UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2021

or

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

For the transition period from _____ to _____

Commission File Number: 001-38381

EVOLUS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**46-1385614**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification Number)**
520 Newport Center Drive Suite 1200 Newport Beach, California	**92660**
(Address of Principal Executive Offices)	**(Zip Code)**

(949) 284-4555

(Registrant's Telephone Number, Including Area Code)

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

Title of Class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.00001 per share	**EOLS**	**The Nasdaq Stock Market LLC (Nasdaq Global Market)**

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

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

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

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

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

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

As of May 7, 2021, 54,120,312 shares of the registrant's common stock, par value $0.00001, were outstanding.

TABLE OF CONTENTS

Special Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, that involve risks and uncertainties, including statements based on our current expectations, assumptions, estimates and projections about future events, our business, financial condition, results of operations and prospects, our industry and the regulatory environment in which we operate. Any statements contained herein that are not statements of historical facts may be deemed to be forward-looking statements. In some cases, you can identify forward-looking statements by terms such as "anticipate," "believe," "could," "estimate," "expect," "intend," "may," "plan," "potential," "predict," "project," "should," "will," "would" or the negative of those terms, or other comparable terms intended to identify statements about the future. The forward-looking statements included herein are subject to risks and uncertainties that could cause actual results to differ materially from those expressed in the forward-looking statements. These risks and uncertainties, all of which are difficult or impossible to predict accurately and many of which are beyond our control, include, but are not limited to those made below under "Summary of Risk Factors" and in Item 1A. Risk Factors in this Quarterly Report.

You should carefully consider these risks, as well as the additional risks described in other documents we file with the SEC in the future, including subsequent Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q, which may from time to time amend, supplement or supersede the risks and uncertainties we disclose. We also operate in a very competitive and rapidly changing environment. New risks emerge from time to time and it is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in, or implied by, any forward-looking statements.

The forward-looking statements included herein are based on current expectations of our management based on available information and are believed to be reasonable. In light of the significant risks and uncertainties inherent in the forward-looking statements included herein, the inclusion of such information should not be regarded as a representation by us or any other person that such results will be achieved, and readers are cautioned not to place undue reliance on such forward-looking statements, which speak only as of the date hereof. Except as required by law, we undertake no obligation to revise the forward-looking statements contained herein to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events. You should read this Quarterly Report on Form 10-Q and the documents we file with the SEC, with the understanding that our actual future results, levels of activity, performance and achievements may be materially different from what we expect. We qualify all of our forward-looking statements by the cautionary statements referenced above.

Summary of Risk Factors

An investment in our securities involves various risks and you are urged to carefully consider the risks discussed under Item 1A "Risk Factors," in this Quarterly Report on Form 10-Q prior to making an investment in our securities. If any of the risks below or in Item 1A "Risk Factors" occurs, our business could be materially and adversely affected. As more fully described in Item 1A "Risk Factors", the principal risks and uncertainties that may affect our business, financial condition and results of operations include, but are not limited to, the following:

- We currently depend entirely on the successful commercialization of our only product, Jeuveau®. If we are unable to successfully commercialize Jeuveau®, we may never generate sufficient revenue to continue our business.
- We have a limited operating history and have incurred significant losses since our inception and anticipate that we will continue to incur losses for the foreseeable future. We have only one product, which, together with our limited operating history, make it difficult to assess our future viability.
- We may require additional financing to fund our future operations, and a failure to obtain additional capital when so needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our operations.
- If we or our counterparties do not comply with the terms of our settlement agreements with Medytox or Allergan, we may face litigation or lose our ability to commercialize Jeuveau® which would materially and adversely affect our ability to carry out our business, and our financial condition and ability to continue as a going concern.
- The terms of the Medytox/Allergan Settlement Agreements with Medytox and Allergan will reduce our profitability and may affect our pricing and the extent of any discounts we may offer to our customers.

- Our business, financial condition and operations continues to be adversely affected by the COVID-19 outbreak.
- We rely on the license and supply agreement with Daewoong, which we refer to as the Daewoong Agreement, to provide us exclusive rights to distribute Jeuveau® in certain territories. Any termination or loss of significant rights, including exclusivity, under the Daewoong Agreement would materially and adversely affect our development or commercialization of Jeuveau®.
- Our failure to successfully in-license, acquire, develop and market additional product candidates or approved products would impair our ability to grow our business.
- Jeuveau® faces, and any of our future product candidates will face, significant competition and our failure to effectively compete may prevent us from achieving significant market penetration and expansion.
- Jeuveau® may fail to achieve the broad degree of physician adoption and use or consumer demand necessary for commercial success.
- Our ability to market Jeuveau® is limited to use for the treatment of glabellar lines, and if we want to expand the indications for which we market Jeuveau®, we will need to obtain additional regulatory approvals, which will be expensive and may not be granted.
- Third party claims of intellectual property infringement may prevent or delay our commercialization efforts and interrupt our supply of products.
- If we or any of our current or future licensors, including Daewoong, are unable to maintain, obtain or protect intellectual property rights related to Jeuveau® or any of our future product candidates, we may not be able to compete effectively in our market.
- We may need to increase the size of our organization, including our sales and marketing capabilities in order to further commercialize Jeuveau® and we may experience difficulties in managing this growth.
- We rely on our digital technology and applications and our business and operations would suffer in the event of system failures or breach by hackers.
- We are subject to extensive government regulation, and we may face delays in or not obtain regulatory approval of our product candidates and our compliance with ongoing regulatory requirements may result in significant additional expense, limit or delay regulatory approval or subject us to penalties if we fail to comply.

Unless the context indicates otherwise, as used in this Quarterly Report on Form 10-Q, the terms “Evolus,” “company,” “we,” “us” and “our” refer to Evolus, Inc., a Delaware corporation, and our subsidiaries taken as a whole, unless otherwise noted.

EVOLUS™, Jeuveau®, Evolux™ are three of our trademarks that are used in this Quarterly Report on Form 10-Q. Jeuveau® is the trade name in the United States for our approved product with non-proprietary name, prabotulinumtoxinA-xvfs. The product has different trade names outside of the United States, but is referred to throughout this Quarterly Report on Form 10-Q as Jeuveau®. This Quarterly Report on Form 10-Q also includes trademarks, trade names and service marks that are the property of other organizations, such as BOTOX® and BOTOX® Cosmetic, which we refer to throughout this Quarterly Report on Form 10-Q as BOTOX. Solely for convenience, trademarks and trade names referred to in this Quarterly Report on Form 10-Q may appear without the ® and ™ symbols, but those references are not intended to indicate that we will not assert, to the fullest extent under applicable law, our rights, or that the applicable owner will not assert its rights, to these trademarks and trade names. We do not intend our use or display of other companies’ trade names or trademarks to imply a relationship with, or endorsement or sponsorship of us by, any other companies.

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

Evolus, Inc.
Condensed Balance Sheets
(in thousands, except par value and share data)

	March 31, 2021 (unaudited)	December 31, 2020 (Note 2)
ASSETS		
Current assets		
Cash and cash equivalents	$ 22,171	$ 102,562
Short-term investments	—	5,000
Accounts receivable, net	7,816	9,680
Inventories	2,775	3,354
Consideration receivable from Daewoong	25,500	—
Withholding tax receivable	7,263	—
Prepaid expenses	5,464	4,828
Other current assets	6,728	2,188
Total current assets	77,717	127,612
Property and equipment, net	1,217	1,297
Operating lease right-of-use assets	3,248	3,414
Intangible assets, net	53,568	55,297
Goodwill	21,208	21,208
Other assets	240	240
Total assets	$ 157,198	$ 209,068
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities		
Accounts payable	$ 13,253	$ 9,615
Accrued expenses	12,567	9,102
Accrued litigation settlement	30,000	63,421
Withholding tax payable	7,263	—
Operating lease liabilities	1,226	1,212
Contingent royalty obligation payable to Evolus Founders	3,985	3,446
Promissory note payable to Evolus Founders	19,354	19,068
Term loan, net of discounts and issuance costs	—	74,384
Total current liabilities	87,648	180,248
Accrued litigation settlement	5,000	20,000
Operating lease liabilities	2,936	3,147
Contingent royalty obligation payable to Evolus Founders	38,300	38,100
Convertible note	—	40,506
Deferred tax liability	25	25
Total liabilities	133,909	282,026
Commitments and contingencies (Note 9)		
Stockholders' equity (deficit)		
Preferred stock, $0.00001 par value; 10,000,000 shares authorized; no shares issued and outstanding at March 31, 2021 and December 31, 2020, respectively	—	—
Common stock, $0.00001 par value; 100,000,000 shares authorized; 43,736,971 and 33,749,228 shares issued and outstanding at March 31, 2021 and December 31, 2020, respectively	1	1
Additional paid-in capital	392,959	303,113
Accumulated deficit	(369,671)	(376,072)
Total stockholders' equity (deficit)	23,289	(72,958)
Total liabilities and stockholders' equity	$ 157,198	$ 209,068

See accompanying notes to financial statements.

Evolus, Inc.
Condensed Statements of Operations and Comprehensive Income (Loss)
(in thousands, except share and per share data)
(Unaudited)

	Three Months Ended March 31,	
	2021	**2020**
Revenue:		
Product revenue, net	$ 12,241	$ 10,496
Operating expenses:		
Product cost of sales (excludes amortization of intangible assets)	4,908	4,219
Settlement payment from Daewoong	(25,500)	—
Selling, general and administrative	20,677	31,300
Research and development	841	507
Revaluation of contingent royalty obligation payable to Evolus Founders	1,268	(9,884)
Depreciation and amortization	2,033	1,749
Total operating expenses	4,227	27,891
Income (loss) from operations	8,014	(17,395)
Other income (expense):		
Interest income	—	374
Interest expense	(645)	(2,458)
Loss from extinguishment of debts, net	(968)	—
Income (loss) before income taxes:	6,401	(19,479)
Income tax expense	—	256
Net income (loss)	$ 6,401	$ (19,735)
Other comprehensive gain (loss):		
Unrealized gain on available-for-sale securities, net of tax	—	219
Comprehensive income (loss)	$ 6,401	$ (19,516)
Net income (loss) per share, basic	$ 0.17	$ (0.59)
Net income (loss) per share, diluted	$ 0.16	$ (0.59)
Weighted-average shares outstanding used to compute basic net income (loss) per share	37,100,897	33,720,436
Weighted-average shares outstanding used to compute diluted net income (loss) per share	41,104,627	33,720,436

See accompanying notes to financial statements.

Evolus, Inc.
Condensed Statements of Stockholders' Equity
(in thousands, except share data)
(Unaudited)

	Series A Preferred Stock		Common Stock		Additional Paid In Capital	Accumulated Other Comprehensive Gain (Loss)	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount				
Balance at December 31, 2019	—	$ —	33,562,665	$ 1	$ 292,509	$ 6	$ (213,059)	$ 79,457
Issuance of common stock in connection with the incentive equity plan	—	—	165,370	—	—	—	—	—
Share-based compensation	—	—	—	—	2,665	—	—	2,665
Net loss	—	—	—	—	—	—	(19,735)	(19,735)
Other comprehensive loss	—	—	—	—	—	219	—	219
Balance at March 31, 2020	—	$ —	33,728,035	$ 1	$ 295,174	$ 225	$ (232,794)	$ 62,606

	Series A Preferred Stock		Common Stock		Additional Paid In Capital	Accumulated Other Comprehensive Gain (Loss)	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount				
Balance at December 31, 2020	—	$ —	33,749,228	$ 1	$ 303,113	$ —	$ (376,072)	$ (72,958)
Issuance of common stock in connection with litigation settlement	—	—	6,762,652	—	48,421	—	—	48,421
Issuance of common stock for conversion of convertible note	—	—	3,136,869	—	39,808	—	—	39,808
Issuance of common stock in connection with the incentive equity plan	—	—	88,222	—	11	—	—	11
Stock-based compensation	—	—	—	—	1,606	—	—	1,606
Net income	—	—	—	—	—	—	6,401	6,401
Balance at March 31, 2021	—	$ —	43,736,971	$ 1	$ 392,959	$ —	$ (369,671)	$ 23,289

See accompanying notes to financial statements.

Evolus, Inc.
Condensed Statements of Cash Flows
(in thousands)
(Unaudited)

	Three Months Ended March 31,	
	2021	**2020**
Cash flows from operating activities		
Net income (loss)	$ 6,401	$ (19,735)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	2,033	1,749
Stock-based compensation	1,590	2,628
Provision for bad debts	610	2,607
Amortization of discount on short-term investments	—	(169)
Amortization of operating lease right-of-use assets	166	169
Amortization of debt discount and issuance costs	286	647
Paid-in-kind interest on convertible note	273	—
Deferred income taxes	—	256
Revaluation of contingent royalty obligation payable to Evolus Founders	1,268	(9,884)
Loss from extinguishment of debts	968	—
Changes in assets and liabilities:		
Accounts receivable	1,254	(2,352)
Inventories	3,149	(1,929)
Consideration receivable from Daewoong	(25,500)	—
Prepaid expenses	(636)	1,878
Other assets	(1,657)	(14)
Accounts payable	(1,808)	332
Accrued expenses	3,465	(3,949)
Operating lease liabilities	(197)	(181)
Net cash used in operating activities	(8,335)	(27,947)
Cash flows from investing activities		
Purchases of property and equipment	—	(565)
Additions to capitalized software	(215)	(935)
Purchases of short-term investments	—	(49,688)
Maturities of short-term investments	5,000	5,000
Net cash provided by (used in) investing activities	4,785	(46,188)
Cash flows from financing activities		
Repayment of long term debt	(76,323)	—
Payment of contingent royalty obligation to Evolus Founders	(529)	(583)
Payment for debt obligation	—	(522)
Issuance of common stock in connection with incentive equity plan	11	—
Net cash used in financing activities	(76,841)	(1,105)
Change in cash and cash equivalents	(80,391)	(75,240)
Cash and cash equivalents, beginning of period	102,562	109,892
Cash and cash equivalents, end of period	$ 22,171	$ 34,652

See accompanying notes to financial statements.

Evolus, Inc.
Condensed Statements of Cash Flows (Continued)
(in thousands)
(Unaudited)

	Three Months Ended March 31,	
	2021	2020
Supplemental disclosure of cash flow information		
Cash paid for interest	$ 79	$ 1,801
Non-cash investing and financing information:		
Conversion of convertible note to equity	$ 39,808	$ —
Issuance of common stock in exchange for accrued litigation settlement expense	$ 48,421	$ —
Capitalized software recorded in accounts payable and accrued expenses	$ 7	$ 168

See accompanying notes to financial statements.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

Note 1. Description of Business

Description of Business

Evolus, Inc., ("Evolus" or the "Company") is a performance beauty company focused on delivering products in the self-pay aesthetic market. The Company received the approval of its first product Jeuveau® (prabotulinumtoxinA-xvfs) from the U.S. Food and Drug Administration (the "FDA") in February 2019. The product was also approved by Health Canada in August 2018 and the European Commission ("EC") in September 2019. Jeuveau® is a proprietary 900 kDa purified botulinum toxin type A formulation indicated for the temporary improvement in the appearance of moderate to severe glabellar lines, also known as "frown lines," in adults. The Company commercially launched Jeuveau® in the United States in May 2019 and in Canada through a distribution partner in October 2019. The Company currently generates all of its net revenues from Jeuveau®. The Company is headquartered in Newport Beach, California.

Liquidity and Financial Condition

The accompanying unaudited condensed financial statements have been prepared on a basis that assumes that the Company will continue as a going concern, and do not include any adjustments that may result from the outcome of this uncertainty. This basis of accounting contemplates the recovery of the Company's assets and the satisfaction of the Company's liabilities and commitments in the normal course of business and does not include any adjustments to reflect the possible future effects of the recoverability and classification of recorded asset amounts or amounts and classification of liabilities that might be necessary should the Company be unable to continue as a going concern. Since inception, the Company has incurred recurring net operating losses. The Company has recorded net income of $6,401 for the three months ended March 31, 2021. Additionally, the Company used cash of $8,335 in operations during the three months ended March 31, 2021. As of March 31, 2021, the Company had $22,171 in cash and cash equivalents, $19,354 in current debt and an accumulated deficit of $369,671.

In January 2021, the Company paid Oxford Finance ("Oxford") $76,447 to discharge in full all outstanding obligations, included accrued interest, and the Oxford Term Loan (as such term is defined in *Note 6. Oxford Term Loan*) was extinguished. See *Note 6. Oxford Term Loan* for additional information.

In February 2021, the Company entered into settlement and license agreements with Medytox, Inc. ("Medytox") and Allergan, plc and Allergan, Inc. (collectively, "Allergan"), pursuant to which the Company (1) agreed to pay Medytox and Allergan $35,000 in multiple payments over two years, including $20,000 due in the next twelve months, (2) issued Medytox 6,762,652 shares of common stock and (3) agreed to pay Medytox and Allergan certain royalties on the sale of Jeuveau®, among other terms. See *Note 9. Commitments and Contingencies* for additional information.

In March 2021, the Company and Daewoong entered into certain agreements, pursuant to which Daewoong (1) paid the Company an amount equal to $25,500 in April 2021 and (2) agreed to reimburse the Company certain amounts with respect to the royalties payable to Medytox and Allergan, among other terms. See *Note 9. Commitments and Contingencies* for additional information. In addition, the outstanding Daewoong Convertible Note (as such term is defined in *Note 7. Daewoong Convertible Note*), including accrued interest, in the amount of $40,779 was converted into 3,136,869 shares of the Company's common stock. See *Note 7. Daewoong Convertible Note* for additional information.

In April 2021, the Company completed a follow-on public offering and issued 10,350,000 shares of its common stock, which included the exercise in full by the underwriters of their option to purchase an additional 1,350,000 shares of common stock, at a price to the public of $9.50 per share. The Company received net proceeds of approximately $92,426 from the offering, after deducting underwriting discounts and commissions, excluding other offering expenses.

The Company's ability to execute on its business strategy, meet its future liquidity requirements, and achieve profitable operations, is dependent on a number of factors, including its ability to gain and expand market acceptance of its product and achieve a level of revenues adequate to support its cost structure, its ability maintain regulatory approval of its product, the outcome of its ongoing litigation and its ability to operate its business and sell products without infringing third party intellectual property rights.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

The Company believes that its current capital resources, which consist of cash and cash equivalents, are sufficient to fund operations through at least the next twelve months from the date the accompanying condensed financial statements are issued based on the expected cash burn rate. The Company may be required to raise additional capital to fund future operations through the incurrence of debt, the entry into licensing or collaboration agreements with partners, sale of its equity securities, grants or other sources of financing. Sufficient funds may not be available to the Company at all or on attractive terms when needed from equity or debt financings. If the Company is unable to obtain additional funding from these or other sources when needed, or to the extent needed, it may be necessary to significantly reduce its controllable and variable expenditures and current rate of spending through reductions in staff and delaying, scaling back, or suspending certain research and development, sales and marketing programs and other operational goals.

Note 2. Basis of Presentation and Summary of Significant Accounting Policies

Basis of Presentation

The accompanying unaudited condensed financial statements have been prepared on a consistent basis with the annual financial statements and in accordance with accounting principles generally accepted in the United States of America ("GAAP") and the requirements of the Securities and Exchange Commission ("SEC") for interim reporting. Pursuant to these SEC rules and regulations, the Company has condensed or omitted certain financial information and disclosures normally included in annual financial statements prepared in accordance with GAAP. In the opinion of management, the interim financial statements reflect all adjustments, which include only normal recurring adjustments, considered necessary for a fair statement of the interim periods. The interim results presented herein are not necessarily indicative of the results of operations to be expected for the full year ending December 31, 2021 or for any other interim period.

The accompanying unaudited condensed financial statements and related disclosures should be read in conjunction with the financial statements and notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2020, as filed with the SEC on March 25, 2021.

Reclassifications

Certain comparative amounts for prior year have been reclassified to conform to current year presentations. Such reclassifications did not affect net income or retained earnings.

Use of Estimates

Management is required to make certain estimates and assumptions in order to prepare financial statements in conformity with GAAP. Such estimates and assumptions affect the reported financial statements. The Company's most significant estimates relate to net revenues, allowance for doubtful accounts, fair value measurements, goodwill and long-lived asset valuations and impairment assessments, inventory valuations, income tax valuations, stock-based compensation and royalty obligations, among others. Management bases estimates on historical experience and on assumptions that management believes are reasonable. The Company's actual results could differ materially from those estimates.

Additionally, the full impact of the COVID-19 outbreak is unknown and cannot be reasonably estimated. However, where possible, management has made appropriate accounting estimates with respect to certain accounting matters, which include the fair value of royalty obligations, allowance for doubtful accounts, inventory valuation and impairment assessments of goodwill and other long-lived assets, based on the facts and circumstances available as of the reporting date. The Company's future assessment of the magnitude and duration of the COVID-19 outbreak, as well as other factors, could result in material impacts to the Company's financial statements in future reporting periods.

Risks and Uncertainties

In 2013, Evolus and Daewoong Pharmaceutical Co. Ltd. ("Daewoong") entered into an agreement ("Daewoong Agreement"), pursuant to which, the Company received an exclusive distribution license to Jeuveau® from Daewoong for aesthetic indications in the United States, European Union, Great Britain, Canada, Australia, Russia, Commonwealth of Independent States, and South Africa, as well as co-exclusive distribution rights with Daewoong in Japan. Jeuveau® is manufactured by Daewoong in a facility in South Korea. The Company also has the option to negotiate first with Daewoong to secure a

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

distribution license for any product that Daewoong directly or indirectly develops or commercializes that is classified as an injectable botulinum toxin (other than Jeuveau®) in a territory covered by the Daewoong Agreement. The Company relies on Daewoong, its exclusive and sole supplier, to manufacture Jeuveau®. Any termination or loss of significant rights, including exclusivity, under the Daewoong Agreement would materially and adversely affect the Company's commercialization of Jeuveau®. See *Note 9. Commitments and Contingencies* for additional information.

The Company commercially launched Jeuveau® in the United States in May 2019 and in Canada through its distribution partner in October 2019 and, as such, has a limited history of sales. If any previously granted approval is retracted or the Company is denied approval or approval is delayed by any other regulators, it may have a material adverse impact on the Company's business and its financial statements.

The Company is also subject to risks common to companies in the pharmaceutical industry including, but not limited to, dependency on the commercial success of Jeuveau®, the Company's sole commercial product, significant competition within the medical aesthetics industry, its ability to maintain regulatory approval of Jeuveau®, the need for additional financing to achieve its goals, third party litigation and challenges to its intellectual property, uncertainty of broad adoption of its product by physicians and patients, its ability to in-license, acquire or develop additional product candidates and to obtain the necessary approvals for those product candidates, and the need to scale manufacturing capabilities over time.

The COVID-19 outbreak and restrictions intended to slow the spread of COVID-19, including quarantines, government-mandated actions, stay-at-home orders and other restrictions, have adversely affected the Company's business in a number of ways, which have resulted, and may continue to result, in a period of business disruption and in reduced sales and operations. In addition, any disruption and volatility in the global capital markets may increase the Company's cost of capital and adversely affect its ability to access financing when and on terms that we desire. Any of these events could have a material adverse effect on the Company's business, financial condition, results of operations and cash flows.

Segment Reporting

Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision-maker. The Company has determined that it operates in a single operating and reportable segment. The Company's chief operating decision maker is its Chief Executive Officer who manages operations and reviews the financial information as a single operating segment for purposes of allocating resources and evaluating its financial performance.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to a concentration of credit risk consist of cash and cash equivalents, short-term investments and accounts receivable. Substantially all of the Company's cash is held by financial institutions that management believes are of high credit quality. Such deposits may, at times, exceed federally insured limits. To date, the Company has not experienced any losses associated with this credit risk and continues to believe that this exposure is not significant. The Company invests its excess cash, in line with its investment policy, primarily in money market funds and debt instruments of U.S. government agencies.

The Company's accounts receivable is derived from customers located principally in the United States. Concentrations of credit risk with respect to trade receivables are limited due to the Company's credit evaluation process. The Company does not typically require collateral from its customers. Credit losses historically have not been material. The Company continuously monitors customer payments and maintains an allowance for doubtful accounts based on its assessment of various factors including historical experience, age of the receivable balances, and other current economic conditions or other factors that may affect customers' ability to pay.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash and highly liquid investments with remaining maturities at purchase of three months or less that can be liquidated without prior notice or penalty. Cash and cash equivalents may include deposits, money market funds and debt securities. Amounts receivable from credit card issuers are typically converted to cash within two to four days of the original sales transaction and are considered to be cash equivalents.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

Short-Term Investments

Short-term investments consist of available-for-sale U.S. Treasury securities with original maturities greater than three months and remaining maturities of less than twelve months. These investments are recorded at fair value based on quoted prices in active markets, with unrealized gains and losses reported in other comprehensive (loss) gain in the Company's condensed statements of operations and comprehensive loss. Purchase premiums and discounts are recognized in interest expense using the effective interest method over the terms of the securities. Realized gains and losses and declines in fair value that are deemed to be other than temporary are reflected in the condensed statements of operations and comprehensive loss using the specific-identification method.

The Company periodically reviews all available-for-sale securities for other than temporary declines in fair value below the cost basis whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company also evaluates whether it has plans or is required to sell short-term investments before recovery of their amortized cost bases. To date, the Company has not identified any other than temporary declines in fair value of its short-term investments.

Inventories

Inventories consist of finished goods held for sale and distribution. Cost is determined based on the estimated amount payable to the Company's supplier after accounting for any reimbursement receivable pursuant to the Daewoong Settlement Agreement (as such term is defined, and such agreement is discussed, in *Note 9. Commitments and Contingencies*), using the first-in, first-out method with prioritization of the items with the earliest expiration dates. Inventory valuation reserves are established based on a number of factors including, but not limited to, finished goods not meeting product specifications, product excess and obsolescence, or application of the lower of cost or net realizable value concepts. The determination of events requiring the establishment of inventory valuation reserves, together with the calculation of the amount of such reserves may require judgment. No material inventory valuation reserves have been recorded for the periods presented. Adverse changes in assumptions utilized in the Company's inventory reserve calculations could result in an increase to its inventory valuation reserves.

Product cost of sales, excluding amortization of intangible assets, consisted of the inventory cost, and, for periods on or after December 16, 2020, included certain royalties on the sale of Jeuveau® payable to Medytox and Allergan pursuant to the Medytox/Allergan Settlement Agreements (as such items are defined in *Note 9. Commitments and Contingencies)*, as partially offset by reimbursement receivable from Daewoong pursuant the Daewoong Settlement Agreement with respect to such royalties. In the three months ended March 31, 2021, the Company also recorded the settlement payment of $25,500 from Daewoong in connection with the Daewoong Settlement Agreement as part of cost of sales. See "—*Litigation Settlement*" for additional information.

Fair Value of Financial Instruments

Fair value is defined as the exchange price that would be received for an asset or an exit price paid to transfer a liability in an orderly transaction between market participants in a principal market on the measurement date.

The fair value hierarchy defines a three-tiered valuation hierarchy for disclosure of fair value measurement is classified and disclosed by the Company in one of the three categories as follows:

- Level 1—Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities;
- Level 2—Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities in active markets; quoted prices in markets that are not active; or other inputs that are observable, either directly or indirectly, or can be corroborated by observable market data for substantially the full term of the asset or liability; and
- Level 3—Prices or valuation techniques that require inputs that are unobservable that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

The categorization of a financial instrument within the valuation hierarchy is based upon the lowest level of input that is significant to the fair value measurement.

Property and Equipment

Property and equipment are stated at cost. Depreciation and amortization are provided using the straight-line method over the estimated useful lives of approximately five years. Leasehold improvements are amortized over the shorter of the estimated useful lives of the improvements or the term of the related lease.

Goodwill

Goodwill represents the excess of the purchase price over the fair value of the net tangible and intangible assets acquired in a business combination. The Company reviews goodwill for impairment annually and whenever events or changes in circumstances indicate the carrying amount of goodwill may not be recoverable. The Company performs an annual qualitative assessment of its goodwill in the fourth quarter of each calendar year to determine if any events or circumstances exist, such as an adverse change in business climate or a decline in the overall industry demand, that would indicate that it would more likely than not reduce the fair value of a reporting unit below its carrying amount, including goodwill. If events or circumstances do not indicate that the fair value of a reporting unit is below its carrying amount, then goodwill is not considered to be impaired and no further testing is required. If further testing is required, the Company performs a two-step process. The first step involves comparing the fair value of the Company's reporting unit to its carrying value, including goodwill. If the carrying value of the reporting unit exceeds its fair value, the second step of the test is performed by comparing the carrying value of the goodwill in the reporting unit to its implied fair value. An impairment charge is recognized for the excess of the carrying value of goodwill over its implied fair value. For the purpose of impairment testing, the Company has determined that it has one reporting unit. There was no impairment of goodwill for any of the periods presented.

Intangible Assets

Upon FDA approval of Jeuveau® in February 2019, the in-process research and development ("IPR&D") related to Jeuveau® was evaluated as completed and reclassified to a definite-lived distribution right intangible asset, which is amortized over the period the asset is expected to contribute to the future cash flows of the Company. The Company determined the pattern of this intangible asset's future cash flows could not be readily determined with a high level of precision. As a result, the distribution right intangible asset is being amortized on a straight-line basis over the estimated useful life of 20 years.

The Company capitalizes certain internal-use software costs associated with the development of its mobile and web-based customer platforms. These costs include personnel expenses and external costs that are directly associated with the software projects. These costs are included as intangible assets in the accompanying condensed balance sheets. The capitalized internal-use software costs are amortized on a straight-line basis over the estimated useful life of two years upon being placed in service.

The Company reviews long-term and identifiable definite-lived intangible assets or asset groups for impairment when events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be recoverable. If the sum of the expected future undiscounted cash flows is less than the carrying amount of the asset or an asset group, further impairment analysis is performed. An impairment loss is measured as the amount by which the carrying amount of the asset or asset groups exceeds the fair value for assets to be held and used or fair value less cost to sell for assets to be disposed of. The Company also reviews the useful lives of its assets periodically to determine whether events and circumstances warrant a revision to the remaining useful life. Changes in the useful life are adjusted prospectively by revising the remaining period over which the asset is amortized. There was no material impairment of long-lived assets for any periods presented.

Leases

In accordance with Accounting Standards Codification 842, *Leases* ("ASC 842"), at the inception of a contractual arrangement, the Company determines whether the contract contains a lease by assessing whether there is an identified asset and whether the contract conveys the right to control the use of the identified asset in exchange for consideration over a period of time. If both criteria are met, upon lease commencement, the Company records a lease liability which represents the Company's obligation to make lease payments arising from the lease, and a corresponding right-of-use ("ROU") asset which

represents the Company's right to use an underlying asset during the lease term. Operating lease assets and liabilities are included in ROU assets, current portion of operating lease liabilities and noncurrent operating lease liabilities in the accompanying condensed balance sheets.

Operating lease ROU assets and lease liabilities are initially recognized based on the present value of the future minimum lease payments over the lease term at commencement date calculated using the Company's incremental borrowing rate applicable to the underlying asset unless the implicit rate is readily determinable. Operating lease ROU assets also include any lease payments made at or before lease commencement and exclude any lease incentives received, if any. The Company determines the lease term as the noncancelable period of the lease and may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise such options. The Company's leases do not contain any residual value guarantees. Leases with a term of 12 months or less are not recognized on the condensed balance sheets. For operating leases, the Company recognized rent expense on a straight-line basis over the lease term. There were no significant finance leases as of March 31, 2021.

Contingent Royalty Obligation Payable to the Evolus Founders

The Company determines the fair value of the contingent royalty obligation payable at each reporting period end based on Level 3 inputs using a discounted cash flows method. Changes in the fair value of the contingent royalty obligation payable are determined at each reporting period end and recorded in operating expenses in the accompanying condensed statements of operations and comprehensive income (loss) and as a liability in the condensed balance sheets.

Promissory Note Payable to Evolus Founders

On February 12, 2018, the Company recognized a promissory note payable at present value using a discount rate for similar rated debt securities. Discount amortization related to the promissory note is recorded in interest expense in the condensed statements of operations and comprehensive income (loss) with a corresponding increase to the liabilities in the condensed balance sheets.

Revenue Recognition

The Company applies Accounting Standards Codification 606, *Revenue from Contracts with Customers* ("ASC 606"), to account for revenue generated since the commercial launch of Jeuveau® in May 2019.

The Company recognizes revenue when control of the promised goods or services is transferred to its customers, in an amount that reflects the consideration to which the Company expects to be entitled in exchange for the goods or services. In order to achieve that core principle, a five-step approach is applied: (1) identify the contract with a customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue allocated to each performance obligation when the Company satisfies the performance obligation. A performance obligation is a promise in a contract to transfer a distinct good or service to the customer and is the unit of account for revenue recognition.

General

The Company generates product revenue from the sale of Jeuveau® in the United States and service revenue from the sale of Jeuveau® through a distribution partner in Canada.

For product revenue, the Company recognizes revenue when control of the promised goods under a contract is transferred to a customer, in an amount that reflects the consideration the Company expects to receive in exchange for those goods as specified in the customer contract. The transfer of control occurs upon receipt of the goods by the customer since that is when the customer has obtained control of the goods' economic benefits. The Company does not provide any service-type warranties and does not accept product returns except under limited circumstances such as damages in transit or ineffective product. The Company also excludes any amounts related to taxes assessed by governmental authorities from revenue measurement. Shipping and handling costs associated with outbound product freight are accounted for as fulfillment costs and are included in selling, general and marketing expenses in the accompanying condensed statements of operations and comprehensive income (loss).

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

For service revenue, the Company evaluated the arrangement with the distribution partner in Canada and determined that it acts as an agent in the distribution of Jeuveau® in Canada as it does not control the product before control is transferred to a customer. The indicators of which party exercises control include primary responsibility over performance obligations, inventory risk before the good or service is transferred and discretion in establishing the price. Accordingly, the Company records the sale as service revenue on a net basis. Revenue from services is recognized in the period the service is performed for the amount of consideration expected to be received. The Company did not recognize any revenues related to Canada sales for the three months ended March 31, 2021 and 2020.

Disaggregation of Revenue

The Company's disaggregation of revenue is consistent with its operating segment as disclosed above.

Gross-to-Net Revenue Adjustments

The Company provides customers with discounts, such as trade and volume discounts and prompt pay discounts, that are directly reflected in the invoice price. Revenues are recorded net of sales-related adjustments, wherever applicable, primarily for the volume-based rebates, coupon and consumer loyalty programs.

- *Volume-based Rebates* — Volume-based rebates are contractually offered to certain customers. The rebates payable to each customer are determined based on the contract and quarterly purchase volumes.

- *Coupons* — The Company issued customers coupons redeemable into gift cards funded by the Company for the benefit of patients. The coupons were accounted for as variable consideration. The Company estimates the coupon redemption rates based on historical data and future expectations. The coupons were accrued based on estimated redemption rates and the volume of products purchased and were recorded as a reduction to revenues on product delivery. All issued coupons expired on June 30, 2020.

- *Consumer Loyalty Program* — In May 2020, the Company launched a consumer loyalty program, which allows participating customers to earn rewards for qualifying treatments to their patients (i.e. consumers) using Jeuveau® and redeem the rewards for Jeuveau® in the future at no additional cost. The loyalty program represents a customer option that provides a material right and, accordingly, is a performance obligation. At the time Jeuveau® product is sold to customers, the invoice price is allocated between the product sold and the estimated material right reward ("Reward") that the customer might redeem in the future. The standalone selling price of the Reward is measured based on historical sales data, average selling price of Jeuveau® at the time of redemption, expected customer and consumer participation rates in the loyalty program, and estimated number of qualifying treatments to be performed by customers. The portion of invoice price allocated to the Reward is initially recorded as deferred revenue. Subsequently, when customers redeem the Reward and the related product is delivered, the deferred revenue is recognized in net revenue at that time.

As of March 31, 2021 and December 31, 2020, the accrued revenue contract liabilities, primarily related to volume-based rebates, coupons and consumer loyalty program, were $3,111 and $3,081, respectively, which were recorded in the accrued expenses in the accompanying condensed balance sheets. For the three months ended March 31, 2021 and 2020, provisions for rebate, coupon and consumer loyalty programs were $1,823 and $10,213, respectively, which were offset by related payments, redemptions and adjustments of $1,794 and $9,443, respectively.

Contract balances

A contract with a customer states the terms of the sale, including the description, quantity and price of each product purchased. Amounts are recorded as accounts receivable when the Company's right to consideration becomes unconditional. The Company does not have any significant financing components in customer contracts given the expected time between transfer of the promised products and the payment of the associated consideration is less than one year. As of March 31, 2021 and December 31, 2020, all amounts included in accounts receivable, net on the accompanying condensed balance sheets are related to contracts with customers.

The Company did not have any contract assets nor unbilled receivables as of March 31, 2021 or December 31, 2020. Sales commissions are included in selling, general and administrative expenses when incurred.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

Contract liabilities reflect estimated amounts that the Company is obligated to pay to customers or patients primarily under the rebate and coupon programs and deferred revenue associated with Reward under the consumer loyalty program. The Company's contract liabilities are included in accounts payable and accrued expenses in the accompanying condensed balance sheets.

During the three months ended March 31, 2021 and 2020, the Company recognized $1,515 and $0, respectively, of revenue related to amounts included in contract liabilities at the beginning of the period and did not recognize any revenue related to changes in transaction prices regarding its contracts with customers from previous periods.

Collectability

Accounts receivable are recorded at the invoiced amount and do not bear interest. At the time of contract inception or new customer account set-up, the Company performs a collectability assessment of the customer's creditworthiness. The Company assesses the probability that the Company will collect the entitled consideration in exchange for the goods sold, by considering the customer's ability and intention to pay when consideration is due. On a recurring basis, the Company estimates the amount of receivables considered uncollectable to reflect an allowance for doubtful accounts. The Company writes off accounts receivable balances when it is determined that there is no possibility of collection. As of March 31, 2021 and December 31, 2020, allowance for doubtful accounts was $2,564 and $2,118, respectively. For the three months ended March 31, 2021 and 2020, provision for bad debts was $610 and $2,607, respectively, and the write-off amount was $165 and $171, respectively.

Practical Expedients

The Company expenses sales commissions when incurred as the amortization period is one year or less. These costs are recorded within selling, general and administrative expenses in the accompanying condensed statements of operations and comprehensive loss. The Company does not adjust the amount of promised consideration for the effects of the time value of money for contracts in which the anticipated period between when the Company transfers the goods or services to the customer and when the customer pays within one year.

Research and Development Expenses

Research and development costs are expensed as incurred. Research and development expenses include personnel-related costs, costs associated with pre-clinical and clinical development activities, costs associated with and costs for prototype products that are manufactured prior to market approval for that prototype product, internal and external costs associated with the Company's regulatory compliance and quality assurance functions, including the costs of outside consultants and contractors that assist in the process of submitting and maintaining regulatory filings, and overhead costs, including allocated facility related expenses.

Litigation Settlement

In February 2021, upon entering into certain agreements to settle intellectual property disputes relating to Jeuveau®, the Company agreed to pay to Allergan and Medytox $35,000 in multiple payments over two years and issued 6,762,652 shares of its common stock to Medytox. In addition, for the period from December 16, 2020 to September 16, 2022, the Company agreed to pay to Allergan and Medytox a royalty on the sale of Jeuveau®, based on a certain dollar amount per vial sold in the United States and a low-double digit royalty on net sales of Jeuveau® sold in other Evolus territories. For the period from September 17, 2022 to September 16, 2032, the Company agreed to pay to Medytox a mid-single digit royalty percentage on all net sales of Jeuveau®. The royalty payments will be made quarterly and are recorded as product cost of sales on the accompanying condensed statements of operations and comprehensive income (loss) in the periods the royalties are incurred.

The settlement agreements resulted in an $83,421 charge for the fourth quarter of 2020, which consisted of $35,000 in cash payments and $48,421 from the issuance of 6,762,652 shares of the Company's common stock in February 2021. As of March 31, 2021 and December 31, 2020, a current liability of $30,000 and $63,421, respectively, and non-current liability of $5,000 and $20,000, respectively, were recorded in the accompanying condensed balance sheets. The withholding tax associated with the issuance of common stock is recorded as a receivable with an offsetting payable on the accompanying condensed balance sheets.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

Separately, in March 2021, Daewoong and the Company entered into certain agreements, pursuant to which Daewoong agreed to pay the Company an amount equal to $25,500, which is recorded as settlement payment from Daewoong and included as part of cost of sales on the accompanying condensed statements of operations and comprehensive income (loss) for the three months ended March 31, 2021. For the period from December 16, 2020 to September 16, 2022, Daewoong also agreed to reimburse the Company certain amounts with respect to the royalties payable to Medytox and Allergan. The reimbursement will be received quarterly and is recorded as an offset to the related royalties to Medytox and Allergan in the product cost of sales on the accompanying condensed statements of operations and comprehensive income (loss).

See *Note 9. Commitments and Contingencies* for the details of all litigation settlement agreements.

Stock-Based Compensation

The Company recognizes stock-based compensation expense for employees, consultants and members of the Board of Directors based on the fair value at the date of grant.

The Company uses the Black-Scholes option pricing model to value stock option grants. The Black-Scholes option pricing model requires the input of subjective assumptions, including the expected volatility of the Company's common stock, expected risk-free interest rate, and the option's expected life. The fair value of the Company's restricted stock units ("RSUs") is based on the fair value on the grant date of the Company's common stock. The Company also evaluates the impact of modifications made to the original terms of equity awards when they occur.

The fair value of equity awards that are expected to vest is amortized on a straight-line basis over the requisite service period. Stock-based compensation expense is recognized net of actual forfeitures when they occur, as an increase to additional paid-in capital in the condensed balance sheets and in the selling, general and administrative or research and development expenses in the condensed statements of operations and comprehensive income (loss).

Income Taxes

The Company applies an estimated annual effective tax rate ("ETR") approach for calculating a tax provision or benefit for interim periods, as required under GAAP. The Company recorded a provision of $0 and $256 for the three months ended March 31, 2021 and 2020, respectively. The Company's ETR differs from the U.S. federal statutory tax rate of 21% for the three months ended March 31, 2021 and 2020, primarily as a result of the impact of a valuation allowance on its deferred tax assets.

A valuation allowance is recorded against deferred tax assets to reduce the net carrying value when it is more likely than not that some portion or all of a deferred tax asset will not be realized. In making such a determination, management considers all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, and ongoing prudent and feasible tax planning strategies in assessing the amount of the valuation allowance. When the Company establishes or reduces the valuation allowance against its deferred tax assets, its provision for income taxes will increase or decrease, respectively, in the period such determination is made.

Additionally, the Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities based on the technical merits of the position. The tax benefit recognized in the financial statements for a particular tax position is based on the largest benefit that is more likely than not to be realized upon settlement. Accordingly, the Company establishes reserves for uncertain tax positions.

The Company monitors changes to the tax laws in the states it conducts business and files corporate income tax returns. The Company does not expect that changes to state tax laws through March 31, 2021 to materially impact its financial statements.

