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

FORM 10-Q

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

For the quarterly period ended March 31, 2023

OR

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

For the transition period from _____ to _____

Commission File Number: 001-36112

MACROGENICS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**06-1591613**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
9704 Medical Center Drive Rockville, Maryland	**20850**
(Address of principal executive offices)	**(Zip code)**

301-251-5172

(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.01 per share	MGNX	Nasdaq Global Select Market

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

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

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

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

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

As of May 5, 2023, 61,838,893 shares of the registrant's common stock, par value $0.01 per share, were outstanding.

TABLE OF CONTENTS

FORWARD-LOOKING STATEMENTS

This report includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Forward-looking statements include statements that may relate to our plans, objectives, goals, strategies, future events, future revenues or performance, capital expenditures, financing needs and other information that is not historical information. Many of these statements appear, in particular, under the headings "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in this Quarterly Report on Form 10-Q. Forward-looking statements can often be identified by the use of terminology such as "subject to", "believe", "anticipate", "plan", "expect", "intend", "estimate", "project", "may", "will", "should", "would", "could", "can", the negatives thereof, variations thereon and similar expressions, or by discussions of strategy.

All forward-looking statements, including, without limitation, our examination of historical operating trends, are based upon our current expectations and various assumptions. We believe there is a reasonable basis for our expectations and beliefs, but they are inherently uncertain. We may not realize our expectations, and our beliefs may not prove correct. Actual results could differ materially from those described or implied by such forward-looking statements. The following uncertainties and factors, among others (including those set forth under "Item 1A. Risk Factors" of our Annual Report on Form 10-K for the year ended December 31, 2022 and "Part II, Item 1A. Risk Factors" of this Quarterly Report on Form 10-Q), could affect future performance and cause actual results to differ materially from those matters expressed in or implied by forward-looking statements:

- our plans to develop and commercialize our product candidates;
- the outcomes of our ongoing and planned clinical trials and the timing of those outcomes, including when clinical trials will be initiated or completed, enrollment of trials, and when data will be reported or regulatory filings will be made;
- the timing of and our ability to obtain and maintain regulatory approvals for our product candidates and the labeling for any approved products;
- our estimates regarding expenses, future revenue, capital requirements and needs for additional financing;
- our ability to raise additional capital through the capital markets or through one or more corporate partnerships, equity offerings, debt financings, collaborations, licensing arrangements or asset sales;
- our expectations regarding product candidates currently being developed by our collaborators;
- our ability to enter into new collaborations or to identify additional products or product candidates with significant commercial potential that are consistent with our commercial objectives;
- the potential benefits and future operation of our existing collaborations;
- our ability to recover the investment in our manufacturing capabilities;
- the rate and degree of market acceptance and clinical utility of our products;
- our commercialization, marketing and manufacturing capabilities and strategy;
- significant competition in our industry;
- costs of litigation and the failure to successfully defend lawsuits and other claims against us and our expectations regarding the outcome of any regulatory or legal proceedings;
- economic, political and other risks associated with our international operations;
- our ability to receive research funding and achieve anticipated milestones under our collaborations;
- our ability to protect and enforce patents and other intellectual property;
- costs of compliance and our failure to comply with new and existing governmental regulations including, but not limited to, tax regulations;
- loss or retirement of key members of management;
- failure to successfully execute our growth strategy, including any delays in our planned future growth;
- our failure to maintain effective internal controls; and
- the severity and duration of the impact of a global pandemic on our business, operations, clinical programs, manufacturing, financial results and other aspects of our business.

Consequently, forward-looking statements speak only as of the date that they are made and should be regarded solely as our current plans, estimates and beliefs. You should not place undue reliance on forward-looking statements. We cannot guarantee future results, events, levels of activity, performance or achievements. Except as required by law, we do not undertake and specifically decline any obligation to update, republish or revise forward-looking statements to reflect future events or circumstances or to reflect the occurrences of unanticipated events.

PART I. FINANCIAL INFORMATION
ITEM 1. FINANCIAL STATEMENTS

+-

MACROGENICS, INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)

	March 31, 2023	December 31, 2022
	(unaudited)	
Assets		
Current assets:		
Cash and cash equivalents	$ 224,264	$ 108,884
Marketable securities	17,392	45,462
Accounts receivable	36,160	56,222
Inventory, net	1,409	1,451
Prepaid expenses and other current assets	9,718	10,161
Total current assets	288,943	222,180
Property, equipment and software, net	26,783	29,575
Operating lease right-of-use assets	26,394	27,335
Other non current assets	1,378	1,378
Total assets	$ 343,498	$ 280,468
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 3,759	$ 4,899
Accrued expenses and other current liabilities	28,188	28,998
Deferred revenue	9,249	9,988
Lease liabilities	4,418	4,726
Total current liabilities	45,614	48,611
Liability related to future royalties	100,222	—
Deferred revenue, net of current portion	58,006	59,480
Lease liabilities, net of current portion	30,130	30,106
Other non current liabilities	258	258
Total liabilities	234,230	138,455
Stockholders' equity:		
Common stock, $0.01 par value -- 125,000,000 shares authorized, 61,838,565 and 61,701,467 shares outstanding at March 31, 2023 and December 31, 2022, respectively	618	617
Additional paid-in capital	1,240,345	1,235,095
Accumulated other comprehensive income (loss)	8	(5)
Accumulated deficit	(1,131,703)	(1,093,694)
Total stockholders' equity	109,268	142,013
Total liabilities and stockholders' equity	$ 343,498	$ 280,468

See notes to consolidated financial statements.

MACROGENICS, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
(unaudited)
(in thousands, except share and per share data)

	Three Months Ended March 31,	
	2023	**2022**
Revenues:		
Collaborative and other agreements	$ 16,686	$ 7,093
Product sales, net	3,490	3,580
Contract manufacturing	3,615	—
Royalty revenue	422	—
Government agreements	283	428
Total revenues	24,496	11,101
Costs and expenses:		
Cost of product sales	113	48
Cost of manufacturing services	3,410	—
Research and development	45,872	61,438
Selling, general and administrative	13,527	16,253
Total costs and expenses	62,922	77,739
Loss from operations	(38,426)	(66,638)
Interest and other income	1,073	195
Interest expense	(656)	—
Net loss	(38,009)	(66,443)
Other comprehensive loss:		
Unrealized gain (loss) on investments	13	(222)
Comprehensive loss	$ (37,996)	$ (66,665)
Basic and diluted net loss per common share	$ (0.61)	$ (1.08)
Basic and diluted weighted average common shares outstanding	61,809,817	61,324,163

See notes to consolidated financial statements.

MACROGENICS, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(unaudited)
(in thousands, except share amounts)

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity
	Shares	Amount				
Balance, December 31, 2022	61,701,467	$ 617	$ 1,235,095	$ (1,093,694)	$ (5)	$ 142,013
Share-based compensation	—	—	4,788	—	—	4,788
Issuance of common stock, net of offering costs	95,000	1	616	—	—	617
Stock plan related activity	42,098	—	(154)	—	—	(154)
Unrealized loss on investments	—	—	—	—	13	13
Net loss	—	—	—	(38,009)	—	(38,009)
Balance, March 31, 2023	61,838,565	$ 618	$ 1,240,345	$ (1,131,703)	$ 8	$ 109,268

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity
	Shares	Amount				
Balance, December 31, 2021	61,307,428	$ 613	$ 1,213,002	$ (973,936)	$ (61)	$ 239,618
Share-based compensation	—	—	5,224	—	—	5,224
Stock plan related activity	25,646	—	37	—	—	37
Unrealized gain on investments	—	—	—	—	(222)	(222)
Net loss	—	—	—	(66,443)	—	(66,443)
Balance, March 31, 2022	61,333,074	$ 613	$ 1,218,263	$ (1,040,379)	$ (283)	$ 178,214

See notes to consolidated financial statements.

MACROGENICS, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)
(in thousands)

	Three Months Ended March 31,	
	2023	**2022**
Cash flows from operating activities		
Net loss	$ (38,009)	$ (66,443)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization expense	2,983	2,913
Amortization of premiums and discounts on marketable securities	(372)	334
Stock-based compensation	4,833	5,274
Non-cash royalty revenue	(90)	—
Non-cash interest expense	656	—
Changes in operating assets and liabilities:		
Accounts receivable	20,062	(4,520)
Inventory	42	(210)
Prepaid expenses and other current assets	443	6,457
Non-cash lease expense	941	—
Other non current assets	—	801
Accounts payable	(1,148)	(11,920)
Accrued expenses and other current liabilities	(677)	(543)
Lease liabilities	(284)	(1,119)
Deferred revenue	(2,213)	11,280
Net cash used in operating activities	(12,833)	(57,696)
Cash flows from investing activities		
Purchases of marketable securities	(17,296)	(54,077)
Proceeds from sale and maturities of marketable securities	45,750	37,010
Purchases of property, equipment and software	(359)	(1,415)
Net cash provided by (used in) investing activities	28,095	(18,482)
Cash flows from financing activities		
Proceeds from issuance of common stock, net of offering costs	616	—
Proceeds from stock option exercises and ESPP purchases	5	37
Taxes paid related to net share settlement of equity awards	(158)	—
Net proceeds from sale of future royalties	99,655	—
Net cash provided by financing activities	100,118	37
Net change in cash and cash equivalents	115,380	(76,141)
Cash and cash equivalents at beginning of period	108,884	123,469
Cash and cash equivalents at end of period	$ 224,264	$ 47,328
Supplemental Cash Flow Information		
Property, equipment and software included in accounts payable or accruals	$ 177	$ 151

See notes to consolidated financial statements.

MACROGENICS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (unaudited)

1. Nature of Operations

Description of the business

MacroGenics, Inc. (the Company) is incorporated in the state of Delaware. The Company is a biopharmaceutical company focused on developing and commercializing innovative antibody-based therapeutics designed to modulate the human immune response for the treatment of cancer. The Company has a pipeline of product candidates being evaluated in clinical trials sponsored by MacroGenics or its collaborators. These product candidates include multiple oncology programs, some of which were created primarily using the Company's proprietary, antibody-based technology platforms. The Company believes our product candidates have the potential, if approved for marketing by regulatory authorities, to have a meaningful effect on treating patients' unmet medical needs as monotherapy or, in some cases, in combination with other therapeutic agents. In March 2021, the Company and its commercialization partner commenced U.S. marketing of MARGENZA (margetuximab-cmkb), a human epidermal growth factor receptor 2 (HER2) receptor antagonist indicated, in combination with chemotherapy, for the treatment of adult patients with metastatic HER2-positive breast cancer who have received two or more prior anti-HER2 regimens, at least one of which was for metastatic disease.

Liquidity

The Company's multiple product candidates currently under development will require significant additional research and development efforts that include extensive preclinical studies and clinical testing, and regulatory approval prior to commercial use.

The future success of the Company is dependent on its ability to identify and develop its product candidates, and ultimately upon its ability to attain profitable operations. The Company has devoted substantially all of its financial resources and efforts to research and development and general and administrative expense to support such research and development. Net losses and negative cash flows have had, and will continue to have, an adverse effect on the Company's stockholders' equity and working capital, and accordingly, its ability to execute its future operating plans.

As a biotechnology company, the Company has primarily funded its operations with proceeds from the sale of its common stock in equity offerings, revenue from its multiple collaboration agreements, and contracts from the National Institute of Allergy and Infectious Diseases (NIAID). Management regularly reviews the Company's available liquidity relative to its operating budget and forecast to monitor the sufficiency of the Company's working capital. The Company plans to meet its future operating requirements by generating revenue from current and future strategic collaborations or other arrangements, product sales and royalties. The Company anticipates continuing to draw upon available sources of capital, including equity and debt instruments, to support its product development activities. If the Company is unable to enter into new arrangements or to perform under current or future agreements or obtain additional capital, the Company will assess its capital resources and may be required to delay, reduce the scope of, or eliminate one or more of its product research and development programs or clinical studies, reduce other operating expenses, and/or downsize its organization. Based on the Company's most recent cash flow forecast, the Company believes its current resources are sufficient to fund its operating plans for a minimum of twelve months from the date that this Quarterly Report on Form 10-Q was filed.

Similar to the other risk factors pertinent to the Company's business, geopolitical tensions, including the ongoing military conflict between Russia and Ukraine and the related sanctions imposed against Russia, and related global slowdown of economic activity, decades-high inflation, rising interest rates, adverse events involving financial institutions or the financial services industry and a potential recession in the United States might unfavorably impact the Company's ability to generate such additional funding. Given the uncertainty in the rapidly changing market and economic conditions related to these uncertainties, the Company will continue to evaluate the nature and extent of the impact of these uncertainties on its business and financial position.

Basis of Presentation

The accompanying unaudited interim consolidated financial statements of the Company have been prepared in accordance with U.S. generally accepted accounting principles (GAAP) for interim financial information. The financial statements include all adjustments (consisting only of normal recurring adjustments) that the management of the Company believes are necessary for a fair presentation of the periods presented. These interim financial results are not necessarily indicative of results expected for the full fiscal year or for any subsequent interim period.

The accompanying unaudited interim consolidated financial statements include the accounts of MacroGenics, Inc. and its wholly owned subsidiaries, MacroGenics UK Limited and MacroGenics Limited. All intercompany accounts and transactions have been eliminated in consolidation. These consolidated financial statements and related notes should be read in conjunction with the financial statements and notes thereto included in the Company's 2022 Annual Report on Form 10-K filed with the Securities and Exchange Commission (SEC) on February 24, 2022.

2. Summary of Significant Accounting Policies

During the three months ended March 31, 2023, the Company adopted the following significant accounting policies in addition to those disclosed in the Company's Annual Report on Form 10-K for the year ended December 31, 2022.

Liability related to the sale of future royalties and related interest expense

The Company assesses the relevant accounting criteria under the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 470, *Debt* (ASC 470) to determine whether the upfront payment received from the purchaser should be accounted for as debt or deferred income depending on the facts and circumstances. If the criteria in ASC 470 is met, the Company accounts for net proceeds from sales of its rights to receive future royalty payments as a liability that is amortized using the effective interest method over the term of the arrangement. The liability related to future royalties is presented net of unamortized issuance costs on the consolidated balance sheets. Interest expense on the liability related to future royalties is recognized using the effective interest rate method over the life of the arrangement. The Company calculates an effective interest rate which will amortize its related obligation to zero over the anticipated repayment period. The liability related to future royalties and the related interest expense are based on the Company's current estimates of future royalties expected to be received over the life of the arrangement, which the Company determines by using internal sales projections and external information from market data sources, which are considered Level 3 inputs. The Company periodically assesses the expected payments and to the extent the Company's estimates of future royalty payments are greater or less than previous estimates or the estimated timing of such payments is materially different than previous estimates, the Company will adjust the effective interest rate and recognize related non-cash interest expense on a prospective basis. Non-cash amortization is reflected as interest expense in the consolidated statements of operations and comprehensive loss.

Recent Accounting Pronouncements

There were no new accounting pronouncements that were issued or became effective since the issuance of the Company's 2022 Annual Report on Form 10-K that had, or are expected to have, a material impact on its consolidated financial position, results of operations or cash flows.

3. Fair Value of Financial Instruments

The Company's financial instruments consist of cash and cash equivalents, marketable securities, accounts receivable, accounts payable and accrued expenses. The carrying amount of accounts receivable, accounts payable and accrued expenses are generally considered to be representative of their respective fair values because of their short-term nature. The Company accounts for recurring and non-recurring fair value measurements in accordance with ASC 820, *Fair Value Measurements and Disclosures* (ASC 820). ASC 820 defines fair value, establishes a fair value hierarchy for assets and liabilities measured at fair value, and requires expanded disclosures about fair value measurements. The ASC 820 hierarchy ranks the quality of reliability of inputs, or assumptions, used in the determination of fair value and requires assets and liabilities carried at fair value to be classified and disclosed in one of the following three categories:

- Level 1 - Fair value is determined by using unadjusted quoted prices that are available in active markets for identical assets and liabilities.
- Level 2 - Fair value is determined by using inputs other than Level 1 quoted prices that are directly or indirectly observable. Inputs can include quoted prices for similar assets and liabilities in active markets or quoted prices for identical assets and liabilities in inactive markets. Related inputs can also include those used in valuation or other pricing models, such as interest rates and yield curves that can be corroborated by observable market data.
- Level 3 - Fair value is determined by inputs that are unobservable and not corroborated by market data. Use of these inputs involves significant and subjective judgments to be made by a reporting entity - e.g., determining an appropriate adjustment to a discount factor for illiquidity associated with a given security.

The Company evaluates financial assets and liabilities subject to fair value measurements on a recurring basis to determine the appropriate level at which to classify them each reporting period. This determination requires the Company to make subjective judgments as to the significance of inputs used in determining fair value and where such inputs lie within the ASC 820 hierarchy. There were no transfers between levels during the periods presented.

Financial assets measured at fair value on a recurring basis were as follows (in thousands):

	Fair Value Measurements at March 31, 2023		
	Total	Level 1	Level 2
Assets:			
Money market funds	$ 52,843	$ 52,843	$ —
Government-sponsored enterprises	28,879	—	28,879
Corporate debt securities	11,187	—	11,187
Total assets measured at fair value[(a)]	$ 92,909	$ 52,843	$ 40,066

	Fair Value Measurements at December 31, 2022		
	Total	Level 1	Level 2
Assets:			
Money market funds	$ 41,564	$ 41,564	$ —
Government-sponsored enterprises	32,811	—	32,811
Corporate debt securities	17,626	—	17,626
Total assets measured at fair value[(b)]	$ 92,001	$ 41,564	$ 50,437

(a) Total assets measured at fair value at March 31, 2023 includes approximately $75.5 million reported in cash and cash equivalents on the consolidated balance sheet.

(b) Total assets measured at fair value at December 31, 2022 includes approximately $46.5 million reported in cash and cash equivalents on the consolidated balance sheet.

4. Marketable Securities

The following tables summarize the Company's marketable debt securities (in thousands):

	March 31, 2023			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Government-sponsored enterprises	$ 13,168	$ 8	$ —	$ 13,176
Corporate debt securities	4,216	—	—	4,216
Total	$ 17,384	$ 8	$ —	$ 17,392

	December 31, 2022			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Government-sponsored enterprises	$ 32,812	$ 5	$ (7)	$ 32,810
Corporate debt securities	12,655	1	(4)	12,652
Total	$ 45,467	$ 6	$ (11)	$ 45,462

All available-for-sale marketable debt securities held as of March 31, 2023 and December 31, 2022 had contractual maturities of less than one year. All of the Company's available-for-sale marketable debt securities in an unrealized loss position as of December 31, 2022 were in a loss position for less than twelve months. Unrealized losses on available-for-sale debt securities as of December 31, 2022 were not significant and were primarily due to changes in interest rates, including market credit spreads, and not due to increased credit risks associated with specific securities. Accordingly, no allowance for credit losses related to the Company's available-for-sale debt securities was recorded for any periods presented. The Company does not intend to sell these investments and it is not more likely than not that the Company will be required to sell the investments before recovery of their amortized cost bases, which may be at maturity.

5. Inventory, Net

All of the Company's inventory relates to the manufacturing of MARGENZA. The following table sets forth the Company's net inventory (in thousands):

	March 31, 2023	December 31, 2022
Work in process	$ 206	$ 409
Finished goods	1,203	1,042
Total inventory, net	$ 1,409	$ 1,451

Prior to U.S. Food and Drug Administration (FDA) approval of MARGENZA in December 2020, the cost of materials and expenses associated with the manufacturing of MARGENZA were recorded as research and development expense. Subsequent to FDA approval, the Company began capitalizing inventory costs related to the manufacture of MARGENZA. The inventory balance as of March 31, 2023 and December 31, 2022 is net of a reserve of $4.9 million for unsaleable inventory. These reserves are reflected in cost of product sales during the period they are recorded.

6. Royalty Monetization Arrangement

On March 8, 2023, the Company entered into a Purchase and Sale Agreement (Royalty Purchase Agreement) with DRI Healthcare Acquisitions LP (DRI), a wholly owned subsidiary of DRI Healthcare Trust, for the sale to DRI of the Company's single-digit royalty interest on global net sales of TZIELD (teplizumab-mzwv) (the DRI Transaction) under the Company's Asset Purchase Agreement dated May 7, 2018, as amended (the Asset Purchase Agreement), with Provention Bio, Inc. (Provention). The Company retains its other economic interests related to TZIELD, including future potential development, regulatory, and commercial milestones.

Under the terms of the Royalty Purchase Agreement, the Company received $100.0 million from DRI for its single-digit royalty interest on global net sales of TZIELD under the Asset Purchase Agreement. The Company will have the right to receive a 50% share of the royalty on global net sales above a certain annual threshold. In addition, the Company may also receive up to $50.0 million from DRI upon the occurrence of pre-specified events tied to the advancement of TZIELD for the treatment of newly diagnosed type 1 diabetes. The Company may also receive an additional $50.0 million milestone from DRI if TZIELD achieves a certain level of net sales.

The $100.0 million proceeds received from DRI under the Royalty Purchase Agreement were recorded as a liability for future royalties, net of transaction costs of $0.3 million, which will be amortized over the term of the arrangement using the effective interest rate method. The Company accounted for the Royalty Purchase Agreement as a financing arrangement because the Company has significant continuing involvement in the delivery of future royalty payments to DRI and other existing obligations under the Asset Purchase Agreement. Royalty revenue will be recognized as earned on net sales of TZIELD, and the Company will record the royalty payments to DRI as a reduction of the liability when paid. The aggregate future estimated payments, less the $99.7 million of net proceeds, will be recorded as interest expense over the term of the arrangement. As such payments are made to DRI, the balance of the liability will be effectively repaid over the life of the Royalty Purchase Agreement. The Company will estimate the payments to be made to DRI over the term of the Royalty Purchase Agreement based on forecasted royalties and will calculate the effective interest rate required to discount such payments back to the liability balance. Over the course of the Royalty Purchase Agreement, the actual effective interest rate will be affected by the amount and timing of net royalty revenue recognized and changes in forecasted revenue. On a quarterly basis, the Company will reassess the effective interest rate and adjust the rate prospectively as necessary.

