

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

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**SCHEDULE 14A**

(Rule 14a-101)

**SCHEDULE 14A INFORMATION**

**PROXY STATEMENT PURSUANT TO SECTION 14(a) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

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Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material under §240.14a-12

**Evoke Pharma, Inc.**

(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if other Than the Registrant)

Payment of Filing Fee (Check all boxes that apply):

- No fee required.
  - Fee paid previously with preliminary materials.
  - Fee computed on table in exhibit required by Item 25(b) per Exchange Act Rules 14a-6(i)(1) and 0-11
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**NOTICE OF ANNUAL MEETING OF  
STOCKHOLDERS AND PROXY STATEMENT**

Dear Stockholder:

The annual meeting of stockholders of Evoke Pharma, Inc. will be held by means of remote communication via a live webcast accessible at [www.proxydocs.com/EVOK](http://www.proxydocs.com/EVOK) on May 22, 2024 at 8:30 a.m., Pacific Time. The annual meeting will be held exclusively online and you must register in advance as described below.

The annual meeting is being held for the following purposes:

1. To elect two directors for a three-year term to expire at the 2026 annual meeting of stockholders;
2. To consider and vote upon the ratification of the selection of BDO USA, P.C. as our independent registered public accounting firm for the fiscal year ending December 31, 2024;
3. To consider and vote upon, on an advisory basis, the compensation of our named executive officers as disclosed in this proxy statement pursuant to the compensation disclosure rules of the Securities and Exchange Commission;
4. To consider and vote upon the approval of an amendment to our Amended and Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 50,000,000 to 100,000,000;
5. To grant the board authority to effect a reverse stock split of our outstanding common stock by amending our Amended and Restated Certificate of Incorporation within one year and within a range of not less than one-for-two and not more than one-for-twenty, if the board deems it within the company's best interests;
6. To consider and vote upon the approval of the amendment and restatement of our 2013 Equity Incentive Award Plan;
7. To transact such other business as may be properly brought before the meeting or any adjournment or postponement thereof.

As noted above, our annual meeting will be a virtual meeting of stockholders, which will be conducted solely by remote communication via a live webcast. There will not be a physical meeting location, and stockholders will not be able to attend the annual meeting in person. This means that you can attend the annual meeting online, vote your shares during the online meeting and submit questions for consideration prior to the online meeting. To be admitted to the annual meeting's live webcast, you must register at [www.proxydocs.com/EVOK](http://www.proxydocs.com/EVOK) by 2:00 p.m. Pacific Time on May 21, 2024, or the Registration Deadline, as described in the Notice of Internet Availability of Proxy Materials or proxy card. As part of the registration process, you must enter the Control Number shown on your proxy card. After completion of your registration by the Registration Deadline, further instructions, including a unique link to access the annual meeting, will be emailed to you.

The foregoing items of business are more fully described in the attached proxy statement, which forms a part of this notice and is incorporated herein by reference. Our board of directors has fixed the close of business on March 25, 2024 as the record date for the determination of stockholders entitled to notice of and to vote at the annual meeting or any adjournment or postponement thereof.

Accompanying this notice is a proxy card. Whether or not you expect to attend our virtual annual meeting, please complete, sign and date the enclosed proxy card and return it promptly, or complete and submit your proxy via phone or the internet in accordance with the instructions provided on the enclosed proxy card. If you plan to attend our annual meeting and wish to vote your shares personally, you may do so at any time before the proxy is voted.

All stockholders are cordially invited to attend the meeting.

By Order of the Board of Directors,

Matthew D'Onofrio  
*Chief Executive Officer and Director*

Solana Beach, California  
, 2024

**Your vote is important. Please vote your shares whether or not you plan to attend the meeting.**

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**PROXY STATEMENT FOR THE 2024 ANNUAL MEETING OF STOCKHOLDERS  
TO BE HELD ON MAY 22, 2024**

The board of directors of Evoke Pharma, Inc. is soliciting the enclosed proxy for use at the annual meeting of stockholders to be held by means of remote communication via a live webcast on May 22, 2024 at 8:30 a.m., Pacific Time. You will be able to participate in the annual meeting online and submit your questions in advance of the meeting.

**Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting of Stockholders to be Held on May 22, 2024.**

This proxy statement and our annual report are available electronically at <http://www.proxydocs.com/EVOK>.

**GENERAL INFORMATION ABOUT THE ANNUAL MEETING AND VOTING**

**Why did you send me this proxy statement?**

We sent you this proxy statement and the enclosed proxy card because our board of directors is soliciting your proxy to vote at the 2024 annual meeting of stockholders. This proxy statement summarizes information related to your vote at the annual meeting. All stockholders who find it convenient to do so are cordially invited to attend the annual meeting via live webcast. However, you do not need to attend the meeting to vote your shares. Instead, you may simply complete, sign and return the enclosed proxy card.

We intend to begin mailing this proxy statement, the attached notice of annual meeting and the enclosed proxy card on or about April 10, 2024 to all stockholders of record entitled to vote at the annual meeting. Only stockholders who owned our common stock on March 25, 2024 are entitled to vote at the annual meeting. On this record date, there were 8,477,801 shares of our common stock outstanding. Common stock is our only class of stock entitled to vote.

**How can I attend the annual meeting?**

This year's annual meeting will be accessible through the Internet via a live webcast.

You are entitled to participate in the annual meeting if you were a stockholder as of the close of business on our record date of March 25, 2024 or hold a valid proxy for the meeting. To be admitted to the annual meeting's live webcast, you must register at [www.proxydocs.com/EVOK](http://www.proxydocs.com/EVOK) by 2:00 p.m. Pacific Time on May 21, 2024, or the Registration Deadline, as described in the Notice of Internet Availability of Proxy Materials or proxy card. As part of the registration process, you must enter the Control Number shown on your Notice of Internet Availability of Proxy Materials or proxy card. After completion of your registration by the Registration Deadline, further instructions, including a unique link to access the annual meeting, will be emailed to you.

This year's stockholder question and answer session will include questions submitted in advance of the annual meeting. You may submit a question in advance of the meeting as a part of the registration process. Questions pertinent to meeting matters and that are submitted in accordance with our Rules of Conduct for the annual meeting will be answered during the meeting, subject to applicable time constraints. Questions and answers may be grouped by topic and substantially similar questions may be grouped and answered once. In order to promote fairness, efficient use of time and in order to ensure all stockholders are responded to, we will respond to up to two questions from a single stockholder.

**What am I voting on?**

There are six proposals scheduled for a vote:

Proposal 1: To elect two directors for a three-year term to expire at the 2027 annual meeting of stockholders;

- Cam L. Garner
- Todd C. Brady, M.D., Ph.D.

Proposal 2: Ratification of the appointment of BDO USA, P.C. as our independent registered public accountants for the year ending December 31, 2024.

Proposal 3: To consider and vote upon, on an advisory basis, the compensation of our named executive officers as disclosed in this proxy statement pursuant to the compensation disclosure rules of the Securities and Exchange Commission, or the SEC.

Proposal 4: To consider and vote upon the approval of an amendment to the Company's Amended and Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 50,000,000 to 100,000,000.

Proposal 5: To grant the board authority to effect a reverse stock split of our outstanding common stock by amending our Amended and Restated Certificate of Incorporation within one year and within a range of not less than one-for-two and not more than one-for-twenty, if the board deems it within the company's best interests.

Proposal 6: To consider and vote upon the approval of the amendment and restatement of our 2013 Equity Incentive Award Plan.

#### **How many votes do I have?**

Each share of our common stock that you own as of March 25, 2024 entitles you to one vote.

#### **How do I vote by proxy?**

With respect to Proposal 1 for the election of directors, you may either vote "For" all of the nominees to the board of directors or you may "Withhold" your vote for any nominee you specify. With respect to all other proposals scheduled for a vote at the annual meeting (Proposals 2, 3, 4, 5, and 6), you may vote "For" or "Against" or abstain from voting.

Stockholders of Record: Shares Registered in Your Name

If you are a stockholder of record, there are several ways for you to vote your shares. Whether or not you plan to attend the meeting, we urge you to vote by proxy to ensure that your vote is counted.

- **By Mail:** You may vote using your proxy card by completing, signing, dating and returning the proxy card in the self-addressed, postage-paid envelope provided. If you properly complete your proxy card and send it to us in time to vote, your proxy (one of the individuals named on your proxy card) will vote your shares as you have directed. If you sign the proxy card but do not make specific choices, your shares, as permitted, will be voted as recommended by our board of directors. If any other matter is presented at the annual meeting, your proxy (one of the individuals named on your proxy card) will vote in accordance with his or her best judgment. As of the date of this proxy statement, we knew of no matters that needed to be acted on at the meeting, other than those discussed in this proxy statement.
- **Via the Internet:** You may vote at [www.proxypush.com/EVOK](http://www.proxypush.com/EVOK), 24 hours a day, seven days a week. Have your proxy card available when you enter the website and use the Company Number and Account Number shown on your proxy card.
- **By Telephone:** You may vote using a touch-tone telephone by calling 1-855-686-4811, 24 hours a day, seven days a week. Have your proxy card available when you call and use the Company Number and Account Number shown on your proxy card.

For those stockholders with Internet access, we encourage you to vote by proxy via the Internet, since it is quick, convenient and provides a cost savings to us. When you vote by proxy via the Internet or by telephone prior to the annual meeting date, your vote is recorded immediately and there is no risk that postal delays will cause your vote to arrive late and, therefore, not be counted.

- **During the Annual Meeting:** You may still attend the meeting and vote during the meeting even if you have already voted by proxy. In order to attend and vote at the meeting virtually via the Internet, stockholders must register in advance at [www.proxydocs.com/EVOK](http://www.proxydocs.com/EVOK) prior to the deadline of 2:00 p.m. Pacific Time on May 21, 2024. When registering, you will be required to enter the control number found inside the shaded grey box on your proxy card, voting instruction form or Notice of Internet Availability of Proxy Materials. Upon completing your registration, you will receive further instructions via email, including your unique links that will allow you to access the meeting. Approximately one hour prior to the start of the annual meeting, you will receive further instructions via email, including a unique link, that will allow you access to the meeting. Please be sure to follow the instructions that will be delivered to you via email after completing the registration. If you encounter any difficulties accessing the virtual meeting the check-in or meeting time, please call the technical support number provided.

*Beneficial Owners: Shares Registered in the Name of a Broker or Bank*

If you are a beneficial owner of shares registered in the name of your broker, bank or other nominee, you should have received a proxy card and voting instructions with these proxy materials from that organization rather than directly from us. Simply complete and mail the proxy card to ensure that your vote is counted. You may be eligible to vote your shares

electronically over the Internet or by telephone. A large number of banks and brokerage firms offer Internet and telephone voting. If your bank or brokerage firm does not offer Internet or telephone voting information, please complete and return your proxy card in the self-addressed, postage-paid envelope provided. To vote at the annual meeting, you must obtain a valid proxy from your broker, bank or other nominee. Follow the instructions from your broker, bank, or other nominee included with these proxy materials, or contact your broker, bank, or other nominee to request a proxy form.

#### **May I revoke my proxy?**

If you give us your proxy, you may revoke it at any time before it is exercised. You may revoke your proxy in any one of the following ways:

- you may send in another signed proxy with a later date,
- you may notify our corporate secretary, Matthew J. D’Onofrio, in writing before the annual meeting that you have revoked your proxy,
- you may notify our corporate secretary, Matthew J. D’Onofrio, in writing before the annual meeting and vote via the Internet during the meeting, or
- you may submit an electronic proxy during the annual meeting.

#### **What constitutes a quorum?**

The presence at the annual meeting, by virtual attendance or by proxy, of holders representing a majority of our outstanding common stock as of March 25, 2024, or 4,238,901 shares, constitutes a quorum at the meeting, permitting us to conduct our business.

#### **What vote is required to approve each proposal?**

*Proposal 1: Election of Directors.* The two nominees who receive the most “For” votes (among votes properly cast at the annual meeting or by proxy) will be elected. Only votes “For” will affect the outcome.

*Proposal 2: Ratification of Independent Registered Public Accounting Firm.* The ratification of the appointment of BDO USA, P.C. must receive “For” votes from the holders of a majority of the shares of common stock present or represented by proxy and entitled to vote at the annual meeting.

*Proposal 3: Approval of the Compensation of the Named Executive Officers.* The approval, on an advisory basis, of the compensation of the named executive officers must receive “For” votes from the holders of a majority of the shares of common stock present in person or represented by proxy and entitled to vote at the annual meeting.

*Proposal 4: Approval of An Amendment to the Company's Amended and Restated Certificate of Incorporation to Increase the Authorized Number of Shares of Common Stock from 50,000,000 to 100,000,000.* The approval of the proposal must receive “For” votes from the holders of a majority of the shares of common stock present in person or represented by proxy and entitled to vote at the annual meeting.

*Proposal 5: To grant our board of directors authority to effect a reverse stock split of our outstanding common stock by amending the Company’s Amended and Restated Certificate of Incorporation“ within one year and within a range of not less than one-for-two and not more than one-for-twenty, if the board deems it within the company's best interests.* The approval of the proposal must receive “For” votes from the holders of a majority of the shares of common stock present in person or represented by proxy and entitled to vote at the annual meeting.

*Proposal 6: Approval of the Amendment and Restatement of our 2013 Equity Incentive Award Plan.* The approval of the amendment and restatement of our 2013 Equity Incentive Award Plan must receive “For” votes from the holders of a majority of the shares of common stock present or represented by proxy and entitled to vote at the annual meeting.

Voting results will be tabulated and certified by Mediant Communications LLC (“Mediant”).

#### **What is the effect of abstentions?**

Shares of common stock held by persons attending the annual meeting but not voting, and shares represented by proxies that reflect abstentions as to a particular proposal, will be counted as present for purposes of determining the presence of a quorum. Because Proposal 1, the election of directors, is determined by a plurality of votes cast, abstentions will not be counted in determining the outcome of such proposal. For all other proposals scheduled for a vote at the annual meeting (Proposals 2, 3, 4, 5, and 6), abstaining has the same effect as a negative vote because abstentions are treated as shares present at the meeting or by proxy and entitled to vote.

#### **What is the effect of broker non-votes?**

A “broker non-vote” occurs when a bank, broker or other nominee holding shares for a beneficial owner has not received instructions from the beneficial owner and either chooses not to vote those shares on a routine matter or is not permitted to exercise discretionary voting authority on a non-routine matter. Shares represented by proxies that reflect a “broker non-vote” will be counted for purposes of determining whether a quorum exists.

The following proposals are considered routine matters on which a broker, bank or other nominee has discretionary authority to vote:

- Proposal 2 for the ratification of the appointment of BDO USA, P.C.;
- Proposal 4 for the approval of the amendment to our Amended and Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 50,000,000 to 100,000,000; and
- Proposal 5 to grant our board of directors authority to effect a reverse stock split of our outstanding common stock by amending our Amended and Restated Certificate of Incorporation within one year and within a range of not less than one-for-two and not more than one-for-twenty, if the board deems it within the company's best interests.

No broker non-votes are expected on these proposals. However, if there are any broker non-votes for Proposal 2, 4 or 5, such broker non-votes will have no effect on the result of the vote.

All other proposals scheduled for a vote at the annual meeting (Proposals 1, 3 and 6) are considered non-routine, and accordingly, your broker, bank or other nominee may not exercise discretionary voting authority on those proposals. As a result, if you hold your shares with a broker, bank or other nominee and you do not provide timely voting instructions for the non-routine proposals, your shares will not be voted on those proposals at the annual meeting and will be considered “broker non-votes” on those proposals.

Broker non-votes will have no effect on the outcome of:

- Proposal 1 for the election of directors;
- Proposal 3 for the approval, on an advisory basis, of the compensation of our named executive officers; and
- Proposal 6 for the approval of an amendment and restatement of our 2013 Equity Incentive Award Plan.

If you have any questions about the proxy voting process, please contact the broker, bank or other nominee that holds your shares.

#### **How are proxies being solicited?**

In addition to mailing proxy solicitation materials, our directors, employees or our advisor may also solicit proxies at the annual meeting via live webcast, via the Internet, by telephone or by other electronic means of communication we deem appropriate.

#### **Who is paying the costs of soliciting these proxies?**

We will pay all of the costs of soliciting these proxies. Our directors, officers and other employees may solicit proxies in person or by telephone, fax or email. We will not pay our directors, officers or other employees any additional compensation for these services. We will ask banks, brokers and other institutions, nominees and fiduciaries to forward these proxy materials to their principals and to obtain authority to execute proxies. We will then reimburse them for their expenses.

#### **How do I obtain an Annual Report on Form 10-K?**

If you would like a copy of our annual report on Form 10-K for the fiscal year ended December 31, 2023 that we filed with the SEC, we will send you one without charge. Please write to:

Evoked Pharma, Inc.  
420 Stevens Avenue, Suite 230  
Solana Beach, CA 92075  
Attn: Corporate Secretary

All of our SEC filings are also available free of charge in the investor relations section of our website at [www.evokedpharma.com](http://www.evokedpharma.com).

#### **How can I find out the results of the voting at the annual meeting?**

Preliminary voting results will be announced at the annual meeting. Final voting results will be published in our current report on Form 8-K to be filed with the SEC within four business days after the annual meeting. If final voting results are not available to us in time to file a Form 8-K within four business days after the meeting, we intend to file a Form 8-K to publish

preliminary results and, within four business days after the final results are known to us, file an additional Form 8-K to publish the final results.



**PROPOSAL 1  
ELECTION OF DIRECTORS**

Our board of directors is divided into three classes, with one class of our directors standing for election each year, generally for a three-year term. The current term of the company's Class II directors, Cam L. Garner and Todd C. Brady, M.D., Ph.D., will expire at the 2024 annual meeting.

The nominees for Class II director for election at the 2024 annual meeting are Cam L. Garner, and Todd C. Brady, M.D., Ph.D. If Mr. Garner and Dr. Brady are elected at the 2024 annual meeting, such individuals will be elected to serve for a term of three years that will expire at our 2027 annual meeting of stockholders and until such individual's successor is elected and qualified.

If no contrary indication is made, proxies in the accompanying form will be voted for the nominees, or in the event that any nominee is not a candidate or is unable to serve as a director at the time of the election (which is not currently expected), for any nominee who is designated by our board of directors to fill the vacancy. Mr. Garner and Dr. Brady are currently members of our board of directors.

All of our directors bring to the board of directors significant leadership experience derived from their professional experience and service as executives or board members of other corporations and/or venture capital firms. The process undertaken by the nominating and corporate governance committee in recommending qualified director candidates is described below under "Director Nominations Process." Certain individual qualifications and skills of our directors that contribute to the board of directors' effectiveness as a whole are described in the following paragraphs.

**Information Regarding Directors**

The information set forth below as to the directors and nominees for director has been furnished to us by the directors and nominees for director:

**Nominees for Election to the Board of Directors  
For a Three-Year Term Expiring at the 2027 Annual Meeting of Stockholders (Class II)**

<u>Name</u>	<u>Age</u>	<u>Present Position with Evoke Pharma, Inc.</u>
Cam L. Garner	75	Chairman of the Board of Directors
Todd C. Brady, M.D., Ph.D.	52	Director

*Cam L. Garner* is one of our co-founders and has served as Chairman of our board of directors since June 2007. Mr. Garner has co-founded specialty pharmaceutical companies Zogenix, Inc., Cadence Pharmaceuticals, Inc., Somaxon Pharmaceuticals, Inc., Elevation Pharmaceuticals, Inc., DJ Pharma, Verus Pharmaceuticals, Inc., Xcel Pharmaceuticals, Inc., Meritage Pharma, Inc., Oncternal Therapeutics, Inc., Kalyra Pharmaceuticals, Inc., OrPro Therapeutics, Inc., Alastin Skincare, Inc. and Zavante Therapeutics, Inc. He currently serves as Chairman of OrPro Therapeutics, Inc. Mr. Garner served as Chairman of Xcel Pharmaceuticals until it was acquired in March 2005 by Valeant Pharmaceuticals International, DJ Pharma until it was sold to Biovail in 2000, Elevation Pharmaceuticals until it was acquired by Sunovion Pharmaceuticals Inc. in September 2012, Cadence Pharmaceuticals until it was acquired by Mallinckrodt plc in March 2014, Meritage Pharma until it was acquired by Shire plc in February 2015, Zavante Inc. until it was acquired by Nabriva in July 2018, Alastin until it was acquired by Galderma in November 2021 and Zogenix, Inc. until it was acquired by UCB in 2022. Mr. Garner was Chief Executive Officer of Dura Pharmaceuticals, Inc. from 1989 to 1995 and its Chairman and Chief Executive Officer from 1995 until it was sold to Elan in November 2000. Mr. Garner earned his B.A. in Biology from Virginia Wesleyan College and an M.B.A. from Baldwin-Wallace College. As one of our co-founders and having served as our Chairman since June 2007, Mr. Garner's extensive knowledge of our business and history, experience as a board member of multiple publicly-traded and privately-held companies, and expertise in developing, financing and providing strong executive leadership to numerous biopharmaceutical companies contributed to our board of directors' conclusion that he should serve as a director of our company.

Todd C. Brady, M.D., Ph.D. has served as a member of our board of directors since June 2007. Dr. Brady currently serves as Chief Executive Officer, President, and Director of Aldeyra Therapeutics, Inc., a publicly-traded biotechnology company. Dr. Brady was appointed President and Chief Executive Officer of Aldeyra Therapeutics in 2012, having been a member of the board of directors since 2005. Prior to Aldeyra, Dr. Brady served as Entrepreneur in Residence at Domain Associates, LLC, a leading healthcare venture capital firm, where he was a Principal from 2004 to 2013. Dr. Brady also served on the board of directors of F-star Therapeutics, Inc., a publicly-traded biotechnology company, from October 2020 to March 2023. Dr. Brady holds an M.D. from Duke University Medical School, a Ph.D. from Duke University Graduate School, and an A.B. from Dartmouth College. Dr. Brady's extensive knowledge of our business and history, experience as a board member of multiple companies, and expertise in strategic development contributed to our board of directors' conclusion that he should serve as a director of our company.

**Members of the Board of Directors Continuing in Office  
Term Expiring at the 2025 Annual Meeting of Stockholders (Class III)**

Name	Age	Present Position with Evoke Pharma, Inc.
Malcolm R. Hill, Pharm.D.	67	Director
Vickie W. Reed	62	Director

*Malcolm R. Hill, Pharm.D.* has served as a member of our board of directors since June 2007. Dr. Hill has more than 30 years of academic and pharmaceutical industry experience in new product assessment and clinical trial design and execution, with a special emphasis in gastroenterology, respiratory medicine, and drug delivery systems. Since September 2020, Dr. Hill has served as Chief Development Officer at Mopac Biologics, a company specializing in development of computationally derived proteins for the treatment of inflammatory conditions of the gastrointestinal system. From June 2016 to March 2020, Dr. Hill served as the Chief Development Officer at Pvp Biologics, a biotechnology company which was acquired by Takeda. Prior to joining Pvp Biologics, Dr. Hill was Chief Scientific Officer at Meritage Pharma from 2008 through February 2015 focusing on novel treatments for eosinophilic esophagitis, when it was acquired by Shire. Prior to joining Meritage, Dr. Hill was Senior Vice President of Research and Development at Verus Pharmaceuticals, Inc. where he was responsible for various development-stage programs. Dr. Hill was a member of the senior management team at Dura Pharmaceuticals, Inc., where he served as a vice president and corporate officer. Dr. Hill was a Partner at ProPharmaCon, LLC, a product development and regulatory consulting company for clients with pharmaceutical products in every stage of the development cycle. Dr. Hill's academic career includes his position at the National Jewish Medical and Research Center, and he has also served as an assistant professor in the Schools of Medicine and Pharmacy at the University of Colorado. Dr. Hill has published more than 80 articles on the topics of clinical pharmacology and pharmacokinetics and the treatment of pediatric asthma and related conditions. Dr. Hill earned his Pharm.D. from the University of Southern California and completed a post-doctoral program at the Veterans Administration Medical Center, San Diego, as well as a research fellowship in the Schools of Medicine and Pharmacy at the University of Florida Health Sciences Center. Dr. Hill's experience as a founder of a private pharmaceutical firms, strong background in clinical and product development and substantial knowledge of the pharmaceutical industry contributed to our board of directors' conclusion that he should serve as a director of our company.

Vickie W. Reed was appointed to serve as a member of our board of directors in May 2021. Ms. Reed is a healthcare executive with over 25 years of experience in operating and governance roles. Since May 2022, Ms. Reed has served on the board at Adamis Pharmaceuticals Corporation, a publicly-traded biotechnology company. From October 2013 to July 2022, she served as Senior Vice President, Finance and Chief Accounting Officer at Mirati Therapeutics, Inc. (acquired by Bristol Myers Squibb in 2024). From November 2012 through September 2013, she served as Senior Director, Finance and Controller at Zogenix, Inc., a public biotechnology company acquired by UCB in 2022. Previously, she held corporate accounting positions at Amylin Pharmaceuticals, Inc., a public biotechnology company acquired by Bristol Myers Squibb in 2012. Prior to joining Amylin, Ms. Reed held financial leadership roles at several biotechnology and telecommunications companies. Ms. Reed began her career with Price Waterhouse, now PricewaterhouseCoopers, in Denver, Colorado. She is a Certified Public Accountant (inactive) in the State of Colorado and received a B.S. in Accounting from University of Colorado, Denver. Ms. Reed's experience as the Chief Accounting Officer of a publicly-traded biotech company brings to our board of directors and the committees of our board of directors valuable financial skills and expertise, which qualify her to serve as an "audit committee financial expert" on the audit committee, and significant executive management experience and leadership skills, as well as a strong understanding of corporate governance principles, all of which contributed to our board of directors' conclusion that she should serve as a director of our company.

**Term Expiring at the  
2026 Annual Meeting of the Stockholders (Class I)**

Name	Age	Present Position with Evoke Pharma, Inc.
Kenneth J. Widder, M.D.	71	Director
Matthew J. D'Onofrio	54	Chief Executive Officer and Director

*Kenneth J. Widder, M.D.* has served as a member of our board of directors since June 2007. Dr. Widder has over 40 years of experience working with biomedical companies. Dr. Widder was a General Partner with Latterell Venture Partners and serves on the boards of Quidel Ortho Corporation, Personalis, and the Vision of Children Foundation. Dr. Widder has founded seven companies and was Chairman and Chief Executive Officer of five of these companies. His last company, Sytera Inc., merged with Sirion Therapeutics, an ophthalmology specialty pharmaceutical company. Prior to Sytera, Dr. Widder co-founded and was the initial Chief Executive Officer of NovaCardia, Inc., a company acquired by Merck & Co., Inc. Prior to NovaCardia, Dr. Widder founded and was Chairman and Chief Executive Officer of Santarus, Inc., which was acquired by Salix Pharmaceuticals in 2013. Additionally, Dr. Widder was Chairman and Chief Executive Officer of Converge Medical, Inc., a medical device company developing a suture-less anastomosis system for vein grafts in coronary bypass surgery. Dr. Widder started his career as a founder, Chairman and Chief Executive Officer of Molecular Biosystems, where he was responsible for the development and approval of AlbunexR and OptisonR, the first two ultrasound contrast agents to be approved in the United States. Dr. Widder is an inventor on over 50 patents and patent applications and has authored or co-authored over 25 publications. Dr. Widder holds an M.D. from Northwestern University and trained in pathology at Duke University. Dr. Widder's extensive knowledge of our business and

history, experience as a board member of multiple publicly-traded and privately-held companies and expertise in developing and financing contributed to our board of directors' conclusion that he should serve as a director of our company.

Matthew J. D'Onofrio is one of our co-founders and has served as our Chief Executive Officer and as a member of our board of directors since March 2024. Previously, he served as our President, Chief Operating Officer, Secretary and Treasurer since February 2023, as our Executive Vice President, Chief Business Officer, Secretary and Treasurer since 2010 and as our Executive Vice President, Corporate Development, Secretary and Treasurer since March 2007. Mr. D'Onofrio has over 30 years of experience in both large and small pharmaceutical firms. Prior to founding Evoke, Mr. D'Onofrio was Vice President, Business Development for Victory Pharma, a specialty pharmaceutical company based in San Diego. Mr. D'Onofrio was previously Director and Head of West Coast Business Development at Vertex Pharmaceuticals, Incorporated, a biotechnology company, directing partnership efforts associated with the La Jolla research facility as well as other corporate assets. Mr. D'Onofrio also held various commercial roles of increasing responsibility over a decade at Eli Lilly & Company, including significant experience in worldwide corporate business development. Mr. D'Onofrio earned a B.S. in Chemistry from San Diego State University and an M.B.A. from the University of Southern California. Mr. D'Onofrio's extensive knowledge of our business, as well as over 30 years of experience in the pharmaceutical industry, including executive leadership in other pharmaceutical companies, contributed to our board of directors' conclusion that he should serve as a director of our company.

### **Board Independence**

Our board of directors has determined that all of our directors are independent directors within the meaning of the applicable Nasdaq Stock Market LLC, or Nasdaq, listing standards, except for Matthew J. D'Onofrio, our Chief Executive Officer.

### **Board Leadership Structure**

Our board of directors is currently led by its chairman, Cam L. Garner. Our board of directors recognizes that it is important to determine an optimal board leadership structure to ensure the independent oversight of management as the company continues to grow. We separate the roles of chief executive officer and chairman of the board in recognition of the differences between the two roles. The chief executive officer is responsible for setting the strategic direction for the company and the day-to-day leadership and performance of the company, while the chairman of the board of directors provides guidance to the chief executive officer and presides over meetings of the full board of directors. We believe that this separation of responsibilities provides a balanced approach to managing the board of directors and overseeing the company.

### **The Board's Role in Risk Oversight**

Our board of directors has responsibility for the oversight of the company's risk management processes and, either as a whole or through its committees, regularly discusses with management our major risk exposures, their potential impact on our business and the steps we take to manage them. The risk oversight process includes receiving regular reports from board committees and members of senior management to enable our board to understand the company's risk identification, risk management and risk mitigation strategies with respect to areas of potential material risk, including operations, finance, legal, regulatory, strategic and reputational risk.

The audit committee reviews information regarding liquidity and operations, and oversees our management of financial risks. Periodically, the audit committee reviews our policies with respect to risk assessment, risk management, loss prevention and regulatory compliance. Oversight by the audit committee includes direct communication with our external auditors, and discussions with management regarding significant risk exposures and the actions management has taken to limit, monitor or control such exposures. The compensation committee is responsible for assessing whether any of our compensation policies or programs has the potential to encourage excessive risk-taking. The nominating and corporate governance committee manages risks associated with the independence of the board, corporate disclosure practices, and potential conflicts of interest. While each committee is responsible for evaluating certain risks and overseeing the management of such risks, the entire board is regularly informed through committee reports about such risks. Matters of significant strategic risk are considered by our board as a whole.

### **Board of Directors Meetings**

During 2023, our board of directors met five times. In that year, each director attended at least 75% of the total number of meetings held during such director's term of service by the board of directors and each committee of the board of directors on which such director served.

### **Committees of the Board of Directors**

We have three standing committees: the audit committee, the compensation committee and the nominating and corporate governance committee. Each of these committees has a written charter approved by our board of directors. A copy of each charter can be found under the Corporate Governance section of our website at [www.evokepharma.com](http://www.evokepharma.com).

#### *Audit Committee*

The audit committee's main function is to oversee our accounting and financial reporting processes, internal systems of control, independent registered public accounting firm relationships and the audits of our financial statements. This committee's responsibilities include, among other things:

- selecting and engaging our independent registered public accounting firm;
- evaluating the qualifications, independence and performance of our independent registered public accounting firm;
- approving the audit and non-audit services to be performed by our independent registered public accounting firm;
- reviewing the design, implementation, adequacy and effectiveness of our internal controls and our critical accounting policies;
- discussing with management and the independent registered public accounting firm the results of our annual audit and the review of our quarterly unaudited financial statements;
- reviewing, overseeing and monitoring the integrity of our financial statements and our compliance with legal and regulatory requirements as they relate to financial statements or accounting matters;
- reviewing with management and our auditors any earnings announcements and other public announcements regarding our results of operations;
- preparing the report that the SEC requires in our annual proxy statement;
- reviewing and approving any related party transactions and reviewing and monitoring compliance with our code of conduct and ethics; and
- reviewing and evaluating, at least annually, the performance of the audit committee and its members including compliance of the audit committee with its charter.

The members of our audit committee are Ms. Reed, Dr. Brady and Dr. Widder. Ms. Reed serves as the chairperson of the committee. All members of our audit committee meet the requirements for financial literacy under the applicable rules and regulations of the SEC and the Nasdaq Capital Market. Our board of directors has determined that Ms. Reed is an "audit committee financial expert" as defined by applicable SEC rules and has the requisite financial sophistication as defined under the applicable Nasdaq rules and regulations. Our board of directors has determined each of Ms. Reed, Dr. Brady and Dr. Widder is independent under the applicable rules of the SEC and the Nasdaq Capital Market. The audit committee met four times during 2023. The audit committee is governed by a written charter that satisfies the applicable standards of the SEC and the Nasdaq Capital Market.

#### *Compensation Committee*

Our compensation committee reviews and recommends policies relating to compensation and benefits of our officers and employees. The compensation committee reviews and recommends corporate goals and objectives relevant to the compensation of our Chief Executive Officer and other executive officers, evaluates the performance of these officers in light of those goals and objectives and recommends to our board of directors the compensation of these officers based on such evaluations. The compensation committee also recommends to our board of directors the issuance of stock options and other awards under our equity plan. The compensation committee reviews and evaluates, at least annually, the performance of the compensation committee and its members, including compliance by the compensation committee with its charter.