Net Income (Loss) Per Share

Basic net income (loss) per share is computed by dividing the net loss by the weighted-average number of shares of common stock outstanding during the period including contingently issuable shares. Diluted earnings per share includes the effect from potential issuance of ordinary shares, such as shares issuable pursuant to the exercise of stock options, the vesting of restricted stock units and the conversion of the Daewoong Convertible Note. The dilutive effect of stock options and restricted stock units is computed under the treasury stock method. The dilutive effect of the Daewoong Convertible Note is

(in thousands, except share and per share data)

computed under the if-converted method. Potentially dilutive securities are excluded from the computations of diluted net income (loss) per share if their effect would be antidilutive.

The following table sets forth the computation of basic and diluted income (loss) per share:

	Three Months Ended March 31,	
	2021	2020
Numerator		
Net income (loss) - basic	$ 6,401	$ (19,735)
Interest expense attributable to convertible note, net of taxes	273	—
Net income (loss) - diluted	$ 6,674	$ (19,735)
Denominator		
Weighted average common shares outstanding - basic	37,100,897	33,720,436
Dilutive effect of potential common shares from stock options, restricted stock units and convertible note	4,003,730	—
Weighted average common shares outstanding - diluted	41,104,627	33,720,436
Basic income (loss) per share	$ 0.17	$ (0.59)
Diluted income (loss) per share	$ 0.16	$ (0.59)

The following potentially dilutive securities have been excluded from the diluted net income (loss) per share calculations because their effect would have been antidilutive. Although these securities were antidilutive for these periods, they could be dilutive in future periods.

	Three Months Ended March 31,	
	2021	2020
Stock options	2,272,932	4,962,535
Restricted stock units	205,149	480,069

Recently Adopted Accounting Pronouncements

In December 2019, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2019-12 *Income Taxes (Topic 740) Simplifying the Accounting for Income Taxes*. FASB issued this update as part of its Simplification Initiative to improve areas of GAAP and reduce cost and complexity while maintaining usefulness. The main provisions remove certain exceptions including the exception to the general methodology for calculating income taxes in an interim period when a year-to-date loss exceeds the anticipated loss for the year. In addition, the amendments simplify income tax accounting in the areas such as income based franchise taxes, eliminating the requirements to allocate consolidated current and deferred tax expense in certain instances and a requirement that an entity reflects the effect of enacted changes in tax laws or rates in the annual effective tax rate computation in the interim period that includes the enactment date. For public companies, the standard is effective for fiscal years beginning after December 15, 2020 and interim periods therein. The Company has adopted the guidance on the effective date of January 1, 2021. There are no material impacts to the financial statements as a result of this adoption.

Recent Accounting Pronouncements Issued But Not Adopted

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. The update simplifies the accounting for goodwill impairment by removing step two of the goodwill impairment test, which requires a hypothetical purchase price allocation. A goodwill impairment will be the amount by which a reporting unit's carrying amount, including goodwill, exceeds its fair value. The impairment charge will be limited to the

(in thousands, except share and per share data)

amount of goodwill allocated to that reporting unit. As amended by ASU 2019-10, the updated guidance is effective for the Company as a smaller reporting company beginning January 1, 2023. The standard requires prospective application. Early adoption is permitted. The Company is evaluating the effect of this standard on its financial statements and related disclosures as well as whether to early adopt the new guidance.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which modifies the measurement and recognition of credit losses for most financial assets and certain other instruments. The new standard requires the use of forward-looking expected credit loss models based on historical experience, current conditions, and reasonable and supportable forecasts that affect the collectability of the reported amount, which may result in earlier recognition of credit losses under the new standard. The new guidance also modifies the impairment models for available-for-sale debt securities and for purchased financial assets with credit deterioration since their origination. Subsequent to the issuance of ASU 2016-13, the FASB issued ASU 2018-19, *Codification Improvements to Topic 326, Financial Instruments - Credit Losses*. This ASU does not change the core principle of the guidance in ASU 2016-13, instead these amendments are intended to clarify and improve operability of certain topics included within the credit losses standard. The FASB also subsequently issued ASU 2019-04 which did not change the core principle of the guidance in ASU 2016-13 but clarified that expected recoveries of amounts previously written off and expected to be written off should be included in the valuation account and should not exceed amounts previously written off and expected to be written off. As amended by ASU 2019-10, the updated guidance is effective for the Company as a smaller reporting company beginning January 1, 2023. The Company is in the process of determining the effects the adoption will have on its financial statements and reviewing credit loss models to assess the impact of the adoption of the standard on the financial statements. Based on initial assessments, the Company believes that while adoption will modify the way it analyzes financial instruments, it does not expect adoption of this guidance will have a material impact to its financial statements.

Other recent accounting pronouncements issued by the FASB (including its Emerging Issues Task Force), the American Institute of Certified Public Accountants, and the SEC did not, or are not believed by management to, have a material impact on the Company's present or future financial position, results of operations or cash flows.

Note 3. Fair Value Measurements and Short-Term Investments

Short-Term Investments

As of March 31, 2021, the Company did not hold any short-term investments. The following is a summary of the Company's short-term investments, considered available-for-sale, as of December 31, 2020:

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
Available-for-sale securities				
U.S. treasury securities	$ 5,000	$ —	$ —	$ 5,000

Assets and Liabilities Measured at Fair Value on a Recurring Basis

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

The Company measures and reports certain financial instruments as assets and liabilities at fair value on a recurring basis. The fair value of these instruments was as follows:

	As of March 31, 2021			
	Fair Value	Level 1	Level 2	Level 3
Liabilities				
Contingent royalty obligation payable to Evolus Founders	$ 42,285	$ —	$ —	$ 42,285

	As of December 31, 2020			
	Fair Value	Level 1	Level 2	Level 3
Available-for-sale debt securities				
U.S. treasury securities	$ 5,000	$ 5,000	$ —	$ —
Liabilities				
Contingent royalty obligation payable to Evolus Founders	$ 41,546	$ —	$ —	$ 41,546

The Company did not transfer any assets or liabilities measured at fair value on a recurring basis between levels during the three months ended March 31, 2021 and 2020.

The Company determines the fair value of the contingent royalty obligation payable to Evolus Founders based on Level 3 inputs using a discounted cash flows method. The significant unobservable input assumptions that can significantly change the fair value include (i) projected amount and timing of net revenues during the payment period, which terminates in the quarter following the 10-year anniversary of the first commercial sale of Jeuveau® in the United States, (ii) the discount rate and (iii) the timing of payments. During the three months ended March 31, 2021 and 2020, the Company utilized discount rates between 13.0% and 17.0%, reflecting changes in the Company's risk profile. Net revenue projections are also updated to reflect changes in the timing of expected sales.

The following table shows a reconciliation of the beginning and ending fair value measurements of the contingent royalty obligation payable:

	Three Months Ended March 31,	
	2021	2020
Fair value, beginning of period	$ 41,546	$ 44,683
Payments	(529)	(583)
Change in fair value recorded in operating expenses	1,268	(9,884)
Fair value, end of period	$ 42,285	$ 34,216

Other Financial Assets and Liabilities

The Company's financial instruments consist primarily of cash and cash equivalents, short-term available-for-sale debt securities, accounts receivable, accounts payable, accrued expenses, lease liabilities, and long-term debt. The carrying amount of cash and cash equivalents, accounts receivable, accounts payable and accrued expenses approximates their fair value because of the short-term maturity of such instruments.

The Company estimates the fair value of the promissory note payable to the Evolus Founders, long-term debt and operating lease liabilities using the discounted cash flow analysis based on the interest rates for similar rated debt securities (Level 2). As of March 31, 2021, the fair value of the promissory note was estimated to be $19,624. As of December 31, 2020, the fair value of promissory note and long-term debt was $19,284 and $76,368, respectively. The fair value of operating lease liabilities as of March 31, 2021 and December 31, 2020 and the Daewoong Convertible Note as of December 31, 2020 approximated their carrying value.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

Note 4. Goodwill and Intangible Assets

The table below shows the weighted-average life, original cost, accumulated amortization and net book value by major intangible asset classification:

	Weighted-Average Life (Years)	Original Cost	Accumulated Amortization	Net Book Value
Definite-lived intangible assets				
Distribution right	20	$ 59,076	$ (6,373)	$ 52,703
Capitalized software	2	6,905	(6,040)	865
Intangible assets, net		65,981	(12,413)	53,568
Indefinite-lived intangible asset				
Goodwill	*	21,208	—	21,208
Total as of March 31, 2021		$ 87,189	$ (12,413)	$ 74,776

	Weighted-Average Life (Years)	Original Cost	Accumulated Amortization	Net Book Value
Definite-lived intangible assets				
Distribution right	20	$ 59,076	$ (5,650)	$ 53,426
Capitalized software	2	6,681	(4,810)	1,871
Intangible assets, net		65,757	(10,460)	55,297
Indefinite-lived intangible asset				
Goodwill	*	21,208	—	21,208
Total as of December 31, 2020		$ 86,965	$ (10,460)	$ 76,505

* Intangible assets with indefinite lives have an indeterminable average life.

The following table outlines the estimated future amortization expense related to intangible assets held as of March 31, 2021 that are subject to amortization:

Fiscal year	
Remaining in 2021	$ 3,048
2022	2,990
2023	2,955
2024	2,955
2025	2,955
Thereafter	38,665
	$ 53,568

The Company capitalized $224 and $1,139 for the three months ended March 31, 2021 and 2020, respectively, related to costs of computer software developed for internal use. The Company recorded total intangible assets amortization expense of $1,953 and $1,603 for the three months ended March 31, 2021 and 2020, respectively, within depreciation and amortization on the accompanying condensed statements of operations and comprehensive income (loss).

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

Note 5. Accrued Expenses

Accrued expenses consisted of:

	March 31, 2021	December 31, 2020
Accrued payroll and related benefits	$ 3,112	$ 4,076
Accrued revenue contract liabilities	3,111	3,081
Accrued professional services	760	895
Other accrued expenses	5,584	1,050
	$ 12,567	$ 9,102

Note 6. Oxford Term Loan

On March 15, 2019, the Company entered into a credit facility of up to $100,000 with Oxford Finance ("Oxford"). Pursuant to the terms of the credit facility, the lender extended term loans (the "Oxford Term Loan"), available in two advances, to the Company. The first tranche of $75,000 was funded on the closing date. The second tranche of $25,000 was not drawn. The credit facility bore an annual interest rate equal to the greater of 9.5%, or the 30-day U.S. Dollar LIBOR rate plus 7.0%. The Company agreed to pay interest-only for the first 36 months until May 2022, followed by a 23-month amortization period.

Upon the earliest to occur of the maturity date, the acceleration of the Oxford Term Loan, or the prepayment of the Oxford Term Loan, the Company was required to pay to Oxford a final payment of 5.5% of the full principal amount of the Oxford Term Loan funded ("Final Payment"). The Company could elect to prepay all amounts owed prior to the maturity date, provided that a prepayment fee was also paid, which would be equal to 2.0% of the amount prepaid if the prepayment occurred after March 15, 2020 and on or prior to March 15, 2021, or 1.0% of the amount prepaid if the prepayment occurred thereafter ("Prepayment Fee").

At the closing date, the Company incurred $1,094 and $2,205 in debt discounts and issuance costs related to the Oxford Term Loan, respectively. Debt discounts and issuance costs related to the Oxford Term Loan were presented as a deduction to the debt balance and are amortized into interest expense using the effective interest method.

On January 4, 2021, the Company and Oxford entered into an agreement ("Payoff Letter"), pursuant to which (i) on January 4, 2021, the Company paid Oxford $76,447 to discharge in full all outstanding obligations, included accrued interest by and between Oxford, in its capacity as collateral agent and lender, and the Company, and (ii) effective upon such repayment, the Loan Agreement, and all unfunded commitments thereunder, guarantees and other security interests granted to Oxford in connection with the Loan Agreement and all other obligations of and restrictions on the Company under the Loan Agreement, terminated. As a condition to entering into the Payoff Letter, Oxford agreed to waive a total of $4,300 of fees comprised of (i) $2,800 of the Final Payment and (ii) the Prepayment Fee of $1,500. As a result, the Company recorded a loss of $1,939 in extinguishment of debts, net on the accompanying condensed statements of operations and comprehensive income (loss).

Note 7. Daewoong Convertible Note

On July 6, 2020, the Company entered into a Convertible Promissory Note Purchase Agreement with Daewoong for the purchase and sale of a Convertible Promissory Note for the principal amount of $40,000 (the "Daewoong Convertible Note"), which was funded on July 30, 2020. Additionally, on July 6, 2020, the Company, Daewoong and Oxford Finance, LLC entered into a Subordination Agreement pursuant to which the Daewoong Convertible Note is subordinated to the Company's obligations under that certain Loan and Security Agreement, dated as of March 15, 2019, by and between the Company and Oxford.

The Daewoong Convertible Note bore interest at a rate of 3.0% payable semi-annually in arrears on June 30th and December 31st of each year and was to mature on July 30, 2025, subject to earlier conversion as provided below. Interest was initially paid in kind by adding the accrued amount thereof to the outstanding principal amount on a semi-annual basis on June 30th

(in thousands, except share and per share data)

and December 31st of each calendar year for so long as any principal amount under the Oxford Term Loan remained outstanding and the Subordination Agreement was not terminated. Interest became payable in cash after the Oxford Term Loan was repaid in full, and the Subordination Agreement was terminated on January 4, 2021.

On March 23, 2021, the outstanding principal balance including all accrued and unpaid interest thereon, in the amount of $40,779 was converted, at the conversion price of $13.00 per share, into 3,136,869 shares of the Company's common stock under the Conversion Agreement. The conversion was accounted for as an extinguishment of debt resulting in a gain of $971, which is recorded in loss from extinguishment of debts, net on the accompanying condensed statements of operations and comprehensive income (loss). The Daewoong Convertible Note was not registered and the shares of the Company's common stock issued upon conversion of the Daewoong Convertible Note have not been registered under the Securities Act and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. See *Note 9. Commitments and Contingencies* for the details of the Conversion Agreement.

Note 8. Operating Leases

The Company's corporate headquarters in Newport Beach, California is leased under a five- year non-cancelable operating lease, which expires on January 31, 2025. Lease payments increase based on an annual rent escalation clause that occurs each year on February 1. The Company may, under certain circumstances, terminate the lease on the 36-month anniversary of the lease commencement date by providing a written notice 12 months prior to such anniversary and paying a termination fee equal to six months basic rent plus certain other expenses. The Company has an option to extend the term of the lease for an additional 60 months, which is not recognized as part of its ROU assets and lease liabilities. The lease with the original lessor is a modification of the existing sublease that is not accounted for as a separate contract.

The Company's lease agreements do not contain any residual value guarantees or material restrictive covenants. The payments associated with the renewal will only be included in the measurement of the lease liability and ROU assets if the exercise of the renewal option is determined to be reasonably certain. The Company considers the timing of the renewal period and other economic factors such as the financial implications of a decision to extend or not to extend a lease in determining if the renewal option is reasonably certain to be exercised.

For the three months ended March 31, 2021, the components of operating lease expense:

	Three Months Ended March 31,	
	2021	2020
Fixed operating lease expense	$ 265	$ 274
Variable operating lease expense	8	15
Short-term operating lease expense	—	168
	$ 273	$ 457

The weighted-average remaining lease term was 3.8 years and weighted-average discount rate was 9.4% as of March 31, 2021.

Operating lease expenses were included in the selling, general and administration expenses in the accompanying condensed statements of operations and comprehensive loss. Operating lease right-of-use assets and related current and noncurrent operating lease liabilities are presented in the accompanying condensed balance sheets.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

The following table presents the maturity of the Company's operating lease liabilities as of March 31, 2021, future minimum payments under the operating lease agreements with non-cancelable terms as follows:

Fiscal year		
Remainder of 2021	$	913
2022		1,265
2023		1,320
2024		1,377
2025		115
Total operating lease payments		4,990
Less: imputed interest		(828)
Present value of operating lease liabilities	$	4,162

Note 9. Commitments and Contingencies

Purchase Commitments

As of March 31, 2021, the Company has entered into commitments to purchase services and products for an aggregate amount of approximately $1,436. Certain minimum purchase commitments related to the purchase of Jeuveau® are described below.

License and Supply Agreement

The Daewoong Agreement includes certain minimum annual purchases the Company is required to make in order to maintain the exclusivity of the license. The Company may, however, meet these minimum purchase obligations by achieving certain market share in its covered territories. These potential minimum purchase obligations were contingent upon the occurrence of future events, including receipt of governmental approvals and the Company's future market share in various jurisdictions.

Legal Proceedings

In the normal course of business, the Company enters into contracts and agreements that contain a variety of representations and warranties and provide for general indemnifications. The Company's exposure under these agreements is unknown because they involve claims that may be made against the Company in the future, but have not yet been made. The Company accrues a liability for such matters when it is probable that future expenditures will be made, and such expenditures can be reasonably estimated. No amounts were accrued as of March 31, 2021 and December 31, 2020.

Medytox Litigation

The Company, Daewoong and other individuals and entities were defendants to a lawsuit brought by Medytox, Inc. ("Medytox") originally instituted in the Superior Court of the State of California in June 2017. With specific regard to the Company, Medytox alleged that (i) the Company violated California Uniform Trade Secrets Act, Cal. Civ. Code § 3426 because Daewoong's alleged knowledge of the misappropriation of certain trade secrets of Medytox is imputed to the Company as a result of the Company's relationship with Daewoong, (ii) the Company stole the botulinum toxin bacterial strain of Medytox through our possession of and refusal to return the botulinum toxin bacterial strain, (iii) the Company engaged in unlawful, unfair and fraudulent business acts and practices in violation of California Bus. & Prof. Code § 17200, including conversion of the botulinum toxin bacterial strain and misrepresentations to the public regarding the source of the botulinum toxin bacterial strain used to manufacture Jeuveau®, and (iv) the Daewoong Agreement is invalid and in violation of Medytox's rights (the "Medytox Litigation"). Medytox sought, among other things, (i) actual, consequential and punitive damages, (ii) a reasonable royalty, as appropriate, (iii) a declaration that the Daewoong Agreement is void and unenforceable and that Medytox is entitled to disgorgement of all property wrongfully and unjustly retained or acquired by the defendants, including unlawfully gained profits, (iv) injunctive relief prohibiting the Company from using the license under the

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

Daewoong Agreement and distributing Jeuveau®, and (v) attorneys' fees and costs. As a result of the Medytox/Allergan Settlement Agreements as described below, the case was dismissed on February 23, 2021.

ITC Case

On January 30, 2019, Allergan and Medytox filed a complaint ("ITC Complaint") against the Company and Daewoong in the U.S. International Trade Commission ("ITC"), containing substantially similar allegations to the Medytox Litigation, specifically that Jeuveau® is manufactured based on misappropriated trade secrets of Medytox and therefore the importation of Jeuveau® is an unfair act. The ITC matter, which is referred to herein as the ITC Action, is entitled *In the Matter of Certain Botulinum Toxin Products*. On March 6, 2019, the ITC instituted an investigation as ITC Inv. No. 337-TA-1145. The ITC Complaint called for an investigation by the ITC Office of Unfair Import Investigations, or OUII, under Section 337 of the Tariff Act of 1930. The ITC Complaint sought (i) an investigation pursuant to Section 337 of the Tariff Act of 1930, (ii) a hearing with the ITC on permanent relief, (iii) issuance of a limited exclusion order forbidding entry of Jeuveau® into the United States, (iv) a cease and desist order prohibiting Daewoong and us from engaging in the importations, sale for importation, marketing, distribution, offering for sale, the sale after the importation of, or otherwise transferring Jeuveau® within the United States, (v) a bond issued during the presidential review period, (vi) the return of Medytox's trade secrets and other confidential information including the alleged stolen BTX Strain, and (vii) exclusion and cease and desist orders.

On December 16, 2020, the ITC issued its final determination in the ITC Action. The final determination partially affirmed the Administrative Law Judge's ("ALJ's") ruling in the initial determination that found a violation of Section 337 of the Tariff Act of 1930 had occurred by reason of a misappropriation of certain manufacturing process trade secrets. The ITC also reversed the ALJ's finding that a trade secret exists with respect to a bacterial strain. As a result, the ITC issued (1) a limited exclusion order prohibiting the importation of Jeuveau® into the United States for a period of 21 months and (2) a cease and desist order preventing the Company from, among other things, selling, marketing, or promoting such imported Jeuveau® in the United States for a period of 21 months ("Restricted Period").

The Final Determination was subject to a 60-day presidential review period before taking effect. During the presidential review period, the Company was permitted to continue importation and sales of Jeuveau® subject to payment of a bond of $441.00 for every vial distributed in the United States. The Presidential review period ended on February 16, 2021. Prior to the expiration of the presidential review period, the Company filed an emergency motion with the United States Court of Appeals for the Federal Circuit which issued an emergency stay which suspended the execution of the remedial orders pending appeal of the ITC's decision, briefing for which was to be due by March 5, 2021.

On February 18, 2021, the Company, Medytox and Allergan entered into certain agreements described below (the "Medytox/Allergan Settlement Agreements") pursuant to which the Company, Allergan and Medytox agreed to rescind the Remedial Orders, dismiss the ITC Action and dismiss any appeal of the ITC Action.

On March 23, 2021, the Company and Daewoong entered into certain agreements described below (the "2021 Daewoong Arrangement") in connection with the settlement of certain claims relating to or arising from the Remedial Orders, the ITC Action, the California Litigation, the Korea Action and certain other matters.

As of March 31, 2021, the total bond payment was $3,450, which was recorded in other current assets in the accompanying condensed balance sheets. Pursuant to the Medytox/Allergan Settlement Agreements described below, the bond paid will be returned to the Company upon the termination of the ITC Action.

Medytox/Allergan Settlement Agreements

U.S. Settlement Agreement

Effective February 18, 2021, the Company, Allergan and Medytox entered into a Settlement and License Agreement (the "U.S. Settlement Agreement"), pursuant to which, among other things: (i) Allergan and Medytox agreed to file a petition with the ITC requesting that the ITC rescind the Remedial Orders with respect to the Company; (ii) Medytox agreed to dismiss the California Litigation; (iii) the Company, on the one hand, and Medytox and Allergan, on the other hand, agreed to mutually release certain claims they may have against one another and their respective affiliates, (iv) Allergan and Medytox granted to the Company and its agents a license to manufacture and commercialize certain products identified in the U.S. Settlement Agreement, including Jeuveau® (the "Licensed Products"), in the United States during the Restricted Period; (v) the

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

Company agreed to pay to Allergan and Medytox $35,000 in multiple payments over two years; and (vi) during the Restricted Period, the Company agreed to pay to Allergan and Medytox certain confidential royalties on the sale of Licensed Products, calculated on dollar amount per vial sold of Licensed Product by or on behalf of the Company in the United States.

ROW Settlement Agreement

Effective February 18, 2021, the Company and Medytox entered into a Settlement and License Agreement (the "ROW Settlement Agreement"), pursuant to which, among other things: (i) the Company and Medytox agreed to mutually release certain claims they may have against one another and their respective affiliates; (ii) Medytox granted to the Company and its agents a license to manufacture and commercialize the Licensed Products, in Canada, the European Union, Switzerland, member countries and cooperating countries of the European Economic Area, Russia, the Commonwealth of Independent States, South Africa, Australia and Japan (the "ROW Territories") during the Restricted Period; (iii) Medytox granted to the Company and its agents a fully paid up license to manufacture and commercialize the Licensed Products in the ROW Territories and the United States from the end of the Restricted Period (the "Medytox License Period"); (iv) the Company and Medytox agreed to enter into the Share Issuance Agreement (as defined below) pursuant to which the Company issued 6,762,652 shares (the "Settlement Shares") of the Company's common stock, par value $0.00001 per share, to Medytox; (v) the Company and Medytox agreed to enter into the Registration Rights Agreement (as defined below), pursuant to which the Company granted certain registration rights to Medytox with respect to the Settlement Shares; (vi) during the Restricted Period, the Company agreed to pay Medytox a confidential low-double digit royalty on net sales of the Licensed Products sold by or on behalf of the Company in the ROW Territories; and (vii) during the Medytox License Period, the Company agreed to pay Medytox a confidential mid-single digit royalty percentage on net sales of the Licensed Products sold by or on behalf of the Company in the United States and the ROW Territories.

Share Issuance Agreement

In connection with the execution of the ROW Settlement Agreement, the Company and Medytox entered into a Share Issuance Agreement effective February 18, 2021 (the "Share Issuance Agreement"). Pursuant to the Share Issuance Agreement and subject to the terms and conditions set forth therein, among other things, the Company issued to Medytox the Settlement Shares to enter into the ROW Settlement Agreement and in consideration for Medytox's representations, warranties, and other agreements set forth in the Share Issuance Agreement. The Settlement Shares are subject to contractual restrictions on transfer that, subject to certain limited exceptions such as transfers to affiliates, prevent Medytox from transferring any shares of common stock prior to February 16, 2022 and, thereafter, prohibit Medytox from transferring more than 25% of the shares it holds prior to September 16, 2023, more than 50% of the shares it holds prior to September 16, 2024 and more than 75% of the shares it holds prior to September 16, 2025, with such contractual restrictions terminating on September 16, 2025. Additionally, until February 17, 2022, Medytox is required to vote all Settlement Shares that it owns (i) in any action or proposal relating to the election of directors, in line with the recommendations of the board of directors of the Company and (ii) in all other actions, at Medytox's option either (A) in line with the recommendation of the board of directors of the Company or (ii) in the same manner and proportion as the votes made by all outstanding voting securities other than those held by Medytox, the officers and directors of the company and Alphaeon 1, LLC and its affiliates.

Registration Rights Agreement

In connection with the execution of the ROW Settlement Agreement, the Company and Medytox also entered into a Registration Rights Agreement effective February 18, 2021 (the "Registration Rights Agreement"). Pursuant to the Registration Rights Agreement, among other things, the Company agreed, after March 31, 2022, (i) to comply with certain demands by Medytox to register for sale, under the Securities Act, the Settlement Shares, and (ii) to include the Settlement Shares in certain registrations by the Company of its securities for sale under the Securities Act, to the extent requested by Medytox, in each case subject to certain customary conditions, exceptions and limitations as set forth in the Registration Rights Agreement.

In addition, Medytox's registration rights under the Registration Rights Agreement will terminate at such time that Medytox is able to sell all of the Settlement Shares over a three-month period, or less, pursuant to an exemption to registration under the Securities Act.

2021 Daewoong Arrangement

Daewoong Settlement Agreement

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

On March 23, 2021, the Company and Daewoong entered into a Confidential Settlement and Release Agreement (the "Daewoong Settlement Agreement"), pursuant to which, among other things: (i) Daewoong agreed to (a) pay to the Company an amount equal to $25,500, which the Company received in April 2021, (b) pay certain reasonable legal fees incurred by the Company's litigation counsel in connection with its defense of the ITC Action (including any appeal of the resulting Remedial Orders), (c) cancel all remaining milestone payments totaling $10,500 in aggregate, which otherwise are or may become due and payable by the Company pursuant to the Daewoong Agreement, and (d) reimburse the Company certain amounts (calculated on a dollar amount per vials sold basis in the United States) for sales of certain products with respect to which the Company is required to pay Medytox and Allergan royalties pursuant to the U.S. Settlement Agreement; and (ii) the Company agreed to (a) release, on behalf of itself and certain of its affiliates and representatives, certain claims they may have against Daewoong or certain of its affiliates and representatives related to the allegations made in or the subject matter of the Medytox/Allergan Actions, or any orders, remedies and losses resulting from the Medytox/Allergan Actions, and (b) coordinate with Daewoong on certain matters related to the Medytox/Allergan Actions.

The rights and obligations of the parties under the Daewoong Settlement Agreement are subject to the parties' execution and delivery of certain other related agreements, including the Daewoong Agreement Amendment and the Conversion Agreement (as each of such terms are defined below).

Conversion Agreement

In connection with the execution of the Settlement Agreement, the Company and Daewoong also entered into a Convertible Promissory Note Conversion Agreement (the "Conversion Agreement"), pursuant to which, among other things, (i) the Principal Balance under the Daewoong Convertible Note, together with all accrued and unpaid interest thereon, in the amount of $40,779 was converted, at the conversion price of $13.00 per share, into 3,136,869 shares of Common Stock (the "Conversion Shares"); and (ii) the Daewoong Convertible Note was deemed cancelled and satisfied in full in connection with such conversion.

After the conversion, shares owned by Daewoong, together with its affiliates and attribution parties, did not exceed 9.99% of the Company's then outstanding common shares immediately following such issuance, as required under the terms of the Daewoong Convertible Note.

Daewoong Agreement Amendment

In connection with the execution of the Daewoong Settlement Agreement, on March 23, 2021, the Company and Daewoong also entered into the Third Amendment to the Supply Agreement (the "Daewoong Agreement Amendment"). Pursuant to the Daewoong Agreement Amendment, the parties amended the Daewoong Agreement to, among other things, (i) expand the territory within which the Company may distribute Jeuveau® to certain countries in Europe, (ii) reduce the period of time with respect to which the Company is required to deliver binding forecasts to Daewoong; (iii) introduce certain limitations on Daewoong's ability to convert the Company's exclusive license for certain territories to a non-exclusive license in the event the Company fails to meet certain minimum purchase requirements for such territory; (iv) adjust the minimum purchase requirements and reduce the transfer price per vial of Jeuveau® applicable to various territories, (v) require that any Jeuveau® supplied by Daewoong match certain shelf-life thresholds, and (vi) prohibit the Company from sharing certain confidential information of Daewoong with Medytox or its affiliates or representatives.

Securities Class Action Lawsuit

On October 16 and 28, 2020, two putative securities class action complaints were filed in the U.S. District Court for the Southern District of New York by Evolus shareholders Armin Malakouti and Clinton Cox, respectively, naming the Company and certain of its officers as defendants. The complaints assert violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, claiming that the defendants made false and materially misleading statements and failed to disclose material adverse facts related to the Company's acquisition of the right to sell Jeuveau®, the ITC Action and risks related to the ITC Action. The complaints assert a putative class period of February 1, 2019 to July 6, 2020. The court consolidated the actions on November 13, 2020, under the caption *In re Evolus Inc. Securities Litigation*, No. 1:20-cv-08647 (PGG). Four putative shareholders (or groups of shareholders) have since moved to be appointed lead plaintiff. Under the court's November 13, 2020 order, defendants need not move, answer, or otherwise respond to the complaints until 60 days after a lead plaintiff is appointed and files a consolidated, amended complaint.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

Shareholder Derivative Lawsuit

On November 27, 2020 and December 2, 2020, two putative Evolus shareholders filed substantially similar shareholder derivative actions in the U.S. District Court for the Southern District of New York against certain of the Company's officers and directors as defendants. The complaints alleged substantially similar facts as those in the Securities Class Action and assert claims for, among other things, breach of fiduciary duty, waste of corporate assets, unjust enrichment, and violations of Section 14(a) of the Exchange Act and for contribution under Sections 10(b) and 21(D) of the Exchange Act. On December 29, 2020, the plaintiffs filed a joint stipulation to consolidate their actions and on February 5, 2021, the court consolidated the action the caption *In re Evolus, Inc. Derivative Litigation*, No. 1:20-cv-09986-PPG, and adjourned defendants' time to move, answer or otherwise respond to the complains. On March 8, 2021, the parties filed a stipulation and proposed order to stay the consolidated derivative suit pending the court's decision on the defendants' anticipated motion to dismiss the Securities Class Action.

It is possible that additional suits will be filed, or additional allegations will be made by stockholders, with respect to these same or similar or other matters and also naming the Company and/or its officers and directors as defendants. The Company believes that the complaints are without merit and intends to vigorously defend against it. However, the outcome of the legal proceeding is uncertain at this point. Based on information available to the Company at present, management cannot reasonably estimate a range of loss and accordingly has not accrued any liability associated with this action.

Books and Records Demand

On March 5, 2021, the Company received a letter from a putative stockholder demanding inspection of specified categories of the Company's books and records under Section 220 of the Delaware General Corporations Law. The subject of the demand is substantially similar to the allegations in the putative securities class action and derivative complaints described above. The Company served a written response to the stockholder's demand on March 29, 2021. Discussions concerning the scope of the stockholder's demand are ongoing.

Other Legal Matters

The Company, from time to time, is involved in various litigation matters or regulatory encounters arising in the ordinary course of business that could result in unasserted or asserted claims or litigation. These other matters may raise difficult and complex legal issues and are subject to many uncertainties, including, but not limited to, the facts and circumstances of each particular case or claim, the jurisdiction in which each suit or regulatory encounter is brought, and differences in applicable laws and regulations. Except as set forth above, the Company does not believe that these other matters would have a material adverse effect on its accompanying financial position, results of operations or cash flows. However, the resolution of one or more of the other matters in any reporting period could have a material adverse impact on the Company's financial results for that period.

Note 10. Stockholders' Equity

Preferred Stock

The Company has 10,000,000 authorized shares of preferred stock with a par value of $0.00001 per share. As of March 31, 2021, none were issued and outstanding.

Common Stock

The Company has 100,000,000 authorized shares of common stock with a par value of $0.00001 per share. As of March 31, 2021, 43,736,971 shares were issued and outstanding.

On February 28, 2021, the Company issued 6,762,652 shares of common stock to Medytox pursuant to the Share Issuance Agreement. See *Note 9. Commitments and Contingencies* for additional information.

On March 25, 2021, the Company issued 3,136,869 shares of common stock to Daewoong in connection with the conversion of Daewoong Convertible Note. See *Note 7. Daewoong Convertible Note* for additional information.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

In April 2021, the Company completed a follow-on public offering and issued 10,350,000 shares of its common stock, which included the exercise in full by the underwriters of their option to purchase an additional 1,350,000 shares of common stock, at a price to the public of $9.50 per share. The Company received net proceeds of approximately $92,426 from the offering, after deducting underwriting discounts and commissions, excluding other offering expenses.

2017 Omnibus Incentive Plan and Stock-based Compensation Allocation

The Company's 2017 Omnibus Incentive Plan (the "Plan") provides for the grant of incentive options to employees of the Company, and for the grant of nonstatutory options, restricted stock awards, restricted stock unit awards, stock appreciation rights, performance stock awards and other forms of stock compensation to the Company's employees, including officers, directors, consultants and employees of the Company. The maximum number of shares of common stock that may be issued under the Plan is 4,361,291 shares, plus an annual increase on each anniversary of November 21, 2017 equal to 4% of the total issued and outstanding shares of the Company's common stock as of such anniversary (or such lesser number of shares as may be determined by the Company's board of directors). As of March 31, 2021, the Company has available an aggregate of 1,418,778 shares of common stock for future issuance under the Plan.

Stock-Based Award Activity and Balances

Options are granted at exercise prices based on the Company's common stock price on the date of grant. The options and RSU grants generally vest over a one- to four-year period. There have been no awards granted with performance conditions or market conditions for the periods presented. The options have a contractual term of ten years. The fair value of options is estimated using the Black-Scholes option pricing model, which has various inputs, including the grant date common share price, exercise price, risk-free interest rate, volatility, expected life and dividend yield. The change of any of these inputs could significantly impact the determination of the fair value of the Company's options as well as significantly impact its results of operations. The fair value of RSU grants is determined at the grant date based on the common share price. The Company records stock-based compensation expense net of actual forfeitures when they occur.

The weighted-averages assumptions used in determining the fair value of stock options granted were as follows:

	Three Months Ended March 31,	
	2021	**2020**
Volatility	71.0 %	59.3 %
Risk-free interest rate	0.99 %	1.61 %
Expected life (years)	6.25	6.25
Dividend yield rate	— %	— %

A summary of stock option activity under the Plan for the three months ended March 31, 2021, is presented below:

	Stock Options	Weighted Average Exercise Per Share	Weighted Average Remaining Contractual Terms (Years)	Aggregate Intrinsic Value
Outstanding, December 31, 2020	4,407,498	$ 12.20	7.66	$ 50
Granted	41,600	9.90		
Exercised	(29,621)	12.09		
Canceled/forfeited	(403,395)	14.64		
Outstanding, March 31, 2021	4,016,082	$ 11.94	7.13	$ 12,033
Exercisable, March 31, 2021	2,165,685	$ 12.49	6.47	$ 5,737

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

The aggregate intrinsic value of outstanding and exercisable options represents the excess of the fair market value of our common stock over the exercise price of underlying options as of March 31, 2021 and December 31, 2020.

A summary of RSU activity under the Plan for the three months ended March 31, 2021, is presented below:

	Restricted Stock Units	Weighted Average Grant Date Fair Value Per Share
Outstanding, December 31, 2020	1,173,741	$ 6.42
Granted	1,459,919	
Vested	(80,952)	
Forfeited	(444,998)	
Outstanding, March 31, 2021	2,107,710	$ 6.76

The following table summarizes stock-based compensation expense arising from the above Plan:

	Three Months Ended March 31,	
	2021	2020
Selling, general and administrative	$ 1,576	$ 2,540
Research and development	14	88
	$ 1,590	$ 2,628

Note 11. Related Party Transactions

Payment Obligations Related to the Acquisition by Alphaeon

The Company was acquired by SCH in 2013 and subsequently by its subsidiary, Alphaeon Corporation, by means of a stock purchase agreement ("Stock Purchase Agreement") pursuant to which Alphaeon assumed certain payment obligations related to the acquisition. On December 14, 2017, the Stock Purchase Agreement was amended ("Amended Stock Purchase Agreement"), and, as a result, effective upon the closing of the Company's IPO, the Company assumed all of Alphaeon's payment obligations under the Amended Stock Purchase Agreement.

Under the Amended Stock Purchase Agreement, the payment obligations consisted of (i) a $9,200 up-front payment upon obtaining FDA approval for Jeuveau® for the treatment of glabellar lines which was paid in full during the first quarter of 2019, (ii) quarterly royalty payments of a low single digit percentage of net sales of Jeuveau®, and (iii) a $20,000 promissory note that matures in November 2021. The payment obligations set forth in (ii) above terminates in the quarter following the 10-year anniversary of the first commercial sale of Jeuveau® in the United States. Under the Amended Stock Purchase Agreement, the Company recorded the fair value of all revised payment obligations and the promissory note owed to the Evolus Founders. See *Note 3*, *Fair Value Measurements and Short-Term Investments* for more information about the Company's accounting thereof.

The Company has the right to prepay the promissory note, in whole or in part, at any time and from time to time without penalty. Upon an event of default under the promissory note, all unpaid principal becomes immediately due and payable at the option of the holder. An event of default occurs under the terms of the promissory note upon any of the following events: (i) Evolus fails to meet the obligations to make the required payments thereunder, (ii) Evolus makes an assignment for the benefit of creditors, (iii) Evolus commences any bankruptcy proceeding, or (iv) Evolus materially breaches the Amended Stock Purchase Agreement or Tax Indemnity Agreement (which is defined below) and such breach is not cured within 30 days. In addition, upon a change-of-control of Evolus, all unpaid principal becomes immediately due and payable.

Evolus, Inc.
Notes to Condensed Financial Statements
(in thousands, except share and per share data)
(Unaudited)

In connection with the Amended Stock Purchase Agreement, the Company entered into a tax indemnity agreement with the Evolus Founders ("Tax Indemnity Agreement"). Pursuant to the Tax Indemnity Agreement, the Company is obligated to indemnify the Evolus Founders for any tax liability resulting from the Company's assumption of the revised payment obligations under the Amended Stock Purchase Agreement from Alphaeon. Such assumption of the revised payment obligations occurred upon the completion of the IPO. Under the Amended Stock Purchase Agreement, the payment obligations are contingent and thus eligible for installment sale reporting under Section 453 of the Internal Revenue Code of 1986, as amended. Under the Tax Indemnity Agreement, the Company was obligated to indemnify the Evolus Founders for any taxes or penalties required to be paid by the Evolus Founders in the event the U.S. Internal Revenue Service or other taxing authority were to determine that Company's assumption of the revised payment obligations under the Amended Stock Purchase Agreement rendered continued installment sale reporting unavailable to the Evolus Founders. Any taxes or penalties paid by us on behalf of the Evolus Founders under the Tax Indemnity Agreement will be offset dollar-for-dollar against the promissory note and future royalties that will be payable to the Evolus Founders under the Amended Stock Purchase Agreement.

Exclusive Distribution and Supply Agreement with Clarion Medical Technologies Inc.

On November 30, 2017, the Company entered into an exclusive distribution and supply agreement (the "Distribution Agreement"), with Clarion Medical Technologies Inc. ("Clarion"). The Distribution Agreement provides terms pursuant to which the Company will exclusively supply Jeuveau® to Clarion in Canada. On March 23, 2021, the Company, Clarion, and Daewoong entered into an addendum to the Distribution Agreement to provide for Clarion to purchase Jeuveau® directly from Daewoong. Commencing March 23, 2021, Clarion is required to pay the Company on a per unit basis for its purchase of Jeuveau® from Daewoong.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion contains management's discussion and analysis of our financial condition and results of operations and should be read together with the unaudited condensed financial statements and related notes include in Part I, Item 1 of this Quarterly Report on Form 10-Q and in conjunction with our Annual Report on Form 10-K for the year ended December 31, 2020 and other documents previously filed with the SEC. This discussion contains forward-looking statements that reflect our plans, estimates and beliefs and involve numerous risks and uncertainties, including but not limited to those described in Item 1A "Risk Factors" of this Quarterly Report on Form 10-Q. Actual results may differ materially from those contained in any forward-looking statements. You should carefully read "Special Note Regarding Forward-Looking Statements" and Item 1A "Risk Factors" of Part II of this Quarterly Report on Form 10-Q.

Overview

We are a performance beauty company with a customer-centric approach focused on delivering breakthrough products in the self-pay aesthetic market. In February 2019, we received the approval of our first product Jeuveau® (prabotulinumtoxinA-xvfs) from the U.S. Food and Drug Administration, or FDA. In May 2019, we commercially launched Jeuveau® in the United States.

Jeuveau® is a proprietary 900 kDa purified botulinum toxin type A formulation indicated for the temporary improvement in the appearance of moderate to severe glabellar lines, also known as "frown lines," in adults. Our primary market is the self-pay aesthetic market, which includes medical products purchased by physicians and other customers that are then sold to consumers or used in procedures for aesthetic indications that are not reimbursed by any third-party payor, such as Medicaid, Medicare or commercial insurance. We believe we offer customers and consumers a compelling value proposition with Jeuveau®. Currently, onabotulinumtoxinA (BOTOX) is the neurotoxin market leader, and prior to the approval of Jeuveau®, was the only known 900 kDa botulinum toxin type A complex approved in the United States. We believe aesthetic physicians generally prefer the performance characteristics of the complete 900 kDa neurotoxin complex and are accustomed to injecting this formulation.

In August 2018, we received approval from Health Canada for the temporary improvement in the appearance of moderate to severe glabellar lines in adult patients under 65 years of age. We began marketing Jeuveau® in Canada in October 2019 through our distribution partner Clarion Medical Technologies, Inc., or Clarion. In September 2019, we also received approval from the European Commission, to market the product in all 28 EU member states plus Iceland, Norway and Liechtenstein. In January 2021, we received a positive decision from the European Commission to add the 50 unit product to the approval obtained in September 2019. We plan to launch Jeuveau® in Europe in early 2022.

