the November 2018 SPA, the Company has committed to issue to the November 2018 Investors a total of 2,266,314 Preferred B Shares at NIS 0.01 nominal value (the "Preferred B Shares") for a total consideration of $31,955 thousands.

NOTE 10 — SHAREHOLDERS' EQUITY (cont.)

On November 28, 2018 and on December 11, 2018, the Company issued to the November 2018 Investors 2,053,548 and 85,106 Preferred B Shares, respectively, for a total consideration of $30,155 thousands in accordance with the November 2018 SPA.

On January 8, 2019, the Company issued to the November 2018 Investors an additional 127,660 Preferred B Shares for a total consideration of $1,800 thousands in accordance with the November 2018 SPA.

C. Share-based compensation:

The Company has a plan where it grants option which represents a right to purchase 1 Ordinary Share of the Company in consideration of the payment of an exercise price. Also, the options were granted in accordance with the "capital gains route" under section 102 and section 3(i) of the Israeli Income Tax Ordinance and section 409A of the Israeli IRS Code.

In 2015, the Company's Board of Directors (the "Board") approved a plan for allocation of options to employees, service providers and officers. As at December 31, 2018, the number of options available for grant under the approved plan was 294,605.

On November 2015, the Board approved the grant of 180,139 non- tradable options without consideration to one employee, four consultants and six employees of the Incubator. Based on the considerations in ASC 718-10, the employees of the Incubator were defined as employees based on their relationship with the Company.

The options to two of the consultants were granted at an exercise price of NIS 0.01 per share. 22% of the options vest and become exercisable on the first and second anniversaries of the vesting commencement date of June 2015. Thereafter, the options vest and become exercisable in three equal annual installments of 18.67% each.

The options to the employees of the Incubator and to two consultants were granted at an exercise price of NIS 0.01 per share. 33% of the options vest and become exercisable on the first anniversary of the vesting commencement date of June 2015. Thereafter, the options vest and become exercisable in 8 equal quarterly installments of 8.375% each.

The options to the Company employee were granted at an exercise price of NIS 0.01 per share. 25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

During 2016, the Board approved the grant of an additional 128,260 non-tradable options without consideration to four employees and five consultants.

The options to three employees were granted at an exercise price of NIS 0.01 per share.

25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

The options to one additional employee were granted at an exercise price of $1.3 per share. 13,851 options vest and become exercisable upon appointment as chief executive officer of the Company. The remainder of the options shall vest as follows: 25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

NOTE 10 — SHAREHOLDERS' EQUITY (cont.)

The options to two consultants were granted at an exercise price of NIS 0.01 per share.

22% of the options vest and become exercisable on the first and second anniversaries of the vesting commencement date (June 2015). Thereafter, the options vest and become exercisable in three equal annual installments of 18.67% each.

The options to two additional consultants were granted at an exercise price of $1.3 per share.

25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

The options to one additional consultant were granted at an exercise price of $4.1 per share.

33% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 8 equal quarterly installments of 8.375% each.

During 2017, the Board approved the grant of an additional 448,775 non-tradable options without consideration to 29 employees and 5 consultants.

The options to 29 employees and 3 consultants were granted at an exercise price of $4.089 per share. 25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

The options to 2 additional consultants were granted at an exercise price of NIS 0.01 per share. 22% of the options vest and become exercisable on the first and second anniversaries of the vesting commencement date (June 2015). Thereafter, the options vest and become exercisable in three equal annual installments of 18.67% each.

During October 2017, 4,564 options were exercised to purchase Ordinary Shares at an exercise price of NIS 0.01 per share.

During 2018, the Board approved the grant of an additional 325,026 non-tradable options without consideration to 27 employees and 82,513 non-tradable options without consideration to 2 consultants.

362,555 options were granted at an exercise prices of $4.771-$4.909 per share.

25% of the options vest and become exercisable on the first anniversary of the vesting commencement date. Thereafter, the options vest and become exercisable in 12 equal quarterly installments of 6.25% each.

44,984 options were granted at an exercise price of $4.089 per share and vest on variable vesting dates.

During 2018, 12,797 options were exercised to purchase Ordinary Shares at an exercise price of NIS 0.01 per share.

Certain senior employees are entitled to full acceleration of their unvested options upon the occurrence of cumulative two certain events.