The members of our compensation committee are Mr. Garner, Dr. Brady and Dr. Hill. Mr. Garner serves as the chairman of the committee. Our Board has determined that each of Mr. Garner, Dr. Brady and Dr. Hill is independent under the applicable rules and regulations of the Nasdaq Capital Market, and is a "non-employee director" as defined in Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended, or the Exchange Act. The compensation committee met four times during 2023. The compensation committee is governed by a written charter, which the compensation committee reviews and evaluates at least annually.

#### *Nominating and Corporate Governance Committee*

The nominating and corporate governance committee is responsible for making recommendations to our board of directors regarding candidates for directorships and the size and composition of our board of directors. In addition, the nominating and corporate governance committee is responsible for overseeing our corporate governance policies, reporting and making recommendations to our board of directors concerning governance matters and periodically reviewing and evaluating the performance of the Board.

The members of our nominating and corporate governance committee are Drs. Hill and Widder. Dr. Hill serves as the chairman of the committee. Our board has determined that Drs. Hill and Widder are independent under the applicable rules and regulations of the Nasdaq Capital Market relating to nominating and corporate governance committee independence. The nominating and corporate governance committee met one time during 2023.

## **Report of the Audit Committee of the Board of Directors**

The audit committee oversees the company's financial reporting process on behalf of our board of directors. Management has the primary responsibility for the financial statements, for maintaining effective internal control over financial reporting, and for assessing the effectiveness of internal control over financial reporting. In fulfilling its oversight responsibilities, the audit committee reviewed and discussed the audited financial statements in the company's annual report with management, including a discussion of any significant changes in the selection or application of accounting principles, the reasonableness of significant judgments, the clarity of disclosures in the financial statements and the effect of any new accounting policies.

We have reviewed and discussed with BDO USA, P.C. our audited financial statements. We discussed with BDO USA, P.C. the overall scope and plans of their audits. We met with BDO USA, P.C., with and without management present, to discuss results of its examinations, and the overall quality of the company's financial reporting.

We have reviewed and discussed with BDO USA, P.C. matters required to be discussed pursuant to the Public Company Accounting Oversight Board Auditing Standard 1301 "Communications with Audit Committees." We have received from BDO USA, P.C. the written disclosures and letter required by the applicable requirements of the Public Company Accounting Oversight Board regarding BDO USA, P.C.'s communications with the audit committee concerning independence. We have discussed with BDO USA, P.C. matters relating to its independence, including a review of both audit and non-audit fees, and considered the compatibility of non-audit services with BDO USA, P.C.'s independence. The audit committee is not employed by the company, nor does it provide any expert assurance or professional certification regarding the company's financial statements. The audit committee relies, without independent verification, on the accuracy and integrity of the information provided and representations made by management and the company's independent registered public accounting firm.

In reliance on the reviews and discussions referred to above, the audit committee has recommended to the company's board of directors that the audited financial statements be included in our annual report for the year ended December 31, 2023. The audit committee and the company's board of directors also have recommended, subject to stockholder approval, the ratification of the appointment of BDO USA, P.C. as the company's independent registered public accounting firm for 2024.

This report of the audit committee is not "soliciting material," shall not be deemed "filed" with the SEC and shall not be incorporated by reference by any general statement incorporating by reference this proxy statement into any filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date hereof and irrespective of any general incorporation language in any such filing, except to the extent that we specifically incorporate this information by reference, and shall not otherwise be deemed filed under such acts.

The foregoing report has been furnished by the audit committee.

Respectfully submitted,  
The Audit Committee of the Board of Directors  
Vickie W. Reed (Chairperson)  
Todd C. Brady, M.D., Ph.D.  
Kenneth J. Widder, M.D.

## **Compensation Committee Interlocks and Insider Participation**

Mr. Garner, Dr. Brady and Dr. Hill served on our compensation committee during 2023. None of the members of our compensation committee has ever been one of our officers or employees. None of our executive officers currently serves, or has served, as a member of the board of directors or compensation committee of any entity that has one or more executive officers serving as a member of our board of directors or compensation committee.

## **Director Nomination Process**

### *Director Qualifications*

In evaluating director nominees, the nominating and corporate governance committee will consider, among other things, the following factors:

- personal and professional integrity, ethics and values;
- experience in corporate management, such as serving as an officer or former officer of a publicly-held company;
- development or commercialization experience in large pharmaceutical companies;
- experience as a board member or executive officer of another publicly-held company;
- strong finance experience;
- diversity of expertise and experience in substantive matters pertaining to our business relative to other board members;

- diversity of background and perspective, including with respect to age, gender, race, place of residence and specialized experience;
- conflicts of interest; and
- practical and mature business judgment.

The nominating and corporate governance committee's goal is to assemble a board of directors that brings to the company a variety of perspectives and skills derived from high quality business and professional experience. Moreover, the nominating and corporate governance committee believes that the background and qualifications of the board of directors, considered as a group, should provide a significant mix of experience, knowledge and abilities that will allow the board of directors to fulfill its responsibilities. Nominees are not discriminated against on the basis of race, religion, national origin, sexual orientation, disability or any other basis proscribed by law.

Other than the foregoing criteria for director nominees, the nominating and corporate governance committee has not adopted a formal policy with respect to a fixed set of specific minimum qualifications for its candidates for membership on the board of directors. The nominating and corporate governance committee may consider such other facts, including, without limitation, diversity, as it may deem are in the best interests of the company and its stockholders. The nominating and corporate governance committee does, however, believe it is appropriate for at least one, and, preferably, several, members of our board of directors to meet the criteria for an "audit committee financial expert" as defined by SEC rules, and that a majority of the members of our board of directors be independent as required under the Nasdaq qualification standards. The nominating and corporate governance committee also believes it is appropriate for our Chief Executive Officer to serve as a member of our board of directors. Our directors' performance and qualification criteria are reviewed annually by the nominating and corporate governance committee.

#### *Identification and Evaluation of Nominees for Directors*

The nominating and corporate governance committee identifies nominees for director by first evaluating the current members of our board of directors willing to continue in service. Current members with qualifications and skills that are consistent with the nominating and corporate governance committee's criteria for board of directors service and who are willing to continue in service are considered for re-nomination, balancing the value of continuity of service by existing members of our board of directors with that of obtaining a new perspective or expertise.

If any member of our board of directors does not wish to continue in service or if our board of directors decides not to re-nominate a member for re-election, the nominating and corporate governance committee may identify the desired skills and experience of a new nominee in light of the criteria above, in which case, the nominating and corporate governance committee would generally poll our board of directors and members of management for their recommendations. The nominating and corporate governance committee may also review the composition and qualification of the boards of directors of our competitors, and may seek input from industry experts or analysts. The nominating and corporate governance committee reviews the qualifications, experience and background of the candidates. Final candidates are interviewed by the members of the nominating and corporate governance committee and by certain of our other independent directors and executive management. In making its determinations, the nominating and corporate governance committee evaluates each individual in the context of our board of directors as a whole, with the objective of assembling a group that can best contribute to the success of our company and represent stockholder interests through the exercise of sound judgment. After review and deliberation of all feedback and data, the nominating and corporate governance committee makes its recommendation to our board of directors. To date, the nominating and corporate governance committee has not utilized third-party search firms to identify director candidates. The nominating and corporate governance committee may in the future choose to do so in those situations where particular qualifications are required or where existing contacts are not sufficient to identify an appropriate candidate.

The nominating and corporate governance committee evaluates nominees recommended by stockholders in the same manner as it evaluates other nominees. We have not received director candidate recommendations from our stockholders and do not have a formal policy regarding consideration of such recommendations. However, any recommendations received from stockholders will be evaluated in the same manner that potential nominees suggested by board members, management or other parties are evaluated. We do not intend to treat stockholder recommendations in any manner different from other recommendations.

Under our amended and restated bylaws, stockholders wishing to suggest a candidate for director should write to our corporate secretary and provide such information about the stockholder and the proposed candidate as is set forth in our amended and restated bylaws and as would be required by SEC rules to be included in a proxy statement. In addition, the stockholder must include the consent of the candidate and describe any arrangements or undertakings between the stockholder and the candidate regarding the nomination. In order to give the nominating and corporate governance committee sufficient time to evaluate a recommended candidate and/or include the candidate in our proxy statement for the 2023 annual meeting, the recommendation should be received by our corporate secretary at our principal executive offices in accordance with our procedures detailed in the section below entitled "Stockholder Proposals."

## Director Attendance at Annual Meetings

Although our company does not have a formal policy regarding attendance by members of our board of directors at our annual meeting, we encourage all of our directors to attend. All of the board members attended the 2023 annual meeting of stockholders.

## Communications with our Board of Directors

Stockholders seeking to communicate with our board of directors should submit their written comments to our corporate secretary at Evoke Pharma, Inc., 420 Stevens Avenue, Suite 230, Solana Beach, California 92075. The corporate secretary will forward such communications to each member of our board of directors; provided that, if in the opinion of our corporate secretary it would be inappropriate to send a particular stockholder communication to a specific director, such communication will only be sent to the remaining directors (subject to the remaining directors concurring with such opinion).

## Corporate Governance

Our company's Code of Business Conduct and Ethics, Corporate Governance Guidelines, Audit Committee Charter, Compensation Committee Charter and Nominating and Corporate Governance Committee Charter are available, free of charge, on our website at [www.evokepharma.com](http://www.evokepharma.com). Please note, however, that the information contained on the website is not incorporated by reference in, or considered part of, this proxy statement. We will also provide copies of these documents, as well as our company's other corporate governance documents, free of charge, to any stockholder upon written request to Evoke Pharma, Inc., Attention: Corporate Secretary, 420 Stevens Avenue, Suite 230, Solana Beach, California 92075.

## Director Compensation

The following table sets forth information for the year ended December 31, 2023 regarding the compensation awarded to, earned by or paid to our non-employee directors who served on our board of directors during 2023. Mr. Gonyer, our former Chief Executive Officer and a former member of the board, did not receive additional compensation for his performance of services as a director. Mr. Gonyer's 2023 compensation is disclosed below in the Summary Compensation Table.

Director	Fees Earned or Paid in Cash (\$)	Option Awards (\$) <sup>(1)</sup>	All Other Compensation (\$)	Total (\$)
Cam Garner	73,000	29,948 <sup>(2)</sup>	—	102,948
Todd C. Brady, M.D., Ph.D.	54,750	24,675 <sup>(3)</sup>	—	79,425
Malcolm R. Hill, Pharm.D.	54,500	24,675 <sup>(4)</sup>	—	79,175
Vickie W. Reed	60,000	25,308 <sup>(5)</sup>	—	85,308
Kenneth J. Widder, M.D.	53,500	24,043 <sup>(6)</sup>	—	77,543

- (1) In accordance with SEC rules, this column reflects the aggregate grant date fair value of the option awards granted during 2023 computed in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 718, or ASC 718. Assumptions used in the calculation of these amounts are included in Note 5 to the Financial Statements in our Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on March 14, 2024. As required by SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. These amounts do not reflect the actual economic value that will be realized by the director upon the vesting of the stock options, the exercise of the stock options, or the sale of the common stock underlying such stock options.
- (2) Represents options to purchase 17,750 shares of our common stock granted to Mr. Garner for service as a member of our board of directors. The shares subject to this award vest on the first anniversary of the grant date, provided Mr. Garner continues to provide services to us through such date.
- (3) Represents options to purchase 14,625 shares of our common stock granted to Dr. Brady for service as a member of our board of directors. The shares subject to this award vest on the first anniversary of the grant date, provided Dr. Brady continues to provide services to us through such date.
- (4) Represents options to purchase 14,625 shares of our common stock granted to Dr. Hill for service as a member of our board of directors. The shares subject to this award vest on the first anniversary of the grant date, provided Dr. Hill continues to provide services to us through such date.
- (5) Represents options to purchase 15,000 shares of our common stock granted to Ms. Reed for service as a member of our board of directors. The shares subject to this award vest on the first anniversary of the grant date, provided Ms. Reed continues to provide services to us through such date.
- (6) Represents options to purchase 14,250 shares of our common stock granted to Dr. Widder for service as a member of our board of directors. The shares subject to this award vest on the first anniversary of the grant date, provided Dr. Widder continues to provide services to us through such date.

The table below shows the aggregate numbers of option awards (exercisable and unexercisable) held as of December 31, 2023 by each non-employee director who was serving as of December 31, 2023.

Director	Options Exercisable at December 31, 2023	Options Unexercisable at December 31, 2023
Cam Garner	29,458	17,750
Todd C. Brady, M.D., Ph.D.	26,018	14,625
Malcolm R. Hill, Pharm.D.	24,645	14,625
Vickie W. Reed	8,722	16,944
Kenneth J. Widder, M.D.	25,580	14,250

For the year ended December 31, 2023, each non-employee director received \$45,000 for his or her service. Additionally, the chair of our board of directors received an annual cash retainer of \$20,000, the chair of the audit committee received an additional annual cash retainer of \$15,000, the chair of the compensation committee received an additional annual cash retainer of \$8,000, and the chair of the nominating and corporate governance committee received an additional annual cash retainer of \$5,500. Audit committee members received an additional cash retainer of \$5,750, compensation committee members received an additional annual cash retainer of \$4,000 and nominating and corporate governance committee members received an additional annual cash retainer of \$2,750. The directors have elected to forego all cash compensation for 2024.

Each non-employee director who is newly elected or appointed to the board of directors will receive an initial grant of options to purchase 5,833 shares of our common stock, vesting in three equal annual installments on each of the first three anniversaries of the date of grant, upon such election or appointment to the board of directors. In addition, non-employee directors receive annual grants of options on the date of each annual meeting of stockholders as follows: each non-employee director, options to purchase 12,000 shares; chair of our board of directors, an additional grant of options to purchase 3,500 shares; chair of the audit committee, an additional grant of options to purchase 3,000 shares; chair of the compensation committee, an additional 2,250 shares; and chair of the nominating and corporate governance committee, an additional grant of options to purchase 1,500 shares. Audit committee members received an additional grant of options to purchase 1,500 shares; members of the compensation committee received an additional grant of 1,125 shares; and the members of the nominating and corporate governance committee received an additional grant of options to purchase 750. All of the annual grants will vest on the first anniversary of the date of grant. The remaining terms of the director compensation program as in effect prior to this amendment remain unchanged.

#### **Vote Required; Recommendation of the Board of Directors**

If a quorum is present and voting at the annual meeting, the two nominees receiving the highest number of votes will be elected to our board of directors. Votes withheld from any nominee, abstentions and broker non-votes will be counted only for purposes of determining a quorum. Broker non-votes will have no effect on this proposal as brokers or other nominees are not entitled to vote on such proposals in the absence of voting instructions from the beneficial owner.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT THE STOCKHOLDERS VOTE FOR THE ELECTION OF CAM L. GARNER AND TODD C. BRADY, M.D., PH.D. PROXIES SOLICITED BY THE BOARD OF DIRECTORS WILL BE SO VOTED UNLESS YOU SPECIFY OTHERWISE ON YOUR PROXY CARD.**

#### **PROPOSAL 2 RATIFICATION OF SELECTION OF INDEPENDENT REGISTERED PUBLIC ACCOUNTANTS**

The audit committee has selected BDO USA, P.C. as the company's independent registered public accountants for the year ending December 31, 2024 and has further directed that management submit the selection of independent registered public accountants for ratification by the stockholders at the annual meeting. BDO USA, P.C. has audited the company's financial statements for the years ended December 31, 2013 through December 31, 2023. Representatives of BDO USA, P.C. are expected to be present at the annual meeting, will have an opportunity to make a statement if they so desire, and will be available to respond to appropriate questions.

Stockholder ratification of the selection of BDO USA, P.C. as the company's independent registered public accountants is not required by Delaware law, the company's amended and restated certificate of incorporation, or the company's amended and restated bylaws. However, the audit committee is submitting the selection of BDO USA, P.C. to the stockholders for ratification as a matter of good corporate practice. If the stockholders fail to ratify the selection, the audit committee will reconsider whether to retain the firm. Even if the selection is ratified, the audit committee in its discretion may direct the appointment of different independent registered public accountants at any time during the year if the audit committee determines that such a change would be in the best interests of the company and its stockholders.



The following table represents aggregate fees billed to us for services related to the years ended December 31, 2023 and 2022, by BDO USA, P.C. as our independent registered public accounting firm:

	Fiscal Years Ended December 31,	
	2023	2022
Audit Fees <sup>(1)</sup>	\$ 418,741	\$ 351,805
Audit Related Fees	—	—
Tax Fees	—	—
All Other Fees	—	—
<b>Total</b>	<b>\$ 418,741</b>	<b>\$ 351,805</b>

(1) Audit Fees consist of fees billed for professional services performed by BDO USA, P.C. for the audit of our annual financial statements, the quarterly review of our financial statements, the issuance of consents and comfort letters in connection with registration statements and related services that are normally provided in connection with statutory and regulatory filings or engagements.

The audit committee has considered whether the provision of non-audit services is compatible with maintaining the independence of BDO USA, P.C., and has concluded that the provision of such services is compatible with maintaining the independence of our auditors.

#### **Pre-Approval Policies and Procedures**

Our audit committee has established a policy that all audit and permissible non-audit services provided by our independent registered public accounting firm will be pre-approved by the audit committee, and all such services were pre-approved in accordance with this policy during the fiscal years ended December 31, 2023 and 2022. These services may include audit services, audit-related services, tax services and other services. The audit committee considers whether the provision of each non-audit service is compatible with maintaining the independence of our auditors. Pre-approval is detailed as to the particular service or category of services and is generally subject to a specific budget. Our independent registered public accounting firm and management are required to periodically report to the audit committee regarding the extent of services provided by the independent registered public accounting firm in accordance with this pre-approval, and the fees for the services performed to date.

#### **Vote Required; Recommendation of the Board of Directors**

The affirmative vote of a majority of the shares of common stock present or represented by proxy and entitled to vote at the meeting will be required to ratify the selection of BDO USA, P.C.. Abstentions will be counted toward the tabulation of votes cast on this proposal and will have the same effect as negative votes. The approval of Proposal 2 is a routine proposal on which a broker or other nominee has discretionary authority to vote. Accordingly, no broker non-votes will likely result from this proposal.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT THE STOCKHOLDERS VOTE TO RATIFY THE SELECTION OF BDO USA, P.C. AS OUR INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM FOR THE FISCAL YEAR ENDING DECEMBER 31, 2024. PROXIES SOLICITED BY OUR BOARD OF DIRECTORS WILL BE SO VOTED UNLESS STOCKHOLDERS SPECIFY OTHERWISE ON THEIR PROXY CARDS.**

### **PROPOSAL 3 APPROVAL OF THE COMPENSATION OF THE NAMED EXECUTIVE OFFICERS**

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, or the Dodd-Frank Act, our stockholders are entitled to vote at the annual meeting to provide advisory approval of the compensation of our named executive officers as disclosed in this proxy statement pursuant to the compensation disclosure rules of the SEC. Pursuant to the Dodd-Frank Act, the stockholder vote on executive compensation is an advisory vote only, and it is not binding on us or our board of directors.

Although the vote is non-binding, our compensation committee and board of directors value the opinions of the stockholders and will consider the outcome of the vote when making future compensation decisions. We urge stockholders to read the Executive Compensation and Other Information section of this proxy statement, which describes in detail our executive compensation.

Consistent with the preference of our stockholders as reflected in our prior non-binding advisory vote on the frequency of future say-on-pay votes, we will hold a say-on-pay advisory vote each year unless otherwise disclosed.

We are asking our stockholders to indicate their support for our named executive officer compensation as described in this proxy statement. This proposal, commonly known as a “say-on-pay” proposal, gives our stockholders the opportunity to express their views on our named executive officers’ compensation. This vote is not intended to address any specific item of

compensation, but rather the overall compensation of our named executive officers and the philosophy, policies and practices described in this proxy statement. Accordingly, we ask that our stockholders vote “FOR” the following resolution:

“RESOLVED, that Evoke Pharma, Inc.’s stockholders approve, on an advisory basis, the compensation of the named executive officers, as disclosed in Evoke Pharma, Inc.’s Proxy Statement for the 2023 Annual Meeting of Stockholders, pursuant to the compensation disclosure rules of the SEC, including the Executive Compensation and Other Information, the 2023 Summary Compensation Table and the other related tables and disclosure.”

**Vote Required; Recommendation of the Board of Directors**

The affirmative vote of a majority of the shares of common stock present or represented by proxy and entitled to vote at the meeting will be required to approve the advisory vote regarding the compensation of the named executive officers. Abstentions will be counted toward the tabulation of votes cast on this proposal and will have the same effect as negative votes. Broker non-votes will have no effect on this proposal as brokers or other nominees are not entitled to vote on such proposals in the absence of voting instructions from the beneficial owner.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT STOCKHOLDERS VOTE FOR THE APPROVAL OF THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS AS DISCLOSED IN THIS PROXY STATEMENT PURSUANT TO THE COMPENSATION DISCLOSURE RULES OF THE SEC.**

#### PROPOSAL 4

### APPROVAL OF AN AMENDMENT TO THE COMPANY'S AMENDED AND RESTATED CERTIFICATE OF INCORPORATION TO INCREASE THE AUTHORIZED NUMBER OF SHARES OF COMMON STOCK

Our board of directors is requesting stockholder approval of an amendment to our Amended and Restated Certificate of Incorporation to increase our authorized number of shares of common stock from 50,000,000 shares to 100,000,000 shares.

The proposed amendment would amend the second sentence of the ARTICLE FOURTH of the Amended and Restated Certificate of Incorporation to read in its entirety as follows:

“The total number of shares the Corporation shall have the authority to issue is One Hundred Five Million (105,000,000) shares, One Hundred Million (100,000,000) shares of which shall be Common Stock and Five Million (5,000,000) shares of which shall be Preferred Stock.”

The form of the proposed amendment to our Amended and Restated Certificate of Incorporation to increase our authorized number of shares is attached to this Proxy Statement as Appendix A. The additional common stock to be authorized by adoption of the amendment would have rights identical to our currently outstanding common stock. Adoption of the proposed amendment and issuance of the common stock would not affect the rights of the holders of our currently outstanding common stock, except for effects incidental to increasing the number of shares of our common stock outstanding, such as potential dilution of the voting rights of current holders of common stock. If the amendment is adopted, it will become effective upon filing of a Certificate of Amendment of our Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware.

In addition to the 8,477,801 shares of common stock outstanding as of the record date, our board of directors has reserved an aggregate of 624,232 shares of common stock for issuance upon exercise of options and other awards granted under our stock option plan, and 178,811 shares of common stock for issuance upon purchases under our 2013 Employee Stock Purchase Plan, or the 2013 Plan. On February 13, 2024 we sold 5,134,731 common stock units, or the Common Stock Units, at a public offering price of \$0.68 per Common Stock Unit and, to certain investors, 5,894,680 pre-funded warrant units, or the PFW Units, at a public offering price of \$0.6799 per PFW Unit, or the February 2024 Offering. Each Common Stock Unit consisted of (i) one share of common stock, (ii) a Series A Warrant to purchase one share of common stock, or the Series A Warrant, (iii) a Series B Warrant to purchase one share of common stock, or the Series B Warrant, and (iv) a Series C Warrant to purchase one share of common stock, or the Series C Warrant. Each PFW Unit consisted of (i) a pre-funded warrant to purchase one share of common stock, or the Pre-Funded Warrants, (ii) a Series A Warrant, (iii) a Series B Warrant, and (iv) a Series C Warrant. In connection with the February 2024 Offering, our board of directors has reserved 11,029,411 shares of common stock for issuance upon exercise of Series A Warrants, 11,029,411 shares of common stock for issuance upon exercise of Series B Warrants, 11,029,411 shares of common stock for issuance upon exercise of Series C Warrants, 5,894,680 for issuance upon exercise of Pre-Funded Warrants.

A summary of our outstanding and reserved shares of common stock as of March 25, 2024 is set forth in the following table:

	<u>Shares of Common Stock</u>
Outstanding	8,477,801
Reserved for issuance under Series A Warrants <sup>(1)</sup>	11,029,411
Reserved for issuance under Series B Warrants <sup>(2)</sup>	11,029,411
Reserved for issuance under Series C Warrants <sup>(3)</sup>	11,029,411
Reserved for issuance under Pre-Funded Warrants	5,894,680
Reserved for issuance under outstanding awards issued pursuant to the 2013 Equity Incentive Award Plan	624,232
Reserved for future issuance under the 2013 Equity Incentive Award Plan	748,422
Reserved for future issuance under the 2013 Employee Stock Purchase Plan	178,811
Total shares of common stock outstanding and reserved	<u>49,012,179</u>
Authorized shares of common stock	<u>50,000,000</u>
Shares available for future use	<u>987,821</u>

(1) The Series A Warrants will expire on February 13, 2029, which is five years from the date of issuance.

(2) The Series B Warrants will expire on November 13, 2024, which is nine months from the date of issuance.

(3) The Series C Warrants will also expire on November 13, 2024, provided that to the extent and in proportion to a holder of the Series C Warrants exercising its corresponding Series B Warrants included in the applicable unit, such Series C Warrant will expire on February 13, 2029. On March 25, 2024, we amended the vesting schedule of the Series C Warrants to induce exercise of the corresponding Series B Warrants. As a result, for warrant holders who exercised their

Series B Warrants on or before March 27, 2024, for each share of common stock received upon exercise of the Series B Warrant, three Series C Warrants vested.

- (4) If (a) either this Proposal 4 or Proposal 5 and (b) Proposal 6 (related to the 2013 Plan) are approved our stockholders, the number of shares reserved for issuance under the 2013 Plan would increase to 4,748,422. If either (a) this Proposal 4 or (b) Proposal 5 is not approved by stockholders, Proposal 6 will not be considered approved.

Our board of directors believes that additional authorized shares of common stock would give the Company the necessary flexibility to issue shares for various corporate purposes, including, in particular, raising capital, and enable the Company to take timely advantage of market conditions and opportunities. Other corporate purposes for which the additional authorized shares could be used include, but are not limited to, potential strategic transactions, including mergers, acquisitions, and other business combinations; an increase in the number of shares available for issuance under our 2013 Plan in connection with its amendment and restatement contemplated by Proposal 6, future grants and awards under equity compensation plans; stock splits and stock dividends; and other general corporate working capital needs. The additional shares may be used for various purposes without further stockholder approval, except as may be required in certain cases by law or the rules of the Nasdaq Stock Market. We believe that the amendment will provide us with additional flexibility to meet business and financing needs as and when they may arise.

Any future issuance of additional authorized shares of our common stock may, among other things, dilute the equity and voting rights of those holding common stock at the time the additional shares are issued. Additionally, this potential dilutive effect may cause a reduction in the market price of our common stock. Further, the amendment could adversely affect the ability of third parties to take us over or change our control by, for example, permitting issuances that would dilute the stock ownership of a person seeking to effect a change in the composition of our board of directors or contemplating a tender offer or other transaction for the combination of us with another company that our board of directors determines is not in our best interests or in the best interests of our stockholders. Our board of directors however, does not intend or view this amendment as an anti-takeover measure, nor does it contemplate its use in this manner at any time in the foreseeable future.

#### **Vote Required; Recommendation of the Board of Directors**

The affirmative vote of a majority of outstanding shares of common stock entitled to vote at the meeting will be required to approve the amendment of our Amended and Restated Certificate of Incorporation to increase the authorized number of shares of our common stock from 50,000,000 to 100,000,000. Abstentions will have the same effect as a vote against this proposal. The approval of Proposal 4 is a routine proposal on which a broker or other nominee has discretionary authority to vote. Accordingly, no broker non-votes will likely result from this proposal.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT STOCKHOLDERS VOTE FOR THE APPROVAL OF THE AMENDMENT TO THE COMPANY'S AMENDED AND RESTATED CERTIFICATE OF INCORPORATION TO INCREASE THE AUTHORIZED NUMBER OF SHARES OF COMMON STOCK.**

#### **PROPOSAL 5**

**TO GRANT THE BOARD AUTHORITY TO EFFECT A REVERSE STOCK SPLIT OF OUR OUTSTANDING COMMON STOCK BY AMENDING OUR AMENDED AND RESTATED CERTIFICATE OF INCORPORATION WITHIN ONE YEAR AND WITHIN A RANGE OF NOT LESS THAN ONE-FOR-TWO AND NOT MORE THAN ONE-FOR-TWENTY, IF THE BOARD DEEMS IT WITHIN THE COMPANY'S BEST INTERESTS**

#### **Introduction**

Our board of directors is recommending that the stockholders approve an amendment to our Amended and Restated Certificate of Incorporation to effect a reverse stock split of our outstanding common stock at an exchange ratio of not less than one-for-two and not more than one-for-twenty with the exact ratio to be set within this range by our board of directors in its sole discretion. If our board of directors decides to implement the split, it will become effective upon the filing of the amendment to the company's certificate of incorporation with the Secretary of State of the State of Delaware. If the reverse split is implemented, the number of issued and outstanding shares of common stock would be reduced in accordance with the exchange ratio selected by the board or committee. The total number of authorized shares of our common stock would remain unchanged at 50,000,000 shares, resulting in an effective increase in the authorized number of shares of our common stock. Further, if stockholders approve Proposal 4 to amend our Amended and Restated Certificate of Incorporation to increase the authorized number of shares of common stock, the total number of authorized shares of our common stock would be 100,000,000 shares and remain unchanged upon the effectiveness of the reverse stock split.

The form of the proposed amendment to our Amended and Restated Certificate of Incorporation to effect the reverse stock split is attached to this Proxy Statement as Appendix B. Notwithstanding approval of the proposed amendment by our stockholders, our board of directors may, at its sole option, abandon the proposed amendment and determine prior to the effectiveness of any filing with the Secretary of State of the State of Delaware not to effect any reverse stock split, as permitted under Section 242(c) of the General Corporation Law of the State of Delaware. If our board of directors does not implement a

reverse stock split on or prior to May 22, 2025 (subject to any postponement of the annual meeting), which is one year from the date of our 2024 annual meeting of stockholders, stockholder approval would again be required prior to implementing any reverse stock split.

### **Background of the Reverse Split**

The Nasdaq Listing Qualifications Department notified us on February 21, 2024 that the bid price of our common stock had closed at less than \$1.00 per share over the previous 30 consecutive business days, and, as a result, did not comply with Listing Rule 5550(a)(2), or the Bid Price Rule. Therefore, in accordance with Listing Rule 5810(c)(3)(A), we were provided an initial period of 180 calendar days, or until August 19, 2024, to regain compliance. The letter states that the Nasdaq staff will provide written notification that we have achieved compliance with the Bid Price Rule if at any time before August 19, 2024, the bid price of our common stock closes at \$1.00 per share or more for a minimum of ten consecutive business days.

If we fail to regain compliance with the Bid Price Rule on or before August 19, 2024, we may be eligible for an additional 180 calendar day compliance period. To qualify, we would be required to meet the continued listing requirement for market value of publicly held shares and all other initial listing standards for The Nasdaq Capital Market, with the exception of the bid price requirement, and would need to provide written notice of our intention to cure the deficiency during the second compliance period, by effecting a reverse stock split, if necessary. However, if it appears to the Nasdaq staff that we will not be able to cure the deficiency, or if we are otherwise not eligible, the Nasdaq staff would notify us that our securities would be subject to delisting. In the event of such a notification, we may appeal the Nasdaq staff's determination to delist our securities, but there can be no assurance the Nasdaq staff would grant our request for continued listing.

### **Reasons for the Reverse Stock Split**

Our primary objective in asking for the authority to effect the reverse stock split is to raise the per share trading price of our common stock. The board believes that having the ability to implement the reverse stock split would better enable us to maintain the listing of our common stock on the Nasdaq Capital Market. Also, if the reverse stock split is implemented, we believe it would facilitate higher levels of institutional stock ownership, where investment policies generally prohibit investments in lower-priced securities and better enable us to potentially raise funds to finance operations.

Although the board presently intends to effect the reverse stock split only if necessary to regain compliance with the Bid Price Rule, under Section 242(c) of the Delaware General Corporation Law, our board has reserved the right, notwithstanding our stockholders' approval of the proposed amendment to our Amended and Restated Certificate of Incorporation at the Annual Meeting, to abandon the proposed amendment at any time (without further action by our stockholders) before the amendment to the Amended and Restated Certificate of Incorporation is filed with the Secretary of State of the State of Delaware.

Our board may consider a variety of factors in determining whether or not to proceed with the proposed amendment of the certificate of incorporation, including overall trends in the stock market, recent changes and anticipated trends in the per-share market price of our common stock, Nasdaq's requirements with respect to the minimum number of publicly held shares and minimum number of public holders, business developments and our actual and projected financial performance. If the closing bid price of our common stock on the Nasdaq Capital Market reaches a minimum of \$1.00 per share and remains at or above that level for a minimum of ten consecutive trading days, as discussed more fully below, our board of directors may decide to abandon the filing of the proposed amendment to the Amended and Restated Certificate of Incorporation.

Reducing the number of outstanding shares of our common stock through the reverse stock split is intended, absent other factors, to increase the per share market price of our common stock. However, other factors, such as our financial results, market conditions and the market perception of our business may adversely affect the market price of our common stock. As a result, there can be no assurance that the reverse stock split, if completed, will result in the intended benefits described above, that the market price of our common stock will increase following the reverse stock split or that the market price of our common stock will not decrease in the future. Additionally, we cannot assure you that the market price per share of our common stock after a reverse stock split will increase in proportion to the reduction in the number of shares of our common stock outstanding before the reverse stock split.