Changes to the liability related to future royalties were as follows for the three months ended March 31, 2023 (in thousands):

Liability related to future royalties - beginning balance	$ —
Proceeds from sale of future royalties	100,000
Deferred transaction costs	(344)
Non-cash royalty revenue payable to DRI	(90)
Non-cash interest expense recognized	656
Liability related to future royalties - ending balance	$ 100,222

7. Stockholders' Equity

In November 2020, the Company entered into a sales agreement (Sales Agreement) with an agent to sell, from time to time, shares of its common stock having an aggregate sales price of up to $100.0 million through an “at the market offering” (ATM Offering) as defined in Rule 415 under the Securities Act of 1933, as amended. The Company sold 3,622,186 shares of common stock resulting in net proceeds of approximately $98.2 million through December 31, 2021 under the Sales Agreement. In April 2021, the Company entered into Amendment No. 1 to the Sales Agreement which increased the amount of the Company’s common stock that can be sold by the Company through its agent under the ATM Offering, from an aggregate offering price of up to $100.0 million to an aggregate offering price of up to $300.0 million. In March 2023, the Company terminated the Sales Agreement and entered into a new sales agreement with an agent to sell, from time to time, shares of its common stock having an aggregate sales price of up to $100.0 million through an ATM Offering. During the three months ended March 31, 2023, the Company sold 95,000 shares of common stock at a weighted average price per share of $6.60, resulting in net proceeds of approximately $0.6 million, net of offering expenses.

8. Revenue

Collaborative and Other Agreements

Incyte Corporation

Incyte License Agreement

In 2017, the Company entered into an exclusive global collaboration and license agreement with Incyte Corporation (Incyte), which was amended in March 2018, April 2022 and July 2022, for retifanlimab, an investigational monoclonal antibody that inhibits programmed cell death protein 1 (PD-1) (Incyte License Agreement). Incyte has obtained exclusive worldwide rights for the development and commercialization of retifanlimab in all indications, while the Company retains the right to develop its pipeline assets in combination with retifanlimab. Under the terms of the Incyte License Agreement, Incyte paid the Company an upfront payment of $150.0 million in 2017. MacroGenics will manufacture a portion of Incyte’s global commercial supply of retifanlimab. In March 2023, the FDA approved Incyte's Biologics License Application (BLA) for ZYNYZ (retifanlimab-dlwr) for the treatment of adults with metastatic or recurrent locally advanced Merkel cell carcinoma. Incyte has stated it is pursuing development of retifanlimab in potentially registration-enabling studies, including in patients with squamous cell carcinoma of the anal canal, MSI-high endometrial cancer and non-small cell lung cancer. Incyte is also pursuing development of retifanlimab in combination with multiple product candidates from its pipeline.

Under the terms of the Incyte License Agreement, as amended, Incyte will lead global development of retifanlimab. Assuming successful development and commercialization by Incyte in multiple indications, the Company could receive up to a total of $435.0 million in development and regulatory milestones and up to $330.0 million in commercial milestones. From the inception of the Incyte License Agreement through March 31, 2023, the Company has recognized $115.0 million in development milestones under the Incyte License Agreement, including $15.0 million received following the FDA approval of ZYNYZ. The Company is also eligible to receive tiered royalties of 15% to 24% on global net sales. The Company retains the right to develop its pipeline assets in combination with retifanlimab, with Incyte commercializing retifanlimab and the Company commercializing its asset(s), if any such potential combinations are approved. In addition, the Company retains the right to manufacture a portion of both companies' global commercial supply needs of retifanlimab, subject to the separate commercial supply agreement.

The Company evaluated the Incyte License Agreement under the provisions of Accounting Standards Codification Topic 606, *Revenue from Contracts with Customers* (ASC 606) at inception and identified the following two performance obligations under the agreement: (i) the license of retifanlimab and (ii) the performance of certain clinical activities through a brief technology transfer period. The Company determined that the license and clinical activities are separate performance obligations because they are capable of being distinct and are distinct in the context of the contract. The license has standalone functionality as it is sublicensable, Incyte has significant capabilities in performing clinical trials, and Incyte is capable of performing these activities without the Company's involvement; the Company performed the activities during the transfer period as a matter of convenience. The Company determined that the transaction price of the Incyte License Agreement at inception was $154.0 million, consisting of the consideration to which the Company was entitled in exchange for the license and an estimate of the consideration for clinical activities to be performed. The transaction price was allocated to each performance obligation based on their relative standalone selling price. The standalone selling price of the license was determined using the adjusted market assessment approach considering similar collaboration and license agreements. The

standalone selling price for the agreed-upon clinical activities to be performed was determined using the expected cost approach based on similar arrangements the Company has with other parties. The potential development and regulatory milestone payments are fully constrained until the Company concludes that achievement of the milestone is probable, and that recognition of revenue related to the milestone will not result in a significant reversal in amounts recognized in future periods, and as such have been excluded from the transaction price. Any consideration related to sales-based milestones and royalties will be recognized when the related sales occur, as they were determined to relate predominantly to the license granted to Incyte and, therefore, have also been excluded from the transaction price. The Company re-assesses the transaction price in each reporting period and when events whose outcomes are resolved or other changes in circumstances occur. From 2018 through March 31, 2023, it became probable that a significant reversal of cumulative revenue would not occur for development milestones totaling $115.0 million related to clinical and regulatory activities related to the further advancement of retifanlimab. Therefore, the associated consideration was added to the estimated transaction price and was recognized as revenue.

The Company recognized the $150.0 million allocated to the license when it satisfied its performance obligation and transferred the license to Incyte in 2017. The $4.0 million allocated to the clinical activities was recognized ratably as services were performed during 2017 and 2018. The Company recognized the $15.0 million ZYNYZ approval milestone as revenue under the Incyte License Agreement during the three months ended March 31, 2023. During the three months ended March 31, 2022, no revenue was recognized under the Incyte License Agreement.

Incyte Clinical Supply Agreement

In 2018, the Company entered into an agreement with Incyte, under which the Company is to perform development and manufacturing services for Incyte's clinical needs of retifanlimab (Incyte Clinical Supply Agreement). The Company evaluated the Incyte Clinical Supply Agreement under ASC 606 and identified one performance obligation under the agreement: to perform services related to the development and manufacturing of the clinical supply of retifanlimab. The transaction price is based on the costs incurred to develop and manufacture drug product and drug substance, and is recognized over time as the services are provided, as the performance by the Company does not create an asset with an alternative use and the Company has an enforceable right to payment for the performance completed to date. The transaction price is being recognized using the input method reflecting the costs incurred (including resources consumed and labor hours expended) related to the manufacturing services. During the three months ended March 31, 2023 and 2022, the Company recognized revenue of $1.3 million and $0.3 million, respectively, for services performed under the Incyte Clinical Supply Agreement.

Gilead Sciences, Inc

In October 2022, the Company and Gilead Sciences, Inc. (Gilead) entered into an exclusive option and collaboration agreement (Gilead Agreement) to develop and commercialize MGD024, an investigational, bispecific antibody that binds CD123 and CD3, and create bispecific cancer antibodies using the Company's DART platform and undertake their early development under a maximum of two separate bispecific cancer target research programs. Under the agreement, the Company will continue the ongoing phase 1 trial for MGD024 according to a development plan, during which Gilead will have the right to exercise an option granted to Gilead to obtain an exclusive license under the Company's intellectual property to develop and commercialize MGD024 and other bispecific antibodies of MacroGenics that bind CD123 and CD3 (CD123 Option). The agreement also grants Gilead the right, within its first two years, to nominate a bispecific cancer target set for up to two research programs conducted by the Company and to exercise separate options to obtain an exclusive license for the development, commercialization and exploitation of molecules created under each research program (Research Program Option).

Under the terms of the Gilead Agreement, in October 2022 Gilead paid the Company an upfront payment of $60.0 million. Assuming Gilead exercises the CD123 Option and Research Program Option and successfully develops and commercializes MGD024, or other CD123 products developed under the agreement, and products result from the two additional research programs, the Company would be eligible to receive up to $1.7 billion in target nomination, option fees, and development, regulatory and commercial milestones. Assuming exercise of the CD123 Option, the Company will also be eligible to receive tiered, low double-digit royalties on worldwide net sales of MGD024 (or other CD123 products developed under the agreement) and assuming exercise of the Research Program Option, a flat royalty on worldwide net sales of any products resulting from the two research programs.

The Company evaluated the Gilead Agreement under the provisions of ASC 606 and identified the following material promises under the agreement: (i) a license to perform any activities allocated to Gilead under the MGD024 development plan; (ii) development activities regarding MGD024, including manufacturing, research and early clinical development activities, necessary to deliver an informational package of development and clinical data, information and materials specified in the Gilead Agreement during the period in which Gilead can exercise the CD123 Option; (iii) the CD123 Option and (iv) the Research Program Option.

The Company concluded that the license under the MGD024 development plan and development activities are not distinct from one another, as the license has limited value without the Company's performance of the development activities. Therefore, the Company determined that the development term license and development activities should be combined into a single performance obligation (Development Activities). The CD123 Option is considered a material right as the value of the exclusive license exceeds the payment to be made by Gilead if they exercise their option to obtain an exclusive license to develop and commercialize MGD024 or an alternative CD123 product, and is therefore a distinct performance obligation. The Company determined that the Research Program Option does not provide a material right, as there is no discount on its standalone selling price.

In accordance with ASC 606, the Company determined that the initial transaction price under the Gilead Agreement was $60.0 million, consisting of the upfront, non-refundable payment paid by Gilead. The CD123 Option and Research Program Option payments are excluded from the initial transaction price at contract inception along with any future development, regulatory, and commercial milestone payments (including royalties) following the CD123 Option and Research Program Option exercise. The Company will reassess the amount of variable consideration included in the transaction price every reporting period. The Company allocated the $60.0 million upfront payment in the transaction price to the Development Activities and the CD123 Option based on each performance obligation's relative standalone selling price. The standalone selling price for the Development Activities was calculated using an expected cost-plus margin approach for the pre-option development timeline. For the standalone selling price of the CD123 Option, the Company utilized an income-based approach which included the following key assumptions: post-option development timeline and costs, forecasted revenues, discount rates and probabilities of technical and regulatory success.

The Company is recognizing revenue related to the Development Activities performance obligation over the estimated period to complete the Development Activities using an input method reflecting the costs incurred (including resources consumed and labor hours expended) related to the Development Activities. The Company will defer revenue recognition related to the CD123 Option. If Gilead exercises the CD123 Option and obtains an exclusive license, the Company will recognize revenue as it fulfills its obligations under the Gilead Agreement. If the CD123 Option is not exercised, the Company will recognize the entirety of the revenue in the period when the CD123 Option expires.

During the three months ended March 31, 2023, the Company recorded revenue of $0.4 million related to the Gilead Agreement. As of March 31, 2023, $59.5 million in revenue was deferred under this agreement, $2.1 million of which was current and $57.4 million of which was non-current. As of December 31, 2022, $59.8 million in revenue was deferred under this agreement, $1.8 million of which was current and $58.0 million of which was non-current.

Zai Lab Limited

2018 Zai Lab Agreement

In 2018, the Company entered into a collaboration and license agreement with Zai Lab Limited (Zai Lab) under which Zai Lab obtained regional development and commercialization rights in mainland China, Hong Kong, Macau and Taiwan (Zai Lab's territory) for (i) margetuximab, an immune-optimized anti-HER2 monoclonal antibody, (ii) tebotelimab, a bispecific DART® molecule designed to provide coordinate blockade of PD-1 and LAG-3 for the potential treatment of a range of solid tumors and hematological malignancies, and (iii) an undisclosed multi-specific TRIDENT molecule in preclinical development (2018 Zai Lab Agreement). Zai Lab will lead clinical development of these molecules in its territory. Zai Lab has informed the Company that they have decided to discontinue development of tebotelimab for indications they were enrolling in their territory and is evaluating future development plans in other indications.

Under the terms of the 2018 Zai Lab Agreement, Zai Lab paid the Company an upfront payment of $25.0 million ($22.5 million after netting value-added tax withholdings of $2.5 million). Assuming successful development and commercialization of margetuximab, tebotelimab and the TRIDENT molecule, the Company could receive up to $140.0 million in development and regulatory milestones, of which the Company has earned $9.0 million through March 31, 2023. In addition, Zai Lab would pay the Company tiered royalties at percentage rates of mid-teens to 20% for net sales of margetuximab in Zai Lab's territory, mid-teens for net sales of tebotelimab in Zai Lab's territory and 10% for net sales of the TRIDENT molecule in Zai Lab's territory, which may be subject to adjustment in specified circumstances.

The Company evaluated the 2018 Zai Lab Agreement under the provisions of ASC 606 and identified the following material promises under the arrangement for each of the two product candidates, margetuximab and tebotelimab: (i) an exclusive license to develop and commercialize the product candidate in Zai Lab's territory and (ii) certain research and development activities. The Company determined that each license and the related research and development activities were not distinct from one another, as the license has limited value without the performance of the research and development activities.

As such, the Company determined that these promises should be combined into a single performance obligation for each product candidate. Activities related to margetuximab and tebotelimab are separate performance obligations from each other because they are capable of being distinct, and are distinct in the context of the contract. The Company evaluated the promises related to the TRIDENT molecule and determined they were immaterial in context of the contract, therefore there is no performance obligation related to that molecule. The Company determined that the net $22.5 million upfront payment from Zai Lab constituted the entirety of the consideration to be included in the transaction price as of the outset of the arrangement, and the transaction price was allocated to the two performance obligations based on their relative standalone selling price. The standalone selling price of the performance obligations was determined using the adjusted market assessment approach considering similar collaboration and license agreements. The potential development and regulatory milestone payments are fully constrained until the Company concludes that achievement of the milestone is probable, and that recognition of revenue related to the milestone will not result in a significant reversal in amounts recognized in future periods, and as such have been excluded from the transaction price. Any consideration related to royalties will be recognized if and when the related sales occur, as they were determined to relate predominantly to the license granted to Zai Lab and, therefore, have also been excluded from the transaction price.

The Company re-assesses the transaction price in each reporting period and when events whose outcomes are resolved or other changes in circumstances occur. From 2020 through March 31, 2023, it became probable that a significant reversal of cumulative revenue would not occur for development and regulatory milestones totaling $9.0 million. Therefore, the associated consideration, $8.1 million net of value-added tax withholdings, was added to the estimated transaction price and was recognized as revenue. During the three months ended March 31, 2023, no revenue was recognized, and during the three months ended March 31, 2022, $5.0 million in revenue was recognized under the 2018 Zai Lab Agreement.

2021 Zai Lab Agreement

In June 2021, the Company entered into a collaboration and license agreement with Zai Lab US LLC (collectively with Zai Lab Limited referred herein as Zai Lab) involving collaboration programs and license-only programs (collectively, the Programs) encompassing four separate immuno-oncology molecules (2021 Zai Lab Agreement). The first program covers a lead research molecule that incorporates the Company's DART platform and binds CD3 and an undisclosed target that is expressed in multiple solid tumors (Lead Program). The second program covers a target to be designated by the Company. For these programs, Zai Lab receives commercial rights in Greater China, Japan, and Korea while the Company receives commercial rights in all other territories. Zai Lab also obtained exclusive, global licenses from the Company to develop, manufacture and commercialize two additional molecules. Zai Lab granted the Company a worldwide, royalty-free, co-exclusive license to conduct the development activities allocated to the Company. In August 2022, the Company and Zai Lab agreed to discontinue research and development of the Lead Program.

Under the terms of the 2021 Zai Lab Agreement, the Lead Program included joint research and development services by both the Company and Zai Lab. For the other programs, Zai Lab can separately negotiate and agree with the Company to perform research and development services in the future.

In connection with the execution of the 2021 Zai Lab Agreement, Zai Lab paid the Company an upfront payment of $25.0 million. Additionally, as part of the consideration for the rights granted to Zai Lab under the 2021 Zai Lab Agreement, the Company and Zai Lab entered into a stock purchase agreement whereby Zai Lab paid the Company approximately $30.0 million to purchase shares of the Company's common stock, par value $0.01, at a fixed price of $31.30 which represented a $10.4 million premium over the share price on the stock purchase agreement date.

Assuming successful development and commercialization of the remaining Programs, the Company could receive up to approximately $680.0 million in development and regulatory milestones and $600.0 million in commercial milestones. In addition, Zai Lab would pay the Company tiered royalties at percentage rates of mid-single digits to low double digit teens on annual net sales of products in Zai Lab's territory, which may be subject to specified royalty reduction pursuant to the 2021 Zai Lab Agreement. Per the terms of the 2021 Zai Lab Agreement, the Company may also receive reimbursements from Zai Lab for certain research and development costs incurred by the Company.

The Company evaluated the 2021 Zai Lab Agreement under the provisions of ASC 606 and identified the following material promises: (i) exclusive licenses to develop, manufacture and commercialize the products in Zai Lab's territory for each Program and (ii) certain research and development activities for the Lead Program. The Company determined that for the Lead Program, the license is not distinct from the related research and development activities, considering the early stage of development of the molecule and the Company's significant expertise in this area and as such, the research and development services are expected to significantly modify and customize the license. Therefore, for the Lead Program, the license and the services were combined into a single performance obligation. Since the other programs each represent distinct intellectual property and there are no other services included in the 2021 Zai Lab Agreement related to these licenses, each license is

considered to be a distinct performance obligation. As such, there are four performance obligations included in the 2021 Zai Lab Agreement.

The Company concluded that the estimated transaction price is $40.4 million, consisting of the $25.0 million upfront payment, the $10.4 million premium related to the purchase of the Company's common stock, and the $5.0 million estimated reimbursement by Zai Lab for research and development activities for the Lead Program. The potential milestone payments were deemed to be fully constrained until the Company concludes that achievement of the milestone is probable, and that recognition of revenue related to the milestone will not result in a significant reversal in amounts recognized in future periods, and as such have been excluded from the transaction price. Any consideration related to royalties will be recognized if and when the related sales occur, as they were determined to relate predominantly to the license granted to Zai Lab and, therefore, have also been excluded from the transaction price. The Company will re-assess the transaction price in each reporting period and when events whose outcomes are resolved or other changes in circumstances occur.

The transaction price of $40.4 million was then allocated to the four performance obligations based on their relative standalone selling price. The standalone selling price of the performance obligations was not directly observable; therefore, the Company estimated the standalone selling price using an adjusted market assessment approach, representing the amount that the Company believes a market participant is willing to pay for the product or service. The estimate was based on consideration of observable inputs, such as values of other preclinical collaboration arrangements adjusted for the Company's estimate of the probability of success for each Program.

Revenue related to the Lead Program license and related research and development services performance obligation was recognized over time as the research and development activities were performed. The Company utilized a cost-based input method according to costs incurred to date compared to estimated total costs. The transfer of control occurs over this time period and, in management's judgment, is the best measure of progress towards satisfying the performance obligations. The Company recognized revenue allocated to the other programs at a point in time upon transfer of the licenses to Zai Lab in 2021. During the three months ended March 31, 2023 the Company recognized no revenue under the 2021 Zai Lab Agreement, and the Company recognized revenue of $0.3 million during the three months ended March 31, 2022 under the 2021 Zai Lab Agreement.

Provention Bio, Inc.

In 2018, the Company entered into a license agreement with Provention pursuant to which the Company granted Provention exclusive global rights for the purpose of developing and commercializing MGD010 (renamed PRV-3279), a CD32B x CD79B DART molecule being developed for the treatment of autoimmune indications (Provention License Agreement). As partial consideration for the Provention License Agreement, Provention granted the Company a warrant to purchase shares of Provention's common stock at an exercise price of $2.50 per share. If Provention successfully develops, obtains regulatory approval for, and commercializes PRV-3279, the Company will be eligible to receive up to $65.0 million in development and regulatory milestones and up to $225.0 million in commercial milestones. As of March 31, 2023, the Company has not recognized any milestone revenue under this agreement. If commercialized, the Company would be eligible to receive single-digit royalties on net sales of the product. The license agreement may be terminated by either party upon a material breach or bankruptcy of the other party, by Provention without cause upon prior notice to the Company, and by the Company in the event that Provention challenges the validity of any licensed patent under the agreement, but only with respect to the challenged patent.

Also, in 2018, the Company entered into the Asset Purchase Agreement with Provention pursuant to which Provention acquired the Company's interest in teplizumab (renamed PRV-031), a monoclonal antibody being developed for the treatment of type 1 diabetes. As partial consideration for the Asset Purchase Agreement, Provention granted the Company a warrant to purchase shares of Provention's common stock at an exercise price of $2.50 per share. Under the Asset Purchase Agreement, Provention is obligated to pay the Company contingent milestone payments totaling $170.0 million upon the achievement of certain regulatory milestones. In addition, Provention is obligated to make contingent milestone payments to the Company totaling $225.0 million upon the achievement of certain commercial milestones as well as single-digit royalties on net sales of the product. In March 2023, the Company entered into a Royalty Purchase Agreement with DRI; see Note 6, Liability Related to Future Royalties, for additional information. The FDA approved the BLA for TZIELD (teplizumab-mzwv) in November 2022, and the Company recognized $60.0 million in revenue related to this regulatory milestone during the year ended December 31, 2022. In November 2022, the Company and Provention amended the Asset Purchase Agreement. Under this amendment, the milestone for first approval was split into four equal payments, the first two of which were received prior to March 31, 2023. Provention has also agreed to pay third-party obligations, including low single-digit royalties, a portion of which is creditable against royalties payable to the Company, aggregate milestone payments of up to approximately $1.3 million and other consideration, for certain third-party intellectual property under agreements Provention assumed pursuant to

the Asset Purchase Agreement. Further, Provention is required to pay the Company a low double-digit percentage of certain consideration to the extent it is received in connection with a future grant of rights to PRV-031 by Provention to a third party.

The Company evaluated the Provention License Agreement and Asset Purchase Agreement under the provisions of ASC 606 and determined that they should be accounted for as a single contract and identified two performance obligations within that contract: (i) the license of MGD010 and (ii) the title to teplizumab. The Company determined that the transaction price of the Provention agreements was $6.1 million, based on the Black-Scholes valuation of the warrants to purchase a total of 2,432,688 shares of Provention's common stock. The transaction price was allocated to each performance obligation based on the number of shares of common stock the Company is entitled to purchase under each warrant. The potential development and regulatory milestone payments are fully constrained until the Company concludes that achievement of the milestone is probable and that recognition of revenue related to the milestone will not result in a significant reversal in amounts recognized in future periods, and as such were excluded from the initial transaction price. Any consideration related to sales-based milestones and royalties will be recognized when the related sales occur, therefore they have also been excluded from the transaction price. The Company re-assesses the transaction price in each reporting period and when events whose outcomes are resolved or other changes in circumstances occur. The Company recognized revenue of $6.1 million when it satisfied its performance obligations under the agreements and transferred the MGD010 license and teplizumab assets to Provention in 2018. In 2019, the Company exercised the warrants on a cashless basis, and subsequently sold all the shares of Provention common stock acquired through the exercise. No shares of Provention stock were held subsequent to the sale of stock in 2019. During the year ended December 31, 2022, it became probable that a significant reversal of cumulative revenue would not occur for a regulatory milestone of $60.0 million, therefore the associated consideration was added to the estimated transaction price and was recognized as revenue. During the three months ended March 31, 2023, the Company recognized $0.4 million in royalty revenue under these agreements based on the sales of TZIELD, and no revenue under these agreements during the three months ended March 31, 2022. As of March 31, 2023, Provention owed the Company $30.0 million related to the achieved milestone, which is included in accounts receivable on the consolidated balance sheet. This receivable was due to be paid on June 1, 2023 and September 1, 2023 under the amended Asset Purchase Agreement. Provention was acquired by Sanofi in April 2023. Sanofi accelerated the payment schedule and paid the Company the balance due subsequent to March 31, 2023.