The fair value of each option was estimated as of the date of grant or reporting period using the Black-Scholes option-pricing model.

NOTE 10 — SHAREHOLDERS' EQUITY (cont.)

The fair value of options was estimated at the date of grant using the following assumptions:

	2018	2017	2016
Underlying value of ordinary share ($)	4.1 – 4.9	1.3 – 4.1	1.3
Exercise price ($)	4.1 – 4.9	1.3-4.1	0.003 – 4.1
Expected volatility (%)	93.1	93.1	93.1
Term of the option (years)	6.25	6.25	6.9
Risk-free interest rate (%)	2.25 – 3.05	1.35 – 2.25	1.35 – 2.25

The cost of the benefit embodied in the options granted in 2018, 2017, and 2016 based on their fair value as at the grant date, is estimated to be $1,451 thousand, $2,503 thousand, and $215 thousand, respectively. These amounts will be recognized in statements of comprehensive loss over the vesting period.

Warrants:

1. In May 2017, in accordance with the 2017 License Agreement (see also Note 8D), the Company issued to Yeda, for no consideration, 244,618 warrants to purchase Ordinary Shares at NIS 0.01 nominal value. The expense recognized for the years ended December 31, 2017 and 2018 were $584 thousand and $704 thousand, respectively which were included in research and development expenses.

   97,847 warrants were fully vested and exercisable on the date of their issuance. The remainder of the warrants will vest and become exercisable subject to achievement of certain milestones specified in the agreement as follows:

   a. 73,385 upon the filing of a patent application covering any Discovered Target or a Product,

   b. 48,924 upon achievement of the earlier of the following milestone by the Company:

      (i) execution of an agreement with a pharmaceutical company with respect to the commercialization of any of the Company's licensed technology or the Consulting IP or a Product (both defined in the 2017 License Agreement) or

      (ii) the filing of a patent application covering any Discovered Target (as defined in the 2017 License Agreement) or a Product.

   c. 24,462 upon completion of a Phase 1 clinical trial in respect of a Product.

   The fair value of the unvested portion of the warrants granted was remeasured each reporting period as the performance commitment date had not yet been achieved.

2. In November 2017, in accordance with the RondinX share purchase agreement (see also Note 5), the Company issued to Yeda and 2 consultants, for no consideration, 4,380 warrants to purchase Preferred A-1 Shares at NIS 0.01 nominal value.

   The warrants were fully vested and exercisable on the date of their issuance.

NOTE 10 — SHAREHOLDERS' EQUITY (cont.)

(1) A summary of options granted to purchase the Company's Ordinary Shares under the Company's share option plan is as follows:

	For year ended December 31, 2018					
	Employees			Consultants		
	Number of Options	Weighted average exercise price	Aggregate intrinsic value	Number of Options	Weighted average exercise price	Aggregate intrinsic value
Outstanding at the beginning of year	529,001	3.13	840	214,447	0.51	915
Granted	325,026	4.785		82,513	4.909	
Forfeited	(74,671)	3.95		—		
Exercised	(12,797)	(*)		—		
Outstanding at the end of year	766,559	3.81	849	296,960	1.659	944
Vested at year end	262,743			133,651		
Weighted average remaining contractual life – years as of December 31, 2018	8.65			8.1		

	For year ended December 31, 2017					
	Employees			Consultants		
	Number of Options	Weighted average exercise price	Aggregate intrinsic value	Number of Options	Weighted average exercise price	Aggregate intrinsic value
Outstanding at the beginning of year	146,233	0.62	105	155,303	0.36	152
Granted	389,631	4.09		59,144	0.89	
Forfeited	(2,299)	(*)		—		
Exercised	(4,564)	(*)		—		
Outstanding at the end of year	529,001	3.13	840	214,447	0.51	915
Vested at year end	104,628			88,106		
Weighted average remaining contractual life – years as of December 31, 2018	9.08			8.45		

NOTE 10 — SHAREHOLDERS' EQUITY (cont.)