### **Risk Factors Associated with the Reverse Stock Split**

We cannot assure you that the reverse stock split, if implemented, will have the desired effect of raising the price of our common stock over the long term. The history of similar stock split combinations for companies in like circumstances is varied. There is no assurance that:

- the market price per post-split share of our common stock would either exceed or remain in excess of the \$1.00 minimum bid price for a sustained period of time, as required by Nasdaq;
- the trading price per share of our common stock after the reverse stock split would rise in proportion to the reduction in the number of pre-split shares of our common stock outstanding before the reverse stock split;

- the reverse stock split would result in a per share price that would increase the level of investment by institutional investors or increase analyst and broker interest in our company; or
- the reverse stock split will result in decreased transaction costs for our stockholders.

In addition, there can be no assurance that our common stock will not be delisted due to a failure to meet other continued listing requirements even if the market price per post-split share of our common stock remains in excess of \$1.00. For example, on March 18, 2024, we announced that the Nasdaq Hearings Panel has granted the Company's request to continue its listing on the Nasdaq Capital Market, subject to the filing of a Form 10-Q on or before May 15, 2024, demonstrating that, as of March 31, 2024, we are in compliance with Nasdaq Listing Rule 5550(b)(1), or the Minimum Stockholders' Equity Requirement, which requires listed companies to maintain stockholders' equity of at least \$2.5 million. In determining what ratio to apply to the reverse stock split, we will need to confirm that the number of shares outstanding post-split meet Nasdaq Listing Rule 5550(a)(4) for continued listing, which rule requires Nasdaq listed companies to maintain at least 500,000 publicly held shares.

The market price of our common stock will also be based on our performance and other factors, some of which are unrelated to the number of shares outstanding. If the reverse stock split is consummated and the trading price of our common stock declines, the percentage decline as an absolute number and as a percentage of our overall market capitalization may be greater than would occur in the absence of the reverse stock split. Furthermore, the liquidity of our common stock could be adversely affected by the reduced number of shares that would be outstanding after the reverse stock split.

### **Principal Effects of the Reverse Stock Split**

After the effective date of the reverse stock split, each stockholder would own a reduced number of shares of common stock. However, the reverse stock split would affect all stockholders uniformly and would not affect any stockholder's percentage ownership interest in the Company (except to the extent that the reverse stock split would result in some of our stockholders owning a fractional share as described below). Proportionate voting rights and other rights and preferences of the holders of common stock would not be affected by the reverse stock split (except to the extent that the reverse stock split would result in some of our stockholders owning a fractional share as described below). For example, a holder of 2% of the voting power of the outstanding shares of common stock immediately prior to the reverse stock split would continue to hold approximately 2% of the voting power of the outstanding shares of common stock immediately after the reverse stock split. The number of stockholders of record also would not be affected by the reverse stock split (except to the extent that the reverse stock split would result in some of our stockholders owning only a fractional share as described below).

Depending on the ratio for the reverse stock split determined by our board, a minimum of every two and a maximum of every twenty shares of issued common stock will be combined into one new share of common stock. Based on 8,477,801 shares of common stock issued and outstanding as of March 25, 2024, immediately following the reverse stock split the company would have approximately 4,238,900 shares of common stock issued and outstanding if the ratio for the reverse stock split is 1-for-2, and 423,890 shares of common stock issued and outstanding if the ratio for the reverse stock split is 1-for-20. Any other ratio selected within such range would result in a number of shares of common stock issued and outstanding of between 423,890 and 4,238,900 shares.

Because the total number of shares of authorized common stock is not being reduced in an amount proportionate to the reverse stock split, the ability of the board of directors to issue authorized and unissued shares without further stockholder action will be significantly increased. We expect we will need to issue additional shares to raise additional capital to fund our operations. We believe, based on our current operating plan, that our cash and cash equivalents as of December 31, 2023 of approximately \$4.7 million, plus the estimated net proceeds of approximately \$6.1 million from the offering we completed in February 2024, as well as cash flows from net sales of Gimoti, will be sufficient to fund our operations into the fourth quarter of 2024. Other corporate purposes for which the additional authorized shares could be used include, but are not limited to, potential strategic transactions, including mergers, acquisitions, and other business combinations; an increase in the number of shares available for issuance under our 2013 Plan in connection with its amendment and restatement contemplated by Proposal 6, future grants and awards under equity compensation plans; stock splits and stock dividends; and other general corporate working capital needs. Other than potential capital raising and equity grants under our equity compensation plans, we currently have no plans, arrangements or understandings, written or oral, to issue these additional authorized shares. The number of authorized shares of preferred stock will not be affected by the reverse stock split.

After the effective date of any reverse stock split that our board of directors elects to implement, our common stock would have a new committee on uniform securities identification procedures, or CUSIP number, a number used to identify our common stock.

The reverse stock split would also reduce the number of shares of common stock available for issuance under our 2013 Equity Incentive Award Plan, which is the only equity incentive compensation plan currently active from which we may make new stock awards, and our 2013 Employee Stock Purchase Plan. With respect to outstanding stock options to purchase shares of our common stock, the reverse stock split would effect a reduction in the number of shares subject to such outstanding stock options proportional to the exchange ratio of the reverse stock split (rounded down to the nearest whole share) and would effect a proportionate increase in the exercise price of such outstanding stock options (rounded up to the nearest whole cent). Unless

required by the terms of the equity incentive compensation plan pursuant to which a stock equity award was issued, no cash payment would be made to holders of equity awards in respect of such rounding. Under the terms of our outstanding warrants, the reverse stock split would also result in a proportionate increase in the exercise price of the warrants, as well as a proportionate decrease in the number of shares issuable to the holders thereof upon exercise of the warrants.

If the proposed reverse stock split is implemented, it would increase the number of our stockholders who own “odd lots” of less than 100 shares of common stock. Brokerage commission and other costs of transactions in odd lots are generally higher than the costs of transactions of more than 100 shares of common stock.

Our common stock is currently registered under Section 12(b) of the Exchange Act, and we are subject to the periodic reporting and other requirements of the Exchange Act. The reverse stock split would not affect the registration of our common stock under the Exchange Act. If the reverse stock split is implemented, our common stock would continue to be reported on the Nasdaq Capital Market under the symbol “EVOK” (although Nasdaq would likely add the letter “D” to the end of the trading symbol for a period of approximately 20 trading days to indicate that the reverse stock split has occurred).

#### **Effective Date**

Our board of directors, in its discretion, may elect to effect the reverse stock split upon receipt of stockholder approval, or not, if our board of directors determines in its discretion not to proceed with the reverse stock split. The reverse stock split and the change in the number of our authorized shares of common stock would become effective on the date of filing of a certificate of amendment to our Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware. On the effective date, shares of common stock issued and outstanding immediately prior thereto will be combined and converted, automatically and without any action on the part of the stockholders, into new shares of common stock in accordance with the exchange ratio contained in the certificate of amendment. If our Board does not implement the reverse stock split by May 22, 2025 (subject to any postponement of the annual meeting), which is one year from the date of our 2024 annual meeting of stockholders, stockholder approval would be required again prior to the implementation of any reverse stock split.

#### **Treatment of Fractional Shares**

No scrip or fractional shares would be issued if, as a result of the reverse stock split, a stockholder would otherwise become entitled to a fractional share. Instead, we would pay to the stockholder, in cash, the value of any fractional share arising from the reverse stock split. The cash payment would equal the closing sale price per share of our common stock as reported on the Nasdaq Capital Market on the last trading day preceding the effective date of the reverse stock split multiplied by the number of shares of pre-split common stock held by the stockholder that would otherwise have been exchanged for such fractional share. No transaction costs would be assessed to stockholders for the cash payment. Stockholders would not be entitled to receive interest for their fractional shares.

If you do not hold sufficient shares of pre-split common stock to receive at least one post-split share of common stock and you want to hold our common stock after the reverse stock split, you may do so by taking either of the following actions far enough in advance so that it is completed before the reverse stock split is effected:

- purchase a sufficient number of shares of our common stock so that you would hold at least that number of shares of common stock in your account prior to the implementation of the reverse stock split that would entitle you to receive at least one share of common stock on a post-split basis; or
- if applicable, consolidate your accounts so that you hold at least that number of shares of our common stock in one account prior to the reverse stock split that would entitle you to at least one share of our common stock on a post-split basis.

Common stock held in registered form (that is, shares held by you in your own name on our company’s share register maintained by our transfer agent) and common stock held in “street name” (that is, shares held by you through a bank, broker or other nominee) for the same investor would be considered held in separate accounts and would not be aggregated when implementing the reverse stock split. Also, shares of common stock held in registered form but in separate accounts by the same investor would not be aggregated when implementing the reverse stock split.

After the reverse stock split, then-current stockholders would have no further interest in our company with respect to their fractional shares. A person otherwise entitled to a fractional share would not have any voting, dividend or other rights in respect of his or her fractional share except to receive the cash payment as described above. Such cash payments would reduce the number of post-split stockholders to the extent that there are stockholders holding fewer than that number of pre-split shares within the range of exchange ratios described above. Reducing the number of post-split stockholders, however, is not the purpose of this proposal.

Stockholders should be aware that, under the escheat laws of the various jurisdictions where stockholders reside, where we are domiciled and where the funds for fractional shares would be deposited, sums due to stockholders in payment for fractional shares that are not timely claimed after the effective date may be required to be paid to the designated agent for each such jurisdiction. Thereafter, stockholders otherwise entitled to receive such funds may have to seek to obtain them directly from the state to which they were paid.

### **Effect on Non-Registered Stockholders**

Non-registered stockholders holding our common stock through a bank, broker or other nominee should note that such banks, brokers or other nominees may have different procedures for processing the consolidation than those that would be put in place by us for registered stockholders, and their procedures may result, for example, in differences in the precise cash amounts being paid by such nominees in lieu of a fractional share. If you hold your shares with such a bank, broker or other nominee and if you have questions in this regard, you are encouraged to contact your nominee.

### **Book-Entry Shares and Payment for Fractional Shares**

The combination of and reduction in the number of our outstanding shares of common stock as a result of the reverse stock split would occur automatically on the effective date without any action on the part of our stockholders. Our registered stockholders may hold some or all of their shares electronically in book-entry form. These stockholders will not have stock certificates evidencing their ownership of common stock. They are, however, provided with a statement reflecting the number of shares of common stock registered in their accounts.

Stockholders who hold registered shares of our common stock in book-entry form do not need to take any action to receive post-reverse stock split shares of our common stock in registered book-entry form or the cash payment in lieu of any fractional interest, if applicable. These stockholders will have their pre-reverse stock split shares exchanged automatically and a Credit Advice will be mailed to them upon exchange indicating the number of post-reverse stock split shares owned by such stockholders. A check will also be mailed to such stockholders' registered address as soon as practicable after the effective date of the reverse stock split. By signing and cashing this check, such stockholders will warrant that they owned the shares of our common stock for which they received the cash payment.

### **Exchange of Stock Certificates and Payment for Fractional Shares**

The combination of and reduction in the number of our outstanding shares of common stock as a result of the reverse stock split would occur automatically on the effective date without any action on the part of our stockholders and without regard to the date that stock certificates representing pre-split shares of common stock are physically surrendered for new stock certificates representing post-split shares of common stock.

As soon as practicable after the effective date, transmittal forms will be mailed to each holder of record of certificates for shares of our common stock to be used in forwarding such certificates for surrender in exchange for any cash payment due for fractional shares and, if so elected by the holder, certificates representing the number of shares of our post-split common stock such stockholder is entitled to receive as a result of the reverse stock split. Our transfer agent will act as exchange agent for purposes of implementing the payment in lieu of fractional shares and exchange of stock certificates. The transmittal forms will be accompanied by instructions specifying other details of the exchange. Upon receipt of the transmittal form, each stockholder should surrender the certificates representing shares of our common stock prior to the reverse stock split in accordance with the applicable instructions. Each stockholder who surrenders certificates will receive any cash payment due for fractional shares and, upon payment of the applicable fee, new certificates representing the whole number of shares of our common stock that he or she holds as a result of the reverse stock split. No new certificates and no payments in lieu of fractional shares will be issued to a stockholder until the stockholder has surrendered its outstanding stock certificate(s) together with the properly completed and executed transmittal form to the exchange agent.

**STOCKHOLDERS SHOULD NOT DESTROY ANY PRE-SPLIT STOCK CERTIFICATES AND SHOULD NOT SUBMIT ANY STOCK CERTIFICATES UNTIL THEY ARE REQUESTED TO DO SO.**

### **Accounting Consequences**

The par value per share of our common stock would remain unchanged at \$0.0001 per share after the reverse stock split. As a result, on the effective date of the reverse stock split, the amount on our balance sheet attributable to our common stock would be reduced proportionally, based on the exchange ratio of the reverse stock split, from its present amount, and the additional paid-in capital account would be credited with the amount by which the common stock is reduced. The per share common stock net loss would be increased because there would be fewer shares of our common stock outstanding. We do not anticipate that any other accounting consequences would arise as a result of the reverse stock split.

### **No Appraisal Rights**

Under the Delaware General Corporation Law, stockholders are not entitled to dissenters' rights with respect to the proposed amendment to our Amended and Restated Certificate of Incorporation to effect the reverse stock split, and we will not independently provide our stockholders with any such right.

### **No Going Private Transaction**



Notwithstanding the change in the number of outstanding shares following the reverse stock split, the board of directors does not intend for this transaction to be the first step in a series of plans or proposals of a “going private transaction” within the meaning of Rule 13e-3 of the Exchange Act.

### **Interests of Certain Persons in the Proposal**

Certain of our officers and directors have an interest in this proposal as a result of their ownership of shares of our common stock, as set forth in the section entitled “Security Ownership of Certain Beneficial Owners and Management” below. However, we do not believe that our officers or directors have interests in this proposal that are different from or greater than those of any other of our stockholders.

### **Material U.S. Federal Income Tax Consequences of the Reverse Stock Split to U.S. Holders**

The following discussion is a general summary of certain U.S. federal income tax consequences of the reverse stock split that may be relevant to U.S. Holders (as defined below) of our common stock, but does not purport to be a complete analysis of all potential tax effects. The effects of other U.S. federal tax laws, such as estate and gift tax laws, and any applicable state, local or non-U.S. tax laws are not discussed. This discussion is based on the U.S. Internal Revenue Code of 1986, as amended, or the Code, Treasury regulations promulgated thereunder, or the Treasury Regulations, judicial decisions, and published rulings and administrative pronouncements of the U.S. Internal Revenue Service, or the IRS, in each case in effect as of the date hereof. These authorities may change or be subject to differing interpretations. Any such change or differing interpretation may be applied retroactively in a manner that could adversely affect a U.S. Holder. We have not sought and will not seek an opinion of counsel or any rulings from the IRS regarding the matters discussed below. There can be no assurance the IRS or a court will not take a contrary position to that discussed below regarding the tax consequences of the reverse stock split.

This discussion is limited to U.S. Holders that hold our common stock as a “capital assets” within the meaning of Section 1221 of the Code (generally, property held for investment). This discussion does not address all U.S. federal income tax consequences relevant to a U.S. Holder’s particular circumstances, including the impact of the Medicare contribution tax on net investment income, and the alternative minimum tax. In addition, it does not address consequences relevant to U.S. Holders subject to special rules, including, without limitation:

- persons that are not U.S. Holders (as defined below);
- U.S. Holders (as defined below) whose functional currency is not the U.S. dollar;
- persons holding our common stock as part of a hedge, straddle or other risk reduction strategy or as part of a conversion transaction or other integrated investment;
- banks, insurance companies, and other financial institutions;
- real estate investment trusts or regulated investment companies;
- brokers, dealers or traders in securities;
- corporations that accumulate earnings to avoid U.S. federal income tax;
- S corporations or partnerships or other entities or arrangements treated as partnerships for U.S. federal income tax purposes (and investors therein);
- tax-exempt organizations or governmental organizations;
- persons deemed to sell our common stock under the constructive sale provisions of the Code;
- persons who hold or receive our common stock pursuant to the exercise of any employee stock option or otherwise as compensation;
- tax-qualified retirement plans; and
- “qualified foreign pension funds” as defined in Section 897(l)(2) of the Code and entities all the interests of which are held by qualified foreign pension funds.

If a partnership (including any entity or arrangement treated as a partnership for U.S. federal income tax purposes) holds our common stock, the tax treatment of a partner in the partnership will generally depend on the status of the partner, the activities of the partnership and certain determinations made at the partner level. Accordingly, partnerships holding our common stock and the partners in such partnerships should consult their tax advisors regarding the U.S. federal income tax consequences to them.

**THIS DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. HOLDERS OF OUR COMMON STOCK SHOULD CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE APPLICATION OF THE U.S. FEDERAL INCOME TAX LAWS TO THEIR PARTICULAR SITUATIONS AS WELL AS ANY TAX CONSEQUENCES OF THE REVERSE STOCK SPLIT ARISING UNDER OTHER U.S. FEDERAL TAX LAWS (INCLUDING ESTATE AND GIFT TAX LAWS), UNDER THE LAWS OF ANY STATE, LOCAL OR NON-U.S. TAXING JURISDICTION OR UNDER ANY APPLICABLE TAX TREATY.**

For purposes of this discussion, a “U.S. Holder” is a beneficial owner of shares of our common stock that for U.S. federal income tax purposes is or is treated as: (1) an individual who is a citizen or resident of the United States; (2) a corporation created or organized under the laws of the United States, any state thereof, or the District of Columbia; (3) an estate the income of which is subject to U.S. federal income tax regardless of its source; or (4) a trust that (a) is subject to the primary supervision of a U.S. court and all substantial decisions of which are subject to the control of one or more “United States persons” (within the meaning of Section 7701(a)(30) of the Code), or (b) has a valid election in effect to be treated as a United States person for U.S. federal income tax purposes.

The reverse stock split should constitute a “recapitalization” for U.S. federal income tax purposes. As a result, a U.S. Holder generally should not recognize gain or loss upon the reverse stock split, except with respect to cash received in lieu of a fractional share of our common stock, as discussed below. A U.S. Holder’s aggregate tax basis in the shares of our common stock received pursuant to the reverse stock split should equal such holder’s aggregate tax basis in the shares of our common stock surrendered (excluding any portion of such basis that is allocated to any fractional share of our common stock), and such holder’s holding period for the shares of our common stock received should include the holding period for the shares of our common stock surrendered. Treasury Regulations provide detailed rules for allocating the tax basis and holding period of the shares of our common stock surrendered to the shares of our common stock received pursuant to the reverse stock split. U.S. Holders of shares of our common stock acquired on different dates and at different prices should consult their tax advisors regarding the allocation of the tax basis and holding period of such shares.

A U.S. Holder that receives cash in lieu of a fractional share of our common stock pursuant to the reverse stock split should be treated as first receiving such fractional share and then receiving cash in redemption of such fractional share and should recognize capital gain or loss in an amount equal to the difference between the amount of cash received and the U.S. Holder’s adjusted tax basis in the shares of our common stock surrendered that is allocated to such fractional share of our common stock. Such capital gain or loss should be long-term capital gain or loss if the U.S. Holder’s holding period for our common stock surrendered exceeded one year at the effective time of the reverse stock split. The deductibility of capital losses is subject to limitations. U.S. Holders should consult their tax advisors regarding the tax effects to them of receiving cash in lieu of fractional shares based on their particular circumstances.

#### *Information Reporting and Backup Withholding*

U.S. Holders (other than corporations and certain other exempt recipients) may be subject to information reporting and backup withholding when such holder receives cash in lieu of a fractional share of our common stock pursuant to the reverse stock split. A U.S. Holder will be subject to backup withholding if such holder is not otherwise exempt and such holder does not provide its taxpayer identification number in the manner required and other required information (such as by submitting a properly completed IRS Form W-9). Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be refunded or allowed as a credit against the U.S. Holder’s U.S. federal income tax liability, if any, provided that the required information is timely furnished to the IRS. U.S. Holders should consult their tax advisors regarding their qualification for an exemption from backup withholding and the procedures for obtaining such an exemption.

#### **Vote Required; Recommendation of the Board of Directors**

The affirmative vote of a majority of the outstanding shares of common stock entitled to vote at the meeting will be required to approve the amendment of our Amended and Restated Certificate of Incorporation to effect a reverse stock split. Abstentions will have the same effect as a vote against this proposal. The approval of Proposal 5 is a routine proposal on which a broker or other nominee has discretionary authority to vote. Accordingly, no broker non-votes will likely result from this proposal.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT THE STOCKHOLDERS VOTE FOR THIS PROPOSAL TO GRANT THE BOARD AUTHORITY TO EFFECT A REVERSE STOCK SPLIT OF OUR OUTSTANDING COMMON STOCK BY AMENDING OUR AMENDED AND RESTATED CERTIFICATE OF INCORPORATION WITHIN ONE YEAR AND WITHIN A RANGE OF NOT LESS THAN ONE-FOR-TWO AND NOT MORE THAN ONE-FOR-TWENTY, IF THE BOARD DEEMS IT WITHIN THE COMPANY’S BEST INTERESTS.**

**PROXIES SOLICITED BY OUR BOARD OF DIRECTORS WILL BE SO VOTED UNLESS STOCKHOLDERS SPECIFY OTHERWISE ON THEIR PROXY CARDS.**

**PROPOSAL 6**  
**APPROVAL OF AMENDMENT AND RESTATEMENT OF**  
**2013 EQUITY INCENTIVE AWARD PLAN**

**Introduction**

Our stockholders are being asked to approve an amendment and restatement of our 2013 Equity Incentive Award Plan, or the 2013 Plan. The amended and restated 2013 Plan is referred to herein as the “Restated Plan.” Our board of directors approved the Restated Plan on February 14, 2024, subject to certain stockholder approvals. The Restated Plan will become effective upon stockholder approval of this Proposal 6; provided, however, that the Restated Plan will not become effective unless our stockholders also approve either (1) the amendment to our Amended and Restated Certificate of Incorporation increasing the authorized number of shares thereunder as set forth in Proposal 4 (the “Charter Amendment Proposal”), or (2) the reverse stock split proposal as set forth in Proposal 5 (the “Reverse Stock Split Proposal”). **If the Restated Plan is not approved by our stockholders or if either the Charter Amendment Proposal or the Reverse Stock Split Proposal is not approved by our stockholders, the Restated Plan will not become effective, the existing 2013 Plan will continue in full force and effect, and we may continue to grant awards under the 2013 Plan, subject to its terms, conditions and limitations, using the shares available for issuance thereunder.** For the avoidance of doubt, the numbers set forth in this Proposal 6 do not give effect to the Reverse Stock Split Proposal contemplated in Proposal 5.

**Overview of Proposed Amendments**

*Increase in Share Reserve.* We strongly believe that an employee equity compensation program is a necessary and powerful incentive and retention tool that benefits all stockholders. As of March 25, 2024, a total of 1,395,301 shares of our common stock were reserved under the 2013 Plan, the aggregate number of shares of common stock subject to awards under the 2013 Plan was 624,232 and a total of 748,422 shares of common stock remained available under the 2013 Plan for future issuance. In addition, the 2013 Plan contains an “evergreen provision” that allows for an annual increase in the number of shares available for issuance under the 2013 Plan on January 1 of each year during the ten-year term of the 2013 Plan. The annual increase in the number of shares under the 2013 Plan is equal to the least of:

- 6% of our outstanding capital stock on the last day of the immediately preceding calendar year; and
- an amount determined by our board of directors.

The automatic increases pursuant to the evergreen provision of the 2013 Plan are included in the total number of shares reserved for issuance under the 2013 Plan as of March 25, 2024 set forth above.

Pursuant to the Restated Plan, an additional 4,000,000 shares will be reserved for issuance under the Restated Plan. In addition, the term of the evergreen provision Restated Plan will also be extended. Under the Restated Plan, the “evergreen provision” will allow for an annual increase in the number of shares available for issuance under the Restated Plan on January 1 of each year during the ten-year term of the Restated Plan, through and including January 1, 2034. The annual increase in the number of shares under the Restated Plan will be equal to the least of:

- 6% of our outstanding capital stock on the last day of the immediately preceding calendar year; and
- an amount determined by our board of directors.

**Notwithstanding anything contained herein to the contrary, if our stockholders do not approve both this Proposal 6 and either the Charter Amendment Proposal or the Reverse Stock Split Proposal, the Restated Plan will not become effective, the existing 2013 Plan will continue in full force and effect, and we may continue to grant awards under the 2013 Plan, subject to its terms, conditions and limitations, using the shares available for issuance thereunder.**

All of the foregoing share numbers may be adjusted for changes in our capitalization and certain corporate transactions, as described below under heading “Adjustments,” including, but not limited to, the Reverse Stock Split Proposal, to the extent such proposal is approved by our stockholders.

*Increase in Incentive Stock Option Limit.* The number of shares of stock that may be issued or transferred pursuant to incentive stock options, or ISOs, under the Restated Plan may not exceed an aggregate of 250,000,000 shares, which may be adjusted for changes in our capitalization and certain corporate transactions, as described below under the heading “Adjustments.”

*Extension of Term.* The term of the Restated Plan will also be extended so that the Restated Plan will terminate in March 2034.

The Restated Plan is not being amended in any material respect other than to reflect the changes described above.

**Equity Incentive Awards Are Critical to Long-Term Stockholder Value Creation**

The table below presents information about the number of shares that were subject to outstanding equity awards under the 2013 Plan and the shares remaining available for issuance under the 2013 Plan, each at March 25, 2024 (except as noted below), and the requested increase in shares authorized for issuance under the Restated Plan. The 2013 Plan and our Employee Stock Purchase Plan are the only equity incentive plans we currently have in place pursuant to which awards may still be granted.

	Number of Shares	As a % of Fully Diluted Shares Outstanding	Dollar Value <sup>(2)</sup>
<i>2013 Plan</i>			
Options outstanding	624,232	1.27 %	\$ 368,297
Weighted average exercise price of outstanding options	\$ 14.59	—	—
Weighted average remaining term of outstanding options	6.88	—	—
Shares remaining available for grant under 2013 Plan <sup>(3)</sup>	748,422	1.53 %	\$ 441,569
<i>Restated Plan</i>			
Proposed increase in shares available for issuance under Restated Plan (over existing share reserve under 2013 Plan) <sup>(4)</sup>	4,000,000	8.16 %	\$ 2,360,000

(1) Based on 49,012,179 shares of our common stock outstanding as of March 25, 2024. “Fully-Diluted Shares Outstanding” means, as of March 25, 2025, the sum of (i) the number of shares of our common stock outstanding on such date (calculated on an as-converted basis after giving effect to the conversion of our outstanding convertible securities into shares of our common stock), (b) the number of shares subject to compensatory equity awards (including stock options) outstanding on such date, and (c) all shares of common stock available for future issuance under the Plan and the Company’s 2013 Employee Stock Purchase Plan as of such date.

(2) Based on the closing price of our common stock on March 25, 2024, of \$0.59 per share.

(3) Does not include possible future increases to the share reserve under the evergreen provision of the 2013 Plan.

(4) Does not include possible future increases to the share reserve under the evergreen provision of the Restated Plan.

In determining whether to approve the Restated Plan, including the requested increase to the share reserve under the Restated Plan over the share reserve under the existing 2013 Plan, our board of directors considered the following:

- The shares to be initially reserved for issuance under the Restated Plan represent an increase of 4,000,000 shares from the aggregate number of shares currently reserved for issuance under the 2013 Plan (excluding any potential future evergreen increases).
- In determining the size of the share reserve under the Restated Plan, our board of directors considered the number of equity awards granted by our company during the past three calendar years. In calendar years 2021, 2022, and 2023, our annual equity burn rates (calculated by dividing the number of shares subject to equity awards granted during the year by the weighted-average number of shares outstanding during the applicable year) under our 2013 Plan were 5.2%, 2.5%, and 4.6%, respectively.
- We expect the proposed aggregate share reserve under the Restated Plan to provide us with enough shares for awards for the ten year term of the Restated Plan, assuming we continue to grant awards consistent with our current practices and historical usage, as reflected in our historical burn rate, assuming we receive the maximum annual evergreen increases under the Restated Plan during its ten-year term, and further dependent on the price of our shares and hiring activity during the next few years, forfeitures of outstanding awards, and noting that future circumstances may require us to change our current equity grant practices. We cannot predict our future equity grant practices, the future price of our shares, or future hiring activity with any degree of certainty at this time, and the share reserve under the Restated Plan could last for a shorter or longer time.
- In calendar years 2021, 2022, and 2023, the end of year overhang rate for the 2013 Plan (calculated by dividing (1) the sum of the number of shares subject to equity awards outstanding at the end of the calendar year plus shares remaining available for issuance for future awards at the end of the calendar year by (2) the number of shares outstanding at the end of the calendar year) was 19.8%, 19.1%, and 35.06%, respectively.

In light of the factors described above, and the fact that the ability to continue to grant equity compensation is vital to our ability to continue to attract and retain employees in the extremely competitive labor markets in which we compete, our board of directors has determined that the size of the share reserve under the Restated Plan is reasonable and appropriate at this time. Our board of directors will not create a subcommittee to evaluate the risk and benefits for issuing shares under the Restated Plan.

#### Stockholder Approval Requirement

Stockholder approval of the Restated Plan is necessary in order for us to (1) meet the stockholder approval requirements of Nasdaq, and (2) grant ISOs thereunder. Specifically, approval of the Restated Plan will constitute approval pursuant to the stockholder approval requirements of Section 422 of the Internal Revenue Code (the “Code”) relating to ISOs.

*If the Restated Plan is not approved by our stockholders or either the Charter Amendment Proposal or the Reverse Stock Split Proposal is not approved by our stockholders, the Restated Plan will not become effective, the existing 2013 Plan will continue in full force and effect, and we may continue to grant awards under the 2013 Plan, subject to its terms, conditions and limitations, using the shares available for issuance thereunder.*

#### **Summary of the Restated Plan**

The principal features of the Restated Plan are summarized below, but the summary is qualified in its entirety by reference to the Restated Plan itself, which is attached as Appendix C to this proxy statement.

#### ***Purpose***

The purpose of the Restated Plan is to promote our success and enhance our value by linking the individual interests of the members of the board of directors and our employees and consultants to those of our stockholders and by providing such individuals with an incentive for outstanding performance to generate superior returns to our stockholders. The Restated Plan is further intended to provide us flexibility in our ability to motivate, attract, and retain the services of members of the board of directors, our employees and our consultants upon whose judgment, interest, and special effort the successful conduct of our operation is largely dependent.

#### ***Securities Subject to the Restated Plan***

As of March 25, 2024, a total of 1,395,301 shares of our common stock were authorized for issuance under the 2013 Plan and will be reserved for issuance under the Restated Plan. In addition, an additional 4,000,000 shares will be added to the share reserve under the Restated Plan. In addition, commencing on January 1, 2025 and on each January 1 thereafter during the ten-year term of the Restated Plan, through and including January 1, 2034, the aggregate number of shares available for issuance under the Restated Plan shall be increased by that number of shares of our common stock equal to the lesser of:

- 6% of our outstanding capital stock on the last day of the immediately preceding calendar year; or
- an amount determined by our board of directors.

There will be no limit on the number of shares that may become available for issuance under the Restated Plan pursuant to the foregoing evergreen provisions. The number of shares of stock that may be issued or transferred pursuant to ISOs under the Restated Plan may not exceed an aggregate of 250,000,000 shares. All of the foregoing share numbers may be adjusted for changes in our capitalization and certain corporate transactions, as described below under the heading “Adjustments.”

To the extent that an award lapses, expires, is forfeited or is settled for cash, any shares subject to the award will, to the extent of such lapse, expiration, forfeiture or cash settlement, be available for future grant or sale under the Restated Plan. In addition, shares of common stock which are delivered by the holder or withheld by us in payment of the grant or exercise price or tax withholding obligation of any award under the Restated Plan will again be available for future grant or sale under the Restated Plan. If any shares of restricted stock are forfeited by a participant or repurchased by us pursuant to the Restated Plan, such shares shall again be available for future grant or sale under the Restated Plan. Any shares subject to a Stock Appreciation Right, or a SAR, that are not issued in connection with the stock settlement of the SAR on exercise thereof shall again be available for the grant of an award pursuant to the Restated Plan. The payment of dividend equivalents in cash in conjunction with any outstanding awards shall not be counted against the shares of stock available for issuance under the plan.

#### ***Administration***

The compensation committee of our board of directors administers the Restated Plan (except with respect to any award granted to non-employee directors, which must be administered by our full board of directors). To administer the Restated Plan, our compensation committee must consist solely of at least two members of our board of directors, each of whom is a “non-employee director” for purposes of Rule 16b-3 under the Securities Exchange Act of 1934, as amended, or the Exchange Act. Subject to the terms and conditions of the Restated Plan, our compensation committee has the authority to select the persons to whom awards are to be made, to determine the type or types of awards to be granted to each person, the number of awards to grant, the number of shares to be subject to such awards, and the terms and conditions of such awards, and to make all other determinations and decisions and to take all other actions necessary or advisable for the administration of the Restated Plan. Our compensation committee is also authorized to establish, adopt, amend or revise rules relating to administration of the Restated Plan. Our board of directors may at any time revert in itself the authority to administer the Restated Plan.

#### ***Eligibility***

Options, SARs, restricted stock and other awards under the Restated Plan may be granted to individuals who are our officers or employees or are the officers or employees of any of our subsidiaries. Such awards may also be granted to our non-employee directors and consultants, but only employees may be granted ISOs. As of March 25, 2024, there were five

non-employee directors, four employees and approximately five consultants who would have been eligible for awards under the Restated Plan had it been in effect on such date. The sum of any cash compensation, or other compensation, and the value (determined as of the grant date in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 718, or any successor thereto) of awards granted to a non-employee director as compensation for services as a non-employee director during any calendar year under the Restated Plan may not exceed \$400,000. The board of directors may make exceptions to this limit for individual non-employee directors in extraordinary circumstances, as the board of directors may determine in its discretion, provided that the non-employee director receiving such additional compensation may not participate in the decision to award such compensation or in other contemporaneous compensation decisions involving non-employee directors.