Daewoong License and Supply Agreement

In 2013, we and Daewoong entered into the Daewoong Agreement pursuant to which we have an exclusive distribution license to Jeuveau® from Daewoong for aesthetic indications in the United States, EU, Great Britain, Canada, Australia, Russia, C.I.S., and South Africa, as well as co-exclusive distribution rights with Daewoong in Japan. Under the Daewoong Agreement, we are required to make certain minimum annual purchases in order to maintain the exclusivity of the license. These minimum purchase obligations are contingent upon the occurrence of future events, including receipt of governmental approvals and our future market share in various jurisdictions. Under the Daewoong Agreement, Daewoong is responsible for all costs related to the manufacturing of Jeuveau®, including costs related to the operation and upkeep of its manufacturing facility, and we are responsible for all costs related to obtaining regulatory approval, including clinical expenses, and commercialization of Jeuveau®.

Impact on Our Business of Final Ruling by the U.S. International Trade Commission and the Settlements

On January 30, 2019, Allergan and Medytox filed a complaint against us and Daewoong Pharmaceutical Co., Ltd., or Daewoong, in the ITC alleging that Jeuveau® is manufactured based on misappropriated trade secrets of Medytox and therefore the importation of Jeuveau® is an unfair act. The ITC matter, which we refer to herein as the ITC Action, is entitled In the Matter of Certain Botulinum Toxin Products. The ITC instituted an investigation as ITC Inv. No. 337-TA-1145.

On December 16, 2020, the ITC issued a final determination in the ITC Action and issued (1) a limited exclusion order prohibiting the importation of Jeuveau® into the United States for a period of 21 months and (2) a cease and desist order preventing the Company from, among other things, selling, marketing, or promoting such imported Jeuveau® in the United States for a period of 21 months. We refer to the limited exclusion order and the cease and desist order collectively as the remedial orders. The Final Determination was subject to a 60-day presidential review period before taking effect. During the

presidential review period, we were permitted to continue importation and sales of Jeuveau® subject to payment of a bond of $441 per vial. During the Presidential Review period, we increased customer pricing significantly due to the bond amount required to keep Jeuveau® on the market. As a result, we generated nominal revenue from mid-December 2020 through mid-February 2021.

Effective February 18, 2021, we entered into a Settlement and License Agreement with Medytox and Allergan, which we refer to as the U.S. Settlement Agreement and another Settlement and License Agreement with Medytox which we refer to as the ROW Settlement Agreement. We refer to the U.S. Settlement Agreement and the ROW Settlement Agreement collectively as the Medytox/Allergan Settlement Agreements.

Under the Medytox/Allergan Settlement Agreements, we obtained (i) a license to commercialize, manufacture and to have manufactured for us certain products identified in the Medytox/Allergan Settlement Agreements, including Jeuveau® (the "Licensed Products"), in the United States and other territories where we license Jeuveau®, (ii) the dismissal of outstanding litigation against us, including the ITC Action, a rescission of the related remedial orders, and the dismissal of a civil case in the Superior Court of California against us, which we refer to together with any claims (including claims brought in Korean courts) with a common nexus of fact as the Medytox/Allergan Actions, and (iii) releases of claims against us for the Medytox/Allergan Actions. In exchange, we agreed to (i) make cash payments of $35.0 million in multiple payments over two years to Allergan and Medytox, (ii) pay to Allergan and Medytox certain royalties on the sale of Jeuveau®, based on a certain dollar amount per vial sold of Licensed Product by or on behalf of the Company in the United States, from December 16, 2020 to September 16, 2022, (iii) from December 16, 2020 to September 16, 2022, pay Medytox a low-double digit royalty on net sales of Jeuveau® sold by us or on our behalf in territories we have licensed outside the United States; (iv) from September 16, 2022 to September 16, 2032, pay Medytox a mid-single digit royalty percentage on net sales of Jeuveau® in the United States and all territories we have licensed outside the United States, (v) issue Medytox 6,762,652 shares of our common stock, par value $0.00001 per share, which we issued on February 18, 2021, and (vi) entered into a Registration Rights Agreement pursuant to which we granted certain registration rights to Medytox with respect to such shares of common stock beginning as of March 31, 2022. In addition, under the Medytox/Allergan Settlement Agreements, we made certain representations and warranties and agreed to positive and negative covenants.

On March 23, 2021, we entered into a Confidential Settlement and Release Agreement with Daewoong, which we refer to as the Daewoong Settlement Agreement, a Convertible Promissory Note Conversion Agreement, which we refer to as the Conversion Agreement and the Third Amendment to the Supply Agreement (which amends the Daewoong Agreement), which we refer to as the Daewoong Agreement Amendment. We refer to the Daewoong Settlement Agreement, the Conversion Agreement and the Daewoong Agreement Amendment collectively as the 2021 Daewoong Arrangement.

Under the 2021 Daewoong Arrangement, (i) Daewoong (a) paid us an amount equal to $25.5 million in April 2021, (b) agreed to pay certain reasonable legal fees incurred by our litigation counsel in connection with its defense of the ITC Action (including any appeal of the resulting remedial orders), (c) canceled all remaining milestone payments up to $10.5 million in aggregate under our Daewoong Agreement, and (d) agreed to reimburse us certain amounts (calculated on a dollar amount per vials sold basis in the United States) for sales of certain products with respect to which we are required to pay Medytox and Allergan royalties pursuant to the U.S. Settlement Agreement; and (ii) we agreed to (y) release certain claims we may have against Daewoong or certain of its affiliates and representatives related to the allegations made in or the subject matter of the Medytox/Allergan Actions, or any orders, remedies and losses resulting from the Medytox/Allergan Actions, and (z) coordinate with Daewoong on certain matters related to the Medytox/Allergan Actions. In the Conversion Agreement, among other things, (i) the principal balance of the $40.0 million aggregate principal amount convertible promissory note we issued to Daewoong on July 30, 2020, which we refer to as the Daewoong Convertible Note, and accrued and unpaid interest thereon was automatically converted, at the conversion price of $13.00 per share, into 3,136,869 shares of our common stock; and (ii) the Daewoong Convertible Note was cancelled and satisfied in full in connection with such conversion.

Under the Daewoong Agreement Amendment, the Daewoong Agreement was amended to: (i) expand the territory within which we may distribute Jeuveau® to certain countries in Europe; (ii) reduce the period of time with respect to which we are required to deliver binding forecasts to Daewoong; (iii) introduce certain limitations on Daewoong's ability to convert our exclusive license for certain territories to a non-exclusive license in the event we fail to meet certain minimum purchase requirements for such territory; (iv) adjust the minimum purchase requirements and reduce the transfer price per vial of Jeuveau® applicable to various territories; (v) require that any Jeuveau® supplied by Daewoong match certain shelf-life

thresholds; and (vi) prohibit us from sharing certain confidential information regarding Daewoong with Medytox or its affiliates or representatives.

As a result of the royalty payments that we are required to pay under the Medytox/Allergan Settlement Agreements, after giving effect to the offset of a certain portion thereof that will be reimbursed to us under the 2021 Daewoong Arrangement, we expect that our cost of sales and gross margin will be materially negatively impacted through September 2022 and negatively impacted to a lesser extent from September 2022 to September 2032.

COVID-19 Update

The ongoing COVID-19 outbreak and restrictions intended to slow its spread have resulted in temporary business closures for many of our customers starting in mid-March 2020, which negatively affected our sales during the first half of 2020. Starting in June 2020, we experienced an increase in sales that continued throughout the rest of 2020 into the first quarter of 2021 as many states started easing restrictions on elective procedures and many of our customers re-opened their businesses.

We continue to monitor the evolving situation and guidance from international and domestic authorities, including federal, state and local public health authorities and may take actions based on their recommendations. In these circumstances, there may be developments outside our control requiring us to adjust our operating plan. As such, given the dynamic nature of this situation, we cannot reasonably estimate the full impact of COVID-19 on our financial condition, results of operations or cash flows in the future.

Management's Use of Adjusted Gross Margin

Adjusted gross margin is not required by, nor presented in accordance with United States generally accepted accounting principles, or GAAP. Adjusted gross margin is defined as total net revenues less product cost of sales, excluding amortization of intangible assets, and one-time settlement payment from Daewoong, as a percentage of net revenues. Management believes that adjusted gross margin is an important measure for investors because management uses adjusted gross margin as key performance indicator to evaluate the profitability of sales. Adjusted gross margin should not be considered a measure of financial performance under GAAP, and the items excluded from adjusted gross margin should not be considered in isolation or as alternatives to financial statement data presented in the financial statements as an indicator of financial performance or liquidity. As adjusted gross margin is not a measurement determined in accordance with GAAP and is therefore susceptible to varying methods of calculation, this metric, as presented, may not be comparable to other similarly titled measures of other companies.

Adjusted gross margin is most comparable to the GAAP financial measure, gross margin. The following is a reconciliation of GAAP gross margin to adjusted gross margin for the three months ended March 31, 2021 and 2020, respectively:

	Three Months Ended March 31,	
(in millions)	**2021**	**2020**
Revenue, net	$ 12.2	$ 10.5
Cost of sales:		
Product cost of sales (excludes amortization of intangible assets)	4.9	4.2
Settlement payment from Daewoong	(25.5)	—
Amortization of distribution right intangible asset	0.7	0.7
Total cost of sales	$ (19.9)	$ 4.9
GAAP gross margin	262.3 %	52.8 %
Adjusted gross margin	59.9 %	59.8 %

Results of Operations

Comparison of the Three Months Ended March 31, 2021 and 2020

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

	Three Months Ended March 31,	
(in millions)	2021	2020
Product revenue, net	$ 12.2	$ 10.5
Operating expenses:		
Product cost of sales (excludes amortization of intangible assets)	4.9	4.2
Settlement payment from Daewoong	(25.5)	—
Selling, general and administrative	20.7	31.3
Research and development	0.8	0.5
Revaluation of contingent royalty obligation payable to Evolus Founders	1.3	(9.9)
Depreciation and amortization	2.0	1.7
Total operating expenses	4.2	27.9
Income (loss) from operations	8.0	(17.4)
Other income (expense):		
Non-operating expense, net	(0.6)	(2.1)
Loss from extinguishment of debts, net	(1.0)	—
Income (loss) before income taxes:	6.4	(19.5)
Income tax expense	—	0.3
Net income (loss)	$ 6.4	$ (19.7)

Net Revenues

We currently operate in one reportable segment and all of our net revenues are derived from sales of Jeuveau®. Net revenues consist of revenues, net of adjustments primarily for customer rebates, coupon program, rewards related to the consumer loyalty program. Revenues are recognized when the control of the promised goods is transferred to the customer in an amount that reflects the consideration allocated to the related performance obligations and to which we expect to be entitled in exchange for those products or services.

Net revenues of Jeuveau® sales increased by $1.7 million, or 16.2%, to $12.2 million for the three months ended March 31, 2021 from $10.5 million for the three months ended March 31, 2020. The increase in net revenue during the first quarter of 2021 is mainly due to higher net average selling prices, partially offset by lower sales volumes during the presidential review period from mid-December 2020 to mid-February 2021.

Cost of Sales

For the three months ended March 31, 2021, cost of sales consists of product cost of sales and settlement payment of $25.5 million from Daewoong in connection with the Daewoong settlement agreement.

Product Cost of Sales

Product cost of sales, excluding amortization of intangible assets, primarily consisted of the cost of inventory purchased. In addition, during the period from December 2020 to September 2022, product cost of sales, excluding amortization of intangible assets, also includes certain royalties on the sale of Jeuveau® payable to Medytox and Allergan pursuant to the Medytox/Allergan Settlement Agreements, partially offset by reimbursement receivable from Daewoong pursuant the 2021 Daewoong Arrangement with respect to such royalties.

As a result, product cost of sales, excluding amortization of intangible assets, increased by $0.7 million, or 16.7%, to $4.9 million for the three months ended March 31, 2021 from $4.2 million for the three months ended March 31, 2020. We

anticipate that our product cost of sales will increase significantly through September 2022 as we make royalty payments to Allergan and Medytox and to a lesser degree from September 2022 to September 2032 and will fluctuate as our revenues fluctuate.

Settlement Payment from Daewoong

In the first quarter of 2021, we recorded a one-time settlement payment of $25.5 million from Daewoong in connection with the Daewoong Settlement Agreement.

Gross Margin

Our gross margin was 262.3% and 52.8% for three months ended March 31, 2021 and 2020, respectively. Our adjusted gross margin, calculated as total net revenues less product cost of sales, excluding amortization of intangible assets and the one-time settlement payment from Daewoong, as a percentage of net revenues, was 59.9% and 59.8% for the three months ended March 31, 2021 and 2020, respectively. We anticipate that our gross margin and adjusted gross margin will be materially and negatively impacted through September 2022 as we make royalty payments to Allergan and Medytox and negatively impacted to a lesser extent from September 2022 to September 2032 and will fluctuate in the future as we implement various marketing programs for Jeuveau®.

Selling, General and Administrative

Selling, general and administrative expenses decreased by $10.6 million, or, 33.9% to $20.7 million for the three months ended March 31, 2021 from $31.3 million for the three months ended March 31, 2020, primarily resulting from reduced spending due to the COVID-19 outbreak and delaying nonessential projects and programs during the presidential review period from mid-December 2020 to mid-February 2021. Selling, general and administrative expenses may fluctuate in the future primarily due to potential changes in marketing strategies.

Research and Development

Research and development expenses increased by $0.3 million, or 60.0%,to $0.8 million for the three months ended March 31, 2021 from $0.5 million for the three months ended March 31, 2020 due to increased clinical activities. We expect our overall research and development expense to increase if we develop further product candidates and pursue regulatory approvals in other jurisdictions.

Revaluation of Contingent Royalty Obligation Payable to Evolus Founders

The change in the fair value of the contingent royalty obligation payable to Evolus Founders is recorded in operating expenses in each reporting period. During the three months ended March 31, 2021 and 2020, the revaluation charge of $1.3 million and gain of $9.9 million, respectively, were primarily driven by changes in management assumptions relating to revenue forecasts, the discount rate used and timing of cash flows.

Depreciation and Amortization

Depreciation and amortization increased by $0.3 million, or 17.6%, to $2.0 million for the three months ended March 31, 2021 from $1.7 million for the three months ended March 31, 2020. The increase was primarily attributable to amortization of the internal-use software costs over two years.

Non-Operating Expense, Net

Non-operating expense, net, decreased by $1.5 million, or 71.4%, to $0.6 million for the three months ended March 31, 2021 from $2.1 million for the three months ended March 31, 2020, primarily due to lower interest expense resulting from extinguishment of the long-term debt from Oxford Finance, LLC in early January 2021.

Loss from extinguishment of debts, Net

Loss from extinguishment of debts, net includes a $1.9 million loss from payoff of long-term debt with Oxford Finance, LLC in January 2021, partially offset by a $1.0 million gain from the conversion of the Daewoong Convertible Note in March 2021.

Income Taxes (Benefit) Expense

There was no income tax expense for the three months ended March 31, 2021 compared to an income tax expense of $0.3 million for the three months ended March 31, 2020.

Liquidity and Capital Resources

As of March 31, 2021, we had cash and cash equivalents of $22.2 million, negative working capital of $9.9 million and stockholders' equity of $23.3 million.

We have a limited history of generating revenues and began shipping Jeuveau® in May 2019. We have incurred operating losses to date and have an accumulated deficit of $369.7 million as of March 31, 2021 as a result of ongoing efforts to develop and commercialize Jeuveau®, including providing selling, general and administrative support for these operations. We had net income of $6.4 million and net loss of $19.7 million for the three months ended March 31, 2021 and 2020, respectively, and we used net cash in operating activities of $8.3 million and $27.9 million for the three months ended March 31, 2021 and 2020, respectively. Management expects operating losses and negative operating cash flows to continue for at least the next 12 months.

Follow-On Public Offering

In April 2021, we completed a follow-on public offering and sold 10,350,000 shares of our common stock, which included the exercise in full by the underwriters of their option to purchase an additional 1,350,000 shares of common stock, at a price to the public of $9.50 per share. We received net proceeds of approximately $92.4 million from the offering, after deducting underwriting discounts and commissions, excluding other offering expenses.

The Oxford Loan and Security Agreement

On March 15, 2019, we entered into a Loan and Security Agreement, or the credit facility, with Oxford Finance, LLC, as collateral agent, or Oxford, and the lenders party thereto from time to time, pursuant to which the lender would make term loans available to us of up to $100.0 million, or the credit facility. The credit facility provided that the term loans would be funded in two advances. The first tranche of $75.0 million was funded on the closing date, and the second tranche of $25.0 million was not borrowed. The credit facility bore an annual interest rate equal to the greater of 9.5%, or the 30-day U.S. Dollar LIBOR rate plus 7.0%.

On January 4, 2021, we entered into a letter agreement, or Payoff Letter, with Oxford, pursuant to which (i) on January 4, 2021, we paid Oxford $76.4 million, or the Payoff Amount, to discharge in full all outstanding obligations, included accrued interest, under the Loan and Security agreement, and (ii) effective upon such repayment, the Loan and Security Agreement, and all unfunded commitments thereunder, guarantees and other security interests granted to Oxford, and all other obligations of and restrictions on us under the Loan and Security Agreement, terminated.

As a condition to entering into the Payoff Letter, Oxford agreed to waive a total of approximately $4.3 million of fees comprised of (i) approximately $2.8 million of the Final Payment (as defined under the Loan and Security Agreement) and (ii) the prepayment fee of $1.5 million otherwise payable pursuant to the terms of the Loan and Security Agreement.

The Daewoong Convertible Note

On July 6, 2020, we issued Daewoong the Daewoong Convertible Note for the principal amount of $40.0 million, which was funded on July 30, 2020. Additionally, on July 6, 2020, we, Daewoong, and Oxford Finance, LLC entered into a Subordination Agreement pursuant to which the Convertible Note will be subordinated to our obligations under that certain Loan and Security Agreement, dated as of March 15, 2019, by and between Oxford and us.

The Daewoong Convertible Note bore interest at a rate of 3.0% payable semi-annually in arrears on June 30th and December 31st of each year and matures on July 30, 2025, subject to earlier conversion as provided below.

As described in "—Overview—Impact on Our Business of Final Ruling by the U.S. International Trade Commission and the Settlements," under the Conversion Agreement, the outstanding principal balance including interest paid in kind that was added to the outstanding principal under the terms of the Daewoong Convertible Note, together with all accrued and unpaid interest thereon, in the amount of $40.8 million was converted, at the conversion price of $13.00 per share, into 3,136,869 shares of our common stock on March 25, 2021.

Contingent Royalties and Promissory Note Payable to Evolus Founders

We are obligated to make the following future payments to the founders of Evolus, which we refer to as the Evolus Founders: (i) quarterly royalty payments of a low single digit percentage of net sales of Jeuveau® and (ii) a $20.0 million promissory

note that matures in November 2021. The obligations set forth in (i) above will terminate in the quarter following the 10-year anniversary of the first commercial sale of Jeuveau® in the Unites States. The fair value of the obligations set forth in items (i) and (ii) are valued quarterly and are referred to in our financial statements as the contingent royalty obligation.

Litigation Settlement

As described in "—Overview—Impact on Our Business of Final Ruling by the U.S. International Trade Commission and the Settlements," on February 18, 2021, upon entering into the Medytox/Allergan Settlement Agreements, we agreed to pay to Allergan and Medytox $35.0 million in multiple payments over two years with $20.0 million due in the next twelve months and also issued 6,762,652 shares its common stock to Medytox. In addition, during period from December 16, 2020 to September 16, 2022, we agreed to pay to Allergan and Medytox royalties on the sale of Jeuveau®, based on a certain dollar amount per vial sold in the United States, and a low-double digit royalty on net sales of Jeuveau® sold in other Evolus territories. During the period from September 17, 2022 to September 16, 2032, we agreed to pay to Medytox a mid-single digit royalty percentage on all net sales of Jeuveau®. The royalty payments will be made quarterly.

As described in "—Overview—Impact on Our Business of Final Ruling by the U.S. International Trade Commission and the Settlements," on March 23, 2021, upon entering the 2021 Daewoong Arrangement, Daewoong paid us $25.5 million in April 2021, cancelled all remaining milestone payments up to $10.5 million in aggregate under the Daewoong Agreement and agreed to reimburse us certain amounts (calculated on a dollar amount per vials sold basis in the United States) for sales of certain products with respect to which we are required to pay Medytox and Allergan royalties pursuant to the U.S. Settlement Agreement.

License and Supply Agreement

The Daewoong Agreement includes certain minimum annual purchases we are required to make in order to maintain the exclusivity of the license. We may, however, meet these minimum purchase obligations by achieving certain market share in its covered territories. These potential minimum purchase obligations were contingent upon the occurrence of future events, including receipt of governmental approvals and our future market share in various jurisdictions.

Operating Leases

Our corporate headquarters in Newport Beach, California is under a five-year non-cancelable operating lease, which expires on January 31, 2025 with an option to extend the term for an additional 60 months. Lease payments increase based on an annual rent escalation clause that occurs on each February 1 anniversary. We may, under certain circumstances, terminate the lease on the 36 months anniversary of the lease commencement date by providing a written notice 12 months prior to such anniversary and paying a termination fee equal to six months basic rent plus certain other expenses. We have an option to extend the term of the lease for an additional 60 months.

Current and Future Capital Requirements

We believe that our current capital resources, which consist of cash and cash equivalents, will be sufficient to meet our obligations and fund operations through at least the next twelve months based on our expected cash burn rate from the date of the issuance of this Quarterly Report on Form 10-Q.

We have based our projections of operating capital requirements on assumptions that may prove to be incorrect and we may use all our available capital resources, which consist of cash and cash equivalents, sooner than we expect. Because of the numerous risks and uncertainties associated with research, development and commercialization of our products, we are unable to estimate the exact amount of our operating capital requirements. In such case, we may be required to raise additional capital to fund future operations through the incurrence of debt, the entry into licensing or collaboration agreements with partners, sale of equity securities, grants or other sources of financing.

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

- the timing and amounts of the royalty and other payments payable in connection with the Medytox/Allergan Settlement Agreements and of the reimbursement receivable from Daewoong in connection with the 2021 Daewoong Arrangement;
- the amounts of the royalty and promissory note payable to the Evolus Founders;
- the number and characteristics of any future product candidates we develop or acquire;

- our ability to forecast demand for our products, scale our supply to meet that demand and manage working capital effectively;
- the cost of manufacturing our product or any future product candidates and any products we successfully commercialize, including costs associated with our supply chain;
- the cost of commercialization activities for Jeuveau® or any future product candidates are approved or cleared for sale, including marketing, sales and distribution costs;
- the cost of maintaining a sales force, the productivity of that sales force, and the market acceptance of our products;
- our ability to establish and maintain strategic collaborations, licensing or other arrangements and the financial terms of any such agreements that we may enter into;
- any product liability or other lawsuits related to our products;
- the cost of any current litigation including our ongoing securities class action lawsuit and shareholder derivative lawsuit;
- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company;
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing intellectual property and any other future intellectual litigation we may be involved in; and
- the timing, receipt and amount of sales of any future approved or cleared products, if any.

Cash Flows

The following table summarizes our cash flows for the periods indicated:

	Three Months Ended March 31,	
(in millions)	2021	2020
Net cash (used in) provided by:		
Operating activities	$ (8.3)	$ (27.9)
Investing activities	4.8	(46.2)
Financing activities	(76.8)	(1.1)
Change in cash and cash equivalents	(80.4)	(75.2)
Cash and cash equivalents, beginning of period	102.6	109.9
Cash and cash equivalents, end of period	$ 22.2	$ 34.7

Operating Activities

For the three months ended March 31, 2021, operating activities used $8.3 million of cash, which primarily resulted from our net income of $6.4 million as adjusted for certain non-cash charges including $1.6 million of stock-based compensation expense, $1.3 million in revaluation of our contingent royalty obligation, $0.6 million of provision of allowance for doubtful accounts and $2.0 million of depreciation and amortization. Net operating assets and liabilities changed by $21.9 million primarily driven by timing of collections from customers and payments to vendors and the $25.5 million receivable from Daewoong pursuant to the 2021 Daewoong Arrangement.

For the three months ended March 31, 2020, operating activities used $27.9 million of cash, which primarily resulted from our net loss of $19.7 million as adjusted for certain non-cash charges including $2.6 million of stock-based compensation expense, a gain of $9.9 million in revaluation of our contingent royalty obligation, $2.6 million of provision of allowance for doubtful accounts and $1.7 million of depreciation and amortization. Net operating assets and liabilities changed by $6.2 million primarily driven by timing of receipts from customers and payments to vendors.

We expect our cash flows from operating activities to fluctuate as we experience extended customer collection cycles and execute operating expenses reduction efforts.

Investing Activities

Cash provided by investing activities was $4.8 million for the three months ended March 31, 2021 compared to cash used in investing activities of $46.2 million for the three months ended March 31, 2020. The decrease in cash used in investing activities was attributable to maturities of short-term investments with no new purchases during the three months ended March 31, 2021.

Financing Activities

Cash used in financing activities was $76.8 million for the three months ended March 31, 2021, compared to $1.1 million of cash provided by financing activities for the three months ended March 31, 2020. The increase in cash used in financing activities primarily resulted from the repayment of long-term debt with Oxford Finance, LLC of $76.3 million in January 2021.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements as defined in the rules and regulations of the SEC. We do not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or for any other contractually narrow or limited purpose.

Critical Accounting Policies

Management's discussion and analysis of our financial condition and results of operations are based on our financial statements, which have been prepared in accordance with GAAP. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and related disclosure of contingent assets and liabilities, revenue and expenses at the date of the financial statements as well as the expenses incurred during the reporting period. Generally, we base our estimates on historical experience and on various other assumptions in accordance with GAAP that we believe to be reasonable under the circumstances. Actual results may differ materially from these estimates under different assumptions or conditions and such differences could be material to the financial position and results of operations. On an ongoing basis, we evaluate our judgments and estimates in light of changes in circumstances, facts and experience.

There have been no material changes to our critical accounting policies and estimates as discussed in our Annual Report on Form 10-K filed for the year ended December 31, 2020.

Recently Issued and Adopted Accounting Pronouncements

We describe the recently issued and adopted accounting pronouncements that apply to us in *Note 2, Summary of Significant Accounting Policies-Recent Accounting Pronouncements*.

Item 3. Quantitative and Qualitative Disclosure About Market Risk.

Not applicable.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

As of March 31, 2021, our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, who serve as our principal executive officer and principal financial officer, respectively, performed an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act. Our disclosure controls and procedures are designed to ensure (a) that information required to be disclosed in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and (b) that information required to be disclosed by us in reports filed or submitted under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures. Based on this evaluation, our Chief Executive Officer and our Chief Financial Officer concluded that, as of March 31, 2021, our disclosure controls and procedures were effective at a reasonable assurance level.

Any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objective and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Changes in Internal Control over Financial Reporting

During the three months ended March 31, 2021, there were no changes in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) and 15d-15(d) of the Exchange Act that occurred with respect to the quarter ended March 31, 2021 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II—Other Information

Item 1. Legal Proceedings.

See “Legal Proceedings” in *Note 9. Commitments and Contingencies* for information regarding legal proceedings.

Item 1A. Risk Factors.

The risks and uncertainties discussed below update, supersede and replace the risks and uncertainties previously disclosed in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2020, which was filed with the SEC on March 25, 2021. We do not believe any of the changes constitute material changes from the risk factors previously disclosed in such prior Annual Report on Form 10-K.

An investment in our company involves a high degree of risk of loss. You should carefully consider the risks and uncertainties described below together with all the other information in this Quarterly Report on Form 10-Q, including Part I, Item 2 "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the financial statements and the related notes included in Part I, Item 1. If any of the following risks actually occurs, our business, reputation, financial condition, results of operations, revenue, and future prospects could be seriously harmed. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that adversely affect our business. Unless otherwise indicated, references to our business being seriously harmed in these risk factors will include harm to our business, reputation, financial condition, results of operations, revenue and future prospects. In that event, the market price of our common stock could decline, and you could lose part or all of your investment.

Risks Related to Our Business and Strategy

We currently depend entirely on the successful commercialization of our only product, Jeuveau®. If we are unable to successfully commercialize Jeuveau®, we may never generate sufficient revenue to continue our business.

We currently have only one product, Jeuveau®, and our business presently depends entirely on our ability to successfully commercialize it in a timely manner. While the product was commercially launched in the United States in May 2019 and through a distribution partner in Canada in October 2019, we have a limited history of generating revenue for Jeuveau®. Our near-term prospects, including our ability to generate revenue, as well as our future growth, depend entirely on the successful commercialization of Jeuveau®. The commercial success of Jeuveau® will depend on a number of factors, including our ability to successfully commercialize Jeuveau®, whether alone or in collaboration with others, including our ability to hire, retain and train sales representatives in the United States. Our ability to commercialize Jeuveau® is also dependent on the willingness of consumers to pay for Jeuveau® relative to other discretionary items, especially during economically challenging times. Additional factors necessary for the successful commercialization of Jeuveau® include the availability, perceived advantages, relative cost, relative safety of Jeuveau® and relative efficacy of competing products, the timing of new product introductions by our competitors, and the sales and marketing tactics of our competitors, including bundling of multiple products, in response to our launch of Jeuveau®.

If we do not achieve one or more of these factors, many of which are beyond our control, in a timely manner or at all, we could experience significant issues commercializing Jeuveau®. Further, we may never be able to successfully commercialize Jeuveau® or any future product candidates. In addition, our experience as a commercial company is limited. Accordingly, we may not be able to generate sufficient revenue through the sale of Jeuveau® or any future product candidates to continue our business.

We have a limited operating history and have incurred significant losses since our inception and anticipate that we will continue to incur losses for the foreseeable future. We have only one product and limited commercial sales, which, together with our limited operating history, make it difficult to assess our future viability.

We are a performance beauty company with a limited operating history. To date, we have invested substantially all of our efforts and financial resources in the clinical development, regulatory approval, and commercial launch of Jeuveau®, which is currently our only product. We began selling Jeuveau® in the United States in May 2019 and through a distribution partner in Canada in October 2019 and have a limited history of generating revenue. While we recorded a profit for the three months ended March 31, 2021 largely as a result of a receivable from Daewoong, we do not expect to be profitable in 2021 and have incurred losses in each year since our inception in 2012. We have a limited operating history upon which you can evaluate our business and prospects. Consequently, any predictions about our future success, performance or viability may not be as accurate as they could be if we had a longer operating history or greater experience commercializing a product. In addition, we have limited experience and have not yet demonstrated an ability to successfully overcome many of the risks and uncertainties frequently encountered by companies in the medical aesthetics field. We continue to incur significant expenses related to the commercialization of Jeuveau®. While we have recorded net income of $6.4 million for the three months ended March 31, 2021 we have recorded a net loss of $163.0 million and net loss of $90.0 million, and years ended December 31, 2020 and 2019, respectively, and had an accumulated deficit as of March 31, 2021 of $369.7 million. We expect to continue

to incur losses for the foreseeable future, and we anticipate these losses will continue as we commercialize Jeuveau®. Our ability to achieve revenue and profitability is dependent on our ability to successfully market and commercialize Jeuveau®. Even if we achieve profitability in the future, we may not be able to sustain profitability in subsequent periods. Our prior losses, combined with expected future losses, may adversely affect the market price of our common stock and our ability to raise capital and continue operations.

We may require additional financing to fund our future operations, and a failure to obtain additional capital when so needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our operations.

We have utilized substantial amounts of cash since our inception in order to conduct clinical development to support regulatory approval of Jeuveau® in the United States, EU and Canada and in connection with the launch of Jeuveau® in the United States and Canada. We expect that we will continue to expend substantial resources for the foreseeable future in order to continue to commercialize Jeuveau® and for the clinical development of any additional product candidates we may choose to pursue.

In the near term, we expect expenditures associated with our settlement agreements with Medytox and Allergan, including a $15.0 million payment estimated to be due in the third quarter of 2021 and $15.0 million in the first quarter of 2022, and a $20.0 million payment in the fourth quarter of 2021 due to the founders of our company under a promissory note issued to them in 2017. This will be partially offset by a $25.5 million payment from Daewoong to us, which we received in April 2021, and the elimination of $10.5 million in potential, future milestones payable to Daewoong. Additionally, we expect to expend resources furthering the development and continuation of our marketing programs and commercialization infrastructure in connection with commercializing Jeuveau® within and outside of the United States. In the long term, our expenditures will include costs associated with the continued commercialization of Jeuveau® and any of our future product candidates, such as research and development, conducting preclinical studies and clinical trials and manufacturing and supplying as well as marketing and selling any products approved for sale. We expect to incur additional costs as we continue to operate as a public company, hire additional personnel and expand our operations. Because the commercialization expenditures needed to meet our sales objectives are highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully commercialize Jeuveau®. In addition, other unanticipated costs may arise. Accordingly, our actual cash burn rate may exceed our expectations.

If we raise additional capital through marketing and distribution arrangements, royalty financing arrangements, or other collaborations, strategic alliances or licensing arrangements with third parties, we may have to relinquish certain valuable rights to our product candidates, technologies, future revenue streams or research programs or grant licenses on terms that may not be favorable to us. If we raise additional capital through public or private equity offerings or offerings of securities convertible into our equity, the ownership interest of our existing stockholders will be diluted and the terms of any such securities may have a preference over our common stock. Debt financing, receivables financing and royalty financing may also be coupled with an equity component, such as warrants to purchase our capital stock, which could also result in dilution of our existing stockholders' ownership, and such dilution may be material. Additionally, if we raise additional capital through debt financing, we will have increased fixed payment obligations and may be subject to covenants limiting or restricting our ability to take specific actions, such as incurring additional debt or making capital expenditures to meet specified financial ratios, and other operational restrictions, any of which could restrict our ability to commercialize Jeuveau® or any future product candidates or operate as a business and may result in liens being placed on our assets. If we were to default on any of our indebtedness, we could lose such assets.

In the event we are unable to raise sufficient capital to fund our commercialization efforts to achieve specified minimum sales targets under the Daewoong Agreement, we will lose exclusivity of the license that we have been granted under the Daewoong Agreement. In addition, if we are unable to raise additional capital when required or on acceptable terms, we will be required to take actions to address our liquidity needs which may include the following: significantly reduce operating expenses and delay, reduce the scope of or discontinue some of our development programs, commercialization efforts or other aspects of our business plan, out-license intellectual property rights to our product candidates and sell unsecured assets, or a combination of the above. As a result, our ability to achieve profitability or to respond to competitive pressures would be significantly limited and may have a material adverse effect on our business, results of operations, financial condition and/or our ability to fund our scheduled obligations on a timely basis or at all.

If we or our counterparties do not comply with the terms of our settlement agreements with Medytox, Inc., or Medytox, and Allergan Limited, Allergan, Inc. and Allergan Pharmaceuticals Ireland, or, collectively, Allergan, we may face

litigation or lose our ability to commercialize Jeuveau® which would materially and adversely affect our ability to carry out our business, and our financial condition and ability to continue as a going concern.

Effective February 18, 2021, we entered into one Settlement and License Agreement with Allergan and Medytox, which we refer to as the U.S. Settlement Agreement and into another Settlement and License Agreement with Medytox which we refer to as the ROW Settlement Agreement. Collectively, we refer to the U.S. Settlement Agreement and the ROW Settlement Agreement as the Medytox/Allergan Settlement Agreements.

Under the Medytox/Allergan Settlement Agreements we obtained (i) a license to commercialize, manufacture and to have manufactured for us certain products identified in the Medytox/Allergan Settlement Agreements, including Jeuveau® (the "Licensed Products'), in the United States and other territories where we license Jeuveau®, (ii) the dismissal of outstanding litigation against us, including the ITC Action, a rescission of the related remedial orders, and the dismissal of a civil case in the Superior Court of California against us, which we refer to together with any claims (including claims brought in Korean courts) with a common nexus of fact as the Medytox/Allergan Actions, and (iii) releases of claims against us for the Medytox/Allergan Actions. In exchange, we agreed to (i) make payments of $35 million in multiple payments over two years to Allergan and Medytox, (ii) from December 16, 2020 to September 16, 2022, pay to Allergan and Medytox certain royalties on the sale of Jeuveau®, based on a specified dollar amount per vial sold of Licensed Product by or on behalf of the Company in the United States, (iii) from December 16, 2020 to September 16, 2022, pay to Medytox a low-double digit royalty on net sales of Jeuveau® sold by us or on our behalf in territories we have licensed outside the United States; (iv) from September 16, 2022 to September 16, 2032, pay to Medytox a mid-single digit royalty percentage on net sales of Jeuveau® in the United States and all territories we have licensed outside the United States, (v) issue to Medytox 6,762,652 shares of our common stock, par value $0.00001 per share, which we issued on February 18 2021, and (vi) enter into a Registration Rights Agreement pursuant to which we granted certain registration rights to Medytox with respect to such shares of common stock beginning as of March 31, 2022. In addition, under the Medytox/Allergan Settlement Agreements we made certain representations and warranties and agreed to positive and negative covenants.

In the event we fail to comply with the terms of the Medytox/Allergan Settlement Agreements, subject to applicable cure periods, Allergan and Medytox would have the ability to terminate the Medytox/Allergan Settlement Agreements and thereby cancel the licenses granted to us and re-institute litigation against us. Any litigation may result in remedies against our products, resulting in either an injunction prohibiting our sales, or with respect to our sales, an obligation on our part to pay royalties and/or other forms of compensation to third parties, any of which would materially and adversely affect our ability to generate revenue from Jeuveau®, to carry out our business, and to continue as a going concern.

Additionally, if Medytox or Allergan fail to comply with the terms of the Medytox/Allergan Settlement Agreements and do not dismiss the claims to be dismissed or grant the licenses or comply with the covenants and agreements under the Medytox/Allergan Settlement Agreements, it would materially and adversely affect our ability to generate revenue from Jeuveau®, to carry out our business, and to continue as a going concern. We would also be required to engage in costly and time consuming litigation in order to enforce our rights under the Medytox/Allergan Settlement Agreements.

The terms of the Medytox/Allergan Settlement Agreements will reduce our profitability and may affect the extent of any discounts we may offer to our customers.

As a result of the royalty payments that we are required to pay under the Medytox/Allergan Settlement Agreements, our profitability will be impacted. We may be able to offset a portion of the loss of profitability by decreasing any discount to customers on Jeuveau® as compared to discounts we provided to customers prior to the Medytox/Allergan Settlement Agreements. If we reduce discounts for any customers, their volume of purchases may decrease which would have a material and adverse effect on our business and results of operations.

Our business, financial condition and operations may be materially adversely affected by the COVID-19 outbreak or other similar outbreaks.

The COVID-19 outbreak and pandemic of the novel coronavirus that was first detected in Wuhan, China, in 2019, known as COVID-19, or other similar outbreaks of contagious diseases may have material adverse effects on our business, financial condition, results of operations and cash flows.

The COVID-19 outbreak, and restrictions intended to slow the spread of COVID-19, including quarantines, government-mandated actions, stay-at-home orders and other restrictions, has adversely affected our business in a number of ways. For example, the spread of COVID-19 in the United States has resulted and continues to, at times, result in travel restrictions impacting our sales professionals and closures of our customers' businesses, which has adversely affected our sales and

operations. In response, we have taken and will continue to take temporary precautionary measures intended to help minimize the risk of COVID-19 to our employees, including requiring our employees and sales professionals, to work remotely when required by local jurisdictions, suspending non-essential travel and restricting in-person work-related meetings. We significantly reduced our operating expenses in 2020, including through meaningful headcount reductions and temporary reductions in executive salaries. As a result of the limitations on our sales force and our headcount reductions, we expect to increasingly depend on our proprietary digital platform to support sales. Other negative impacts of the COVID-19 outbreak or other similar outbreaks could include the availability of our key personnel, temporary closures of our office or the facilities of our business partners, customers, third party service providers or other vendors, and the interruption of our supply chain, distribution channels, liquidity and capital or financial markets. Any of these events may result in a period of business disruption and in reduced sales and operations. In addition, any disruption and volatility in the global capital markets may increase our cost of capital and adversely affect our ability to access financing when and on terms that we desire. Any of these events could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Moreover, Jeuveau® is utilized in elective procedures, the costs of which are borne by the consumer and not third-party payors. As a result of the COVID-19 outbreak and restrictions to slow its spread, these elective procedures declined dramatically in 2020 due to closures of our customers' businesses and as many customers are deferring their procedures. Even after the current COVID-19 outbreak has subsided, we may continue to experience negative impacts to our business and financial results if consumers continue to defer or avoid altogether elective procedures to administer Jeuveau® due to the continued perceived risk of infection or concern of a resurgence of the COVID-19 outbreak as well as COVID-19's global economic impact, including decreases in consumer discretionary spending and any economic slowdown or recession that has occurred or may occur in the future.

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

Our results of operations could be adversely affected by general conditions in the global economy and in the global financial markets. As a result of the COVID-19 outbreak, there has been a global economic contraction that may last a long time. Significant increases in unemployment stemming from the pandemic have also occurred which will impact consumer discretionary spending. Furthermore, the market for aesthetic medical procedures may be particularly vulnerable to unfavorable economic conditions. We do not expect Jeuveau® for the treatment of glabellar lines to be reimbursed by any government or third-party payor and, as a result, our product will be ultimately paid for by the consumer. Demand for Jeuveau® is tied to discretionary spending levels of our targeted consumer population. A severe or prolonged economic downturn could result in a variety of risks to our business, including a decline in the discretionary spending of our target consumer population, which could lead to a weakened demand for Jeuveau® or any future product candidates. A severe or prolonged economic downturn may also affect our ability to raise additional capital when needed on acceptable terms, if at all. A weak or declining economy could also strain our suppliers, possibly resulting in supply disruption, or cause our customers to delay making payments for our products. Any of the foregoing could harm our business. In addition, our business strategy was developed based on a number of important assumptions about the self-pay healthcare market. For example, we believe that the number of self-pay healthcare procedures will increase in the future. However, these trends are uncertain and limited sources exist to obtain reliable market data. Therefore, sales of Jeuveau® or any of our future product candidates could differ materially from our projections if our assumptions are incorrect.

Jeuveau® faces, and any of our future product candidates will face, significant competition and our failure to effectively compete may prevent us from achieving significant market penetration and expansion.

In May 2019, we commercially launched Jeuveau® into the highly competitive U.S. aesthetic neurotoxin market. In the long term, we expect to expand our focus to the broader self-pay healthcare market. Many of our potential competitors, including Allergan, and now AbbVie Inc., which acquired Allergan, who first launched BOTOX for cosmetic uses in 2002 and has since maintained the highest market share position in the aesthetic neurotoxin market with its BOTOX product, are large, experienced companies that enjoy significant competitive advantages, such as substantially greater financial resources enabling them to, among other things, market and discount aggressively. Competitors may also have greater brand recognition for their products, larger sales forces and larger aesthetic product portfolios allowing the companies to bundle products to provide customers more choices and to further discount their products. Additionally, our competitors have greater existing market share in the aesthetic neurotoxin product market and long standing customer loyalty programs and sales contracts with large customers which creates established business and financial relationships with customers, aesthetic societies and universities.