I-Mab Biopharma

I-Mab License Agreement

In 2019, the Company entered into a collaboration and license agreement with I-Mab Biopharma (I-Mab) to develop and commercialize enoblituzumab, an immune-optimized, anti-B7-H3 monoclonal antibody that incorporates the Company's proprietary Fc Optimization technology platform (I-Mab License Agreement). I-Mab obtained regional development and commercialization rights in mainland China, Hong Kong, Macau and Taiwan (I-Mab's territory), will lead clinical development of enoblituzumab in its territories, and will participate in global studies conducted by the Company. In August 2022, I-Mab notified the Company of its intention to terminate the I-Mab License Agreement effective February 25, 2023.

Under the terms of the I-Mab License Agreement, I-Mab paid the Company an upfront payment of $15.0 million, and $5.0 million of milestone revenue has been earned from the inception of the I-Mab License Agreement through March 31, 2023.

The Company evaluated the I-Mab License Agreement under the provisions of ASC 606 and identified the following material promises under the arrangement: (i) an exclusive license to develop and commercialize enoblituzumab in I-Mab’s territories, (ii) perform certain research and development activities and (iii) conduct a chronic toxicology study. The Company determined that the license and the related research and development activities were not distinct from one another, as the license has limited value without the performance of the research and development activities. As such, the Company determined that the license and related research and development activities should be combined into a single performance obligation. The Company determined that the $15.0 million upfront payment from I-Mab constituted the entirety of the consideration to be included in the transaction price as of the outset of the arrangement for the license and related research and development activities. The Company has also determined that the chronic toxicology study is distinct from the other promises and has estimated the variable consideration of that performance obligation to be approximately $1.0 million. I-Mab paid the Company for the cost of this study as the costs were incurred and I-Mab received a one-time credit of eighty percent of the total amount of such costs against the milestone achieved during 2021. The Company reassessed the transaction price as it became probable that a significant reversal of cumulative revenue would not occur for a $5.0 million milestone ($4.5 million after netting a one-time credit as described above) related to development progress of enoblituzumab, therefore the associated consideration was added to the estimated transaction price and was recognized as revenue during 2021.

Revenue under the I-Mab License Agreement was recognized using a cost-based input method according to costs incurred to date compared to estimated total costs. The transfer of control occurs over this time period and, in management’s

judgment, was the best measure of progress towards satisfying the performance obligations. During the three months ended March 31, 2023 the Company recognized no revenue under the I-Mab License Agreement, and during the three months ended March 31, 2022 the Company recognized revenue of $0.2 million under the I-Mab License Agreement.

I-Mab Clinical Supply Agreement

In October 2021, the Company entered into an agreement under which the Company is to perform development and manufacturing services for I-Mab's clinical needs of enoblituzumab (I-Mab Clinical Supply Agreement). The Company evaluated this agreement under ASC 606 and identified one performance obligation under the agreement: to perform services related to the development and manufacturing of the clinical supply of enoblituzumab. The transaction price is based on the costs incurred to develop and manufacture drug product and drug substance, and is recognized over time as the services are provided, as the performance by the Company does not create an asset with an alternative use and the Company has an enforceable right to payment for the performance completed to date. The transaction price will be recognized using the input method reflecting the costs incurred (including resources consumed and labor hours expended) related to the manufacturing services. During the three months ended March 31, 2023, the Company recognized no revenue for research and development activities performed under the I-Mab Clinical Supply Agreement. During the three months ended March 31, 2022, the Company recognized $0.9 million under the agreement.

Manufacturing Services Agreement

Incyte

In January 2022, the Company entered into a Manufacturing and Clinical Supply Agreement with Incyte (Incyte Manufacturing and Clinical Supply Agreement) to provide manufacturing services to produce certain Incyte bulk drug substance over a three-year period at one of the Company's manufacturing facilities. Under the terms of the Incyte Manufacturing and Clinical Supply Agreement, the Company received an upfront payment of $10.0 million and is eligible to receive annual fixed payments paid quarterly over the term of the contract totaling $14.4 million. The Company will also be reimbursed for materials used to manufacture product as well as other costs incurred to provide manufacturing services. In July 2022, the Company and Incyte executed an amendment to the Incyte Manufacturing and Clinical Supply Agreement which extended the term for one year and provided for an additional annual fixed payment of $5.1 million (July 2022 Incyte Amendment).

The Company evaluated the Incyte Manufacturing and Clinical Supply Agreement and the July 2022 Incyte Amendment under the provisions of ASC 606 and identified one performance obligation to provide manufacturing runs to Incyte, as and when requested by Incyte, over the term of the contract that is part of a series of goods and services. The Company determined that the transaction price consists of the upfront payment received of $10.0 million and the annual fixed payments totaling $19.5 million. The Company will recognize revenue over time on a straight-line basis as the manufacturing services are provided to Incyte, as the Company determined that its efforts in providing the manufacturing services will be incurred evenly throughout the performance period and therefore straight-line revenue recognition closely approximates the level of effort for the manufacturing services. Variable consideration relating to the reimbursed materials and other reimbursed costs incurred to manufacture product for Incyte will be allocated to the related manufacturing activities and will be recognized as revenue as those activities occur. Materials purchased by the Company to manufacture the product for Incyte are considered costs to fulfill a contract and will be capitalized and expensed as the materials are used to provide the manufacturing services.

The Company recognized revenue of $3.6 million under the Incyte Manufacturing and Clinical Supply Agreement during the three months ended March 31, 2023, and no revenue during the three months ended March 31, 2022. As of March 31, 2023, $7.8 million in revenue was deferred under this agreement, $7.1 million of which was current and $0.7 million of which was non-current.

Government Agreement

NIAID Contract

The Company entered into a contract with National Institute of Allergy and Infectious Diseases (NIAID), effective as of September 15, 2015, to perform product development and to advance up to two DART molecules, MGD014 and MGD020 (NIAID Contract). Under the NIAID Contract, the Company will develop these product candidates for Phase 1/2 clinical trials as therapeutic agents, in combination with latency reversing treatments, to deplete cells infected with human immunodeficiency virus (HIV) infection. NIAID does not receive goods or services from the Company under this contract, therefore the Company does not consider NIAID to be a customer and concluded this contract is outside the scope of ASC 606.

Since the inception of the NIAID Contract, NIAID has exercised the two options contemplated in the original contract and executed modifications such that the total funded contract value as of March 31, 2023 is $25.1 million. In addition, the most recent modification changed the period of performance under the NIAID Contract to end in July 2023. During the three months ended March 31, 2023 and 2022, the Company recognized revenue under the NIAID Contract of $0.3 million and $0.4 million, respectively.

9. Stock-Based Compensation

Employee Stock Purchase Plan

In May 2017, the Company's stockholders approved the 2016 Employee Stock Purchase Plan (the 2016 ESPP). The 2016 ESPP is structured as a qualified employee stock purchase plan under Section 423 of the Internal Revenue Code of 1986, as amended (IRC), and is not subject to the provisions of the Employee Retirement Income Security Act of 1974. The Company reserved 800,000 shares of common stock for issuance under the 2016 ESPP. The 2016 ESPP allows eligible employees to purchase shares of the Company's common stock at a discount through payroll deductions of up to 10% of their eligible compensation, subject to any plan limitations. The 2016 ESPP provides for six-month offering periods ending on May 31 and November 30 of each year. At the end of each offering period, employees are able to purchase shares at 85% of the fair market value of the Company's common stock on the last day of the offering period. During the three months ended March 31, 2023, no shares of common stock were purchased under the 2016 ESPP.

Employee Stock Incentive Plans

Effective February 2003, the Company implemented the 2003 Equity Incentive Plan (2003 Plan), and it was amended and approved by the Company's stockholders in 2005. Stock options granted under the 2003 Plan may be either incentive stock options as defined by the IRC, or non-qualified stock options. In 2013, the 2003 Plan was terminated, and no further awards may be issued under the plan. Any shares of common stock subject to awards under the 2003 Plan that expire, terminate, or are otherwise surrendered, canceled, forfeited or repurchased without having been fully exercised, or resulting in any common stock being issued, will become available for issuance under the 2013 Equity Incentive Plan (2013 Plan), up to a specified number of shares. As of March 31, 2023, under the 2003 Plan, there were options to purchase an aggregate of 61,572 shares of common stock outstanding.

In October 2013, the Company implemented the 2013 Plan. The 2013 Plan provides for the grant of stock options and other stock-based awards, as well as cash-based performance awards. The number of shares of common stock reserved for issuance under the 2013 Plan will automatically increase on January 1 of each year from January 1, 2014 through and including January 1, 2023, by the lesser of (a) 1,960,168 shares, (b) 4.0% of the total number of shares of common stock outstanding on December 31 of the preceding calendar year, or (c) the number of shares of common stock determined by the Company's Board of Directors. During the three months ended March 31, 2023, the maximum number of shares of common stock authorized to be issued by the Company under the 2013 Plan was increased to 15,816,949. If an option expires or terminates for any reason without having been fully exercised, if any shares of restricted stock are forfeited, or if any award terminates, expires or is settled without all or a portion of the shares of common stock covered by the award being issued, such shares are available for the grant of additional awards. However, any shares that are withheld (or delivered) to pay withholding taxes or to pay the exercise price of an option are not available for the grant of additional awards. As of March 31, 2023, there were options to purchase an aggregate of 12,778,040 shares of common stock outstanding.

The following stock-based compensation expense was recognized for the periods indicated (in thousands):

	Three Months Ended March 31,	
	2023	**2022**
Research and development	$ 2,461	$ 2,392
Selling, general and administrative	2,372	2,882
Total stock-based compensation expense	$ 4,833	$ 5,274

Employee stock options

The fair value of each option award is estimated on the date of grant using the Black-Scholes option-pricing model using the assumptions in the following table for options issued during the period indicated:

	Three Months Ended March 31,	
	2023	2022
Expected dividend yield	0%	0%
Expected volatility	92.6% -94.3%	87.9% - 88.3%
Risk-free interest rate	3.6% - 4.2%	1.5% - 2.4%
Expected term	5.88 years	5.95 years

The following table summarizes stock option activity during the three months ended March 31, 2023:

	Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value (in thousands)
Outstanding, December 31, 2022	10,098,929	$ 18.58	6.5	
Granted	2,914,405	4.89		
Exercised	(3,531)	1.51		
Forfeited	(87,556)	11.46		
Expired	(82,635)	22.01		
Outstanding, March 31, 2023	12,839,612	$ 15.50	7.1	$ 7,827
As of March 31, 2023:				
Exercisable	7,048,779	$ 20.90	5.4	660
Vested and expected to vest	11,763,189	$ 16.03	6.9	6,669

The weighted-average grant-date fair value of options granted during the three months ended March 31, 2023 and 2022 was $3.77 and $7.48, respectively. The total intrinsic value of options exercised during the three months ended March 31, 2023 was de minimis and the total intrinsic value of options exercised during the three months ended 2022 was approximately $0.3 million. The total cash received for options exercised during the three months ended March 31, 2023 and 2022 was de minimis. The total fair value of shares vested in the three months ended March 31, 2023 and 2022 was approximately $0.6 million and $5.4 million, respectively. As of March 31, 2023, the total unrecognized compensation expense related to unvested stock options, net of related forfeiture estimates, was approximately $29.2 million, which the Company expects to recognize over a weighted-average period of approximately 1.5 years.

Restricted Stock Units

The Company awards restricted stock units (RSUs) to employees. RSUs are valued based on the closing price of the Company's common stock on the date of the grant. The fair value of RSUs is recognized and amortized on a straight-line basis over the requisite service period of the award.

The following table summarizes RSU activity during the three months ended March 31, 2023:

	Shares	Weighted-Average Grant Date Fair Value
Outstanding, December 31, 2022	415,084	$ 8.83
Granted	656,135	4.82
Vested	(62,751)	10.31
Forfeited	(27,657)	6.94
Outstanding, March 31, 2023	980,811	6.11

At March 31, 2023, there was $4.9 million of total unrecognized compensation cost related to unvested RSUs, which the Company expects to recognize over a remaining weighted-average period of approximately 1.6 years.

10. Commitments and Contingencies

In-licensing arrangement

In January 2022, the Company entered into a non-exclusive license agreement with Synaffix B.V. (Synaffix) to develop, manufacture and commercialize up to three antibody-drug conjugate targets using Synaffix's proprietary technology. The Company made an upfront payment to Synaffix upon contract execution. In March 2023, the Company and Synaffix amended the agreement, adding four additional targets. Assuming all seven targets are successfully developed and commercialized, the Company would be obligated to pay up to $2.8 billion for development, regulatory and sales milestones. Finally, pursuant to the terms of this license agreement, as amended, upon commencement of commercial sales of any products developed from these targets, the Company would be required to pay Synaffix tiered royalties in the low-single digit percentages on net sales of the respective products. The Company may terminate this agreement at any time with 30 days' notice to Synaffix. Amounts paid to Synaffix under this agreement are recorded as research and development expense in the consolidated statement of operations. The Company incurred $1.5 million and $1.0 million under this agreement during the three months ended March 31, 2023 and 2022, respectively.

Securities Litigation

On September 13, 2019, a securities class action complaint was filed in the U.S. District Court for the District of Maryland (District Court) by Todd Hill naming the Company, its Chief Executive Officer, Dr. Koenig, and its Chief Financial Officer, Mr. Karrels, as defendants for allegedly making false and materially misleading statements regarding the Company's SOPHIA trial. On August 17, 2020, the Employees' Retirement System of the City of Baton Rouge and Parish of East Baton Rouge was appointed as Lead Plaintiff, and on October 16, 2020, the Lead Plaintiff filed an amended complaint. The amended complaint asserted a putative class period stemming from February 6, 2019 to June 4, 2019. The Company filed a Motion to Dismiss on November 30, 2020. On September 29, 2021, the District Court issued an Order dismissing the case, with prejudice. On October 28, 2021 the Lead Plaintiff filed a Notice of Appeal in the Fourth Circuit. The Company did not accrue any liability associated with this action as of December 31, 2022. The 4th Circuit affirmed the District Court's dismissal in a decision published on March 2, 2023.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion of our financial condition and results of operations is based upon our unaudited consolidated financial statements included in this Quarterly Report on Form 10-Q, which have been prepared by us in accordance with U.S. generally accepted accounting principles (GAAP), for interim periods and with Regulation S-X promulgated under the Securities Exchange Act of 1934, as amended. This discussion and analysis should be read in conjunction with these unaudited consolidated financial statements and the notes thereto as well as in conjunction with our audited consolidated financial statements and related notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2022.

Overview

We are a biopharmaceutical company focused on developing and commercializing innovative antibody-based therapeutics for the treatment of cancer. We have a pipeline of product candidates being evaluated in clinical trials sponsored by us or our collaborators in addition to several molecules in preclinical development. Our clinical product candidates include multiple oncology programs, many of which were created using our proprietary, antibody-based technology platforms. We believe our product candidates have the potential, if approved for marketing by regulatory authorities, to have a meaningful effect on treating patients' unmet medical needs as monotherapy or, in some cases, in combination with other therapeutic agents. To date, three products originating from our pipeline of proprietary or partnered product candidates have received U,S. Food and Drug Administration (FDA) approval. In March 2021, we and our commercialization partner commenced U.S. marketing of MARGENZA (margetuximab-cmkb), a human epidermal growth factor receptor 2 (HER2) receptor antagonist indicated, in combination with chemotherapy, for the treatment of adult patients with metastatic HER2-positive breast cancer who have received two or more prior anti-HER2 regimens, at least one of which was for metastatic disease. In November 2022, the FDA approved TZIELD™ (teplizumab-mzwv) to delay the onset of Stage 3 Type 1 Diabetes (T1D) in adult and pediatric patients aged 8 years and older with Stage 2 T1D. Teplizumab was acquired from us by Provention Bio, Inc. (Provention) in 2018, pursuant to an asset purchase agreement. In March 2023, the FDA approved ZYNYZ™ (retifanlimab-dlwr), a humanized monoclonal antibody targeting programmed death receptor-1 (PD-1). Retifanlimab was previously developed by us and licensed to Incyte Corporation (Incyte) pursuant to an exclusive global collaboration and license agreement in October 2017.

Our operations to date have concentrated on staffing our company, developing our technology platforms, identifying potential product candidates, undertaking preclinical studies, conducting clinical trials, developing collaborations, business planning and raising capital. We only began generating revenues from the sale of products in 2021. We have financed our operations primarily through the public and private offerings of our securities, collaborations with other biopharmaceutical companies, and government grants and contracts. Although it is difficult to predict our funding requirements, we anticipate that our cash, cash equivalents and marketable securities as of March 31, 2023, combined with anticipated and potential collaboration payments, product revenues and royalties, should enable us to fund our operations through 2025. Our expected funding requirements reflect anticipated expenditures related to the Phase 2 TAMARACK clinical trial of vobramitamab duocarmazine (vobra duo) in metastatic castration-resistant prostate cancer (mCRPC), our planned Phase 2 study of lorigerlimab in mCRPC as well as our other clinical and preclinical studies currently ongoing.

Through March 31, 2023, we had an accumulated deficit of $1.1 billion. We expect that over the next several years this deficit will increase as we continue to incur research and development expense in connection with our ongoing activities and several clinical studies.

Macroeconomic Conditions

The global economy, credit markets and financial markets have and may continue to experience significant volatility as a result of significant worldwide events, including adverse events involving financial institutions or the financial services industry, inflation and rising interest rates and geopolitical upheaval, such as Russia’s incursion into Ukraine (collectively, the Macroeconomic Conditions). These Macroeconomic Conditions have and may continue to create supply chain disruptions, inventory disruptions, and fluctuations in economic growth, including fluctuations in employment rates, inflation, energy prices and consumer sentiment. It remains difficult to assess or predict the ultimate duration and economic impact of the Macroeconomic Conditions. Prolonged uncertainty with respect to Macroeconomic Conditions could cause further economic slowdown or cause other unpredictable events, each of which could adversely affect our business, results of operations or financial condition.

Collaborations

We pursue a balanced approach between product candidates that we develop ourselves and those that we develop with our collaborators. Under our strategic collaborations to date, we have received significant non-dilutive funding and continue to have rights to additional funding upon completion of certain research, achievement of key product development milestones and royalties and other payments upon the commercial sale of products. Our current collaborations include the following:

- *Incyte.* We have an exclusive global collaboration and license agreement with Incyte for retifanlimab, an investigational monoclonal antibody that inhibits PD-1 (Incyte License Agreement). Under this agreement, as amended, Incyte has obtained exclusive worldwide rights for the development and commercialization of retifanlimab in all indications, while we retain the right to develop our pipeline assets in combination with retifanlimab. We received an upfront payment of $150.0 million and milestone payments totaling $115.0 million from Incyte through March 31, 2023, including $15.0 million upon the FDA approval of ZYNYZ (retifanlimab-dlwr) in March 2023. We are eligible to receive an additional $320.0 million in development and regulatory milestones and $330.0 million in commercial milestones. We are also eligible to receive tiered royalties of 15% to 24% on any global net sales and we have the option to co-promote retifanlimab with Incyte. We retain the right to develop our pipeline assets in combination with retifanlimab, with Incyte commercializing retifanlimab and us commercializing our asset(s), if any such potential combinations are approved. We also have an agreement with Incyte under which we are to perform development and manufacturing services for Incyte's clinical needs of retifanlimab (Incyte Clinical Supply Agreement) and another agreement under which we are entitled to manufacture a portion of Incyte’s global commercial supply of retifanlimab (Incyte Commercial Supply Agreement).
- *Gilead*. In October 2022, we and Gilead Sciences, Inc. (Gilead) entered into an exclusive option and collaboration agreement (Gilead Agreement) to develop and commercialize MGD024 and create bispecific cancer antibodies using our DART platform and undertake their early development under a maximum of two separate bispecific cancer target research programs. Under the Gilead Agreement, we will continue the ongoing phase 1 trial for MGD024 according to a development plan, during which Gilead will have the right to exercise an option granted to Gilead to obtain an exclusive license to develop and commercialize MGD024 and other bispecific antibodies of ours that bind CD123 and CD3 (CD123 Option). The agreement also grants Gilead the right, within its first two years, to nominate a bispecific cancer target set for up to two research programs conducted by us and to exercise separate options to obtain an exclusive license for the development, commercialization and exploitation of molecules created under each research program (Research Program Option). As part of the Gilead Agreement, Gilead paid us a non-refundable upfront payment of $60.0 million and we will be eligible to receive up to $1.7 billion in target nomination, option fees, and development, regulatory and commercial milestones, assuming Gilead exercises the CD123 Option and Research Program Option,successfully develops and commercializes MGD024 or other CD123 products developed under the agreement, and products result from the two additional research programs. Assuming exercise of the CD123 Option, we will also be eligible to receive tiered, low double-digit royalties on worldwide net sales of MGD024 (or other CD123 products developed under the agreement) and assuming exercise of the Research Program Option, a flat royalty on worldwide net sales of any products resulting from the two research programs.
- *Zai Lab*. In 2018, we entered into a collaboration and license agreement with Zai Lab Limited (Zai Lab) under which Zai Lab obtained regional development and commercialization rights in mainland China, Hong Kong, Macau and Taiwan (Zai Lab’s territory) for (i) margetuximab, an immune-optimized anti-HER2 monoclonal antibody, (ii) tebotelimab, a bispecific DART molecule designed to provide coordinate blockade of PD-1 and LAG-3 for the potential treatment of a range of solid tumors and hematological malignancies, and (iii) an undisclosed multi-specific TRIDENT molecule in preclinical development (2018 Zai Lab Agreement). Zai Lab will lead clinical development in its territory. Zai Lab has informed us that they have decided to discontinue development of tebotelimab for indications they were enrolling in their territory and is evaluating future development plans in other indications.