The closing share price per share for our common stock on the Nasdaq Capital Market on March 25, 2024 was \$0.59.

### **Awards**

The Restated Plan provides that our compensation committee (or the board of directors, in the case of awards to non-employee directors) may grant or issue stock options, SARs, restricted stock, restricted stock units, dividend equivalents, stock payments and performance awards, or any combination thereof. Our compensation committee (or the board of directors, in the case of awards to non-employee directors) will consider each award grant subjectively, considering factors such as the individual performance of the recipient and the anticipated contribution of the recipient to the attainment of our long-term goals. Each award will be set forth in a separate agreement with the person receiving the award and will indicate the type, terms and conditions of the award.

- Nonqualified stock options, or NQSOs, provide for the right to purchase shares of our common stock at a specified price which may not be less than the fair market value of a share of common stock on the date of grant, and usually will become exercisable (at the discretion of our compensation committee or our board of directors, in the case of awards to non-employee directors) in one or more installments after the grant date, subject to the participant's continued employment or service with us and/or subject to the satisfaction of performance targets established by our compensation committee (or our board of directors, in the case of awards to non-employee directors). NQSOs may be granted for any term specified by our compensation committee (or our board of directors, in the case of awards to non-employee directors).
- ISOs are designed to comply with the provisions of the Code and are subject to specified restrictions contained in the Code. Among such restrictions, ISOs must have an exercise price of not less than the fair market value of a share of common stock on the date of grant, may only be granted to employees, must expire within a specified period of time following the optionee's termination of employment, and must be exercised within the ten years after the date of grant. In the case of an ISO granted to an individual who owns (or is deemed to own) more than 10% of the total combined voting power of all classes of our capital stock, the Restated Plan provides that the exercise price must be at least 110% of the fair market value of a share of common stock on the date of grant and the ISO must expire upon the fifth anniversary of the date of its grant.
- Restricted stock may be granted to participants and made subject to such restrictions as may be determined by our compensation committee (or our board of directors, in the case of awards to non-employee directors). Typically, restricted stock may be forfeited for no consideration if the conditions or restrictions are not met, and it may not be sold or otherwise transferred to third parties until restrictions are removed or expire. Recipients of restricted stock, unlike recipients of options, may have voting rights and may receive dividends, if any, prior to the time when the restrictions lapse.
- Restricted stock units may be awarded to participants, typically without payment of consideration or for a nominal purchase price, but subject to vesting conditions including continued employment or on performance criteria established by our compensation committee (or our board of directors, in the case of awards to non-employee directors). Like restricted stock, restricted stock units may not be sold or otherwise transferred or hypothecated until vesting conditions are removed or expire. Unlike restricted stock, stock underlying restricted stock units will not be issued until the restricted stock units have vested, and recipients of restricted stock units generally will have no voting or dividend rights prior to the time when vesting conditions are satisfied.
- SARs granted under the Restated Plan typically provide for payments to the holder based upon increases in the price of our common stock over the exercise price of the SAR. There are no restrictions specified in the Restated Plan on the exercise of SARs or the amount of gain realizable therefrom. Our compensation committee (or the board of directors, in the case of awards to non-employee directors) may elect to pay SARs in cash or in common stock or in a combination of both.
- Dividend equivalents represent the value of the dividends, if any, per share paid by us, calculated with reference to the number of shares covered by the stock options, SARs or other awards held by the participant.
- Performance awards may be granted by our compensation committee on an individual or group basis. Generally, these awards will be based upon the attainment of specific performance goals that are established by our compensation

committee and relate to one or more performance criteria on a specified date or dates determined by our compensation committee. Performance awards may be paid in cash or in shares of common stock.

- Stock payments may be authorized by our compensation committee (or our board of directors, in the case of awards to non-employee directors) in the form of common stock or an option or other right to purchase common stock as part of a deferred compensation arrangement, made in lieu of all or any part of compensation, including bonuses, that would otherwise be payable to employees, consultants or members of our board of directors.

### ***Performance-Based Compensation***

The compensation committee may grant to eligible recipients restricted stock, dividend equivalents, stock payments, restricted stock units, cash bonuses and other stock-based awards that are paid, vest or become exercisable upon the attainment of company performance criteria relating to our performance, the performance of a division, business unit or an individual, and may include but are not limited to the following: operating or other costs and expenses, improvements in expense levels, cash flow (including, but not limited to, operating cash flow and free cash flow), return on assets, return on capital, stockholders' equity, return on stockholders' equity, total stockholder return, return on sales, gross or net profit or operating margin, working capital, net earnings (either before or after interest, taxes, depreciation and amortization), gross or net sales or revenue, net income (either before or after taxes), adjusted net income, operating earnings, earnings per share of stock, adjusted earnings per share of stock, price per share of stock, regulatory body approval for commercialization of a product, capital raised in financing transactions or other financing milestones, market recognition (including but not limited to awards and analyst ratings), financial ratios, implementation or completion of critical projects, market share, economic value, comparisons with various stock market indices, and implementation, completion or attainment of objectively determinable objectives relating to research, development, regulatory, commercial or strategic milestones or development. These performance criteria may be measured in absolute terms or as compared to performance in an earlier period or as compared to any incremental increase or decrease or as compared to results of a peer group or to market performance indicators or indices.

The compensation committee may provide that one or more adjustments will be made to one or more of the performance goals established for any performance period. Such adjustments may include one or more of the following: items related to a change in accounting principle, items relating to financing activities, expenses for restructuring or productivity initiatives, other non-operating items, items related to acquisitions, items attributable to the business operations of any entity acquired by us during the performance period, items related to the disposal of a business or segment of a business, items related to discontinued operations that do not qualify as a segment of a business under applicable accounting standards, items attributable to any stock dividend, stock split, combination or exchange of shares occurring during the performance period, any other items of significant income or expense which are determined to be appropriate adjustments, items relating to unusual or extraordinary corporate transactions, events or developments, items related to amortization of acquired intangible assets, items that are outside the scope of our core, on-going business activities, items related to acquired in-process research and development, items relating to changes in tax laws, items relating to major licensing or partnership arrangements, items relating to asset impairment charges, items relating to gains and losses for litigation, arbitration or contractual settlements, or items relating to any other unusual or nonrecurring events or changes in applicable laws, accounting principles or business conditions.

### ***Forfeiture, Recoupment and Clawback Provisions***

We have adopted a compensation recovery policy (the "Clawback Policy") that requires the recovery of certain erroneously awarded incentive-based compensation received by our Section 16 officers on or after October 2, 2023, as required by the new SEC rules and Nasdaq Stock Market Listing Standards implemented pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act. Although none of our outstanding equity awards granted to our Section 16 officers qualify as "incentive-based compensation" (as defined in the Nasdaq Stock Market Listing Standards), future grants of equity awards may qualify under this definition and as such would become subject to our Clawback Policy.

### ***Adjustments***

If there is any stock dividend, stock split, combination or exchange of shares, merger, consolidation or other distribution (other than normal cash dividends) of our assets to stockholders, or any other change affecting the shares of our common stock or the share price of our common stock other than an equity restructuring (as defined in the Restated Plan), the plan administrator will make such equitable adjustments, if any, as the plan administrator in its discretion may deem appropriate to reflect such change with respect to (1) the aggregate number and type of shares that may be issued under the Restated Plan (including, but not limited to, adjustments of the number of shares available under the plan and the maximum number of shares which may be subject to one or more awards to a participant pursuant to the plan during any calendar year), (2) the number and kind of shares, or other securities or property, subject to outstanding awards, (3) the number and kind of shares, or other securities or property, for which automatic grants are to be subsequently made to new and continuing non-employee directors, (4) the terms and conditions of any outstanding awards (including, without limitation, any applicable performance targets or criteria with respect thereto), and (5) the grant or exercise price per share for any outstanding awards under the Restated Plan. If there is any equity restructuring, (1) the number and type of securities subject to each outstanding award and the grant or exercise price per share for each outstanding award, if applicable, will be proportionately adjusted, and (2) the plan administrator will make proportionate adjustments to reflect such equity restructuring with respect to the aggregate number and type of shares that may be issued under the Restated Plan

(including, but not limited to, adjustments of the number of shares available under the plan and the maximum number of shares which may be subject to one or more awards to a participant pursuant to the plan during any calendar year). Adjustments in the event of an equity restructuring will not be discretionary. The plan administrator also has the authority under the Restated Plan to take certain other actions with respect to outstanding awards in the event of a corporate transaction, including provision for the cash-out, termination, assumption or substitution of such awards.

If Proposal 5 is approved, our board will have the authority to effect a reverse stock split of our outstanding common stock by amending our Amended and Restated Certificate of Incorporation within one year and within a range of not less than one-for-two and not more than one-for-twenty, if the board deems it within the company's best interest. Provided that the board deems the reverse stock split to be in the best interests of the company, the plan administrator will make such equitable adjustments under the 2013 Plan as described in the preceding paragraph.

#### ***Corporate Transactions***

In the event of a change in control where the acquirer does not assume or substitute awards granted under the Restated Plan, awards issued under the Restated Plan will be subject to accelerated vesting such that 100% of the awards will become vested and exercisable or payable, as applicable. Under the Restated Plan, a change in control is generally defined as:

- a transaction or series of related transactions (other than an offering of our stock to the general public through a registration statement filed with the Securities and Exchange Commission, or SEC) whereby any person or entity or related group of persons or entities (other than us, our subsidiaries, an employee benefit plan maintained by us or any of our subsidiaries or a person or entity that, prior to such transaction, directly or indirectly controls, is controlled by, or is under common control with, us) directly or indirectly acquires beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of more than 50% of the total combined voting power of our securities outstanding immediately after such acquisition;
- during any two-year period, individuals who, at the beginning of such period, constitute our board of directors together with any new director(s) whose election by our board of directors or nomination for election by our stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the two-year period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority of our board of directors;
- our consummation (whether we are directly or indirectly involved through one or more intermediaries) of (1) a merger, consolidation, reorganization, or business combination or (2) the sale or other disposition of all or substantially all of our assets in any single transaction or series of transactions or (3) the acquisition of assets or stock of another entity, in each case other than a transaction;
- which results in our voting securities outstanding immediately before the transaction continuing to represent (either by remaining outstanding or by being converted into our voting securities or the voting securities of the person that, as a result of the transaction, controls us, directly or indirectly, or owns, directly or indirectly, all or substantially all of our assets or otherwise succeeds to our business (we or such person being referred to as a successor entity)) directly or indirectly, at least a majority of the combined voting power of the successor entity's outstanding voting securities immediately after the transaction; and
- after which no person or group beneficially owns voting securities representing 50% or more of the combined voting power of the successor entity; provided, however, that no person or group is treated as beneficially owning 50% or more of combined voting power of the successor entity solely as a result of the voting power held in us prior to the consummation of the transaction; or
- our stockholders approve a liquidation or dissolution of the company.

#### ***Amendment and Termination of the Restated Plan***

Our compensation committee or board of directors may terminate, amend or modify the Restated Plan. However, stockholder approval of any amendment to the Restated Plan will be obtained to the extent necessary and desirable to comply with any applicable law, regulation or stock exchange rule, or for any amendment to the Restated Plan that increases the number of shares available under the Restated Plan or that may be issued to an individual in any calendar year. If not terminated earlier by our compensation committee or board of directors, the Restated Plan will terminate in March 2034, the tenth anniversary of the date of its initial approval by our board of directors.

#### ***Repricing Permitted***

Our compensation committee (or the board of directors, in the case of awards to non-employee directors) has the authority, without the approval of our stockholders, to authorize the amendment of any outstanding award to reduce its price per share and to provide that an award will be canceled and replaced with the grant of an award having a lesser price per share. Our compensation committee (or the board of directors, in the case of awards to non-employee directors) also has the authority, without the approval



of our stockholders, to amend any outstanding award to increase the price per share or to cancel and replace an award with the grant of an award having a price per share that is greater than or equal to the price per share of the original award.

### **Securities Laws**

The Restated Plan is intended to conform with all provisions of the Securities Act of 1933, as amended, and the Exchange Act, and any and all regulations and rules promulgated by the Securities and Exchange Commission thereunder, including without limitation Rule 16b-3. The Restated Plan will be administered, and options will be granted and may be exercised, only in such a manner as to conform to such laws, rules and regulations.

### **Federal Income Tax Consequences Associated with the Restated Plan**

The federal income tax consequences of the Restated Plan under current federal income tax law are summarized in the following discussion which deals with the general tax principles applicable to the Restated Plan and is intended for general information only. The following discussion of federal income tax consequences does not purport to be a complete analysis of all of the potential tax effects of the Restated Plan. It is based upon laws, regulations, rulings and decisions now in effect, all of which are subject to change. Foreign, state and local tax laws, and employment, estate and gift tax considerations are not discussed, and may vary depending on individual circumstances and from locality to locality.

- *Stock Options and Stock Appreciation Rights.* A Restated Plan participant generally will not recognize taxable income and we generally will not be entitled to a tax deduction upon the grant of a stock option or stock appreciation right. The tax consequences of exercising a stock option and the subsequent disposition of the shares received upon exercise will depend upon whether the option qualifies as an “incentive stock option” as defined in Section 422 of the Code. The Restated Plan permits the grant of options that are intended to qualify as incentive stock options as well as options that are not intended to so qualify; however, incentive stock options generally may be granted only to our employees and employees of our parent or subsidiary corporations, if any. Upon exercising an option that does not qualify as an incentive stock option when the fair market value of our stock is higher than the exercise price of the option, a Restated Plan participant generally will recognize taxable income at ordinary income tax rates equal to the excess of the fair market value of the stock on the date of exercise over the purchase price, and we (or our subsidiaries, if any) generally will be entitled to a corresponding tax deduction for compensation expense, in the amount equal to the amount by which the fair market value of the shares purchased exceeds the purchase price for the shares. Upon a subsequent sale or other disposition of the option shares, the participant will recognize a short term or long term capital gain or loss in the amount of the difference between the sales price of the shares and the participant’s tax basis in the shares.

Upon exercising an incentive stock option, a Restated Plan participant generally will not recognize taxable income, and we will not be entitled to a tax deduction for compensation expense. However, upon exercise, the amount by which the fair market value of the shares purchased exceeds the purchase price will be an item of adjustment for alternative minimum tax purposes. The participant will recognize taxable income upon a sale or other taxable disposition of the option shares. For federal income tax purposes, dispositions are divided into two categories: qualifying and disqualifying. A qualifying disposition generally occurs if the sale or other disposition is made more than two years after the date the option was granted and more than one year after the date the shares are transferred upon exercise. If the sale or disposition occurs before these two periods are satisfied, then a disqualifying disposition generally will result.

Upon a qualifying disposition of incentive stock option shares, the participant will recognize long term capital gain in an amount equal to the excess of the amount realized upon the sale or other disposition of the shares over their purchase price. If there is a disqualifying disposition of the shares, then the excess of the fair market value of the shares on the exercise date (or, if less, the price at which the shares are sold) over their purchase price will be taxable as ordinary income to the participant. If there is a disqualifying disposition in the same year of exercise, it eliminates the item of adjustment for alternative minimum tax purposes. Any additional gain or loss recognized upon the disposition will be recognized as a capital gain or loss by the participant.

We will not be entitled to any tax deduction if the participant makes a qualifying disposition of incentive stock option shares. If the participant makes a disqualifying disposition of the shares, we should be entitled to a tax deduction for compensation expense in the amount of the ordinary income recognized by the participant.

Upon exercising or settling a stock appreciation right, a Restated Plan participant will recognize taxable income at ordinary income tax rates, and we should be entitled to a corresponding tax deduction for compensation expense, in the amount paid or value of the shares issued upon exercise or settlement. Payments in shares will be valued at the fair market value of the shares at the time of the payment, and upon the subsequent disposition of the shares the participant will recognize a short term or long term capital gain or loss in the amount of the difference between the sales price of the shares and the participant’s tax basis in the shares.

- *Restricted Stock and Restricted Stock Units.* A Restated Plan participant generally will not recognize taxable income at ordinary income tax rates and we generally will not be entitled to a tax deduction upon the grant of restricted stock or restricted stock units. Upon the termination of restrictions on restricted stock or the payment of restricted stock units, the participant will recognize taxable income at ordinary income tax rates, and we should be entitled to a corresponding tax deduction for compensation expense, in the amount paid to the participant or the amount by which the then fair

market value of the shares received by the participant exceeds the amount, if any, paid for them. Upon the subsequent disposition of any shares, the participant will recognize a short term or long term capital gain or loss in the amount of the difference between the sales price of the shares and the participant's tax basis in the shares. However, a Restated Plan participant granted restricted stock that is subject to forfeiture or repurchase through a vesting schedule such that it is subject to a "risk of forfeiture" (as defined in Section 83 of the Code) may make an election under Section 83(b) of the Code to recognize taxable income at ordinary income tax rates, at the time of the grant, in an amount equal to the fair market value of the shares of common stock on the date of grant, less the amount paid, if any, for such shares. We will be entitled to a corresponding tax deduction for compensation, in the amount recognized as taxable income by the participant. If a timely Section 83(b) election is made, the participant will not recognize any additional ordinary income on the termination of restrictions on restricted stock, and we will not be entitled to any additional tax deduction.

- *Dividend Equivalents, Stock Payment Awards and Cash-Based Awards.* A Restated Plan participant will not recognize taxable income and we will not be entitled to a tax deduction upon the grant of dividend equivalents, stock payment awards or cash-based awards until cash or shares are paid or distributed to the participant. At that time, any cash payments or the fair market value of shares that the participant receives will be taxable to the participant at ordinary income tax rates and we should be entitled to a corresponding tax deduction for compensation expense. Payments in shares will be valued at the fair market value of the shares at the time of the payment, and upon the subsequent disposition of the shares, the participant will recognize a short term or long term capital gain or loss in the amount of the difference between the sales price of the shares and the participant's tax basis in the shares.
- *Section 409A of the Internal Revenue Code.* Certain types of awards under the Restated Plan may constitute, or provide for, a deferral of compensation under Section 409A. Unless certain requirements set forth in Section 409A are complied with, holders of such awards may be taxed earlier than would otherwise be the case (e.g., at the time of vesting instead of the time of payment) and may be subject to an additional 20% federal income tax (and, potentially, certain interest penalties). To the extent applicable, the Restated Plan and awards granted under the Restated Plan will be structured and interpreted to comply with Section 409A and the Department of Treasury regulations and other interpretive guidance that may be issued pursuant to Section 409A.
- *Section 162(m) Limitation.* In general, under Section 162(m), income tax deductions of publicly-held corporations may be limited to the extent total compensation (including base salary, annual bonus, stock option exercises and non-qualified benefits paid) for certain executive officers exceeds \$1 million (less the amount of any "excess parachute payments" as defined in Section 280G of the Code) in any one year. There is no guarantee that we will be able to take a deduction for any compensation in excess of \$1 million that is paid to a covered employee under the 2013 Plan or the Restated Plan.

#### **New Plan Benefits**

Except with respect to grants of stock options under the Restated Plan that will be awarded to each non-employee director serving on our board of directors on the date of the 2024 annual meeting, each of which described above under "Director Compensation," all other future grants under the Restated Plan are within the discretion of our board of directors or the compensation committee, and neither our board of directors nor the compensation committee has made any determination to make future grants to any persons under the Restated Plan as of the date of this proxy statement. Therefore, it is not possible to determine the future benefits that will be received by any participants other than our non-employee directors under the Restated Plan, or the benefits that would have been received by such participants if the Restated Plan had been in effect in the year ended December 31, 2023.

#### **Plan Benefits under the 2013 Plan**

As of March 25, 2024, each of our named executive officers and the other groups identified below had been granted the following stock options under the 2013 Plan:

	<b>Stock Options Granted</b>
David A. Gonyer <i>Former Chief Executive Officer and Director</i>	250,657
Matthew J. D'Onofrio <i>Chief Executive Officer and former President, Chief Operating Officer, Secretary, and Treasurer</i>	181,752
Marilyn R. Carlson, D.M.D., M.D. <i>Chief Medical Officer</i>	151,270
All Executive Officers as a Group (3 persons)	583,679
All Non-Employee Directors as a Group (5 persons)	198,887
All Non-Executive Employees as a Group (1 person)	23,500

#### **Vote Required; Recommendation of the Board of Directors**

The affirmative vote of the holders of a majority of the shares of common stock present or represented by proxy and entitled to vote at the annual meeting is required to approve the Restated Plan. Abstentions will be counted toward the tabulation of votes cast on this proposal and will have the same effect as negative votes. Any broker non-votes will not be counted toward the tabulation of votes cast on this proposal and will have no effect on the outcome.

**OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT THE STOCKHOLDERS VOTE FOR THE APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE 2013 EQUITY INCENTIVE AWARD PLAN.**

**SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

The following table sets forth information with respect to the beneficial ownership of our common stock as of March 25, 2024 by:

- each of our named executive officers;
- each of our directors;
- all of our executive officers and directors as a group; and
- each person or group of affiliated persons known by us to beneficially own more than 5% of our common stock.

The number of shares beneficially owned by each stockholder is determined under rules issued by the SEC. Under these rules, beneficial ownership includes any shares as to which a person has sole or shared voting power or investment power. Applicable percentage ownership is based on 8,477,801 shares of common stock outstanding on March 25, 2024. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, shares of common stock subject to options, warrants or other rights held by such person that are currently exercisable or will become exercisable within 60 days of March 25, 2024 are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other person.

Unless otherwise indicated, the address of each beneficial owner listed below is c/o Evoke Pharma, Inc., 420 Stevens Avenue, Suite 230, Solana Beach, CA 92075. We believe, based on information provided to us that each of the stockholders listed below has sole voting and investment power with respect to the shares beneficially owned by the stockholder unless noted otherwise, subject to community property laws where applicable.

<b>Name of Beneficial Owner</b>	<b>Beneficial Ownership</b>	
	<b>Number of Shares</b>	<b>Percent of Total</b>
<b>5% or Greater Shareholders</b>		
Nantahala Capital Management, LLC <sup>(1)</sup>	846,932	9.99 %
AIGH Capital Management, LLC <sup>(2)</sup>	846,932	9.99 %
Lytton-Kambara Foundation <sup>(3)</sup>	846,932	9.99 %
Bleichroeder LP <sup>(4)</sup>	846,932	9.99 %
Altium Captial Management <sup>(5)</sup>	825,000	9.73 %
<b>Named Executive Officers and Directors</b>		
David A. Gonyer, R.Ph. <sup>(6)</sup>	149,823	1.7 %
Matthew J. D'Onofrio <sup>(7)</sup>	97,485	1.1 %
Marilyn R. Carlson, D.M.D., M.D. <sup>(8)</sup>	78,615	*
Cam L. Garner <sup>(9)</sup>	75,174	*
Todd C. Brady, M.D., Ph.D. <sup>(10)</sup>	40,976	*
Malcolm R. Hill, Pharm.D. <sup>(11)</sup>	40,874	*
Vicki W. Reed <sup>(12)</sup>	25,666	*
Kenneth J. Widder, M.D. <sup>(13)</sup>	39,830	*
All Executive Officers and Directors as a Group (8 persons) <sup>(14)</sup>	548,443	6.1 %

- (1) Represents 675,000 shares of common stock and 171,932 shares underlying the warrants described below after giving effect to a beneficial ownership blocker in such warrants which prohibits the holder from exercising the warrants to the extent the holder would beneficially own, after exercise, more than 9.99% of the outstanding shares of our common stock (the "Beneficial Ownership Blocker"). Nantahala Capital Management, LLC, a registered investment advisor, has the power to vote and/or direct the disposition of securities held by Nantahala Capital Partners Limited Partnership, NCP RFM LP and Blackwell Partners LLC - Series A (the "Nantahala Holders") as general partner and/or investment manager. As of March 25, 2024, the Nantahala Holders held (i) 675,000 shares of common stock, (ii) 3,736,765 Pre-Funded Warrants, (iii) 4,411,765 Series A Warrants, (iv) 4,411,765 Series B Warrants, and (v) 4,411,765 Series C Warrants. Wilmot Harkey and Daniel Mack are managing members of Nantahala Capital Management, LLC and may be deemed to have voting and dispositive power over the shares held by the Nantahala Holders. The address of Nantahala Capital Management, LLC, Nantahala Capital Partners Limited

Partnership and NCP RFM LP is 130 Main St., 2nd Floor, New Canaan, Connecticut 06840. The address of Blackwell Partners LLC - Series A is 280 South Mangum Street, Suite 210 Durham, NC 27701.

- (2) Represents 825,000 shares of common stock and 21,932 shares underlying the warrants described below after giving effect to the Beneficial Ownership Blocker. Orin Hirschman is the managing member of AIGH Capital Management, LLC, who is an advisor with respect to the securities held by AIGH Investment Partners, LP and a sub-advisor with respect to the securities held by WVP Emerging Manager Onshore Fund, LLC – AIGH Series and WVP Emerging Manager Onshore Fund, LLC – Optimized Equity Series (the “AIGH Holders”). As of March 25, 2024, the AIGH Holders held (i) 825,000 shares of common stock, (ii) 277,941 Pre-Funded Warrants, (iii) 1,102,941 Series A Warrants, (iv) 1,102,941 Series B Warrants, and (v) 1,102,941 Series C Warrants. Mr. Hirschman has voting and investment control over the securities indirectly held by AIGH Capital Management, LLC and directly held by AIGH Investment Partners, LP. As such, Mr. Hirschman may be deemed to be the beneficial owner of the securities set forth above. The address for Mr. Hirschman and each of the affiliated entities is 6006 Berkeley Avenue, Baltimore, Maryland 21209.
- (3) Represents 735,294 shares of common stock and 111,638 shares underlying the warrants described below after giving effect to the Beneficial Ownership Blocker. As of March 25, 2024, the Lytton-Kambara Foundation held (i) 735,294 shares of common stock, (ii) 735,294 Series A Warrants, (iii) 735,294 Series B Warrants, and (iv) 735,294 Series C Warrants. Laurence W. Lytton has voting and/or investment power over the securities held by Lytton-Kambara Foundation and may be deemed to be the beneficial owner of these securities. The address of the Lytton-Kambara Foundation is 467 Central Park West New York, NY 10025.
- (4) Represents 825,000 shares of common stock and 21,932 shares underlying the warrants described below after giving effect to the Beneficial Ownership Blocker. As of March 25, 2024, the Denise and Michael Kellen Foundation, Inc. held (i) 825,000 shares of common stock, (ii) 645,588 Pre-Funded Warrants, (iii) 1,470,588 Series A Warrants, (iv) 1,470,588 Series B Warrants, and (v) 1,470,588 Series C Warrants. Bleichroeder LP (“Bleichroeder”), an investment adviser registered under Section 203 of the Investment Advisers Act of 1940, is deemed to be the beneficial owner of the holdings reflected above. The Denise and Michael Kellen Foundation, a charitable foundation for which Bleichroeder acts as investment adviser, holds the shares of common stock, Pre-Funded Warrants, Series A Warrants, Series B Warrants and Series C Warrants. The address of Denise and Michael Kellen Foundation, Inc. is 1345 Avenue of the Americas, 47th Floor, New York, NY 10105.
- (5) Represents 825,000 shares of common stock held by Altium Growth Fund, LP. As of March 25, 2024, Altium Growth Fund, LP held (i) 825,000 shares of common stock, (ii) 1,013,235 Pre-Funded Warrants, (iii) 1,838,235 Series A Warrants, (iv) 1,838,235 Series B Warrants, and (v) 1,838,235 Series C Warrants. The warrants held by Altium Growth Fund, LP are subject to a beneficial ownership blocker in such warrants which prohibits the holder from exercising the warrants to the extent the holder would beneficially own, after exercise, more than 4.99% of the outstanding shares of our common stock. Altium Capital Management, LP is the investment adviser of, and may be deemed to beneficially own securities, owned by, Altium Growth Fund, LP. Altium Growth GP, LLC is the general partner of, and may be deemed to beneficially own securities owned by Altium Growth Fund, LP. The address of the principal business office of each of these entities is 152 West 57th Street, FL 20, New York, NY 10019.
- (6) Includes (a) 23,416 shares held by a family trust of which Mr. Gonyer and his spouse are co-trustees and (b) 121,509 shares Mr. Gonyer has the right to acquire pursuant to outstanding options which are immediately exercisable within 60 days of March 25, 2024.
- (7) Includes 77,652 shares Mr. D’Onofrio has the right to acquire pursuant to outstanding options which are immediately exercisable within 60 days of March 25, 2024.
- (8) Includes 74,292 shares Dr. Carlson has the right to acquire pursuant to outstanding options which are immediately exercisable within 60 days of March 25, 2024.
- (9) Includes (a) 19,633 shares held by Garner Investments, L.L.C., of which Mr. Garner is the managing member, (b) 8,333 shares held by The Garner Family Foundation of which Mr. Garner is Director, Secretary and Chief Financial Officer, and (c) 47,208 shares that Mr. Garner has the right to acquire pursuant to outstanding options which are immediately exercisable within 60 days of March 25, 2024.
- (10) Includes 40,643 shares Dr. Brady has the right to acquire pursuant to outstanding options which are immediately exercisable within 60 days of March 25, 2024.
- (11) Includes 39,270 shares that Dr. Hill has the right to acquire pursuant to outstanding options which are immediately exercisable within 60 days of March 25, 2024.
- (12) Includes 25,666 shares that Ms. Reed has the right to acquire pursuant to outstanding options which are immediately exercisable within 60 days of March 25, 2024.
- (13) Includes 39,830 shares that Dr. Widder has the right to acquire pursuant to outstanding options which are immediately exercisable within 60 days of March 25, 2024.

(14)Includes 466,070 shares of common stock subject to outstanding options which are immediately exercisable within 60 days of March 25, 2024.

## EXECUTIVE COMPENSATION AND OTHER INFORMATION

### Our Executive Officers

The following table sets forth certain information about our executive officers as of March 25, 2024:

Name	Age	Present Position with Evoke Pharma, Inc.
Matthew J. D'Onofrio	54	Chief Executive Officer and Director
Marilyn R. Carlson, D.M.D., M.D.	76	Chief Medical Officer

The biography of Matthew J. D'Onofrio can be found under "Proposal 1 – Election of Directors."

Marilyn R. Carlson, D.M.D., M.D., has served as our Chief Medical Officer since December 2013. Dr. Carlson has worked closely with Evoke as an outside consultant since the company was founded in 2007. Dr. Carlson has been the key clinical and regulatory expert for Evoke through the entire development of Gimoti® (metoclopramide) nasal spray, including all clinical trials conducted in support of the drug for patients with gastroparesis. She has also participated in all of Evoke's meetings with FDA. Prior to joining Evoke, in 2012 Dr. Carlson helped found Agility Clinical, Inc., a contract research organization focused on the support of virtual companies, start-up companies and companies with orphan drugs. From 2004 to 2012, Dr. Carlson served as Vice President, Medical and Regulatory Affairs at Synteract, Inc., a clinical research organization, where she was responsible for safety surveillance, medical monitoring and regulatory submissions, among other duties. In 2004, Dr. Carlson founded and served as President of entreMeDica, Inc., a consulting firm offering chief medical officer services to biotechnology and life sciences companies with marketed products and products in development in a variety of therapeutic areas. Dr. Carlson also served as Vice President, Medical/Regulatory and Chief Medical Officer at Prometheus Laboratories Inc. from 2000 to 2004 and as Vice President, Clinical and Medical Affairs and Chief Medical Officer at Advanced Corneal Systems (now ISTA Pharmaceuticals) in 2000. Before that, Dr. Carlson worked at XOMA (US) LLC as Vice President, Clinical and Medical Affairs from 1999 to 2000 and as Medical Director from 1997 to 1999. From 1991 to 1997, Dr. Carlson held positions in clinical research, medical affairs and technical brand management at Procter & Gamble (P&G) Healthcare and P&G Pharmaceuticals. Prior to joining P&G, Dr. Carlson held academic and clinical positions at Case Western Reserve University, Western Reserve Geriatric Education Center and the MetroHealth Medical Center in Cleveland, Ohio. She holds a B.A. from Hunter College of the City University of New York, a D.M.D. from the Harvard School of Dental Medicine and an M.D. from Case Western Reserve University School of Medicine, completed an internal medicine residency at The Cleveland Clinic Foundation and a certification in regulatory affairs.

### Overview

This Executive Compensation section provides information about the material components of our executive compensation program for our "named executive officers," consisting of the following persons:

- David A. Gonyer, R.Ph., our former Chief Executive Officer;
- Matthew J. D'Onofrio, our Chief Executive Officer and former President, Chief Operating Officer, Secretary and Treasurer; and
- Marilyn R. Carlson, D.M.D., M.D., our Chief Medical Officer.

David A. Gonyer resigned as our Chief Executive Officer, effective March 31, 2024, and in connection with his resignation, Matthew J. D'Onofrio was appointed as our Chief Executive Officer and as a member of our board of directors.