These competitors may also try to compete with Jeuveau® on price both directly, through rebates and promotional programs to high volume physicians and coupons to consumers, and indirectly, through attractive product bundling with complimentary

products, such as dermal fillers that offer convenience and an effectively lower price compared to the total price of purchasing each product separately. These companies may also seek to compete based on their longer operating history. Larger companies may be better capitalized than us and, accordingly, are able to offer greater customer loyalty benefits to encourage repeat use of their products and finance a sustained global advertising campaign to compete with our commercialization efforts at launch. A number of our larger competitors also have access to a significant amount of studies and publications that they could use to compete with us.

Competitors and other parties may also seek to impact regulatory approval of our future product applications through the filing of citizen petitions or other similar documents, which could require costly and time-consuming responses to the regulatory agencies. Larger competitors could seek to prevent or delay our commercialization efforts via costly litigation which can be lengthy and expensive and serve to distract our management team's attention. We could face competition from other sources as well, including academic institutions, governmental agencies and public and private research institutions. In addition, we are aware of other companies also developing and/or marketing products in one or more of our target markets, including competing injectable botulinum toxin type A formulations that are currently in Phase III clinical development in North America for the treatment of glabellar lines. For example, Revance Therapeutics, Inc. has submitted a BLA to the FDA for an injectable botulinum toxin type A neurotoxin and received a target action date of November 25, 2020 under the Prescription Drug User Fee Act; however, the FDA has deferred its decision on the BLA and the BLA has not yet been approved. Additionally, Hugel Inc., has submitted a BLA to the FDA for an injectable botulinum toxin type A neurotoxin. If either BLA is approved, we expect the competition in the U.S. injectable botulinum toxin market to further increase. We would face similar risks with respect to any future product candidates that we may seek to develop or commercialize in the broader self-pay healthcare market. Successful competitors in that market have the ability to effectively discover, obtain patents, develop, test and obtain regulatory approvals for products, as well as the ability to effectively commercialize, market and promote approved products, including communicating the effectiveness, safety and value of products to actual and prospective customers and medical staff.

Our strategy of competing in the aesthetic neurotoxin market is dependent on the marketing and pricing flexibility that we believe is afforded to a company with a portfolio limited to self-pay healthcare, comprised of products and procedures that are not reimbursed by third-party payors. In the event that regulations applicable to reimbursed products are changed to apply to self-pay healthcare products, we would no longer have this flexibility and we may not be able to compete as effectively with our competitors which may have a material effect on our business, financial condition and results of operations. Additionally, as a result of the royalty payments that we are required to pay under the Medytox/Allergan Settlement Agreements, we may not be able to discount Jeuveau® to the extent that we previously provided discounts to customers without impacting our gross margins. If we increase prices for any customers, their volume of purchases may decrease which would have a material and adverse effect on our business and results of operations.

The first use of Jeuveau® is in aesthetic medicine. The aesthetic product market, and the facial aesthetic market in particular, is highly competitive and dynamic and is characterized by rapid and substantial technological development and product innovations. We have received regulatory approval of Jeuveau® for the treatment of glabellar lines and launched commercially in the United States and through a distribution partner in Canada. We anticipate that Jeuveau® will face significant competition from other facial aesthetic products, such as other injectable and topical botulinum toxins and dermal fillers. Jeuveau® may also compete with unapproved and off-label treatments. In addition, competitors may develop new technologies within the aesthetic market that may be superior in safety and efficacy to Jeuveau® or offer alternatives to the use of toxins, including surgical and radio frequency techniques. To compete successfully in the aesthetic market, we will have to demonstrate that Jeuveau® is at least as safe and effective as current products sold by our competitors. Competition in the aesthetic market could result in price-cutting and reduced profit margins, any of which would harm our business, financial condition and results of operations.

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

Our commercial opportunity could also be reduced or eliminated if our competitors develop and commercialize products that are safer, are more effective, have fewer or less severe side effects, are more convenient or are less expensive than Jeuveau® or any other product that we may develop. Our competitors also may obtain FDA or other regulatory approval for these products more rapidly than we may obtain approval for our products, which could result in our competitors establishing a strong market position before we are able to enter the market, which may create additional barriers to successfully commercializing Jeuveau® and any future product candidates and attracting physician and consumer demand.

Jeuveau® may fail to achieve the broad degree of physician adoption and use or consumer demand necessary for commercial success.

Jeuveau® may fail to gain sufficient market acceptance by physicians, consumers and others in the medical aesthetics community. The commercial success of Jeuveau® and any future product candidates will depend significantly on the broad adoption and use of the resulting product by physicians for approved indications, including, in the case of Jeuveau®, the treatment of glabellar lines and other aesthetic indications that we may seek to pursue. We are aware that other companies are seeking to develop alternative products and treatments, any of which could impact the demand for Jeuveau®.

The degree and rate of physician adoption of Jeuveau® and any future product candidates depend on a number of factors, including the cost, profitability to our customers, consumer demand, characteristics and effectiveness of the product. Our success will also depend our ability to create compelling marketing programs, training of our customers and ability to overcome any biases physicians or consumers may have toward the use, safety and efficacy of existing products over Jeuveau®. Moreover, our competitors may utilize negative selling efforts or offer more compelling marketing or discounting programs than we are able to offer, including by bundling multiple aesthetic products to provide a more comprehensive offering than we can as Jeuveau® is currently our sole product.

In addition, in its clinical trials, Jeuveau® was clinically tested and compared to BOTOX. Jeuveau® is the only known neurotoxin product in the United States with a 900 kDa complex other than BOTOX. We believe that aesthetic physicians' familiarity with the 900 kDa complex's handling, preparation and dosing will more easily facilitate incorporation of Jeuveau® into their practices. However, the ease of integration of Jeuveau® into a physician's practice may not be as seamless as we anticipate.

With respect to consumer demand, the treatment of glabellar lines with Jeuveau® is an elective procedure, the cost of which must be borne by the consumer, and we do not expect costs related to the treatment to be reimbursable through any third-party payor, such as Medicaid, Medicare or commercial insurance. The decision by a consumer to undergo treatment with Jeuveau® for the treatment of glabellar lines or other aesthetic indications that we may pursue may be influenced by a number of factors, including the cost, efficacy, safety, perception, marketing programs for, and physician recommendations of Jeuveau® versus competitive products or procedures. Moreover, consumer demand may flucuate over time as a result of consumer sentiment about the benefits and risks of aesthetic procedures generally and Jeuveau® in particular, changes in demographics and social trends, and general consumer confidence and consumer discretionary spending, which may be impacted by the COVID-19 outbreak, economic and political conditions.

If Jeuveau® or any future product candidates fail to achieve the broad degree of physician adoption necessary for commercial success or the requisite consumer demand, our operating results and financial condition will be adversely affected, which may delay, prevent or limit our ability to generate revenue and continue our business.

Our ability to market Jeuveau® is limited to use for the treatment of glabellar lines, and if we want to expand the indications for which we market Jeuveau®, we will need to obtain additional regulatory approvals, which will be expensive and may not be granted.

We have received regulatory approval for Jeuveau® in the United States for the treatment of moderate to severe glabellar lines. The terms of that approval restrict our ability to market or advertise Jeuveau® for other indications, which could limit physician and consumer adoption. Under the U.S. Federal Food Drug and Cosmetic Act, we may generally only market Jeuveau® for approved indications. Many of our competitors have received approval of multiple aesthetic and therapeutic indications for their neurotoxin products and may be able to market such products for use in a way we cannot. For example, we are aware that one of our competitors, Allergan (now AbbVie), has obtained and plans to obtain additional indications for its neurotoxin product within medical aesthetics and, therefore, is able to market its product across a greater number of indications than Jeuveau®. If we are unable to obtain approval for indications in addition to our approval for glabellar lines, our marketing efforts for Jeuveau® will be severely limited. As a result, we may not generate physician and consumer demand or approval of Jeuveau®.

We rely on our digital technology and applications and our business and operations would suffer in the event of computer system failures or breach by hackers.

As part of the measures we took in April 2020, including reductions in the size of our sales force, we are more reliant on our digital technology, including our Evolus Practice App, which allows customers to open a new account, order Jeuveau®, pay invoices and engage with our customer experience team and medical affairs representatives. In the event that our digital technology is unable to function in the manner they were designed or at all, we would experience difficulty processing

customer orders and requests in a timely manner or at all which would have a material adverse effect on our business, results of operations and financial condition.

The systems underlying our digital technology may not be adequately designed or may not operate with the reliability and redundancy necessary to avoid performance delays or outages that could be harmful to our business. If our digital technology is unavailable when customers attempt to access them, or if they do not load as quickly as expected, users may not use our technology as often in the future, or at all, and our ability to sell Jeuveau® through a more limited sales force may be disrupted and we may not realize the efficiencies of leveraging our digital technology, any of which could adversely affect our business and financial performance. As the number of users of our digital technology continues to grow we will need an increasing amount of technical infrastructure, including network capacity and computing power, to continue to satisfy our needs. It is possible that we may fail to continue to effectively scale and grow our technical infrastructure to accommodate these increased demands, which may adversely affect our customers' experience with our digital technology which may decrease our revenue and harm our results of operations.

Despite the implementation of security measures, our internal computer systems, and those of third parties on which we rely, are vulnerable to damage from computer viruses, malware, natural disasters, terrorism, war, telecommunication and electrical failures, cyberattacks or cyber intrusions over the internet, attachments to emails, persons inside our organization, or persons with access to systems inside our organization. The risk of a security breach or disruption, particularly through cyberattacks or cyber intrusions, including by computer hackers, foreign governments and cyberterrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. If such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our current or future product development programs. The costs to us to mitigate network security problems, bugs, viruses, worms, malicious software programs and security vulnerabilities could be significant, and while we have implemented security measures to protect our data security and information technology systems, our efforts to address these problems may not be successful, and these problems could result in unexpected interruptions, delays, cessation of service, government files or penalties and other harm to our business and our competitive position. If such an event were to occur and cause interruptions in our operations, it could result in a material disruption in our relationship with our customers. For example, if our Evolus Practice App were rendered inoperable, we would have to process orders by telephone or otherwise which may result in slower processing times and harm to our reputation.

Moreover, if a computer security breach affects our systems or results in the unauthorized release of financial information, personally identifiable information, or PII, or other sensitive information our reputation could be materially damaged. In addition, such a breach may require notification to governmental agencies, the media or individuals pursuant to various international, federal and state privacy and security laws, if applicable, including the GDPR, the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Clinical Health Act of 2009, and its implementing rules and regulations, as well as regulations promulgated by the Federal Trade Commission and state breach notification laws. Additionally, the regulatory environment governing information, security and privacy laws is increasingly demanding and continues to evolve and a number of states have adopted laws and regulations that may affect our privacy and data security practices regarding the use, disclosure and protection of PII. For example, the California Consumer Privacy Act, among other things, has created new individual privacy rights and imposes increased obligations on companies handling PII. We would also be exposed to a risk of loss or litigation and potential liability, which could materially adversely affect our business, results of operations and financial condition. Our liability insurance may not be sufficient in type or amount to cover us against claims related to security breaches, cyberattacks and other related breaches.

Jeuveau® or any other product candidate for which we seek approval as a biologic may face competition sooner than anticipated.

With the enactment of the Biologics Price Competition and Innovation Act of 2009, or the BPCI Act, as part of the Patient Protection and Affordable Care Act, an abbreviated pathway for the approval of biosimilar or interchangeable biological products was created. The abbreviated regulatory pathway establishes legal authority for the FDA to review and approve biosimilar biologics. Under the BPCI Act, an application for a biosimilar product cannot be approved by the FDA until twelve years after the original branded product was approved under a Biologics License Application, or BLA. The law is complex and is still being interpreted and implemented by the FDA. For example, one company has filed a Citizen Petition requesting that the FDA not apply the BPCI Act to pre-enactment BLAs. As a result, its ultimate impact, implementation and meaning are subject to uncertainty. While it is uncertain when such processes intended to implement the BPCI Act may be fully adopted by the FDA, any such processes could have a material adverse effect on the future commercial prospects for our biological products.

We believe that Jeuveau® should qualify for the twelve-year period of exclusivity. However, there is a risk that this exclusivity could be shortened due to congressional action or otherwise, or that the FDA will not consider any of our product candidates to be a reference product for competing products, potentially creating the opportunity for competition sooner than anticipated. Moreover, the extent to which a biosimilar product, once approved, will be substituted for any one of our reference products in a way that is similar to traditional generic substitution for non-biological products is not yet clear and will depend on a number of marketplace and regulatory factors that are still developing.

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

The FDA and other regulatory agencies strictly regulate the marketing and promotional claims that are made about pharmaceutical products, such as Jeuveau®. In particular, a product may not be promoted for uses or indications that are not approved by the FDA or other similar regulatory authorities as reflected in the product's approved labeling. Physicians could use Jeuveau® on their patients in a manner that is inconsistent with the approved label of the treatment of moderate to severe glabellar lines, potentially including for the treatment of other aesthetic or therapeutic indications. If we are found to have promoted such off-label uses, we may receive warning letters from and be subject to other enforcement actions by the FDA, the EMA and other regulatory agencies, and become subject to significant liability, which would materially harm our business. The federal government has levied large civil and criminal fines against companies for alleged improper promotion and has enjoined several companies from engaging in off-label promotion. If we become the target of such an investigation or prosecution based on our marketing and promotional practices, we could face similar sanctions, which would materially harm our business. In addition, management's attention could be diverted from our business operations, significant legal expenses could be incurred, and our reputation could be damaged. The FDA has also required that companies enter into consent decrees or permanent injunctions under which specified promotional conduct is changed or curtailed in order to resolve FDA enforcement actions. If we are deemed by the FDA to have engaged in the promotion of our products for off-label use, we could be subject to FDA prohibitions or other restrictions on the sale or marketing of our products and other operations or significant fines and penalties, and the imposition of these sanctions could also affect our reputation and position within the industry. In addition, regulatory authorities outside the United States may impose similar fines, penalties or sanctions.

Physicians may also misuse Jeuveau® or any future product candidates or use improper techniques, potentially leading to adverse results, side effects or injury, which may lead to product liability claims. If Jeuveau® or any future product candidates are misused or used with improper techniques or are determined to cause or contribute to consumer harm, we may become subject to costly litigation by our customers or their patients. Product liability claims could divert management's attention from our core business, be expensive to defend, result in sizable damage awards against us that may not be covered by insurance and subject us to negative publicity resulting in reduced sales of our products. Furthermore, the use of Jeuveau® or any future product candidates for indications other than those cleared by the FDA may not effectively treat such conditions, which could harm our reputation in the marketplace among physicians and consumers. Any of these events could harm our business and results of operations and cause our stock price to decline.

Jeuveau® or any of our future product candidates may cause serious or undesirable side effects or possess other unexpected properties that could delay or prevent their regulatory approval, limit the commercial profile of approved labeling, result in post-approval regulatory action or in product liability lawsuits.

Unforeseen side effects from Jeuveau® or our future product candidates could arise either during clinical development or after marketing such product. Undesirable side effects caused by product candidates could cause us or regulatory authorities to interrupt, modify, delay or halt clinical trials and could result in a more restrictive label or the delay or denial of regulatory approval by the FDA, the EMA or similar regulatory authorities. Results of clinical trials could reveal a high and unacceptable severity and prevalence of side effects. In such an event, trials could be suspended or terminated and the FDA, the EMA or similar regulatory authorities could order us to cease further development of or deny approval of product candidates for any or all targeted indications. The drug-related side effects could affect patient recruitment or the ability of enrolled patients to complete the trial or result in product liability claims. Any of these occurrences may harm our business, financial condition, operating results and prospects.

Additionally, if we or others identify undesirable side effects, or other previously unknown problems, caused by Jeuveau®, or any of our future product candidates, after obtaining regulatory approval in the United States or other jurisdictions, a number of potentially negative consequences could result, including regulatory authorities withdrawing approval or limiting the marketing of our products, requiring a recall of the product, requiring additional warnings on our product labeling or medication guides or instituting Risk Evaluation and Mitigation Strategies, or REMS. In order to mitigate these risks,

regulatory authorities may require additional costly clinical trials or costly post-marketing testing and surveillance to monitor the safety or efficacy of the product. As a result of any of these actions our sales of the product may decrease significantly, we may be required to expend material amounts to comply with any requirements of the regulatory authorities, we could be sued in a product liability lawsuit and held liable for harm caused to patients, and our brand and reputation may suffer.

We face an inherent risk of product liability as a result of the commercialization of Jeuveau® and any of our future product candidates. For example, we may be sued if any product we develop allegedly causes injury or is found to be otherwise unsuitable during product testing, manufacturing, marketing or sale. Any such product liability claims may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability and a breach of warranties. Claims could also be asserted against us under state consumer protection acts. If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities or be required to limit commercialization of our products. Even a successful defense would require significant financial and management resources and result in decreased demand for Jeuveau® or any future product candidates or products we may develop, termination of clinical trial sites or entire trial programs, injury to our reputation and significant negative media attention, withdrawal of clinical trial participants or cancellation of clinical trials and significant costs and diversion management's time to defend the related litigation.

Our inability to obtain and maintain sufficient product liability insurance at an acceptable cost and scope of coverage to protect against potential product liability claims could prevent or inhibit the commercialization of Jeuveau® or any future products that we develop. We currently carry product liability insurance covering our clinical trials. Although we maintain such insurance, any claim that may be brought against us could result in a court judgment or settlement in an amount that is not covered, in whole or in part, by our insurance or that is in excess of the limits of our insurance coverage. Our insurance policies also have various exclusions and deductibles, and we may be subject to a product liability claim for which we have no coverage. We will have to pay any amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient capital to pay such amounts. Moreover, in the future, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses.

Any of the above events could prevent us from achieving or maintaining market acceptance of the affected product, negatively impact our revenues and could substantially increase the costs of commercializing our products. The demand for Jeuveau® could also be negatively impacted by any adverse effects of a competitor's product or treatment.

Our failure to successfully in-license, acquire, develop and market additional product candidates or approved products would impair our ability to grow our business.

Although most of our effort is focused on the commercialization of Jeuveau®, a key element of our long-term strategy is to in-license, acquire, develop, market and commercialize a portfolio of products to serve the self-pay aesthetic market. Because our internal research and development capabilities are limited, we may be dependent upon pharmaceutical and other companies, academic scientists and other researchers to sell or license products or technology to us. The success of this strategy depends partly upon our ability to identify and select promising pharmaceutical product candidates and products, negotiate licensing or acquisition agreements with their current owners and finance these arrangements.

The process of proposing, negotiating and implementing a license or acquisition of a product candidate or approved product is lengthy and complex. Other companies, including some with substantially greater financial, marketing, sales and other resources, may compete with us for the license or acquisition of product candidates and approved products. We have limited resources to identify and execute the acquisition or in-licensing of third-party products, businesses and technologies and integrate them into our current infrastructure. Moreover, we may devote resources to potential acquisitions or licensing opportunities that are never completed, or we may fail to realize the anticipated benefits of such efforts. We may not be able to acquire the rights to additional product candidates on terms that we find acceptable, or at all.

Further, any product candidates that we acquire may require additional development efforts prior to commercial sale, including preclinical or clinical testing and approval by the FDA, the EMA and other similar regulatory authorities. All product candidates are prone to risks of failure during pharmaceutical product development, including the possibility that a product candidate will not be shown to be sufficiently safe and effective for approval by regulatory authorities. In addition, any approved products that we acquire may not be manufactured or sold profitably or achieve market acceptance.

We may need to increase the size of our organization, including our sales and marketing capabilities in order to further commercialize Jeuveau® and we may experience difficulties in managing this growth.

As of March 31, 2021, we had 106 employees, all of whom constituted full-time employees. Our management and personnel, systems and facilities currently in place may not be adequate to support future growth. Our need to effectively execute our growth strategy requires that we identify, recruit, retain, incentivize and integrate any additional employees to effectively manage any future clinical trials, manage our internal development efforts effectively while carrying out our contractual obligations to third parties, and continue to improve our operational, financial and management controls, reporting systems and procedures.

We face risks in building and managing a sales organization whether internally or by utilizing third parties, including our ability to retain and incentivize qualified individuals, provide adequate training to sales and marketing personnel, generate sufficient sales leads, effectively manage a geographically dispersed sales and marketing team, adequately provide complementary products to be offered by sales personnel, which may otherwise put us at a competitive disadvantage relative to companies with more extensive product lines, and handle any unforeseen costs and expenses. Any failure or delay in the development of our internal sales, marketing and distribution capabilities would adversely impact the commercialization of these products.

Due to our limited financial resources and our limited experience in managing a company with such anticipated growth, we may not be able to effectively manage the expansion of our operations or recruit and train additional qualified personnel. The physical expansion of our operations may lead to significant costs and may divert our management and business development resources. Any inability to manage growth could delay the execution of our development and strategic objectives or disrupt our operations.

Our international operations will expose us to risks, and failure to manage these risks may adversely affect our operating results and financial condition.

We currently have operations in the United States and plan to have international operations in the future. International operations are subject to a number of inherent risks, and our future results could be adversely affected by a number of factors, including differences in demand for our products due to local requirements or preferences, the difficulty of hiring and managing employees with cultural and geographic differences and the costs of complying with differing regulatory requirements. Additionally, we may experience difficulties and increased costs due to differences in laws related to enforcing contracts, protecting intellectual property, taxes, tariffs and export regulations.

Our international operations will also subject us to risks related to multiple, conflicting and changing laws and regulations such as privacy regulations, including General Data Protection Regulation, or GDPR, tax laws, export and import restrictions, employment laws, immigration laws, labor laws, regulatory requirements and other governmental approvals, permits and licenses. Additionally, we will face heightened risk of unfair or corrupt business practices in certain geographies and of improper or fraudulent sales arrangements that may impact financial results and result in restatements of, or irregularities in, financial statements. These and other factors could harm our ability to gain future revenue and, consequently, materially impact our business, operating results and financial condition.

If we fail to attract and keep senior management and key scientific personnel, we may be unable to commercialize Jeuveau® successfully, or any future products we develop.

Our success depends in part on our continued ability to attract, retain and motivate highly qualified management. We believe that our future success is highly dependent upon the contributions of our senior management, particularly David Moatazedi, our President, Chief Executive Officer and member of our board of directors, Lauren Silvernail, our Chief Financial Officer and Executive Vice President, Corporate Development, Rui Avelar, our Chief Medical Officer and Head of R&D, and Crystal Muilenburg, our Chief Marketing Officer, as well as other members of our senior management team. The loss of services of any of these individuals could delay or prevent the successful development of our product pipeline, completion of our planned clinical trials or the commercialization of Jeuveau® or any future products we develop.

In addition, we could experience difficulties attracting and retaining qualified employees in the future. For example, competition for qualified personnel in the pharmaceuticals and aesthetic medicine field is intense due to the limited number of individuals who possess the skills and experience required by our industry. We may not be able to attract and retain quality personnel on acceptable terms, or at all. In addition, to the extent we hire personnel from competitors, we may be subject to allegations that they have been improperly solicited or that they have divulged proprietary or other confidential information or that their former employers own their research output.

Our strategy of focusing exclusively on the self-pay healthcare market may limit our ability to increase sales or achieve profitability.

Our strategy is to focus exclusively on the self-pay healthcare market. This focus may limit our ability to increase sales or achieve profitability. For example, to maintain our business model, we have chosen not to offer products or services available in the broader healthcare market that are reimbursed by third-party payors such as Medicare, Medicaid or commercial insurance. This eliminates our ability to offer a substantial number of products and indications for Jeuveau®.

For example, on December 18, 2017, we entered into the therapeutic agreement with Alphaeon, or the therapeutic agreement, relating to certain rights to the therapeutic indications of botulinum toxin products under the Daewoong Agreement. Pursuant to the therapeutic agreement, we agreed not to sell, sub-license or otherwise dispose in whole or in part the therapeutic option or the rights underlying the therapeutic option and hold the therapeutic option and the underlying rights in trust for Alphaeon. Our entry into the therapeutic agreement and the entry by Alphaeon into an agreement directly with Daewoong eliminate our ability to expand the permitted uses of botulinum toxin products for therapeutic indications.

Jeuveau® is the only U.S. neurotoxin without a therapeutic indication, although other companies may seek to develop a similar product in the future. We believe pursuing an aesthetic-only non-reimbursed product strategy allows for meaningful strategic advantages in the United States, including pricing and marketing flexibility. However, physicians may choose to not pass any cost benefits received by them due to such pricing flexibility to their patients. In addition, companies offering aesthetic products competitive to Jeuveau®, whether they pursue an aesthetic-only non-reimbursed product strategy or not, may nonetheless try to compete with Jeuveau® on price both directly through rebates, promotional programs and coupons and indirectly through attractive product bundling and customer loyalty programs. Our business, financial results and future prospects will be materially harmed if we cannot generate sufficient consumer demand for Jeuveau®.

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

Our research and development and manufacturing activities in the future may, and Daewoong's manufacturing and supplying activities presently do, involve the controlled storage, use and disposal of hazardous materials, including botulinum toxin type A, a key component of Jeuveau®, and other hazardous compounds. We and Daewoong are subject to laws and regulations governing the use, manufacture, storage, handling and disposal of these hazardous materials. In some cases, these hazardous materials and various wastes resulting from their use are stored at Daewoong's facilities pending their use and disposal. We and Daewoong cannot eliminate the risk of contamination, which could cause an interruption of Daewoong's manufacturing processes, our commercialization efforts, business operations and environmental damage resulting in costly clean-up and liabilities under applicable laws and regulations governing the use, manufacture, storage, handling and disposal of these materials and specified waste products. Although we believe that the safety procedures utilized by Daewoong for handling and disposing of these materials generally comply with the standards prescribed by these laws and regulations, this may not eliminate the risk of accidental contamination or injury from these materials. In such an event, we may be held liable for any resulting damages and such liability could exceed our resources, and state or federal or other applicable authorities may curtail our use of certain materials and interrupt our business operations. Furthermore, environmental laws and regulations are complex, change frequently and have tended to become more stringent.

We may use third-party collaborators to help us develop, validate or commercialize any new products, and our ability to commercialize such products could be impaired or delayed if these collaborations are unsuccessful.

We may license or selectively pursue strategic collaborations for the development, validation and commercialization of Jeuveau® and any future product candidates. In any third-party collaboration, we would be dependent upon the success of the collaborators in performing their responsibilities and their continued cooperation. Our collaborators may not cooperate with us or perform their obligations under our agreements with them. Our collaborators may choose to pursue alternative technologies in preference to those being developed in collaboration with us. The development, validation and commercialization of our product candidates will be delayed if collaborators fail to conduct their responsibilities in a timely manner or in accordance with applicable regulatory requirements or if they breach or terminate their collaboration agreements with us. Disputes with our collaborators could also impair our reputation or result in development delays, decreased revenues and litigation expenses.

In addition, we may face significant competition in seeking appropriate collaborators. Whether we reach a definitive agreement for a collaboration will depend, among other things, upon our assessment of the collaborator's resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator's evaluation of a number of factors. Those factors may include the design or results of clinical trials, the likelihood of approval by the FDA or similar

regulatory authorities outside the United States, the potential market for the subject product candidate, the costs and complexities of manufacturing and delivering such product candidate to consumers, the potential of competing products, the existence of uncertainty with respect to our ownership of technology, which can exist if there is a challenge to such ownership without regard to the merits of the challenge and industry and market conditions generally. The collaborator may also consider alternative product candidates or technologies for similar indications that may be available to collaborate on and whether such a collaboration could be more attractive than the one with us for our product candidate. Collaborations are complex and time-consuming to negotiate and document.

We may not be able to negotiate collaborations on a timely basis, on acceptable terms, or at all. If we are unable to do so, we may have to curtail the development of such product candidate, reduce or delay its development program or one or more of our other development programs, delay its potential commercialization or reduce the scope of any sales or marketing activities, or increase our expenditures and undertake development or commercialization activities at our own expense. If we elect to increase our expenditures to fund development or commercialization activities on our own, we may need to obtain additional capital, which may not be available to us on acceptable terms or at all. If we do not have sufficient funds, we may not be able to further develop our product candidates or bring them to market and generate revenue.

Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited.

We have incurred substantial losses during our history and, while we recorded a profit for the three months ended March 31, 2021 largely as a result of a receivable from Daewoong, we do not expect to become profitable in the near future, and we may never achieve profitability. To the extent that we continue to generate taxable losses, unused losses will carry forward to offset future taxable income, if any, until such unused losses expire. Under Section 382 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an "ownership change," generally defined as a greater than 50% change (by value) in its equity ownership over a three-year period, the corporation's ability to use its pre-change net operating loss carryforwards, or NOLs, and other pre-change tax attributes, such as research tax credits, to offset its post-change income may be limited. As of December 31, 2020, we had $246.0 million of federal NOLs and $149.1 million of state NOLs available to offset our future taxable income, if any. As of December 31, 2020, we had federal research and development credit carryforwards of $1.5 million. These federal and state NOLs and federal research and development tax credit carryforwards expire at various dates beginning in 2034. We may experience ownership changes in the future as a result of subsequent shifts in our stock ownership. As a result, if we earn net taxable income, our ability to use our pre-change NOLs to offset U.S. federal taxable income may be subject to limitations, which could potentially result in increased future tax liability to us. In addition, at the state level, there may be periods during which the use of NOLs is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed.

Risks Related to Our Relationship with Daewoong

We rely on the license and supply agreement, the Daewoong Agreement, with Daewoong to provide us exclusive rights to distribute Jeuveau® in certain territories. Any termination or loss of significant rights, including exclusivity, under the Daewoong Agreement would materially and adversely affect our development or commercialization of Jeuveau®.

Pursuant to the Daewoong Agreement, we have secured an exclusive license from Daewoong, a South Korean pharmaceutical manufacturer, to import, distribute, promote, market, develop, offer for sale and otherwise commercialize and exploit Jeuveau® for aesthetic indications in the United States, EU, Canada, Australia, Russia, C.I.S. and South Africa, as well as co-exclusive distribution rights with Daewoong in Japan. The Daewoong Agreement imposes on us obligations relating to exclusivity, territorial rights, development, commercialization, funding, payment, diligence, sublicensing, intellectual property protection and other matters. We are obligated to conduct development activities, obtain regulatory approval of Jeuveau® and obtain from Daewoong all of our product supply requirements for Jeuveau®. In addition, under the Daewoong Agreement, we are required to submit our commercialization plan to a joint steering committee, or JSC, comprised of an equal number of development and commercial representatives from Daewoong and us, for review and input. Although the Daewoong Agreement provides us with final decision-making power regarding the marketing, promotion, sale and/or distribution of Jeuveau®, any disagreement among the JSC would be referred to Daewoong's and our respective senior management for resolution if the JSC is unable to reach a decision within thirty days, which may result in a delay in our ability to implement our commercialization plan or harm our working relationship with Daewoong. If we fail to achieve minimum annual purchase targets of Jeuveau® under the Daewoong Agreement, Daewoong may, at its sole option, elect to convert the exclusive license to a non-exclusive license. In light of the COVID-19 outbreak and the potential loss of our ability to discount the product to levels previously provided as a result of the Medytox/Allergan Settlement Agreements, it may become more difficult for us to achieve the minimum annual purchase targets for Jeuveau® which may result in the license being converted to a non-exclusive license.

The initial term of the Daewoong Agreement will expire on September 30, 2023 in any of the aforementioned territories. The Daewoong Agreement will renew for unlimited additional three-year terms after the expiration of the initial term, only if we meet certain performance requirements during the initial term or preceding renewal term, as applicable. We or Daewoong may terminate the Daewoong Agreement if the other party breaches any of its duties or obligations and such breach continues without cure for ninety days, or thirty days in the case of a payment breach, or if we declare bankruptcy or assign our business for the benefit of creditors.

If we breach any material obligations, or use the intellectual property licensed to us in an unauthorized manner, we may be required to pay damages to Daewoong and Daewoong may have the right to terminate our license. In addition, if any of the regulatory milestones or other cash payments become due under the terms of the Daewoong Agreement, we may not have sufficient funds available to meet our obligations, which would allow Daewoong to terminate the Daewoong Agreement. Any termination or loss of rights, including exclusivity, under the Daewoong Agreement would materially and adversely affect our ability to commercialize Jeuveau®, which in turn would have a material adverse effect on our business, operating results and prospects. If we were to lose our rights under the Daewoong Agreement, we believe it would be difficult for us to find an alternative supplier of a botulinum toxin type A complex. In addition, to the extent the alternative supplier has not secured regulatory approvals in a jurisdiction, we would have to expend significant resources to obtain regulatory approvals that may never be obtained or require several years to obtain, which could significantly delay commercialization. We may be unable to raise additional capital to fund our operations during this extended time on terms acceptable to us or at all. Additionally, if we experience delays as a result of a dispute with Daewoong, the demand for Jeuveau® could be materially and adversely affected.

We currently rely solely on Daewoong to manufacture Jeuveau®, and as such, any production or other problems with Daewoong could adversely affect us.

We depend solely upon Daewoong for the manufacturing of Jeuveau®. Although alternative sources of supply may exist, the number of third-party suppliers with the necessary manufacturing and regulatory expertise and facilities is limited, and it could be expensive and take a significant amount of time to arrange for and qualify alternative suppliers, which could have a material adverse effect on our business. Suppliers of any new product candidate would be required to qualify under applicable regulatory requirements and would need to have sufficient rights under applicable intellectual property laws to the method of manufacturing the product candidate. Obtaining the necessary FDA approvals or other qualifications under applicable regulatory requirements and ensuring non-infringement of third-party intellectual property rights could result in a significant interruption of supply and could require the new manufacturer to bear significant additional costs which may be passed on to us.

In addition, our reliance on Daewoong entails additional risks, including reliance on Daewoong for regulatory compliance and quality assurance, the possible breach of the Daewoong Agreement by Daewoong, and the possible termination or nonrenewal of the Daewoong Agreement at a time that is costly or inconvenient for us. Our failure, or the failure of Daewoong, to comply with applicable regulations could result in sanctions being imposed on us, including fines, injunctions, civil penalties, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of products, operating restrictions and criminal prosecutions, any of which could significantly and adversely affect supplies of Jeuveau®. Our dependence on Daewoong also subjects us to all of the risks related to Daewoong's business, which are all generally beyond our control. Daewoong's ability to perform its obligations under the Daewoong Agreement is dependent on Daewoong's operational and financial health, which could be negatively impacted by several factors, including changes in the economic, political and legislative conditions in South Korea and the broader region in general and the ability of Daewoong to continue to successfully attract customers and compete in its market. Furthermore, Daewoong's recently constructed manufacturing facility is Daewoong's only facility meeting FDA and European Medicines Agency, or EMA, cGMP requirements. Daewoong's lack of familiarity with, or inability to effectively operate, the facility and produce products of consistent quality, may harm our ability to compete in our market.

Additionally, although we are ultimately responsible for ensuring compliance with regulatory requirements such as cGMPs, we are dependent on Daewoong for day-to-day compliance with cGMP for production of drug substance and finished products. Facilities used by Daewoong to produce the drug substance and materials or finished products for commercial sale must pass inspection and be approved by the FDA and other relevant regulatory authorities. If the safety of Jeuveau® is compromised due to a failure to adhere to applicable laws or for other reasons, we may not be able to successfully commercialize our product and we may be held liable for injuries sustained as a result. In addition, the manufacturing facilities of certain of our suppliers are located outside of the United States. This may give rise to difficulties in importing our product into the United States or other countries as a result of, among other things, regulatory agency approval requirements,

taxes, tariffs, local import requirements such as import duties or inspections, incomplete or inaccurate import documentation or defective packaging. Any of these factors could adversely impact our ability to effectively commercialize Jeuveau®.

Any failure or refusal by Daewoong or any other third party to supply Jeuveau® or any other product candidates or products that we may develop could delay, prevent or impair our clinical development or commercialization efforts.

Moreover, Daewoong developed the manufacturing process for Jeuveau® and manufactures Jeuveau® in a recently constructed facility located in South Korea. If this facility were to be damaged, destroyed or otherwise unable to operate or comply with regulatory requirements, whether due to earthquakes, fire, floods, hurricanes, storms, tornadoes, other natural disasters, public health emergencies (such as the COVID-19 outbreak) employee malfeasance, terrorist acts, power outages or otherwise, or if operations at the facility is disrupted for any other reason, such an event could jeopardize Daewoong's ability to manufacture Jeuveau® as promptly as we or our customers expect or possibly at all. If Daewoong is unable to manufacture Jeuveau® within a timeframe that meets our and our customers' expectations, our business, prospects, financial results and reputation could be materially harmed. Any disaster recovery and business continuity plans that we and Daewoong have in place or put in place may not be adequate in the event of a serious disaster or similar event. We may incur substantial expenses as a result of our or Daewoong's lack of disaster recovery and business continuity plans, or the adequacy thereof, which could have a material adverse effect on our business.

We forecast the demand for commercial quantities of our products, and if our forecasts are inaccurate, we may experience delays in shipments, increased inventory costs or inventory levels, and reduced cash flow.

We purchase Jeuveau® from Daewoong. Pursuant to the Daewoong Agreement, we submit forecasts of anticipated product orders to Daewoong and may, from time to time, submit purchase orders on the basis of these forecasting requirements. Our limited historical experience may not provide us with enough data to accurately predict future demand. In addition, we expect Daewoong to manufacture its own product, Nabota, a botulinum toxin formulation, from this facility for sale in the South Korean market and other markets in which we do not have exclusive rights. If our business significantly expands, our demand for commercial products would increase and Daewoong may be unable to meet our increased demand. In addition, our product will have fixed future expiration dates. If we overestimate requirements for Jeuveau®, we will have excess inventory, which may have to be disposed of if such inventory exceeds approved expiration dates, which would result in lost revenues and increase our expenses. If we underestimate requirements for Jeuveau®, we may have inadequate inventory, which could interrupt, delay or prevent delivery of our products to our customers. Any of these occurrences would negatively affect our financial performance.

Risks Related to Intellectual Property

Third-party claims of intellectual property infringement may prevent or delay our commercialization efforts and interrupt our supply of products.

Our commercial success depends in part on our avoiding infringement of the proprietary rights of third parties. Competitors in the field of dermatology, aesthetic medicine and neurotoxins have developed large portfolios of patents and patent applications in fields relating to our business. In particular, there are patents held by third parties that relate to the treatment with neurotoxin-based products for the indication we are currently developing. There may also be patent applications that have been filed but not published that, when issued as patents, could be asserted against us. There is a substantial amount of litigation, both within and outside the United States, involving patent and other intellectual property rights in the technology, medical device and pharmaceutical industries, including patent infringement lawsuits, interferences, oppositions and inter-party reexamination proceedings before the U.S. Patent and Trademark Office, or USPTO. Numerous U.S. and foreign issued patents and pending patent applications, which are owned by third parties, exist in the fields in which we are developing Jeuveau®. As the technology, medical device and pharmaceutical industries expand and more patents are issued, the risk increases that our product candidates may be subject to claims of infringement of the patent rights of third parties.

Third parties may assert that we or any of our current or future licensors, including Daewoong, are employing their proprietary technology without authorization. There may be third-party patents or patent applications with claims to materials, methods of manufacture or methods for treatment related to the use or manufacture of Jeuveau® or any future product candidates. Because patent applications can take many years to issue, there may be currently pending patent applications that may later result in issued patents that Jeuveau® or any future product candidates may infringe. In addition, third parties may obtain patents in the future and claim that use of our technologies infringes upon these patents. If any third-party patents were held by a court of competent jurisdiction to cover the manufacturing process of Jeuveau® or any future product candidates, the holders of any such patents may be able to block our ability to commercialize such product candidate unless we obtain a license under the applicable patents or until such patents expire. Similarly, if any third-party patent were

held by a court of competent jurisdiction to cover aspects of our methods of use, the holders of any such patent may be able to block our ability to develop and commercialize the applicable product candidate unless we obtain a license or until such patent expires. In either case, such a license may not be available on commercially reasonable terms or at all.

In addition to claims of patent infringement, third parties may bring claims against us asserting misappropriation of proprietary technology or other information in the development, manufacture and commercialization of Jeuveau® or any of our future product candidates. Defense of such a claim would require dedicated time and resources, which time and resources could otherwise be used by us toward the maintenance of our own intellectual property and the development and commercialization of Jeuveau® and any of our future product candidates or by any of our current or future licensors for operational upkeep and manufacturing of our products. For example, prior to entering into the Medytox/Allergan Settlement Agreements, we were a defendant in a lawsuit brought by in the Superior Court of the State of California, or the Medytox Litigation, and a respondent in an action filed by Allergan and Medytox in the U.S. International Trade Commission, each alleging, among other things, that Daewoong stole Medytox's botulinum toxin bacterial strain, or the BTX strain, that Daewoong misappropriated certain trade secrets of Medytox, including the process used to manufacture Jeuveau® (which Medytox claims is similar to its biopharmaceutical drug, Meditoxin) using the BTX strain, and that Daewoong thereby interfered with Medytox's plan to license Meditoxin to us, or the Medytox Litigation. Each of the Medytox Litigation and the ITC Action diverted the attention of our senior management and were costly, in terms of legal costs and the ultimate payments and royalties to be paid under the Medytox/Allergan Settlement Agreements.

Parties making claims against us or any of our current or future licensors may request and obtain injunctive or other equitable relief, which could effectively block our ability to further develop and commercialize one or more of our product candidates. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of employee resources from our business. In the event of a successful claim of infringement, we or any of our current or future licensors may have to pay substantial damages, including treble damages and attorneys' fees for willful infringement, obtain one or more licenses from third parties which may not be commercially or more available, pay royalties or redesign our infringing products or manufacturing processes, which may be impossible or require substantial time and monetary expenditure. Furthermore, even in the absence of litigation, we may need to obtain licenses from third parties to advance our research, manufacture clinical trial supplies or allow commercialization of Jeuveau® or any future product candidates. We may fail to obtain any of these licenses at a reasonable cost or on reasonable terms, if at all. In that event, we would be unable to further develop and commercialize one or more of our product candidates, which could harm our business significantly. Similarly, third-party patents could exist that might be enforced against our products, resulting in either an injunction prohibiting our sales, or with respect to our sales, an obligation on our part to pay royalties and/or other forms of compensation to third parties.

If we or any of our current or future licensors, including Daewoong, are unable to maintain, obtain or protect intellectual property rights related to Jeuveau® or any of our future product candidates, we may not be able to compete effectively in our market.

We and our current licensor, Daewoong, currently rely upon a combination of trademarks, trade secret protection, confidentiality agreements and proprietary know-how. Botulinum toxin cannot be patented, as it is produced by *Clostridium botulinum*, a gram-positive, rod-shaped, anaerobic, spore-forming, motile bacterium with the ability to produce the neurotoxin botulinum. Only the manufacturing process for botulinum toxin can be patented, for which Daewoong has obtained a U.S. patent. Our trade secrets and other confidential proprietary information and those of our licensors could be disclosed or competitors could otherwise gain access to our trade secrets or independently develop substantially equivalent information and techniques. Further, the laws of some foreign countries do not protect proprietary rights to the same extent or in the same manner as the laws of the United States. As a result, we or any of our current or future licensors may encounter significant problems in protecting and defending our or their intellectual property both in the United States and internationally. If we or any of our current or future licensors are unable to prevent material disclosure of the non-patented intellectual property related to Jeuveau® to third parties, we may not be able to establish or maintain a competitive advantage in our market, which could adversely affect our business.