  Under the terms of the 2018 Zai Lab Agreement, Zai Lab paid us an upfront payment of $25.0 million less foreign withholding tax of $2.5 million. Assuming successful development and commercialization of margetuximab, tebotelimab and the TRIDENT molecule, we could receive up to $140.0 million in development and regulatory milestones, of which we have earned $9.0 million through March 31, 2023. In addition, Zai Lab would pay us tiered royalties at percentage rates of mid-teens to 20% for net sales of margetuximab in Zai Lab’s territory, mid-teens for net sales of tebotelimab in Zai Lab’s territory and 10% for net sales of the TRIDENT molecule in Zai Lab’s territory, which may be subject to adjustment in specified circumstances.

In 2021, we entered into a collaboration and license agreement with Zai Lab US LLC (collectively with Zai Lab Limited referred herein as Zai Lab) involving collaboration programs and license-only programs (collectively, the Programs) encompassing four separate immuno-oncology molecules (2021 Zai Lab Agreement). The first program covers a lead research molecule that incorporates our DART platform and binds CD3 and an undisclosed target that is expressed in multiple solid tumors (Lead Program). The second program covers a target to be designated by us. For these programs, Zai Lab receives commercial rights in Greater China, Japan, and Korea while we receive commercial rights in all other territories. Zai Lab also obtained exclusive, global licenses from us to develop, manufacture and commercialize two additional molecules (license-only programs). Zai Lab granted us a worldwide, royalty-free, co-exclusive license to conduct the development activities allocated to us. In August 2022, we and Zai Lab agreed to discontinue research and development of the Lead Program.

Under the terms of the 2021 Zai Lab Agreement, the Lead Program included joint research and development services by both us and Zai Lab. For the other programs, Zai Lab can separately negotiate and agree with us to perform research and development services in the future.

In connection with the execution of the 2021 Zai Lab Agreement, Zai Lab paid us an upfront payment of $25.0 million. Additionally, as part of the consideration for the rights granted to Zai Lab under the 2021 Zai Lab Agreement, we and Zai Lab entered into a separate stock purchase agreement (Stock Purchase Agreement) whereby Zai Lab paid us approximately $30.0 million to purchase 958,467 newly issued shares of our common stock, par value $0.01, at a fixed price of $31.30 which represented a $10.4 million premium over the share price on the Stock Purchase Agreement date.

Assuming successful development and commercialization of the remaining Programs under the 2021 Zai Lab Agreement, we could receive up to $1.3 billion in development, regulatory and commercial milestones. In addition, Zai Lab would pay us tiered royalties at percentage rates of mid-single digits to low double digit teens on annual net sales of products in Zai Lab's territory, subject to specified royalty reduction pursuant to the 2021 Zai Lab Agreement. Per the terms of the 2021 Zai Lab Agreement, we may also receive reimbursements from Zai Lab for certain research and development costs incurred by us.

- *Provention*. In 2018, we entered into an asset purchase agreement (APA) with Provention pursuant to which Provention acquired our interest in teplizumab. Under the APA, if Provention successfully develops, obtains regulatory approval for, and commercializes teplizumab, we will be eligible to receive up to $170.0 million in regulatory milestones, and up to $225.0 million in commercial milestones. In November 2022, the FDA approved TZIELD (teplizumab-mzwv) to delay the onset of Stage 3 T1D in adult and pediatric patients aged 8 years and older with Stage 2 T1D, and we recognized $60.0 million in milestone revenue during the year ended December 31, 2022. In November 2022 we and Provention amended the APA. Under the amended APA, the $60.0 million milestone for a first approval was split into four $15 million payments, the first two of which were received prior to March 31, 2023. We are also eligible to receive single-digit royalties on net sales of TZIELD. Provention has also agreed to pay third-party obligations, including low single-digit royalties, a portion of which is creditable against royalties payable to us, aggregate milestone payments of up to approximately $1.3 million and other consideration, for certain third-party intellectual property under agreements Provention assumed pursuant to the APA. Further, Provention is required to pay us a low double-digit percentage of certain consideration to the extent it is received in connection with a grant of rights by Provention to a third party.

  In March 2023, we sold our royalty interest in TZIELD to a wholly-owned subsidiary of DRI Healthcare Trust (DRI). We retain our other economic interests related to TZIELD, including future potential regulatory and commercial milestones. We received a $100.0 million upfront payment from DRI for the sale of our single-digit royalty on global net sales of TZIELD. We retain the right to receive a 50% share of the royalty on global net sales above a certain annual threshold. In addition, we are eligible to receive up to $50.0 million from DRI upon the occurrence of pre-specified events tied to the advancement of TZIELD for the treatment of newly diagnosed T1D and may also receive an additional $50.0 million if TZIELD achieves a certain level of net sales.

Critical Accounting Estimates

Our critical accounting estimates are policies which require the most significant judgments and estimates in the preparation of our consolidated financial statements. A summary of our critical accounting estimates is presented in Part II, Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" of our Annual Report on Form 10-K for the year ended December 31, 2022. The following accounting policies and estimates were deemed critical during the three months ended March 31, 2023:

Liability related to the sale of future royalties and related interest expense

The liability related to future royalties is presented net of unamortized issuance costs on our consolidated balance sheets. Interest expense on the liability related to future royalties is recognized using the effective interest rate method over the life of the arrangement. We calculate an effective interest rate which will amortize our related obligation to zero over the anticipated repayment period. The liability related to future royalties and the related interest expense are based on our current estimates of future royalties expected to be received over the life of the arrangement, which we determine by using internal sales projections and external information from market data sources, which are considered Level 3 inputs. We periodically assess the expected payments and to the extent our estimates of future royalty payments are greater or less than previous estimates or the estimated timing of such payments is materially different than previous estimates, we will adjust the effective interest rate and recognize related non-cash interest expense on a prospective basis.

Results of Operations

Revenue

The following represents a comparison of our revenue for the three months ended March 31, 2023 and 2022 (dollars in millions):

	Three Months Ended March 31,			
	2023	**2022**	**Change**	**%**
Collaborative and other agreements	$ 16.7	$ 7.1	$ 9.6	135 %
Product sales, net	3.5	3.6	(0.1)	(3)%
Contract manufacturing	3.6	—	3.6	N/A
Royalty revenue	0.4	—	0.4	N/A
Government agreements	0.3	0.4	(0.1)	(25)%
Total revenue	$ 24.5	$ 11.1	$ 13.4	121 %

The increase in revenue of $13.4 million for the three months ended March 31, 2023 compared to the three months ended March 31, 2022 was primarily due to:

- recognition of $15.0 million in milestone payments under the Incyte License Agreement during the three months ended March 31, 2023; and
- $3.6 million recognized under the Incyte Manufacturing and Clinical Supply Agreement.

These increases were partially offset by a decrease of $5.0 million in revenue recognized under the 2018 Zai Lab Agreement.

Revenue from collaborative and other agreements may vary substantially from period to period depending on the progress made by our collaborators with their product candidates and the timing of milestones achieved under current agreements, and whether we enter into additional collaboration agreements.

Cost of Product Sales

Cost of product sales for all periods presented consists primarily of product royalties and fill finish costs. Product sold during these periods consisted of drug product that was previously charged to research and development expense prior to FDA approval of MARGENZA, which favorably impacted our gross margin. We expect cost of product sales to continue to be positively impacted as we sell through this drug product.

Cost of Manufacturing Services

Cost of manufacturing services consists of the costs to provide manufacturing services to produce certain Incyte bulk drug substance under the Incyte Manufacturing and Clinical Supply Agreement. We did not begin the manufacturing services until the second quarter of 2022, therefore there are no such costs during the three months ended March 31, 2022.

Research and Development Expense

The following represents a comparison of our research and development expense for the three months ended March 31, 2023 and 2022 (dollars in millions):

	Three Months Ended March 31,			
	2023	2022	Change	%
Vobramitamab duocarmazine	$ 9.1	$ 16.5	$ (7.4)	(45)%
Antibody-drug conjugates (ADCs) (a)	9.1	3.1	6.0	194 %
Lorigerlimab	7.6	5.0	2.6	52 %
Margetuximab	5.3	8.2	(2.9)	(35)%
Next-generation T-cell engagers (a)	2.9	4.0	(1.1)	(28)%
Tebotelimab	2.6	4.2	(1.6)	(38)%
Flotetuzumab	2.3	5.1	(2.8)	(55)%
MGD024	1.6	1.3	0.3	23 %
Enoblituzumab	1.5	4.9	(3.4)	(69)%
IMGC936	0.8	2.4	(1.6)	(67)%
DART molecules under HIV government contract	0.5	0.9	(0.4)	(44)%
Retifanlimab	0.3	1.5	(1.2)	(80)%
Other programs (a)	2.3	4.3	(2.0)	(47)%
Total research and development expense	$ 45.9	$ 61.4	$ (15.5)	(25)%

(a) Includes research and discovery projects, as well as early preclinical molecules and molecules not advanced to clinical development.

Our research and development expense for the three months ended March 31, 2023 decreased by $15.5 million compared to the three months ended March 31, 2022 primarily due to:

- decreased vobra duo development costs;
- decreased development, manufacturing and clinical trial costs related to enoblituzumab;
- decreased SOPHIA-related clinical trial costs related to margetuximab;
- decreased development, manufacturing and clinical trial costs related to flotetuzumab (due to discontinuance of our company-sponsored trial); and
- decreased development, manufacturing and clinical trial costs related to tebotelimab.

These decreases were partially offset by:

- increased development of a non-disclosed ADC Investigational New Drug candidate; and
- increased development costs related to lorigerlimab.

There are uncertainties associated with our research and development expenses for future quarters which are impacted by multiple variables, including timing of wind down activities for recently closed studies and current and expected expenditures associated with our vobra duo TAMARACK study.

Selling, General and Administrative Expense

Selling, general and administrative expenses decreased by $2.7 million for the three months ended March 31, 2023 compared to the three months ended March 31, 2022 primarily due to decreased consulting expenses, legal fees and other professional services.

Liquidity and Capital Resources

Cash Flows

The following table represents a summary of our cash flows for the three months ended March 31, 2023 and 2022:

	Three Months Ended March 31,	
	2023	**2022**
	(dollars in millions)	
Net cash provided by (used in):		
Operating activities	$ (12.8)	$ (57.7)
Investing activities	28.1	(18.5)
Financing activities	100.1	—
Net change in cash and cash equivalents	**$ 115.4**	**$ (76.2)**

Operating Activities

Net cash used in operating activities consists of our net loss adjusted for non-cash items such as depreciation and amortization expense and stock-based compensation and changes in working capital. Net cash used in operating activities for the three months ended March 31, 2023 benefited from the $15.0 million in milestones received from Incyte under the Incyte License Agreement and $15.0 million received from Provention related to the TZIELD approval milestone. Net cash used in operating activities for the three months ended March 31, 2022 benefited from the $11.2 million received from Incyte under the Incyte Manufacturing and Clinical Supply Agreement.

Investing Activities

Net cash provided by investing activities during the three months ended March 31, 2023 is primarily due to maturities of marketable securities, partially offset by purchases of marketable securities. Net cash used in investing activities during the three months ended March 31, 2022 is primarily due to purchases of marketable securities, partially offset by maturities of marketable securities.

Financing Activities

Net cash provided by financing activities for the three months ended March 31, 2023 includes net cash proceeds from our Royalty Purchase Agreement with DRI of $99.7 million.

Our multiple product candidates currently under development will require significant additional research and development efforts that include extensive preclinical studies and clinical testing, and regulatory approval prior to commercial use. Our future success is dependent on our ability to identify and develop our product candidates, and ultimately upon our ability to attain profitable operations. We have devoted substantially all of our financial resources and efforts to research and development and general and administrative expense to support such research and development. Net losses and negative cash flows have had, and will continue to have, an adverse effect on our stockholders' equity and working capital, and accordingly, our ability to execute our future operating plans.

As a biotechnology company, we have primarily funded our operations with proceeds from the sale of our common stock in equity offerings, revenue from our multiple collaboration agreements, and contracts and grants from the National Institute of Allergy and Infectious Diseases. Management regularly reviews our available liquidity relative to our operating budget and forecast to monitor the sufficiency of our working capital, and anticipates continuing to draw upon available sources of capital, including equity and debt instruments, to support our product development activities. There can be no assurances that new sources of capital will be available to us on commercially acceptable terms, if at all. Also, any future collaborations, strategic alliances and marketing, distribution or licensing arrangements may require us to give up some or all rights to a product or technology at less than its full potential value. If we are unable to enter into new arrangements or to perform under current or future agreements or obtain additional capital, we will assess our capital resources and may be required to delay, reduce the scope of, or eliminate one or more of our product research and development programs or clinical studies, and/or downsize our organization. Although it is difficult to predict our funding requirements, we anticipate that our cash, cash equivalents and marketable securities as of March 31, 2023 combined with anticipated and potential collaboration payments, product revenues and royalties, should enable us to fund our operations through 2025. Our expected funding requirements reflect anticipated expenditures related to the Phase 2 TAMARACK clinical trial of vobra duo in mCRPC, our planned Phase 2

study of lorigerlimab in mCRPC as well as our other clinical and preclinical studies currently ongoing.

Material Cash Requirements

During the three months ended March 31, 2023, there were no significant changes to our material cash requirements, including contractual and other obligations, as presented in Part II, Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2022.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Under SEC rules and regulations, because we are considered to be a "smaller reporting company," we are not required to provide the information required by this item in this Quarterly Report on Form 10-Q.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Our management, including our principal executive officer and principal financial officer, has evaluated the effectiveness of our disclosure controls and procedures as of March 31, 2023. Our disclosure controls and procedures are designed to provide reasonable assurance that the information required to be disclosed in our periodic reports filed with the SEC (such as this Quarterly Report on Form 10-Q) has been appropriately recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, to allow timely decisions regarding required disclosure. Based on their evaluation of our disclosure controls and procedures as of March 31, 2023, our principal executive officer and principal financial officer have concluded that our disclosure controls and procedures are effective at the reasonable assurance level.

Changes in Internal Control

There were no changes in our internal control over financial reporting during the three months ended March 31, 2023 that materially affected, or are reasonably likely to materially effect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

In the ordinary course of business, we are or may be involved in various legal or regulatory proceedings, claims or class actions related to alleged patent infringements and other intellectual property rights, or alleged violation of commercial, corporate, securities, labor and employment, and other matters incidental to our business. We do not currently, however, expect such legal proceedings to have a material adverse effect on our business, financial condition or results of operations. However, depending on the nature and timing of a given dispute, an eventual unfavorable resolution could materially affect our current or future results of operations or cash flows.

See Note 10, Commitments and Contingencies, to the consolidated financial statements of this Quarterly Report on Form 10-Q for more information.

Item 1A. Risk Factors

There have been no material changes in the risk factors described in "Item 1A. Risk Factors" of our Annual Report on Form 10-K for the year ended December 31, 2022.

Item 6. Exhibits

10.1+*	Purchase and Sale Agreement by and between the Company and DRI Healthcare Acquisitions LP, dated March 8, 2023.
31.1*	Rule 13a-14(a) Certification of Principal Executive Officer
31.2*	Rule 13a-14(a) Certification of Principal Financial Officer
32.1**	Section 1350 Certification of Principal Executive Officer
32.2**	Section 1350 Certification of Principal Financial Officer
101.INS	XBRL Instance Document
101.SCH	XBRL Schema Document
101.CAL	XBRL Calculation Linkbase Document
101.DEF	XBRL Definition Linkbase Document
101.LAB	XBRL Labels Linkbase Document
101.PRE	XBRL Presentation Linkbase Document
104	Cover Page Interactive Data (formatted as Inline XBRL and contained in Exhibit 101 filed herewith)

\+ Portions of this document (indicated by "[***]" have been omitted because they are not material and are the type that MacroGenics, Inc. treats as private and confidential.

* Filed herewith

** Furnished herewith

SIGNATURES

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

MACROGENICS, INC.

BY: /s/ Scott Koenig
Scott Koenig, M.D., Ph.D.
President and Chief Executive Officer
(Principal Executive Officer)

BY: /s/ James Karrels
James Karrels
Senior Vice President and Chief Financial Officer
(Principal Financial Officer)

Dated: May 9, 2023

Exhibit 10.1

CERTAIN PORTIONS OF THIS EXHIBIT (INDICATED BY [***]) HAVE BEEN EXCLUDED PURSUANT TO ITEM 601(B)(10) OF REGULATION S-K BECAUSE THEY ARE BOTH NOT MATERIAL AND ARE THE TYPE THAT THE COMPANY TREATS AS PRIVATE AND CONFIDENTIAL.

PURCHASE AND SALE AGREEMENT

dated as of March 8, 2023

between

MACROGENICS, INC.

and

DRI HEALTHCARE ACQUISITIONS LP

TABLE OF CONTENTS

TABLE OF CONTENTS CONTINUED

Page

TABLE OF CONTENTS CONTINUED

Page

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this "Agreement") dated as of March 8, 2023 is between MacroGenics, Inc., a Delaware corporation (the "Seller"), and DRI Healthcare Acquisitions LP, a Delaware limited partnership (the "Purchaser"). The Seller and the Purchaser are referred to herein as the "parties".

W I T N E S S E T H :

WHEREAS, pursuant to the Asset Purchase Agreement, Provention agreed to pay to the Seller, and the Seller has the right to receive, the Royalty; and

WHEREAS, the Seller desires to sell to the Purchaser, and the Purchaser desires to purchase from the Seller, the Purchased Royalty Interest, upon and subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements, representations and warranties set forth herein and of other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINED TERMS AND RULES OF CONSTRUCTION

Section 1.1 Defined Terms. The following terms, as used herein, shall have the following respective meanings:

"Affiliate" means, with respect to any designated Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such designated Person. For purposes of this definition, "control" of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlled" and "controlling" have meanings correlative to the foregoing.

"Agreed Amount" has the meaning set forth in Section 7.4. "Agreement" has the

meaning set forth in the preamble. "Applicable Amount" has the meaning set forth

in Section 8.5(a).

"Asset Purchase Agreement" means that certain Asset Purchase Agreement, dated May 7, 2018, by and between the Seller and Provention, as amended by that certain Amendment No. 1 to Asset Purchase Agreement dated as of November 30, 2022.

"Audit Report" has the meaning set forth in Section 5.9.

"Bill of Sale" means that certain bill of sale, dated as of the Closing Date, executed by the Seller and the Purchaser, substantially in the form attached hereto as Exhibit B.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by applicable Law to remain closed.

"Claim Notice" has the meaning set forth in Section 7.4. "Closing" has

the meaning set forth in Section 6.1. "Closing Date" has the meaning set

forth in Section 6.1.

"Code" means the U.S. Internal Revenue Code of 1986, as amended, and the regulations thereunder.

"Confidential Information" has the meaning set forth in Section 8.1. "Confidentiality

Restriction" has the meaning set forth in Section 8.5. "Disclosing Party" has the

meaning set forth in Section 8.1.

"Disclosure Schedules" means the Disclosure Schedules delivered by the Seller to the Purchaser concurrently with the execution and delivery of this Agreement.

"Earn-Out Term" has the meaning ascribed to such term in the Asset Purchase Agreement.

"Escrow Account" means the segregated account established pursuant to the Paying Agent Agreement, into which (a) until the [***], or if the [***] and does not provide for [***], all payments by Provention under the Asset Purchase Agreement, including the Purchased Royalty Interest and the Retained Interest, are to be remitted pursuant to the Initial Provention Instruction and (b) following [***], if the [***] provides for [***], all payments by Provention in respect of the Royalty, and [***].

"Existing Confidentiality Agreement" has the meaning set forth in Section 10.6.

"[***]" means [***].

"FDA" means the U.S. Food and Drug Administration or any successor agency thereto. "Governmental

Authority" means the government of the United States, any other nation

or any political subdivision thereof, whether state or local, and any agency, authority (including supranational authority), commission, instrumentality, regulatory body, court, central bank or
other Person exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Initial Provention Instruction" means the direction letter to Provention in the form attached hereto as Exhibit C.

"Initial Purchase Price" has the meaning set forth in Section 2.2(a). "IRS Withholding

Form" has the meaning set forth in Section 5.10(d).

"Judgment" means any judgment, order, stipulation, consent order, ruling, injunction, assessment, award, writ or decree.

"Knowledge" means, with respect to the Seller, [***].

"Law" means any law, statute, rule, regulation or ordinance issued or promulgated by a Governmental Authority.

"Lien" means any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge against or interest in property or other priority or preferential arrangement of any kind or nature whatsoever.

"Loss" means any loss, assessment, award, cause of action, claim, charge, cost, damage, expense (including expenses of investigation and attorneys' fees), fine, Judgment, liability, obligation, penalty.

"Material Adverse Effect" means (a) a material adverse effect on the legality, validity or enforceability of any of the Transaction Documents or the Asset Purchase Agreement, (b) a material adverse effect on the ability of the Seller to perform its obligations under any of the Transaction Documents or under the Asset Purchase Agreement, (c) a material adverse effect on the rights or remedies of the Purchaser under any of the Transaction Documents to which it is a party, (d) a material adverse effect on the rights of the Seller under the Asset Purchase Agreement that relate to, or involve or otherwise affect, the Purchased Royalty Interest, (e) an adverse effect in any material respect on the timing, amount or duration of the Purchased Royalty Interest or (f) an adverse effect in any respect on the right of the Purchaser to receive the Purchased Royalty Interest.

"Milestone Payments" means the Non-Sales Milestone Payment and the Sales-Based Milestone Payment (each, a "Milestone Payment").

"Net Sales" has the meaning ascribed to such term in the Asset Purchase Agreement.

"Non-Permitted Reduction" means (a) any set-off, counterclaim, downward adjustment, credit, reduction or deduction, by contract or otherwise, exercised by Provention against the Purchased Royalty Interest (other than any Permitted Reduction) in respect of a claim against the Seller, including any amounts actually or allegedly owed by the Seller to Provention and [***].

"Non-Sales Milestone Payment" means:

(a) If the [***] is achieved and the [***] has not previously been achieved, [***];

(b) If the [***] is achieved [***] and the [***] has not previously been achieved or is achieved [***]; or

(c) If the [***] is achieved on [***] and the [***] has not previously been achieved, [***].

"Paying Agent" means Wilmington Trust, N.A., as escrow agent.

"Paying Agent Agreement" means an escrow agreement, in a form reasonably acceptable to the Seller and the Purchaser, by and among the Seller, the Purchaser, and the Paying Agent.

"Payor" has the meaning set forth in Section 5.10(g).