### Summary Compensation Table

The following table shows information regarding the compensation earned by our named executive officers during the fiscal years ended December 31, 2023 and 2022:

Name and Principal Position	Year	Salary (\$)	Bonus (\$) <sup>(1)</sup>	Option Awards (\$) <sup>(2)</sup>	All Other Compensation (\$) <sup>(3)</sup>	Total (\$)
David A. Gonyer	2023	595,000	446,250	94,500	71,309	1,207,059
<i>Former Chief Executive Officer</i>	2022	570,000	171,000	78,488	65,534	885,022
Matthew J. D'Onofrio	2023	450,000	281,250	78,000	48,121	857,371
<i>Chief Executive Officer and former President, Chief Operating Officer, Secretary and Treasurer</i>	2022	417,000	93,825	44,850	46,285	601,960
Marilyn R. Carlson, D.M.D., M.D.	2023	420,000	236,250	47,250	24,989	728,489
<i>Chief Medical Officer</i>	2022	402,000	90,450	44,850	25,688	562,988

- (1) Amounts shown represent performance bonuses earned for 2023 and 2022, which were each paid in cash during the first quarter of 2024 and 2023, respectively.
- (2) In accordance with SEC rules, this column reflects the aggregate grant date fair value of the option awards granted during 2023 and 2022 computed in accordance with ASC 718. Assumptions used in the calculation of these amounts are included in Note 5 to the Financial Statements in our Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on March 14, 2024. As required by SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. These amounts do not reflect the actual economic value that will be realized by the named executive officer upon the vesting of the stock options, the exercise of the stock options, or the sale of the common stock underlying such stock options.
- (3) Amount shown represents the cost of company-paid health insurance premiums (in the case of Messrs. Gonyer and D'Onofrio) and reimbursement for health insurance benefits (in the case of Dr. Carlson) during 2023 and 2022.

### Narrative Disclosure to Compensation Tables

#### Employment Agreements

##### *Employment Agreements with Messrs. Gonyer and D'Onofrio*

We have entered into employment agreements with each of Messrs. Gonyer and D'Onofrio. Pursuant to the employment agreements, each executive's base salary is subject to review each year at the sole discretion of the compensation committee. The executives are eligible to earn an annual cash performance bonus under the company's bonus plan or plans applicable to senior executives. The annual cash performance bonus payable is based on the achievement of individual and/or company performance goals to be determined in good faith by the compensation committee.

Pursuant to each of the employment agreements, if we terminate such officer's employment without cause (as defined below), such officer resigns for good reason (as defined below) or such officer's employment is terminated as a result of his or her death or following his or her permanent disability, the executive officer or his or her estate, as applicable, is entitled to the following payments and benefits: (1) fully earned but unpaid base salary through the date of termination at the rate then in effect, plus all other amounts under any compensation plan or practice to which he or she is entitled; (2) a lump sum cash payment in an amount equal to 12 months of his base salary as in effect immediately prior to the date of termination; (3) a lump sum cash payment in an amount equal to his or her bonus (as defined below) for the year in which the termination of his employment occurs, prorated for the period of his service during such year, provided that the officer shall not be entitled to receive such amount in the event that his termination results from his discharge by us without cause prior to a change in control (as defined below); (4) a lump sum cash payment in an amount equal to the cost of the continuation of health benefits for a period of 12 months following date of termination; (5) a lump sum cash payment in an amount equal to the cost of his life insurance premiums for a period of 12 months following the date of termination; (6) solely in the event of the officer's termination by us without cause or by the officer for good reason, a lump sum cash payment in an amount equal to \$15,000 for outplacement service; and (7) the automatic acceleration of the vesting and exercisability of outstanding unvested stock awards as to the number of stock awards that would have vested over the 12-month period following termination had such executive officer remained continuously employed by us during such period. In the event an officer's termination without cause or resignation for good reason occurs within three months prior to the occurrence of a change in control or within 12 months following a change in control, all of his outstanding unvested

stock awards will accelerate and become fully vested on the later of (1) the date of termination or (2) the date of such change in control.

In connection with Mr. Gonyer's resignation as our Chief Executive Officer and a member of our board of directors, effective March 31, 2024, his employment agreement was terminated.

#### *Employment Agreement with Dr. Carlson*

We have also entered into an employment agreement with Dr. Carlson. Pursuant to the employment agreement, Dr. Carlson agrees to devote 80% of her productive time and efforts to the performance of her duties as Chief Medical Officer. Pursuant to the employment agreement, Dr. Carlson's base salary is subject to review each year at the sole discretion of the compensation committee. Dr. Carlson is also eligible to earn an annual cash performance bonus under the company's bonus plan or plans applicable to senior executives. The annual cash performance bonus payable is based on the achievement of individual and/or Company performance goals to be determined in good faith by the compensation committee. The company also pays Dr. Carlson a taxable monthly payment equal to the monthly premium Dr. Carlson pays for healthcare coverage under Medicare, in an amount not to exceed \$2,000 per month.

Pursuant to the employment agreement, if we terminate Dr. Carlson's employment without cause (as defined below) or Dr. Carlson resigns for good reason (as defined below), Dr. Carlson is entitled to the following payments and benefits: (1) fully earned but unpaid base salary through the date of termination at the rate then in effect, plus all other amounts under any compensation plan or practice to which she is entitled; (2) a lump sum cash payment in an amount equal to her monthly base salary as in effect immediately prior to the date of termination for a period of nine months; (3) a lump sum cash payment in an amount equal to her bonus for the year in which the termination of her employment occurs, prorated for the period of her service during such year, provided that Dr. Carlson shall not be entitled to receive such amount in the event that her termination results from her discharge by the company without cause prior to a change in control (as defined below); and (4) a taxable monthly payment in an amount equal to her monthly healthcare coverage costs under Medicare as in effect immediately prior to the date of termination, in an amount not to exceed \$2,000 per month, for a period of nine months.

In the event Dr. Carlson's termination without cause or resignation for good reason occurs within three months prior to the occurrence of a change in control or within 12 months following a change in control, all of her outstanding unvested stock awards will accelerate and become fully vested on the later of (1) the date of termination or (2) the date of such change in control.

Dr. Carlson's employment agreement also contains standard confidentiality, non-competition and non-solicitation covenants.

#### *Defined Terms for Purposes of Employment Agreements*

For purposes of the employment agreements with the named executive officers, "cause" generally means an executive officer's (1) commission of an act of fraud, embezzlement or dishonesty that has a material adverse impact on us or any successor or affiliate of ours; (2) conviction of, or entry into a plea of "guilty" or "no contest" to, a felony; (3) unauthorized use or disclosure of our confidential information or trade secrets or any successor or affiliate of ours that has a material adverse impact on any such entity; (4) gross negligence, insubordination or material violation of any duty of loyalty, or any other material misconduct on the part of the executive officer; (5) ongoing and repeated failure or refusal to perform or neglect of his or her duties as required by his or her employment agreement, which failure, refusal or neglect continues for 15 days following his or her receipt of written notice from our board of directors stating with specificity the nature of such failure, refusal or neglect; or (6) breach of any material provision of his or her employment agreement.

For purposes of the employment agreements with the named executive officers, "good reason" generally means (1) other than for Dr. Carlson, a change in the executive officer's status, position or responsibilities that, in the executive officer's reasonable judgment, represents a substantial and material reduction in the status, position or responsibilities as in effect immediately prior thereto; the assignment to the executive officer of any duties or responsibilities that, in the executive officer's reasonable judgment, are materially inconsistent with such status, position or responsibilities; or any removal of the executive officer from or failure to reappoint or reelect the executive officer to any of such positions, except in connection with the termination of the executive officer's employment for cause (as defined above), as a result of his or her permanent disability or death, or by the executive officer other than for good reason; (2) with respect to Dr. Carlson, a material diminution in her authority, duties or responsibilities; (3) a material reduction in the executive officer's annual base salary, except in connection with a general reduction in the compensation of our or any successor's or affiliate's personnel with similar status and responsibilities; (4) our or any successor's or affiliate's requirement the executive officer (without the executive officer's consent) be based at any place outside a 50-mile radius of his or her placement of employment as of the effective date of the employment agreement, except for reasonably required travel for our or any successor's or affiliate's business that is not materially greater than such travel requirements prior to the effective date of the employment agreement; (5) any material breach by us or any successor or affiliate of obligations to the executive officer under the employment agreement; (6) other than for Dr. Carlson, any purported termination of the executive officer's employment or service relationship for cause (as defined above) by us or any successor or affiliate that is not in accordance with the definition of cause; or (7) other than for Dr. Carlson, a change in control (as defined below).

For purposes of the employment agreements with the named executive officers, “bonus” generally means an amount equal to the greater of (1) the executive officer’s target bonus for the fiscal year in which the date of termination occurs; or (2) the bonus awarded to the executive officer for the fiscal year prior to the date of termination (which bonus shall be annualized to the extent the executive officer was not employed for the entire fiscal year prior to the date of termination). If any portion of the bonus awarded to the executive officer consisted of securities or other property, the fair market value thereof shall be determined in good faith by our board of directors.

For purposes of the employment agreements with the named executive officers, a “change in control” generally means:

- a transaction or series of related transactions whereby any person or entity or related group of persons or entities (other than us, our subsidiaries, an employee benefit plan maintained by us or any of our subsidiaries or a person or entity that, prior to such transaction, directly or indirectly controls, is controlled by, or is under common control with, us) directly or indirectly acquires beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of more than 50% of the total combined voting power of our securities outstanding immediately after such acquisition;
- our consummation (whether we are directly or indirectly involved through one or more intermediaries) of (1) a merger, consolidation, reorganization, or business combination, (2) the sale or other disposition of all or substantially all of our assets or (3) the acquisition of assets or stock of another entity, in each case other than a transaction that results in our voting securities outstanding immediately before the transaction continuing to represent, directly or indirectly, at least a majority of the combined voting power of the successor entity’s outstanding voting securities immediately after the transaction, and after which no person or entity beneficially owns voting securities representing 50% or more of the combined voting power of the acquiring company that is not attributable to voting power held in the company prior to such transaction; or
- the approval by our stockholders of a liquidation or dissolution of our company.

### **Executive Compensation Components**

#### *Independent Compensation Consultant and Comparable Company Compensation Information*

During 2023, our compensation committee retained Anderson Pay Advisors LLC (“APA”) as its independent compensation consultant. APA assisted the compensation committee in confirming a peer group of companies to be used in the compensation setting process. After review and consultation with APA, the compensation committee determined that APA is independent and there was no conflict of interest resulting from retaining APA during fiscal year 2023. In reaching these conclusions, the compensation committee considered the factors set forth in Exchange Act Rule 10C-1 and Nasdaq listing standards.

For purposes of determining 2023 executive compensation, a peer group of 23 life sciences companies in similar phases of development as we are and with the following characteristics was selected based on the following parameters and not on the basis of executive compensation levels:

- Market capitalization less than \$500 million
- Employee size less than 100 employees
- Peer group companies were located nationally

The 2023 peer group consisted of the following companies:

AcelRx Pharmaceuticals, Inc.  
Acorda Therapeutics  
Agile Therapeutics, Inc.  
Akebia Therapeutics  
Aquestive Therapeutics, Inc.  
Assertio Therapeutics, Inc.  
Cumberland Pharmaceuticals  
Curis  
DMK Pharmaceuticals (formerly Adamis)  
DURECT Corporation  
Eiger Biopharmaceuticals, Inc.  
TherapeuticsMD

Evofem Biosciences, Inc.  
scPharmaceuticals  
Societal CDMO  
Trevena, Inc.  
Verastem, Inc.  
Verrica Pharmaceuticals Inc.  
Cara Therapeutics  
EyeNovia  
Nektar Therapeutics  
NightHawk Biosciences  
Puma Technology

Although our compensation committee reviewed the foregoing comparable company data in connection with its determinations of the 2023 base salaries, target bonuses and equity awards for our named executive officers, our committee did not attempt to set those compensation levels or awards at a certain target percentile with respect to the comparable company data or otherwise rely entirely on that data to determine named executive officer compensation. Instead, as described above and consistent with past practice, the compensation committee members relied on their judgment and experience in setting those compensation levels and making those awards.



We expect that the compensation committee will continue to review comparable company data in connection with setting the compensation we offer our named executive officers to help ensure that our compensation programs are competitive and fair.

#### *Base Salaries*

In general, base salaries for our named executive officers are initially established through arm's length negotiation at the time the executive is hired, taking into account such executive's qualifications, experience and prior salary. Base salaries of our named executive officers are approved and reviewed annually by our compensation committee and adjustments to base salaries are based on the scope of an executive's responsibilities, individual contribution, prior experience and sustained performance. Decisions regarding salary increases may take into account an executive officer's current salary, equity ownership, and the amounts paid to an executive officer's peers inside our company by conducting an internal analysis, which compares the pay of an executive officer to other members of the management team. Base salaries are also reviewed in the case of promotions or other significant changes in responsibility. Base salaries are not automatically increased if the board of directors and compensation committee believe that other elements of the named executive officer's compensation are more appropriate in light of our stated objectives. This strategy is consistent with our intent of offering compensation that is both cost-effective, competitive and contingent on the achievement of performance objectives.

The actual base salaries paid to all of our named executive officers for 2023 are set forth in the "Summary Compensation Table" above.

In February 2023, our compensation committee approved base salary increases for 2023 for Messrs. Gonyer and D'Onofrio and Dr. Carlson to \$595,000, \$450,000, and \$420,000, respectively. These base salary increases represented adjustments of approximately 4.4 %, 7.9% and 4.5%, respectively.

In February 2024, our compensation committee approved base salary increases for 2024 for Messrs. Gonyer and D'Onofrio and Dr. Carlson to \$615,000, \$475,000, and \$435,000, respectively. These base salary increases represented adjustments of approximately 3.4%, 5.6% and 3.6%, respectively.

The base salaries of our named executive officers continue to be below the median level of similarly-situated executives for our peer group of companies.

#### *Annual Cash Performance Bonuses*

Each named executive officer is also eligible for a performance bonus based upon the achievement of certain corporate performance goals and objectives approved by our compensation committee and board of directors.

Bonuses are set based on a percentage of the executive's base salary as of the end of the bonus year and are expected to be paid out in the first quarter of the following year. The target levels for 2023 executive bonuses were as follows: 60% for Mr. Gonyer, 50% for Mr. D'Onofrio, and 45% for Dr. Carlson. The executive bonuses are 100% based on the achievement of corporate objectives that are set each year by the board of directors and the compensation committee. All final bonus payments to our named executive officers are determined by our compensation committee. The actual bonuses awarded in any year, if any, may be more or less than the target, depending on individual performance and the achievement of corporate objectives and may also vary based on other factors at the discretion of the compensation committee.

For 2023, the corporate performance objectives for our named executive officers were related to commercial development and corporate financial objectives. These performance objectives and areas of emphasis were used as a guide by the compensation committee and board of directors in determining overall corporate performance for these executives as they represented those areas in which they were expected to focus their efforts during the year. Both qualitative and quantitative guidelines were established for purposes of evaluating performance relating to these corporate objectives during 2023. In coming to its final determination regarding the overall corporate achievement for 2023, our compensation committee noted our commercial and financial efforts, including (1) commercial milestone attainment; and (2) maintenance of adequate cash resources to continue operations and support commercialization activities. In addition, the compensation committee considered our cash management efforts which included managing cash and expenditures within budgeted levels. Based on its review of our overall performance relative to our corporate objectives, the compensation committee determined to award a corporate achievement level of 125% for our named executive officers.

The overall achievement level was then used to determine each named executive officer's bonus. The bonuses earned by our named executive officers for 2023 are set forth in the "Summary Compensation Table" above.

#### *Equity Compensation*

The goals of our long-term, equity-based incentive awards are to align the interests of our named executive officers and other employees, non-employee directors and consultants with the interests of our stockholders. Because vesting is based on continued employment, our equity-based incentives also encourage the retention of our named executive officers through the vesting period of the awards. In determining the size of the long-term equity incentives to be awarded to our named executive officers, we take into account a number of internal factors, such as the relative job scope, the value of existing long-term incentive awards, individual performance history, prior contributions to us and the size of prior grants. Our compensation committee reviews competitive market data prepared by APA in connection with its grant of long-term equity incentive awards to the named

executive officers, but such awards are not determined by reference to any specific target level of compensation or benchmarking. Based upon these factors, the compensation committee determines the size of the long-term equity incentives at levels it considers appropriate to create a meaningful opportunity for reward predicated on the creation of long-term stockholder value. We have not granted any equity awards other than stock options to date.

To reward and retain our named executive officers in a manner that best aligns employees' interests with stockholders' interests, we use stock options as the primary incentive vehicles for long-term compensation. We believe that stock options are an effective tool for meeting our compensation goal of increasing long-term stockholder value by tying the value of the stock options to our future performance. Because employees are able to profit from stock options only if our stock price increases relative to the stock option's exercise price, we believe stock options provide meaningful incentives to employees to achieve increases in the value of our stock over time.

The exercise price of each stock option grant is the fair market value of our common stock on the grant date, as determined by our board of directors from time to time. Stock option awards granted to our named executive officers generally vest on a monthly basis over a four-year period. From time to time, our compensation committee may, however, determine that a different vesting schedule is appropriate.

In February 2023, our named executive officers were granted stock options to purchase shares of our common stock. Specifically, Messrs. Gonyer and D'Onofrio and Dr. Carlson were granted options to purchase 30,000, 25,000, and 15,000 shares of our common stock, respectively. The options for Mr. Gonyer and Dr. Carlson vest on a monthly basis over a four-year period commencing January 1, 2023, while the options for Mr. D'Onofrio vest on the four-year anniversary of the grant date, subject to the reporting person's continued service to the issuer through each such vesting date. No additional grants were made to named executive officers in 2024 through the date of this proxy.

In connection with his resignation as our Chief Executive Officer, all of Mr. Gonyer's unvested stock options were forfeited and his vested and unexpired stock options will continue to be governed by the terms of the award agreements pursuant to which they were granted.

We have had no program, plan or practice pertaining to the timing of stock option grants to named executive officers coinciding with the release of material non-public information. Stock options granted to our named executive officers may be subject to accelerated vesting in certain circumstance. For additional discussion, please see "Employment Agreements" above and "Termination and Change in Control Benefits" below.

### ***Other Elements of Compensation***

#### *Retirement Plans*

We currently maintain a 401(k) retirement savings plan that allows eligible employees to contribute a portion of their compensation, within limits prescribed by the Internal Revenue Code, on a pre-tax basis through contributions to the plan. Our named executive officers are eligible to participate in the 401(k) plan. We believe that providing a vehicle for tax-deferred retirement savings through our 401(k) plan adds to the overall desirability of our executive compensation package and further incentivizes our named executive officers in accordance with our compensation policies.

#### *Employee Benefits and Perquisites*

Our named executive officers are eligible to participate in our health and welfare plans. We reimburse Dr. Carlson for her health care premiums and pay for the health and welfare benefits for our other named executive officers and our other four employees. We do not provide our named executive officers with any other significant perquisites or other personal benefits.

#### *Employee Stock Purchase Plan*

We maintain an employee stock purchase plan, or ESPP, that allows eligible employees to purchase our common stock at a discount, subject to applicable limits as set forth in the ESPP, through payroll deductions of up to 20% of their eligible compensation. All of our employees participate in the ESPP on the same terms and conditions.

#### *No Tax Gross-Ups*

We do not make gross-up payments to cover our named executive officers' personal income taxes that may pertain to any of the compensation paid or provided by our company.

#### *Termination and Change in Control Benefits*

Our named executive officers may become entitled to certain benefits or enhanced benefits in connection with certain qualifying terminations of employment and/or a change in control of our company. Each of our named executive officers' employment agreements entitles them to severance in the event of their termination without cause or their resignation for good reason (and, for Mr. Gonyer and Mr. D'Onofrio, upon termination by reason of death or disability). In addition, each named executive officer is entitled to accelerated vesting of all outstanding equity awards upon his or her termination without cause or their resignation for good reason within three months prior to the occurrence of a change in control or within 12 months following a change in control of our company. In addition, the occurrence of a change in control constitutes "good reason" for Mr. Gonyer's

and Mr. D'Onofrio's resignation under their employment agreements. For additional discussion, please see "Employment Agreements" above.

*Clawback Policy*

We have adopted a compensation recovery policy that requires the recovery of certain erroneously-paid incentive compensation received by our Section 16 officers on or after October 2, 2023, as required by new SEC rules and Nasdaq Stock Market Listing Standards implemented pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

**Outstanding Equity Awards at Fiscal Year-End**

The following table sets forth specified information concerning unexercised stock options and unvested stock awards for each of the named executive officers outstanding as of December 31, 2023:

Name	Grant Date	Option Awards		Option Exercise Price (\$)	Option Expiration Date
		Number of Securities Underlying Unexercise Options Exercisable <sup>(1)(2)(3)</sup> (#)	Number of Securities Underlying Unexercise Options Unexercisable <sup>(1)(2)(3)(4)(5)</sup> (#)		
David A. Gonyer, R.Ph. <sup>(6)</sup>	6/17/2019	3,750	—	7.44	3/5/2025
	6/17/2019	5,312	—	7.44	1/27/2026
	6/17/2019	14,062	—	7.44	2/7/2028
	6/17/2019	14,062	—	7.44	2/7/2028
	6/17/2019	14,062	—	7.44	2/5/2029
	2/28/2020	25,107	1,976	14.76	2/27/2030
	1/27/2021	25,216	9,367	32.16	1/26/2031
	2/2/2022	6,986	7,597	6.60	2/1/2032
	2/8/2023	6,875	23,125	4.01	2/7/2033
Matthew J. D'Onofrio	6/17/2019	3,281	—	7.44	3/5/2025
	6/17/2019	4,062	—	7.44	1/27/2026
	6/17/2019	9,375	—	7.44	1/25/2027
	6/17/2019	9,375	—	7.44	2/7/2028
	6/17/2019	9,375	—	7.44	2/5/2029
	2/28/2020	15,450	1,216	14.76	2/27/2030
	1/27/2021	18,228	6,772	32.16	1/26/2031
	2/2/2022	3,992	4,341	6.60	2/1/2032
	2/8/2023	—	25,000	4.01	2/7/2033
Marilyn R. Carlson, D.M.D., M.D.	6/17/2019	2,109	—	7.44	3/5/2025
	6/17/2019	3,125	—	7.44	1/27/2026
	6/17/2019	6,250	—	7.44	1/25/2027
	6/17/2019	7,812	—	7.44	2/7/2028
	6/17/2019	7,812	—	7.44	2/5/2029
	2/28/2020	15,450	1,216	14.76	2/27/2030
	1/27/2021	18,228	6,772	32.16	1/26/2031
	2/2/2022	3,992	4,341	6.60	2/1/2032
	2/8/2023	3,437	11,563	4.01	2/7/2033

(1) All of the options have a ten-year term from the original grant date (prior to giving effect to the stock option exchange in June 2019, which did not result in an extension of the original ten-year term of the options). The options granted on June 17, 2019 represent options granted to the named executive officers pursuant to the stock option exchange completed on June 17, 2019. The options surrendered pursuant to the stock option exchange completed on June 17, 2019 were exchanged for a new unvested option covering a lesser number of shares determined in accordance with the "exchange ratio" with an exercise price of \$7.44 per share. All of the existing stock options that were surrendered by the employees had exercise prices significantly above the recent trading prices of our common stock and the average market price of our common stock over the prior 12 months. The new options vested monthly over four years, commencing June 17, 2019. Employees received three new options for every four eligible options surrendered, with this exchange ratio applied on a grant-by-grant basis and the resulting number of options rounded down to the nearest whole share. The new stock options retained the same expiration date as the surrendered stock options to which they related. The other terms and conditions of the new options are governed by the terms and conditions of our 2013 Equity Incentive Award Plan and the stock option agreements entered into thereunder.

- (2) Of the options granted on February 28, 2020, 50% vest on a monthly basis over a four-year period commencing January 1, 2020, and 50% vest on a monthly basis over a four-year period commencing June 19, 2020, the date that FDA approved the Gimoti NDA.
- (3) The options granted on January 27, 2021 vest on a monthly basis over a four-year period measured from January 1, 2021, subject to the named executive officer's continued employment or service through each such vesting date.
- (4) The options granted on February 2, 2022 vest on a monthly basis over a four-year period measured from January 1, 2022, subject to the named executive officer's continued employment or service through each such vesting date.
- (5) The options granted on February 8, 2023 vest on a monthly basis over a four-year period measured from January 1, 2023, subject to the named executive officer's continued employment or service through each such vesting date, except for Mr D'Onofrio's grant which vests on the four-year anniversary of the grant date, subject to his continued service through this date.
- (6) In connection with his resignation as our Chief Executive Officer, all of Mr. Gonyer's unvested stock options were forfeited and his vested and unexpired stock options will continue to be governed by the terms of the award agreements pursuant to which they were granted.

#### Pay versus Performance Table

The following table sets forth information concerning the compensation of our NEOs for each of the fiscal years ended December 31, 2021, 2022, and 2023, and our financial performance for each such fiscal year:

Fiscal Year (a)	Summary Compensation Table Total for PEO	Compensation Actually Paid to PEO <sup>(1)</sup>	Average Summary Compensation Table Total for non-PEO NEOs	Average Compensation Actually Paid to non-PEO NEOs <sup>(1)</sup>	Value of Initial Fixed \$100 Investment Based On:	
	(b)	(c)	(d)	(e)	Total Shareholder Return (f)	Net Income (Loss) (\$ in millions) (h)
2023	\$ 1,207,058	\$ 1,106,968	\$ 792,930	\$ 726,521	\$ 3.39	\$ (7.8)
2022	\$ 885,022	\$ 713,748	\$ 582,474	\$ 473,399	\$ 8.66	\$ (8.2)
2021	\$ 1,625,965	\$ (106,354)	\$ 1,150,519	\$ (8,591)	\$ 21.32	\$ (8.5)

- (1) Amounts represent compensation actually paid to our PEO and the average compensation actually paid to our remaining NEOs for the relevant fiscal year, as determined under SEC rules (and described below), which includes the individuals indicated in the table below for each fiscal year:

Years	PEO	Non-PEO NEOs
2021, 2022, 2023	Dave Gonyer	Matthew D'Onofrio and Marilyn Carlson

The amounts reported in the "Compensation Actually Paid to PEO" and "Average Compensation Actually Paid to Non-PEO NEOs" columns do not reflect the actual compensation paid to or realized by our CEO or our non-CEO NEOs during each applicable year. The calculation of compensation actually paid for purposes of this table includes point-in-time fair values of stock awards and these values will fluctuate based on our stock price, various accounting valuation assumptions and projected performance related to our performance awards. See the Summary Compensation Table for certain other compensation of our CEO and our non-CEO NEOs for each applicable fiscal year.

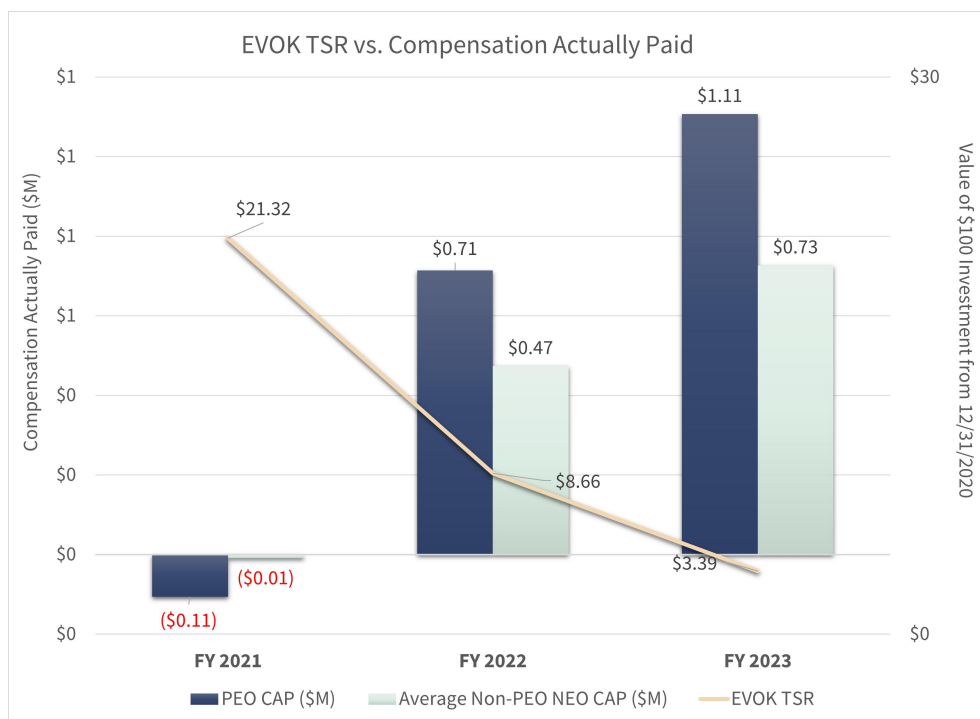
Compensation actually paid to our NEOs represents the "Total" compensation reported in the Summary Compensation Table for the year ended December 31, 2023, as adjusted, as follows:

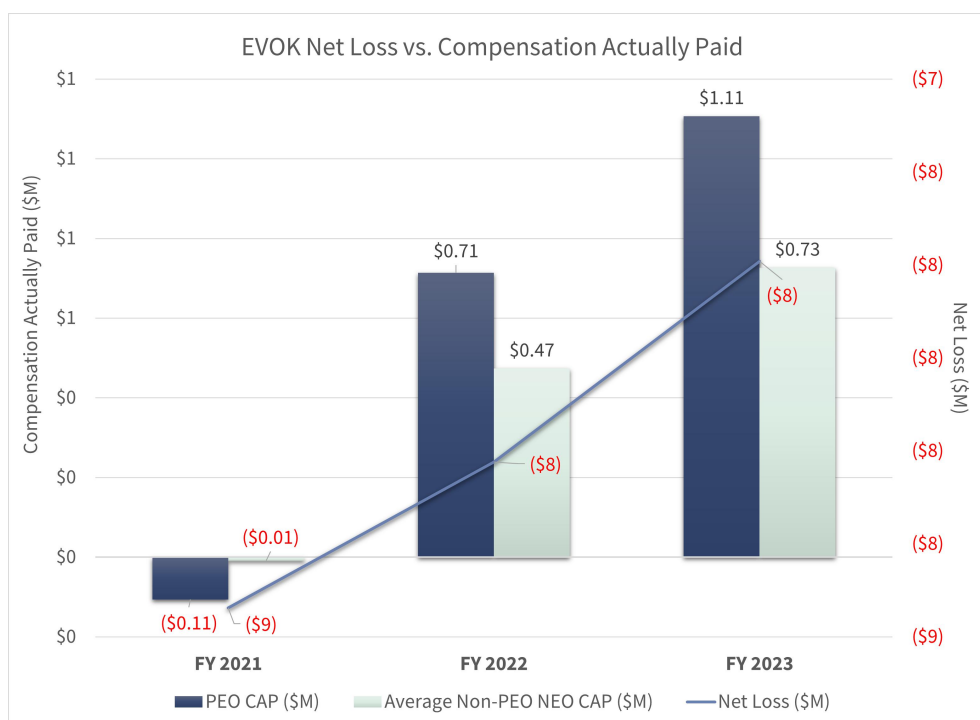
Adjustments	PEO	Average Non-PEO NEOs
Deduction for Amounts Reported under the “Stock Awards” and “Option Awards” Columns in the Summary Compensation Table for Applicable FY	\$ (94,500)	\$ (62,625)
Increase based on ASC 718 Fair Value of Awards Granted during Applicable FY that Remain Unvested as of Applicable FY End, Determined as of Applicable FY End	15,463	13,374
Increase based on ASC 718 Fair Value of Awards Granted during Applicable FY that Vested during Applicable FY, determined as of Vesting Date	9,429	2,357
Increase/deduction for Awards Granted during Prior FY that were Outstanding and Unvested as of Applicable FY End, determined based on change in ASC 718 Fair Value from Prior FY End to Applicable FY End	(20,368)	(12,993)
Increase/deduction for Awards Granted during Prior FY that Vested During Applicable FY, determined based on change in ASC 718 Fair Value from Prior FY End to Vesting Date	(10,115)	(6,521)
<b>Total Adjustments</b>	<b>\$ (100,091)</b>	<b>\$ (66,408)</b>

Fair value or change in fair value, as applicable, of equity awards in the “Compensation Actually Paid” columns was determined by reference to a Black Scholes value as of the applicable year-end or vesting date(s), determined based on the same methodology as used to determine grant date fair value but using the closing stock price on the applicable revaluation date as the current market price and with an expected life set equal to the remaining life of the award in the case of underwater stock options and, in the case of in the money options, an expected life equal to the original ratio of expected life relative to the ten year contractual life multiplied times the remaining life as of the applicable revaluation date, and in all cases based on volatility and risk free rates determined as of the revaluation date based on the expected life period and based on an expected dividend rate of 0%. For additional information on the assumptions used to calculate the valuation of the awards, see the Notes to the Financial Statements in our Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on March 14, 2024, and prior fiscal years.

#### **Relationship Between Financial Performance Measures**

The graph below compares the compensation actually paid to our PEO and the average of the compensation actually paid to our remaining NEOs, with (i) our cumulative TSR, and (ii) our net loss, in each case, for the fiscal years ended December 31, 2021, 2022, and 2023. TSR amounts reported in the Pay Versus Performance table above and the graph below assume an initial fixed investment of \$100 on December 31, 2020, and that all dividends, if any, were reinvested.





#### Equity Compensation Plan Information

The following table summarizes securities available under our equity compensation plans as of December 31, 2023:

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants, and Rights	Weighted Average Exercise Price of Outstanding Options, Warrants, and Rights	Number of Securities Remaining Available for Future Issuance
	(a)	(b)	(c)
Equity compensation plans approved by security holders <sup>(1)</sup>	624,232	\$ 14.25	693,219
Equity compensation plans not approved by security holders	—	—	—
Total	624,232	—	693,219

(1) Column (c) includes 547,838 shares available for issuance under our 2013 Equity Incentive Award Plan and 145,381 shares available for issuance under our 2013 Employee Stock Purchase Plan. For the offering period in effect on December 31, 2023, no employee elected to purchase shares under our 2013 Employee Stock Purchase Plan during such offering period. The material features of our 2013 Equity Incentive Award Plan and the 2013 Employee Stock Purchase Plan are described in Note 5 to our financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on March 14, 2024.

#### CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

The following includes a summary of transactions since January 1, 2023 to which we have been a party in which the amount involved exceeded or will exceed \$120,000, and in which any of our directors, executive officers or, to our knowledge, beneficial owners of more than 5% of our capital stock or any member of the immediate family of any of the foregoing persons had or will have a direct or indirect material interest. We also describe below certain other transactions with our directors, executive officers and stockholders. We believe the terms obtained or consideration that we paid or received, as applicable, in

connection with the transactions described below were comparable to terms available or the amounts that would be paid or received, as applicable, from unaffiliated third parties.

#### **Employment Agreements**

We have entered into employment agreements with the following executive officers: David A. Gonyer, R.Ph., our former Chief Executive Officer; Matthew J. D’Onofrio, our Chief Executive Officer and former President, Chief Operating Officer, Secretary and Treasurer and Marilyn R. Carlson, D.M.D., M.D., our Chief Medical Officer. For more information regarding these agreements, see “*Executive Compensation and Other Information—Narrative Disclosure to Compensation Table—Employment Agreements*” above.

#### **Indemnification Agreements**

Our amended and restated certificate of incorporation and our amended and restated bylaws provide that we will indemnify each of our directors and officers to the fullest extent permitted by the Delaware General Corporation Law. Further, we have entered into indemnification agreements with each of our directors and officers, and we have purchased a policy of directors’ and officers’ liability insurance that insures our directors and officers against the cost of defense, settlement or payment of a judgment under certain circumstances.

#### **Stock Option Grants to Executive Officers and Directors**

We have granted stock options to our executive officers and certain of our directors as more fully described in the section “*Executive Compensation and Other Information—Narrative Disclosure to Compensation Table—Equity Compensation*” above.

#### **Other Transactions with Related Parties**

None.

#### **Policies and Procedures for Related Person Transactions**

Pursuant to our audit committee charter, our audit committee is responsible for reviewing and approving all transactions with related parties which are required to be reported under applicable SEC regulations, other than compensation-related matters. We have not adopted written procedures for review of, or standards for approval of, these transactions, but instead our audit committee intends to review such transactions on a case-by-case basis.

### **STOCKHOLDER PROPOSALS**

Proposals from stockholders intended to be presented at our annual meeting of stockholders to be held in 2025 must be received by us no later than [ ], 2024, which is 120 days prior to the first anniversary of the mailing date of this proxy, in order to be included in our proxy statement and form of proxy relating to that meeting. In addition, to comply with the universal proxy rules, stockholders who intend to solicit proxies in support of director nominees other than the company’s nominees must provide notice that sets forth the information required by Rule 14a-19 under the Exchange Act no later than March 23, 2025, which is 60 days prior to the one year anniversary of the 2024 annual meeting. These proposals must comply with the requirements as to form and substance established by the SEC for such proposals in order to be included in the proxy statement. In addition, our amended and restated bylaws establish an advance notice procedure with regard to certain matters, including stockholder proposals not included in our proxy statement and director nominations, to be brought before an annual meeting of stockholders. In general, notice of the proposal or nomination must be received at our principal executive offices not less than 90 calendar days before nor more than 120 calendar days before the one-year anniversary of the date of the previous year’s annual meeting of stockholders. Therefore, to be presented at our 2025 annual meeting of stockholders, such a proposal must be received by us no earlier than January 22, 2025 and no later than February 21, 2025. However, if the date of the annual meeting is more than 30 days earlier or more than 60 days later than such anniversary date, notice must be received not less than 90 calendar days before nor more than 120 calendar days in advance of such annual meeting, or if later, ten calendar days following the date on which public announcement of the date of the meeting is first made. If the stockholder fails to give notice by these dates, then the persons named as proxies in the proxies solicited by the board of directors for the 2025 annual meeting may exercise discretionary voting power regarding any such proposal or nomination. Stockholders are advised to review our amended and restated bylaws which also specify requirements as to the form and content of a stockholder’s notice.

### **ANNUAL REPORT**

Our annual report for the fiscal year ended December 31, 2023 will be mailed to stockholders of record on or about April 10, 2024. Our annual report does not constitute, and should not be considered, a part of this proxy solicitation material.

**Any person who was a beneficial owner of our common stock on the record date may request a copy of our annual report, and it will be furnished without charge upon receipt of a written request identifying the person so requesting a**

report as a stockholder of our company at such date. Requests should be directed to Evoke Pharma, Inc., 420 Stevens Avenue, Suite 230, Solana Beach, California, Attention: Corporate Secretary.

**STOCKHOLDERS SHARING THE SAME ADDRESS**

The rules promulgated by the SEC permit companies, brokers, banks or other intermediaries to deliver a single copy of proxy materials, or, where applicable, a Notice of Internet Availability of Proxy Materials, to households at which two or more stockholders reside. Each stockholder, however, still receives a separate proxy card if he or she receives paper copies. This practice, known as “householding,” is designed to reduce duplicate mailings and save significant printing and postage costs as well as natural resources. Stockholders sharing an address who have been previously notified by their broker, bank or other intermediary and have consented to householding will receive only one copy of our proxy statement and annual report or Notice of Internet Availability of Proxy Materials. If you would like to opt out of this practice for future mailings and receive a separate proxy statement and annual report or Notice of Internet Availability of Proxy Materials for each stockholder sharing the same address, please contact your broker, bank or other intermediary. You may also obtain a separate proxy statement or annual report or Notice of Internet Availability of Proxy Materials without charge by sending a written request to Evoke Pharma, Inc., 420 Stevens Avenue, Suite 230, Solana Beach, California 92075, Attention: Corporate Secretary, or by calling (858) 345-1494. We will promptly send additional copies of the proxy statement or annual report or Notice of Internet Availability of Proxy Materials upon receipt of such request. Stockholders sharing an address that are receiving multiple copies of the proxy statement or annual report or Notice of Internet Availability of Proxy Materials can request delivery of a single copy of the proxy statement or annual report or Notice of Internet Availability of Proxy Materials by contacting their broker, bank or other intermediary or sending a written request to Evoke Pharma, Inc. at the address above or by calling (858) 345-1494.

**OTHER MATTERS**

We do not know of any business other than that described in this proxy statement that will be presented for consideration or action by the stockholders at the annual meeting. If, however, any other business is properly brought before the meeting, shares represented by proxies will be voted in accordance with the best judgment of the persons named in the proxies or their substitutes. All stockholders are urged to complete, sign and return the accompanying proxy card in the enclosed envelope.

By Order of the Board of Directors,

Matthew J. D'Onofrio  
*Chief Executive Officer and Director*

Solana Beach, CA  
March 29, 2024



Appendix A

**Certificate of Amendment for Proposal 4 related to Increase in Authorized Shares of Common Stock**

**CERTIFICATE OF AMENDMENT**

**OF**

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION**

**OF**

**EVOKE PHARMA, INC.**

Evoke Pharma, Inc. (the "Corporation"), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "**DGCL**"), does hereby certify:

1. The name of the Corporation is Evoke Pharma, Inc. The original Certificate of Incorporation of Evoke Pharma, Inc. was filed with the Secretary of State of Delaware on January 29, 2007.

2. This Certificate of Amendment hereby amends and restates Article FOURTH of the Corporation's Amended and Restated Certificate of Incorporation to read in its entirety as follows:

**FOURTH:** The Corporation is authorized to issue two classes of stock to be designated, respectively, Common Stock, par value \$0.0001 per share ("Common Stock") and Preferred Stock, par value \$0.0001 per share ("Preferred Stock"). The total number of shares the Corporation shall have the authority to issue is One Hundred Five Million (105,000,000) shares, One Hundred Million (100,000,000) shares of which shall be Common Stock and Five Million (5,000,000) shares of which shall be Preferred Stock.

(1) **Common Stock.** The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights of the holders of the Preferred Stock of any series as may be designated by the Board of Directors upon any issuance of the Preferred Stock. The holders of the Common Stock are entitled to one vote for each share held at all meetings of stockholders. There shall be no cumulative voting. Dividends may be declared and paid on the Common Stock from funds lawfully available therefor as and when determined by the Board of Directors and subject to any preferential dividend rights of any then outstanding Preferred Stock. Upon the dissolution or liquidation of the Corporation, whether voluntary or involuntary, holders of the Corporation will be entitled to receive ratably all assets of the Corporation available for distribution to stockholders, subject to any preferential rights of any then outstanding Preferred Stock.

(2) **Preferred Stock.** Preferred Stock may be issued from time to time in one or more series, each of such series to have such terms as stated in the resolution or resolutions providing for the establishment of such series adopted by the Board of Directors of the Corporation as hereinafter provided. Authority is hereby expressly granted to the Board of Directors of the Corporation to issue, from time to time, shares of Preferred Stock in one or more series, and, in connection with the establishment of any such series, by adopting a resolution or resolutions providing for the issuance of the shares thereof and by filing a certificate of designations relating thereto in accordance with the DGCL, to determine and fix the number of shares of such series and such voting powers, full or limited, or no voting powers, and such other powers, designations, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, if any, including, without limitation, dividend rights, conversion rights, redemption privileges and liquidation preferences, as shall be stated in such resolution or resolutions, all to the fullest extent permitted by the DGCL. Without limiting the generality of the foregoing, the resolution or resolutions providing for the establishment of any series of Preferred Stock may, to the extent permitted by law, provide that such series shall be superior to, rank equally with or be junior to the Preferred Stock of any

other series. The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may be different from those of any and all other series at any time outstanding. Except as otherwise expressly provided in the resolution or resolutions providing for the establishment of any series of Preferred Stock, no vote of the holders of shares of Preferred Stock or Common Stock shall be a prerequisite to the issuance of any shares of any series of the Preferred Stock authorized by and complying with the conditions of this Amended and Restated Certificate of Incorporation.

3. This Certificate of Amendment shall become effective as of \_\_\_\_\_, 2024 at \_\_\_\_\_ p.m. Eastern time.

4. This Certificate of Amendment was duly adopted in accordance with Section 242 of the DGCL. The Board of Directors of the Corporation duly adopted resolutions setting forth and declaring advisable this Certificate of Amendment and directed that such amendment be considered by the stockholders of the Corporation. An annual meeting of stockholders was duly called upon notice in accordance with Section 222 of the DGCL and held on \_\_\_\_\_, 2024, at which meeting the necessary number of shares were voted in favor of such amendment. The stockholders of the Corporation duly adopted this Certificate of Amendment.

IN WITNESS WHEREOF, this Certificate of Amendment of Amended and Restated Certificate of Incorporation has been executed as of this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

EVOKE PHARM, INC.

By:

Name:

Title:

Appendix B

Certificate of Amendment for Proposal 5 related to Reverse Stock Split

CERTIFICATE OF AMENDMENT

OF

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

EVOKE PHARMA, INC.

Evoke Pharma, Inc. (the “Corporation”), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the “*DGCL*”), does hereby certify:

1. The name of the Corporation is Evoke Pharma, Inc. The original Certificate of Incorporation of Evoke Pharma, Inc. was filed with the Secretary of State of Delaware on January 29, 2007.
2. This Certificate of Amendment hereby amends and restates Article FOURTH of the Corporation’s Amended and Restated Certificate of Incorporation to read in its entirety as follows:

**FOURTH:** The Corporation is authorized to issue two classes of stock to be designated, respectively, Common Stock, par value \$0.0001 per share (“Common Stock”) and Preferred Stock, par value \$0.0001 per share (“Preferred Stock”). The total number of shares the Corporation shall have the authority to issue is [Fifty Five Million (55,000,000) shares, Fifty Million (50,000,000) shares of which shall be Common Stock and Five Million (5,000,000) shares of which shall be Preferred Stock.]<sup>1</sup>

(1) **Common Stock.** The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights of the holders of the Preferred Stock of any series as may be designated by the Board of Directors upon any issuance of the Preferred Stock. The holders of the Common Stock are entitled to one vote for each share held at all meetings of stockholders. There shall be no cumulative voting. Dividends may be declared and paid on the Common Stock from funds lawfully available therefor as and when determined by the Board of Directors and subject to any preferential dividend rights of any then outstanding Preferred Stock. Upon the dissolution or liquidation of the Corporation, whether voluntary or involuntary, holders of the Corporation will be entitled to receive ratably all assets of the Corporation available for distribution to stockholders, subject to any preferential rights of any then outstanding Preferred Stock.

Effective at 12:01 a.m., Eastern Time, on (the “*Effective Time*”) pursuant to the *DGCL* of this Certificate of Amendment of the Amended and Restated Certificate of Incorporation of the Corporation, as amended, each shares of the Corporation’s common stock, par value \$0.001 per share, issued and outstanding immediately prior to the Effective Time (the “*Old Shares*”) shall automatically be combined into one validly issued, fully paid and non-assessable share of common stock without any further action by the Corporation or the holder thereof, subject to the treatment of fractional share interests as described below (the “*Reverse Stock Split*”). The Corporation shall not issue fractional shares in connection with the Reverse Stock Split. Holders of Old Shares who would otherwise be entitled to receive a fraction of a share on account of the Reverse Stock Split shall receive, upon surrender of the stock certificates formerly representing the Old Shares, in lieu of such fractional share, an amount in cash equal to the product of (1) the closing sale price per share of the common stock as reported by The Nasdaq Capital Market on the last trading day preceding the Effective Date by (2) the number of Old Shares held by such holder that would otherwise have been exchanged for such fractional share interests.

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<sup>1</sup> Note: If stockholders approve the amendment to the Corporation’s Amended and Restated Certificate of Incorporation set forth in Proposal 4 at the 2024 annual meeting, the bracketed language will be replaced with the following: “One Hundred Five Million (105,000,000) shares, One Hundred (100,000,000) shares of which shall be Common Stock and Five Million (5,000,000) shares of which shall be Preferred Stock.”

(2) Preferred Stock. Preferred Stock may be issued from time to time in one or more series, each of such series to have such terms as stated in the resolution or resolutions providing for the establishment of such series adopted by the Board of Directors of the Corporation as hereinafter provided. Authority is hereby expressly granted to the Board of Directors of the Corporation to issue, from time to time, shares of Preferred Stock in one or more series, and, in connection with the establishment of any such series, by adopting a resolution or resolutions providing for the issuance of the shares thereof and by filing a certificate of designations relating thereto in accordance with the DGCL, to determine and fix the number of shares of such series and such voting powers, full or limited, or no voting powers, and such other powers, designations, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, if any, including, without limitation, dividend rights, conversion rights, redemption privileges and liquidation preferences, as shall be stated in such resolution or resolutions, all to the fullest extent permitted by the DGCL. Without limiting the generality of the foregoing, the resolution or resolutions providing for the establishment of any series of Preferred Stock may, to the extent permitted by law, provide that such series shall be superior to, rank equally with or be junior to the Preferred Stock of any other series. The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may be different from those of any and all other series at any time outstanding. Except as otherwise expressly provided in the resolution or resolutions providing for the establishment of any series of Preferred Stock, no vote of the holders of shares of Preferred Stock or Common Stock shall be a prerequisite to the issuance of any shares of any series of the Preferred Stock authorized by and complying with the conditions of this Amended and Restated Certificate of Incorporation.

3. This Certificate of Amendment was duly adopted in accordance with Section 242 of the DGCL. The Board of Directors of the Corporation duly adopted resolutions setting forth and declaring advisable this Certificate of Amendment and directed that such amendment be considered by the stockholders of the Corporation. An annual meeting of stockholders was duly called upon notice in accordance with Section 222 of the DGCL and held on \_\_\_\_\_, 2024, at which meeting the necessary number of shares were voted in favor of such amendment. The stockholders of the Corporation duly adopted this Certificate of Amendment.

IN WITNESS WHEREOF, this Certificate of Amendment of Amended and Restated Certificate of Incorporation has been executed as of this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

EVOKE PHARMA, INC.

By:

Name:

Title:

Appendix C

EVOKE PHARMA, INC.  
2013 EQUITY INCENTIVE AWARD PLAN

(As Amended and Restated Effective May 22, 2024)

**ARTICLE 1.**

**PURPOSE**

The purpose of the Evoke Pharma, Inc. 2013 Equity Incentive Award Plan (as it may be amended or restated from time to time, the “*Plan*”) is to promote the success and enhance the value of Evoke Pharma, Inc. (the “*Company*”) by linking the individual interests of the members of the Board, Employees, and Consultants to those of Company stockholders and by providing such individuals with an incentive for outstanding performance to generate superior returns to Company stockholders. The Plan is further intended to provide flexibility to the Company in its ability to motivate, attract, and retain the services of members of the Board, Employees, and Consultants upon whose judgment, interest, and special effort the successful conduct of the Company’s operation is largely dependent. The Plan provides a mechanism through which the Company may grant equity and equity-based awards as well as cash bonus and other cash awards to Eligible Individuals. This Plan constitutes an amendment and restatement of the Amended and Restated Evoke Pharma, Inc. 2013 Equity Incentive Award Plan adopted by the Board on March 20, 2023, and by the stockholders on May 10, 2023 (the “*Prior Plan*”).

**ARTICLE 2.**

**DEFINITIONS AND CONSTRUCTION**

Wherever the following terms are used in the Plan they shall have the meanings specified below, unless the context clearly indicates otherwise. The singular pronoun shall include the plural where the context so indicates. Masculine, feminine and neuter pronouns are used interchangeably and each comprehends the others.

2.1 “*Administrator*” shall mean the entity that conducts the general administration of the Plan as provided in Article 12. With reference to the duties of the Committee under the Plan that have been delegated to one or more persons pursuant to Section 12.6, or that the Board has assumed, the term “*Administrator*” shall refer to such person(s) unless the Committee or the Board has revoked such delegation or the Board has terminated the assumption of such duties.

2.2 “*Affiliate*” shall mean (a) any Subsidiary; and (b) any domestic eligible entity that is disregarded, under Treasury Regulation Section 301.7701-3, as an entity separate from either (i) the Company or (ii) any Subsidiary.

2.3 “*Applicable Accounting Standards*” shall mean Generally Accepted Accounting Principles in the United States, International Financial Reporting Standards or such other accounting principles or standards as may apply to the Company’s financial statements under United States federal securities laws from time to time.

2.4 “*Applicable Law*” shall mean any applicable law, including without limitation; (i) provisions of the Code, the Securities Act, the Exchange Act and any rules or regulations thereunder; (ii) corporate, securities, tax or other laws, statutes, rules, requirements or regulations, whether federal, state, local or foreign; and (iii) rules of any securities exchange or automated quotation system on which the Shares are listed, quoted or traded.

2.5 “*Award*” shall mean an Option, a Restricted Stock award, a Restricted Stock Unit award, a Performance Award, a Dividend Equivalents award, a Stock Payment award or a Stock Appreciation Right, that may be awarded or granted under the Plan (collectively, “*Awards*”).

2.6 “**Award Agreement**” shall mean any written notice, agreement, terms and conditions, contract or other instrument or document evidencing an Award, including through electronic medium, which shall contain such terms and conditions with respect to an Award as the Administrator shall determine consistent with the Plan.

2.7 “**Board**” shall mean the Board of Directors of the Company.

2.8 “**Cause**” shall mean the occurrence of any of, but not limited to, the following: (a) conviction of a Holder of any felony or any crime involving fraud or dishonesty; (b) a Holder’s participation (whether by affirmative act or omission) in a fraud, act or dishonesty or other act of misconduct against the Company and/or any Affiliate; (c) conduct by a Holder that, based upon a good faith and reasonable factual investigation by the Company (or, if a Holder is an executive officer, by the Board), demonstrates such Holder’s unfitness to serve; (d) a Holder’s violation of any statutory or fiduciary duty, or duty of loyalty owed to the Company and/or any Affiliate; (e) a Holder’s violation of state or federal law in connection with the Holder’s performance of his or her job that has an adverse effect on the Company and/or any Affiliate; and (f) a Holder’s violation of Company policy that has a material adverse effect on the Company and/or any Affiliate. Notwithstanding the foregoing, a Holder’s Disability shall not constitute Cause as set forth herein. The determination that a termination is for Cause shall be by the Administrator in its sole and exclusive judgment and discretion. Notwithstanding the foregoing, if a Holder is a party to an employment or severance agreement with the Company or any Affiliate in effect as of the date of grant of an Award that defines “Misconduct” or “Cause” or a similar term, “Cause” for purposes of the Plan and such Award shall have the meaning given to such term in such employment or severance agreement.

2.9 “**Change in Control**” shall mean and includes each of the following:

(a) A transaction or series of transactions (other than an offering of Common Stock to the general public through a registration statement filed with the Securities and Exchange Commission) whereby any “person” or related “group” of “persons” (as such terms are used in Sections 13(d) and 14(d)(2) of the Exchange Act) (other than the Company, any of its Subsidiaries, an employee benefit plan maintained by the Company or any of its Subsidiaries or a “person” that, prior to such transaction, directly or indirectly controls, is controlled by, or is under common control with, the Company) directly or indirectly acquires beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of securities of the Company possessing more than 50% of the total combined voting power of the Company’s securities outstanding immediately after such acquisition; or

(b) During any period of two consecutive years, individuals who, at the beginning of such period, constitute the Board together with any new Director(s) (other than a Director designated by a person who shall have entered into an agreement with the Company to effect a transaction described in Section 2.9(a) or 2.9(c)) whose election by the Board or nomination for election by the Company’s stockholders was approved by a vote of at least two-thirds of the Directors then still in office who either were Directors at the beginning of the two-year period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof; or

(c) The consummation by the Company (whether directly involving the Company or indirectly involving the Company through one or more intermediaries) of (x) a merger, consolidation, reorganization, or business combination or (y) a sale or other disposition of all or substantially all of the Company’s assets in any single transaction or series of related transactions or (z) the acquisition of assets or stock of another entity, in each case other than a transaction:

(i) that results in the Company’s voting securities outstanding immediately before the transaction continuing to represent (either by remaining outstanding or by being converted into voting securities of the Company or the person that, as a result of the transaction, controls, directly or indirectly, the Company or owns, directly or indirectly, all or substantially all of the Company’s assets or otherwise succeeds to the business of the Company (the Company or such person, the “**Successor Entity**”)) directly or indirectly, at least a majority of the combined voting power of the Successor Entity’s outstanding voting securities immediately after the transaction, and

(ii) after which no person or group beneficially owns voting securities representing 50% or more of the combined voting power of the Successor Entity; provided, however, that no person or group shall be treated for purposes of this Section 2.9(c)(ii) as beneficially owning 50% or more of the combined voting power of

the Successor Entity solely as a result of the voting power held in the Company prior to the consummation of the transaction; or

(d) The Company's stockholders approve a liquidation or dissolution of the Company.

Notwithstanding the foregoing, if a Change in Control constitutes a payment event with respect to any portion of an Award that provides for the deferral of compensation and is subject to Section 409A of the Code, the transaction or event described in subsection (a), (b), (c) or (d) with respect to such Award (or portion thereof) must also constitute a "change in control event," as defined in Treasury Regulation Section 1.409A-3(i)(5) to the extent required by Section 409A.

The Committee shall have full and final authority to determine conclusively whether a Change in Control of the Company has occurred pursuant to the above definition, and the date of the occurrence of such Change in Control and any incidental matters relating thereto; provided that any exercise of authority in conjunction with a determination of whether a Change in Control is a "change in control event" as defined in Treasury Regulation Section 1.409A-3(i)(5) shall be consistent with such regulation.

2.10 "**Code**" shall mean the Internal Revenue Code of 1986, as amended from time to time, together with the regulations and official guidance promulgated thereunder.

2.11 "**Committee**" shall mean the Compensation Committee of the Board, or another committee or subcommittee of the Board, appointed as provided in Section 12.1.

2.12 "**Common Stock**" shall mean the common stock of the Company, par value \$0.0001 per share.

2.13 "**Company**" shall have the meaning set forth in Article 1.

2.14 "**Consultant**" shall mean any consultant or adviser engaged to provide services to the Company or any Affiliate that qualifies as a consultant under the applicable rules of the Securities and Exchange Commission for registration of shares on a Form S-8 Registration Statement.

2.15 "**Director**" shall mean a member of the Board, as constituted from time to time.

2.16 "**Disability**" shall mean that the Holder is either (a) unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve months, or (b) by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve months, receiving income replacement benefits for a period of not less than three months under a long-term disability income plan, if any, covering employees of the Company. For purposes of the Plan, a Holder shall be deemed to have incurred a Disability if the Holder is determined to be totally disabled by the Social Security Administration or in accordance with the applicable disability insurance program of the Company; provided that the definition of "disability" applied under such disability insurance program complies with the requirements of this definition.

2.17 "**Dividend Equivalent**" shall mean a right to receive the equivalent value (in cash or Shares) of dividends paid on Shares, awarded under Section 9.2.

2.18 "**DRO**" shall mean a domestic relations order as defined by the Code or Title I of the Employee Retirement Income Security Act of 1974, as amended from time to time, or the rules thereunder.

2.19 "**Eligible Individual**" shall mean any person who is an Employee, a Consultant or a Non-Employee Director, as determined by the Administrator.

2.20 "**Employee**" shall mean any officer or other employee (as determined in accordance with Section 3401(c) of the Code and the Treasury Regulations thereunder) of the Company or of any Affiliate.

2.21“**Equity Restructuring**” shall mean a nonreciprocal transaction between the Company and its stockholders, such as a stock dividend, stock split, spin-off, rights offering or recapitalization through a large, nonrecurring cash dividend, that affects the number or kind of Shares (or other securities of the Company) or the share price of Common Stock (or other securities) and causes a change in the per-share value of the Common Stock underlying outstanding Awards.

2.22“**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended from time to time.

2.23“**Expiration Date**” shall have the meaning given to such term in Section 13.1.

2.24“**Fair Market Value**” shall mean, as of any given date, the value of a Share determined as follows (unless an alternative definition is approved by the Administrator and set forth in the applicable Award Agreement, in which case such definition shall apply to such Award):

(a) If the Common Stock is listed on any (i) established securities exchange (such as the New York Stock Exchange, the Nasdaq Global Market and the Nasdaq Global Select Market), (ii) national market system or (iii) automated quotation system on which the Shares are listed, quoted or traded, its Fair Market Value shall be the closing sales price for a Share as quoted on such exchange or system for such date or, if there is no closing sales price for a Share on the date in question, the closing sales price for a Share on the last preceding date for which such quotation exists, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable;

(b) If the Common Stock is not listed on an established securities exchange, national market system or automated quotation system, but the Common Stock is regularly quoted by a recognized securities dealer, its Fair Market Value shall be the mean of the high bid and low asked prices for such date or, if there are no high bid and low asked prices for a Share on such date, the high bid and low asked prices for a Share on the last preceding date for which such information exists, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable; or

(c) If the Common Stock is neither listed on an established securities exchange, national market system or automated quotation system nor regularly quoted by a recognized securities dealer, its Fair Market Value shall be established by the Administrator in good faith.

2.25“**Good Reason**” shall mean (a) a change in the Holder’s position with the Company (or its Affiliate employing the Holder) that materially reduces the Holder’s duties and responsibilities or the level of management to which he or she reports, (b) a reduction in the Holder’s level of compensation (including base salary, fringe benefits and target bonuses under any corporate performance-based incentive programs) by more than 15% or (c) a relocation of the Holder’s place of employment by more than 50 miles, provided that such change, reduction or relocation is effected by the Company (or its Affiliate employing the Holder) without the Holder’s consent.

2.26“**Greater Than 10% Stockholder**” shall mean an individual then owning (within the meaning of Section 424(d) of the Code) more than 10% of the total combined voting power of all classes of stock of the Company or any subsidiary corporation (as defined in Section 424(f) of the Code) or parent corporation thereof (as defined in Section 424(e) of the Code).

2.27“**Holder**” shall mean a person who has been granted an Award.

2.28“**Incentive Stock Option**” shall mean an Option that is intended to qualify as an incentive stock option and conforms to the applicable provisions of Section 422 of the Code.

2.29“**Non-Employee Director**” shall mean a Director of the Company who is not an Employee.

2.30“**Non-Employee Director Compensation Policy**” shall have the meaning set forth in Section 3.3(b).

2.31“**Non-Qualified Stock Option**” shall mean an Option that is not an Incentive Stock Option.



2.32“**Option**” shall mean a right to purchase Shares at a specified exercise price, granted under Article 6. An Option shall be either a Non-Qualified Stock Option or an Incentive Stock Option; provided, however, that Options granted to Non-Employee Directors and Consultants shall only be Non-Qualified Stock Options.

2.33“**Option Term**” shall have the meaning set forth in Section 6.3.

2.34“**Performance Award**” shall mean a cash bonus award, stock bonus award, performance award or incentive award that is paid in cash, Shares or a combination of both, awarded under Section 9.1.

2.35“**Performance-Based Compensation**” shall mean any compensation granted under the Plan prior to November 2, 2017 that is intended to qualify as “performance-based compensation” as described in Section 162(m)(4)(C) of the Code prior to its repeal.

2.36“**Performance Criteria**” shall mean the criteria (and adjustments) that the Committee selects for an Award for purposes of establishing the Performance Goal or Performance Goals for a Performance Period, determined as follows:

(a) The Performance Criteria that shall be used to establish Performance Goals shall be determined by the Administrator. Such criteria may include, but are not limited to, one or more of the following: (i) net earnings (either before or after one or more of the following: (A) interest, (B) taxes, (C) depreciation and (D) amortization); (ii) gross or net sales or revenue; (iii) net income (either before or after taxes); (iv) adjusted net income; (v) operating earnings; (vi) cash flow (including, but not limited to, operating cash flow and free cash flow); (vii) return on assets; (viii) return on capital; (ix) return on stockholders’ equity; (x) total stockholder return; (xi) return on sales; (xii) gross or net profit or operating margin; (xiii) operating or other costs and expenses; (xiv) improvements in expense levels; (xv) working capital; (xvi) earnings per share; (xvii) adjusted earnings per share; (xviii) price per share of Common Stock; (xix) regulatory body approval for commercialization of a product; (xx) implementation or completion of critical projects; (xxi) market share; (xxii) economic value; (xxiii) comparisons with various stock market indices; (xxiv) capital raised in financing transactions or other financing milestones; (xxv) stockholders’ equity; (xxvi) market recognition (including but not limited to awards and analyst ratings); (xxvii) financial ratios; and (xxviii) implementation, completion or attainment of objectively determinable objectives relating to research, development, regulatory, commercial, or strategic milestones or developments; in each case as determined in accordance with Applicable Accounting Standards, if applicable, any of which may be measured either in absolute terms or as compared to any incremental increase or decrease or as compared to results of a peer group or to market performance indicators or indices.

(b) The Administrator, in its sole discretion, may provide that one or more adjustments shall be made to one or more of the Performance Goals. Such adjustments may include one or more of the following: (i) items related to a change in accounting principle; (ii) items relating to financing activities; (iii) expenses for restructuring or productivity initiatives; (iv) other non-operating items; (v) items related to acquisitions; (vi) items attributable to the business operations of any entity acquired by the Company during the Performance Period; (vii) items related to the disposal of a business or segment of a business; (viii) items related to discontinued operations that do not qualify as a segment of a business under Applicable Accounting Standards; (ix) items attributable to any stock dividend, stock split, combination or exchange of stock occurring during the Performance Period; (x) any other items of significant income or expense that are determined to be appropriate adjustments; (xi) items relating to unusual or extraordinary corporate transactions, events or developments; (xii) items related to amortization of acquired intangible assets; (xiii) items that are outside the scope of the Company’s core, on-going business activities; (xiv) items related to acquired in-process research and development; (xv) items relating to changes in tax laws; (xvi) items relating to major licensing or partnership arrangements; (xvii) items relating to asset impairment charges; (xviii) items relating to gains or losses for litigation, arbitration and contractual settlements; or (xix) items relating to any other unusual or nonrecurring events or changes in Applicable Law, accounting principles or business conditions.

2.37“**Performance Goals**” shall mean, for a Performance Period, one or more goals established in writing by the Administrator for the Performance Period. Performance Goals may be expressed in terms of overall Company performance or the performance of an Affiliate, division, business unit, or an individual.

2.38“**Performance Period**” shall mean one or more periods of time, which may be of varying and overlapping durations, as the Administrator may select, over which the attainment of one or more Performance Goals will be measured for the purpose of determining a Holder’s right to, and the payment of, an Award.

2.39“**Performance Stock Unit**” shall mean a Performance Award awarded under Section 9.1 that is denominated in units of value including dollar value of Shares.

2.40“**Permitted Transferee**” shall mean, with respect to a Holder, any “family member” of the Holder, as defined in the instructions to Form S-8 under the Securities Act, or any other transferee specifically approved by the Administrator after taking into account Applicable Law.

2.41“**Plan**” shall have the meaning set forth in Article 1.

2.42“**Prior Plan**” shall have the meaning set forth in Article 1.

2.43 “**Program**” shall mean any program adopted by the Administrator pursuant to the Plan containing the terms and conditions intended to govern a specified type of Award granted under the Plan and pursuant to which such type of Award may be granted under the Plan.

2.44“**Restatement Effective Date**” shall have the meaning set forth in Section 13.1(c).

2.45“**Restricted Stock**” shall mean Common Stock awarded under Article 7 that is subject to certain restrictions and may be subject to risk of forfeiture or repurchase.

2.46“**Restricted Stock Units**” shall mean the right to receive Shares or cash awarded under Article 8.

2.47“**Securities Act**” shall mean the Securities Act of 1933, as amended.

2.48“**Shares**” shall mean shares of Common Stock.

2.49“**Stock Appreciation Right**” shall mean a stock appreciation right granted under Article 10.

2.50“**Stock Appreciation Right Term**” shall have the meaning set forth in Section 10.4.