	For year ended December 31, 2016					
	Employees			Consultants		
	Number of Options	Weighted average exercise price	Aggregate intrinsic value	Number of Options	Weighted average exercise price	Aggregate intrinsic value
Outstanding at the beginning of period	64,339	(*)	86	115,800	(*)	150
Granted	88,757	1.14		39,503	1.14	
Forfeited	(6,863)	(*)		—		
Exercised	—			—		
Outstanding at the end of year	146,233	0.62	105	155,303	0.36	152
Vested at year end	29,257			43,474		
Weighted average remaining contractual life – years as of December 31, 2016	9.43			9.132		

	Warrants issued to Yeda		
	Number of Options	Weighted average exercise price	Aggregate intrinsic value
Outstanding at January 1, 2017	—	—	
Granted	244,618	0.003	
Outstanding at the December 31, 2017 and December 31, 2018	244,618	0.003	1,200
Vested at the December 31, 2017 and December 31, 2018	97,847		
Weighted average remaining contractual life – years as of December 31, 2017	7.36		
Weighted average remaining contractual life – years as of December 31, 2018	6.36		

(*) Less than $0.01.

(2) The following table sets forth the total share-based payment expenses resulting from options granted, included in the statements of operation:

	Year ended December 31,		
	2018	2017	2016
	USD In thousands		
R&D	623	952	195
General and administrative	328	358	52
	951	1,310	247

The Company recognized share-based compensation expenses in connection with options granted to directors and executive officers of the Company in the amount of $405 thousand, $333 thousand, and $107 thousand for the years ended December 31, 2018, 2017, and 2016, respectively.

The total unrecognized compensation expense was $3,026 and $1,446 thousand as of December 31, 2018 and 2017, respectively. These expenses will be recognized over a period of approximately 4 years.

NOTE 11 — R&D EXPENSES, NET

	Year ended December 31,		
	2018	2017	2016
	USD In thousands		
Professional service and subcontractors	4,365	1,415	676
Salaries and related expenses	3,972	1,865	480
Share based payments	623	952	195
Depreciation	210	95	23
Materials and supplies	611	509	77
	9,781	4,836	1,451
Less – Grants from the IIA	(646)	(660)	(302)
	9,135	4,176	1,149

NOTE 12 — GENERAL AND ADMINISTRATIVE EXPENSES

	Year ended December 31,		
	2018	2017	2016
	USD In thousands		
Salaries and related expenses	1,369	847	223
Incubator overhead	28	251	134
Share based payments	328	358	52
Professional services	284	341	53
Travel expenses	258	186	96
Office expenses	189	117	16
Recruitment expenses	209	47	—
Rent and rent related expenses	333	194	—
Other	362	195	46
	3,360	2,536	620

NOTE 13 — INCOME TAXES

A. On December 29, 2016, the Economic Efficiency Law (the "EEL")- 2016 was enacted, which states that the Corporate Tax Rate (as defined in the EEL) in 2017 will be reduced from 25% to 24% on income earned from January 1, 2017, and will continue to be reduced to 23% in 2018 and thereafter on income earned from January 1, 2018.

B. As of December 31, 2018 and 2017 the Company had total net operating losses in Israel of approximately $10,556 and $5,689, respectively which may be carried forward and offset against taxable income in the future for an indefinite period.

C. The Company is still in its development stage and has not yet generated revenue, therefore, it is more likely than not that sufficient taxable income will not be available for the tax losses to be utilized in the future. Therefore, a valuation allowance was recorded to reduce the deferred tax assets to its recoverable amounts.

	As of December 31,	
	2018	2017
	USD In thousands	
Net operating loss carry-forward	10,556	5,689
Total deferred tax assets	2,430	1, 308
Valuation allowance	(2,430)	(1,308)
Net deferred tax assets	$ —	$ —

NOTE 13 — INCOME TAXES (cont.)

D. Reconciliation of Income Taxes:

The following is a reconciliation of the taxes on income assuming that all income is taxed at the ordinary statutory corporate tax rate in Israel and the effective income tax rate:

	Years ended December 31,		
	2018	2017	2016
	(in thousands)		
Net loss as reported in the statements of comprehensive loss	12,720	6,433	1,900
Statutory tax rate	23%	24%	25%
Income tax under statutory tax rate	2,926	1,544	475
Change in valuation allowance	(2,926)	(1,544)	(475)
Actual income tax	$ —	$ —	$ —

NOTE 14 — BASIC AND DILUTED NET LOSS PER SHARE

The basic and diluted net loss per share and weighted average number of Ordinary Shares and Ordinary A Shares used in the calculation of basic and diluted net loss per share are as follows (in thousands, except share and per share data):

	Years ended December 31,		
	2018	2017	2016
Net loss for the year	12,720	6,433	1,900
Net loss attributable to holders of Preferred Shares	2,533	961	77
Net loss used in the calculation of basic net loss per share	15,253	7,394	1,977
Net loss per share	18.41	9.08	2.43
Weighted average number of Ordinary Shares and Ordinary A Shares	828,295	813,902	812,000

As the inclusion of Ordinary Share or Ordinary A Share equivalents in the calculation would be anti-dilutive for all periods presented, diluted net loss per share is the same as basic net loss per share.