"Permitted Reduction" means any of the following: (a) any adjustments, modifications, credits, offsets, reductions or deductions to payments of the Purchased Royalty Interest made

pursuant to Section 3.3(b) of the Asset Purchase Agreement, (b) any adjustments, modifications, credits, offsets, reductions or deductions to payments of the Purchased Royalty Interest made pursuant to Section 3.3(c) of the Asset Purchase Agreement or [***].

"Person" means any natural person, firm, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or any other legal entity, including public bodies, whether acting in an individual, fiduciary or other capacity.

"[***]" means the [***]:

(a) (i) the issue of a public press release or current or periodic report filed with the SEC under the U.S. Securities Exchange Act of 1934, as amended, by [***] or any Third Party acting on behalf of [***] or (ii) the issue of other public disclosure by [***] or any Third Party acting on behalf of [***] in a presentation at a [***], such as the [***], or (iii) the publication of an [***], stating, in each case (i)- (iii), (1) that the [***] (which, for the avoidance of doubt, shall mean the [***] as of the date of this Agreement, i.e., the [***] and (2) that such [***];

and

(b) (i) the announcement that [***], on the one hand, and [***], on the other hand, have [***] or (ii) the announcement that [***]or an Affiliate of [***] that [***], on the one hand, and a [***], on the other hand, have entered into a definitive agreement for a [***] of the type described in clause (a) or clause (b) of the [***], and solely if [***], in each case (i) and (ii) via a public press release or other public disclosure made in a current or periodic report filed with the SEC under the U.S. Securities Exchange Act of 1934, as amended, by [***] or such Affiliate, as applicable, or the [***] that is party to such [***].

For clarity, the events set forth in clauses (a) and (b) [***] so long as [***].

"Proceeds" means all amounts actually recovered by the Seller as a result of any settlement or resolution of any actions, suits, proceedings, claims or disputes related to the Purchased Royalty Interest or enforcement of the Asset Purchase Agreement pursuant to this Agreement.

[***]

"Provention" means Provention Bio, Inc. and its successors and assigns.

"Provention Confidential Information" means any and all Confidential Information (as defined in the Asset Purchase Agreement) disclosed by Provention or its Affiliates (as defined in the Asset Purchase Agreement) under the Asset Purchase Agreement and Confidential Information (as defined in the Asset Purchase Agreement) deemed to be the Confidential Information (as defined in the Asset Purchase Agreement) of Provention as provided in the last sentence of the definition of "Confidential Information".

[***]

"Purchase Price" has the meaning set forth in Section 2.2(a).

"Purchased Royalty Interest" means all of the Seller's right, title and interest in and to (a) [***] of the Royalty payable in respect of the [***] of worldwide annual Net Sales of the Royalty Product in a given calendar year during the Earn-Out Term plus (b) fifty percent (50%) of the Royalty payable in respect of worldwide annual Net Sales of the Royalty Product in such

calendar year [***] of worldwide annual Net Sales of the Royalty Product referenced in clause (a) for such calendar year.

"Purchaser" has the meaning set forth in the preamble.

"Purchaser Account" means the account set forth on Exhibit D or such other account as may be designated by the Purchaser in writing from time to time.

"Purchaser Indemnified Party" has the meaning set forth in Section 7.1.

[***]

"[***]" has the meaning set forth in Section 2.5(a). "Receiving Party" has the meaning set forth in Section 8.1.

"Representatives" has the meaning set forth in Section 8.3.

"Retained Interest" means (i) the excess, if any, of the Royalty paid, owed, accrued or otherwise payable by Provention under the Asset Purchase Agreement over the Purchased Royalty Interest and (ii) the amounts paid, owed, accrued or otherwise payable by Provention under Section 3.2, Section 3.4 and Section 3.5, respectively, of the Asset Purchase Agreement.

"Royalty" means (a) all amounts paid or payable to the Seller by Provention under Section 3.3(a) of the Asset Purchase Agreement in respect of worldwide annual Net Sales of the Royalty Product [***], (b) all interest payments paid or payable by Provention under Section 3.8 of the Asset Purchase Agreement in respect of the amounts described in clause (a), and (c) all other amounts paid or payable to the Seller by Provention under the Asset Purchase Agreement in lieu of the amounts described in clauses (a) and (b), including any payments made to the Seller by Provention pursuant to Section 9.3 of the Asset Purchase Agreement subject to the terms of Article 9 of the Asset Purchase Agreement in respect of payments of the amounts described in clauses (a) and (b) that are late or which Provention has failed to make.

"Royalty Product" means the Product (as defined in the Asset Purchase Agreement). "Royalty Product Patents" means the Product Patents (as defined in the Asset Purchase Agreement).

"Royalty Reduction" has the meaning set forth in Section 3.10(c).

"Royalty Reports" means the quarterly royalty reports required to be prepared and delivered by Provention to the Seller pursuant to Section 3.6 of the Asset Purchase Agreement.

"Sales-Based Milestone Event" means the occurrence, [***] on or after [***] equaling, in the [***].

"Sales-Based Milestone Payment" means $50,000,000. "Seller" has the meaning set forth in the preamble.

"Seller Account" means the account set forth on Exhibit E hereto or such other account as may be designated by the Seller in writing from time to time.

"Seller Indemnified Party" has the meaning set forth in Section 7.2.

"Solvent" means, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent obligations or contingent liabilities, as applicable, at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability or obligation, as applicable.

"Third Party" means any Person that is not the Purchaser, an Affiliate of the Purchaser, the Seller or an Affiliate of the Seller.

"Third Party Claim" has the meaning set forth in Section 7.3(a).

"Transaction Documents" means this Agreement, the Bill of Sale (when executed and delivered), the [***] (if and when executed and delivered), the Paying Agent Agreement (when executed and delivered) and the Initial Provention Instruction.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, that, if, with respect to any financing statement or by reason of any provisions of applicable Law, the perfection or the effect of perfection or non-perfection of the back-up security interest or any portion thereof granted pursuant to Section 2.1(b) is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than the State of New York, then "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of this Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

"U.S." or "United States" means the United States of America, each territory thereof and the District of Columbia.

"Withholding Action" has the meaning set forth in Section 5.10(f).

Section 1.2 Rules of Construction. Unless the context otherwise requires, in this Agreement:

(a) unless otherwise defined, all terms that are defined in the UCC shall have the meanings stated in the UCC;

(b) words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders;

(c) the definitions of terms shall apply equally to the singular and plural forms of the terms defined;

(d) the terms "include", "including" and similar terms shall be construed as if followed by the phrase "without limitation";

(e) unless otherwise specified, references to an agreement or other document include references to such agreement or document as from time to time amended,

restated, reformed, supplemented or otherwise modified in accordance with the terms thereof (subject to any restrictions on such amendments, restatements, reformations, supplements or modifications set forth herein) and include any annexes, exhibits and schedules attached thereto;

(f) references to any Law shall include such Law as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(g) references to any Person shall be construed to include such Person's successors and permitted assigns (subject to any restrictions on assignment, transfer or delegation set forth herein or in any of the other Transaction Documents), and any reference to a Person in a particular capacity excludes such Person in other capacities;

(h) the word "will" shall be construed to have the same meaning and effect as the word "shall";

(i) the words "hereof", "herein", "hereunder" and similar terms when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision hereof, and Article, Section and Exhibit references herein are references to Articles and Sections of, and Exhibits to, this Agreement unless otherwise specified;

(j) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends and such phrase shall not mean simply "if,"

(k) the word "or" is not exclusive and shall mean "and/or", unless the context otherwise requires;

(l) any reference to a Law shall include any rules and regulations promulgated thereunder, and any reference to any Law shall mean such Law as from time to time amended, modified or supplemented;

(m) in the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and each of the words "to" and "until" means "to but excluding";

(n) where any payment is to be made, any funds are to be applied or any calculation is to be made under this Agreement on a day that is not a Business Day, unless this Agreement otherwise provides, such payment shall be made, such funds shall be applied and such calculation shall be made on the succeeding Business Day, and payments shall be adjusted accordingly;

(o) references to "$" or otherwise to dollar amounts refer to the lawful currency of the United States; and

(p) in determining whether any action by the Seller would constitute "commercially reasonable efforts", the Seller shall make such determination as if it had not sold the Purchased Royalty Interest to the Purchaser pursuant to this Agreement (such that the Seller had continued to own the Purchased Royalty Interest).

ARTICLE II
PURCHASE AND SALE OF THE PURCHASED ROYALTY INTEREST

Section 2.1 Purchase and Sale.

(a) Upon the terms and subject to the conditions of this Agreement, at the Closing, the Seller shall sell to the Purchaser, and the Purchaser shall purchase from the Seller, all of the Seller's right, title and interest in and to the Purchased Royalty Interest, free and clear

of any and all Liens, other than those Liens created in favor of the Purchaser by the Transaction Documents.

(b) It is the intention of the parties hereto that the sale contemplated by this Agreement shall be, and is, a true, complete, absolute and irrevocable sale by the Seller to the Purchaser of all of the Seller's right, title and interest in and to the Purchased Royalty Interest and that such sale shall provide the Purchaser with the full benefits of ownership of the Purchased Royalty Interest from and after the effectiveness of this Agreement. Neither the Seller nor the Purchaser intends the transactions contemplated by this Agreement to be, or for any purpose characterized as, a loan from the Purchaser to the Seller or a pledge, a financing transaction or a borrowing. Each of the Seller and the Purchaser hereby waives, to the maximum extent permitted by applicable Law, any right to contest or otherwise assert that this Agreement does not constitute a true, complete, absolute and irrevocable sale by the Seller to the Purchaser of all of the Seller's right, title and interest in and to the Purchased Royalty Interest under applicable Law, which waiver shall, to the maximum extent permitted by applicable Law, be enforceable against the Seller in any bankruptcy or insolvency proceeding relating to the Seller. Each of the Seller and the Purchaser agrees to account for the transaction contemplated in Section 2.1(a) as a true sale as described in this Section 2.1(b) (except to the extent generally accepted accounting principles in the United States require such transaction to be accounted for as a liability or a derivative in the Seller's consolidated financial statements). In addition, until the [***] is obtained and [***] the Royalty, and no other payments under the Asset Purchase Agreement, into the Escrow Account, the Seller grants to the Purchaser a security interest in the Escrow Account to the extent such Escrow Account contains proceeds of the Purchased Royalty Interest. To perfect the Purchaser's purchase of the Purchased Royalty Interest and security interest in the Escrow Account, the Purchaser may file financing statements (and continuation statements with respect to such financing statements when applicable) naming the Seller as the seller or debtor and the Purchaser as the buyer or secured party in respect of the Purchased Royalty Interest; provided, in each case, that such financing statements shall not describe as collateral anything other than the Purchased Royalty Interest, any "proceeds" thereof (as defined in the UCC) and the Escrow Account and shall not contain an "all asset" (or words of similar effect) collateral description. Notwithstanding the

intention of the parties hereto and solely as a precaution to protect the Purchaser's interests hereunder in the event the transactions contemplated by this Agreement and the other Transaction Documents are alleged or determined not to constitute a true sale of the Purchased Royalty Interest by the Seller to the Purchaser, or if such transactions shall for any reason be found ineffective or unenforceable, this Agreement shall also be deemed to constitute a security agreement under the UCC and the Seller hereby grants to the Purchaser as of the date of this Agreement, and the Purchaser shall have at all times on and after the date of this Agreement, a security interest in and to all right, title and interest of the Seller, in, to and under the Purchased Royalty Interest any "proceeds" (as such term is defined in the UCC) thereof and, until the [***] is obtained and [***] the Royalty, and no other payments under the Asset Purchase Agreement, into the Escrow Account, the Escrow Account, to secure the Seller's due and timely payment and performance of all of the Seller's liabilities and obligations to the Purchaser under this Agreement and any of the other Transaction Documents (whether such liabilities and obligations are direct, indirect, absolute, contingent or otherwise), including the payments of amounts to the Purchaser equal to the Purchased Royalty Interest as they become due and payable. In furtherance of the foregoing, the Seller hereby authorizes the Purchaser to take such actions as the Purchaser may elect to cause the security interest described above to be perfected by filing one or more UCC financing statements (and any amendments thereto from time to time) with respect to such security interest; provided that such financing statements shall not describe as collateral anything other than the Purchased Royalty Interest, any "proceeds" thereof (as defined in the UCC) and the Escrow Account and shall not contain an "all asset" (or words of similar effect) collateral description.

Section 2.2 Purchase Price.

(a) The purchase price to be paid as the full consideration for the sale of the Purchased Royalty Interest comprises (i) $100,000,000 (the "Initial Purchase Price"), (ii) the Non-Sales Milestone Payment, to the extent the same becomes due and payable and (iii) the Sales-Based Milestone Payment, to the extent the same becomes due and payable (collectively, the "Purchase Price").

(b) The Purchaser shall pay the Initial Purchase Price to the Seller at the Closing in immediately available funds by wire transfer to the Seller Account.

Section 2.3 No Assumed Obligations. Notwithstanding any provision in this Agreement or any other writing to the contrary, the Purchaser is purchasing, acquiring and accepting only the Purchased Royalty Interest and is not assuming any liability or obligation of the Seller or any of the Seller's Affiliates of whatever nature, whether presently in existence or arising or asserted hereafter (including any liability or obligation of the Seller under the Asset Purchase Agreement). All such liabilities and obligations shall be retained by and remain liabilities and obligations of the Seller or the Seller's Affiliates, as the case may be.

Section 2.4 Excluded Assets. The Purchaser does not, by purchase, acquisition or acceptance of the right, title or interest granted hereunder or otherwise pursuant to any of the Transaction Documents, purchase, acquire or accept any assets or contract rights of the Seller, including the Retained Interest, other than the Purchased Royalty Interest as set forth in Section 2.1(a).

Section 2.5 Milestone Payments.

(a) *Non-Sales Milestone Payment*.

(i) If the [***] is achieved and the [***] has not previously been achieved or is achieved [***], the Seller shall deliver written notice of such achievement to the Purchaser [***], together with reasonable supporting documentation thereof. The Purchaser shall pay the [***] to the Seller [***] by the Purchaser of such written notice and supporting documentation in [***] by wire transfer to the Seller Account; provided, that in the case of a [***] involving a [***] that has not been [***] as of such date, the [***] shall become payable if and only if such [***] is in fact [***] of the definitive agreement for such [***]. In such event, (i) upon the announcement that [***] or the applicable Affiliate of [***], on the one hand, and the applicable [***], on the other hand, [***] via a public press release or other public disclosure made in a current or periodic report filed with the SEC under the U.S Securities Exchange Act of 1934, as amended or other applicable stock exchange filing (by [***] or such Affiliate, as applicable, or the [***] that is party to the [***]), the Seller shall deliver written notice of [***] to the Purchaser [***], together with reasonable supporting documentation thereof and (ii) the Purchaser shall then pay the [***] to the Seller [***] by the Purchaser of such written notice and supporting documentation in [***] by wire transfer to the Seller Account. For the avoidance of doubt, (A) if the events in clauses (a) and (b) of the definition of [***] take place [***], but the [***], then such [***] at a later date, but the [***] shall become payable if and only if such [***] is in fact subsequently [***] and (B) if such [***] is not [***] within the [***], the Purchaser shall have no further liability or obligation under this Section 2.5(a).

(ii) If the [***] is achieved [***] and the [***] has not previously been achieved, the Seller shall deliver written notice of such achievement to the Purchaser [***], together with reasonable supporting evidence thereof, consisting of a public press release [***] with respect to achievement of the [***] or the public [***] reflecting achievement of the [***] on the [***]. The Purchaser shall pay the [***] to the Seller [***] by the Purchaser of such written notice and supporting documentation in [***] by wire transfer to the Seller Account.

(iii) If the [***] is achieved [***] and the [***] has not previously been achieved, the Seller shall deliver written notice of such achievement to the Purchaser [***],

together with reasonable supporting evidence thereof, consisting of a public press release [***] with respect to achievement of the [***] or the public [***] reflecting achievement of the [***] on the [***] at [***]. The Purchaser shall pay the [***] to the Seller [***] receipt by the Purchaser of such written notice and supporting documentation in [***] by wire transfer to the Seller Account.

(iv) For the avoidance of doubt, the [***] shall be [***]. For example, if the [***], and [***], the [***] shall be [***], in respect of achievement of the [***].

(b) *Sales-Based Milestone*. If the Sales-Based Milestone Event is achieved, the Seller shall deliver written notice of such achievement to the Purchaser [***] by [***] of the Royalty Report in respect of the [***] contained in the [***], together with a certificate, executed by the [***] of the Seller, certifying that the Sales-Based Milestone Event has been achieved and that the Seller has received Royalty Reports from Provention in respect of the [***] contained in the [***] evidencing achievement of the Sales-Based Milestone Event; provided that no such [***] shall be required if the [***] has been [***], permits the [***] to the Purchaser of at least all Royalty Reports and Audit Reports, and is in effect. The Purchaser shall pay the Sales-Based Milestone Payment to the Seller within [***] receipt by the Purchaser of such written notice and certificate in [***] by wire transfer to the Seller Account.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE SELLER

Except as set forth on the Disclosure Schedules, the Seller hereby represents and warrants to the Purchaser as of the date hereof as follows:

Section 3.1 Existence; Organization. The Seller is a corporation duly organized, validly existing and in good standing under the Laws of Delaware. The Seller has all requisite corporate power and authority to own or lease, as the case may be, and to operate its properties and conduct its business as presently conducted. The Seller possesses all licenses, permits, franchises, authorizations, consents and approvals of all Governmental Authorities required to own or lease, as the case may be, and to operate its properties and conduct its business as presently conducted, except where the failure to possess such license, permit, franchise, authorization, consent or approval has not and would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. The Seller is duly qualified as a
foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted or property owned or leased by it makes such qualification necessary, other than those in which the failure so to qualify or be in good standing would not reasonably be expected to have a Material Adverse Effect.

Section 3.2 No Conflicts. The execution, delivery and performance by Seller of the Transaction Documents and the consummation of the transactions contemplated hereby and thereby do not:

(a) violate any provision of the certificate of incorporation or bylaws of the Seller;

(b) violate any provision of any Judgment applicable to the Seller, to which it is a party, or by which it or any of its properties or assets are bound;

(c) violate any provision of any Law applicable to the Seller, except for such violations that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect; nor

(d) violate, breach, conflict with, constitute a default (or an event which with notice or lapse of time or both would become a default), or require consent under any

provision of, or give to any Person any rights of termination, amendment, acceleration or cancellation of (i) the Asset Purchase Agreement or (ii) any other material agreement, mortgage, deed of trust, indenture, note, bond, license, lease agreement, instrument or obligation to which the Seller is a party, except for such violations, breaches, conflicts or defaults that, individually or in the aggregate and with or without the passage of time, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.3 Authorization; Enforceability. The Seller has all necessary corporate power and authority to execute, deliver and perform the Transaction Documents and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of the Transaction Documents, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all necessary corporate action and no further consent or authorization of the Seller, its board of directors and its stockholders is required. Each of the Transaction Documents has been duly executed and delivered by the Seller and constitutes the legal, valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms, except as may be limited by general principles of equity (regardless of whether considered in a proceeding at Law or in equity) and by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally, general equitable principles and principles of public policy.

Section 3.4 Ownership. The Seller has good and valid title to the Purchased Royalty Interest, free and clear of all Liens (other than those contemplated to be granted by the Seller to the Purchaser in respect of the Purchased Royalty Interest pursuant to Section 2.1(b)) and is exclusively entitled to the payments that comprise the Purchased Royalty Interest. Upon payment of the Initial Purchase Price by the Purchaser, the Purchaser will have acquired, subject to the terms and conditions set forth in this Agreement, good and valid title to the Purchased Royalty

Interest, free and clear of all Liens (other than those contemplated to be granted by the Seller to the Purchaser in respect of the Purchased Royalty Interest pursuant to Section 2.1(b)). Upon the filing of the financing statement referred to in the last sentence of Section 2.1(b) with the Secretary of State of the State of Delaware and to the extent that, despite the intent of the parties hereto, the sale, transfer, assignment and conveyance of the Purchased Royalty Interest by the Seller to the Purchaser pursuant to this Agreement is hereafter held not to be a sale, the Purchaser will have a valid and perfected first priority security interest in and to the Purchased Royalty Interest.

Section 3.5 Governmental and Third Party Authorizations. The execution, delivery and performance by the Seller of the Transaction Documents, the consummation of any of the transactions contemplated hereby and thereby do not require any consent, waiver, approval, license, order, authorization or declaration from, notice to, action or registration by or filing with any Governmental Authority or any other Person, except for (a) a Current Report on Form 8-K by the Seller with the U.S. Securities and Exchange Commission and (b) the UCC financing statements contemplated by Section 2.1(b).

Section 3.6 No Litigation. No action, suit, proceeding or investigation before any Governmental Authority, court or arbitrator is pending, or, to the Knowledge of the Seller, threatened, against the Seller (i) by Provention, (ii) challenging the validity or enforceability of the Asset Purchase Agreement, (iii) relating to the Royalty Product, the Royalty Product Patents or the Royalty, or (iv) relating to any other matter that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect.

Section 3.7 No Brokers' Fees. There is no investment banker, broker, finder, financial advisor or other Person who has been retained by or is authorized to act on behalf of the Seller who is entitled to any fee or commission from the Purchaser in connection with the transactions contemplated by this Agreement, including any fee or commission payable on the Purchased Royalty Interest.

Section 3.8 Compliance with Laws. The Seller (a) has not violated, is not in violation of, has not been given any notice of Seller's violation of, and, to the Knowledge of the Seller, is not under investigation with respect to, nor has it been threatened to be charged with, any violation of, any applicable Law or any Judgment, order, writ, decree, injunction, stipulation, consent order, permit or license granted, issued or entered by any Governmental Authority and
(b) is not subject to any Judgment, order, writ, decree, injunction, stipulation or consent order issued or entered by any Governmental Authority; in each case of clauses (a) and (b), that involves the Royalty Product, the Royalty Product Patents or the Royalty.

Section 3.9 Intellectual Property Matters.

The representations and warranties contained in Section 5.7 of the Asset Purchase Agreement were true and correct in all respects as of the date of the Asset Purchase Agreement. Since May 7, 2018, Seller has not received written notice from Provention or any other Person of any, there is no pending or threatened opposition, interference, reexamination, injunction, claim, suit, action, citation, summon, subpoena, hearing, inquiry, investigation (by the International Trade Commission or otherwise), complaint, arbitration, mediation, demand, decreeor other dispute, disagreement, proceeding or claim challenging the validity, enforceability or ownership of any of the Royalty Product Patents.