2.51“**Stock Payment**” shall mean (a) a payment in the form of Shares, or (b) an option or other right to purchase Shares, as part of a bonus, deferred compensation or other arrangement, awarded under Section 9.3.

2.52“**Subsidiary**” shall mean any entity (other than the Company), whether domestic or foreign, in an unbroken chain of entities beginning with the Company if each of the entities other than the last entity in the unbroken chain beneficially owns, at the time of the determination, securities or interests representing at least 50% of the total combined voting power of all classes of securities or interests in one of the other entities in such chain.

2.53“**Substitute Award**” shall mean an Award granted under the Plan upon the assumption of, or in substitution for, outstanding equity awards previously granted by a company or other entity in connection with a corporate transaction, such as a merger, combination, consolidation or acquisition of property or stock; provided, however, that in no event shall the term “Substitute Award” be construed to refer to an award made in connection with the cancellation and repricing of an Option or Stock Appreciation Right.

2.54“**Termination of Service**” shall mean:

(a) As to a Consultant, the time when the engagement of a Holder as a Consultant to the Company or any Affiliate is terminated for any reason, with or without cause, including, without limitation, by resignation, discharge, death or retirement, but excluding terminations where the Consultant simultaneously commences or remains in employment or service with the Company or any Affiliate.

(b) As to a Non-Employee Director, the time when a Holder who is a Non-Employee Director ceases to be a Director for any reason, including, without limitation, a termination by resignation, failure to be elected, death or retirement, but excluding terminations where the Holder simultaneously commences or remains in employment or service with the Company or any Affiliate.

(c) As to an Employee, the time when the employee-employer relationship between a Holder and the Company or any Affiliate is terminated for any reason, including, without limitation, a termination by resignation, discharge, death, disability or retirement, but excluding terminations where the Holder simultaneously commences or remains in employment or service with the Company or any Affiliate.

The Administrator, in its sole discretion, shall determine the effect of all matters and questions relating to any Termination of Service, including, without limitation, the question of whether a Termination of Service resulted from a discharge for cause and all questions of whether particular leaves of absence constitute a Termination of Service; provided, however, that, with respect to Incentive Stock Options, unless the Administrator otherwise provides in the terms of the Program, the Award Agreement or otherwise, or as otherwise required by Applicable Law, a leave of absence, change in status from an employee to an independent contractor or other change in the employee-employer relationship shall constitute a Termination of Service only if, and to the extent that, such leave of absence, change in status or other change interrupts employment for the purposes of Section 422(a)(2) of the Code and the then-applicable regulations and revenue rulings under said Section. For purposes of the Plan, a Holder's employee-employer relationship or consultancy relationship shall be deemed to be terminated in the event that the Affiliate employing or contracting with such Holder ceases to remain an Affiliate following any merger, sale of stock or other corporate transaction or event (including, without limitation, a spin-off).

### ARTICLE 3.

#### SHARES SUBJECT TO THE PLAN

##### 3.1 Number of Shares.

(a) Subject to Sections 3.1(b) and 13.2, the aggregate number of Shares that may be issued or transferred pursuant to Awards under the Plan is the sum of (i) 5,395,301 Shares and (ii) an annual increase on the first day of each year beginning with January 1, 2025 and ending with January 1, 2034, equal to the least of (A) 6% percent of the Shares outstanding on the last day of the immediately preceding calendar year, and (B) such smaller number of Shares as determined by the Board. Notwithstanding anything in this Section 3.1 to the contrary, the number of Shares that may be issued pursuant to Incentive Stock Options under the Plan shall not exceed an aggregate of 250,000,000 Shares, subject to adjustment pursuant to Section 13.2.

(b) To the extent all or a portion of an Award is forfeited, expires or lapses for any reason, or is settled for cash without the delivery of Shares to the Holder, any Shares subject to such Award or portion thereof, to the extent of such forfeiture, termination, expiration, lapse or cash settlement, shall again be or shall become, as applicable, available for the grant of an Award pursuant to the Plan. Any Shares tendered by a Holder or withheld by the Company or any Affiliate to satisfy the grant or exercise price or tax withholding obligation in connection with all or a portion of an Award shall again be or shall become, as applicable, available for the grant of an Award pursuant to the Plan. Any Shares subject to a Stock Appreciation Right that are not issued in connection with the stock settlement of the Stock Appreciation Right on exercise thereof shall again be available for the grant of an Award pursuant to the Plan. Any Shares repurchased by or surrendered to the Company pursuant to Section 7.4 so that such Shares are returned to the Company shall again be or shall become, as applicable, available for the grant of an Award pursuant to the Plan. The payment of Dividend Equivalents in cash in conjunction with any outstanding Awards shall not be counted against the Shares available for issuance under the Plan. Notwithstanding the provisions of this Section 3.1(b), no Shares may again be or, as applicable, may become eligible to be, optioned, granted or awarded if such action would cause an Incentive Stock Option to fail to qualify as an incentive stock option under Section 422 of the Code.

(c) To the extent permitted by Applicable Law, Substitute Awards shall not reduce the Shares authorized for grant under the Plan. Additionally, in the event that a company acquired by the Company or any

Affiliate or with which the Company or any Affiliate combines has shares available under a pre-existing plan approved by stockholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the Shares authorized for grant under the Plan; provided that Awards using such available Shares shall not be made after the date awards or grants could have been made under the terms of the pre-existing plan, absent the acquisition or combination, and shall only be made to individuals who were not employed by or providing services to the Company or its Affiliates immediately prior to such acquisition or combination.

3.2 Stock Distributed. Any Shares distributed pursuant to an Award may consist, in whole or in part, of authorized and unissued Common Stock, treasury Common Stock or Common Stock purchased on the open market.

3.3 Limitation on Awards. Notwithstanding any provision to the contrary in the Plan, and subject to Section 13.2, the Board may establish compensation for Non-Employee Directors from time to time, subject to the limitations in the Plan (the “*Non-Employee Director Compensation Policy*”). The Board will from time to time determine the terms, conditions and amounts of all such Non-Employee Director compensation in its discretion and pursuant to the exercise of its business judgment, taking into account such factors, circumstances and considerations as it shall deem relevant from time to time, provided that the sum of any cash compensation, or other compensation, and the value (determined as of the grant date in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 718, or any successor thereto) of Awards granted to a Non-Employee Director as compensation for services as a non-employee Director during any calendar year of the Company may not exceed \$400,000. The Board may make exceptions to this limit for individual Non-Employee Directors in extraordinary circumstances, as the Board may determine in its discretion, provided that the Non-Employee Director receiving such additional compensation may not participate in the decision to award such compensation or in other contemporaneous compensation decisions involving Non-Employee Directors.

## ARTICLE 4.

### GRANTING OF AWARDS

4.1 Participation. The Administrator may, from time to time, select from among all Eligible Individuals, those to whom an Award shall be granted and shall determine the nature and amount of each Award, which shall not be inconsistent with the requirements of the Plan. Except as provided in Section 3.3 regarding the grant of Awards pursuant to any Non-Employee Director Compensation Policy adopted by the Board, no Eligible Individual shall have any right to be granted an Award pursuant to the Plan.

4.2 Award Agreement. Unless otherwise determined by the Administrator, each Award shall be evidenced by an Award Agreement that sets forth the terms, conditions and limitations for such Award, which may include the term of the Award, the provisions applicable in the event of the Holder’s Termination of Service, and the Company’s authority to unilaterally or bilaterally amend, modify, suspend, cancel or rescind an Award. Award Agreements evidencing Incentive Stock Options shall contain such terms and conditions as may be necessary to meet the applicable provisions of Section 422 of the Code.

4.3 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan, the Plan, and any Award granted or awarded to any individual who is then subject to Section 16 of the Exchange Act, shall be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including Rule 16b-3 of the Exchange Act and any amendments thereto) that are requirements for the application of such exemptive rule. To the extent permitted by Applicable Law, the Plan and Awards granted or awarded hereunder shall be deemed amended to the extent necessary to conform to such applicable exemptive rule.

4.4 At-Will Employment; Voluntary Participation. Nothing in the Plan or in any Program or Award Agreement hereunder shall confer upon any Holder any right to continue in the employ of, or as a Director or Consultant for, the Company or any Affiliate, or shall interfere with or restrict in any way the rights of the Company and any Affiliate, which rights are hereby expressly reserved, to discharge any Holder at any time for any reason

whatsoever, with or without cause, and with or without notice, or to terminate or change all other terms and conditions of employment or engagement, except to the extent expressly provided otherwise in a written agreement between the Holder and the Company or any Affiliate. Participation by each Holder in the Plan shall be voluntary and nothing in the Plan shall be construed as mandating that any Eligible Individual shall participate in the Plan.

4.5 Foreign Holders. Notwithstanding any provision of the Plan to the contrary, in order to comply with the laws in countries other than the United States in which the Company and its Affiliates operate or have Employees, Non-Employee Directors or Consultants, or in order to comply with the requirements of any foreign securities exchange, the Administrator, in its sole discretion, shall have the power and authority to: (a) determine which Affiliates shall be covered by the Plan; (b) determine which Eligible Individuals outside the United States are eligible to participate in the Plan; (c) modify the terms and conditions of any Award granted to Eligible Individuals outside the United States to comply with applicable foreign laws or listing requirements of any such foreign securities exchange; (d) establish subplans and modify exercise procedures and other terms and procedures, to the extent such actions may be necessary or advisable (any such subplans and/or modifications shall be attached to the Plan as appendices); provided, however, that no such subplans and/or modifications shall increase the share limitations contained in Section 3.1; and (e) take any action, before or after an Award is made, that it deems advisable to obtain approval or comply with any necessary local governmental regulatory exemptions or approvals or listing requirements of any such foreign securities exchange. Notwithstanding the foregoing, the Administrator may not take any actions hereunder, and no Awards shall be granted, that would violate Applicable Law. For purposes of the Plan, all references to foreign laws, rules, regulations or taxes shall be references to the laws, rules, regulations and taxes of any applicable jurisdiction other than the United States or a political subdivision thereof.

4.6 Stand-Alone and Tandem Awards. Awards granted pursuant to the Plan may, in the sole discretion of the Administrator, be granted either alone, in addition to, or in tandem with, any other Award granted pursuant to the Plan. Awards granted in addition to or in tandem with other Awards may be granted either at the same time as or at a different time from the grant of such other Awards.

## ARTICLE 5.

### PROVISIONS APPLICABLE TO AWARDS INTENDED TO QUALIFY AS PERFORMANCE-BASED COMPENSATION

Notwithstanding any other provision of the Plan or any Award, with respect to any Award which is intended to continue to qualify as Performance-Based Compensation (as described in Section 162(m)(4)(C) of the Code prior to its repeal) (or which was not subject to the deduction limitation of Section 162(m) of the Code) pursuant to the transition relief rules in the Tax Cuts and Jobs Act of 2017, to the extent any of the provisions of the Plan or any Award (or any amendments hereto pursuant to this amendment and restatement of the Plan) would cause such Awards to fail to so qualify or be so exempt, any such provisions shall not apply to such Awards to the extent necessary to ensure the such Awards continue to so qualify or be so exempt. In addition, any Award which is intended to continue to qualify as Performance-Based Compensation (as described in Section 162(m)(4)(C) of the Code prior to its repeal) (or to otherwise not be subject to the deduction limitation of Section 162(m) of the Code) pursuant to the transition relief rules in the Tax Cuts and Jobs Act of 2017 shall be subject to any additional limitations as the Administrator determines necessary for such Award to continue to so qualify or be so exempt. To the extent permitted by Applicable Law, and the Plan and any such Awards shall be deemed amended to the extent necessary to conform to such requirements.

## ARTICLE 6.

### OPTIONS

6.1 Granting of Options to Eligible Individuals. The Administrator is authorized to grant Options to Eligible Individuals from time to time, in its sole discretion, on such terms and conditions as it may determine, which shall not be inconsistent with the Plan.

6.2 Option Exercise Price. The exercise price per Share subject to each Option shall be set by the Administrator, but shall not be less than 100% of the Fair Market Value of a Share on the date the Option is granted (or, as to Incentive Stock Options, on the date the Option is modified, extended or renewed for purposes of Section 424(h) of the Code). In addition, in the case of Incentive Stock Options granted to a Greater Than 10% Stockholder, such price shall not be less than 110% of the Fair Market Value of a Share on the date the Option is granted (or the date the Option is modified, extended or renewed for purposes of Section 424(h) of the Code).

### 6.3 Option Vesting.

(a) The period during which the right to exercise, in whole or in part, an Option vests in the Holder shall be set by the Administrator and the Administrator may determine that an Option may not be exercised in whole or in part for a specified period after it is granted; provided, however, that unless otherwise approved by the Administrator and set forth in an Award Agreement, no Option shall vest prior to the date that is six months from the date of grant. Such vesting may be based on service with the Company or any Affiliate, any of the Performance Criteria, or any other criteria selected by the Administrator.

(b) No portion of an Option that is unexercisable at a Holder's Termination of Service shall thereafter become exercisable, except as may be otherwise provided by the Administrator either in the applicable Program, the Award Agreement evidencing the grant of an Option, or by action of the Administrator following the grant of the Option. Unless otherwise determined by the Administrator in the Award Agreement or by action of the Administrator following the grant of the Option, the portion of an Option that is unvested and unexercisable at a Holder's Termination of Service shall automatically expire 30 days following such Termination of Service.

6.4 Manner of Exercise. All or a portion of an exercisable Option shall be deemed exercised upon delivery of all of the following to the Secretary of the Company, the stock administrator of the Company or such other person or entity designated by the Administrator, or his, her or its office, as applicable:

(a) A written or electronic notice complying with the applicable rules established by the Administrator stating that the Option, or a portion thereof, is exercised. The notice shall be signed by the Holder or other person then entitled to exercise the Option or such portion of the Option;

(b) Such representations and documents as the Administrator, in its sole discretion, deems necessary or advisable to effect compliance with Applicable Law. The Administrator, in its sole discretion, may also take whatever additional actions it deems appropriate to effect such compliance including, without limitation, placing legends on share certificates and issuing stop-transfer notices to agents and registrars;

(c) In the event that the Option shall be exercised pursuant to Section 11.3 by any person or persons other than the Holder, appropriate proof of the right of such person or persons to exercise the Option, as determined in the sole discretion of the Administrator; and

(d) Full payment of the exercise price and applicable withholding taxes to the stock administrator of the Company for the Shares with respect to which the Option, or portion thereof, is exercised, in a manner permitted by Section 11.1 and 11.2.

6.5 Partial Exercise. An exercisable Option may be exercised in whole or in part. However, an Option shall not be exercisable with respect to fractional Shares and the Administrator may require that, by the terms of the Option, a partial exercise must be with respect to a minimum number of Shares.

6.6 Option Term. The term of each Option (the "**Option Term**") shall be set by the Administrator in its sole discretion; provided, however, that the Option Term shall not be more than ten years from the date the Option is granted, or five years from the date an Incentive Stock Option is granted to a Greater Than 10% Stockholder. The Administrator shall determine the time period, including the time period following a Termination of Service, during which the Holder has the right to exercise the vested Options, which time period may not extend beyond the last day of the Option Term. Except as limited by the requirements of Section 409A or Section 422 of the Code and regulations and rulings thereunder or the first sentence of this Section 6.6, the Administrator may extend the Option Term of any

outstanding Option, and may extend the time period during which vested Options may be exercised, in connection with any Termination of Service of the Holder, and may amend, subject to Section 13.1, any other term or condition of such Option relating to such a Termination of Service.

6.7 Qualification of Incentive Stock Options. No Incentive Stock Option shall be granted to any person who is not an Employee of the Company or any subsidiary corporation (as defined in Section 424(f) of the Code) of the Company. No person who qualifies as a Greater Than 10% Stockholder may be granted an Incentive Stock Option unless such Incentive Stock Option conforms to the applicable provisions of Section 422 of the Code. Any Incentive Stock Option granted under the Plan may be modified by the Administrator, with the consent of the Holder, to disqualify such Option from treatment as an “incentive stock option” under Section 422 of the Code. To the extent that the aggregate Fair Market Value of stock with respect to which “incentive stock options” (within the meaning of Section 422 of the Code, but without regard to Section 422(d) of the Code) are exercisable for the first time by a Holder during any calendar year under the Plan, and all other plans of the Company and any parent or subsidiary corporation thereof (each as defined in Section 424(e) and 424(f) of the Code, respectively), exceeds \$100,000, the Options shall be treated as Non-Qualified Stock Options to the extent required by Section 422 of the Code. The rule set forth in the immediately preceding sentence shall be applied by taking Options and other “incentive stock options” into account in the order in which they were granted and the Fair Market Value of stock shall be determined as of the time the respective options were granted.

6.8 Notification Regarding Disposition. The Holder shall give the Company prompt written or electronic notice of any disposition of Shares acquired by exercise of an Incentive Stock Option that occurs within (a) two years from the date of granting (including the date the Option is modified, extended or renewed for purposes of Section 424(h) of the Code) such Option to such Holder, or (b) one year after the transfer of such Shares to such Holder.

6.9 Substitute Awards. Notwithstanding the foregoing provisions of this Article 6 to the contrary, in the case of an Option that is a Substitute Award, the price per share of the Shares subject to such Option may be less than the Fair Market Value per share on the date of grant; provided that the excess of: (a) the aggregate Fair Market Value (as of the date such Substitute Award is granted) of the Shares subject to the Substitute Award, over (b) the aggregate exercise price thereof does not exceed the excess of: (x) the aggregate fair market value (as of the time immediately preceding the transaction giving rise to the Substitute Award, such fair market value to be determined by the Administrator) of the shares of the predecessor entity that were subject to the grant assumed or substituted for by the Company, over (y) the aggregate exercise price of such shares.

6.10 Substitution of Stock Appreciation Rights. The Administrator may provide in the applicable Program or the Award Agreement evidencing the grant of an Option that the Administrator, in its sole discretion, shall have the right to substitute a Stock Appreciation Right for such Option at any time prior to or upon exercise of such Option; provided that such Stock Appreciation Right shall be exercisable with respect to the same number of Shares for which such substituted Option would have been exercisable, and shall also have the same exercise price, vesting schedule and remaining Option Term as the substituted Option.

## ARTICLE 7.

### RESTRICTED STOCK

#### 7.1 Award of Restricted Stock.

(a) The Administrator is authorized to grant Restricted Stock to Eligible Individuals, and shall determine the terms and conditions, including the restrictions applicable to each award of Restricted Stock, which terms and conditions shall not be inconsistent with the Plan, and may impose such conditions on the issuance of such Restricted Stock as it deems appropriate.

(b) The Administrator shall establish the purchase price, if any, and form of payment for Restricted Stock; provided, however, that if a purchase price is charged, such purchase price shall be no less than the

par value, if any, of the Shares to be purchased, unless otherwise permitted by Applicable Law. In all cases, legal consideration shall be required for each issuance of Restricted Stock.

7.2Rights as Stockholders. Subject to Section 7.4, upon issuance of Restricted Stock, the Holder shall have, unless otherwise provided by the Administrator, all the rights of a stockholder with respect to said Shares, subject to the restrictions in the applicable Program or in each individual Award Agreement, including the right to vote and the right to receive all dividends and other distributions paid or made with respect to the Shares; provided, however, that, in the sole discretion of the Administrator, any extraordinary distributions with respect to the Shares shall be subject to the restrictions set forth in Section 7.3.

7.3Restrictions. All shares of Restricted Stock (including any shares received by Holders thereof with respect to shares of Restricted Stock as a result of stock dividends, stock splits or any other form of recapitalization) shall, in the terms of the applicable Program or in each individual Award Agreement, be subject to such restrictions and vesting requirements as the Administrator shall provide; provided, however, that unless otherwise approved by the Administrator and set forth in the applicable Program or an Award Agreement, no Award of Restricted Stock shall vest or be released from such restrictions and vesting requirements prior to the date that is six months from the date of grant. Such restrictions may include, without limitation, restrictions concerning voting rights and transferability and such restrictions may lapse separately or in combination at such times and pursuant to such circumstances or based on such criteria as selected by the Administrator, including, without limitation, criteria based on the Holder's duration of employment, directorship or consultancy with the Company, the Performance Criteria, Company performance, individual performance or other criteria selected by the Administrator. By action taken after the Restricted Stock is issued, the Administrator may, on such terms and conditions as it may determine to be appropriate, accelerate the vesting of such Restricted Stock by removing any or all of the restrictions imposed by the terms of the applicable Program or Award Agreement. Unless determined otherwise by the Administrator, Restricted Stock may not be sold or encumbered until all restrictions are terminated or expire.

7.4Repurchase or Forfeiture of Restricted Stock. Except as otherwise determined by the Administrator at the time of the grant of the Award or thereafter, if no price was paid by the Holder for the Restricted Stock, upon a Termination of Service during the applicable restriction period, the Holder's rights in unvested Restricted Stock then subject to restrictions shall lapse, and such Restricted Stock shall be surrendered to the Company and cancelled without consideration. If a price was paid by the Holder for the Restricted Stock, upon a Termination of Service during the applicable restriction period, the Company shall have the right to repurchase from the Holder the unvested Restricted Stock then subject to restrictions at a cash price per share equal to the price paid by the Holder for such Restricted Stock or such other amount as may be specified in the applicable Program or Award Agreement.

7.5Certificates for Restricted Stock. Restricted Stock granted pursuant to the Plan may be evidenced in such manner as the Administrator shall determine. Certificates or book entries evidencing shares of Restricted Stock shall include an appropriate legend referring to the terms, conditions, and restrictions applicable to such Restricted Stock. The Company, in its sole discretion, may (a) retain physical possession of any stock certificate evidencing shares of Restricted Stock until the restrictions thereon shall have lapsed and/or (b) require that the stock certificates evidencing shares of Restricted Stock be held in custody by a designated escrow agent (which may but need not be the Company) until the restrictions thereon shall have lapsed, and that the Holder deliver a stock power, endorsed in blank, relating to such Restricted Stock.

7.6Section 83(b) Election. If a Holder makes an election under Section 83(b) of the Code to be taxed with respect to the Restricted Stock as of the date of transfer of the Restricted Stock rather than as of the date or dates upon which the Holder would otherwise be taxable under Section 83(a) of the Code, the Holder shall be required to deliver a copy of such election to the Company promptly after filing such election with the Internal Revenue Service along with proof of the timely filing thereof with the Internal Revenue Service.

## **ARTICLE 8.**

### **RESTRICTED STOCK UNITS**



8.1 Grant of Restricted Stock Units. The Administrator is authorized to grant Awards of Restricted Stock Units to any Eligible Individual selected by the Administrator in such amounts and subject to such terms and conditions as determined by the Administrator.

8.2 Term. Except as otherwise provided herein, the term of a Restricted Stock Unit award shall be set by the Administrator in its sole discretion.

8.3 Purchase Price. The Administrator shall specify the purchase price, if any, to be paid by the Holder to the Company with respect to any Restricted Stock Unit award; provided, however, that value of the consideration shall not be less than the par value of a Share, unless otherwise permitted by Applicable Law.

8.4 Vesting of Restricted Stock Units. At the time of grant, the Administrator shall specify the date or dates on which the Restricted Stock Units shall become fully vested and nonforfeitable, and may specify such conditions to vesting as it deems appropriate, including, without limitation, vesting based upon the Holder's duration of service to the Company or any Affiliate, one or more Performance Criteria, Company performance, individual performance or other specific criteria, in each case on a specified date or dates or over any period or periods, as determined by the Administrator; provided, however, that unless otherwise approved by the Administrator and set forth in the applicable Program or an Award Agreement, no Award of Restricted Stock Units shall vest or be released from such restrictions and vesting requirements prior to the date that is six months from the date of grant.

8.5 Maturity and Payment. At the time of grant, the Administrator shall specify the maturity date applicable to each grant of Restricted Stock Units which shall be no earlier than the vesting date or dates of the Award and may be determined at the election of the Holder (if permitted by the applicable Award Agreement); provided that, except as otherwise determined by the Administrator and set forth in any applicable Award Agreement, in no event shall the maturity date relating to each Restricted Stock Unit occur following the later of (a) the 15<sup>th</sup> day of the third month following the end of calendar year in which the applicable portion of the Restricted Stock Unit vests; or (b) the 15<sup>th</sup> day of the third month following the end of the Company's fiscal year in which the applicable portion of the Restricted Stock Unit vests. On the maturity date, the Company shall, subject to Section 11.4(e), transfer to the Holder one unrestricted, fully transferable Share for each Restricted Stock Unit scheduled to be paid out on such date and not previously forfeited, or in the sole discretion of the Administrator, an amount in cash equal to the Fair Market Value of such Shares on the maturity date or a combination of cash and Common Stock as determined by the Administrator.

8.6 No Rights as a Stockholder. Unless otherwise determined by the Administrator, a Holder of Restricted Stock Units shall possess no incidents of ownership with respect to the Shares represented by such Restricted Stock Units, unless and until such Shares are transferred to the Holder pursuant to the terms of this Plan and the Award Agreement.

## ARTICLE 9.

### PERFORMANCE AWARDS, DIVIDEND EQUIVALENTS, STOCK PAYMENTS

#### 9.1 Performance Awards.

(a) The Administrator is authorized to grant Performance Awards, including Awards of Performance Stock Units and Awards of cash bonuses or other cash awards determined in the Administrator's discretion from time to time, to any Eligible Individual. The value of Performance Awards, including Performance Stock Units and any cash awards, may be linked to any one or more of the Performance Criteria or other specific criteria determined by the Administrator, in each case on a specified date or dates or over any period or periods and in such amounts as may be determined by the Administrator. Performance Awards, including Performance Stock Unit awards may be paid in cash, Shares, or a combination of cash and Shares, as determined by the Administrator.

(b) Without limiting Section 9.1(a), the Administrator may grant Performance Awards to any Eligible Individual in the form of a cash bonus payable upon the attainment of objective Performance Goals, or such

other criteria, whether or not objective, that are established by the Administrator, in each case on a specified date or dates or over any period or periods determined by the Administrator.

#### 9.2 Dividend Equivalents.

(a) Dividend Equivalents may be granted by the Administrator based on dividends declared on the Common Stock, to be credited as of dividend payment dates during the period between the date an Award is granted to a Holder and the date such Award vests, is exercised, is distributed or expires, as determined by the Administrator. Such Dividend Equivalents shall be converted to cash or additional Shares by such formula and at such time and subject to such restrictions and limitations as may be determined by the Administrator. In addition, Dividend Equivalents with respect to an Award with performance-based vesting that are based on dividends paid prior to the vesting of such Award shall only be paid out to the Holder to the extent that the performance-based vesting conditions are subsequently satisfied and the Award vests.

(b) Notwithstanding the foregoing, no Dividend Equivalents shall be payable with respect to Options or Stock Appreciation Rights.

9.3 Stock Payments. The Administrator is authorized to make Stock Payments to any Eligible Individual. Stock Payments may, but are not required to, be made in lieu of base salary, bonus, fees or other cash compensation otherwise payable to such Eligible Individual. The number or value of Shares of any Stock Payment shall be determined by the Administrator and may be based upon one or more Performance Criteria or any other specific criteria, including service to the Company or any Affiliate, determined by the Administrator. Shares underlying a Stock Payment that is subject to a vesting schedule or other conditions or criteria set by the Administrator shall not be issued until those conditions have been satisfied. Unless otherwise provided by the Administrator, a Holder of a Stock Payment shall have no rights as a Company stockholder with respect to such Stock Payment until such time as the Stock Payment has vested and the Shares underlying the Award have been issued to the Holder.

9.4 Term. The term of a Performance Award, Dividend Equivalent award and/or Stock Payment award shall be established by the Administrator in its sole discretion.

9.5 Purchase Price. The Administrator may establish the purchase price of a Performance Award or Shares distributed as a Stock Payment award; provided, however, that value of the consideration shall not be less than the par value of a Share, unless otherwise permitted by Applicable Law.

## ARTICLE 10.

### STOCK APPRECIATION RIGHTS

#### 10.1 Grant of Stock Appreciation Rights.

(a) The Administrator is authorized to grant Stock Appreciation Rights to Eligible Individuals from time to time, in its sole discretion, on such terms and conditions as it may determine, which shall not be inconsistent with the Plan.

(b) A Stock Appreciation Right shall entitle the Holder (or other person entitled to exercise the Stock Appreciation Right pursuant to the Plan) to exercise all or a specified portion of the Stock Appreciation Right (to the extent then exercisable pursuant to its terms) and to receive from the Company an amount determined by multiplying the difference obtained by subtracting the exercise price per share of the Stock Appreciation Right from the Fair Market Value on the date of exercise of the Stock Appreciation Right by the number of Shares with respect to which the Stock Appreciation Right shall have been exercised, subject to any limitations the Administrator may impose. Except as described in (c) below, the exercise price per Share subject to each Stock Appreciation Right shall be set by the Administrator, but shall not be less than 100% of the Fair Market Value on the date the Stock Appreciation Right is granted.

(c) Notwithstanding the foregoing provisions of Section 10.1(b) to the contrary, in the case of a Stock Appreciation Right that is a Substitute Award, the price per share of the Shares subject to such Stock Appreciation Right may be less than 100% of the Fair Market Value per share on the date of grant; provided that the excess of: (i) the aggregate Fair Market Value (as of the date such Substitute Award is granted) of the Shares subject to the Substitute Award, over (ii) the aggregate exercise price thereof does not exceed the excess of: (x) the aggregate fair market value (as of the time immediately preceding the transaction giving rise to the Substitute Award, such fair market value to be determined by the Administrator) of the shares of the predecessor entity that were subject to the grant assumed or substituted for by the Company, over (y) the aggregate exercise price of such shares.

#### 10.2 Stock Appreciation Right Vesting.

(a) The period during which the right to exercise, in whole or in part, a Stock Appreciation Right shall be set by the Administrator and the Administrator may determine that a Stock Appreciation Right may not be exercised in whole or in part for a specified period after it is granted; provided, however, that unless otherwise approved by the Administrator and set forth in an Award Agreement, no Stock Appreciation Right shall vest prior to the date that is six months from the date of grant. Such vesting may be based on service with the Company or any Affiliate, or any other criteria selected by the Administrator, such as Performance Criteria. Except as limited by the Plan, at any time after grant of a Stock Appreciation Right, the Administrator, in its sole discretion and subject to whatever terms and conditions it selects, may accelerate the period during which a Stock Appreciation Right vests.

(b) No portion of a Stock Appreciation Right that is unexercisable at a Holder's Termination of Service shall thereafter become exercisable, except as may be otherwise provided by the Administrator in the applicable Program, the Award Agreement evidencing the grant of a Stock Appreciation Right, or by action of the Administrator following the grant of the Stock Appreciation Right.

10.3 Manner of Exercise. All or a portion of an exercisable Stock Appreciation Right shall be deemed exercised upon delivery of all of the following to the Secretary of the Company, the stock administrator of the Company or such other person or entity designated by the Administrator, or his, her or its office, as applicable:

(a) A written or electronic notice complying with the applicable rules established by the Administrator stating that the Stock Appreciation Right, or a portion thereof, is exercised. The notice shall be signed by the Holder or other person then entitled to exercise the Stock Appreciation Right or such portion of the Stock Appreciation Right;

(b) Such representations and documents as the Administrator, in its sole discretion, deems necessary or advisable to effect compliance with Applicable Law. The Administrator, in its sole discretion, may also take whatever additional actions it deems appropriate to effect such compliance, including, without limitation, placing legends on share certificates and issuing stop-transfer notices to agents and registrars;

(c) In the event that the Stock Appreciation Right shall be exercised pursuant to this Section 10.3 by any person or persons other than the Holder, appropriate proof of the right of such person or persons to exercise the Stock Appreciation Right, as determined in the sole discretion of the Administrator; and

(d) Full payment of the exercise price and applicable withholding taxes to the stock administrator of the Company for the Shares with respect to which the Stock Appreciation Right, or portion thereof, is exercised, in a manner permitted by Sections 11.1 and 11.2.

10.4 Stock Appreciation Right Term. The term of each Stock Appreciation Right (the "***Stock Appreciation Right Term***") shall be set by the Administrator in its sole discretion; provided, however, that the Stock Appreciation Right Term shall not be more than ten years from the date the Stock Appreciation Right is granted. The Administrator shall determine the time period, including the time period following a Termination of Service, during which the Holder has the right to exercise the vested Stock Appreciation Rights, which time period may not extend beyond the last day of the Stock Appreciation Right Term applicable to such Stock Appreciation Right. Except as limited by the requirements of Section 409A of the Code and regulations and rulings thereunder or the first sentence of this Section 10.4, the Administrator may extend the Stock Appreciation Right Term of any outstanding Stock

Appreciation Right, and may extend the time period during which vested Stock Appreciation Rights may be exercised, in connection with any Termination of Service of the Holder, and may amend, subject to Section 13.1, any other term or condition of such Stock Appreciation Right relating to such a Termination of Service.

10.5 Payment. Payment of the amounts payable with respect to Stock Appreciation Rights pursuant to this Article 10 shall be in cash, Shares (based on its Fair Market Value as of the date the Stock Appreciation Right is exercised), or a combination of both, as determined by the Administrator.

## ARTICLE 11.

### ADDITIONAL TERMS OF AWARDS

11.1 Payment. The Administrator shall determine the methods by which payments by any Holder with respect to any Awards granted under the Plan shall be made, including, without limitation: (a) cash or check, (b) Shares (including, in the case of payment of the exercise price of an Award, Shares issuable pursuant to the exercise of the Award) or Shares held for such period of time as may be required by the Administrator in order to avoid adverse accounting consequences, in each case, having a Fair Market Value on the date of delivery equal to the aggregate payments required, (c) delivery of a written or electronic notice that the Holder has placed a market sell order with a broker acceptable to the Company with respect to Shares then issuable upon exercise or vesting of an Award, and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the aggregate payments required; provided that payment of such proceeds is then made to the Company upon settlement of such sale, or (d) other form of legal consideration acceptable to the Administrator in its sole discretion. The Administrator shall also determine the methods by which Shares shall be delivered or deemed to be delivered to Holders. Notwithstanding any other provision of the Plan to the contrary, no Holder who is a Director or an “executive officer” of the Company within the meaning of Section 13(k) of the Exchange Act shall be permitted to make payment with respect to any Awards granted under the Plan, or continue any extension of credit with respect to such payment, with a loan from the Company or a loan arranged by the Company in violation of Section 13(k) of the Exchange Act.