NOTE 15 — SUBSEQUENT EVENTS

In accordance with FASB ASC 855-10-50-1, the Company has analyzed its operations subsequent to December 31, 2018 and up until July 17, 2019, the date these consolidated financial statements were issued, and has determined that it does not have any material subsequent events to disclose except as follows:

On January 8, 2019, the Company issued 127,660 Preferred B Shares for a total consideration of $1,800 thousands in accordance with the November 2018 SPA.

In April 2019, the Company signed additional patent license agreement with Keio University and JSR Corporation in Japan. According to the agreement, the Company received an exclusive patent license to certain patent rights related to the Company's Primary Sclerosing Cholangitis program. In return, the Company is required to pay annual license fees as well as a contingent consideration based upon the achievement of clinical and regulatory milestones up to an aggregate of $3.2 million and royalty payments based on future revenue. To date, the Company has not yet generated revenue from product sale.

Exhibit 99.3

SELECTED UNAUDITED PRO FORMA COMBINED FINANCIAL INFORMATION

Introduction

Chardan Healthcare Acquisition Corp. ("CHAC") is providing the following unaudited pro forma combined financial information to aid you in your analysis of the financial aspects of the Business Combination (as such term is defined in CHAC's definitive proxy statement on Schedule 14A filed with the Securities and Exchange Commission on September 24, 2019 (the "original proxy statement")) with BiomX Ltd. ("BiomX").

The unaudited pro forma combined balance sheet as of September 30, 2019 gives pro forma effect to the Business Combination as if it had been consummated as of that date. The unaudited pro forma combined statements of operations for the nine months ended September 30, 2019 and the twelve months ended December 31, 2018 gives pro forma effect to the Business Combination as if it had occurred as of January 1, 2018. This information should be read together with BiomX's audited financial statements and related notes and CHAC's respective unaudited and audited financial statements and related notes, "*Management's Discussion and Analysis of Financial Condition and Results of Operations of BiomX Ltd.*," "*Management's Discussion and Analysis of Financial Condition and Results of Operations of CHAC*" and other financial information included in the original proxy statement.

The unaudited pro forma combined balance sheet as of September 30, 2019 has been prepared using the following:

- BiomX's unaudited historical interim consolidated balance sheet as of June 30, 2019

- CHAC's unaudited historical consolidated balance sheet as of September 30, 2019

The unaudited pro forma combined statement of operations for the nine months ended September 30, 2019 has been prepared using the following:

- BiomX's unaudited historical interim consolidated statement of operations for the nine months ended June 30, 2019

- CHAC's unaudited historical consolidated statements of operations for the nine months ended September 30, 2019

The unaudited pro forma combined statement of operations for the twelve months ended December 31, 2018 has been prepared using the following:

- BiomX's audited historical consolidated statement of comprehensive loss for the year ended December 31, 2018, as included elsewhere in the original proxy statement

- CHAC's unaudited condensed statements of operations for the six months ended June 30, 2018 and the six months ended December 31, 2018

Description of the Transaction

The Merger Agreement, dated July 16, 2019, as amended on October 11, 2019, between CHAC, Merger Sub (as defined therein), and BiomX (the "Merger Agreement") was approved at a Special Meeting of stockholders on October 23, 2019 (the "Special Meeting"), pursuant to which BiomX merged with the Merger Sub, with BiomX surviving the merger in accordance with the Israeli Companies Law as a wholly owned direct subsidiary of CHAC. **For more information about the Business Combination, please see the section entitled "*The Business Combination Proposal*" in the original proxy statement. A copy of the Merger Agreement was attached to the original proxy statement as Annex A.**