(a) Schedule 3.9(b) is a true, correct and complete copy of Exhibit 2 to the Asset Purchase Agreement as of the date of the Asset Purchase Agreement. Since May 7, 2018, the Seller has not received any written notice from Provention or any other Person relating to the lapse, expiration or other termination of any of the Royalty Product Patents, or any written legal opinion that alleges that any of the issued Royalty Product patents are invalid or unenforceable.

(b) Since May 7, 2018, the Seller has not received from Provention or any Person any written notice of any claim by any Person challenging inventorship or ownership of, the rights of the Seller or Provention, as applicable, in and to, or the patentability, validity or enforceability of, any Royalty Product Patent, or asserting that the development, manufacture, importation, sale, offer for sale or use of the Royalty Product infringes any patent or other intellectual property rights of such Person.

(c) To the Knowledge of the Seller, there is no pending or threatened action, suit or proceeding that claims that the manufacture, use, marketing, sale, offer for sale, importation or distribution of the Royalty Product does or will infringe on any patent or other intellectual property rights of any other Person or constitute misappropriation of any other Person's trade secrets or other intellectual property rights.

(d) To the Knowledge of the Seller, the discovery and development of the Royalty Product did not and has not infringed, violated or misused any patent or other intellectual property rights owned by any third party. To the Knowledge of the Seller, except as listed on Schedule 3.9(e), Provention has not in-licensed any intellectual property right covering the development, manufacture, use, sale, offer for sale or import of the Royalty Product.

(e) To the Knowledge of the Seller, the manufacture, use, marketing, sale, offer for sale, importation or distribution of the Royalty Product by Provention does not and will not constitute an infringement of any valid patent or other intellectual property rights of any other Person or constitute misappropriation of any other Person's trade secrets or other intellectual property rights.

(f) To the Knowledge of the Seller, no third party has infringed, misappropriated or otherwise violated, or is infringing, misappropriating or otherwise violating,

any of the Royalty Product Patents or any other patent right claiming the composition of matter of, or the method of making or using, the Royalty Product.

Section 3.10 Asset Purchase Agreement.

(a) *True, Correct and Complete Copy*. A true, correct and complete copy of the Asset Purchase Agreement is attached hereto as Exhibit A.

(b) *No Other Agreements; No Amendments.* Except as listed on Schedule 3.10(b) and other than the Asset Purchase Agreement, there is no contract, agreement or other arrangement (whether written or oral) between the Seller, on the one hand, and Provention, on the other hand. Other than the Asset Purchase Agreement, there is no contract, agreement or other arrangement (whether written or oral) between the Seller, on the one hand, and a Third Party, on the other hand, that relates to the Royalty Product, the Royalty Product Patents, the Asset Purchase Agreement or the Royalty. The Seller has not granted any written waiver under the Asset Purchase Agreement or released Provention, in whole or in part, from any of its obligations under the Asset Purchase Agreement. The Seller has not received from Provention any written proposal, and has not made any written proposal to Provention, to amend or waive any provision of the Asset Purchase Agreement.

(c) *No Royalty Reductions*. Except as listed on Schedule 3.10(c), no portion of the Purchased Royalty Interest has been nor, to the Knowledge of the Seller, is subject to any claim against the Seller pursuant to any right of set-off, counterclaim, downward adjustment, credit, reduction or deduction, by contract or otherwise (a "Royalty Reduction"), including pursuant to a Permitted Reduction. No event or condition exists that, upon notice or passage of time or both, would reasonably be expected to permit Provention to make, or have the right to make, a Royalty Reduction, other than a Permitted Reduction, against the Royalty. The representations and warranties of the Seller contained in Section 5.14 of the Asset Purchase Agreement were true and correct as of the date of the Asset Purchase Agreement.

(d) *Validity and Enforceability*. The Asset Purchase Agreement is in full force and effect and is the legal, valid and binding obligation of the Seller and Provention, enforceable against the Seller and Provention in accordance with its terms, except as may be limited by general principles of equity (regardless of whether considered in a proceeding at Law or in equity) and by applicable bankruptcy, insolvency, moratorium and other similar Laws of general application relating to or affecting creditors' rights generally. The Seller has not received any written notice challenging the validity or enforceability of, or alleging any dispute with respect to, any provision of the Asset Purchase Agreement, the obligation of Provention to pay the Purchased Royalty Interest thereunder, or the Royalty Product Patents.

(e) *No Breaches or Defaults.* The Seller has not breached, violated or defaulted under, nor is it in breach or violation of or in default under, the Asset Purchase Agreement, and, to the Knowledge of Seller, Provention has not breached, violated or defaulted under, nor is it in breach or violation of or in default under, the Asset Purchase Agreement and there is no event that upon notice or the passage of time, or both, would reasonably be expected to give rise to any breach or default either by the Seller or, to the Knowledge of the Seller, by Provention.

(f) *No Termination.* To the Knowledge of the Seller, no event has occurred that would give the Seller or Provention the right to terminate the Asset Purchase Agreement or cease paying the Purchased Royalty Interest. The Seller has not received any written notice of an intention by Provention to terminate, breach or default under the Asset Purchase Agreement, in whole or in part, or challenge the validity or enforceability of the Asset Purchase Agreement or the obligation to pay the Purchased Royalty Interest thereunder, or that the Seller or Provention is in default of its obligations under the Asset Purchase Agreement. The Seller has not delivered

any written notice of an intention by the Seller to terminate, breach or default under the Asset Purchase Agreement, in whole or in part, or challenge the validity or enforceability of or alleging any dispute with respect to the Asset Purchase Agreement, or that the Seller or Provention is in default of its obligations under the Asset Purchase Agreement. The Seller has no intention of terminating the Asset Purchase Agreement and has not given Provention any notice of termination of the Asset Purchase Agreement, in whole or in part.

(g) *Sublicenses*. To the Knowledge of the Seller, there are no licenses or sublicenses entered into by Provention or any other Person under the Royalty Product Patents.

(h) *Audits*. The Seller has not exercised its rights to conduct an audit or any inspection of books or records under Section 3.10 of the Asset Purchase Agreement.

(i) *Payments Made.* Except as listed on Schedule 3.10(i), the Seller has received the full amount of each payment payable to it under the Asset Purchase Agreement, to the extent such payments have come due.

(j) *No Indemnification Claims*. The Seller has not notified Provention or any other Person of any claims for indemnification under the Asset Purchase Agreement nor has the Seller received any claims for indemnification under the Asset Purchase Agreement, whether pursuant to Article 9 thereof or otherwise. The Seller is not aware of any event that would give rise to a claim for indemnification under the Asset Purchase Agreement.

(k) *No Liens or Assignments*. The Seller has not, except as contemplated hereby, conveyed, assigned or in any other way transferred or granted any Liens (other than Liens for taxes not yet due and payable) upon or with respect to all or any portion of its right, title and interest in and to the Royalty or the Asset Purchase Agreement, nor has the Seller consented to any such assignment, transfer or Lien, and, to the Seller's Knowledge, except as listed on Schedule 3.10(k), Provention has not assigned or otherwise transferred or granted any Liens upon or with respect to any of its rights or obligations under the Asset Purchase Agreement or any portion of its right, title and interest in and to the Product Patents or the Royalty Product.

(l) *Product*. TZIELD™ (teplizumab-mzwv) is a Product (as defined in the Asset Purchase Agreement).

Section 3.11 UCC Matters. The Seller's exact legal name is, and for the ten (10) years immediately preceding the Closing Date has at all times been, "MacroGenics, Inc." The Seller's principal place of business is, and for the ten (10) years immediately preceding the Closing Date has at all times been, located in the State of Maryland. The Seller's address is 9704 Medical Center Drive, Rockville, Maryland 20850. The Seller's jurisdiction of organization is, and for the ten (10) years immediately preceding the Closing Date has at all times been, the State of Delaware.

Section 3.12 Taxes. No deduction or withholding for or on account of any tax has been made from any payment by Provention to the Seller under the Asset Purchase Agreement.

Section 3.13 Solvency. The Seller is, individually and together with its subsidiaries on a consolidated basis, Solvent.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants to the Seller as of the date hereof as follows:

Section 4.1 Organization. The Purchaser is a limited partnership duly organized, validly existing and in good standing under the Laws of Delaware and has all powers and authority, and all licenses, permits, franchises, authorizations, consents and approvals of all Governmental Authorities, required to own its property and conduct its business as presently conducted.

Section 4.2 No Conflicts. None of the execution and delivery by the Purchaser of any of the Transaction Documents to which the Purchaser is party, the performance by the Purchaser of the obligations contemplated hereby or thereby or the consummation of the transactions contemplated hereby or thereby will contravene, conflict with, result in a breach, violation, cancellation or termination of, constitute a default (with or without notice or lapse of time, or both) under, require prepayment under, give any Person the right to exercise any remedy or obtain any additional rights under, or accelerate the maturity or performance of or payment under, in any respect, (i) any applicable Law or any Judgment, permit or license of any Governmental Authority to which the Purchaser or any of its assets or properties may be subject or bound, (ii) any term or provision of any contract, agreement, indenture, lease, license, deed, commitment, obligation or instrument to which the Purchaser is a party or by which the Purchaser or any of its assets or properties is bound or committed or (iii) any term or provision of any of the organizational documents of the Purchaser.

Section 4.3 Authorization; Enforceability. The Purchaser has all powers and authority to execute and deliver, and perform its obligations under, the Transaction Documents to which it is party and to consummate the transactions contemplated hereby and thereby. The execution and delivery of each of the Transaction Documents to which the Purchaser is party and the performance by the Purchaser of its obligations hereunder and thereunder have been duly authorized by the Purchaser. Each of the Transaction Documents to which the Purchaser is party has been duly executed and delivered by the Purchaser. Each of the Transaction Documents to which the Purchaser is party constitutes the legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar applicable Laws affecting creditors' rights generally, general equitable principles and principles of public policy.

Section 4.4 Governmental and Third Party Authorizations. The execution and delivery by the Purchaser of the Transaction Documents to which the Purchaser is party, the performance by the Purchaser of its obligations hereunder and thereunder and the consummation of any of the transactions contemplated hereunder and thereunder do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by or filing with any Governmental Authority or any other Person, except as described in Section 3.5.

Section 4.5 No Litigation. There is no (a) action, suit, arbitration proceeding, claim, demand, citation, summons, subpoena, investigation or other proceeding (whether civil, criminal, administrative, regulatory, investigative or informal) pending or, to the knowledge of the Purchaser, threatened by or against the Purchaser, at Law or in equity, or (b) inquiry or investigation (whether civil, criminal, administrative, regulatory, investigative or informal) by or before a Governmental Authority pending or, to the knowledge of the Purchaser, threatened against the Purchaser, that, in each case, challenges or seeks to prevent or delay the consummation of any of the transactions contemplated by any of the Transaction Documents to which the Purchaser is party.

Section 4.6 Funds Available. The Purchaser has sufficient cash on hand to satisfy its obligation to pay the Initial Purchase Price at the Closing and will have sufficient cash on hand to satisfy its obligation to pay each Milestone Payment if and when it becomes due and payable in accordance with Section 2.5. The Purchaser acknowledges and agrees that its obligations under this Agreement are not contingent on obtaining financing.

ARTICLE V COVENANTS

Section 5.1 Public Announcement. Except (a) for a press release previously approved in form and substance by the Seller and the Purchaser or any other public announcement using substantially the same text as such press release and (b) subject to the second sentence of this Section 5.1, any disclosure required by applicable Law, by the rules and regulations of any securities exchange or market on which any security of such party hereto may be listed or traded or by any Governmental Authority of competent jurisdiction, neither the Purchaser nor the Seller shall, and each party hereto shall cause its Affiliates not to, without the prior written consent of the other party hereto (which consent shall not be unreasonably withheld, delayed or conditioned), issue any press release or make any other public disclosure with respect to this Agreement or any of the other Transaction Documents or any of the transactions contemplated hereby or thereby. The Purchaser acknowledges that it will be necessary for the Seller to file this Agreement with the SEC and to make other public disclosures regarding the terms of this Agreement in its reports filed with the SEC, and the Seller agrees that it will provide the Purchaser a reasonable opportunity to review and comment on any proposed redactions to the copy of this Agreement to be filed with the SEC, as well as on such other public disclosures made by the Seller relating to the Purchaser or this Agreement or the transactions contemplated thereby (e.g., press releases or Current Report on Form 8-K), which comments the Seller shall consider in good faith, provided that the Seller shall not be required to provide the Purchaser the opportunity to review and comment on (i) any disclosure substantively identical to any disclosure previously reviewed and commented upon by the Purchaser, (ii) any disclosure required by applicable Law or stock exchange rule to the extent solely related to the accounting or tax treatment of the transactions contemplated hereby or (iii) any disclosure to the extent such disclosure is limited to the announcement of the Seller's receipt of a Milestone Payment.

Section 5.2 Further Assurances.

(a) Subject to the terms and conditions of this Agreement, each party hereto shall execute and deliver such other documents, certificates, instruments, agreements and other writings, take such other actions and perform such additional acts under applicable Law as may be reasonably requested by the other party hereto and necessary or reasonably desirable to implement expeditiously the transactions contemplated by, and to carry out the purposes and intent of the provisions of, this Agreement and the other Transaction Documents, including to (i) perfect the sale, contribution, assignment, transfer, conveyance and granting of the Purchased Royalty Interest to the Purchaser pursuant to this Agreement, (ii) perfect, protect, more fully evidence, vest and maintain in the Purchaser good and valid title in and to the Purchased Royalty Interest free and clear of all Liens (other than those Liens created in favor of the Purchaser by the Transaction Documents) and (iii) create, evidence and perfect the Purchaser's back-up security interest granted pursuant to Section 2.1(b).

(b) Without limiting Section 5.2(a), for a period of [***] following the date hereof, the Seller shall use its commercially reasonable efforts to obtain from Provention [***], in a form acceptable to the Purchaser and duly executed by each of the Seller and Provention, pursuant to which Provention (i) [***] providing the Purchaser and any assignee of Purchaser with [***], and other [***] which would [***] by the Seller to the Purchaser under this Agreement but for the [***] by the Seller to Provention as of the date hereof under the Asset Purchase Agreement and (ii) agrees to [***] under the Asset Purchase Agreement so that [***] unless and until Provention [***] otherwise in writing, and all other payments under the Asset Purchase Agreement are made into an account designated by the Seller, [***], and acknowledges and agrees that the Initial Provention Instruction [***]. In the exercise by the Seller of such commercially reasonable efforts, the Seller shall act without regard to [***] outside of the Asset Purchase Agreement. Prior to the execution by each of the Seller and Provention [***] is not obtained, Section 8.5 shall apply.

Section 5.3 Royalty Reports; Notices and Correspondence.

(a) Subject to Section 8.5, promptly (and in any event no later than [***]) following the receipt by the Seller from Provention of (i) a Royalty Report or (ii) any notice, report, or other material written correspondence delivered to the Seller by Provention under the Asset Purchase Agreement that relates to, or involves, directly or indirectly, the Purchased Royalty Interest, Royalty Product, or the Royalty Product Patents, the Seller shall deliver a true, correct and complete copy of the same to the Purchaser, provided that in the case of a Royalty Report, any information included in such Royalty Report related solely to the [***] may be redacted.

(b) The Seller shall consult with the Purchaser prior to the Seller sending any material written notice or correspondence to Provention that relates to, or involves, directly or indirectly, the Purchased Royalty Interest or would be expected to, directly or indirectly and with or without the passage of time, impact the Purchased Royalty Interest or otherwise have a Material Adverse Effect. The Seller shall not send any such material written notice or correspondence without the prior written consent of the Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed); provided that such consent shall not be required with respect to any notice or correspondence that relates solely to Provention's obligations under any of Section 3.2, Section 3.4, Section 3.5, Section 3.7 (solely as it relates to Section 3.2, Section 3.4 or Section 3.5) or Section 3.8 of the Asset Purchase Agreement (solely as it relates to Section 3.2, Section 3.4 or Section 3.5 of the Asset Purchase Agreement) and that would not otherwise be expected to have a Material Adverse Effect, with or without the passage of time;

and provided further that if the Seller has sent a request for the Purchaser's consent to the Purchaser via FedEx or electronic mail, and delivery of such request has been confirmed (whether by FedEx or electronic mail), and the Purchaser does not respond to such request from the Seller within [***] following such delivery, Purchaser's consent to the Seller sending such material written notice or correspondence to Provention shall be deemed to have been given. The Seller shall send to Provention such notices or correspondence related to the Purchased Royalty Interest and/or Provention's obligations under Section 7.8 of the Asset Purchase Agreement as the Purchaser shall reasonably request, as long as such notice or correspondence would not reasonably be expected to have an adverse effect in any material respect on the value of the Retained Interest. The Seller shall, promptly (and in any event [***]) following the delivery thereof by the Seller to Provention, furnish a copy of any material written notice or material written correspondence sent by the Seller to Provention relating to, or involving, directly or indirectly, the Purchased Royalty Interest, the Royalty Product, or the Royalty Product Patents, subject in each case to Section 8.5 if and to the extent applicable.

Section 5.4 Misdirected Payments; Late Fee.

(a) Notwithstanding the terms of the Initial Provention Instruction [***], commencing upon the Closing and at all times thereafter during the term of this Agreement, if any portion of the Purchased Royalty Interest is paid to the Seller, then (i) the Seller shall hold such amount in trust for the benefit of the Purchaser in a segregated account, (ii) the Seller shall have no right, title or interest whatsoever in such amount and shall not create or suffer to exist any Lien thereon and (iii) the Seller promptly, and in any event [***] following the receipt by the Seller of such amount, shall remit such amount in full, subject to Section 5.10, to the Purchaser Account. The Seller shall notify the Purchaser of such wire transfer and provide reasonable details regarding the Purchased Royalty Interest payment so received by the Seller.

(b) Notwithstanding the terms of the Initial Provention Instruction [***], commencing upon the Closing and at all times thereafter, if any amount due under the Asset Purchase Agreement that does not constitute the Purchased Royalty Interest is paid to the Purchaser, then (i) the Purchaser shall hold such amount in trust for the benefit of the Seller in a

segregated account, (ii) the Purchaser shall have no right, title or interest whatsoever in such amount and shall not create or suffer to exist any Lien thereon and (iii) the Purchaser promptly, and in any event [***] following the receipt by the Purchaser of such amount, shall remit such amount in full to the Seller Account. The Purchaser shall notify the Seller of such wire transfer and provide reasonable details regarding the erroneous payment so received by the Purchaser.

(c) A late fee of [***] published by *The Wall Street Journal* from time to time as the prime rate shall accrue on all unpaid amounts on an annualized basis with respect to any sum payable under Section 5.4(a) or Section 5.4(b) [***] after the Seller, in the case of Section 5.4(a), or the Purchaser, in the case of Section 5.4(b), receives such erroneous payment, or with respect to a Milestone Payment, [***] after the applicable written notice and supporting documentation is received by the Purchaser from the Seller in accordance with Section 2.5.

Section 5.5 Set-Offs. If Provention exercises a Non-Permitted Reduction against any payment of the Purchased Royalty Interest, such Non-Permitted Reduction shall not be deemed to reduce any payment of the Purchased Royalty Interest otherwise payable to the Purchaser, and if such Non-Permitted Reduction has the effect of reducing any payment of the Purchased Royalty Interest to less than the full amount of the payment of the Purchased Royalty Interest that would otherwise have been payable to the Purchaser, then the Seller shall promptly (and in any event within thirty (30) calendar days following the payment of the Purchased Royalty Interest affected by such set-off) make a true-up payment to the Purchaser such that the Purchaser receives the full amount of such Purchased Royalty Interest payment that would have been payable to the Purchaser had such Non-Permitted Reduction not occurred. Notwithstanding anything to the contrary herein, to the extent the Seller shall have made a true-up payment to the Purchaser pursuant to this Section 5.5 in respect of any Non-Permitted Reduction, any subsequent payment received from Provention in respect, and to the extent, of such Non-Permitted Reduction shall not be included in the Purchased Royalty Interest, such that the subsequent payment is included in the Retained Interest. For all purposes hereunder, any true-up payment made pursuant to this Section 5.5 will be treated as paid with respect to the Purchased Royalty Interest for U.S. federal income tax purposes to the fullest extent permitted by applicable Law. For the avoidance of doubt, withholding taxes shall not be treated as a Non-Permitted Reduction and shall be governed by the provisions of Section 5.10 of this Agreement.

Section 5.6 Maintenance of Asset Purchase Agreement.

(a) The Seller shall perform and comply with all of its obligations under the Asset Purchase Agreement, and shall not take any action or forego any action that would reasonably be expected to constitute a breach of or default under any provision of the Asset Purchase Agreement or that would reasonably be expected to result in a Material Adverse Effect. The Seller shall not amend, modify, supplement, restate, waive, assign, transfer, delegate, cancel or terminate (or consent to any cancellation, termination, assignment, transfer or delegation of), in whole or in part, any provision of or right under the Asset Purchase Agreement that relates to the Royalty or the Royalty Product (including any consent or agreement by the Seller that the Seller to [***] to be allocated between the Seller and [***]) or that would reasonably be expected to result in a Material Adverse Effect without the prior written consent of the Purchaser, provided that the assignment of the Asset Purchase Agreement in its entirety to any Third Party that acquires all or substantially all of the Seller's business, whether by merger, sale of assets or otherwise, shall not require the prior written consent of the Purchaser so long as such assignment of the Asset Purchase Agreement is made together with an assignment of this Agreement permitted by Section 10.3 hereof. Subject to the foregoing, promptly, and in any event [***], (i) [***] by the Seller of any proposed amendment, modification, supplement, restatement, waiver, cancellation or termination of the Asset Purchase Agreement to which the [***] pursuant to the foregoing sentence, the Seller shall, subject to Section 8.5, [***] and (ii) following receipt by the Seller of any final amendment, modification, supplement, restatement, waiver, cancellation or termination of the Asset Purchase Agreement, the Seller shall, subject to Section 8.5, [***].

(b) The Seller shall not terminate or agree with Provention to terminate, or take any action that would reasonably be expected to give Provention the right to terminate, the Asset Purchase Agreement.

(c) The Seller shall not, without the prior written consent of the Purchaser, grant or withhold any consent, exercise or waive any right, obligation or option or fail to exercise any right or option in respect of, affecting or relating to the Purchased Royalty Interest.