In addition to the protection afforded by trademarks, confidentiality agreements and proprietary know-how, we may in the future rely upon in-licensed patents for any future product offerings. The strength of patents we may in-license in the technology and healthcare fields involves complex legal and scientific questions and can be uncertain. The patent applications that we may in-license may fail to result in issued patents with claims that cover any of our future product candidates in the United States or in other foreign countries, and the issued patents that we may in-license may be declared invalid or unenforceable.

We are reliant on the ability of Daewoong, as the licensor of our only product, and will be reliant on future licensors of any future product candidates, to maintain their intellectual property and protect their intellectual property against misappropriation, infringement or other violation. We may not have primary control over our future licensors' patent prosecution activities. Furthermore, we may not be allowed to comment on prosecution strategies, and patent applications may be abandoned by the patent owner without our knowledge or consent. With respect to patents that are issued to our licensors, or patents that may be issued on patent applications, third parties may challenge their validity, enforceability or scope, which may result in such patents being narrowed or invalidated. As a licensee, we are reliant on Daewoong and our future licensors to defend any third-party claims. Our licensors may not defend or prosecute such actions as vigorously or in the manner that we would have if entitled to do so, and we will be subject to any judgment or settlement resulting from such actions. Also, a third-party may challenge the validity of our in-licensing transactions. Furthermore, even if they are unchallenged, any of our future in-licensed patents and patent applications may not adequately protect the licensors or our intellectual property or prevent others from designing around their or our claims.

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

Competitors may infringe our intellectual property, including any future patents we may acquire, or the patents and other intellectual property of our licensors, including Daewoong. As a result, we or any of our current or future licensors may be required to file infringement claims to stop third-party infringement or unauthorized use. This can be expensive, particularly for a company of our size, and time-consuming. In addition, in an infringement proceeding, a court may decide that a patent of ours or any of our current or future licensors is not valid or is unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that our patent claims do not cover its technology or that the factors necessary to grant an injunction against an infringer are not satisfied.

An adverse determination of any litigation or other proceedings could put one or more of such patents at risk of being invalidated or interpreted narrowly. Interference, derivation or other proceedings brought at the USPTO may be necessary to determine the priority or patentability of inventions with respect to any of our future patent applications or those of our licensors or collaborators. Litigation or USPTO proceedings brought by us or any of our current or future licensors may fail or may be invoked against us or our licensors by third parties. Even if we are successful, domestic or foreign litigation or USPTO or foreign patent office proceedings may result in substantial costs and distraction to our management or the management of any of our current or future licensors, including Daewoong. We may not be able, alone or with any of our current or future licensors or collaborators, to prevent misappropriation of our proprietary rights, particularly in countries where the laws may not protect such rights as fully as in the United States.

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

Most of our competitors are larger than we are and have substantially greater resources. They are, therefore, likely to be able to sustain the costs of complex patent litigation longer than we could. Accordingly, despite our efforts, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property. In addition, the uncertainties associated with litigation could compromise our ability to raise the funds necessary to continue our clinical trials, continue our internal research programs, or in-license needed technology or other product candidates. There could also be public announcements of the results of the hearing, motions, or other interim proceedings or developments. If securities analysts or investors perceive those results to be negative, it could cause the price of shares of our common stock to decline.

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

Filing, prosecuting and defending patents on product candidates in all countries throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the United States can be less extensive than those in the United States. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the United States and in some cases may even force us to grant a compulsory license to competitors or other third parties. Consequently, we may not be able to prevent third parties from using our inventions in all countries outside the United States or from selling or importing products made using our inventions in and into the United States or other jurisdictions. Competitors may use our technologies in jurisdictions where we have not obtained patent

protection to develop their own products and further, may export otherwise infringing products to territories where we have patent protection, but enforcement is not as strong as that in the United States. These products may compete with our products and our patents or other intellectual property rights may not be effective or sufficient to prevent them from competing.

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

In addition, our ability to protect and enforce our intellectual property rights may be adversely affected by unforeseen changes in domestic and foreign intellectual property laws.

If we are unable to protect the confidentiality of our trade secrets, our business and competitive position would be harmed.

In addition to seeking patents for our product candidates, we also rely on trade secrets, including unpatented know-how, technology and other proprietary information, to maintain our competitive position.

We seek to protect our trade secrets, in part, by entering into non-disclosure and confidentiality agreements with parties who have access to them, such as our employees, collaborators, consultants, advisors and other third parties. We expect to enter into confidentiality and invention assignment agreements with our employees and consultants. Despite these efforts, any of these parties may breach the agreements and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts within and outside the United States are less willing or unwilling to protect trade secrets. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor, we would have no right to prevent them, or those to whom they communicate it, from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor, our competitive position would be harmed.

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

We employ individuals who were previously employed at other pharmaceutical or medical aesthetic companies. We may be subject to claims that we or our employees, consultants or independent contractors have inadvertently or otherwise used or disclosed confidential information of our employees' former employers or other third parties. We may also be subject to claims that former employers or other third parties have an ownership interest in our patents. Litigation may be necessary to defend against these claims. We may not be successful in defending these claims, and even if we are successful, litigation could result in substantial cost and be a distraction to our management and other employees. Any litigation or the threat thereof may adversely affect our ability to hire employees. A loss of key personnel or their work product could diminish or prevent our ability to commercialize product candidates, which could have an adverse effect on our business, results of operations and financial condition.

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

A third party may hold intellectual property, including patent rights that are important or necessary to the development of our future product candidates. It may be necessary for us to use the patented or proprietary technology of third parties to commercialize our product candidates, in which case we would be required to obtain a license from these third parties on commercially reasonable terms, or our business could be harmed, possibly materially.

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

Our registered or unregistered trademarks or trade names may be challenged, infringed, circumvented or declared generic or determined to be infringing on other marks. We may not be able to protect our rights to these trademarks and trade names, which we need to build name recognition by potential partners or customers in our markets of interest. Over the long term, if we are unable to establish name recognition based on our trademarks and trade names, then we may not be able to compete effectively, and our business may be adversely affected.

Third parties may assert that we are using trademarks or trade names that are confusingly similar to their marks. If any third party were able to establish that our trademarks or trade names were infringing their marks, that third party may be able to block our ability to use the infringing trademark or trade name. In addition, if a third party were to bring such a claim, we would be required to dedicate time and resources to fight the claim, which time and resources could otherwise be used toward the maintenance of our own intellectual property.

Parties making claims against us may request and obtain injunctive or other equitable relief, which could prevent our ability to use the subject trademarks or trade names. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of employee resources from our business. In the event of a successful claim of infringement against us, we may have to pay substantial damages, including treble damages and attorneys' fees for willful infringement. We may be required to re-brand one or more of our products, product candidates, or services offered under the infringing trademark or trade name, which may require substantial time and monetary expenditure. Third parties could claim senior rights in marks which might be enforced against our use of trademarks or trade names, resulting in either an injunction prohibiting our sales under those trademarks or trade names.

Risks Related to Government Regulation

Our business and products are subject to extensive government regulation.

We are subject to extensive, complex, costly and evolving regulation by federal and state governmental authorities in the United States, the EU, Canada and other countries, principally by the FDA, the U.S. Drug Enforcement Administration, the Centers for Disease Control and Prevention, the EMA and other similar regulatory authorities. Daewoong is also subject to extensive regulation by the FDA and the South Korean regulatory authorities as well as other regulatory authorities. Our failure to comply with all applicable regulatory requirements, or Daewoong's failure to comply with applicable regulatory requirements, including those promulgated under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Controlled Substances Act, may subject us to operating restrictions and criminal prosecution, monetary penalties and other enforcement or administrative actions, including, sanctions, warnings, product seizures, recalls, fines, injunctions, suspension, revocation of approvals, or exclusion from future participation in the Medicare and Medicaid programs.

Following regulatory approval, we, and our direct and indirect suppliers, including Daewoong, remain subject to the periodic inspection of our plants and facilities, review of production processes, and testing of our products to confirm that we are in compliance with all applicable regulations. Adverse findings during regulatory inspections may result in requirements that we implement REMS programs, requirements that we complete government mandated clinical trials, and government enforcement actions including those relating to labeling, advertising, marketing and promotion, as well as regulations governing manufacturing controls.

If we experience delays in obtaining approval or if we fail to obtain approval of our product candidates, the commercial prospects for our product candidates may be harmed and our ability to generate revenue will be materially impaired.

We may not obtain regulatory approval for the commercialization of any future product candidates.

The research, testing, manufacturing, labeling, approval, selling, import, export, marketing and distribution of drug and biologic products are subject to extensive regulation by the FDA and other regulatory authorities in the United States and other countries, with regulations differing from country to country. If we, our products or the manufacturing facilities for our products fail to comply with applicable regulatory requirements, a regulatory agency may:

- impose restrictions on the marketing or manufacturing of the product, suspend or withdraw product approvals or revoke necessary licenses;
- issue warning letters, show cause notices or untitled letters describing alleged violations, which may be publicly available;

- mandate modifications to promotional materials or require us to provide corrective information to healthcare practitioners;
- require us to enter into a consent decree, which can include imposition of various fines, reimbursements for inspection costs, required due dates for specific actions and penalties for noncompliance;
- commence criminal investigations and prosecutions;
- impose injunctions;
- impose other civil or criminal penalties;
- suspend any ongoing clinical trials;
- delay or refuse to approve pending applications or supplements to approved applications filed by us;
- refuse to permit drugs or active ingredients to be imported or exported;
- suspend or impose restrictions on operations, including costly new manufacturing requirements; or
- seize or detain products or require us to initiate a product recall.

Prior to obtaining approval to commercialize a product candidate in the United States or abroad, we or our collaborators must demonstrate with substantial evidence from well-controlled clinical trials, and to the satisfaction of the FDA, the EMA or other similar foreign regulatory authorities, that such product candidates are safe and effective for their intended uses. Results from preclinical studies and clinical trials can be interpreted in different ways. Even if we and our collaborators believe the preclinical or clinical data for our product candidates are promising, such data may not be sufficient to support approval by the FDA, the EMA and other similar regulatory authorities. Administering product candidates to humans may produce undesirable side effects, which could interrupt, delay or halt clinical trials and result in the FDA, the EMA or other similar regulatory authorities delaying or denying approval of a product candidate for any or all targeted indications.

Regulatory approval of a BLA or BLA supplement, MAA, or other product approval is not guaranteed, and the approval process is expensive and may take several years. The FDA, the EMA and other regulatory authorities have substantial discretion in the approval process. Despite the time and expense expended, failure can occur at any stage, and we could encounter problems that cause us to abandon, modify or repeat clinical trials, or perform additional preclinical studies and clinical trials. The number of preclinical studies and clinical trials that will be required for the FDA, the EMA or other regulatory approval varies depending on the product candidate, the disease or condition that the product candidate is designed to address and the regulations applicable to any particular product candidate. The FDA, the EMA and other regulatory authorities can delay, limit or deny approval of a product candidate for many reasons, including the following:

- a product candidate may not be deemed safe, effective, pure or potent;
- the data from preclinical studies and clinical trials may not be deemed sufficient;
- the FDA or other regulatory authorities might not approve our third-party manufacturers' processes or facilities;
- deficiencies in the formulation, quality control, labeling, or specifications of a product candidate or in response to citizen petitions or similar documents filed in connection with the product candidate;
- general requirements intended to address risks associated with a class of drugs, such as a new REMS requirement for neurotoxins;
- the enactment of new laws or promulgation of new regulations that change the approval requirements; or
- the FDA or other regulatory authorities may change their approval policies or adopt new regulations.

If any future product candidates fail to demonstrate safety and efficacy in clinical trials or do not gain approval, our business and results of operations will be materially and adversely harmed.

We are subject to ongoing regulatory obligations and continued regulatory review, which may result in significant additional expense, limit or delay regulatory approval and subject us to penalties if we fail to comply with applicable regulatory requirements.

Jeuveau® and any other approved products are subject to continual regulatory review by the FDA, the EMA and other similar regulatory authorities.

Any regulatory approvals that we or our collaborators receive for any future product candidates may also be subject to limitations on the approved indications for which the product may be marketed or to the conditions of approval, or contain requirements for potentially costly post-marketing testing, including Phase IV clinical trials, and surveillance to monitor the safety and efficacy of the product. In addition, the manufacturing processes, labeling, packaging, distribution, adverse event reporting, storage, advertising, promotion and recordkeeping for Jeuveau® and any other future product candidates will be subject to extensive and ongoing regulatory requirements. These requirements include submissions of safety and other post-marketing information and reports, registration, as well as continued compliance with cGMP requirements and compliance with GCP requirements, for any clinical trials that we conduct post-approval. Later discovery of previously unknown problems with Jeuveau® or any future product candidates, including adverse events of unanticipated severity or frequency, or with our third-party manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may result in, among other things: restrictions on the marketing or manufacturing of the product, withdrawal of the product from the market, or voluntary or mandatory product recalls; fines, warning letters or holds on clinical trials; refusal by the FDA, the EMA or other similar regulatory authorities to approve pending applications or supplements to approved applications filed by us or our strategic collaborators or suspension or revocation of product license approvals; product seizure or detention or refusal to permit the import or export of products; and injunctions or the imposition of civil or criminal penalties.

Our ongoing regulatory requirements may also change from time to time, potentially harming or making costlier our commercialization efforts. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained and we may not achieve or sustain profitability, which would adversely affect our business.

If we fail to obtain regulatory approvals in foreign jurisdictions for Jeuveau® or any future product candidates, we will be unable to market our products outside of the United States.

In addition to regulations in the United States, we are and will be subject to a variety of foreign regulations governing manufacturing, clinical trials, commercial sales and distribution of our future products. Whether or not we obtain FDA approval for a product candidate, we must obtain approval of the product by the comparable regulatory authorities of foreign countries before commencing clinical trials or marketing in those countries. The approval procedures vary among countries and can involve additional clinical testing, and the time required to obtain approval may differ from that required to obtain FDA approval. Clinical trials conducted in one country may not be accepted by regulatory authorities in other countries. Approval by the FDA does not ensure approval by regulatory authorities in other countries, and approval by one or more foreign regulatory authorities does not ensure approval by regulatory authorities in other foreign countries or by the FDA. The foreign regulatory approval process may include all of the risks associated with obtaining FDA approval. We may not be able to file for regulatory approvals or to do so on a timely basis, and even if we do file, we may not receive necessary approvals to commercialize our products in markets outside of the United States.

Jeuveau® or any future products may cause or contribute to adverse medical events that we are required to report to regulatory agencies and if we fail to do so, we could be subject to sanctions that would materially harm our business.

Some participants in our clinical trials have reported adverse events after being treated with Jeuveau®. If we are successful in commercializing Jeuveau® or any other product candidate, the FDA and other regulatory agency regulations require that we report certain information about adverse medical events if those products may have caused or contributed to those adverse events. The timing of our obligation to report would be triggered by the date we become aware of the adverse event as well as the nature of the event. We may fail to report adverse events that we become aware of within the prescribed timeframe. We may also fail to appreciate that we have become aware of a reportable adverse event, especially if it is not reported to us as an adverse event or if it is an adverse event that is unexpected or removed in time from the use of our products. If we fail to comply with our reporting obligations, the FDA, the EMA or other similar regulatory authorities could take action including criminal prosecution, the imposition of civil monetary penalties, seizure of our products, or delay in approval or clearance of future products.

We may in the future be subject to various U.S. federal and state laws pertaining to health care fraud and abuse, including anti-kickback, self-referral, false claims and fraud laws, and any violations by us of such laws could result in

fines or other penalties.

While we do not expect that Jeuveau® will subject us to the various U.S. federal and most state laws intended to prevent health care fraud and abuse, we may in the future become subject to such laws. The Anti-Kickback Statute prohibits the offer, receipt, or payment of remuneration in exchange for or to induce the referral of patients or the use of products or services that would be paid for in whole or part by Medicare, Medicaid or other federal health care programs. Remuneration has been broadly defined to include anything of value, including cash, improper discounts, and free or reduced price items and services. Many states have similar laws that apply to their state health care programs as well as private payors. Violations of anti-kickback and other applicable laws can result in exclusion from federal health care programs and substantial civil and criminal penalties.

The federal False Claims Act, or FCA, imposes liability on persons who, among other things, present or cause to be presented false or fraudulent claims for payment by a federal health care program. The FCA has been used to prosecute persons submitting claims for payment that are inaccurate or fraudulent, that are for services not provided as claimed, or for services that are not medically necessary. The FCA includes a whistleblower provision that allows individuals to bring actions on behalf of the federal government and share a portion of the recovery of successful claims. Some state law equivalents of the above federal laws, such as the Anti-Kickback Statute and FCA, apply to items or services regardless of whether the good or service was reimbursed by a government program, so called all-payor laws. These all-payor laws could apply to our sales and marketing activities even if the Anti-Kickback Statute and FCA laws are inapplicable.

If our marketing or other arrangements were determined to violate anti-kickback or related laws, including the FCA or an all-payor law, then we could be subject to penalties, including administrative, civil and criminal penalties, damages, fines, disgorgement, the exclusion from participation in federal and state healthcare programs, individual imprisonment or the curtailment or restructuring of our operations, any of which could materially and adversely affect our ability to operate our business and our financial results.

State and federal authorities have aggressively targeted pharmaceutical companies for alleged violations of these anti-fraud statutes, based on improper research or consulting contracts with doctors, certain marketing arrangements with pharmacies and other healthcare providers that rely on volume-based pricing, off-label marketing schemes, and other improper promotional practices. Companies targeted in such prosecutions have paid substantial fines, have been ordered to implement extensive corrective action plans, and have in many cases become subject to consent decrees severely restricting the manner in which they conduct their business, among other consequences. Additionally, federal and state regulators have brought criminal actions against individual employees responsible for alleged violations. If we become the target of such an investigation or prosecution based on our contractual relationships with providers or institutions, or our marketing and promotional practices, we could face similar sanctions, which would materially harm our business.

Also, the FCPA and similar worldwide anti-bribery laws generally prohibit companies and their intermediaries from making improper payments to non-U.S. officials for the purpose of obtaining or retaining business. Our internal control policies and procedures may not protect us from reckless or negligent acts committed by our employees, future distributors, partners, collaborators or agents. Violations of these laws, or allegations of such violations, could result in fines, penalties or prosecution and have a negative impact on our business, results of operations and reputation.

Legislative or regulatory healthcare reforms in the United States and other countries may make it more difficult and costly for us to obtain regulatory clearance or approval of any future product candidates and to produce, market, and distribute our products after clearance or approval is obtained.

From time to time, legislation is drafted and introduced in the U.S. Congress or other countries that could significantly change the statutory provisions governing the regulatory clearance or approval, manufacture, and marketing of regulated products or the reimbursement thereof. In addition, regulations and guidance are often revised or reinterpreted by the FDA and other regulatory authorities in ways that may significantly affect our business and our products. Any new regulations or revisions or reinterpretations of existing regulations may impose additional costs or lengthen review times of any future product candidates. Such changes could, among other things, require changes to manufacturing or marketing methods, changes to product labeling or promotional materials, recall, replacement, or discontinuance of one or more of our products; and additional recordkeeping.

Each of these would likely entail substantial time and cost and could materially harm our business and our financial results. In addition, delays in receipt of or failure to receive regulatory clearances or approvals for any future products would harm our business, financial condition and results of operations.

Risks Related to Our Relationship with Alphaeon and Alphaeon 1, LLC

Certain of our directors may have actual or potential conflicts of interest because of their ownership of debt and equity securities in Alphaeon and Alphaeon 1, LLC and their positions with Alphaeon and Alphaeon 1, LLC.

Vikram Malik, Simone Blank, and Robert Hayman serve on our board of directors. Such directors or entities they are affiliated with currently own and may in the future own equity, debt or convertible debt of Alphaeon and Alphaeon 1, LLC, which we refer to collectively as the Alphaeon entities. These individuals' or entities' holdings of debt or equity securities, options to purchase shares of Alphaeon entities or other equity awards in the Alphaeon entities may be significant for some of these persons or entities compared to these persons' or entities' total assets. Additionally, each of Mr. Malik, and Ms. Blank serve on the board of directors of Alphaeon and board of managers of Alphaeon 1, LLC. Their positions at the Alphaeon entities and the ownership of any Alphaeon entity equity, debt or equity awards may create, or may create the appearance of, conflicts of interest when these directors are faced with decisions that could have different implications for the Alphaeon entities than the decisions have for us.

These decisions include corporate opportunities; the impact that operating decisions for our business may have on the Alphaeon entities' consolidated financial statements; the impact that operating or capital decisions (including the incurrence of indebtedness) for our business may have on the Alphaeon entities' current or future indebtedness or the covenants under that indebtedness; the timing and amount of financing efforts, whether they are debt or equity, and the amount of resulting dilution to existing shareholders; business combinations involving us; our dividend policy; management stock ownership; and the related party services and agreements between Alphaeon and us.

Potential conflicts of interest could also arise if we decide to enter into any new commercial arrangements with the Alphaeon entities or SCH in the future or in connection with the Alphaeon entities' desire to enter into new commercial arrangements with third parties.

Furthermore, disputes may arise between Alphaeon entities and us relating to our past and ongoing relationship, and these potential conflicts of interest may make it more difficult for us to favorably resolve such disputes, including those related to:

- indemnification and other matters arising from our initial public offering;
- the nature, quality and pricing of services Alphaeon agrees to provide to us;
- sales or other disposal by Alphaeon 1, LLC of all or a portion of its ownership interest in us; and
- business combinations involving us.

We may not be able to resolve any potential conflicts, and even if we do, the resolution may be less favorable to us than if we were dealing with an unaffiliated party. While we are not controlled by the Alphaeon entities, we may not have the leverage to negotiate amendments to these agreements, if required, on terms as favorable to us as those we would negotiate with an unaffiliated third party.

Alphaeon and its directors and officers will have limited liability to us or you for breach of fiduciary duty.

Our certificate of incorporation provides that, subject to any contractual provision to the contrary, Alphaeon has no obligation to refrain from: engaging in the same or similar business activities or lines of business as we do; doing business with any of our clients or consumers; or employing or otherwise engaging any of our officers or employees.

Our certificate of incorporation provides for the allocation of certain corporate opportunities between us and Alphaeon. Under these provisions, neither Alphaeon nor its other affiliates, nor any of their officers, directors, agents, stockholders, members, partners and subsidiaries, will have any obligation to present to us certain corporate opportunities. For example, a director or officer of our company who also serves as a director, officer or employee of Alphaeon or any of its other affiliates may present to Alphaeon certain acquisitions, in-licenses, potential development programs or other opportunities that may be complementary to our business, if he or she was not offered such corporate opportunity in his or her capacity as our director or officer, and, as a result, such opportunities may not be available to us. To the extent attractive corporate opportunities are allocated to Alphaeon or its other affiliates instead of to us, we may not be able to benefit from these opportunities.

In addition, under our certificate of incorporation, neither Alphaeon nor any officer or director of Alphaeon, except as provided in our certificate of incorporation, will be liable to us or to our stockholders for breach of any fiduciary or other duty by reason of any of these activities.

Risks Related to Our Common Stock

Alphaeon 1, LLC, Medytox and Daewoong each own a significant portion of our common stock and may exert significant control over our business.

We had 43,736,971 shares of common stock issued and outstanding as of March 31, 2021 and 54,120,312 shares of common stock issued and outstanding as of May 7, 2021. As of March 31, 2021 and May 7, 2021, Alphaeon 1, LLC owned 19.8% and 16.0% of our outstanding shares of common stock, respectively. As of March 31, 2021 and May 7, 2021, Medytox owned 15.5% and 12.5% of our outstanding shares of common stock, respectively. As of March 31, 2021 and May 7, 2021, Daewoong owned 7.2% and 5.8% of our outstanding shares of common stock, respectively. Until February 17, 2022, Medytox is required to vote all shares of common stock that it owns (i) in any action or proposal relating to the election of directors, in line with the recommendations of our board of directors and (ii) in all other actions, at Medytox's option either (A) in line with the recommendation of our board of directors or (ii) in the same manner and proportion as the votes made by all outstanding voting securities other than those held by Medytox, the officers and directors of the Company and Alphaeon 1, LLC and its affiliates.

This concentrated ownership position may provide Alphaeon 1, LLC, Medytox or Daewoong with significant influence in determining the outcome of corporate actions requiring stockholder approval, including the election and removal of directors. In addition, prior to February 17, 2022, the Medytox voting obligations may make it more difficult to replace or remove directors. The significant stock ownership by Alphaeon 1, LLC, Medytox and Daewoong may also discourage transactions involving a change-of-control of our company, including transactions in which you as a holder of our common stock might otherwise receive a premium for your shares.

Securities class action and derivative lawsuits have been filed against us and certain of our officers and directors, which could result in substantial costs and could divert management attention.

As disclosed in Part II, Item 3 "Legal Proceedings," we and certain of our officers have been named as defendants in a recently initiated securities class action lawsuit and we are a nominal defendant in derivative lawsuits filed against certain of our officers and directors. We intend to engage in a vigorous defense of such litigation. If we are not successful in our defense of such litigation, we could be forced to make significant payments to or other settlements with our stockholders and their lawyers, and such payments or settlement arrangements could have a material adverse effect on our business, operating results or financial condition. We may also be the target of this type of litigation in the future, as companies that have experienced volatility in the market price of their stock have been subject to securities act litigation. Even if the claims asserted in these lawsuits are not successful, the litigation could result in substantial costs and significant adverse impact on our reputation and divert management's attention and resources, which could have a material adverse effect on our business, operating results or financial condition.

The trading price of our common stock may be volatile, and purchasers of our common stock could incur substantial losses.

Our stock price is volatile. For example, the closing price of our common stock during the three months ended March 31, 2021 has ranged from a low of $3.20 to a high of $16.51. The stock market in general and the market for earlier-stage pharmaceutical and medical aesthetic companies in particular have experienced extreme volatility that has often been unrelated to the operating performance of particular companies. The market price for our common stock may be influenced by many factors, some of which are beyond our control, including:

- announcements of results of clinical trials or regulatory approval or disapproval of product candidates;
- unanticipated safety concerns related to the use of Jeuveau® or any of our future products;
- any termination or loss of rights under the Daewoong Agreement;
- the FDA or other U.S. or foreign regulatory or legal actions or changes affecting us or our industry;
- adverse developments concerning our manufacturer or any future strategic partnerships;
- adverse developments concerning litigation pending against us;
- introductions and announcements of new technologies and products by us, any commercialization partners or our

competitors, and the timing of these introductions and announcements;

- variations in our financial results or those of companies that are perceived to be similar to us;
- success or failure of competitive products or medical aesthetic products generally;
- changes in the structure of healthcare payment systems;
- announcements by us or our competitors of significant acquisitions, licenses, strategic partnerships, new product approvals and introductions, joint ventures or capital commitments;
- overall financial market conditions for the pharmaceutical and biopharmaceutical sectors and issuance of securities analysts' reports or recommendations;
- changes in financial estimates or guidance, including our ability to meet our future revenue and operating profit or loss estimates or guidance;
- the public's reaction to our earnings releases, other public announcements and filings with the SEC;
- rumors and market speculation involving us or other companies in our industry;
- short selling of our common stock or the publication of opinions regarding our business prospects in a manner that is designed to create negative market momentum;
- sales of substantial amounts of our stock by Alphaeon 1, LLC, Medytox, Daewoong or other significant stockholders or our insiders, or the expectation that such sales might occur;
- news reports relating to trends, concerns and other issues in medical aesthetics market or the pharmaceutical or biopharmaceutical industry;
- operating and stock performance of other companies that investors deem comparable to us and overall performance of the equity markets;
- additions or departures of key personnel, including our Chief Executive Officer, Chief Financial Officer, Chief Medical Officer and Chief Marketing Officer;
- intellectual property, product liability or other litigation against us, our manufacturer or other parties on which we rely or litigation against our general industry;
- changes in our capital structure, such as future issuances of securities and the incurrence of additional debt;
- changes in accounting standards, policies, guidelines, interpretations or principles; and
- other factors described in this "Risk Factors" section.

In addition, the stock market in general, and the market for pharmaceutical, biotechnology and medical aesthetics companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of those companies. Broad market and industry factors may affect the market price of our common stock, regardless of our actual operating performance. In the past, following periods of volatility in the overall market and the market prices of a particular company's securities, securities class action litigation has often been instituted against that company. We may become the target of this type of litigation in the future. Securities litigation, if instituted against us, could result in substantial costs and divert our management's attention and resources from our business.

Future sales of our common stock by us, Alphaeon 1, LLC, Medytox, Daewoong or others, or the perception that such sales may occur, could depress the market price of our common stock.

Sales by us of a substantial number of shares of our common stock in the public market, or the perception that these sales might occur, could significantly reduce the market price of our common stock and could impair our ability to raise capital through the sale of additional equity securities.

Additionally, as discussed above, each of Alphaeon 1, LLC, Medytox and Daewoong owns a significant portion of our outstanding shares of common stock. Subject to the restrictions described in the paragraph below, future sales of these shares in the public market will be subject to certain contractual limitations in the case of shares of our common stock owned by Medytox and the volume and other restrictions of Rule 144 under the Securities Act for so long as Alphaeon 1, LLC, Medytox or Daewoong are deemed to be our affiliate, unless the shares to be sold are registered with the SEC. Additionally, the shares of common stock held by Medytox are subject to contractual restrictions on transfer that, subject to certain limited exceptions such as transfers to affiliates, prevent Medytox from transferring any shares of common stock prior to February 16, 2022 and, thereafter, prohibit Medytox from transferring more than 25% of the shares it holds prior to September 16, 2023, more than 50% of the shares it holds prior to September 16, 2024 and more than 75% of the shares it holds prior to September 16, 2025, with such contractual restrictions terminating on September 16, 2025. The sale by Alphaeon 1, LLC, Medytox or Daewoong of a substantial number of shares of our common stock, or a perception that such sales could occur, could significantly reduce the market price of our common stock.

We have filed a registration statement with the SEC covering shares of our common stock available for future issuance under our 2017 Omnibus Incentive Plan and may file future registration statements covering shares of our common stock for future issuance under any future plans. Upon effectiveness of such registration statements, any shares subsequently issued under such plans will be eligible for sale in the public market, except to the extent that they are restricted by the contractual arrangements discussed above and subject to compliance with Rule 144 in the case of our affiliates. Sales of a large number of the shares issued under these plans in the public market, or a perception that such sales could occur, could significantly reduce the market price of our common stock.

Anti-takeover provisions in our certificate of incorporation and bylaws, as well as Delaware law, could discourage a takeover.

Our certificate of incorporation, bylaws and Delaware law contain provisions that might enable our management to resist a takeover and might make it more difficult for an investor to acquire a substantial block of our common stock. These include the following provisions:

- permit our board of directors to issue shares of preferred stock, with any rights, preferences and privileges as they may designate, without stockholder approval, which could be used to dilute the ownership of a hostile bidder significantly;
- provide that the authorized number of directors may be changed only by resolution of our board of directors and that a director may only be removed for cause by the affirmative vote of the holders of at least 66 2/3% of our voting stock;
- provide that all vacancies, including newly created directorships, may, except as otherwise required by law, be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum;
- divide our board of directors into three classes, with each class serving staggered three-year terms, which may delay the ability of stockholders to change the membership of a majority of our board of directors;
- require that any action to be taken by our stockholders must be effected at a duly called annual or special meeting of stockholders and not be taken by written consent;
- provide that stockholders seeking to present proposals before a meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide notice in writing in a timely manner and also specify requirements as to the form and content of a stockholder's notice, which may discourage or deter a potential acquiror from conducting a solicitation of proxies to elect the acquiror's own slate of directors or otherwise attempting to obtain control of our company;
- prohibit cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates; and
- provide that special meetings of our stockholders may be called only by the chairman of the board, our Chief Executive Officer or by our board of directors pursuant to a resolution adopted by a majority of the total number of authorized directors, which may delay the ability of our stockholders to force consideration by our company of a take-over proposal or to take certain corporate actions, including the removal of directors.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management. In addition, we are subject to Section 203 of the General Corporation Law of the State of Delaware, or the DGCL, which generally prohibits a Delaware corporation from engaging in any of a broad range of business combinations with an interested stockholder who owns in excess of 15% of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner. This provision could have the effect of delaying or preventing a change-of-control, whether or not it is desired by or beneficial to our stockholders. Further, other provisions of Delaware law may also discourage, delay or prevent someone from acquiring us or merging with us.

Our certificate of incorporation designates the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or agents.

Our certificate of incorporation provides that, unless we consent in writing to an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for all "internal corporate claims." "Internal corporate claims" are claims that are based upon a violation of a duty by a current or former director, officer or stockholder in such capacity, or as to which Title 8 of the DGCL confers jurisdiction upon the Court of Chancery of the State of Delaware, or the Court of Chancery, in each case subject to the Court of Chancery having personal jurisdiction over the indispensable parties named as defendants and the claim not being one which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction. For example, this choice of forum provision would not apply to claims brought pursuant to the Exchange Act or the Securities Act of 1933, as amended, or any other claim for which the federal courts have exclusive jurisdiction. Any person purchasing or otherwise acquiring any interest in any shares of our capital stock shall be deemed to have notice of and to have consented to this provision of our certificate of incorporation. The choice of forum provision in our certificate of incorporation will not relieve us of our duties to comply with the federal securities laws and the rules and regulations thereunder, and our stockholders will not be deemed to have waived our compliance with these laws, rules and regulations.

This choice of forum provision may limit our stockholders' ability to bring a claim in a judicial forum that they find favorable for disputes with us or our directors, officers, employees or agents, which may discourage such lawsuits against us and our directors, officers, employees and agents even though an action, if successful, might benefit our stockholders. Stockholders who do bring a claim in the Court of Chancery could face additional litigation costs in pursuing any such claim, particularly if they do not reside in or near Delaware. The Court of Chancery may also reach different judgments or results than would other courts, including courts where a stockholder considering an action may be located or would otherwise choose to bring the action, and such judgments or results may be more favorable to us than to our stockholders. Alternatively, if a court were to find this provision of our certificate of incorporation inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could have a material adverse effect on our business, financial condition or results of operations.

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

Our certificate of incorporation and bylaws provide that we can indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law. Separate indemnity agreements have been issued with each director and executive officer.

In addition, as permitted by Section 145 of the DGCL, our bylaws and our indemnification agreements that we have entered into with our directors and officers, among other things provide that:

- We have indemnified our directors and officers for serving us in those capacities, or for serving as a director, officer, employee or agent of other business enterprises at our request, to the fullest extent permitted by Delaware law. Delaware law provides that we may indemnify such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to our best interest and, with respect to any criminal proceeding, had no reasonable cause to believe such person's conduct was unlawful.
- We may, in our discretion, indemnify employees and agents in those circumstances where indemnification is permitted by applicable law.

- We will be required to advance expenses, as incurred, to our directors and officers in connection with defending a proceeding, except that such directors or officers shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.
- The rights conferred in our bylaws will not be exclusive. We may not retroactively amend our bylaw provisions to reduce our indemnification obligations to directors, officers, employees and agents.

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

We are an "emerging growth company," and the reduced reporting requirements available to emerging growth companies could make our common stock less attractive to investors.

We qualify as an "emerging growth company," as defined in the JOBS Act. For as long as we remain an emerging growth company, we may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies. These provisions include, but are not limited to:

- being permitted to have only two years of audited financial statements and only two years of related selected financial data and management's discussion and analysis of financial condition and results of operations disclosure;
- an exemption from compliance with the auditor attestation requirement in the assessment of our internal control over financial reporting pursuant to the Sarbanes-Oxley Act;
- reduced disclosure about executive compensation arrangements in our periodic reports, registration statements and proxy statements; and
- exemptions from the requirements to seek non-binding advisory votes on executive compensation or golden parachute arrangements.

To the extent we take advantage of any of these exemptions, the information that we provide stockholders may be different than what is available with respect to other public companies. Investors may find our common stock less attractive because we will rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

Even after we no longer qualify as an emerging growth company, we may still qualify as a "smaller reporting company" which would allow us to take advantage of many of the same exemptions from disclosure requirements, including exemption from compliance with the auditor attestation requirements of Section 404(b) as long as we do not otherwise also qualify as an "accelerated filer" or "large accelerated filer" for SEC reporting purposes and reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements. Investors could find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our trading price may be more volatile.

General Risk Factors

Our business could be negatively affected as a result of actions of activist stockholders, and such activism could impact the trading value of our securities.

Stockholders may, from time to time, engage in proxy solicitations or advance stockholder proposals, or otherwise attempt to effect changes and assert influence on our board of directors and management. Activist campaigns that contest or conflict with our strategic direction or seek changes in the composition of our board of directors could have an adverse effect on our operating results and financial condition. A proxy contest would require us to incur significant legal and advisory fees, proxy solicitation expenses and administrative and associated costs and require significant time and attention by our board of directors and management, diverting their attention from the pursuit of our business strategy. Any perceived uncertainties as to our future direction and control, our ability to execute on our strategy, or changes to the composition of our board of directors or senior management team arising from a proxy contest could lead to the perception of a change in the direction of our business or instability which may result in the loss of potential business opportunities, make it more difficult to pursue our strategic initiatives, or limit our ability to attract and retain qualified personnel and business partners, any of which could adversely affect our business and operating results. If individuals are ultimately elected to our board of directors with a specific agenda, it may adversely affect our ability to effectively implement our business strategy and create additional value

for our stockholders. We may choose to initiate, or may become subject to, litigation as a result of the proxy contest or matters arising from the proxy contest, which would serve as a further distraction to our board of directors and management and would require us to incur significant additional costs. In addition, actions such as those described above could cause significant fluctuations in our stock price based upon temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our business.

If securities or industry analysts publish unfavorable research about our business or decrease the frequency or cease to provide coverage of our company, our stock price and trading volume could decline.

The trading market for our common stock depends in part on the research and reports that equity research analysts publish about us and our business. If one or more of the equity research analysts who cover us downgrades our common stock or issues other unfavorable commentary or research the price of our common stock may decline. If one or more equity research analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our common stock could decrease, which in turn could cause the trading price or trading volume of our common stock to decline.

We have not paid dividends in the past and do not expect to pay dividends in the future, and any return on investment may be limited to the value of our stock.

We have never paid cash dividends on our common stock and do not anticipate paying cash dividends on our common stock in the foreseeable future, and the payment of dividends is also restricted under our credit facility. The payment of dividends on our common stock will depend on our earnings, financial condition and other business and economic factors affecting us at such time as our board of directors may consider relevant. If we do not pay dividends, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future.

The requirements of being a public company may strain our resources, divert management's attention and affect our ability to attract and retain executive management and qualified board members.

As a public company, we are subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Nasdaq Marketplace Rules and other applicable securities rules and regulations. Complying with these rules and regulations will increase our legal and financial compliance costs, make some activities more difficult, time-consuming or costly and increase demand on our systems and resources, particularly after we are no longer an "emerging growth company," as defined in the JOBS Act. The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our business and operating results. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. In order to maintain and, if required, improve our disclosure controls and procedures and internal control over financial reporting to meet this standard, significant resources and management oversight may be required. As a result, management's attention may be diverted from other business concerns, which could adversely affect our business and operating results. We may need to hire more employees in the future or engage outside consultants to assist us in complying with these requirements, which will increase our costs and expenses.

In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased selling, general and administrative expenses and a diversion of our management's time and attention from revenue-generating activities to compliance activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to their application and practice, regulatory authorities may initiate legal proceedings against us and our business may be adversely affected.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Unregistered Sales of Equity Securities

From January 1, 2021 to March 31, 2021, the period covered by this Quarterly Report on Form 10-K, we did not issue any securities that were not registered under the Securities Act except as previously disclosed in those certain Current Reports on Form 8-K filed with the SEC on February 19, 2021 and March 23, 2021.

Item 3. Defaults Upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

None.

Item 6. Exhibits.

EXHIBIT INDEX

Exhibit Number	Exhibit Title	Incorporated by Reference				Filed Herewith (x)
		Form	File No.	Exhibit	Filing Date	
4.1	Registration Rights Agreement, dated February 18, 2021, by and between Evolus, Inc. and Medytox, Inc.					X
10.1	Sales Agreement, dated March 26, 2021, by and between Evolus, Inc. and SVB Leerink LLC as Sales Agent.	8-K	001-38381	1.1	March 26, 2021	
10.2†	Settlement and License Agreement, dated February 18, 2021, by and among Evolus, Inc., Allergan Limited, Allergan, Inc., Allergan Pharmaceuticals Ireland and Medytox, Inc.					X
10.3†	Settlement and License Agreement, dated February 18, 2021, by and between Evolus, Inc. and Medytox, Inc.					X
10.4	Share Issuance Agreement, dated February 18, 2021, by and between Evolus Inc. and Medytox, Inc.					X
10.5†	Confidential Settlement and Release Agreement, dated March 23, 2021, by and between Evolus, Inc. and Daewoong Pharmaceutical Co. Ltd.					X
10.6	Convertible Promissory Note Conversion Agreement, dated March 23, 2021, by and between Evolus, Inc. and Daewoong Pharmaceutical Co. Ltd.					X
10.7†	Third Amendment to Supply Agreement, dated March 23, 2021, by and between Evolus, Inc. and Daewoong Pharmaceutical Co. Ltd.					X
31.1	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.					X
31.2	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.					X
32.1#	Certification of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
101.INS	Inline XBRL Instance Document.					X
101.SCH	Inline XBRL Taxonomy Extension Schema Document.					X
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.					X
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.					X
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.					X
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.					X
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)					

† Portions of this exhibit have been omitted pursuant to Rule 601(b)(10) of Regulation S-K. The omitted information is not material and is the type that the Company treats as private or confidential.

The information in Exhibit 32.1 shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or the Exchange Act, or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act or the Exchange Act (including this Quarterly Report on Form 10-Q), unless the Registrant specifically incorporates the foregoing information into those documents by reference.

Table of Contents

SIGNATURES

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

Evolus, Inc.

Date: May 12, 2021

By: /s/ David Moatazedi
David Moatazedi
President and Chief Executive Officer
(Principal Executive Officer)

Date: May 12, 2021

By: /s/ Lauren Silvernail
Lauren Silvernail
Chief Financial Officer and Executive Vice President, Corporate Development
(Principal Financial Officer)

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT (this "***Agreement***") is dated as of February 18, 2021 (the "***Effective Date***") by and among Evolus, Inc., a Delaware corporation (the "***Company***"), and Medytox, Inc., a company duly organized and existing under the laws of South Korea (the "***Investor***"), and each other party who hereafter executes and delivers a Joinder Agreement (together with the Investor, the "***Holder***") in the form attached as **Exhibit A** hereto (a "***Joinder Agreement***") agreeing to be bound by the terms hereof.

RECITALS

WHEREAS, the Company and the Investor are parties to that certain Share Issuance Agreement, dated as of the date hereof (the "***Issuance Agreement***"), pursuant to which the Investor will be issued an aggregate of 6,762,652 shares of Common Stock of the Company (the "***Issued Shares***"); and

WHEREAS, to induce the Investor to consummate the transactions contemplated by the Issuance Agreement, the Company has agreed to provide certain registration rights for the Issued Shares under the Securities Act and applicable state securities laws.