Accounting for the Business Combination

The Business Combination will be accounted for as a "reverse merger" in accordance with generally accepted accounting principles in the United States. Under this method of accounting, CHAC will be treated as the "acquired" company for financial reporting purposes. This determination was primarily based on the assumption that BiomX's shareholders will hold a majority of the voting power of the combined company, BiomX's operations will comprise the ongoing operations of the combined entity, BiomX's designees will comprise a majority of the governing body of the combined company, and BiomX's senior management will comprise the senior management of the combined company. Accordingly, for accounting purposes, the Business Combination will be treated as the equivalent of a capital transaction in which BiomX is issuing stock for the net assets of CHAC. The net assets of CHAC will be stated at historical cost, with no goodwill or other intangible assets recorded. The post-acquisition financial statements of CHAC will show the consolidated balances and transactions of CHAC and BiomX as well as comparative financial information of BiomX (the acquirer for accounting purposes).

Basis of Pro Forma Presentation

The historical financial information has been adjusted to give pro forma effect to events that are related and/or directly attributable to the Business Combination, are factually supportable and are expected to have a continuing impact on the results of operations of the combined company. The adjustments presented on the unaudited pro forma combined financial statements have been identified and presented to provide an understanding of the combined company upon consummation of the Business Combination for illustrative purposes.

The unaudited pro forma combined financial information is for illustrative purposes only. The financial results may have been different had the companies always been combined. You should not rely on the unaudited pro forma combined financial information as being indicative of the historical results that would have been achieved had the companies always been combined or the future results that the combined company will experience. BiomX and CHAC have not had any historical relationship prior to the Business Combination. Accordingly, no pro forma adjustments were required to eliminate activities between the companies.

There is no historical activity with respect to Merger Sub, and accordingly, no adjustments were required with respect to this entity in the pro forma combined financial statements.

Included in the shares outstanding and weighted average shares outstanding as presented in the pro forma combined financial statements are an aggregate of 16,625,000 shares of common stock of CHAC (“CHAC shares”) issued to BiomX shareholders, comprised of 15,069,058 CHAC shares issued to BiomX shareholders and 1,555,942 vested options and warrants issued to BiomX shareholders to purchase CHAC shares. Vested options and warrants have been included in the presentation of CHAC shares issued as it is assumed that the shareholders would exercise their options and warrants since the exercise price is lower than the fair value and are therefore deemed to be in the money.

PRO FORMA COMBINED BALANCE SHEET
AS OF SEPTEMBER 30, 2019
(in thousands)
(UNAUDITED)

	(A) BiomX	(B) CHAC	Pro Forma Adjustments		Pro Forma Balance Sheet
Assets					
Current assets:					
Cash and cash equivalents	$ 16,145	$ 97	$ 71,083	**(1)**	
			200	**(2)**	
			(1,342)	**(3)**	
			(200)	**(4)**	
			(10,002)	**(5)**	$ 75,981
Restricted cash	92	-	-		92
Short-term deposits	18,617	-	-		18,617
Related party receivable	45	-	-		45
Other receivables	228	-	-		228
Prepaid expenses and other current assets	-	26	-		26
Total Current Assets	**35,127**	**123**	**59,739**		**94,989**
Marketable securities held in Trust Account	-	71,083	(71,083)	**(1)**	-
Operating lease right-of-use asset	594	-	-		594
Property and equipment, net	1,448	-	-		1,448
In-process research and development	4,556	-	-		4,556
Other assets	5	-	-		5
Total Assets	**$ 41,730**	**$ 71,206**	**$ (11,344)**		**$ 101,592**
Liabilities and Shareholders' Equity					
Current liabilities:					
Accounts payable and accrued expenses	$ 2,002	$ 738	$ (760)	**(3)**	$ 1,980
Short-term leases	202	-	-		202
Taxes payable	-	12	-		12
Total Current Liabilities	**2,204**	**750**	**(760)**		**2,194**
Promissory note - related party	-	-	200	**(2)**	
			(200)	**(4)**	-
Contingent liabilities	903	-	-		903
Long-term lease liabilities	392	-	-		392
Total Liabilities	**3,499**	**750**	**(760)**		**3,489**
Commitments and Contingencies					
Common stock subject to redemption	-	65,456	(65,456)	**(5)**	-
Stockholders' Equity					
Ordinary shares	3	-	(3)	**(6)**	-
Preferred shares	9	-	(9)	**(6)**	-
Common stock	-	-	1	**(5)**	
			2	**(6)**	3
Additional paid-in capital	66,831	4,946	55,453	**(5)**	
			64	**(6)**	127,294
Retained earnings (Accumulated deficit)	(28,612)	54	(582)	**(3)**	
			(54)	**(5)**	(29,194)
Total Stockholders' Equity	**38,231**	**5,000**	**54,872**		**98,103**
Total Liabilities and Stockholders' Equity	**$ 41,730**	**$ 71,206**	**$ (11,344)**		**$ 101,592**

Pro Forma Adjustments to the Unaudited Combined Balance Sheet

(A) Derived from the unaudited interim consolidated balance sheet of BiomX as of June 30, 2019.