11.2 Tax Withholding. The Company or any Affiliate shall have the authority and the right to deduct or withhold, or require a Holder to remit to the Company, an amount sufficient to satisfy federal, state, local and foreign taxes (including the Holder’s FICA, employment tax or other social security contribution obligation) required by law to be withheld with respect to any taxable event concerning a Holder arising as a result of the Plan. The Administrator shall determine the methods by which payments by any Holder with respect to the tax withholding obligations with respect to any Awards granted under the Plan shall be made, which methods may include any of the methods permitted under Section 11.1 above. Without limiting the foregoing, the Administrator, in its sole discretion and in satisfaction of the foregoing requirement, may withhold, or allow a Holder to elect to have the Company withhold, Shares otherwise issuable under an Award (or allow the surrender of Shares). The number of Shares that may be so withheld or surrendered shall be limited to the number of Shares that have a fair market value on the date of withholding or repurchase equal to the aggregate amount of such liabilities based on the minimum statutory withholding rates for federal, state, local and foreign income tax and payroll tax purposes that are applicable to such supplemental taxable income. The Administrator shall determine the fair market value of the Shares, consistent with applicable provisions of the Code, for tax withholding obligations due in connection with a broker-assisted cashless Option or Stock Appreciation Right exercise involving the sale of Shares to pay the Option or Stock Appreciation Right exercise price or any tax withholding obligation.

#### 11.3 Transferability of Awards.

(a) Except as otherwise provided in Section 11.3(b) and 11.3(c):

(i) No Award under the Plan may be sold, pledged, assigned or transferred in any manner other than by will or the laws of descent and distribution or, subject to the consent of the Administrator, pursuant to a DRO, unless and until such Award has been exercised, or the Shares underlying such Award have been issued, and all restrictions applicable to such Shares have lapsed;

(ii) No Award or interest or right therein shall be liable for the debts, contracts or engagements of the Holder or his successors in interest or shall be subject to disposition by transfer, alienation, anticipation, pledge, hypothecation, encumbrance, assignment or any other means whether such disposition be voluntary or involuntary or by operation of law by judgment, levy, attachment, garnishment or any other legal or equitable proceedings (including bankruptcy), and any attempted disposition thereof shall be null and void and of no effect, except to the extent that such disposition is permitted by Section 11.3(a)(i); and

(iii) During the lifetime of the Holder, only the Holder may exercise an Award (or any portion thereof) granted to such Holder under the Plan, unless it has been disposed of pursuant to a DRO; after the death of the Holder, any exercisable portion of an Award may, prior to the time when such portion becomes unexercisable under the Plan or the applicable Program or Award Agreement, be exercised by the Holder's personal representative or by any person empowered to do so under the deceased Holder's will or under the then-applicable laws of descent and distribution.

(b) Notwithstanding Section 11.3(a), the Administrator, in its sole discretion, may determine to permit a Holder to transfer an Award other than an Incentive Stock Option to any one or more Permitted Transferees, subject to the following terms and conditions: (i) an Award transferred to a Permitted Transferee shall not be assignable or transferable by the Permitted Transferee other than by will or the laws of descent and distribution or pursuant to a DRO; (ii) an Award transferred to a Permitted Transferee shall continue to be subject to all the terms and conditions of the Award as applicable to the original Holder (other than the ability to further transfer the Award); (iii) any transfer of an Award to a Permitted Transferee shall be without consideration, except as required by Applicable Law; and (iv) the Holder and the Permitted Transferee shall execute any and all documents requested by the Administrator, including, without limitation documents to (A) confirm the status of the transferee as a Permitted Transferee, (B) satisfy any requirements for an exemption for the transfer under Applicable Law and (C) evidence the transfer.

(c) Notwithstanding Section 11.3(a), a Holder may, in the manner determined by the Administrator, designate a beneficiary to exercise the rights of the Holder and to receive any distribution with respect to any Award upon the Holder's death. A beneficiary, legal guardian, legal representative, or other person claiming any rights pursuant to the Plan is subject to all terms and conditions of the Plan and any Program or Award Agreement applicable to the Holder, except to the extent the Plan, the Program and the Award Agreement otherwise provide, and to any additional restrictions deemed necessary or appropriate by the Administrator. If the Holder is married or a domestic partner in a domestic partnership qualified under Applicable Law and resides in a community property state, a designation of a person other than the Holder's spouse or domestic partner, as applicable, as the Holder's beneficiary with respect to more than 50% of the Holder's interest in the Award shall not be effective without the prior written or electronic consent of the Holder's spouse or domestic partner. If no beneficiary has been designated or survives the Holder, payment shall be made to the person entitled thereto pursuant to the Holder's will or the laws of descent and distribution. Subject to the foregoing, a beneficiary designation may be changed or revoked by a Holder at any time; provided that the change or revocation is filed with the Administrator prior to the Holder's death.

#### 11.4 Conditions to Issuance of Shares.

(a) Notwithstanding anything herein to the contrary, the Company shall not be required to issue or deliver any certificates or make any book entries evidencing Shares pursuant to the exercise of any Award, unless and until the Board or the Committee has determined, with advice of counsel, that the issuance of such Shares is in compliance with Applicable Law and the Shares are covered by an effective registration statement or applicable exemption from registration. In addition to the terms and conditions provided herein, the Board or the Committee may require that a Holder make such reasonable covenants, agreements, and representations as the Board or the Committee, in its sole discretion, deems advisable in order to comply with Applicable Law.

(b) All share certificates delivered pursuant to the Plan and all Shares issued pursuant to book entry procedures are subject to any stop-transfer orders and other restrictions as the Administrator deems necessary or advisable to comply with Applicable Law. The Administrator may place legends on any share certificate or book entry to reference restrictions applicable to the Shares.

(c) The Administrator shall have the right to require any Holder to comply with any timing or other restrictions with respect to the settlement, distribution or exercise of any Award, including a window-period limitation, as may be imposed in the sole discretion of the Administrator.

(d) No fractional Shares shall be issued and the Administrator, in its sole discretion, shall determine whether cash shall be given in lieu of fractional Shares or whether such fractional Shares shall be eliminated by rounding down.

(e) Notwithstanding any other provision of the Plan, unless otherwise determined by the Administrator or required by Applicable Law, the Company shall not deliver to any Holder certificates evidencing Shares issued in connection with any Award and instead such Shares shall be recorded in the books of the Company (or, as applicable, its transfer agent or stock plan administrator).

11.5 Forfeiture and Claw-Back Provisions. Pursuant to its general authority to determine the terms and conditions applicable to Awards under the Plan, the Administrator shall have the right to provide, in an Award Agreement or otherwise, or to require a Holder to agree by separate written or electronic instrument, that:

(a) (i) Any proceeds, gains or other economic benefit actually or constructively received by the Holder upon any receipt or exercise of the Award, or upon the receipt or resale of any Shares underlying the Award, shall be paid to the Company, and (ii) the Award shall terminate and any unexercised portion of the Award (whether or not vested) shall be forfeited, if (x) a Termination of Service occurs prior to a specified date, or within a specified time period following receipt or exercise of the Award, or (y) the Holder at any time, or during a specified time period, engages in any activity in competition with the Company, or that is inimical, contrary or harmful to the interests of the Company, as further defined by the Administrator or (z) the Holder incurs a Termination of Service for Cause; and

(b) All Awards (including any proceeds, gains or other economic benefit actually or constructively received by the Holder upon any receipt or exercise of any Award or upon the receipt or resale of any Shares underlying the Award) shall be subject to the provisions of any claw-back policy implemented by the Company, including, without limitation, any claw-back policy adopted to comply with the requirements of Applicable Law, including without limitation the Dodd-Frank Wall Street Reform and Consumer Protection Act and any rules or regulations promulgated thereunder, to the extent set forth in such claw-back policy and/or in the applicable Award Agreement.

## ARTICLE 12.

### ADMINISTRATION

12.1 Administrator. The Committee (or another committee or a subcommittee of the Board assuming the functions of the Committee under the Plan) shall administer the Plan (except as otherwise permitted herein) and, unless otherwise determined by the Board, shall consist solely of two or more Non-Employee Directors appointed by and holding office at the pleasure of the Board, each of whom is intended to qualify as both a “non-employee director” as defined by Rule 16b-3 of the Exchange Act or any successor rule and an “independent director” under the rules of any securities exchange or automated quotation system on which the Shares are listed, quoted or traded; provided that any action taken by the Committee shall be valid and effective, whether or not members of the Committee at the time of such action are later determined not to have satisfied the requirements for membership set forth in this Section 12.1 or otherwise provided in any charter of the Committee. Except as may otherwise be provided in any charter of the Committee, appointment of Committee members shall be effective upon acceptance of appointment. Committee members may resign at any time by delivering written or electronic notice to the Board. Vacancies in the Committee may only be filled by the Board. Notwithstanding the foregoing, (a) the full Board, acting by a majority of its members in office, shall conduct the general administration of the Plan with respect to Awards granted to Non-Employee Directors and, with respect to such Awards, the terms “Administrator” and “Committee” as used in the Plan shall be deemed to refer to the Board and (b) the Board or Committee may delegate its authority hereunder to the extent permitted by Section 12.6. Should any Awards made under the Plan prior to November 2, 2017, be intended to qualify as Performance-Based Compensation within the meaning of Section 162(m)(4)(C) of the Code prior to its repeal, then

all such determinations regarding such Awards will be made solely by a Committee comprised solely of two or more “outside directors” within the meaning of Section 162(m) of the Code.

**12.2 Duties and Powers of Committee.** It shall be the duty of the Committee to conduct the general administration of the Plan in accordance with its provisions. The Committee shall have the power to interpret the Plan, the Program and the Award Agreement, and to adopt such rules for the administration, interpretation and application of the Plan as are not inconsistent therewith, to interpret, amend or revoke any such rules and to amend any Program or Award Agreement; provided that the rights or obligations of the Holder of the Award that is the subject of any such Program or Award Agreement are not affected adversely by such amendment, unless the consent of the Holder is obtained or such amendment is otherwise permitted under Section 11.5, Section 13.2 or Section 13.10. Any such grant or award under the Plan need not be the same with respect to each Holder. Any such interpretations and rules with respect to Incentive Stock Options shall be consistent with the provisions of Section 422 of the Code. In its sole discretion, the Board may at any time and from time to time exercise any and all rights and duties of the Committee under the Plan except with respect to matters that under Rule 16b-3 under the Exchange Act or any successor rule, or the rules of any securities exchange or automated quotation system on which the Shares are listed, quoted or traded are required to be determined in the sole discretion of the Committee.

**12.3 Action by the Committee.** Unless otherwise established by the Board or in any charter of the Committee, a majority of the Committee shall constitute a quorum and the acts of a majority of the members present at any meeting at which a quorum is present, and acts approved in writing by all members of the Committee in lieu of a meeting, shall be deemed the acts of the Committee. Each member of the Committee is entitled to, in good faith, rely or act upon any report or other information furnished to that member by any officer or other employee of the Company or any Affiliate, the Company’s independent certified public accountants, or any executive compensation consultant or other professional retained by the Company to assist in the administration of the Plan.

**12.4 Authority of Administrator.** Subject to the Company’s Bylaws, the Committee’s Charter and any specific designation in the Plan, the Administrator has the exclusive power, authority and sole discretion to:

- (a) Designate Eligible Individuals to receive Awards;
- (b) Determine the type or types of Awards to be granted to each Eligible Individual;
- (c) Determine the number of Awards to be granted and the number of Shares to which an Award will relate;
- (d) Determine the terms and conditions of any Award granted pursuant to the Plan, including, but not limited to, the exercise price, grant price, purchase price, any performance criteria, any restrictions or limitations on the Award, any schedule for vesting, lapse of forfeiture restrictions or restrictions on the exercisability of an Award, and accelerations or waivers thereof, and any provisions related to non-competition and recapture of gain on an Award, based in each case on such considerations as the Administrator in its sole discretion determines;
- (e) Determine whether, to what extent, and pursuant to what circumstances an Award may be settled in, or the exercise price of an Award may be paid in cash, Shares, other Awards, or other property, or an Award may be canceled, forfeited, or surrendered;
- (f) Prescribe the form of each Award Agreement, which need not be identical for each Holder;
- (g) Decide all other matters that must be determined in connection with an Award;
- (h) Establish, adopt, or revise any rules and regulations as it may deem necessary or advisable to administer the Plan;
- (i) Interpret the terms of, and any matter arising pursuant to, the Plan, any Program or any Award Agreement;

(j) Make all other decisions and determinations that may be required pursuant to the Plan or as the Administrator deems necessary or advisable to administer the Plan; and

(k) Accelerate wholly or partially the vesting or lapse of restrictions of any Award or portion thereof at any time after the grant of an Award, subject to whatever terms and conditions it selects and Article 5 and Section 13.2(g).

12.5 Decisions Binding. The Administrator's interpretation of the Plan, any Awards granted pursuant to the Plan, any Program, any Award Agreement and all decisions and determinations by the Administrator with respect to the Plan are final, binding and conclusive on all parties.

12.6 Delegation of Authority. To the extent permitted by Applicable Law, the Board or Committee may from time to time delegate to a committee of one or more members of the Board or one or more officers of the Company the authority to grant or amend Awards or to take other administrative actions pursuant to this Article 12; provided, however, that in no event shall an officer of the Company be delegated the authority to grant awards to, amend awards held by, or take administrative actions with respect to Awards held by, the following individuals: (a) individuals who are subject to Section 16 of the Exchange Act, or (b) officers of the Company (or Directors) to whom authority to grant, amend or administer Awards has been delegated hereunder; provided, further, that any delegation of administrative authority shall only be permitted to the extent it is permissible under Applicable Law. Any delegation hereunder shall be subject to the restrictions and limits that the Board or Committee specifies at the time of such delegation, and the Board may at any time rescind the authority so delegated or appoint a new delegatee. At all times, the delegatee appointed under this Section 12.6 shall serve in such capacity at the pleasure of the Board and the Committee.

## ARTICLE 13.

### MISCELLANEOUS PROVISIONS

#### 13.1 Amendment, Suspension or Termination of the Plan.

(a) Except as otherwise provided in this Section 13.1, the Plan may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Board or the Committee. However, without approval of the Company's stockholders given within twelve months before or after the action by the Administrator, no action of the Administrator may, except as provided in Section 13.2, increase the limits imposed in Section 3.1 on the maximum number of Shares that may be issued under the Plan or the maximum number of Shares that may be issued pursuant to Incentive Stock Options under the Plan. Except as provided in Section 13.10, no amendment, suspension or termination of the Plan shall, without the consent of the Holder, impair any rights or obligations under any Award theretofore granted or awarded, unless the Award itself otherwise expressly so provides.

(b) The Board or the Committee may, without stockholder approval, (i) amend any Award to reduce the per-share exercise price of such an Award below the per-share exercise price as of the date the Award is granted and (ii) grant an Award in exchange for, or in connection with, the cancellation or surrender of an Award having a higher per-share exercise price.

(c) This amended and restated Plan shall be effective on the date it is approved by the Company's stockholders (the "**Restatement Effective Date**"). The Plan will expire on, and no Award may be granted pursuant to the Plan, on or after the tenth anniversary of the date this amended and restated Plan was approved by the Board (the "**Expiration Date**"). No Awards may be granted or awarded during any period of suspension or after termination of the Plan. Any Awards that are outstanding on the Expiration Date shall remain in force according to the terms of the Plan and the applicable Award Agreement.



### 13.2 Changes in Common Stock or Assets of the Company, Acquisition or Liquidation of the Company and Other Corporate Events.

(a) In the event of any stock dividend, stock split, combination or exchange of shares, merger, consolidation or other distribution (other than normal cash dividends) of Company assets to stockholders, or any other change affecting the Shares of the Company's stock or the share price of the Company's stock other than an Equity Restructuring, the Administrator may make equitable adjustments, if any, to reflect such change with respect to (i) the aggregate number and kind of Shares that may be issued under the Plan (including, but not limited to, adjustments of the limitations in Section 3.1 on the maximum number and kind of Shares that may be issued under the Plan, and the maximum number and kind of Shares that may be issued pursuant to Incentive Stock Options under the Plan); (ii) the number and kind of Shares (or other securities or property) subject to outstanding Awards; (iii) the number and kind of Shares (or other securities or property) for which automatic grants are subsequently to be made to new and continuing Non-Employee Directors pursuant to any Non-Employee Director Compensation Policy adopted by the Board pursuant to Section 3.3; (iv) the terms and conditions of any outstanding Awards (including, without limitation, any applicable performance targets or criteria with respect thereto); and (v) the grant or exercise price per share for any outstanding Awards under the Plan. Any adjustment affecting an Award intended as Performance-Based Compensation shall be made consistent with the requirements of Section 162(m)(4)(c) of the Code prior to its repeal.

(b) In the event of any transaction or event described in Section 13.2(a) or any unusual or nonrecurring transactions or events affecting the Company, any Affiliate of the Company, or the financial statements of the Company or any Affiliate, or of changes in Applicable Law or accounting principles, including, without limitation, a Change in Control, the Administrator, in its sole discretion, and on such terms and conditions as it deems appropriate, either by the terms of the Award or by action taken prior to the occurrence of such transaction or event and either automatically or upon the Holder's request, is hereby authorized to take any one or more of the following actions whenever the Administrator determines that such action is appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan or with respect to any Award under the Plan, to facilitate such transactions or events or to give effect to such changes in laws, regulations or principles:

(i) To provide for either (A) termination of any such Award in exchange for an amount of cash, if any, equal to the amount that would have been attained upon the exercise of such Award or realization of the Holder's rights (and, for the avoidance of doubt, if as of the date of the occurrence of the transaction or event described in this Section 13.2 the Administrator determines in good faith that no amount would have been attained upon the exercise of such Award or realization of the Holder's rights, then such Award may be terminated by the Company without payment) or (B) the replacement of such Award with other rights or property selected by the Administrator in its sole discretion having an aggregate value not exceeding the amount that could have been attained upon the exercise of such Award or realization of the Holder's rights had such Award been currently exercisable or payable or fully vested;

(ii) To provide that such Award be assumed by the successor or survivor corporation, or a parent or subsidiary thereof, or shall be substituted for by similar options, rights or awards covering the stock of the successor or survivor corporation, or a parent or subsidiary thereof, with appropriate adjustments as to the number and kind of shares and prices;

(iii) To make adjustments in the number and type of Shares of the Company's stock (or other securities or property) subject to outstanding Awards, and in the number and kind of outstanding Restricted Stock and/or in the terms and conditions of (including the grant or exercise price), and the criteria included in, outstanding Awards and Awards that may be granted in the future;

(iv) To provide that such Award shall be exercisable or payable or fully vested with respect to all Shares covered thereby, notwithstanding anything to the contrary in the Plan or the applicable Program or Award Agreement; and

(v) To provide that the Award cannot vest, be exercised or become payable after such event.

(c) In connection with the occurrence of any Equity Restructuring, and notwithstanding anything to the contrary in Sections 13.2(a) and 13.2(b):

(i) The number and type of securities subject to each outstanding Award and the exercise price or grant price thereof, if applicable, shall be equitably adjusted; and/or

(ii) The Administrator shall make such equitable adjustments, if any, as the Administrator, in its sole discretion may deem appropriate to reflect such Equity Restructuring with respect to the aggregate number and kind of Shares that may be issued under the Plan (including, but not limited to, adjustments of the limitations in Section 3.1 on the maximum number and kind of Shares that may be issued under the Plan, and adjustments of the maximum number and kind of Shares that may be issued pursuant to Incentive Stock Options under the Plan). The adjustments provided under this Section 13.2(c) shall be nondiscretionary and shall be final and binding on the affected Holder and the Company.

(d) In the event of a Change in Control, each outstanding Award shall continue in effect or be assumed or an equivalent Award substituted by the successor corporation or a parent or subsidiary of the successor corporation. In the event that the successor corporation in a Change in Control refuses to assume or substitute for an Award upon the Change in Control, such Award shall become fully vested and, if applicable, exercisable and all forfeiture restrictions on such Award shall lapse as of immediately prior to the consummation of such Change in Control. If an Award is exercisable in lieu of assumption or substitution in the event of a Change in Control, the Administrator shall notify the Holder that the Award shall be fully exercisable for a period of fifteen days from the date of such notice, contingent upon the occurrence of the Change in Control, and the Award shall terminate upon the expiration of such period.

(e) For the purposes of this Section 13.2, an Award shall be considered assumed if, following the Change in Control, the Award confers the right to purchase or receive, for each Share subject to the Award immediately prior to the Change in Control, the consideration (whether stock, cash, or other securities or property) received in the Change in Control by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the Change in Control was not solely common stock of the successor corporation or its parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon the exercise of the Award, for each Share subject to an Award, to be solely common stock of the successor corporation or its parent equal in fair market value to the per-share consideration received by holders of Common Stock in the Change in Control.

(f) The Administrator, in its sole discretion, may include such further provisions and limitations in any Award, agreement or certificate, as it may deem equitable and in the best interests of the Company that are not inconsistent with the provisions of the Plan.

(g) With respect to Awards that are intended to qualify as Performance-Based Compensation, no adjustment or action described in this Section 13.2 or in any other provision of the Plan shall be authorized to the extent that such adjustment or action would cause such Award to fail to so qualify as Performance-Based Compensation, unless the Administrator determines that the Award should not so qualify. No adjustment or action described in this Section 13.2 or in any other provision of the Plan shall be authorized to the extent that such adjustment or action would cause the Plan to violate Section 422(b)(1) of the Code. Furthermore, no such adjustment or action shall be authorized to the extent such adjustment or action would result in short-swing profits liability under Section 16 or violate the exemptive conditions of Rule 16b-3 unless the Administrator determines that the Award is not to comply with such exemptive conditions.

(h) The existence of the Plan, the Program, the Award Agreement and the Awards granted hereunder shall not affect or restrict in any way the right or power of the Company or the stockholders of the Company to make or authorize any adjustment, recapitalization, reorganization or other change in the Company's capital structure or its business, any merger or consolidation of the Company, any issue of stock or of options, warrants or rights to purchase stock or of bonds, debentures, preferred or prior preference stocks whose rights are superior to or affect the Common Stock or the rights thereof or that are convertible into or exchangeable for Common Stock, or the

dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

(i) Unless otherwise provided by the Administrator, no action shall be taken under this Section 13.2 that shall cause an Award to fail to be exempt from or comply with Section 409A of the Code or the Treasury Regulations thereunder.

(j) In the event of any pending stock dividend, stock split, combination or exchange of shares, merger, consolidation or other distribution (other than normal cash dividends) of Company assets to stockholders, or any other change affecting the Shares or the share price of the Common Stock including any Equity Restructuring, for reasons of administrative convenience, the Administrator in its sole discretion, may refuse to permit the exercise of any Award during a period of up to thirty days prior to the consummation of any such transaction.

13.3 Approval of Plan by Stockholders. This amended and restated Plan shall be submitted for the approval of the Company's stockholders within twelve months of the Board's approval of this amended and restated Plan. If this amended and restated Plan is not approved by the Company's stockholders prior to the end of said 12-month period, it will not become effective and the Prior Plan will continue in full force and effect in accordance with its terms.

13.4 No Stockholders Rights. Except as otherwise provided herein, a Holder shall have none of the rights of a stockholder with respect to Shares covered by any Award until the Holder becomes the record owner of such Shares.

13.5 Paperless Administration. In the event that the Company establishes, for itself or using the services of a third party, an automated system for the documentation, granting or exercise of Awards, such as a system using an internet website or interactive voice response, then the paperless documentation, granting or exercise of Awards by a Holder may be permitted through the use of such an automated system.

13.6 Effect of Plan upon Other Compensation Plans. The adoption of the Plan shall not affect any other compensation or incentive plans in effect for the Company or any Affiliate. Nothing in the Plan shall be construed to limit the right of the Company or any Affiliate: (a) to establish any other forms of incentives or compensation for Employees, Directors or Consultants of the Company or any Affiliate, or (b) to grant or assume options or other rights or awards otherwise than under the Plan in connection with any proper corporate purpose including without limitation, the grant or assumption of options in connection with the acquisition by purchase, lease, merger, consolidation or otherwise, of the business, stock or assets of any corporation, partnership, limited liability company, firm or association.

13.7 Compliance with Laws. The Plan, the granting and vesting of Awards under the Plan and the issuance and delivery of Shares and the payment of money under the Plan or under Awards granted or awarded hereunder are subject to compliance with all Applicable Law (including but not limited to state, federal and foreign securities law and margin requirements), and to such approvals by any listing, regulatory or governmental authority as may, in the opinion of counsel for the Company, be necessary or advisable in connection therewith. Any securities delivered under the Plan shall be subject to such restrictions, and the person acquiring such securities shall, if requested by the Company, provide such assurances and representations to the Company as the Company may deem necessary or desirable to assure compliance with all Applicable Law. To the extent permitted by Applicable Law, the Plan and Awards granted or awarded hereunder shall be deemed amended to the extent necessary to conform to Applicable Law.

13.8 Titles and Headings, References to Sections of the Code or Exchange Act. The titles and headings of the Sections in the Plan are for convenience of reference only and, in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control. References to sections of the Code or the Exchange Act shall include any amendment or successor thereto.

13.9Governing Law. The Plan and any agreements hereunder shall be administered, interpreted and enforced under the internal laws of the State of Delaware without regard to conflicts of laws thereof or of any other jurisdiction.

13.10Section 409A. To the extent that the Administrator determines that any Award granted under the Plan is subject to Section 409A of the Code, the Program pursuant to which such Award is granted and the Award Agreement evidencing such Award shall incorporate the terms and conditions required by Section 409A of the Code. To the extent applicable, the Plan, the Program and any Award Agreements shall be interpreted in accordance with Section 409A of the Code and Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the effective date of the Plan. Notwithstanding any provision of the Plan to the contrary, in the event that following the effective date of the Plan the Administrator determines that any Award may be subject to Section 409A of the Code and related Department of Treasury guidance (including such Department of Treasury guidance as may be issued after the effective date of the Plan), the Administrator may adopt such amendments to the Plan and the applicable Program and Award Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Administrator determines are necessary or appropriate to (a) exempt the Award from Section 409A of the Code and/or preserve the intended tax treatment of the benefits provided with respect to the Award, or (b) comply with the requirements of Section 409A of the Code and related Department of Treasury guidance and thereby avoid the application of any penalty taxes under such Section.

13.11No Rights to Awards. No Eligible Individual or other person shall have any claim to be granted any Award pursuant to the Plan, and neither the Company nor the Administrator is obligated to treat Eligible Individuals, Holders or any other persons uniformly.

13.12Unfunded Status of Awards. The Plan is intended to be an “unfunded” plan for incentive compensation. With respect to any payments not yet made to a Holder pursuant to an Award, nothing contained in the Plan or any Program or Award Agreement shall give the Holder any rights that are greater than those of a general creditor of the Company or any Affiliate.

13.13Indemnification. To the extent allowable pursuant to Applicable Law, each member of the Committee or of the Board shall be indemnified and held harmless by the Company from any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by such member in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action or failure to act pursuant to the Plan and against and from any and all amounts paid by him or her in satisfaction of judgment in such action, suit, or proceeding against him or her; provided he or she gives the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such persons may be entitled pursuant to the Company’s Certificate of Incorporation or Bylaws, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

13.14Relationship to other Benefits. No payment pursuant to the Plan shall be taken into account in determining any benefits under any pension, retirement, savings, profit sharing, group insurance, welfare or other benefit plan of the Company or any Affiliate except to the extent otherwise expressly provided in writing in such other plan or an agreement thereunder.

13.15Expenses. The expenses of administering the Plan shall be borne by the Company and its Affiliates.



P.O. BOX 8016, CARY, NC 27512-9903

Press Esc to exit full screen

# Your vote matters!



Have your ballot ready and please use one of the methods below for **easy voting**:

Your control number

Have the 12 digit control number located in the box above available when you access the website and follow the instructions.

**Scan QR for digital voting**

## Evoke Pharma, Inc.

### Annual Meeting of Stockholders

For Stockholders of record as of March 25, 2024

Wednesday, May 22, 2024 8:30 AM, Pacific Time

Annual Meeting to be held live via the internet - please visit [www.proxydocs.com/EVOK](http://www.proxydocs.com/EVOK) for more details.

**YOUR VOTE IS IMPORTANT!**  
**PLEASE VOTE BY: 8:30 AM, Pacific Time, May 21, 2024.**

#### This proxy is being solicited on behalf of the Board of Directors

The undersigned hereby appoints Matthew J. D'Onofrio (the "Named Proxies"), and each or either of them, as the true and lawful attorneys of the undersigned, with full power of substitution and revocation, and authorizes them, and each of them, to vote all the shares of capital stock of Evoke Pharma, Inc. which the undersigned is entitled to vote at said meeting and any adjournment thereof upon the matters specified and upon such other matters as may be properly brought before the meeting or any adjournment thereof, conferring authority upon such true and lawful attorneys to vote in their discretion on such other matters as may properly come before the meeting and revoking any proxy heretofore given.

THE SHARES REPRESENTED BY THIS PROXY WILL BE VOTED AS DIRECTED OR, IF NO DIRECTION IS GIVEN, SHARES WILL BE VOTED IDENTICAL TO THE BOARD OF DIRECTORS RECOMMENDATION. This proxy, when properly executed, will be voted in the manner directed herein. In their discretion, the Named Proxies are authorized to vote upon such other matters that may properly come before the meeting or any adjournment or postponement thereof.

If you hold shares in any Employee Stock Purchase Plan, or 401(k) savings plan of the Company (the "Plans"), then this proxy card, when signed and returned, or your telephone or Internet proxy, will constitute voting instructions on matters properly coming before the Annual Meeting and at any adjournments or postponements thereof in accordance with the instructions given herein to the trustee for shares held in any of the Plans. Shares in each of the Plans for which voting instructions are not received by 5:00 PM EST on May 8, 2023, or if no choice is specified, will be voted by an independent fiduciary.

You are encouraged to specify your choice by marking the appropriate box (SEE REVERSE SIDE) but you need not mark any box if you wish to vote in accordance with the Board of Directors' recommendation. The Named Proxies cannot vote your shares unless you sign (on the reverse side) and return this card.

PLEASE BE SURE TO SIGN AND DATE THIS PROXY CARD AND MARK ON THE REVERSE SIDE



#### Internet:

[www.proxypush.com/EVOK](http://www.proxypush.com/EVOK)

- Cast your vote online
- **Have your Proxy Card ready**
- Follow the simple instructions to record your vote



#### Phone:

1-855-686-4811

- Use any touch-tone telephone
- **Have your Proxy Card ready**
- Follow the simple recorded instructions



#### Mail:

- Mark, sign and date your Proxy Card
- Fold and return your Proxy Card in the postage-paid envelope provided




#### Virtual:

You must register to attend and/or vote at the meeting online at [www.proxydocs.com/EVOK](http://www.proxydocs.com/EVOK)



Please make your marks like this:

THE BOARD OF DIRECTORS RECOMMENDS A VOTE:  
FOR ON PROPOSALS 1, 2, 3, 4, 5 AND 6

PROPOSAL	YOUR VOTE			BOARD OF DIRECTORS RECOMMENDS
1. To elect two directors for a three-year term to expire at the 2026 annual meeting of stockholders;				 <b>FOR</b>
1.01 Cam L. Garner	FOR <input type="checkbox"/>	WITHHOLD <input type="checkbox"/>		
1.02 Todd C. Brady, M.D., Ph.D.	<input type="checkbox"/>	<input type="checkbox"/>		
2. To consider and vote upon the ratification of the selection of BDO USA, P.C. as our independent registered public accounting firm for the fiscal year ending December 31, 2024;	FOR <input type="checkbox"/>	AGAINST <input type="checkbox"/>	ABSTAIN <input type="checkbox"/>	<b>FOR</b>
3. To consider and vote upon, on an advisory basis, the compensation of our named executive officers as disclosed in the proxy statement pursuant to the compensation disclosure rules of the Securities and Exchange Commission;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>FOR</b>
4. To consider and vote upon the approval of an amendment to our Amended and Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 50,000,000 to 100,000,000;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>FOR</b>
5. To grant the board authority to effect a reverse stock split of our outstanding common stock by amending our Amended and Restated Certificate of Incorporation within one year and within a range of not less than one-for-two and not more than one-for-twenty, if the board deems it within the company's best interests; and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>FOR</b>
6. To consider and vote upon the approval of the amendment and restatement of our 2013 Equity Incentive Award Plan;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>FOR</b>
7. To transact such other business as may be properly brought before the meeting or any adjournment or postponement thereof.				

**You must register to attend and/or vote at the meeting online at [www.proxydocs.com/EVOK](http://www.proxydocs.com/EVOK)**

Authorized Signatures - Must be completed for your instructions to be executed.

Please sign exactly as your name(s) appears on your account. If held in joint tenancy, all persons should sign. Trustees, administrators, etc., should include title and authority. Corporations should provide full name of corporation and title of authorized officer signing the Proxy/Vote Form.

\_\_\_\_\_  
Signature (and Title if applicable)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature (if held jointly)

\_\_\_\_\_  
Date