NOW, **THEREFORE**, in consideration of the premises and respective covenants and agreements set forth in this Agreement and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

Article I.

REGISTRATION RIGHTS

Section 1.1 **Definitions**. For purposes of this Agreement:

"***Affiliate***" or "***Affiliated***" means, with respect to any Person, any other Person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. For purposes of this definition of Affiliate, "***control***" means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"***beneficial ownership***" (and related terms such as "***beneficially owned***" or "***beneficial owner***") has the meaning set forth in Rule 13d-3 under the Exchange Act.

"***Board***" means the Board of Directors of the Company or any authorized committee thereof.

"***Business Day***" means any day except a Saturday, Sunday or other day on which commercial banks in New York City (and, solely in the case of Section 2.3, Seoul, Korea) are authorized or required by law to be closed.

"*Commission Guidance*" means (i) any publicly available written guidance or rule of general applicability of the Commission staff or (ii) written comments, requirements or requests of the Commission staff to the Company in connection with the review of a Registration Statement.

"***Common Stock***" means shares of the Company's common stock, par value of $0.00001 per share.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, or any similar or successor statute.

"***FINRA***" means the Financial Industry Regulatory Authority, Inc., or any successor entity thereof.

"***Full Cooperation***" means, in addition to the cooperation otherwise required by this Agreement, (a) in connection with any underwritten offering, members of senior management of the Company (including the chief executive officer and chief financial officer) reasonably cooperate with the underwriter(s) in connection therewith and make themselves reasonably available during regular business hours to participate in "road show" and other customary marketing activities in such locations (domestic and foreign) as reasonably recommended by the underwriter(s) (including one-on-one meetings with prospective purchasers of the Registrable Securities) and (b) the Company prepares preliminary and final prospectuses (preliminary and final prospectus supplements in the case of an offering pursuant to a Shelf Registration Statement) for use in connection therewith containing such additional information as reasonably requested by the underwriter(s) (in addition to the minimum amount of information required by law, rule or regulation)

"***Holder***" means a Person that becomes a party to this Agreement in accordance with Section 2.2 hereof. The term Holder shall not include any registered owner of Registrable Securities that holds such Registrable Securities in "street name" on behalf of beneficial owners thereof.

"***Majority in Interest of Participating Holders***" means Participating Holders owning a majority of the Registrable Securities included in a Registration Statement.

"***Other Stockholders***" means any Person (other than the Holders) who has a right to participate as a seller in any underwritten offering of Common Stock by the Company (whether for the account of the Company, the Holders or otherwise) pursuant to a registration rights agreement or other similar arrangements (other than this Agreement) with the Company.

"***Participating Holders***" means Holders participating, or electing to participate, in an offering of Registrable Securities pursuant to the terms of this Agreement.

"***Person***" means any individual, firm, corporation, company, partnership, trust, incorporated or unincorporated association, limited liability company, joint venture, joint stock company, government (or an agency or political subdivision thereof) or other entity of any kind, and shall include any successor (by merger or otherwise) of any such entity.

"***Registrable Securities***" means (a) any Issued Shares, and (b) any capital stock or other securities of the Company issued or issuable with respect to the Issued Shares: (i) upon any conversion or exchange thereof, (ii) by way of stock dividend or other distribution, stock split or reverse stock split, or (iii) in connection with a combination of shares, recapitalization, merger, consolidation, exchange offer, reorganization or other similar event; provided, however, that Issued Shares or other securities that are considered to be Registrable Securities shall cease to be Registrable Securities (A) upon the sale thereof pursuant to and in accordance with an effective Registration Statement, (B) upon the sale thereof to the public through a broker, dealer or market maker pursuant to Rule 144 under the Securities Act (or any similar rule promulgated by the Commission then in force), (C) when any such securities held by a Holder are sold or disposed of under circumstances in which all of the applicable conditions of Rule 144 (or any similar provision then in force) under the Securities Act are met, or (D) when they cease to be outstanding.

"***Registration Expenses***" mean all expenses (other than Selling Expenses) arising from or incident to the performance of, or compliance with, this ARTICLE I, including, without limitation, (i) SEC, stock exchange, FINRA and other registration and filing fees, (ii) all fees and expenses incurred in connection with complying with any securities or blue sky laws (including, without limitation, fees, charges and disbursements of counsel in connection with blue sky qualifications of Registrable Securities), (iii) all printing, messenger and delivery expenses, (iv) the fees, charges and disbursements of counsel to the Company and of its independent public accountants and any other accounting and legal fees, charges and expenses incurred by the Company (including, without limitation, any expenses arising from any special audits or "comfort letters" required in connection with or incident to any registration) , (v) the fees, charges and disbursements of any special experts retained by the Company in connection with any registration pursuant to the terms of this Agreement, (vi) all internal expenses of the Company (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), (vii) the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange or over-the-counter trading market and (viii) Securities Act liability insurance (if the Company elects to obtain such insurance), (ix) all rating agency fees, regardless of whether any Registration Statement filed in connection with such registration is declared effective by the Commission. "Registration Expenses" shall exclude any fees or expenses related to counsel for the Participating Holders.

"***Registration Statement***" shall mean any Registration Statement of the Company filed with the SEC on the appropriate form pursuant to the Securities Act which covers any of the shares of Issued Shares and any other equity securities of the Company pursuant to the provisions of this Agreement and all amendments and supplements to any such Registration Statement, including post-effective amendments, in each case including the prospectus contained therein, all exhibits thereto and all materials incorporated by reference therein.

"***Requesting Holder***" means any Holder making a request for a Demand Registration pursuant to Section 1.2(a) hereof.

"***SEC***" or "***Commission***" means the United States Securities and Exchange Commission.

"***Securities Act***" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, or any similar or successor statute.

"***Selling Expenses***" shall mean the underwriting fees, discounts, selling commissions, and transfer taxes applicable to any Registrable Securities.

"***underwritten registration, underwritten offering or underwritten public offering***" means an offering in which securities of the Company are sold to or through one or more underwriters (as defined in Section 2(a)(11) of the Securities Act) for resale to the public.

Section 1.2 Demand Registration.

(a) Request by Holders. Subject to the terms and conditions set forth in this Agreement, Holders of Registrable Securities may make a written request to the Company (a "***Demand Notice***") at any time after March 31, 2022, to register all or part of their Registrable Securities for resale under the Securities Act (a "***Demand Registration***"). In connection with each such Demand Registration, the Company shall provide its Full Cooperation.

Each Demand Notice shall (A) specify the number of Registrable Securities that the Requesting Holders intend to sell or dispose of and (B) state the intended method or methods of sale or disposition of the Registrable Securities. In connection with any Demand Registration, the Requesting Holders may request the Company file a Shelf Registration Statement, provided, that the Company is then eligible to use Form S-3 (or any successor form) under the Securities Act for such intended resale.

(b) Demand Registration. Following receipt of a Demand Notice, the Company shall:

(i) give written notice of such request for registration to all Holders of Registrable Securities within ten (10) days after receipt of a Demand Notice;

(ii) cause to be filed, as soon as practicable, but in any event within, for the filing of a Shelf Registration Statement, thirty (30) days of the date of delivery of the Demand Notice, a Registration Statement covering such Registrable Securities that the Company has been so requested to register by the Requesting Holders and other Holders of Registrable Securities who make a request to the Company, within fifteen (15) days of the mailing of the Company's notice referred to in Section 1.2(b)(i) hereof, that their Registrable Securities also be registered, providing for the registration under the Securities Act of such Registrable Securities to the extent necessary to permit the disposition of such

Registrable Securities in accordance with the intended method of distribution specified in such Demand Notice;

(iii) use its commercially reasonable efforts to have such Registration Statement declared effective by the SEC as soon as practicable thereafter, but in no event later than thirty (30) days or, if a Registration Statement is reviewed by the staff of the SEC, the Company shall use its commercially reasonable efforts to have such Registration Statement declared effected not later than sixty (60) days following the date of initial filing thereof with the SEC; and

(iv) if the Company shall have previously effected a Demand Registration pursuant to this Section 1.2, the Company shall not be required to effect any registration pursuant to Section 1.2 until a period of one hundred eighty (180) days shall have elapsed from the effective date of such previous registration statement.

(c) Selection of Underwriters; Priority for Demand Registrations.

(i) In the event that the Requesting Holders intend to distribute the Registrable Securities covered by the Demand Notice by means of an underwriting, they shall so advise the Company as part of the Demand Notice and the Company shall include such information in the notice it provides to all Holders pursuant to Section 1.2(b)(i) hereof. The managing underwriter for such underwriting shall be one or more reputable nationally recognized investment banks selected by a Majority in Interest of the Participating Holders, subject to the consent of the Company, which consent shall not be unreasonably withheld, delayed or conditioned. In such event, the right of any Holder to include such Holder's Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided in this Section 1.2(c).

(ii) The Company may include securities other than Registrable Securities in an underwritten offering of Registrable Securities pursuant to a Demand Notice, for any accounts (including for the account of the Company) on the terms provided below. With respect to such underwritten offering, if the managing underwriter of such offering advises the Company that, in its good faith view, that the number of Registrable Securities and other securities, if any, to be included in such offering exceeds the largest number of securities which can reasonably be sold in an orderly manner without having a significant and adverse effect on such offering (the "***Maximum Offering Amount***"), then the Company shall include in such registration the number which can be so sold in the following order of priority (subject to any rights set forth in that certain Stockholders' Agreement, dated as of December 14, 2017, by and among ALPHAEON Corporation, Dental Innovations BVBA, Longitude Venture Partners II, L.P. and the company (the "***Existing Stockholders' Agreement***"):

(A) first, the Registrable Securities requested to be included by the Participating Holders allocated pro rata among the Participating

Holders on the basis of the amount of Registrable Securities held by the Participating Holders (and eligible for inclusion in such offering under this Agreement) as of the date of the Demand Notice;

(B) second, to the extent that the number of Registrable Securities to be included in such registration is less than the Maximum Offering Amount, any securities requested to be included therein by the Company; and

(C) third, any Common Stock requested to be included by the Other Stockholders allocated pro rata among the such Other Stockholders on the basis of the amount of Common Stock held by the Other Stockholders (and eligible for inclusion in such offering under an agreement between such Other Stockholders and the Company) as of the date of the Demand Notice after including the Registrable Securities and the securities requested to be included by the Company in such registration.

(d) Limitations on Demand Registrations.

(i) Notwithstanding anything herein to the contrary, the Company may suspend the registration process and/or delay any Holder's ability to use a prospectus or delay making a filing of a Registration Statement or taking any other action in connection therewith for a period of up to ninety (90) days when the Board has determined in good faith that it would be in the best interest of the Company if such Registration Statement (or an amendment or supplement thereto) were filed, such Registration Statement (or amendment or supplement thereto) were to become effective or remain effective for the time otherwise required for such Registration Statement to remain effective or any other action either would (A) materially adversely affect a significant financing, acquisition, disposition, merger or other material transaction, (B) require premature disclosure of material information that the Company has a bona fide business purpose for preserving as confidential or (C) render the Company unable to comply with requirements under the Securities Act or the Exchange Act (each, a "***Valid Business Reason***"); provided, however, that such right to delay shall be exercised by the Company not more than twice in any 12-month period and the Company shall only have the right to delay so long as such Valid Business Reason exists (but in no event for a period longer than ninety (90) days in the aggregate in any twelve month period). The Company shall give notice to each Participating Holder that the registration process has been delayed and upon notice duly given, each Holder agrees not to sell any Registrable Securities pursuant to any Registration Statement until such Holder's receipt of copies of the supplemented or amended prospectus, or until it is advised in writing by the Company that the prospectus may be used, and has received copies of any additional or supplemental filings that are incorporated or deemed incorporated by reference in such prospectus. The Company shall not specify the nature of the event giving rise to a suspension in any notice to the Holders.

(ii) The Company shall not be required to effect more than three (3) Demand Registrations, provided that, if the Company is eligible to use Form S-3 (or any successor form) under the Securities Act for such intended resale of Registrable Securities, then the limit shall be three (3) per year Demand Registrations that are Shelf Registrations not involving an underwritten offering that the Company may be required to effect. A Demand Registration shall not be deemed to have been effected and shall not count as one of the Demand Registrations referenced in the immediately preceding sentence (i) unless a Registration Statement with respect thereto has become effective and remained effective in compliance with the provisions of the Securities Act with respect to the disposition of all Registrable Securities covered by such Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the Holders thereof set forth in such Registration Statement; provided, however, that such period shall not exceed twelve (12) months (except in the case of a Shelf Registration); (ii) (A) if, after it has become effective, such registration is interfered with by any stop order, injunction or other order or requirement of the SEC or other governmental agency or court for any reason and has not thereafter become effective; or (B) if the offering of Registrable Securities is not consummated because the underwriters of an underwritten public offering advise the Participating Holders that the Registrable Securities cannot be sold at a net price per share equal to or above the minimum net price acceptable to the Holders of a Majority in Interest of Participating Holders; provided, however, that this clause (ii)(B) shall not apply to an underwritten offering conducted on a "firm commitment basis" which is not consummated following the commencement of a roadshow; (iii) if the conditions to closing specified in the underwriting agreement, if any, entered into in connection with such registration are not satisfied or waived (unless the cause of such conditions to closing not being satisfied shall be attributable to one or more Participating Holders or the underwriter); (iv) if the amount of Registrable Securities of Requesting Holders included in the registration are reduced to fewer than fifty percent (50%) of the Registrable Securities originally requested to be registered; or (v) if there is not Full Cooperation in connection therewith.

(iii) Notwithstanding anything herein to the contrary, the Company will not be required to effect any Demand Registration during the period starting on the date thirty (30) days prior to the Company's estimated date of filing of, and ending on the date one-hundred eighty (180) days immediately following the effective date of, any Registration Statement (other than on Form S-4 or S-8 under the Securities Act, or any successor form) pertaining to the securities of the Company, provided that the Company is employing in good faith all commercially reasonable efforts to cause such Registration Statement to become effective.

(e) Withdrawal of Registration. Any Participating Holder that has requested its Registrable Securities be included in a Demand Registration pursuant to Section 1.2(a) may withdraw all or any portion of its Registrable Securities from a Demand Registration at any time. Upon receipt of a notice to such effect from a Majority in Interest of the Participating Holders with respect to all of its Registrable Securities, the Company shall cease all efforts to secure

effectiveness of the applicable Demand Registration Statement and such Registration nonetheless shall be deemed a Demand Registration for purposes of Section 1.2 unless (i) the withdrawing Participating Holders shall have paid or reimbursed the Company for its pro rata share of all reasonable and documented out-of-pocket fees and expenses incurred by the Company in connection with the Registration of such Participating Holder's withdrawn Registrable Securities (based on the number of securities the Participating Holder sought to register, as compared to the total number of securities included on such Registration Statement) or (ii) the withdrawal is based upon (x) the Company's failure to comply in any material respect with its obligations hereunder, (y) the institution by the Company of suspension or delay of the registration process pursuant to Section 1.2(d)(i) or (z) the reasonable determination of the Participating Holders that there has been, since the date of the Demand Notice, a material adverse change in the business or prospects of the Company.

Section 1.3 Piggyback Registration.

(a) Right to Include Registrable Securities. Each time after February 16, 2022 that the Company proposes for any reason to register any of its securities of the same class as the Registrable Securities under the Securities Act, either for its own account or for the account of a stockholder or stockholders exercising demand registration rights (other than Demand Registrations pursuant to Section 1.2 hereof) (a "***Proposed Registration***"), the Company shall promptly give written notice (which notice shall be given not less than thirty (30) days prior to the expected filing date of the Proposed Registration and shall describe the intended method of distribution for the offering relating to the Proposed Registration) of such Proposed Registration to all Holders of Registrable Securities and shall offer such Holders the right to request inclusion of any of such Holder's Registrable Securities in the Proposed Registration (a "***Piggyback Registration***"); provided, however, that the Holders shall have no right to include Registrable Securities in a registration (i) pursuant to a Registration Statement on Form S-8 (or any successor form) (or other registration solely relating to an offering or sale to employees or directors of the Company pursuant to any employee stock plan or other employee benefit arrangement), (ii) pursuant to a Registration Statement on Form S-4 (or any successor form), (iii) that relates to a transaction subject to Rule 145 under the Securities Act (or any successor rule thereto) or (iv) in connection with any dividend or distribution reinvestment or similar plan. No registration pursuant to this Section 1.3 shall relieve the Company of its obligation to effect a Demand Registration, as contemplated by Section 1.2 hereof. The rights to Piggyback Registration may be exercised on an unlimited number of occasions.

(b) Piggyback Procedure. Each Holder shall have fifteen (15) days from the date of receipt of the Company's notice referred to in Section 1.3(a) above to deliver to the Company a written request specifying the number of Registrable Securities such Piggyback Holder intends to register and sell in the offering relating to such Piggyback Registration (any Holder so requesting to have any of their Registrable Securities included in the Proposed Registration, a "***Piggyback Holder***"). Any Piggyback Holder shall have the right to withdraw such Piggyback Holder's request for inclusion of such Holder's Registrable Securities in any Registration Statement pursuant to this Section 1.3 by giving written notice to the Company of such withdrawal; provided, however, that the Company may ignore a notice of withdrawal made

within 48 hours of the time the Registration Statement is to become effective. Subject to Section 1.3(c) below, the Company shall use commercially reasonable efforts to include in such Registration Statement all such Registrable Securities requested to be included therein; provided, further, that the Company may at any time withdraw or cease proceeding with any such Proposed Registration if it shall at the same time withdraw or cease proceeding with the registration of all other securities of the same class as the Registrable Securities originally proposed to be registered, without prejudice, however, to the rights of any Holder to request that a Demand Registration be effected; and provided, further, that no registration effected under this provision will relieve the Company from its obligations to effect a Demand Registration upon a Demand Notice, subject to the express terms and conditions set forth in this Agreement.

(c) Priority for Piggyback Registration. If any Proposed Registration involves an underwritten offering and the managing underwriter of such offering advises the Company that, in its good faith view, that the number of securities requested to be included in such offering exceeds the Maximum Offering Amount, then the Company shall include in such registration the number of securities which can be so sold in the following order of priority (subject to any rights set forth in the Existing Stockholders' Agreement):

(i) first, all securities that the Company proposes to register for its own account (the "***Company Securities***") and any rights set forth in the Existing Stockholders' Agreement);

(ii) second, to the extend all securities referenced in subsection (i) above are collectively less than the Maximum Offering Amount, the remaining securities to be included in such registration will be allocated on a *pro rata* basis among all Piggyback Holders requesting that Registrable Securities be included in such Registration; and

(iii) third, any remaining securities allocated on a *pro rata* basis among all Other Stockholders (not referenced in Subsection (i) above) requesting Common Stock be included in such Registration.

For purposes of this Section 1.3(c), (i) the *pro rata* portion of each Piggyback Holder shall be the product of (A) the total number of Registrable Securities which the managing underwriter agrees to include in the public offering and (B) the ratio which such Piggyback Holder's total Registrable Securities bears to the total number of Registrable Securities then outstanding, and (ii) the *pro rata* portion of each Other Stockholder shall be the product of (X) the total number of Common Stock which the managing underwriter agrees to include in the public offering and (Y) the ratio which such Other Stockholder's total Common Stock bears to the total number of Common Stock then outstanding.

(d) Underwritten Offering. If any Piggyback Registration is an underwritten offering, any notice from the Company to the Holders under this Section 1.3 shall offer Holders the right to include any Registrable Securities covered by the Proposed Registration in the underwriting on the same terms and conditions as the securities, if any, otherwise being sold through underwriters under such Proposed Registration.

(e) Cancellation and Delay of Registration. If at any time after giving written notice of its Proposed Registration and prior to the effective date of the Registration Statement filed in connection with the Proposed Registration or, in the case of a Shelf Registration Statement, prior to the consummation of such offering, the Company shall determine for any reason not to register or to delay registration of such offering, the Company may, at its election, give written notice of such determination to each Piggyback Holder and (i) in the case of a determination not to register, the Company shall be relieved of its obligation to register any Registrable Securities in connection with such Proposed Registration, without prejudice, however, to the rights of any Holder to include Registrable Securities in any future registrations pursuant to this Section 1.3 and (ii) in the case of a determination to delay registering, shall be permitted to delay registering any Registrable Securities, for the same period as the delay in registering other securities in the Proposed Registration.

Section 1.4 Shelf Registration Statement.

(a) Filing of Shelf Registration Statement. No later than March 16, 2023, the Company shall (i) prepare and file with the Commission a Shelf Registration Statement on Form S-3 that covers all Registrable Securities then outstanding for an offering to be made on a delayed or continuous basis pursuant to Rule 415 under the Securities Act or any successor rule thereto (a "***Shelf Registration***") and (ii) use its commercially reasonable efforts to cause such Shelf Registration Statement to be declared effective by the Commission as soon as practicable thereafter; provided, that following a registered offering of Company Securities (other than a registration (i) pursuant to a Registration Statement on Form S-8 (or any successor form) (or other registration solely relating to an offering or sale to employees or directors of the Company pursuant to any employee stock plan or other employee benefit arrangement), (ii) pursuant to a Registration Statement on Form S-4 (or any successor form), (iii) that relates to a transaction subject to Rule 145 under the Securities Act (or any successor rule thereto) or (iv) in connection with any dividend or distribution reinvestment or similar plan), the Company shall not be required to file a Shelf Registration Statement pursuant to this Section 1.3 until ninety (90) days following the effective date of such Registration Statement covering the Company Securities. The Company shall use its commercially reasonable efforts to cause such Shelf Registration Statement to remain effective for as long as any Registrable Securities are outstanding.

(b) SEC Limitations. Notwithstanding any other provision of this Agreement, if any Commission Guidance sets forth a limitation of the number of Registrable Securities to be registered on a particular Registration Statement (notwithstanding the Company's commercially reasonable efforts to advocate with the Commission for the registration of all or a greater number of Registrable Securities), then, the amount of Registrable Securities to be registered on such Registration Statement will be reduced pro rata among the Holders based on the total number of unregistered Registrable Securities held by such Holders (subject to any rights set forth in the Existing Stockholders' Agreement).

(c) Expiration of Shelf Registration Statement. If (i) the Company has filed a Shelf Registration Statement (the ***"Initial Registration Statement"***) with the Commission that covers Registrable Securities (the ***"Initial Registrable Securities"***), (ii) pursuant to Rule

415(a)(5) under the Securities Act or any successor rule thereto, the Initial Registration Statement may no longer be used for offers and sales of any of the Initial Registrable Securities, and (iii) any of the Initial Registrable Securities are Registrable Securities at the time that (ii) above occurs, the Company shall prepare and file with the Commission within the time limits required by Rule 415 under the Securities Act or any successor rule thereto a new Shelf Registration Statement covering any Initial Registrable Securities that have not ceased to be Registrable Securities for an offering to be made on a delayed or continuous basis pursuant to Rule 415 under the Securities Act or any successor rule thereto (a ***"New Shelf Registration Statement"***) and shall use its commercially reasonable efforts to cause such New Shelf Registration Statement to be declared effective by the Commission as soon as reasonably practicable thereafter.

(d) Shelf Takedowns. Upon the demand of one or more Holders of Registrable Securities beneficially owning in the aggregate not less than 10% of the Registrable Securities then outstanding, the Company shall facilitate up to three (3) "takedowns" of Registrable Securities in the form of an underwritten offering utilizing the Shelf Registration Statement filed in connection with the Shelf Registration, in the manner and subject to the conditions described in Sections 1.2(b)(iv), 1.2(c), 1.2(e) and 1.2(f) of this Agreement.

Section 1.5 Holdbacks.

(a) Restrictions on Public Sale by Holders. Each Holder hereby agrees that, if and whenever the Company (i) proposes to register any of its equity securities under the Securities Act, whether or not for its own account, or (ii) is required to use its commercially reasonable efforts to effect the registration of any Registrable Securities under the Securities Act pursuant to a Demand Registration, such Holder, if requested by the managing underwriter in an underwritten offering, agrees to enter into a "lock-up agreement" containing terms (including the duration of the lock-up period, which, for the avoidance of doubt shall commence no earlier than ten (10) days prior to the effectiveness of the registration statement and shall not exceed ninety (90) days in the case of any registration under the Securities Act) that are customary at the time of such agreement is entered into for offerings of similar size and type, and the Company shall cause all of the Company's directors and executive officers and shall use its commercially reasonable efforts to cause any stockholders owning more than five (5) percent of the Company's then outstanding Common Stock to sign lock-up agreements on comparable terms in connection therewith (or on such terms as may be required by the managing underwriter). Any such lock-up agreements signed by the Holders shall contain reasonable and customary exceptions, including, without limitation, the right of a Holder to make transfers to certain Affiliates, subject to such Affiliates entering into such lock-up agreement. The Company may impose stop-transfer instructions with respect to the shares of Common Stock or other securities subject to the foregoing restrictions until the end of the relevant lock-up period. For purposes of the forgoing, the term "lock-up agreement" refers to an agreement by the undersigned thereto not to effect for a specified period of time any public sale or distribution (other than in connection with the public offering for which such lock-up agreement is being requested and other customary exceptions), including, without limitation, any sale pursuant to Rule 144 under the Securities Act, of any Registrable Securities, any other equity securities of the Company or any securities convertible

into or exchangeable or exercisable for any equity securities of the Company, without the prior consent of the managing underwriter.

(b) Restrictions on Public Sale by the Company. The Company agrees not to effect (other than a registration (i) pursuant to a Registration Statement on Form S-8 (or any successor form) or other registration solely relating to an offering or sale to employees or directors of the Company pursuant to any employee stock plan or other employee benefit arrangement), (ii) pursuant to a Registration Statement on Form S-4 (or any successor form), (iii) that relates to a transaction subject to Rule 145 under the Securities Act (or any successor rule thereto) or (iv) in connection with any dividend or distribution reinvestment or similar plan) any public sale or distribution, or to file any Registration Statement under the Securities Act covering any, of its equity securities, or any securities convertible into or exchangeable or exercisable for such securities during the period beginning fifteen (15) days prior to the effective date of the Registration Statement, and ninety (90) days after the effective date of the Registration Statement for any Demand Registrations, to the extent reasonably requested by the managing underwriter thereto (except for securities being sold by the Company for its own account under such Registration Statement and subject to any other rights set forth in any agreement providing for registration rights to any Other Stockholder entered into by the Company prior to the Effective Date).

Section 1.6 Registration Procedures.

(a) Obligations of the Company. Whenever registration of Registrable Securities is required pursuant to this Agreement, the Company shall use commercially reasonable efforts to effect the registration and sale of such Registrable Securities in accordance with the intended method of distribution thereof as promptly as possible, and in connection with any such request, the Company shall, as expeditiously as possible:

(i) *Preparation of Registration Statement; Effectiveness*. Prepare and file with the SEC (in any event, with respect to a Demand Registration under Section 1.2, not later than the time permitted under Section 1.2(b)(ii)), a Registration Statement on any form on which the Company then qualifies, which counsel for the Company shall deem appropriate and pursuant to which such offering may be made in accordance with the intended method of distribution thereof (except that the Registration Statement shall contain such information as may reasonably be requested for marketing or other purposes by the managing underwriter), and use commercially reasonable efforts to cause any registration required hereunder to become effective as soon as practicable (and, in any event, with respect to a Demand Registration under Section 1.2, not later than the time permitted under Section 1.2(b)(iii)) and, with respect to a Demand Registration or Shelf Registration, remain effective for a period of not less than twelve (12) months (or such shorter period in which all Registrable Securities have been sold in accordance with the methods of distribution set forth in the Registration Statement); provided, however, that, in the case of any Shelf Registration of Registrable Securities which are intended to be offered on a continuous or delayed basis, such twelve (12) months period shall be extended, if necessary, to keep the Registration Statement effective until such time as

Rule 144 or another similar exemption under the Securities Act is available for the sale of all of the Registrable Securities then held by the Holders without limitation during a three-month period without registration;

(ii) *Participation in Preparation and Full Cooperation*. Upon the reasonable request of any Participating Holder, any underwriter participating in any disposition pursuant to a Registration Statement, and any attorney, accountant or other agent retained by any Participating Holder or underwriter (each, an "***Agent***" and, collectively, the "***Agents***"), provide the opportunity to participate (including, but not limited to, reviewing, commenting on and attending all meetings) in the preparation of such Registration Statement, each prospectus included therein or filed with the SEC and each amendment or supplement thereto. In connection with each Demand Registration pursuant to Section 1.2 and any Shelf Registration pursuant to Section 1.4, cause there to occur Full Cooperation;

(iii) *Due Diligence*. For a reasonable period prior to the filing of any Registration Statement pursuant to this Agreement, make available, to any Participating Holder and, if applicable, any Agent, upon reasonable notice and during normal business hours, for inspection all pertinent financial and other records, corporate documents and properties of the Company as shall be reasonably necessary to enable them to exercise their due diligence responsibility, and cause the Company's officers, directors, employees and independent accountants to supply all information reasonably requested by any such Participating Holder, underwriter, or Agent in connection with such Registration Statement; provided, however, that if requested by the Company, each Agent, underwriter and each Participating Holder shall enter into a confidentiality agreement with the Company prior to participating in the preparation of the Registration Statement or the Company's release or disclosure of confidential information to such Agent;

(iv) *Counsel Review*. The Company shall permit the Participating Holder and its counsel, at the Participating Holder's sole cost and expense, to participate (including, but not limited to, reviewing, commenting on and attending all meetings) in the preparation of the Registration Statement and all amendments and supplements thereto (as well as all requests for acceleration or effectiveness thereof) in advance of their filing with the SEC, and will not file any document in a form to which such counsel reasonably objects and will not request acceleration of the Registration Statement without prior notice to such counsel;

(v) *General Notifications*. Promptly notify in writing the Participating Holders, the sales or placement agent, if any, therefor and the managing underwriter of the securities being sold, if applicable, (A) when such Registration Statement or the prospectus included therein or any prospectus amendment or supplement or post-effective amendment has been filed, and, with respect to any such Registration Statement or any post-effective amendment, when the same has become effective, (B) when the SEC notifies the Company whether there will be a "review" of such Registration Statement, (C) of the receipt of any comments (oral or written) by the SEC and by the blue sky or

securities commissioner or regulator of any state with respect thereto and (D) of any request by the SEC for any amendments or supplements to such Registration Statement or the prospectus or for additional information;

(vi) *10b-5 Notification*. Promptly notify in writing the Participating Holders, the sales or placement agent, if any, therefor and the managing underwriter of the securities being sold pursuant to any Registration Statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act upon discovery that, or upon the happening of any event as a result of which, any prospectus included in such Registration Statement (or amendment or supplement thereto) contains an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances under which they were made, and the Company shall promptly prepare a supplement or amendment to such prospectus and file it with the SEC (in any event no later than ten (10) Business Days following notice of the occurrence of such event to each Participating Holder, the sales or placement agent and the managing underwriter) so that after delivery of such prospectus, as so amended or supplemented, to the purchasers of such Registrable Securities, such prospectus, as so amended or supplemented, shall not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances under which they were made;

(vii) *Notification of Stop Orders; Suspensions of Qualifications and Exemptions*. Promptly notify in writing the Participating Holders, the sales or placement agent, if any, therefor and the managing underwriter of the securities being sold of (A) any stop order issued or, to the knowledge of the Company, threatened to be issued by the SEC with respect to a Registration Statement filed pursuant to this Agreement, or (B) any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction or, to the knowledge of the Company, the initiation or threatening of any proceeding for such purpose and the Company agrees to use commercially reasonable efforts to (x) prevent the issuance of any such stop order, and in the event of such issuance, to obtain the withdrawal of any such stop order, (y) obtain the withdrawal of any order suspending or preventing the use of any related prospectus or suspending the qualification of any Registrable Securities included in such Registration Statement for sale in any jurisdiction at the earliest practicable date and (z) if necessary to satisfy (x) and (y) hereof, the Company shall promptly prepare a supplement or amendment to such prospectus or Registration Statement and file it with the SEC, and, in connection with any of the foregoing events which has resulted in a suspension of a Participating Holder's ability to dispose of securities under a Registration Statement, the Company shall promptly advise, in writing, any such Participating Holders that the use of the prospectus may be resumed;

(viii) *Amendments and Supplements; Acceleration*. (A) Prepare and file with the SEC such amendments and supplements to each Registration Statement filed pursuant to this Agreement as may be necessary to comply with the provisions of the

Securities Act, including post-effective amendments to each Registration Statement as may be necessary to keep such Registration Statement continuously effective for the applicable time period required hereunder and if applicable, file any Registration Statements pursuant to Rule 462(b) under the Securities Act; (B) cause the related prospectus to be supplemented by any required prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 (or any similar provisions then in force) promulgated under the Securities Act; and (C) comply with the provisions of the Securities Act and the Exchange Act with respect to the disposition of all securities covered by such Registration Statement during such period in accordance with the intended methods of disposition by the sellers thereof set forth in such Registration Statement as so amended or in such prospectus as so supplemented;

(ix) *Copies*. Furnish as promptly as reasonably practicable to each Participating Holder and Agent prior to filing a Registration Statement pursuant to this Agreement or any supplement or amendment thereto with respect to the Registrable Securities, copies of such Registration Statement, supplement or amendment as it is proposed to be filed, and after such filing such number of copies of such Registration Statement, each such amendment and supplement thereto (in each case including all exhibits thereto), the prospectus included in such Registration Statement (including each preliminary prospectus) and such other documents as each such Participating Holder or underwriter may reasonably request in order to facilitate the disposition of the Registrable Securities owned by such Participating Holder;

(x) *Blue Sky*. If applicable, use commercially reasonable efforts to, prior to any public offering of the Registrable Securities, register or qualify (or seek an exemption from registration or qualifications) such Registrable Securities under such other securities or blue sky laws of such jurisdictions as any Participating Holder or underwriter may reasonably request, and to continue such qualification in effect in each such jurisdiction for as long as is permissible pursuant to the laws of such jurisdiction, or for as long as a Participating Holder or underwriter reasonably requests or until all of such Registrable Securities are sold, whichever is shortest, and do any and all other acts and things which may be reasonably necessary or advisable to enable any Participating Holder to consummate the disposition in such jurisdictions of the Registrable Securities; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent of process in any such states or jurisdictions or subject itself to taxation in any such state or jurisdiction, but for this subparagraph;

(xi) *Other Approvals*. Use commercially reasonable efforts to obtain all other approvals, consents, exemptions or authorizations from such governmental agencies or authorities as may be necessary upon the advice of counsel of the Company to enable the Participating Holders and underwriters to consummate the disposition of Registrable Securities, including, subject to reasonable Company priorities, causing officers and members of the management of the Company as the lead or managing underwriter of such offering may reasonably request to participate in the selling efforts

relating to an underwritten offering of Registrable Securities to the extent customary for such offering (including, to the extent customary, telephonic, video or recorded participation in road shows);

(xii) *Agreements*. Enter into and perform customary agreements (including any underwriting agreements in customary form), and take such other actions as may be reasonably required in order to expedite or facilitate the disposition of Registrable Securities;

(xiii) *FINRA*. Reasonably cooperate with each Participating Holder and each underwriter participating in the disposition of such Registrable Securities and underwriters' counsel in connection with any filings required to be made with the FINRA;

(xiv) *"Cold Comfort" Letters*. If such registration is in connection with an underwritten offering, obtain "cold comfort" letters, dated the dates of the pricing and the closing under the underwriting agreement and addressed to the underwriters and signed by the Company's independent public accountants in customary form and covering such matters of the type customarily covered by "cold comfort" letters as the managing underwriter of such offering may reasonably request;

(xv) *Legal Opinion and 10b-5 Letter*. If such registration is in connection with an underwritten offering, furnish, at the request of the managing underwriter of such offering on the date such securities are delivered to the underwriters for sale pursuant to such registration, an opinion and 10b-5 letter, dated such date, of counsel representing the Company for the purposes of such registration, addressed to the Holders, and the placement agent or sales agent, if any, thereof and the underwriters, if any, thereof, covering such legal matters with respect to the registration in respect of which such opinion is being given as such underwriter may reasonably request and as are customarily included in such opinions and 10b-5 letters;

(xvi) *SEC Compliance, Earnings Statement*. Use commercially reasonable efforts to comply with all applicable rules and regulations of the SEC and make available to its shareholders, as soon as practicable, but no later than fifteen (15) months after the effective date of any Registration Statement, an earnings statement covering a period of twelve (12) months beginning after the effective date of such Registration Statement, in a manner which satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder and which requirement will be deemed satisfied if the Company timely files complete and accurate information on Forms 10-Q and 10-K and Current Reports on Form 8-K under the Exchange Act and otherwise complies with Rule 158 under the Securities Act;

(xvii) *Certificates, Closing*. If such registration is in connection with an underwritten offering, provide officers' certificates and other customary closing documents as the managing underwriter of such offering may reasonably request;

(xviii) *Listing*. Use commercially reasonable efforts to cause all such Registrable Securities to be listed or quoted on each securities exchange or market system on which similar securities issued by the Company are so listed or quoted (or, in the case of an Exchange Act Registration, to become so listed or quoted if requested);

(xix) *Transfer Agent, Registrar and CUSIP*. Provide a transfer agent and registrar for all Registrable Securities registered pursuant hereto and a CUSIP number for all such Registrable Securities, in each case, no later than the effective date of such registration;

(xx) *Efforts*. Subject to all other provisions in this Agreement, use commercially reasonable efforts to take all other actions necessary to effect the registration of the Registrable Securities contemplated hereby.

(b) Seller Information. The Company may require each Participating Holder as to which any registration of such Holder's Registrable Securities is being effected to furnish to the Company such information regarding such Participating Holder and such Participating Holder's method of distribution of such Registrable Securities as the Company may from time to time reasonably request in writing or as may be required by law. If a Participating Holder refuses to provide the Company with any of such information, the Company may exclude such Participating Holder's Registrable Securities from the Registration Statement if the Company determines, based on the advice of counsel, that such information is necessary to effect the Registration Statement and such Participating Holder continues thereafter to withhold such information. The exclusion of a Participating Holder's Registrable Securities shall not affect the registration of the other Registrable Securities to be included in the Registration Statement.

(c) Notice to Discontinue. Each Participating Holder whose Registrable Securities are covered by a Registration Statement filed pursuant to this Agreement agrees that, upon receipt of written notice from the Company of the happening of any event of the kind described in Section 1.2(d) and/or Section 1.6(a)(v), such Participating Holder shall forthwith discontinue the disposition of Registrable Securities until such Participating Holder's receipt of the copies of the supplemented or amended prospectus contemplated by Section 1.2(d) and/or Section 1.6(a)(v) or until it is advised in writing by the Company that the use of the prospectus may be resumed and has received copies of any additional or supplemental filings which are incorporated by reference into the prospectus, and, if so directed by the Company in the case of an event described in Section 1.2(d) and/or Section 1.6(a)(v), such Participating Holder shall deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Participating Holder's possession, of the prospectus covering such Registrable Securities which is current at the time of receipt of such notice. If the Company shall give any such notice, the Company shall extend the period during which such Registration Statement is to be maintained effective by the number of days during the period from and including the date of the giving of such notice pursuant to Section 1.2(d) and/or Section 1.6(a)(v) to and including the date when the Participating Holder shall have received the copies of the supplemented or amended prospectus contemplated by, and meeting the requirements of Section 1.2(d) and/or Section 1.6(a)(v). Each Participating Holder whose Registrable Securities are covered by a

Registration Statement filed pursuant to this Agreement agrees that as of the date that a final prospectus is made available to it for distribution to prospective purchasers of Registrable Securities, it shall cease to distribute copies of any preliminary prospectus prepared in connection with the offer and sale of Registrable Securities.

Section 1.7 Registration Expenses and Selling Expenses. Except as otherwise provided herein, (a) all Registration Expenses shall be borne by the Company and (b) the Selling Expenses relating to Registrable Securities registered shall be borne by the Participating Holders of such Registrable Securities pro rata on the basis of the number of Registrable Securities sold.

Section 1.8 Indemnification.

(a) Indemnification by the Company. In the event any Registrable Securities are included in a Registration Statement, the Company will indemnify and hold harmless to the fullest extent permitted by law each Participating Holder, its Affiliates, any underwriter and each of their respective directors, officers, employees, advisors, agents, stockholders, members, general partners and limited partners and each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) any of such Persons (collectively, "***Company Indemnified Parties***") from and against any and all losses, claims, damages, expenses (including, without limitation, reasonable costs of investigation and fees, disbursements and other charges of counsel, any amounts paid in settlement effected with the Company's consent, and any costs incurred in enforcing the Company's indemnification obligations hereunder) or other liabilities (collectively, "***Losses***") to which any such Company Indemnified Party may become subject under the Securities Act, the Exchange Act, any other federal, state or foreign law or any rule or regulation promulgated thereunder, or under any common law or otherwise, insofar as such Losses (or actions or proceedings, whether commenced or threatened, in respect thereof) are resulting from or arising out of or based upon any untrue, or alleged untrue, statement of a material fact contained in such Registration Statement, including any prospectus or preliminary prospectus contained therein or any amendments or supplements thereto, any free writing prospectuses or any document incorporated by reference in any of the foregoing or resulting from or arising out of or based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of a prospectus, preliminary prospectus or free writing prospectus, in the light of the circumstances under which they were made), not misleading, and the Company will promptly reimburse each such Company Indemnified Party for any reasonable and documented legal fees and expenses and any other Losses reasonably incurred in connection with investigating, preparing or defending any such claim, loss, damage, liability, action or investigation or proceeding; provided, however, that the Company shall not be liable to any Company Indemnified Party for any Losses that result from or arise out of or are based upon any untrue statement or omission made in conformity with written information provided by, or on behalf of, a Company Indemnified Party Such indemnity obligation shall remain in full force and effect regardless of any investigation made by or on behalf of the Company Indemnified Parties and shall survive the transfer of Registrable Securities by such Company Indemnified Parties in accordance with the terms hereof.

(b) Indemnification by Participating Holders. In connection with any proposed registration in which a Holder is participating pursuant to this Agreement, each such Participating Holder agrees, severally and not jointly, to indemnify and hold harmless the Company, each other Participating Holder, their respective directors and officers, and each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) the Company or any other Participating Holder (collectively, "***Holder Indemnified Parties***") to the same extent as the foregoing indemnity from the Company to the Holders as set forth in Section 1.8(a) (subject to the exceptions set forth in the foregoing indemnity, the proviso to this sentence and applicable law), but only with respect to any such untrue statement or omission made in conformity with information relating to such Participating Holder furnished in writing to the Company by such Participating Holder; provided, however, that the liability of any Participating Holder under this Section 1.8(b) shall be limited to the amount of the net proceeds (after underwriting fees, commissions or discounts) received by such Participating Holder in the offering giving rise to such liability. Such indemnity obligation shall remain in full force and effect regardless of any investigation made by or on behalf of the Holder Indemnified Parties and shall survive the transfer of Registrable Securities by such Participating Holder.