(B) Derived from the unaudited consolidated balance sheet of CHAC as of September 30, 2019.

(1) To reflect the release of cash from marketable securities held in the trust account.

(2) To reflect additional loans received from the CHAC's sponsor to fund working capital purposes.

(3) To reflect the payment of legal, financial advisory and other professional fees related to the Business Combination.

(4) To reflect the repayment of promissory notes to related party.

(5) To reflect the cancellation of 983,905 shares of common stock of CHAC for stockholders who elected cash redemption for cash payment of $10,002,000.

(6) To reflect the recapitalization of BiomX through (a) the contribution of all the share capital in BiomX to CHAC, (b) the issuance of 16,625,000 shares and vested securities of common stock of CHAC and (c) the elimination of the historical accumulated deficit of CHAC, the accounting acquiree.

PRO FORMA COMBINED STATEMENT OF OPERATIONS
NINE MONTHS ENDED SEPTEMBER 30, 2019
(in thousands, except share and per share data)
(UNAUDITED)

	(A) BiomX	(B) CHAC	Pro Forma Adjustments		Pro Forma Income Statement
Research and development	$ 8,409	$ -	$ -		$ 8,409
General and administrative expenses	3,548	1,008	(930)	(1)	3,626
Operating loss	**11,957**	**1,008**	**(930)**		**12,035**
Other (income) expense:					
Interest income	-	(1,204)	1,204	(2)	-
Unrealized loss on marketable securities	-	(15)	15	(2)	-
Other income, net	(816)	(8)	-		(824)
Loss (income) before income taxes	**11,141**	**(219)**	**289**		**11,211**
Provision for income taxes		175	(175)	(3)	-
Net loss (income)	**$ 11,141**	**$ (44)**	**$ 114**		**$ 11,211**
Weighted average shares outstanding, basic and diluted		2,239,757	22,151,338	(4)	24,391,095
Basic and diluted net loss per share		$ (0.25)			$ (0.46)

PRO FORMA COMBINED STATEMENT OF OPERATIONS
TWELVE MONTHS ENDED DECEMBER 31, 2018
(in thousands, except share and per share data)
(UNAUDITED)

	(C) BiomX	(D) CHAC	Pro Forma Adjustments		Pro Forma Income Statement
Research and development	$ 8,925	$ -	$ -		$ 8,925
General and administrative expenses	3,570	17	-		3,587
Operating loss	12,495	17	-		12,512
Other (income) expense:					
Interest income	-	(55)	55	**(2)**	-
Unrealized loss on marketable securities	-	21	(21)	**(2)**	-
Other expense, net	225	-	-		225
Loss (income) before income taxes	**12,720**	**(17)**	**34**		**12,737**
Provision for income taxes		8	(8)	**(3)**	-
Net loss (income)	**$ 12,720**	**$ (9)**	**$ 26**		**$ 12,737**
Weighted average shares outstanding, basic and diluted		1,782,502	22,608,593	**(4)**	24,391,095
Basic and diluted net loss (income) per share		$ (0.01)			$ (0.52)

Pro Forma Adjustments to the Unaudited Combined Statements of Operations

(A) Derived from the unaudited interim consolidated statements of operations of BiomX for the nine months ended June 30, 2019.

(B) Derived from the unaudited consolidated statements of operations of CHAC for the nine months ended September 30, 2019.

(C) Derived from the audited consolidated statement of comprehensive loss of BiomX for the year ended December 31, 2018.

(D) Derived from the unaudited statements of operations of CHAC for the twelve months ended December 31, 2018.