(d) [***] from Provention alleging any breach of or default under the Asset Purchase Agreement by the Seller (including any threat of litigation, demand, proceeding, or other action), the Seller shall give written notice thereof to the Purchaser. Such notice shall (i) state that a breach, default or termination event, as applicable, has occurred, (ii) subject to Section 8.5, [***] breach, default or termination event, and (ii) subject to Section 8.5, [***]. The Seller shall use its commercially reasonable efforts to promptly cure any such breach or default by it under the Asset Purchase Agreement, and, in any case, shall give written notice to the Purchaser upon curing such breach or default. The Seller shall consult with the Purchaser as to any action the Seller proposes to take to dispute or cure any alleged breach or default under the Asset Purchase Agreement. In connection with any dispute regarding an alleged breach or default that is related to the Purchased Royalty Interest or would reasonably be expected to have a Material Adverse Effect, the Seller shall employ such counsel, reasonably acceptable to the Seller, as the Purchaser may select. The Seller shall not forgive, release or compromise any amount or waive any obligation of, or grant any consent to, Provention under, in respect of or related to the Purchased Royalty Interest without the prior written consent of the Purchaser.

Section 5.7 Enforcement of Asset Purchase Agreement.

(a) Promptly (but in any event [***]) after the Seller obtains Knowledge of any breach by Provention of [***] the Asset Purchase Agreement or any other breach of or default under the Asset Purchase Agreement by Provention related to the Purchased Royalty Interest, the Royalty Product or the Royalty Product Patents or of the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, would reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to any such breach or default, the Seller shall promptly, but in any event [***] the Seller [***], give written notice to the Purchaser (i) stating that the relevant breach or default that has occurred and (ii) subject to Section 8.5, [***] the relevant breach or default. In addition, the Seller shall provide to the Purchaser [***] breach or alleged breach of the Asset Purchase Agreement [***] Provention as soon as practicable and in any event [***] following such delivery.

(b) In the case of any breach by Provention referred to in Section 5.7(a), the Seller shall consult with the Purchaser regarding the timing, manner and conduct of any enforcement of Provention's obligations under the Asset Purchase Agreement, shall use commercially reasonable efforts to enforce the Seller's rights and remedies (whether under the

Asset Purchase Agreement or by operation of Law) and Provention's obligations under the Asset Purchase Agreement and shall keep the Purchaser reasonably updated, subject to Section 8.5, as to any material developments relating to any such breach; provided that in the case of any breach by Provention referred to in Section 5.7(a) relating solely to the failure to pay any portion of the Purchased Royalty Interest (other than pursuant to a Non-Permitted Reduction in respect of which the Seller has complied with its payment obligations under Section 5.5) or any breach that would reasonably be expected to have a Material Adverse Effect, the Seller shall, at the Purchaser's reasonable direction and at the Purchaser's expense, (i) use commercially reasonable efforts to promptly and fully enforce the Seller's rights and remedies (whether under the Asset Purchase Agreement or by operation of Law) and Provention's obligations under Section 3.3 of the Asset Purchase Agreement, including, if reasonably requested by the Purchaser, instituting formal legal proceedings against Provention and (ii) employ such counsel, reasonably acceptable to the Seller, as the Purchaser may select.

(c) The Purchaser shall reimburse the Seller for [***] reasonable out-of-pocket costs and expenses (including the out-of-pocket fees and expenses of the Seller's counsel) incurred by the Seller, as such costs and expenses are incurred, in connection with any actions taken or exercise of rights and remedies by the Seller at the direction of the Purchaser pursuant to Section 5.7(b).

(d) All Proceeds resulting from any enforcement of Provention's obligations under the Asset Purchase Agreement shall be applied (i) first to reimburse the Seller for any expenses incurred by it in connection with such enforcement to the extent not previously reimbursed to it by the Purchaser in accordance with Section 5.7(c) and (ii) second, if such enforcement was undertaken at the direction of Purchaser pursuant to Section 5.7(b), to the Purchaser for any expenses incurred by it in connection with such enforcement. The remainder of such Proceeds that are in respect of the Purchased Royalty Interest shall be allocated to the Purchaser, with any remaining Proceeds allocated to the Seller. The Seller hereby assigns and, if not presently assignable, agrees to assign to the Purchaser the amount of Proceeds due to the Purchaser in accordance with this Section 5.7(d). For the avoidance of doubt, if such Proceeds are in respect of an unpaid portion of the Purchased Royalty Interest, and the amount of Proceeds remaining after application of the first sentence of this Section 5.7(d) is less than such unpaid portion of the Purchased Royalty Interest, the Seller shall have no obligation to reimburse or make whole the Purchaser for such differential amount.

(e) At the direction of the Purchaser, the Seller shall charge interest on any late payment of the Royalty pursuant to Section 3.8 of the Asset Purchase Agreement.

Section 5.8 No Assignment; No Liens. The Seller shall not dispose of, assign or otherwise transfer, or grant, incur or suffer to exist any Lien on the Purchased Royalty Interest; provided, however, that if, notwithstanding the intention of the parties hereto, the transactions contemplated by this Agreement and the other Transaction Documents are determined by a court or tribunal of competent jurisdiction not to constitute a true sale of the Purchased Royalty Interest by the Seller to the Purchaser, then the foregoing provision shall not prohibit the Seller from assigning any rights it has in respect of the Purchased Royalty Interest in connection with a permitted assignment of this Agreement by the Seller in accordance with the provisions of

Section 10.3 to any other Person with which the Seller may merge or consolidate or to which the Seller may sell all or substantially all of its assets.

Section 5.9 Audits. If requested in writing by the Purchaser, the Seller shall, to the extent permitted by Section 3.10 of the Asset Purchase Agreement, provide written notice to Provention to cause an inspection or audit in respect of payments of the Royalty under the Asset Purchase Agreement. All of the expenses of any such inspection or audit requested by the Purchaser that would otherwise be borne by the Seller pursuant to the Asset Purchase Agreement shall instead be borne by the Purchaser, including such fees and expenses of any public accounting firm engaged by the Seller in connection with such an inspection or audit, together with the Seller's reasonable out-of-pocket costs incurred in connection with such inspection or audit. With respect to any inspection or audit requested by the Purchaser, the Seller shall select such public accounting firm as the Purchaser shall recommend for such purpose. The Seller will, subject to Section 8.5, furnish to the Purchaser a true, correct and complete copy of any inspection or audit report prepared in connection with such an inspection or audit (an "Audit Report"). If, following the completion of such inspection or audit, the Seller is required to reimburse Provention for overpayment of the Purchased Royalty Interest, then the Purchaser shall promptly upon request (and in any event [***] such request) reimburse the portion of such overpaid amount that was paid to the Purchaser to the Seller or, at the Seller's request, to Provention on behalf of the Seller. If, following the completion of such inspection or audit conducted at the request of the Purchaser, Provention is required to reimburse the Seller for the cost of such audit or inspection as required by Section 2.11 of the Asset Purchase Agreement, then the Seller shall promptly upon receipt of such reimbursement (and in any event [***] such receipt) pay to the Purchaser the full amount of such reimbursement that was paid to the Seller. The Seller shall not initiate any inspection or audit under Section 3.10 of the Asset Purchase Agreement without
(i) consulting with the Purchaser in good faith regarding such inspection or audit and (ii) providing the Purchaser [***] and including in such inspection or audit an audit of Royalty payments, if requested by the Purchaser.

Section 5.10 Tax Matters.

(a) The Purchaser and the Seller agree that as of the Closing, each of the Initial Purchase Price and each Milestone Payment and any payment made with respect to the Purchased Royalty Interest, assuming the parties deliver the applicable documentation contemplated by Section 5.10(d), is not subject to deduction or withholding.

(b) If any applicable Law (as reasonably determined by the Purchaser in consultation with the Seller) requires the deduction or withholding of any tax by the Purchaser from the Purchase Price, the Purchaser shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Law. Except as provided in Section 5.10(f), any such withheld or deducted amounts shall be treated for all purposes of the Transaction Documents as having been paid to the Seller.

(c) Notwithstanding the accounting treatment therefor and unless otherwise required by applicable Law, for all U.S. federal and applicable state and local tax purposes, the

Seller and the Purchaser shall treat (i) the Purchaser's payment of the Initial Purchase Price (pursuant to Section 2.2) and the Purchaser's payment of each Milestone Payment (pursuant to Section 2.5) as received by the Seller in a taxable transaction and (ii) the Purchaser as the recipient of the payments made with respect to the Purchased Royalty Interest. If there is an inquiry by any Governmental Authority of the Seller or the Purchaser related to this Section 5.10, the Parties shall cooperate with each other in responding to such inquiry in a commercially reasonable manner consistent with this Section 5.10.

(d) On or prior to the Closing Date, and throughout the term of this Agreement whenever required by Law or requested by the Seller in order for the Seller to have on file an accurate and valid IRS Withholding Form, the Purchaser shall deliver to the Seller a duly completed and valid (i) IRS Form W-9, (ii) IRS Form W-8BEN-E claiming treaty benefits under a double taxation treaty in a manner qualifying for a zero percent (0%) withholding rate with respect to the payments made to the Purchaser under the Transaction Documents or Asset Purchase Agreement, (iii) IRS Form W-8IMY to which a form set forth in the preceding (i) or (ii) is attached, or (iv) other applicable IRS Form W-8 that indicates no withholding is required with respect to the payments made to the Purchaser under the Transaction Documents (or, in each case, any successor or other applicable form prescribed by the U.S. Internal Revenue Service) (in each case ((i) through (iv)), the "IRS Withholding Form"). On or prior to the Closing Date, and prior to any payment of a Milestone Payment if required by Law or requested by the Purchaser in order for the Purchaser to have on file an accurate and valid IRS Form W-9 prior to the payment of a Milestone Payment, the Seller shall deliver to the Purchaser a duly completed and valid IRS Form W-9.

(e) All payments to the Purchaser under the Transaction Documents shall be made without any deduction or withholding by the Seller for or on account of any tax, unless required by applicable Law. If any applicable Law (as reasonably determined by the Seller in consultation with the Purchaser) requires the deduction or withholding of any tax by the Seller or Provention (as applicable), then the Seller or Provention (as applicable) shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Law. Except as provided in Section 5.10(f), any such withheld or deducted amounts shall be treated for all purposes of the Transaction Documents as having been paid to the Purchaser.

(f) Notwithstanding anything in this Agreement to the contrary, if an action (including but not limited to any assignment of rights or obligations under this Agreement or the Asset Purchase Agreement, or any failure to comply with applicable Law or filing or record retention requirements (including a party's failure to comply with Section 5.10(d) or Section 6.3(e)) by a party hereto leads to the imposition of withholding taxes on payments to the other party under the Transaction Documents or the Asset Purchase Agreement that would not have been imposed in the absence of such action or in an increase in such liability above the liability that would have been imposed in the absence of such action (any such action, a "Withholding Action"), then the sum payable by the party responsible for such Withholding Action shall be increased to the extent necessary to ensure that the other party receives a sum equal to the sum which it would have received had no such Withholding Action occurred. The Seller shall not agree with Provention to [***] of any taxes or withholding

requirements to be allocated between the Seller and Provention under Section 3.9 of the Asset Purchase Agreement without the written consent of the Purchaser.

(g) Notwithstanding anything to the contrary in this Agreement, the party making payment (the "Payor") shall use commercially reasonable efforts to give the other party notice and the opportunity, in good faith, to contest and prevent such withholding and deduction contemplated by Section 5.10(b) or Section 5.10(e). The Payor shall use commercially reasonable efforts to give or cause to be given to the payee such assistance and such information concerning the reasons for withholding or deduction (including, in reasonable detail, the method of calculation for the deduction or withholding thereof) as may be reasonably requested by the payee and at the payee's expense to enable the payee to claim exemption therefrom, or credit therefor, or relief (whether at source or by reclaim) therefrom, and, in each case, shall furnish the payee, with proper evidence of the taxes withheld and deducted and remitted to the relevant Governmental Authority.

Section 5.11 Change of Name, Jurisdiction, Etc. The Seller shall provide written notice to the Purchaser [***] (a) a change in the Seller's legal name or type of organization or (b) a change of the Seller's jurisdiction of organization. At the reasonable request of the Purchaser, the Seller shall promptly provide the Purchaser with certified copies of its organizational documents reflecting any of the changes described in this Section 5.11.

Section 5.12 Provention Directions. After the Closing, the Seller shall not, without the Purchaser's prior written consent, deliver any directions to Provention regarding payment of the Purchased Royalty Interest or revoke, amend, waive or modify the Initial Provention Instruction or, following its execution and delivery, the [***].

ARTICLE VI THE CLOSING

Section 6.1 Closing. The closing of the transactions contemplated hereby (the "Closing") shall take place on the [***] following date hereof (the "Closing Date") via the remote exchange of documents and signatures, or at such other time and location as the parties hereto mutually agree.

Section 6.2 Payment of Initial Purchase Price. At the Closing, the Purchaser shall deliver to the Seller payment of the Initial Purchase Price by wire transfer of immediately available funds to the Seller Account, without any deduction for withholding or other taxes and without any other set-off or deduction of any kind.

Section 6.3 Closing Deliverables.

(a) At the Closing, each of the Seller and the Purchaser shall deliver to the other party hereto a duly executed counterpart to the Bill of Sale, evidencing the sale and assignment to the Purchaser of the Purchased Royalty Interest.

(b) At the Closing, each of the Seller and the Purchaser shall deliver to the other party hereto, and to the Paying Agent, and shall receive from the Paying Agent, a duly executed counterpart to the Paying Agent Agreement.

(c) At the Closing, the Seller shall deliver to the Purchaser a certificate of an executive officer of the Seller, dated as of the Closing Date, certifying as to the (i) accuracy and completeness of attached copies of the organizational documents of the Seller and resolutions of the governing body of the Seller authorizing and approving the execution, delivery and performance by the Seller of the Transaction Documents and the transactions contemplated thereby and (ii) the incumbency of the officer or officers of the Seller who have executed and delivered the Transaction Documents, including therein a signature specimen of each such officer or officers.

(d) At the Closing, the Purchaser shall deliver to the Seller a certificate of an executive officer of the Purchaser, dated as of the Closing Date, certifying as to the (i) accuracy and completeness of attached copies of the organizational documents of the Purchaser and resolutions of the governing body of the Purchaser authorizing and approving the execution, delivery and performance by the Purchaser of the Transaction Documents to which it is a party and the transactions contemplated thereby and (ii) the incumbency of the officer or officers of the Purchaser who have executed and delivered the Transaction Documents, including therein a signature specimen of each such officer or officers.

(e) At the Closing, the Seller shall deliver to the Purchaser a duly completed and executed IRS Form W-9.

(f) At the Closing, the Purchaser shall deliver to the Seller an IRS Withholding Form.

(g) Promptly following the Closing, but in any event [***] thereafter, the Seller shall deliver to Provention a duly executed copy of the Initial Provention Instruction and shall provide evidence to Purchaser of such delivery.

(h) At the Closing, the Seller shall deliver to the Purchaser an electronic copy of the information and documents posted to the virtual data room hosted on behalf of the Seller in connection with the transactions contemplated by this Agreement, to which the Purchaser's designees were granted access.

ARTICLE VII INDEMNIFICATION

Section 7.1 Indemnification by the Seller. The Seller agrees to indemnify and hold harmless the Purchaser and its Affiliates and any or all of their respective partners, directors, officers, managers, employees, agents, successors and direct and indirect owners (each, a "Purchaser Indemnified Party") from and against, and will pay to each Purchaser Indemnified Party the amount of, any and all Losses awarded against or incurred or suffered by such Purchaser Indemnified Party, whether or not involving a Third Party Claim, arising out of (a) any breach of any representation or warranty made by the Seller in any of the Transaction Documents, (b) any breach of or default under any covenant or agreement of the Seller in any of the Transaction Documents and (c) all liabilities and obligations of the Seller or any of its Affiliates that are retained by the Seller or any of its Affiliates as described in Section 2.3; provided, however, that the foregoing shall exclude any indemnification to any Purchaser

Indemnified Party (i) that results from the bad faith, gross negligence or willful misconduct of any Purchaser Indemnified Party, (ii) that results from the failure of Provention to perform any of its obligations under the Asset Purchase Agreement, unless resulting from the breach or default by the Seller of or under the Asset Purchase Agreement and except to the extent the Seller fails to comply with Section 5.7 in enforcing such obligations of Provention, or (iii) to the extent resulting from acts or omissions of the Seller taken (or omitted to be taken) at the direction of any Purchaser Indemnified Party as set forth in any written instructions from any Purchaser Indemnified Party to the Seller. Any amounts due to any Purchaser Indemnified Party (as determined in accordance with and subject to the limitations, terms and conditions of this Article VII) hereunder shall be payable by the Seller to such Purchaser Indemnified Party [***] following written demand delivered to the Seller by such Purchaser Indemnified Party.

Section 7.2 Indemnification by the Purchaser. The Purchaser agrees to indemnify and hold each of the Seller and its Affiliates and any or all of their respective partners, directors, officers, managers, members, employees, agents, successors and direct and indirect owners (each, a "Seller Indemnified Party") harmless from and against, and will pay to each Seller Indemnified Party the amount of, any and all Losses awarded against or incurred or suffered by such Seller Indemnified Party, whether or not involving a Third Party Claim, arising out of (a) any breach of any representation or warranty made by the Purchaser in any of the Transaction Documents and (b) any breach of or default under any covenant or agreement of the Purchaser in any Transaction Document to which the Purchaser is party or in the Existing Confidentiality Agreement; provided, however, that the foregoing shall exclude any indemnification to any Seller Indemnified Party (i) that results from the bad faith, gross negligence or willful misconduct of any Seller Indemnified Party, (ii) to the extent resulting from acts or omissions of the Seller that would entitle any Purchaser Indemnified Party to indemnification under Section 7.1 or (iii) to the extent resulting from acts or omissions of the Purchaser taken (or omitted to be taken) at the direction of any Seller Indemnified Party as set forth in any written instructions from any Seller Indemnified Party to the Purchaser. Any amounts due to any Seller Indemnified Party (as determined in accordance with and subject to the limitations, terms and conditions of this Article VII) shall be payable by the Purchaser to such Seller Indemnified Party [***] written demand by such Seller Indemnified Party.

Section 7.3 Procedures for Third Party Claims.

(a) If any claim or demand made by any Person other than the Purchaser or the Seller or their respective Affiliates against a Purchaser Indemnified Party or a Seller Indemnified Party, as applicable (a "Third Party Claim") shall be brought or alleged against an indemnified party in respect of which indemnity is to be sought against an indemnifying party pursuant to Section 7.1 or Section 7.2, the indemnified party shall, promptly after receipt of notice of the commencement of such Third Party Claim, notify the indemnifying party in writing of the commencement thereof, enclosing a copy of all papers served, if any; provided, that the failure to so notify such indemnifying party will not relieve the indemnifying party from any liability that it may have to any indemnified party under Section 7.1 or Section 7.2 unless, and only to the extent that, the indemnifying party is actually prejudiced by such failure.

(b) In the event that any Third Party Claim is brought against an indemnified party and it notifies the indemnifying party of the commencement thereof in accordance with this Section 7.3, the indemnifying party will be entitled, at the indemnifying party's sole cost and expense, to participate therein and, to the extent that it may wish, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under this Article VII for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation.

(c) In any such Third Party Claim, an indemnified party shall have the right to retain its own counsel, but the reasonable fees and expenses of such counsel shall be at the sole cost and expense of such indemnified party unless (a) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel, (b) the indemnifying party has assumed the defense of such proceeding and has failed within a reasonable time to retain counsel reasonably satisfactory to such indemnified party or (c) the named parties to any such Third Party Claim (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential conflicts of interests between them based on the advice of counsel to the indemnifying party. It is agreed that the indemnifying party shall not, in connection with any Third Party Claim or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate law firm (in addition to local counsel where necessary) for all such indemnified parties.

(d) The indemnifying party shall not be liable for any settlement of any Third Party Claim effected without its written consent, but, if settled with such consent or if there is a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any Loss by reason of such settlement or judgment. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or discharge of any pending or threatened Third Party Claim in respect of which any indemnified party is a party and indemnity could be sought hereunder by such indemnified party, unless such settlement, compromise or discharge, as the case may be, (i) includes an unconditional written release of such indemnified party, in form and substance reasonably satisfactory to the indemnified party, from all liability on claims that are the subject matter of such claim or proceeding, (ii) does not include any statement as to an admission of fault, culpability or failure to act or violation of Law by or on behalf of any indemnified party, and
(iii) does not impose any continuing material obligation or restrictions on any indemnified party and provides that monetary damages are the sole relief for such Third Party Claim.

Section 7.4 Other Claims. A claim by an indemnified party under this Article VII for any matter not involving a Third Party Claim and in respect of which such indemnified party would be entitled to indemnification hereunder may be made by delivering, in good faith, a written notice of claim to the indemnifying party (a "Claim Notice"), which notice shall contain
(a) a description and the amount or estimated amount of any Losses incurred or suffered or reasonably expected to be incurred or suffered by the indemnified party, if known or reasonably capable of estimation, and the method of computation of such Losses, (b) a statement that the

indemnified party is entitled to indemnification under this Article VII for such Losses and a reasonable explanation of the basis therefor, and (c) a demand for payment in the amount of such Losses; provided, that the failure to so notify such indemnifying party will not relieve the indemnifying party from any liability that it may have to any indemnified party under Section 7.1 or Section 7.2 unless, and only to the extent that, the indemnifying party is actually prejudiced by such failure. [***] delivery of a Claim Notice, the indemnifying party shall deliver to the indemnified party a written response in which the indemnifying party shall either (i) agree that the indemnified party is entitled to receive the Claim Amount (in which case such response shall be accompanied by a payment to the indemnified party of the Claim Amount by the indemnifying party by wire transfer of immediately available funds), (ii) agree that the indemnified party is entitled to receive part, but not all, of the Claim Amount (the amount so agreed in (i) or (ii), the "Agreed Amount") (in which case such response shall be accompanied by a payment to the indemnified party of the Agreed Amount by the indemnifying party by wire transfer of immediately available funds) or
(iii) contest that the indemnified party is entitled to receive any of the Claim Amount. If any such dispute is not resolved [***] the delivery by the indemnifying party of such response, the indemnifying party and the indemnified party shall each have the right to submit such dispute to a court of competent jurisdiction in accordance with the provisions of Section 10.8. If the indemnifying party does not notify the indemnified party [***] its receipt of a Claim Notice that the indemnifying party disputes its liability to the indemnified party under Section 7.1 or Section 7.2 in whole or in part, such claim specified by the indemnified party in such Claim Notice shall be conclusively deemed a liability of the indemnifying party under Section 7.1 or Section 7.2 and the indemnifying party shall pay the amount of such liability to the indemnified party on demand or, in the case of any Claim Notice in which the amount of the claim (or any portion thereof) is estimated, on such later date when the amount of such claim (or such portion thereof) becomes finally determined. For all purposes of this Section 7.4, the Seller shall be entitled to deliver such Claim Notice to the Purchaser on behalf of the Seller Indemnified Parties, and the Purchaser shall be entitled to deliver such Claim Notice to the Seller on behalf of the Purchaser Indemnified Parties.