(c) Conduct of Indemnification Proceedings. Any Person entitled to indemnification hereunder (the "***Indemnified Party***") agrees to give prompt written notice to the indemnifying party (the "***Indemnifying Party***") after the receipt by the Indemnified Party of any written notice of the commencement of any action, suit, proceeding or investigation or threat thereof for which the Indemnified Party intends to claim indemnification or contribution pursuant to this Agreement; provided, however, that the failure so to notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that it may have to the Indemnified Party hereunder unless and to the extent such Indemnifying Party is materially prejudiced by such failure. If notice of commencement of any such action is given to the Indemnifying Party as above provided, the Indemnifying Party shall be entitled to participate in and, to the extent it may wish, jointly with any other Indemnifying Party similarly notified, to assume the defense of such action at its own expense, with counsel chosen by it and reasonably satisfactory to such Indemnified Party. Notwithstanding anything herein to the contrary, the Indemnified Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of one such counsel shall be paid by the Indemnified Party unless (i) the Indemnifying Party agrees to pay the same, (ii) the Indemnifying Party fails to assume the defense of such action with counsel reasonably satisfactory to the Indemnified Party within thirty (30) days after receiving notice from such Indemnified Party that the Indemnified Party believes it has failed to do so or (iii) the Indemnified Party reasonably believes that the joint representation of the Indemnified Party and any other party in such proceeding (including but not limited to the Indemnifying Party) would be inappropriate under applicable standards of professional conduct. No Indemnifying Party shall be liable for any settlement entered into without its written consent, which consent shall not be unreasonably withheld, conditioned or delayed. No Indemnifying Party shall, without the written consent of the Indemnified Party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the Indemnified Party is an actual or potential party to

such action or claim) unless such settlement, compromise or judgment (A) includes an unconditional release of the Indemnified Party from all liability arising out of such action or claim and (B) does not include a statement as to, or an admission of, fault, culpability or a failure to act by or on behalf of any Indemnified Party. The rights afforded to any Indemnified Party hereunder shall be in addition to any rights that such Indemnified Party may have at common law, by separate agreement or otherwise.

(d) Contribution. If the indemnification provided for in this Section 1.8 from the Indemnifying Party is unavailable to an Indemnified Party in respect of any Losses referred to herein, then the Indemnifying Party, in lieu of indemnifying the Indemnified Party, shall contribute to the amount paid or payable by the Indemnified Party as a result of such Losses in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and the Indemnified Party, as well as any other relevant equitable considerations. The relative faults of the Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, was made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the Indemnifying Party's and Indemnified Party's relative intent, knowledge, access to information and opportunity to correct or prevent such action; provided, however, that the liability of any Holder under this Section 1.8(d) shall be limited to the amount of the net proceeds (after underwriting fees, commissions or discounts) received by such Holder in the offering giving rise to such liability. The amount paid or payable by a party as a result of the Losses or other liabilities referred to above shall be deemed to include, subject to the limitations set forth in Section 1.8(a), Section 1.8(b) and Section 1.8(c), any legal or other fees, charges or expenses reasonably incurred by such party in connection with any investigation or proceeding. The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 1.8(d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution pursuant to this Section 1.8(d) from any Person who was not guilty of such fraudulent misrepresentation.

(e) The obligations of the Company and Holders under this Article I shall survive the completion of any offering of Registrable Securities pursuant to a registration statement under this Article I, and shall survive the termination of this Agreement.

Section 1.9 Rule 144; Other Exemptions. With a view to making available to the Holders the benefits of Rule 144 promulgated under the Securities Act and other rules and regulations of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration, the Company covenants that it will use commercially reasonable efforts to (i) if and when it is subject to the periodic reporting requirement under the Exchange Act, file in a timely manner all reports and other documents required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder and (ii) at all times take any and all action as each Holder may reasonably request (including, but not limited to providing any information necessary to comply with Rule 144, in

each case in connection with resales of the Registrable Securities under the Securities Act), all to the extent required from time to time to enable such Holder to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 (if available with respect to resales of the Registrable Securities) under the Securities Act, as such rules may be amended from time to time. Upon the written request of a Holder, the Company shall deliver to the Holder a written statement as to whether it has complied with the covenants set forth above.

Section 1.10 Certain Limitations On Registration Rights. No Holder may participate in any Registration Statement hereunder involving an underwritten public offering unless such Holder completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements, and other documents reasonably required under the terms of the underwriting arrangements made in connection with such Registration Statement and agrees to sell such Holder's Registrable Securities on the basis provided in any underwriting agreement approved by the Holder or Holders entitled hereunder to approve such arrangements; provided, however, that no such Holder shall be required to make any representations or warranties to the Company or the underwriters in connection with any such registration other than representations and warranties as to (i) such Holder's ownership of its Registrable Securities to be sold or transferred, (ii) such Holder's power and authority to effect such transfer and (iii) such matters pertaining to compliance with securities laws as may be reasonably requested.

Section 1.11 Transfer of Registration Rights. Without the consent of the Company, the rights of a Holder hereunder may be transferred or assigned in connection with any transfer of Registrable Securities if (i) such transfer or assignment is made to an Affiliate of such Holder, (ii) the transferee or assignee becomes a party to this Agreement as a "Holder" in accordance with Section 2.2 of this Agreement, and (iii) the Company is given written notice by such Holder of such transfer or assignment, stating the name and address of the transferee or assignee and identifying the Registrable Securities with respect to which such rights are being transferred or assigned; provided, that the rights and obligations that are assigned shall apply only to the Registrable Securities sold or transferred by a Holder, including any shares issued in respect of such Registrable Securities pursuant to clause (c) of the definition of "Registrable Securities," but expressly excluding any other securities of the Company acquired by such assignee.

Section 1.13 Number of Registrable Securities Outstanding. In order to determine the number of Registrable Securities outstanding at any time, upon the written request of the Company to the Holders, each Holder shall promptly inform the Company of the number of Registrable Securities that such Holder owns and that the Company may conclusively rely upon any certificate provided under this Agreement for the purpose of determining the number of such Registrable Securities.

Article II.

GENERAL PROVISIONS

Section 2.1 **Entire Agreement**. This Agreement, together with the Issuance Agreement and any certificates, documents, instruments and writings that are delivered pursuant hereto and thereto, as applicable, constitute the entire agreement and understanding of the parties in respect of the subject matter hereof and supersede all prior understandings, agreements or representations by or among the parties, written or oral, to the extent they relate in any way to the subject matter hereof or thereof.

Section 2.2 **Assignment; Binding Effect**. The Holder's obligations under is Agreement may not be assigned, except as permitted in this Section 2.2. Subject to the limitations on transfer set forth in Section 1.11, a Holder may assign all or a portion of its rights hereunder to an Affiliate of such Holder, and the Holder may obligate all or a portion of its obligations under this Agreement to any transferee, provided that such assignment shall not be deemed effective until the Holder has delivered to the Company a Joinder Agreement, in substantially the form attached hereto as Exhibit A, duly executed by such transferee. This Agreement is not assignable by the Company (except by merger or in connection with another entity acquiring all or substantially all of the Company's assets). All of the terms, agreements, covenants, representations, warranties and conditions of this Agreement are binding upon, and inure to the benefit of and are enforceable by, the parties and their respective successors and permitted assigns.

Section 2.3 **Notices**. All notices, requests and other communications provided for or permitted to be given under this Agreement must be in writing and be given by personal delivery, by certified or registered United States mail (postage prepaid, return receipt requested), by a nationally recognized overnight delivery service for next day delivery, or by electronic mail, as follows (or to such other address as any party may give in a notice given in accordance with the provisions hereof):

If to any Holder, at its last known address appearing on the books of the Company maintained for such purpose.

If to the Company, at

[***]

All notices, requests or other communications will be effective and deemed given only as follows: (i) if given by personal delivery, upon such personal delivery, (ii) if sent by certified or registered mail, on the fifth (5th) Business Day after being deposited in the United States mail, (iii) if sent for next day delivery by overnight delivery service, on the date of delivery as confirmed by written confirmation of delivery, (iv) if sent by electronic mail, upon the senders receipt of a read receipt or delivery confirmation, except that if such confirmation is received after 5:00 p.m. (in the recipient's time zone) on a Business Day, or is received on a day that is not a Business Day, then such notice, request or communication will not be deemed effective or

given until the next succeeding Business Day. Notices, requests and other communications sent in any other manner will not be effective.

Section 2.4 **Specific Performance; Remedies**. Each party acknowledges and agrees that the other parties would be damaged irreparably if any provision of this Agreement were not performed in accordance with its specific terms or were otherwise breached and the Company agrees that it shall not oppose any such demand for specific performance on the basis that monetary damages are available. Accordingly, the parties will be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and its provisions in any action or proceeding instituted in any court of the United States or any state thereof having jurisdiction over the parties and the matter, in addition to any other remedy to which they may be entitled, at law or in equity. Except as expressly provided herein, the rights, obligations and remedies created by this Agreement are cumulative and in addition to any other rights, obligations or remedies otherwise available at law or in equity. Except as expressly provided herein, nothing herein will be considered an election of remedies.

Section 2.5 **Submission to Jurisdiction; Waiver of Jury Trial**.

(a) Submission to Jurisdiction. Any action, suit or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall only be brought in any federal court located in the State of Delaware or any state court in the State of Delaware, and each party consents to the exclusive jurisdiction and venue of such courts (and of the appropriate appellate courts therefrom) in any such action, suit or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such, action, suit or proceeding in any such court or that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such action, suit or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court.

(b) Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES THAT ANY DISPUTE THAT MAY ARISE OUT OF OR RELATING TO THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE SUCH PARTY HEREBY EXPRESSLY WAIVES ITS RIGHT TO JURY TRIAL OF ANY DISPUTE BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER AGREEMENTS RELATING HERETO OR ANY DEALINGS AMONG THEM RELATING TO THE TRANSACTIONS CONTEMPLATED HEREBY. THE SCOPE OF THIS WAIVER IS INTENDED TO ENCOMPASS ANY AND ALL ACTIONS, SUITS AND PROCEEDINGS THAT RELATE TO THE SUBJECT MATTER OF THE TRANSACTIONS CONTEMPLATED HEREBY, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY REPRESENTS THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT IN THE EVENT OF ANY

ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) SUCH PARTY UNDERSTANDS AND WITH THE ADVICE OF COUNSEL HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND REPRESENTATIONS IN THIS SECTION 2.5(b).

Section 2.6 **Governing Law**. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to any choice of law principles.

Section 2.7 **Headings**. The article and section headings contained in this Agreement are inserted for convenience only and will not affect in any way the meaning or interpretation of this Agreement.

Section 2.8 **Amendments; Waivers**. An amendment, modification or waiver to any provision of this Agreement will require the written consent of the Company and the Holders of a majority of the Registrable Securities outstanding on the date of such amendment, modification or amendment, except in the case of any amendment, modification or waiver of any warranty, covenant, obligation or other provision of this Agreement relating only to a particular Registration Statement which has been filed with the SEC, which will require the written consent of Holders representing a Majority in Interest of Participating Holders relating to that Registration Statement.

No waiver by any party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, may be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising because of any prior or subsequent such occurrence. Neither the failure nor any delay on the part of any party to exercise any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise of the same or of any other right or remedy.

Section 2.9 **Severability**. The provisions of this Agreement will be deemed severable and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the other provisions hereof; provided, that if any provision of this Agreement, as applied to any party or to any circumstance, is judicially determined not to be enforceable in accordance with its terms, the parties agree that the court judicially making such determination may modify the provision in a manner consistent with its objectives such that it is enforceable, and/or to delete specific words or phrases, and in its modified form, such provision will then be enforceable and will be enforced.

Section 2.10 **Counterparts; Effectiveness**. This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. This Agreement will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

Section 2.11 **Construction**. This Agreement has been freely and fairly negotiated among the parties. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties and no presumption or burden of proof will arise favoring or disfavoring any party because of the authorship of any provision of this Agreement. Any reference to any law will be deemed to refer to such law as in effect on the date hereof and all rules and regulations promulgated thereunder, unless the context requires otherwise. The words "include," "includes," and "including" will be deemed to be followed by "without limitation." Pronouns in masculine, feminine, and neuter genders will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context otherwise requires. The words "this Agreement," "herein," "hereof," "hereby," "hereunder," and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The parties intend that each representation, warranty, and covenant contained herein will have independent significance. If any party has breached any covenant contained herein in any respect, the fact that there exists another covenant relating to the same subject matter (regardless of the relative levels of specificity) which the party has not breached will not detract from or mitigate the fact that the party is in breach of the first covenant.

Section 2.12 **Termination of Registration Rights**. This Agreement, including, without limitation, the Company's obligations under Sections 1.2 and 1.3 hereof to register Registrable Securities for sale under the Securities Act, shall terminate on the first date on which Rule 144 or another similar exemption under the Securities Act is available for the sale of all of the Registrable Securities then held by the Holders without limitation during a three-month period without registration. Notwithstanding any termination of this Agreement pursuant to this Section 2.12, the parties' rights and obligations under Section 1.7 and 1.8 and Article II hereof shall continue in full force and effect.

Section 2.13 **Adjustments for Stock Splits, Etc.**. Wherever in this Agreement there is a reference to a specific number of shares of the Company's capital stock of any class or series, then, upon the occurrence of any subdivision, combination or stock dividend of such class or series of stock, the specific number of shares so referenced in this Agreement will automatically be proportionally adjusted to reflect the effect of such subdivision, combination or stock dividend on the outstanding shares of such class or series of stock.

Section 2.14 **Aggregation of Stock**. All shares of Registrable Securities owned or acquired by any Holder or its Affiliated entities or persons (assuming full conversion, exchange and exercise of all convertible, exchangeable and exercisable securities into Registrable Securities) shall be aggregated together for the purpose of determining the availability of any right under this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Registration Rights Agreement as of the date first above written.

COMPANY: EVOLUS, INC.

By: /s/ David Moatazedi
Name: David Moatazedi
Title: President and Chief Executive Officer

INVESTOR: **MEDYTOX, INC.**

By: /s/ Hyun Ho Jung
Name: Hyun Ho Jung
Title: CEO & President

EXHIBIT A

FORM OF JOINDER AGREEMENT

This JOINDER AGREEMENT to the Registration Rights Agreement (the "**Joinder Agreement**") is made and entered into as of _____ by and among Evolus, Inc., a Delaware corporation (the "**Company**"), and the undersigned (the "**Joining Party**"), and related to that certain Registration Rights Agreement dated as of _____, 2020 (as amended from time to time, the "**Registration Rights Agreement**"), by and between the Company and Medytox, Inc. ("**Investor**"). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Registration Rights Agreement.

WHEREAS, the Joining Party is acquiring the Company's Common Stock, and in connection therewith the Company has agreed to grant certain registration rights to such Joining Party as provided for in the Registration Rights Agreement; and

WHEREAS, the Joining Party has agreed to become a party to the Registration Rights Agreement on the terms set forth herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agrees as follows:

1. The Joining Party hereby acknowledges that it has received a copy of the Registration Rights Agreement and all other documents it deems fit to enter into this Joinder Agreement, and acknowledges and agrees to (i) join and become a party to the Registration Rights Agreement as indicated by its signature below, (ii) be bound by all covenants, agreements, representations, warranties, indemnities and acknowledgements attributable to the Holder as if the Joining Party was a party thereto as of the date of the Registration Rights Agreement; (iii) perform all obligations and duties required and be entitled to all of the benefits of an Investor pursuant to the Registration Rights Agreement and (iv) agree to be deemed a "Holder"" under the Registration Rights Agreement.

2. The Joining Party hereby represents and warrants to the Company that it has all the requisite [corporate] power and authority to execute, deliver and perform such Joining Party's obligations under this Joinder Agreement.

3. This Joinder Agreement shall be binding upon and shall inure to the benefit of, and be enforceable by, the Company, the Investor and the Joining Party and their respective heirs, representatives, successors and assigns.

4. This Joinder Agreement may be signed in two or more counterparts (which may be delivered in original form or in electronic format), each of which shall constitute an original when so executed and delivered and all of which together shall constitute one and the same agreement.

5. No amendment or waiver of any provision of this Joinder Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing signed by the parties to the Registration Rights Agreement.

6. The validity and interpretations of this Joinder Agreement, and the terms and conditions set forth herein, shall be governed by and construed in accordance with the laws of the State of Delaware.

[***Signatures on Next Page***]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Joinder Agreement as of the date written below.

JOINING PARTY:

Print Name:

Signature:

Address:

Telephone:
Facsimile
E-Mail
Common Stock Held:

COMPANY:

Acknowledged and Accepted:
EVOLUS, INC.
By:
Name:
Title

INVESTOR

Acknowledged and accepted for itself and on behalf of the other Holders, if any:
MEDYTOX, Inc.
By:
Name:
Title

SETTLEMENT AND LICENSE AGREEMENT

This Settlement and License Agreement ("**Agreement**") made and entered into as of February 18, 2021 (the "**Effective Date**"), by and between, on the one hand, Allergan Limited, a company duly organized and existing under the laws of Ireland, having its principal place of business at Clonshaugh Business and Technology Park, Coolock, County Dublin, Ireland, Allergan, Inc., a corporation duly organized and existing under the laws of Delaware, having its principal place of business at 5 Giralda Farms, Madison, New Jersey 07940, Allergan Pharmaceuticals Ireland, a company duly organized and existing under the laws of Ireland, having its principal place of business at Castlebar Road, Westport, County Mayo, Ireland (Allergan Limited, Allergan, Inc., and Allergan Pharmaceuticals Ireland hereinafter referred to collectively as "**Allergan**"), and Medytox, Inc. ("**Medytox**") a company duly organized and existing under the laws of South Korea, having its principal office at 78 Gangni 1-gil Ochang-up Cheongwon-gu Cheongju-si North Chungcheong 28126, Republic of South Korea (Allergan and Medytox hereinafter referred to collectively as "**Complainants**"), and, on the other hand, Evolus, Inc., ("**Evolus**") a company duly organized and existing under the laws of Delaware, having its principal office at 520 Newport Center Drive, Suite 1200, Newport Beach, CA 90660 (each individually a "**Party**," and collectively the "**Parties**").

WHEREAS, Allergan, Inc. and Allergan Limited and Medytox are co-complainants in the case captioned *Certain Botulinum Toxin Products, Processes for Manufacturing or Relating to Same and Certain Products Containing Same;* Inv. No. 337-TA-1145, before the United States International Trade Commission ("**ITC**") alleging violations by Daewoong Pharmaceuticals Co., Ltd. ("**Daewoong**") and Evolus of Section 337 of the Tariff Act of 1930 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain botulinum toxin products, processes for manufacturing or relating to same and certain products containing same by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure a domestic industry in the United States (the "**ITC Action**").

WHEREAS, Medytox is the holder and/or controls the use of a strain of *C. botulinum* and certain trade secrets regarding the manufacture of botulinum toxin.

WHEREAS, Allergan Pharmaceuticals Ireland, Allergan Inc. and Medytox are parties to (i) a License Agreement (the "**Allergan-Medytox License Agreement**"), dated as of September 25, 2013, as amended **[***]**.

WHEREAS, Evolus is the holder of U.S. Biologics License Application ("**BLA**") No. 761085 for Jeuveau® (prabotulinumtoxinA), which is manufactured by Daewoong in Korea, and Evolus markets Jeuveau® in the United States.

WHEREAS, Evolus and Daewoong are parties to a License & Supply Agreement, entered September 30, 2013 (the "**Evolus-Daewoong Supply Agreement**"),

as amended by certain amendments dated February 26, 2014, and July 15, 2014 (the "**Amendments to Evolus-Daewoong Supply Agreement**"),

WHEREAS, on December 16, 2020, the ITC determined there was a misappropriation of trade secrets relating to Medytox's manufacturing process and ordered a Limited Exclusion Order and Cease and Desist Order against Evolus and Daewoong for 21 months, under which Evolus was required to post a bond of $441 per 100 unit vial of Jeuveau® sold or distributed during the Presidential Review Period ("**PRP**").

WHEREAS, Medytox filed a Complaint against Evolus, Daewoong, Daewoong Co. Ltd., Alphaeon Corp., Sch-Aeon, LLC, Byung Kook Lee ("Dr. Lee"), Chun Yoon, Jae Seung Yoon, and Chang Woo Suh, captioned *Medytox Inc. v. Daewoong Pharmaceuticals Co., Ltd*., Case No. 30-2017-00924912-CU-IP-CJC, in the Superior Court of California, Orange County, alleging violations of California Bus. and Prof. Code § 17200, *et seq*., violations of California Uniform Trade Secret Act, Cal. Civ. Code § 3426, conversion based on alleged theft of Medytox's *C. botulinum* strain, intentional interference with prospective economic relations, unjust enrichment, and breach of contract (the "**California Action**").

WHEREAS, Medytox filed a civil complaint, requested a criminal investigation, and filed a complaint with the Ministry of SMEs and Startups against Daewoong in Korea based on alleged theft of Medytox's *C. botulinum* strain, and misappropriation of trade secrets and seeking relief that may affect Evolus's rights in the Territory (the "**Korean Actions**").

WHEREAS, Evolus and Medytox have agreed to enter into that certain Settlement and License Agreement, dated as of February 18, 2021, wherein Medytox granted Evolus a Commercialization License and a Manufacturing License in Canada, the European Union, Switzerland, member countries and cooperating countries of the European Economic Area, Russia, the Commonwealth of Independent States, South Africa, Australia and Japan and Renewal Licenses, as defined therein, relating to such territories and the United States and its territories and possessions ("**ROW Settlement and License Agreement**").

WHEREAS, Allergan and Medytox [***].

WHEREAS, pursuant to the terms of this Agreement, the Parties mutually desire to resolve the disputes which are the subject matter of the ITC Action and the California Action in order to avoid risks and expenses of litigations related to those actions; and to resolve any indirect disputes which are the subject matter of the Korean Actions insofar as they might adversely impact Evolus's ability to have the Licensed Products manufactured by Daewoong.

WHEREAS, the Parties desire to enter into a negotiated and consensual license agreement to settle all outstanding disputes and avoid future disputes between them with regard to the matters alleged in the California Action, the ITC Action, and the Korean Actions.

WHEREAS, reference in this Agreement to any Party or Daewoong shall include reference to all of such entities' present or future Affiliates, including, without limitation, in the case of Allergan, AbbVie, Inc., Allergan, Inc., Allergan Limited, and Allergan Pharmaceuticals Holdings (Ireland) Unlimited Company.

NOW, THEREFORE, in consideration of the foregoing and the mutual undertakings set forth in this Agreement, the receipt and adequacy of which are hereby acknowledged, and with the foregoing recitals being incorporated herein, the Parties, intending to be legally bound, agree as follows:

It is expressly understood by the Parties hereto that this Agreement is dependent and conditioned upon the execution of the ROW Settlement and License Agreement and that in the event that said ROW Settlement and License Agreement is not executed, the Parties will incur no responsibilities, obligations or liabilities under this Agreement.

It is expressly understood by the Parties hereto that this Agreement is dependent and conditioned upon the execution of the Agreement Regarding Implementation of Settlement Agreement by Allergan and Medytox. In the event that said Agreement Regarding Implementation of Settlement Agreement is not executed, the Parties will incur no responsibilities, obligations or liabilities under this Agreement.

1. Definitions.

For purposes of this Agreement, the following words and expressions shall, unless context otherwise requires, have the following meanings:

1.1 **"Accounting Standards"** mean the U.S. Generally Accepted Accounting Principles ("GAAP").

1.2 **"Actions"** mean the ITC Action, the California Action, and the Korean Actions.

1.3 **"Affiliate(s)"** with respect to any Party means any individual, corporation, association, or other business entity (collectively, "Person") that directly or indirectly controls, is controlled by, or is under common control with the Party in question. As used in this definition of "Affiliate," the term "control" shall mean the direct or indirect ownership of fifty percent (50%) or more of the securities or other ownership interests representing the equity, the voting stock or general partnership interest. Notwithstanding the terms of this definition, Alphaeon Corporation, Alphaeon 1 LLC, Aeon Biopharma

Inc., Strathspey Crown Holdings Group LLC, and Daewoong are not Affiliates of Evolus and do not obtain any licensing rights or releases pursuant to this Agreement.

1.4 "**Business Day**" means 9:00 am to 5:00 pm Eastern Time on a day other than a Saturday, Sunday, federal, or bank holiday in the United States.

1.5 "**Commercialization**" means the activities, either by itself or through its sub-licensees, agents, resellers, distributors, suppliers, partners, co-promoters, or similar associates, of using, supplying, exporting to territories for which Evolus has rights to market and/or sell Licensed Product, pricing, promoting, distributing, selling, offering to sell, disposing, offering to dispose, or keeping of any Licensed Product in the Territory. "**Commercialize**" has a correlative meaning.

1.6 "**Confidential Information**" means all non-public materials, information and data concerning the disclosing party and its operations that is disclosed by the disclosing party to the receiving party pursuant to this Agreement, orally or in written, electronic or tangible form, or otherwise obtained by the receiving party through observation or examination of the disclosing party's operations. Confidential Information includes, but is not limited to, information about the disclosing party's financial condition and projections; business, marketing or strategic plans; sales information; customer lists; price lists; databases; trade secrets; product prototypes and designs; techniques, formulae, algorithms and other non-public process information. Confidential Information includes such information disclosed during the Actions. Notwithstanding the foregoing, Confidential Information of a party shall not include that portion of such materials, information and data that, and only to the extent that, the recipient can establish by written documentation: (a) is known to the recipient as evidenced by its written records before receipt thereof from the disclosing party, (b) is disclosed to the recipient free of confidentiality obligations by a Third Party who has the right to make such disclosure without obligations of confidentiality, (c) is or becomes part of the public domain through no fault of the recipient, or (d) the recipient can reasonably establish is independently developed by persons on behalf of recipient without the use of the information disclosed by the disclosing party. Notwithstanding anything else in this definition, any information that has been maintained under seal in the ITC Action is Confidential Information, including, but not limited to information relating to Medytox's botulinum toxin manufacturing process.

1.7 "**Daewoong**" means Daewoong Pharmaceutical Co., Ltd., and all of its present and future Affiliates.

1.8 **"Government Authority"** means any federal, state, national, supranational, local, or other government, whether domestic or foreign, including any subdivision, department, agency, instrumentality, authority (including any regulatory or administrative authority), body, commission, board, or bureau thereof, or any court, tribunal, or arbitrator.

1.9 **"Licensed Product"** means any botulinum neurotoxin products manufactured by Daewoong or its Affiliates, or any successor to Daewoong or its Affiliates, with the generic name prabotulinumtoxinA for any of Evolus's products made according to a process that is or will be approved by, and whose sale and/or marketing is or will be approved by a Government Authority in the Territory. Licensed Product includes, but is not limited to, the prabotulinumtoxinA product that is the subject of BLA No. 761085, that is marketed as Jeuveau® in the United States. For the avoidance of doubt, the product known as **[***]**, for which Allergan holds a license from Medytox, shall not under any circumstance become a Licensed Product under this Agreement.

1.10 **"Licensed Rights"** mean Medytox's strain of *C. botulinum* and trade secrets regarding the manufacture of botulinum toxin that were, could have been, or will be alleged in the California Action, ITC Action, and/or Korean Actions to have been misappropriated.

1.11 "**Manufacturing**" means all activities, either by itself or through its suppliers, agents, Affiliates, manufacturers, related to the manufacturing, production or making of the Licensed Product, or any component thereof, for Commercialization or use in the Territory, including, but not limited to test method development and stability testing, formulation, process development, manufacturing scale-up, manufacturing any Licensed Product in bulk or finished form for development, manufacturing the drug substance for any Licensed Product, manufacturing the drug product for any Licensed Product, manufacturing a finished Licensed Product for Commercialization, packaging, in-process and finished Licensed Product testing, release of a Licensed Product or any component or ingredient thereof, quality assurance activities related to manufacturing and release of a Licensed Product, regulatory activities related to any of the foregoing and any shipping, export and distribution to and within the Territory of such Licensed Products and importation into the Territory of such Licensed Products. "**Manufacture**" has a correlative meaning.

1.12 **"Marketing Authorization"** means an approval or authorization from the appropriate Government Authority in the Territory (including the BLA and all licenses, registrations, and pricing or reimbursement approvals) as required to permit Commercialization in and for the Territory (including clinical testing, manufacture, distribution, or use of such Licensed Product).

1.13 **"Regulatory Materials"** means regulatory applications, submissions, notifications, communications, correspondence, registrations, common technical documents, technical documents, Marketing Authorizations or other filings made to, received from or otherwise conducted with a Government Authority in order to Commercialize the Licensed Product in the Territory.

1.14 "**Release Date**" means the date on which all Initial License Payments under Section 4 of the ROW Settlement and License Agreement have been made and all License Payments under Section 5 of the this Agreement have been made, **provided that**: (a) no party has exercised its right to terminate this Agreement or the ROW Agreement;

and (b) this Agreement and the ROW Agreement are assumed pursuant to a court order in the event Evolus enters into bankruptcy proceedings.

1.15 **"Reporting Period"** means a calendar quarter (or three month period), except the first Reporting Period shall begin on December 16, 2020, and end on March 31, 2021, and the last Reporting Period shall begin on July 1, 2022 and end on September 16, 2022.

1.16 "**Royalty**" means on a [***] basis of any Licensed Product sold in the Territory by Evolus, or its Affiliates or Sublicensees, to any other Third Party, excluding vials that are rejected, recalled, replaced or returned for any reason, or that are provided by Evolus without charge as part of any commercially reasonable program including a clinical, medical affairs, promotional, or educational program. For the avoidance of doubt, the Royalty for a [***] of Licensed Product is [***]; the Royalty for a [***] of Licensed Product is [***].

1.17 "**Royalty Period**" means the period starting on December 16, 2020 and ending on September 16, 2022.

1.18 "**Sales and Royalty Report**" means a written report or reports showing each of (1) the sales and corresponding number of vials and the units of said vials, of Licensed Product in the Territory during the Reporting Period by Evolus and its Affiliates and sublicensees, and (2) the Royalties payable in U.S. Dollars which shall have accrued hereunder with respect to such sales. For the avoidance of doubt, the Sales and Royalty Report shall be considered Confidential Information under this Agreement and shall be limited to those employees of Medytox and Allergan that have a need to know such information for purposes of accounting for the Royalty and shall not be utilized for Medytox's or Allergan's pricing strategy, sales, marketing or other commercial activities.

1.19 "**Territory**" shall mean the United States, including its territories and possessions.

1.20 "**Third Party**" means any person or entity other than Allergan, Medytox, Evolus, or their Affiliates.

2 Termination of Actions.

2.1. The Parties shall (and shall procure that their Affiliates, if necessary, shall) and Evolus shall (and, if necessary, shall use commercially reasonable efforts to cause Daewoong to) undertake the following:

2.1.1. Within five (5) Business Days of the Effective Date, Complainants shall file, or have caused to be filed jointly if permitted by local procedural rules, irrevocable (except in the event of termination of this Agreement pursuant to Sections 6.2 or 6.3 or the occurrence of the circumstances described in Section 10.7), stipulations of dismissal and/or motions to terminate the ITC Action and

the California Action so that the Parties' and/or their Affiliates' respective claims and counterclaims in those actions are dismissed without prejudice in accordance with the local rules applicable to the relevant action. Such stipulations of dismissal from or motions to terminate the actions shall be subject to approval by each of the Parties before filing.

2.1.2. Within five (5) Business Days of the Effective Date, the Parties shall jointly file a petition in a form to be agreed requesting that the International Trade Commission promptly rescind the Limited Exclusion Order and the Cease and Desist Order entered in the ITC Action.

2.1.3. To the extent any appeals have been filed in relation to the ITC Action, the Parties agree that within five (5) Business Days of the Effective Date, all Parties shall jointly file, or have cause to be filed, a withdrawal of such appeals, and Evolus shall use commercially reasonable efforts to cause Daewoong to join in such withdrawal, **provided that** if Daewoong does not join a request to withdraw all pending appeals, Medytox and/or Allergan may elect to continue their appeal with respect to Daewoong and if the ITC Action or appeals therefrom continue as it relates to Daewoong this Agreement shall remain in full force and effect notwithstanding the outcome thereof.

2.1.4. To the extent necessary, within five (5) Business Days of the Effective Date, Medytox shall file, or cause to be filed, an appropriate document (except in the event of termination of this Agreement pursuant to Sections 6.2 or 6.3or the occurrence of the circumstances described in Section 10.7) in the Korean Actions that Medytox is not seeking and that, to the extent it is within Medytox's control, the Korean Actions shall not adversely affect any rights granted under the Commercialization License of Section 4.1 and the Manufacturing License of Section 4.2, including the right to Commercialize, and obtain or maintain Marketing Authorization and any Regulatory Materials related to the Licensed Product in the Territory and the right to Manufacture or have Manufactured Licensed Product in the Territory during the Royalty Period. Medytox further agrees that it will be legally bound by the submitted document, and it will not revoke the filing of such document or the relief requested therein. For the avoidance of doubt, and as stated in Sections 3.2 and 5.1, the Initial Licenses and Renewal License shall be operable, as prescribed in this Agreement, notwithstanding any potential remedies issued in the Korean Actions.

2.1.5. To the extent possible, the Parties shall ensure that the filings described in Sections 2.1.1 through 2.1.4 shall be without an order as to costs.

2.1.6. The Parties shall cooperate and work together (and procure the same from their respective Affiliates) to dismiss, move to terminate, withdraw, or stipulate in accordance with Sections 2.1.1 through 2.1.4.

2.2. The Parties shall each be responsible for their own attorneys' fees, costs and expenses in connection with this Agreement and the California Action, the ITC Action, and the Korean Actions.

2.3. Subject to non-termination of this Agreement pursuant to Sections 6.2 or 6.3, Complainants shall not bring any proceeding or action, or submit any complaint, against Evolus alleging any violation of the Limited Exclusion Order and Cease and Desist Order entered in the ITC Action.

2.4. All Parties agree that within twenty (20) Business Days of the Release Date counsel for each of the Parties shall destroy all Confidential Information produced by another Party in the course of the California Action and ITC Action. Notwithstanding the foregoing, counsel for the Parties in the California Action and ITC Action may keep an archival copy of the produced documents and any work product that copies or references said produced documents.

2.5. Upon termination of the ITC Action as to Evolus, Evolus shall file, or have caused to be filed jointly by the Parties and Daewoong, if so permitted, the necessary motions to effectuate the return to Evolus of the full amount of the bond payments that Evolus has posted with the U.S. Treasury during the PRP, and Medytox and Allergan will not oppose.

2.6. Upon termination of the ITC Action as to Evolus and subject to non-termination of this Agreement pursuant to Sections 6.2 or 6.3, Complainants shall assist Evolus, as needed, to ensure U.S. Customs and Border Protection permits importation by or for Evolus of the Licensed Products into the Territory during the Royalty Period.

2.7. Upon termination or dismissal of the California Action, modification of the Limited Exclusion Order, and rescission of the Cease and Desist Order pursuant to Section 2.1.2, Complainants agree, subject to non-termination of this Agreement pursuant to Sections 6.2 or 6.3, that Evolus may, without interference from Complainants, Commercialize and obtain or maintain Marketing Authorization and all Regulatory Materials related to any Licensed Product in the Territory, and may, without interference from Complainants, Manufacture or have Manufactured any Licensed Product, or any component thereof, for Commercialization or use in the Territory during the Royalty Period.

3. Mutual Releases.

3.1. The Parties agree that this Agreement is in full and final settlement of all and any claims or cause of action, directly or indirectly, that Allergan and Medytox and their respective Affiliates, on the one hand, and Evolus and their respective Affiliates on the other hand, have against the other relating to the California Action, the ITC Action, and the Licensed Rights in the Territory, including without limitation any claims for damages, interest, or costs.

3.2. Subject to non-termination of this Agreement pursuant to Sections 6.2 or 6.3, Allergan, on behalf of itself, each of its Affiliates and each of its respective officers, directors, shareholders, members, agents, and representatives, hereby irrevocably and unconditionally releases, acquits and forever discharges Evolus and all current, former, and future Affiliates, subsidiaries, members, managers, directors, officers, shareholders, employees, predecessors, successors, and agents, and its customers, agents, attorneys, licensors, distributors, resellers, purchasers, donees, vendors, or vendees (collectively, the "Evolus Releasees") from all past and present actions, causes of action, claims for relief or demands in law or in equity, and from any claims for or allegations of liability, debts, contracts, promises, obligations, damages, attorneys' fees, costs, interest, or expenses, whether fixed or contingent, asserted or unasserted, that Allergan now has against any of the Evolus Releasees, for, upon, or by reason of any act, omission, representation, or any other matter or cause, respecting the claims and allegations made in the ITC Action and those arising from the same nucleus of operative fact. Nothing contained in this Section 3.2 will release the Evolus Releasees from any claim based upon any material misrepresentations made in this Agreement unless cured within sixty (60) days of receiving written notice thereof from Allergan, or material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not remedied to the reasonable satisfaction of Allergan within sixty (60) days of service of written notice by Allergan.

3.3. Effective as of the Release Date, and subject to Section 10.7, Medytox, on behalf of itself, each of its Affiliates and each of its respective officers, directors, shareholders, members, agents, and representatives, hereby irrevocably and unconditionally releases, acquits and forever discharges the Evolus Releasees from all past and present actions, causes of action, claims for relief or demands in law or in equity, and from any claims for or allegations of liability, debts, contracts, promises, obligations, damages, attorneys' fees, costs, interest, or expenses, whether fixed or contingent, asserted or unasserted, that Medytox now has against any of the Evolus Releasees, for, upon, or by reason of any act, omission, representation, or any other matter or cause, respecting the Commercialization or Manufacturing of Licensed Products and the Licensed Rights in the Territory during the Royalty Period, and all causes of action that were, could have been, or will be asserted in the Actions. Nothing contained in this Section 3.3 will release the Evolus Releasees from any claim based upon any material misrepresentations made in this Agreement unless cured within sixty (60) days of receiving written notice thereof from Medytox, or material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not remedied to the reasonable satisfaction of Medytox within sixty (60) days of service of written notice by Medytox. Medytox agrees that Evolus can, without interference from Medytox, Manufacture, have Manufactured, Commercialize, and obtain or maintain Marketing Authorization and any Regulatory Materials related to the Licensed Product in the Territory during the Royalty Period.

3.4. Subject to non-termination of this Agreement pursuant to Sections 6.2 or 6.3, Evolus, on behalf of itself, each of its Affiliates and each of its respective officers,

directors, shareholders, members, agents, and representatives, hereby irrevocably and unconditionally releases, acquits and forever discharges Allergan, Medytox, and its current, former, and future Affiliates, subsidiaries, members, managers, directors, officers, shareholders, employees, predecessors, successors, and agents, and its customers, agents, attorneys, licensors, distributors, resellers, purchasers, donees, vendors, or vendees (collectively, the "Allergan/Medytox Releasees") from all past and present actions, causes of action, claims for relief or demands in law or in equity, and from any claims for or allegations of liability, debts, contracts, promises, obligations, damages, attorneys' fees, costs, interest, or expenses, whether fixed or contingent, asserted or unasserted, that Evolus has against any of the Allergan/Medytox Releasees, for, upon, or by reason of any act, omission, representation, or any other matter or cause, respecting the Licensed Rights as they pertain to the Commercialization or Manufacturing of Licensed Products or component(s) thereof, and all causes of action that were, could have been, or will be asserted in the Actions. Nothing contained in this Section 3.4 will release the Allergan/Medytox Releasees from any claim based upon any material misrepresentations made in this Agreement unless cured within sixty (60) days of receiving written notice thereof from Evolus, or material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not remedied to the reasonable satisfaction of Evolus within sixty (60) days of service of written notice by Evolus.

3.5. Effective as of the Effective Date, Evolus hereby releases, indemnifies, and holds Allergan and Medytox harmless from any and all product liability claims, actions, losses, damages, and liabilities resulting from or arising out of the use or sale of Licensed Products under this Agreement.

3.6. For the avoidance of doubt, all releases under this Section 3 do not release either Party and/or their Affiliates from their contractual obligations under this Agreement and are without prejudice to the Parties' rights to raise claims, defend claims, and seek remedies for breach of this Agreement.

3.7. For the avoidance of doubt, Alphaeon Corporation, Alphaeon 1 LLC, Aeon Biopharma Inc., and Strathspey Crown Holdings Group LLC are not Affiliates of Evolus and do not obtain any releases pursuant to this Agreement, including the releases contained in this Section 3.

3.8. **Unknown Claims/California Civil Code Section 1542 Waiver**: The Parties each expressly assume the risk that by entering into this Agreement and the releases contained herein, each will forever waive claims, causes of action, and damages that may exist before the Effective Date of this Agreement, but which it does not know of, or suspect to exist, and which, if known, would have materially affected the Party's decision to enter into this Agreement. In that regard, the Parties acknowledge that they have been informed by their counsel of the provisions of Section 1542 of the Civil Code of the State of California, and expressly waive and relinquish all rights and benefits which they might have had under that section which reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The Parties hereby expressly waive and relinquish all rights and benefits under that Section 1542 of the Civil Code of the State of California and any law or legal principle of similar effect in any jurisdiction with respect to the release granted in this Settlement Agreement.

4. <u>License.</u>

4.1. **Commercialization License**. During the Royalty Period only, as to Medytox, and from December 16, 2020 until the last of the Licensed Rights expires, as to Allergan, Medytox and Allergan hereby grant Evolus and its Affiliates a non-exclusive, royalty-bearing, irrevocable (except pursuant to Sections 6.2 or 6.3 or the occurrence of the circumstances described in Section 10.7) right and license to the Licensed Rights to Commercialize and obtain or maintain the Marketing Authorization and all Regulatory Materials related to any Licensed Product in the Territory (the "**Commercialization License**"). For the avoidance of doubt, any sale of Licensed Product in the Territory by Evolus during the PRP is authorized under the License.

4.2. **Manufacturing License**. During the Royalty Period only, Allergan and Medytox hereby grant Evolus and its Affiliates a non-exclusive, royalty-bearing, irrevocable (except pursuant to Sections 6.2 or 6.3 or the occurrence of the circumstances described in Section 10.7) right and license to the Licensed Rights to Manufacture or have Manufactured Licensed Product (including by non-Affiliates of Evolus, and specifically including Daewoong or its Affiliates, or any successor to Daewoong or its Affiliates) for the Territory, including to Manufacture and have Manufactured Licensed Product outside the Territory so long as such Licensed Product is or will be Commercialized, used to obtain or maintain Marketing Authorization and all Regulatory Materials related to any Licensed Product in the Territory (the "**Manufacturing License**" and collectively with the Commercialization License, the "**Licenses**"). For the avoidance of doubt, the Licenses shall be operable during the Royalty Period notwithstanding any potential remedies issued in the Korean Actions.

4.3. Evolus and its Affiliates shall have the right to grant written sublicenses of the Commercialization License granted under Section 3.1 and/or the Manufacturing License granted under Section 3.2 to non-Affiliate entities (individually, "**Sublicensee**" and collectively, "**Sublicensees**"), with prior approval from Allergan and Medytox, which shall not be unreasonably withheld. If Evolus grants such a sublicense, Evolus shall ensure that all of the applicable terms and conditions of this Agreement shall apply to the Sublicensee to the same extent that they apply to Evolus for all purposes. For the avoidance of doubt, Sublicensee does not include any Third-Party through which Evolus

or its Affiliates utilize the Commercialization License or Manufacturing License pursuant to Section 3.1 and 3.2 respectively.