(1) Represents an adjustment to eliminate direct, incremental costs of the Business Combination which are reflected in the historical consolidated financial statements of BiomX and CHAC in the amount of $319,000 and $611,000, respectively, for the nine months ended September 30, 2019. There were no such amounts recorded for the twelve months ended December 31, 2018.

(2) Represents an adjustment to eliminate interest income and unrealized gains/losses on marketable securities held in the trust account as of the beginning of the period.

(3) To record normalized blended statutory income tax benefit rate of 23% for pro forma financial presentation purposes resulting in the recognition of an income tax benefit, which however, has been offset by a full valuation allowance as the combined company expects to incur continuing losses.

(4) The calculation of weighted average shares outstanding for basic and diluted net loss per share assumes that CHAC's initial public offering occurred as of the earliest period presented. In addition, as the Business Combination is being reflected as if it had occurred at the beginning of the periods presented, the calculation of weighted average shares outstanding for basic and diluted net loss per share assumes that the shares have been outstanding for the entire periods presented. This calculation is retroactively adjusted to eliminate the number of shares redeemed for the entire period.

The following presents the calculation of basic and diluted weighted average common shares outstanding. The computation of diluted loss per share excludes the effect of warrants to purchase 6,400,000 shares of common stock because the inclusion of any of these securities would be anti-dilutive.

Weighted average shares calculation, basic and diluted	
CHAC public shares	3,745,732
CHAC Sponsor shares	1,750,000
CHAC shares purchased by BiomX shareholders from public stockholders	2,270,363
CHAC shares issued in Business Combination	16,625,000
Weighted average shares outstanding	24,391,095[(1)]
Percent of shares owned by BiomX holders	77.5%
Percent of shares owned by other CHAC holders	22.5%

(1) Does not include shares issuable pursuant to (i) the exercise of CHAC Warrants (as defined in the original proxy statement) (up to 3,500,000 shares) and Private CHAC Warrants (as defined in the original proxy statement) (up to 2,900,000 shares), private CHAC warrants allocated to former BiomX warrant holders (354,830 shares), (ii) agreements to issue contingent consideration of 6,000,000 shares to certain shareholders of BiomX, outstanding options under existing BiomX equity incentive plans (up to 1,872,941 shares), and future shares issuable under CHAC's 2019 Omnibus Long-Term Incentive Plan.

COMPARATIVE SHARE INFORMATION

The following table sets forth the historical comparative share information for BiomX and CHAC on a stand-alone basis and the unaudited pro forma combined per share information after giving effect to the Business Combination.

The historical information should be read in conjunction with the information in the sections entitled "*Selected Historical Financial Information of CHAC*" and "*Selected Historical Consolidated Financial and Other Data of BiomX*" and the historical financial statements of CHAC and BiomX incorporated by reference in or included in the original proxy statement. The unaudited pro forma condensed combined per share information is derived from, and should be read in conjunction with, the information contained in the section of the original proxy statement entitled "*Unaudited Pro Forma Combined Financial Information*."

The unaudited pro forma combined share information below does not purport to represent what the actual results of operations or the earnings per share would have been had the companies been combined during the periods presented, or to project the combined company's results of operations or earnings per share for any future date or period. The unaudited pro forma combined stockholders' equity per share information below does not purport to represent what the value of CHAC and BiomX would have been had the companies been combined during the periods presented.

(in thousands, except share and per share data)

	BiomX	CHAC	Pro Forma Combined
Nine Months Ended June 30, 2019 (BiomX) and Nine Months Ended September 30, 2019 (CHAC)			
Net (loss) income	$ (11,141)	$ 44	$ 11,211
Stockholders' equity [(1)]	38,231	5,000	98,103
Weighted average shares outstanding – basic and diluted		2,239,757	24,391,095
Basic and diluted net loss per share		(0.25)	(0.46)
Stockholders' equity per share – basic and diluted		2.23	4.02
Year Ended December 31, 2018 (BiomX) and Twelve Months Ended December 31, 2018 (CHAC)			
Net (loss) income	$ (12,720)	$ 9	$ (12,737)
Weighted average shares outstanding – basic and diluted		1,782,502	24,391,095
Basic and diluted net loss per share		(0.01)	(0.52)

(1) Stockholder's equity of BiomX was derived from the unaudited historical interim consolidated balance sheet as of June 30, 2019. Stockholder's equity of CHAC was derived from CHAC's unaudited historical consolidated balance sheet as of September 30, 2019