Section 7.5 Limitations on Liability.

(a) The Seller shall have liability under Section 7.1(a) with respect to any breach of any representation or warranty made by the Seller in any of the Transaction Documents [***], the Purchaser notifies the Seller of a claim in respect of such breach in accordance with [***], as to which a claim may be made at any time [***] and (B) [***], as to which a claim may be made at any time [***].

(b) The Purchaser shall have liability under Section 7.2(a) with respect to any breach of any representation or warranty made by the Purchaser in any of the Transaction Documents, [***], the Seller notifies the Purchaser of a claim in respect of such breach in accordance with [***], as to which a claim may be made at any time [***], and other than [***].

(c) No party hereto shall be liable for any consequential (including lost profits), punitive, special, indirect or incidental damages under this Article VII (and no claim for indemnification hereunder shall be asserted) as a result of any breach or violation of any covenant or agreement of such party (including under this Article VII but excluding Article VIII) in or pursuant to this Agreement. Notwithstanding the foregoing, the Purchaser shall be entitled to make indemnification claims, in accordance with the procedures set forth in this Article VII, for Losses that include any portion of the Purchased Royalty Interest that the Purchaser was entitled to receive but did not receive timely or at all due to any indemnifiable events under this Agreement, and such portion of the Purchased Royalty Interest shall not be deemed consequential (including lost profits), punitive, special, indirect or incidental damages for any purpose of this Agreement. Notwithstanding the foregoing, other than with respect to any fraud, willful misconduct, or intentional misrepresentation, (i) in no event shall an indemnifying party's

aggregate liability for Losses under Section 7.1 or Section 7.2, as the case may be, [***] and (ii) no indemnifying party shall have any liability for Losses under Section 7.1(a) or Section 7.2(a), as the case may be, unless and [***], in which event the indemnifying party shall be liable for all Losses including such amount; provided that the foregoing limitations shall not apply to any Losses arising from a failure by the Purchaser to pay any portion of the Purchase Price in accordance with Section 2.5.

Section 7.6 Exclusive Remedy; Set-Offs.

(a) Except in the case of actual fraud and except as set forth in Section 10.1 or the failure by the Purchaser to pay any portion of the Purchase Price, the indemnification afforded by this Article VII shall be the sole and exclusive remedy for any and all Losses awarded against or incurred or suffered by a party in connection with the transactions contemplated by the Transaction Documents, including with respect to any breach of any representation or warranty made by a party in any of the Transaction Documents or any certificate delivered by a party to the other party in writing pursuant to this Agreement or any breach of or default under any covenant or agreement by a party pursuant to any Transaction Document.

Notwithstanding anything in this Agreement to the contrary, the parties acknowledge and agree that, in addition to any other right or remedy under this Agreement, the Purchaser shall have the right, but not the obligation, from time to time to set off against a Milestone Payment, to the extent the same becomes owed and has not yet been paid, any indemnification payments to which any Purchaser Indemnified Party is entitled pursuant to, andin accordance with, Article VII of this Agreement and any Losses in respect of claims for fraud, willful misconduct or intentional misrepresentation in bad faith (it being understood that nothing in this Section 7.6(b) shall be construed to limit or otherwise impair any right or remedy of any Purchaser Indemnified Party under this Article VII).

(b) In addition, in the event that a court of competent jurisdiction makes a final and unappealable ruling in accordance with the provisions of Section 10.8 that the Purchaser has breached this Agreement by failing to pay a Milestone Payment when due, the Seller shall have a right to recoup such Milestone Payment not paid by the Purchaser, together with any late fee in respect thereof in accordance with Section 5.4(c), from the Purchased Royalty Interest. For the avoidance of doubt, this Agreement and the other Transaction Documents (including all agreements, schedules and exhibits hereto and thereto and the documents and instruments referred to herein that are to be delivered at the Closing Date) shall constitute a "single integrated agreement" and the transactions contemplated thereby shall constitute a "single integrated transaction" in each case for purposes of recoupment.

ARTICLE VIII
CONFIDENTIALITY

Section 8.1 Confidentiality. Except as provided in this Article VIII or Section 5.1, during the term of this Agreement and until the [***] of the date of termination of this Agreement, each party (the "Receiving Party") (i) shall keep confidential, and shall not publish or otherwise disclose to any Person (other than its Affiliates and its and its Affiliates' Representatives), and shall cause its Affiliates and its and its Affiliates' Representatives to keep confidential, not publish or otherwise disclose any Confidential Information (as defined below) and (ii) shall not, and shall cause its Affiliates and its and its Affiliates' Representatives not to, use for any purpose other than as provided for in this Agreement (which includes the exercise of any rights or the performance of any obligations hereunder), the terms of this Agreement or any information (whether written or oral, or in electronic or other form) furnished to it by or on behalf of the other party (the "Disclosing Party") pursuant to the Existing Confidentiality Agreement (as defined below) or this Agreement including Provention Confidential Information (such information,

"Confidential Information" of the Disclosing Party, provided that the terms of this Agreement shall be Confidential Information of both parties and Provention Confidential Information shall at all times be Confidential Information of the Seller), except for that portion of such information that:

(i) was known by the Receiving Party prior to disclosure by the Disclosing Party, as evidenced by internal records or documentation of the Receiving Party; or

(ii) is in the public domain or subsequently enters the public domain through no fault of the Receiving Party; or

(iii) is received by the Receiving Party from an independent Third Party with the lawful right to disclose it; or

(iv) was independently developed by the Receiving Party (or its Affiliates') employees or contractors without the use of or reference to Confidential Information of the Disclosing Party, as evidenced by internal records or documentation of the Receiving Party.

Each party hereby acknowledges that the United States federal and state securities laws prohibit any Person that has material, non-public information about a company from purchasing or selling securities of such a company or from communicating such information to any other Person under circumstances in which it is reasonably foreseeable that such Person is likely to purchase or sell such securities.

Section 8.2 Termination of Existing Confidentiality Agreement. Effective upon the date hereof, the Existing Confidentiality Agreement shall terminate and be of no further force or effect, and shall be superseded by the provisions of this Article VIII.

Section 8.3 Required Disclosure. Without limiting Section 5.1, in the event that the Receiving Party or its Affiliates or any of its or its Affiliates' employees, officers, directors, representatives or agents (collectively, "Representatives") are requested by a Governmental Authority or required by applicable Law or legal process (including the regulations of a stock exchange or Governmental Authority or the order or ruling of a court, administrative agency or other government or regulatory body of competent jurisdiction) to disclose any Confidential Information, the Receiving Party shall promptly, to the extent practicable or permitted by Law, notify the Disclosing Party in writing of such request or requirement so that the Disclosing Party may seek (at the Disclosing Party's sole expense) an appropriate protective order or other appropriate remedy (and if the Disclosing Party seeks such an order or other remedy, the Receiving Party will provide such cooperation, at the Disclosing Party's sole expense, as the Disclosing Party shall reasonably request). If no such protective order or other remedy is sought or obtained and the Receiving Party or its Affiliates or its or its Affiliates' Representatives are, in the view of their respective counsel (which may include their respective internal counsel), legally required to disclose Confidential Information, the Receiving Party or its Affiliates or its or its Affiliates' Representatives, as the case may be, shall only disclose that portion of the Confidential Information that their respective counsel advises that the Receiving Party or its Affiliates or its or its Affiliates' Representatives, as the case may be, are required to disclose and will exercise commercially reasonable efforts, at the Disclosing Party's sole expense, to obtain confidential treatment of that portion of the Confidential Information that is being disclosed. In any event, the Receiving Party will not oppose action by the Disclosing Party to obtain an appropriate protective order or confidential treatment of the Confidential Information. Notwithstanding the foregoing, notice to the Disclosing Party shall not be required where disclosure is made (i) in response to a request by a Governmental Authority having competent jurisdiction over the Receiving Party, its Affiliates or its or its Affiliates' Representatives, as the case may be, or (ii) in connection with a routine examination by a regulatory examiner, where in each case such request or examination does not expressly reference the Disclosing Party, its Affiliates, the Purchased Royalty Interest or this Agreement.

Section 8.4 Permitted Disclosure.

(a) Each party may disclose Confidential Information to the extent such disclosure is reasonably necessary in the following situations:

(i) in connection with the enforcement of its rights and remedies hereunder or prosecuting or defending any litigation;

(ii) for regulatory, tax or customs purposes;

(iii) for audit purposes, provided that each recipient of Confidential Information must be bound by contractual or professional obligations of confidentiality and non- use no less rigorous than those in this Article VIII prior to any such disclosure;

(iv) disclosure to its Affiliates and its and its Affiliates' Representatives on a need-to-know basis, provided that each recipient of Confidential Information must be bound by contractual or professional obligations of confidentiality and non- use no less rigorous than those in this Article VIII prior to any such disclosure;

(v) disclosure to its actual or potential investors and co-investors, and other sources of financing, including debt financing, and their respective accountants, financial advisors and other professional representatives, provided, that such disclosure shall be made only to the extent customarily required to consummate such investment or financing transaction and that each recipient of Confidential Information must be bound by contractual or professional obligations of confidentiality and non-use no less rigorous than those in this Article VIII prior to any such disclosure;

(vi) in connection with a merger, acquisition or change of control (including to fulfill due diligence inquiries related to a prospective merger, acquisition or change of control), provided that each recipient of Confidential Information must be bound by contractual or professional obligations of confidentiality and non-use no less rigorous than those in this Article VIII prior to any such disclosure; or

(vii) as set forth in Section 5.1.

(b) Notwithstanding the foregoing, in the event the Receiving Party is required to make a disclosure of the Disclosing Party's Confidential Information pursuant to Section 8.4(a)(i) or Section 8.4(a)(ii) it will comply with the obligations of Section 8.3, to the extent applicable.

Section 8.5 [***] if any Royalty Report, Audit Report, notice, notice, document, correspondence or other information [***]:

(a) [***]

(b) In the case of an Audit Report, [***] (i) whether or not the Seller is required to reimburse Provention for overpayment of the Purchased Royalty Interest, and if so, in what amount, (ii) whether or not Provention is required to reimburse the Seller for underpayment of the Purchased Royalty Interest, and if so, in what amount, and (iii) whether or not Provention was required to reimburse the Seller for the cost of such audit or inspection, and the amount of any reimbursement received by the Seller.

(c) [***].

ARTICLE IX TERMINATION

Section 9.1 Termination of Agreement. This Agreement shall continue in full force and effect until [***] after such time as Provention is no longer obligated to [***], at which time this Agreement shall automatically terminate.

Section 9.2 Effect of Termination. Upon the termination of this Agreement pursuant to Section 9.1, this Agreement shall become void and of no further force and effect; provided, however, that (a) the provisions of Section 5.1, Section 5.4(a) (with respect to portions of the Purchased Royalty Interest payable to the Purchaser pursuant to clause (b) below), Section 5.4(b), Section 5.7(c), Section 5.10, Article VII, Article VIII, this Article IX and Article X shall survive such termination and shall remain in full force and effect, (b) if, upon the termination of this Agreement, any payments of the Purchased Royalty Interest are payable to the Purchaser hereunder, this Agreement shall remain in full force and effect until any and all such payments have been made in full, and (except as provided in this Section 9.2) solely for that purpose, and
(a) termination shall not relieve either Party of liability for any breach of this Agreement that occurs prior to termination.

ARTICLE X MISCELLANEOUS

Section 10.1 Specific Performance. Each of the parties hereto acknowledges that the other party hereto may have no adequate remedy at Law if any of its obligations are breached, or, in the case of Article VIII, are threatened to be breached. Accordingly, notwithstanding Article VII, each of the parties hereto agrees that, without posting bond or other undertaking, the other party hereto shall be entitled to seek a temporary or permanent injunctive relief to prevent breaches, or, in the case of Article VIII, threatened breaches, of this Agreement and to seek specific performance of this Agreement and the terms and provisions hereof in any action, suit or other proceeding instituted in any court of the United States or any state thereof having jurisdiction over the parties and the matter in addition to any other remedy to which it may be entitled, at Law or in equity. Such remedy shall not be deemed to be the exclusive remedy for breach of this Agreement but shall be in addition to all other rights and remedies available at Law or equity to the parties hereto.

Section 10.2 Notices. All notices, consents, waivers and other communications hereunder shall be in writing and shall be effective (a) upon receipt when sent via certified mail, return receipt requested, postage prepaid, with such receipt to be effective the date of delivery indicated on the return receipt, (b) when sent via email, [***] the sending of such email, (c) upon receipt when sent by a national overnight courier, or (d) on the date personally delivered to an authorized officer of the party to which sent, in all cases of (a),
(c) and (d), with a copy emailed to the recipient at the applicable address, addressed to the recipient as follows:

if to the Seller, to:

MacroGenics, Inc.
9704 Medical Center Drive Rockville, MD 20850
Attention: President and Chief Executive Officer Attention: Senior Vice
President, General Counsel Email: [***]
Email: [***]

with a copy, which shall not constitute notice, to: Cooley LLP

3 Embarcadero Center, 20th Floor San Francisco,
CA 94111 Attention: [***]
Email: [***]

if to the Purchaser, to:

DRI Healthcare Acquisitions LP c/o DRI Capital
Inc.
First Canadian Place
100 King St. West, Suite 7250
P.O. Box 62
Toronto, ON M5x 1B1 Attention: [***]
Email: [***]

with a copy, which shall not constitute notice, to: Goodwin Procter LLP

100 Northern Avenue
Boston, MA 02210 Attention: [***]
Email: [***]

Each party hereto may, by notice given in accordance herewith to the other party hereto, designate any further or different address to which subsequent notices, consents, waivers and other communications shall be sent.

Section 10.3 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(b) This Agreement, or any rights or obligations hereunder, may not be assigned by the Seller without the prior written consent of the Purchaser; provided that the Seller may assign this Agreement in its entirety to any Person that acquires all or substantially all of the Seller's business, whether by merger, sale of assets or otherwise so long as (i) the Seller promptly notifies the Purchaser of such assignment, (ii) such assignee expressly assumes all obligations of the Seller under the Transaction Documents (with any certifications required by officers of the Seller hereunder replaced by officers of such assignee having similar authority) and (iii) if such assignee is Provention, then Provention expressly agrees to continue performing its obligations set forth in the Asset Purchase Agreement in respect of and relating to the Purchased Royalty Interest as if such assignment had not occurred.

(c) This Agreement as a whole may not be assigned by the Purchaser without the prior written consent of the Seller; provided that the Purchaser may assign its rights and obligations under this Agreement in its entirety to an Affiliate of the Purchaser or to any Person that acquires all or substantially all the Purchaser's assets, whether by merger, sale of assets or otherwise, provided that (a) the Purchaser promptly notifies the Seller of such assignment, (b) such assignee complies with Section 5.10(d) (replacing "Purchaser" wherever it appears with such assignee and replacing "Closing Date" with the date of such assignment), and [***].

(d) Notwithstanding the foregoing, the Purchaser may assign its rights but not its obligations under this Agreement without the prior written consent of the Seller; provided that (a) the Purchaser promptly notifies the Seller of such assignment, (b) each such assignee complies with Section 5.10(d) (replacing "Purchaser" wherever it appears with such assignee and replacing "Closing Date" with the date that such assignee acquires an interest in the Purchaser's rights hereunder), and (c) if the Purchaser assigns its right under this Agreement to more than one party, Provention shall not be requested or instructed to pay the Purchased Royalty Interest to more than one bank account.

(e) Any assignee of the rights of the Purchaser to receive Confidential Information of the Seller under this Agreement shall, as a condition to such assignment, agree in writing to be subject to confidentiality and non-use obligations no less rigorous than those set forth in Section 5.1 and Article VIII with respect to such Confidential Information.

(f) Any purported assignment in violation of this Section 10.3 shall be null and void.

Section 10.4 Independent Nature of Relationship. The relationship between the Seller and the Purchaser is solely that of seller and purchaser, and neither the Seller nor the Purchaser has any fiduciary or other special relationship with the other party hereto or any of its Affiliates. Nothing contained in this Agreement or in any other Transaction Document shall be deemed for any purpose (including tax purposes) to constitute the Seller and the Purchaser as a partnership, agency, an association, a joint venture or any other kind of entity or legal form. If there is an inquiry by any Governmental Authority of the Purchaser or the Seller related to the treatment described in this Section 10.4, the Purchaser and the Seller shall cooperate with each other in responding to such inquiry in a reasonable manner which is consistent with this Section 10.4.

Section 10.5 Entire Agreement. This Agreement, together with the Exhibits and Schedules hereto and the other Transaction Documents constitute a complete and exclusive statement of the terms of agreement between the Parties, and supersede all prior agreements, understandings and negotiations, both written and oral, between the Parties (and, for this purpose, DRI Capital Inc.), with respect to the subject matter of this Agreement, including (a) that certain [***] and (b) that certain Mutual Confidential Disclosure Agreement, [***], between the Seller and DRI Capital Inc. (the "Existing Confidentiality Agreement"). No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in the Exhibits or Schedules hereto or the other Transaction Documents) has been made or relied upon by either Party.

Section 10.6 No Third Party Beneficiaries. This Agreement is for the sole benefit of the Seller and the Purchaser and their permitted successors and assigns and nothing herein expressed or implied shall give or be construed to give to any Person, other than the parties hereto and such successors and assigns, any legal or equitable rights hereunder; except that the Purchaser Indemnified Parties and Seller Indemnified Parties shall be third party beneficiaries of the benefits provided for in Article VII.

Section 10.7 Governing Law; Jurisdiction; Venue; Consent to Service.

(a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL SUBSTANTIVE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO THE RULES THEREOF RELATING TO CONFLICTS OF LAW OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any Judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by applicable Law, in such federal court. Each of the parties hereto agrees that a final Judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the Judgment or in any other manner provided by applicable Law.

(c) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in Section 10.6(b). Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each of the parties hereto irrevocably consents to service of process in the manner provided for notices in Section 10.2. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable Law. Each of the parties hereto waives personal service of any summons, complaint or other process, which may be made by any other means permitted by New York law.

Section 10.8 Waiver of Jury Trial. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS PURCHASE AND SALE AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY HERETO WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS PURCHASE AND SALE AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.8.

Section 10.9 Severability. If one or more provisions of this Agreement are held to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, which shall remain in full force and effect, and the parties hereto shall replace such invalid, illegal or unenforceable provision with a new provision permitted by applicable Law and having an economic effect as close as possible to the invalid, illegal or unenforceable provision. Any provision of this Agreement held invalid, illegal or unenforceable only in part or degree by a court of competent jurisdiction shall remain in full force and effect to the extent not held invalid, illegal or unenforceable.

Section 10.10 Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto. Any

counterpart may be executed by facsimile or Adobe™ Portable Document Format (PDF) sent by electronic mail or any electronic signature complying with the U.S. Federal ESIGN Act of 2000 will be deemed to be original signatures, will be valid and binding upon the parties, and, upon delivery, will constitute due execution of this Agreement.

Section 10.11 Amendments; No Waivers. Neither this Agreement nor any term or provision hereof may be amended, supplemented, restated, waived, changed or modified except with the written consent of the parties hereto. No failure or delay by either party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No notice to or demand on either party hereto in any case shall entitle it to any notice or demand in similar or other circumstances. No waiver or approval hereunder shall, except as may otherwise be stated in such waiver or approval, be applicable to subsequent transactions. No waiver or approval hereunder shall require any similar or dissimilar waiver or approval thereafter to be granted hereunder. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by applicable Law.

Section 10.12 Cumulative Remedies. The remedies herein provided are cumulative and not exclusive of any remedies provided by applicable Law. Without limiting the foregoing, the Seller hereby authorizes the Purchaser, at any time and from time to time, to the fullest extent permitted by applicable Law, to offset any amounts payable by the Purchaser to, or for the account of, the Seller against any obligations of the Seller to the Purchaser arising in connection with the Transaction Documents (including amounts payable pursuant to Article VII) that are then due and payable.

Section 10.13 Table of Contents and Headings. The Table of Contents and headings of the Articles and Sections of this Agreement have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

{SIGNATURE PAGE FOLLOWS}

IN WITNESS WHEREOF, each of the parties hereto have caused this Agreement to be duly executed by its authorized representative as of the day and year first written above.

MACROGENICS, INC.

By: /s/ Scott Koenig, M.D., Ph.D. Name: Scott Koenig, M.D., Ph.D.
Title: President and Chief Executive Officer

IN WITNESS WHEREOF, each of the parties hereto have caused this Agreement to be duly executed by its authorized representative as of the day and year first written above.

MACROGENICS, INC.

By:____ Name: Scott Koenig, M.D., Ph.D.
Title: President and Chief Executive Officer

DRI HEALTHCARE ACQUISITIONS LP

By: DRC Management III LLC 2, Its: General Partner

By: /s/ Grant Cellier
Name: Grant Cellier Title: Manager

EXHIBIT 31.1

I, Scott Koenig, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ended March 31, 2023 of MacroGenics, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Scott Koenig
Scott Koenig, M.D., Ph.D.
President and Chief Executive Officer
(Principal Executive Officer)

Dated: May 9, 2023

EXHIBIT 31.2

I, James Karrels, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ended March 31, 2023 of MacroGenics, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ James Karrels
James Karrels
Senior Vice President and Chief Financial Officer
(Principal Financial Officer)

Dated: May 9, 2023

EXHIBIT 32.1

Certification of Principal Executive Officer
Pursuant to 18 U.S.C. 1350
(Section 906 of the Sarbanes-Oxley Act of 2002)

I, Scott Koenig, President and Chief Executive Officer (principal executive officer) of MacroGenics, Inc. (the Registrant), certify, to the best of my knowledge, based upon a review of the Quarterly Report on Form 10-Q for the period ended March 31, 2023 of the Registrant (the Report), that:

1. The Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

/s/ Scott Koenig
Name: Scott Koenig, M.D., Ph.D.
Date: May 9, 2023

EXHIBIT 32.2

Certification of Principal Financial Officer
Pursuant to 18 U.S.C. 1350
(Section 906 of the Sarbanes-Oxley Act of 2002)

I, James Karrels, Senior Vice President and Chief Financial Officer (principal financial officer) of MacroGenics, Inc. (the Registrant), certify, to the best of my knowledge, based upon a review of the Quarterly Report on Form 10-Q for the period ended March 31, 2023 of the Registrant (the Report), that:

1. The Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

/s/ James Karrels
Name: James Karrels
Date: May 9, 2023