4.4. For the avoidance of doubt Alphaeon Corporation, Alphaeon 1 LLC, Aeon Biopharma Inc., and Strathspey Crown Holdings Group LLC are not Affiliates of Evolus and do not obtain any licensing rights under this Agreement, including those described in this Section 4.

4.5. **Termination of Licenses.** After the Royalty Period ends, the Manufacturing License shall expire and the Commercialization License granted by Medytox shall expire. After the Royalties Period ends and Evolus has made the License Payments set forth in Sections 5.2 and 5.3, the Commercialization License granted by Allergan shall be fully paid-up and irrevocable.

5. License Payments.

5.1. In consideration for the grant of the Licenses described in Section 4 and subject to: (i) the modification of the Limited Exclusion Order and the rescission of the Cease and Desist Order, as described in Sections 2.1.1 and 2.1.2 and (ii) the termination of the California Action, as described in Section 2.1.1, Evolus shall pay to Complainants pursuant to the method prescribed in Exhibit A to this Agreement the following payments and amounts set forth in Sections 5.2 and 5.3 (the "**License Payments**"):

5.2. **Lump-Sum License Fees:**

5.2.1. Upon the Effective Date, Evolus shall be obligated to pay Complainants a one-time up-front license fee in the amount of $15,000,000.00 (fifteen million U.S. dollars). Such payment shall be payable within ninety (90) days of the date of the latest-in-time termination or dismissal of the Actions pursuant to Sections 2.1.1 through 2.1.3.

5.2.2. On the first Business Day twelve (12) months after the Effective Date, Evolus shall pay Complainants a lump sum of $15,000,000.00 (fifteen million U.S. dollars).

5.2.3. On the first Business Day twenty-four (24) months after the Effective Date, Evolus shall pay Complainants a lump sum of $5,000,000.00 (five million U.S. dollars).

5.3. **Royalties**. During the Royalty Period, Evolus will be obligated to pay the Royalty to Complainants. Such Royalty payments will be made for a given Reporting Period within seventy-five (75) days of the end of each calendar quarter containing the applicable Reporting Period; provided that, for Royalties due for the Reporting Period from [***] through [***] the Royalty shall be payable at the same time as the Royalty payable for the Reporting Period from [***] to [***]. Each Royalty payment shall be accompanied by a Sales and Royalty Report sent to Allergan and Medytox at the E-mail

addresses set forth in Section 10.5. For the avoidance of doubt, the Sales and Royalty Report shall be considered Confidential Information under this Agreement and shall be limited to those employees of Complainants that have a need to know such information for purposes of accounting for the Royalty and shall not be utilized for Complainants' pricing strategy, sales, marketing, or other commercial activities.

5.4. To the extent that there are any deductions to Royalties due for a Reporting Period that occur after the Royalty payment for that Reporting Period has been made, such deductions shall be accounted for as a credit against any Royalty payment payable in a subsequent Reporting Period. Any such credit shall be set forth on the Sales and Royalty Report for the Reporting Period in which the credit is accounted for. To the extent that there are any deductions to Royalties due that occur after Evolus has made its last Royalty payment, Complainants shall reimburse Evolus for such deduction within twenty (20) Business Days after Evolus notifies Complainants of such deduction, provided such notice is made within sixty (60) days of the end of the calendar Royalty Period.

5.5. For the avoidance of doubt, only one Royalty payment under Section 5.3 is due for any Licensed Product, whether manufactured or sold by Evolus, its Affiliates, sub-licensees, agents, resellers, distributors, suppliers, partners, co-promoters, or similar associates for Commercialization.

5.6. For the avoidance of doubt, Evolus shall be required to continue making the License Payments regardless of the status or expiration of the Licensed Rights. In the event of termination of this Agreement, as set forth in Sections 6.1, 6.2, or 6.3, Evolus shall still be required to make any Royalty Payments accrued through the effective date of such termination on the schedule set forth in Section 5.3 and Complainants shall still be obligated to make any reimbursements for any deductions to Royalties that occur after Evolus has made its last Royalty Payment on the schedule set forth in Section 5.4.

5.7. **Records and Audits.**

5.7.1. Evolus shall keep complete, true, and accurate books and records in accordance with the Accounting Standards in relation to this Agreement, including in relation to sales of Licensed Products and Royalties. Evolus will keep such books and records for at least three (3) years following the calendar year to which they pertain.

5.7.2. **Audit Rights**. On an annual basis, Allergan or Medytox may, upon written request and at its own expense, cause an internationally recognized independent accounting firm ("Auditor"), which is reasonably acceptable to Evolus, to inspect the relevant records of Evolus to verify the Royalties payable by Evolus and the related reports, statements, and books of accounts within the three (3) years prior to the year in which such audit is conducted, as applicable. Before beginning its audit, the Auditor shall execute an undertaking acceptable to Evolus by which the Auditor agrees to keep confidential all information reviewed

during the audit. Allergan and Medytox may each designate one external law firm who, upon execution of the same undertaking to Evolus required of the Auditor, may review the Auditor's work and the information on which it is based. The Auditor shall have the right to disclose to Allergan and Medytox only its conclusions regarding any payments owed under this Agreement.

5.7.3. Evolus shall make its records available for inspection by the Auditor during Evolus's regular business hours at such place or places where such records are customarily kept, upon receipt of reasonable advance notice from Allergan, Medytox and/or the Auditor. The records shall be reviewed solely to verify the accuracy of Evolus's Royalty payments and compliance with this Agreement. Such inspection right shall not be exercised more than once in any calendar year and not more frequently than once with respect to records covering any specific period of time, unless a prior inspection has revealed any underpayment by Evolus. Allergan and Medytox agree to hold in strict confidence all information received and all information learned in the course of any audit or inspection, except to the extent necessary to enforce its rights under this Agreement or to the extent required to comply with any law, regulation, or judicial order.

5.7.4. The Auditor shall provide its audit report and the basis for any determination to Evolus at the time such report is provided to Allergan or Medytox before it is considered final.

5.7.5. In the event that the final result of the inspection reveals an undisputed underpayment or overpayment by Evolus, the underpaid or overpaid amount shall be settled promptly.

5.7.6. Allergan and/or Medytox shall pay for such inspections, as well as their expenses associated with enforcing its rights with respect to payments hereunder. If an underpayment of more than seven point five percent (7.5%) of the total payments due for the applicable audit period is discovered, the reasonable fees and expenses charged by the Auditor shall be paid by Evolus.

6. **Term and Termination.**

6.1. This Agreement begins on the Effective Date and, unless sooner terminated as herein provided pursuant to Sections 6.2 or 6.3 provided herein or the occurrence of circumstances described in Section 10.7, shall continue in full force and effect until September 16, 2022, at which time the Commercialization License granted by Medytox under Section 4.1 and the Manufacturing License granted under Section 4.2 shall expire. The Commercialization License granted by Allergan under Section 4.1 shall be deemed fully paid up and irrevocable. Notwithstanding the foregoing, the payment obligations, including without limitation the payment obligations under Section 5, including any credit for any deductions, for any Royalties accrued prior to termination,

and the audit rights provided in Section 5.7 that are necessary to audit the records relevant to those obligations, will survive termination of this Agreement.

6.2. **Termination for Challenge**. If Evolus or any of its Affiliates or Sublicensees challenges before a court, tribunal, or government agency the validity, enforceability, scope, or protected status of any of the Licensed Rights, including but not limited to the trade secret status of any trade secret included within the scope of this Agreement, then Allergan or Medytox may terminate this Agreement after fifteen (15) Business Days of service of written notice to Evolus.

6.3. **Termination for Cause**. Any Party may terminate the Agreement with immediate effect by written notice to the other Party in the event that the other Party commits a material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not remedied to the reasonable satisfaction of the non-breaching Party within sixty (60) days of service of written notice by the non-breaching Party.

6.4. Any right to terminate this Agreement or to cancel rights and obligations hereunder is in addition to and without prejudice to any other rights or remedies any Party may be entitled to under this Agreement, at law or otherwise. On termination or expiry of this Agreement, any rights or remedies either Party may have arising from any breach of this Agreement shall continue to be enforceable.

6.5. In the event of this Agreement being terminated or expired, the confidentiality provisions of Section 9, the arbitration provisions of Section 10.8, and any other terms of this Agreement as may be necessary for interpretative purposes, shall survive such termination or expiry.

7. **Representations and Warranties.** Each Party is entering into this Agreement in reliance of the following representations and warranties of the other Parties, all of which are acknowledged to be material, and which include the following:

7.1. The execution, delivery, and performance of the obligations under this Agreement are within its power, and have been duly authorized by all necessary corporate or business action, do not contravene any law or any contractual provision binding on it, and do not require any consent or approval of any person or government authority except as set forth herein or such consents and approvals as have been obtained and are in full force and effect.

7.2. This Agreement constitutes the Party's legal, valid, and binding obligation and is enforceable in accordance with its terms.

7.3. As of the Effective Date, Allergan and Medytox represent and warrant that they collectively have the exclusive right and power to grant licenses to the License Rights.

7.4. As of the Effective Date, Allergan and Medytox represent and warrant that the California Action, the ITC Action, the Korean Actions, and Medytox's submissions to the U.S. Food and Drug Administration, and Health Canada represent the only suits, complaints, grievances, demands, claims, citizen's petitions, causes of action in, of or before any Governmental Authority to which Allergan or Medytox is a party, or in which Allergan or Medytox is directly or indirectly participating, that would (i) adversely affect Evolus's right to make, have made, Commercialize, or obtain or maintain Marketing Authorization and any Regulatory Materials for the Licensed Products in the Territory, (ii) stop Evolus's right to Manufacture or have Manufactured the Licensed Products, or any of its components, for Commercialization, or (iii) adversely affect Evolus's ability to maintain the Marketing Authorization or any Regulatory Materials related to the Licensed Products in the Territory.

7.5. Evolus warrants, as to the License Payments, that at the time of any such payment that Evolus will make or cause to be made pursuant to Section 5 of this Agreement, Evolus will not be insolvent, nor will the License Payments required to be made render Evolus insolvent, within the meaning of and/or for the purposes of the United States Bankruptcy Code, including §§ 101 and 547 thereof.

7.6. Evolus represents and warrants that, as of the Effective Date, Evolus and Daewoong are not a party to any agreements other than (a) the Evolus-Daewoong Supply Agreement (b) the Amendments to Evolus-Daewoong Supply Agreement, (c) that certain Convertible Promissory Note Purchase Agreement, dated as of July 6, 2020 by and among Evolus and Daewoong and (d) Convertible Promissory Note, dated July 30, 2020 and issued by Evolus to Daewoong. Except as disclosed in the prior sentence, as of the Effective Date, there are no agreements between Evolus and Daewoong, whereby Daewoong or an Affiliate of Daewoong could acquire, directly or indirectly, equity in Evolus.

7.7. **CFIUS Representation**. Evolus does not: produce, design, test, manufacture, fabricate, or develop one or more "critical technologies," as that term is defined in the Defense Production Act of 1950, as amended, including all implementing regulations thereof.

7.8. Each Party hereto represents and warrants to the other Party that, as of the Effective Date, the warranting Party is not subject to any judgment, order, injunction, decree, or award of any court, administrative agency, or governmental body that would or might interfere with its performance of any of its obligations hereunder.

7.9. Each Party warrants that it will not form any new or use any existing entity, or assign its rights and obligations under this Agreement or its other assets to another entity, to avoid compliance with any of the provisions of this Agreement.

7.10. Each of the Parties agrees that this Agreement is a compromise of the Parties' claims and defenses in the disputed California Action and ITC Action, and is intended to be, a full and complete settlement, discharge and release of those actions and

related claims as to the Parties, subject to Section 10.7. None of the Parties admits to or concedes any liability or wrongdoing whatsoever, and this Agreement is not, and shall not be described or characterized by any Party, or by its directors, executives, employees, agents or other representatives, as an admission by any Party or their Affiliates of any liability or wrongdoing.

7.11. The existence of this Settlement Agreement, its provisions and terms shall not be interpreted, construed, deemed, invoked, offered or received in evidence or otherwise used by any person in this or any other action or proceeding, civil, criminal or administrative, except in a proceeding to enforce the terms or conditions of the Agreement. The existence of this Agreement, its provisions and terms are not, and shall not be argued by any person to be or to be deemed to be evidence of, a concession or admission of, nor to create a presumption of any fault, liability or wrongdoing as to any facts or claims alleged or asserted in the California Action or ITC Action or any other action or proceeding.

7.12. Each of the Parties agrees to take all action necessary to carry out the intentions of the Parties as expressed in this Agreement.

7.13. **Allergan Covenant Not to Sue.** Allergan, on behalf of itself, and each of its respective Affiliates and each of their respective officers, directors, shareholders, members, agents, and representatives, each covenant not to, directly or indirectly, alone or by, with or through others, cause, induce, allow to continue or authorize or voluntarily assist, participate, or cooperate in the commencement, maintenance, or prosecution of any action, proceeding, petition, or investigation alleging misappropriation of the Licensed Rights, **except that** the foregoing shall not apply in the event Evolus commits a material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not remedied to the reasonable satisfaction of Medytox and/or Allergan within sixty (60) days of service of written notice by Medytox and/or Allergan, or the occurrence of the circumstances described in Section 10.7.

7.14. **Medytox Covenant Not to Sue.** Medytox on behalf of itself, and each of its Affiliates and each of their respective officers, directors, shareholders, members, agents, and representatives, each covenant not to, directly or indirectly, alone or by, with or through others, cause, induce, allow to continue or authorize or voluntarily assist, participate, or cooperate in the commencement, maintenance, or prosecution of any action, proceeding, petition, or investigation alleging misappropriation of the Licensed Rights or any cause of action asserted or that could have been asserted in any of the Actions, which would adversely affect Evolus's right to Commercialize the Licensed Products in the Territory, to obtain or maintain Marketing Authorization and any Regulatory Materials for the Licensed Products in the Territory, or to Manufacture or have Manufactured the Licensed Products, or any component thereof, for Commercialization or use in the Territory during the Royalty Period, **except that** the foregoing shall not apply in the event Evolus commits a material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not

remedied to the reasonable satisfaction of Medytox and/or Allergan within sixty (60) days of service of written notice by Medytox and/or Allergan, or the occurrence of the circumstances described in Section 10.7.

7.15. **No Other Warranties**. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, (A) NO REPRESENTATION, CONDITION OR WARRANTY WHATSOEVER IS MADE OR GIVEN BY OR ON BEHALF OF EITHER PARTY; AND (B) ALL OTHER CONDITIONS AND WARRANTIES WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE ARE HEREBY EXPRESSLY EXCLUDED, INCLUDING ANY CONDITIONS AND WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. Daewoong.

8.1. Nothing in this Agreement creates any right enforceable by Daewoong.

9. **Confidentiality.**

9.1. **Settlement Terms**. This Agreement, its Exhibit, and its terms and conditions including all financial terms, and the substance of all negotiations and Confidential Information disclosed by either Party in connection with it, are confidential to the Parties, their Affiliates, and their advisers, who shall not disclose them to, or otherwise communicate them to, any Third Party without the written consent of the other Party, other than:

- to the relevant Party's auditors, insurers, and lawyers on terms which preserve confidentiality;
- pursuant to an order of a court of competent jurisdiction, or pursuant to any proper order or demand made by any competent authority or body where they are under a legal or regulatory obligation to make such a disclosure;
- as far as necessary to implement and enforce any of the terms of this Agreement on terms which preserve confidentiality; or
- as otherwise authorized in writing and in advance by all other Parties.

Except as provided in Section 9.2, no Party shall issue a press release regarding this Agreement or make any public disclosure of the terms of this Agreement without the prior written approval of the other Parties. Any Party may confirm that the ITC Action has been resolved on confidential terms. For the avoidance of doubt, no Party is restricted from disclosing information about the Settlement Terms to the extent such terms have been made public in a manner consistent with the terms of this Agreement.

The Parties understand and agree that Evolus shall be required to file the complete Agreement as an exhibit to a Current Report on Form 8-K and future securities filings, which will be filed with the Securities and Exchange Commission, less those financial terms that Evolus together with its counsel reasonably believes it may obtain confidential

treatment for from the Securities and Exchange Commission. Evolus shall notify the other Parties within three (3) Business Days if the Securities and Exchange Commission denies confidential treatment of any part of the Agreement.

Notwithstanding anything to the contrary in this Agreement, the Parties understand and agree that each Party cay disclose the existence and/or terms of this Agreement (a) to comply with its obligations under the law, including, without limitation, the United States Securities Act of 1933, as amended, and the United States Securities Exchange Act of 1934, as amended (the "Exchange Act"); (b) in order to comply with the listing standards, rules, regulations or agreements of any national or international securities exchange, the NASDAQ Global Market or New York Stock Exchange or other similar laws, rules, or regulations of a governmental or regulatory authority; (c) to respond to an inquiry of a government authority or regulatory authority as required by law; (d) to comply with a court order or applicable law, governmental regulations, or investigative requests; or (e) in a judicial, administrative, or arbitration proceeding, if, in the reasonable opinion of the disclosing Party's counsel is mandated by a subpoena, discovery request, or other compulsory process. In any such event, the Party making such disclosure shall (i) provide the other Parties as much advance notice as reasonably practicable of the required disclosure, (ii) cooperate with the other Parties in any reasonable attempt to prevent or limit the disclosure, including to secure a protective order or confidential treatment of this Agreement or portions thereof, and (iii) limit any disclosure to the specific purpose at issues.

9.1. **Confirmation of Settlement.** The Parties are entitled to confirm to Third Parties the fact that the ITC Action and the California Action have been resolved on confidential terms, but not the terms of such resolution as set forth in this Agreement, in the form of a statement to be agreed, to the extent such terms have not otherwise been made public in a manner consistent with the terms of this Agreement.

10. **General Provisions.**

10.1. **Non-Disparagement**. No party shall, or encourage or induce others to, disparage or make defamatory remarks, comments, statements, representations, or other communications concerning any other Party or its respective Affiliates, officers, directors, shareholders, members, agents, representatives, products, or services, whether directly or indirectly, in writing, orally, or otherwise. Notwithstanding the foregoing, nothing in this Agreement shall preclude a Party from making truthful statements that are required by applicable law, regulation, or legal process. Nothing in the foregoing is intended to impede legitimate competition or commercially reasonably sales and marketing tactics, including commercially reasonable comparison of Licensed Products with any other product on the market.

10.2. **Choice of Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the United States of America, without regard to the principles of conflicts of laws. To the extent any dispute between

the Parties regarding this Agreement is not arbitrated pursuant to Section 10.8, the federal and state courts in California shall have jurisdiction over the parties hereto in all matters arising hereunder and the parties hereto agree that the venue with respect to such matters will be a state or federal court in the County of Orange, in the State of California.

10.3. **Headings.** Headings are solely for the convenience of the Parties and shall not be deemed to define, construe, characterize, or limit any of the provisions of this Agreement.

10.4. **Assignments.** This Agreement shall inure to the benefit of, and be binding upon, the successors, legal representatives or assigns of the Parties. For the avoidance of doubt, this Agreement shall survive a change of control of one or more of the Parties and no Party shall gain the right to terminate this Agreement upon the change of control of the other Party.

10.5. **Notices.** All notices required or permitted by this Agreement shall be in writing and shall be sent by first class mail, postage prepaid, or by delivery by a reputable delivery service such as Federal Express or DHL, addressed as follows, or sent via fax transmission with confirmation of receipt, and additional copy via email as indicated:

Allergan:

AbbVie, Inc.
[***]
[***]
[***]

Medytox:

Medytox Inc,
[***]
[***]
[***]
[***]

Evolus:

[***]
[***]
[***]
[***]

Any Party may change the address to which notices shall be sent to it by notice in writing to all other Parties.

10.6. **Equitable Relief**. Each Party acknowledges and agrees that the Parties' obligations and undertakings pursuant to Sections 2 and 3 of this Agreement are

reasonable and necessary to protect their respective legitimate interests, that the Parties would not have entered into this Agreement in the absence of such provisions, and that a Party's material breach or threatened breach or failure to comply with Sections 2 and 3 shall cause the other Parties significant and irreparable harm, the amount of which shall be extremely difficult to estimate and ascertain, and for which money damages shall not be adequate. The Parties further acknowledge and agree that they shall have the right to apply to any court of competent jurisdiction for an injunction order restraining any material breach or threatened breach of Sections 2 and/or 3 of this Agreement or sales of Licensed Products not consistent with the rights granted under this Agreement and specifically enforcing the terms and provisions of such Sections of this Agreement. Each Party agrees that it shall not challenge any of the foregoing acknowledgements and agreements in this Section concerning injunctive relief in any proceeding brought by one or more of the other Parties.

10.7. **Bankruptcy.** If a case is commenced in respect of Evolus under Title 11 of the United States Code or similar domestic or foreign law, or if a trustee, receiver, conservator or other fiduciary is appointed under any similar domestic or foreign law, and in the event of the entry of a final order of a court of competent jurisdiction determining that the transfer of money or any portion thereof under this Agreement to or on behalf of Allergan or Medytox to be a preference, voidable transfer, fraudulent transfer, or similar transaction and any portion thereof is required to be returned, then the Parties shall jointly move the relevant court or agency of competent jurisdiction to vacate any releases made pursuant to this Agreement, which releases shall then be null and void, and the Parties shall be restored to their respective positions in the California Action, ITC Action, and the Korean Actions immediately prior to the date of this Agreement.

10.8. **Arbitration**. Except for disputes regarding equitable relief under Section 10.6, if any disputes arise out of or in connection with this Agreement or any further amendment thereto, the Parties shall try to resolve such dispute amicably. In the event that the Parties fail to settle the dispute through amicable negotiation, such dispute shall be submitted to and finally settled by arbitration in California in accordance with the rules of JAMS by one or more arbitrators appointed in accordance with such rules. The language to be used in the arbitral proceedings shall be English.

10.9. **Taxes; Withholding**. (a) In the event that any payment under this Agreement becomes subject to withholding taxes under applicable laws or regulations, the payor shall withhold from the payment the amount of such taxes due and timely pay to the proper governmental authority the amount of any taxes withheld. The payor shall deliver to the payee the original or a certified copy of a receipt issued by the applicable governmental authority evidencing the payment of the taxes withheld, a copy of the tax return reporting such payment, or other evidence of such payment reasonably satisfactory to payee. The Parties agree to cooperate with one another and use reasonable efforts to minimize or eliminate any such tax withholding or similar obligations in respect of any payments or transfers made to Complainants under this Agreement including taking into account any reduction to withholding available under a tax treaty to which the payee is

entitled and taking all appropriate steps related thereto. Each Party agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect (including pursuant to Section 10.9(c)(iii) below), it shall update such form or certification or promptly notify the other Party in writing of its legal inability to do so.

(b) In furtherance of the foregoing, the Parties shall cooperate to (i) determine to which jurisdiction or jurisdictions each payment made hereunder is allocable and the portion allocable to each such jurisdiction (based upon the sales or the utilization of intellectual property in each such jurisdiction), (ii) determine the treatment of each such payment for tax purposes in each such jurisdiction, and (iii) report each payment made hereunder consistent with such determination for all tax purposes in all affected jurisdictions.

(c) With respect to payments made under this Agreement that are allocable to sources within the United States in accordance with the principles of Paragraph (b) hereof:

(i) Medytox represents that it is, and at all relevant times will be, entitled to the benefits of the United States - Republic of Korea Income Tax Convention (the "**U.S.-Korea Treaty**"), including, without limitation, where applicable the reduced rate of taxation on royalties specified in paragraph (1) of Article 14 thereof, with respect to such payments of which it is the beneficial owner;

(ii) Allergan Pharmaceuticals Ireland represents that it is, and at all relevant times will be, entitled to the benefits of the United States - Ireland Income Tax Convention (the "**U.S.-Ireland Treaty**"), including, without limitation, where applicable the reduced rate of taxation on royalties specified in paragraph (1) of Article 12 thereof, with respect to all payments hereunder of which it is the beneficial owner;

(ii) Within fifteen (15) days of the Effective Date, Medytox and Allergan shall each provide Evolus with a validly completed and duly executed IRS Form W-8BEN-E (or IRS Form W-9 if applicable) claiming any exemption from or reduced rate of withholding described in clause (i) or (ii); and

(iii) the Parties agree that each License Payment shall be treated as a payment of a royalty pursuant to the Internal Revenue Code of 1986, as amended, and as applicable to the U.S.-Korea Treaty and the U.S.-Ireland Treaty.

(d) The Parties shall not take any position for any tax purpose inconsistent with any provision of this Section 10.9, absent a final and binding determination by a taxing authority in the relevant jurisdiction(s), in which case parties shall also cooperate to seek conforming adjustments in any other relevant jurisdictions. The Parties shall keep each other reasonably informed, and shall notify the other Party promptly of any inquiry of any taxing authority relating in any way to such determination, allocation or treatment or otherwise in respect of the taxation of any payments made hereunder, and shall, without limiting the generality of Section 10.9(a), reasonably cooperate in responding to any such inquiry and in any related audit or contest. No settlement of any audit, proceeding,

examination or contest with respect to taxes or the taxation of the parties with respect to any payments made hereunder shall be agreed to by either Party without the consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed).

10.10. **Entire Agreement.** All rights not expressly granted by the Parties under this Agreement are reserved by the Parties and, except as explicitly set on in this Agreement, no other express or implied license or rights under any intellectual property of any Party are granted or intended to be granted under this Agreement. The Parties acknowledge that this Agreement sets forth the entire agreement and understanding of the Parties and supersedes all prior written or oral agreements or understandings with respect to the subject matter hereof. No modification of any of the terms of this Agreement, or any amendments thereto, shall be deemed to be valid unless in writing and signed by an authorized agent or representative of both parties hereto. No course of dealing or usage of trade shall be used to modify the terms and conditions herein. This Agreement shall be binding on each of the Parties and their respective permitted successors and assigns.

10.11. **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful, invalid, void, or unenforceable in whole or in part for any reason, such provision or such part thereof shall be deemed separate from and shall in no way affect the validity, legality, and enforceability of the remainder of this Agreement. If such provision or part thereof is deemed unlawful, void, or unenforceable due to its scope or breadth, such provision or part thereof shall be deemed valid to the extent of the scope or breadth permitted by law. The Parties agree to renegotiate in good faith any provision held to be invalid, illegal, or unenforceable, it being the intent of the Parties that the basic purposes of the Agreement are to be effectuated.

10.12. **Counterparts.** This Agreement may be executed in counterparts, and execution by each of the Parties of any one of such counterparts will constitute due execution of this Agreement. Each such counterpart hereof shall be deemed to be an original instrument, and all such counterparts together shall constitute but one agreement. Execution and delivery of this Agreement by facsimile by either Party shall be legal, valid, and binding to the same extent as an original signature.

IN WITNESS WHEREOF, the Parties have fully executed and delivered this Settlement Agreement as of the day and year first written above.

ALLERGAN LIMITED
By: /s/ Robert A, Michael
Name: Robert A, Michael
Title: Director

ALLERGAN INC.
By: /s/ Robert A, Michael
Name: Robert A, Michael
Title: Director

ALLERGAN PHARMACEUTICALS IRELAND
By: /s/ Donnan Hurst
Name: Donnan Hurst
Title: Director

MEDYTOX, INC.
By: /s/ Hyun Ho Jung
Name: Hyun Ho Jung
Title: CEO & President

EVOLUS, INC.
By: /s/ David Moatazedi
Name: David Moatazedi
Title: President and Chief Executive Officer

EXHIBIT A

[***]

SETTLEMENT AND LICENSE AGREEMENT

This Settlement and License Agreement ("**Agreement**") made and entered into as of February 18, 2021 (the "**Effective Date**"), by and between, on the one hand Medytox, Inc. ("**Medytox**") a company duly organized and existing under the laws of South Korea, having its principal office at 78 Gangni 1-gil Ochang-up Cheongwon-gu Cheongju-si North Chungcheong 28126, Republic of South Korea, and, on the other hand, Evolus, Inc., ("**Evolus**") a company duly organized and existing under the laws of Delaware, having its principal office at 520 Newport Center Drive, Suite 1200, Newport Beach, CA 90660 (each individually a "Party," and collectively the "Parties").

WHEREAS, Allergan, Inc. and Allergan Limited (collectively, "**Allergan**") and Medytox are co-complainants in the case captioned *Certain Botulinum Toxin Products, Processes for Manufacturing or Relating to Same and Certain Products Containing Same;* Inv. No. 337-TA-1145, before the United States International Trade Commission ("**ITC**") alleging violations by Daewoong Pharmaceuticals Co., Ltd. ("**Daewoong**") and Evolus of Section 337 of the Tariff Act of 1930 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain botulinum toxin products, processes for manufacturing or relating to same and certain products containing same by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure a domestic industry in the United States (the "**ITC Action**").

WHEREAS, Medytox is the holder and/or controls the use of a strain of *C. botulinum* and certain trade secrets regarding the manufacture of botulinum toxin.

WHEREAS, Evolus is the holder of marketing approvals from various governmental authorities for prabotulinumtoxinA, a botulinum toxin product that is manufactured by Daewoong Pharmaceutical Co., Ltd., ("**Daewoong**") in Korea.

WHEREAS, Evolus and Daewoong are parties to a License & Supply Agreement, entered September 30, 2013 (the "**Evolus-Daewoong Supply Agreement**"), as amended by certain amendments dated February 26, 2014, and July 15, 2014 (the "**Amendments to Evolus-Daewoong Supply Agreement**"),

WHEREAS, on December 16, 2020, the ITC determined there was a misappropriation of trade secrets relating to Medytox's manufacturing process and ordered a Limited Exclusion Order and Cease and Desist Order against Evolus and Daewoong for 21 months, under which Evolus was required to post a bond of $441 per 100 unit vial of Jeuveau® sold or distributed during the Presidential Review Period ("PRP").

WHEREAS, Medytox filed a Complaint against Evolus, Daewoong, Daewoong Co. Ltd., Alphaeon Corp., Sch-Aeon, LLC, Byung Kook Lee ("Dr. Lee"), Chun Yoon, Jae Seung Yoon, and Chang Woo Suh, captioned *Medytox Inc. v. Daewoong*

Pharmaceuticals Co., Ltd., Case No. 30-2017-00924912-CU-IP-CJC, in the Superior Court of California, Orange County, alleging violations of California Bus. and Prof. Code § 17200, *et seq*., violations of California Uniform Trade Secret Act, Cal. Civ. Code § 3426, conversion based on alleged theft of Medytox's *C. botulinum* strain, intentional interference with prospective economic relations, unjust enrichment, and breach of contract (the "**California Action**").

WHEREAS, Medytox filed a civil complaint, requested a criminal investigation, and filed a complaint with the Ministry of SMEs and Startups against Daewoong in Korea based on alleged theft of Medytox's *C. botulinum* strain, and misappropriation of trade secrets and seeking relief that may affect Evolus's rights in the Territory (the "**Korean Actions**").

WHEREAS, Evolus, Medytox, and Allergan have agreed to enter into that certain Settlement and License Agreement, dated as of February 18, 2021, wherein Medytox and Allergan granted Evolus a Commercialization License and a Manufacturing License in the United States ("**US Settlement and License Agreement**").

WHEREAS, Allergan and Medytox have agreed **[***]**.

WHEREAS, pursuant to the terms of this Agreement, the Parties mutually desire to resolve the disputes which are the subject matter of the ITC Action and the California Action in order to avoid risks and expenses of litigations related to those actions; and to resolve any indirect disputes which are the subject matter of the Korean Actions insofar as they might adversely impact Evolus's ability to have the Licensed Products manufactured by Daewoong.

WHEREAS, the Parties desire to enter into a negotiated and consensual license agreement to settle all outstanding disputes and avoid future disputes between them with regard to the matters alleged in the California Action, the ITC Action, and the Korean Actions.

WHEREAS, reference in this Agreement to any Party or Daewoong shall include reference to all of such entities' present or future Affiliates, including, without limitation, in the case of Allergan, AbbVie, Inc., Allergan, Inc., Allergan Limited, and Allergan Pharmaceuticals Holdings (Ireland) Unlimited Company.

NOW, THEREFORE, in consideration of the foregoing and the mutual undertakings set forth in this Agreement, the receipt and adequacy of which are hereby acknowledged, and with the foregoing recitals being incorporated herein, the Parties, intending to be legally bound, agree as follows:

It is expressly understood by the Parties hereto that this Agreement is dependent and conditioned upon the execution of the US Settlement and License Agreement and

that in the event that said US Settlement and License Agreement is not executed, the Parties will incur no responsibilities, obligations or liabilities under this Agreement.

It is expressly understood by the Parties hereto that this Agreement is dependent and conditioned upon the execution of the Agreement Regarding Implementation of Settlement Agreement by Allergan and Medytox. In the event that said Agreement Regarding Implementation of Settlement Agreement is not executed, the Parties will incur no responsibilities, obligations or liabilities under this Agreement.

1. Definitions.

For purposes of this Agreement, the following words and expressions shall, unless context otherwise requires, have the following meanings:

1.1. **"Accounting Standards"** mean the U.S. Generally Accepted Accounting Principles ("GAAP").

1.2. **"Actions"** mean the ITC Action, the California Action, and the Korean Actions.

1.3. **"Affiliate(s)"** with respect to any Party means any individual, corporation, association, or other business entity (collectively, "Person") that directly or indirectly controls, is controlled by, or is under common control with the Party in question. As used in this definition of "Affiliate," the term "control" shall mean the direct or indirect ownership of fifty percent (50%) or more of the securities or other ownership interests representing the equity, the voting stock or general partnership interest. Notwithstanding the terms of this definition, Alphaeon Corporation, Alphaeon 1 LLC, Aeon Biopharma Inc., Strathspey Crown Holdings Group LLC, and Daewoong are not Affiliates of Evolus and do not obtain any licensing rights or releases pursuant to this Agreement.

1.4. "**Business Day**" means 9:00 am to 5:00 pm Eastern Time on a day other than a Saturday, Sunday, federal, or bank holiday in the United States.

1.5. "**Commercialization**" means the activities, either by itself or through its sub-licensees, agents, resellers, distributors, suppliers, partners, co-promoters, or similar associates, of using, supplying, exporting to territories for which Evolus has rights to market and/or sell Licensed Product, pricing, promoting, distributing, selling, offering to sell, disposing, offering to dispose, or keeping of any Licensed Product in the Territory and, after the Initial Royalty Period, in the Renewal Territory. "**Commercialize**" has a correlative meaning.

1.6. "**Confidential Information**" means all non-public materials, information and data concerning the disclosing party and its operations that is disclosed by the disclosing party to the receiving party pursuant to this Agreement, orally or in written, electronic or tangible form, or otherwise obtained by the receiving party through observation or examination of the disclosing party's operations. Confidential Information includes, but is not limited to, information about the disclosing party's financial condition

and projections; business, marketing or strategic plans; sales information; customer lists; price lists; databases; trade secrets; product prototypes and designs; techniques, formulae, algorithms and other non-public process information. Confidential Information includes such information disclosed during the Actions. Notwithstanding the foregoing, Confidential Information of a party shall not include that portion of such materials, information and data that, and only to the extent that, the recipient can establish by written documentation: (a) is known to the recipient as evidenced by its written records before receipt thereof from the disclosing party, (b) is disclosed to the recipient free of confidentiality obligations by a Third Party who has the right to make such disclosure without obligations of confidentiality, (c) is or becomes part of the public domain through no fault of the recipient, or (d) the recipient can reasonably establish is independently developed by persons on behalf of recipient without the use of the information disclosed by the disclosing party. Notwithstanding anything else in this definition, any information that has been maintained under seal in the ITC Action is Confidential Information, including, but not limited to information relating to Medytox's botulinum toxin manufacturing process.

1.7. "**Daewoong**" means Daewoong Pharmaceutical Co., Ltd., and all of its present and future Affiliates.

1.8. **"Government Authority"** means any federal, state, national, supranational, local, or other government, whether domestic or foreign, including any subdivision, department, agency, instrumentality, authority (including any regulatory or administrative authority), body, commission, board, or bureau thereof, or any court, tribunal, or arbitrator.

1.9. **"Initial Reporting Period"** means a calendar quarter (or three month period), except the first Initial Reporting Period shall begin on December 16, 2020, and the last Initial Reporting Period shall begin on June 16, 2022 and end on September 16, 2022.

1.10. "**Initial Royalty**" means **[***]** of Net Sales in the Territory.

1.11. "**Initial Royalty Period**" means the period starting on December 16, 2020 and ending on September 16, 2022.

1.12. **"Licensed Product"** means any botulinum neurotoxin products manufactured by Daewoong or its Affiliates, or any successor to Daewoong or its Affiliates, with the generic name prabotulinumtoxinA for any of Evolus's products made according to a process that is or will be approved by, and whose sale and/or marketing is or will be approved by a Government Authority in the Territory and, after the Initial Royalty Period, in the Renewal Territory. Licensed Product includes, but is not limited to, the prabotulinumtoxinA product that is the subject of BLA No. 761085, that is marketed as Jeuveau® in the United States, and that is marketed or planned to be marketed as Nuceiva™, or such other brand names as Evolus shall utilize, in the Territory and, after the Initial Royalty Period, in the Renewal Territory. For the

avoidance of doubt, the product known as MT10109L, for which Allergan holds a license from Medytox, shall not under any circumstance become a Licensed Product under this Agreement.

1.13. **"Licensed Rights"** mean Medytox's strain of *C. botulinum* and trade secrets regarding the manufacture of botulinum toxin that were, could have been, or will be alleged in the California Action, ITC Action, and/or Korean Actions to have been misappropriated.

1.14. "**Manufacturing**" means all activities, either by itself or through its suppliers, agents, Affiliates, manufacturers, related to the manufacturing, production or making of the Licensed Product, or any component thereof, for Commercialization or use in the Territory and, after the Initial Royalty Period, in the Renewal Territory, including, but not limited to test method development and stability testing, formulation, process development, manufacturing scale-up, manufacturing any Licensed Product in bulk or finished form for development, manufacturing the drug substance for any Licensed Product, manufacturing the drug product for any Licensed Product, manufacturing a finished Licensed Product for Commercialization, packaging, in-process and finished Licensed Product testing, release of a Licensed Product or any component or ingredient thereof, quality assurance activities related to manufacturing and release of a Licensed Product, regulatory activities related to any of the foregoing and any shipping, export and distribution to and within the Territory of such Licensed Products and importation of such Licensed Products into the Territory and, after the Initial Royalty Period, in the Renewal Territory. "**Manufacture**" has a correlative meaning.

1.15. **"Marketing Authorization"** means an approval or authorization from the appropriate Government Authority in the Territory (including the BLA and all licenses, registrations, and pricing or reimbursement approvals) as required to permit Commercialization in and for the Territory and, after the Initial Royalty Period, in the Renewal Territory (including clinical testing, manufacture, distribution, or use of such Licensed Product).

1.16. **"Net Sales"** means the net sales of Licensed Product sold by Evolus or any of its Affiliates to Third Parties, as determined in accordance with the Accounting Standards, including requirements for revenue recognition, and does not include any downstream sales, including any sales by Evolus's customers to consumers.

1.1. **"Regulatory Materials"** means regulatory applications, submissions, notifications, communications, correspondence, registrations, common technical documents, technical documents, Marketing Authorizations or other filings made to, received from or otherwise conducted with a Government Authority in order to Commercialize the Licensed Product in the Territory and, after the Initial Royalty Period, in the Renewal Territory.

1.2. "**Release Date**" means the date on which all Initial License Payments under Section 4 of this Agreement have been made and all License Payments under

Section 5 of the US Settlement Agreement have been made, **provided that** (a) no party has exercised its right to terminate this Agreement or the US Settlement Agreement and (b) this Agreement and the US Settlement Agreement are assumed pursuant to a court order in the event Evolus enters into bankruptcy proceedings.

1.3. **"Renewal Reporting Period"** means a calendar quarter (or three month period), except the first Renewal Reporting Period shall begin on September 17, 2022 and end on December 31, 2022, and the last Renewal Reporting Period shall begin on July 1, 2032 and end on September 16, 2032.

1.4. "**Renewal Royalty**" means [***] of Net Sales in the Renewal Territory.

1.5. "**Renewal Royalty Period**" means the period starting on September 17, 2022 and ending on September 16, 2032.

1.6. "**Renewal Territory**" means the Territory and the United States and its territories and possessions.

1.7. "**Sales and Royalty Report**" means a written report or reports showing each of (1) the Net Sales for any Licensed Product in the Territory during the Reporting Period and Net Sales for any Licensed Product in the Renewal Territory during the Renewal Reporting Period, by Evolus and its Affiliates and Sublicensees, and (2) the Royalties payable in U.S. Dollars which shall have accrued hereunder with respect to such Net Sales. For the avoidance of doubt, the Sales and Royalty Report shall be considered Confidential Information under this Agreement and shall be limited to those employees of Medytox that have a need to know such information for purposes of accounting for the Initial Royalty and the Renewal Royalty, and shall not be utilized for Medytox's pricing strategy, sales, marketing, or other commercial activities.

1.8. "**Territory**" shall mean Canada, the European Union, Switzerland, member countries and cooperating countries of the European Economic Area, Russia, the Commonwealth of Independent States, South Africa, Australia and Japan.

1.9. "**Third Party**" means any person or entity other than Allergan, Medytox, Evolus, or their Affiliates.

2. Mutual Releases.

2.1. The Parties agree that this Agreement is in full and final settlement of all and any claims or cause of action, directly or indirectly, that Medytox and their respective Affiliates, on the one hand, and Evolus and their respective Affiliates on the other hand, have against the other relating to the Licensed Rights in the Territory and in the Renewal Territory, including relating to the Korean Actions and to any actions against Dr. B.K. Lee, including Medytox's complaints against Dr. Lee in the Indiana Commercial Court captioned *Medytox Inc. v. Byung Kook Lee*, Cause No. 49D13-1805-PL-017584, and in the Marion County Commercial Court, captioned *Medytox, Inc. v. Byung Kook Lee*,

49D01-1805-PL-017584, (Marion County Commercial Court Oct. 4, 2018) (the "**Lee Actions**"), and including without limitation any claims for damages, interest, or costs. To the extent necessary, within five (5) Business Days of the Effective Date, Medytox shall file, or cause to be filed, an appropriate document (except in the event of termination of this Agreement pursuant to Sections 9.2 or 9.3 or the occurrence of the circumstances described in Section 13.6) in the Korean Actions that Medytox is not seeking and that, to the extent it is within Medytox's control, the Korean Actions shall not adversely affect any rights granted under the Initial License pursuant to Section 3 or the Renewal License pursuant to Section 5, including the right to Manufacture, have Manufactured, Commercialize, and obtain or maintain Marketing Authorization and any Regulatory Materials related to the Licensed Product in the Territory during the Royalty Period, and thereafter in the Renewal Territory during the Renewal License Period pursuant to Section 5. Medytox further agrees that it will be legally bound by the submitted document, and it will not revoke the filing of such document or the relief requested therein. For the avoidance of doubt, and as stated in Sections 3.2 and 5.1, the Initial Licenses and Renewal License shall be operable, as prescribed in this Agreement, notwithstanding any potential remedies issued in the Korean Actions.

2.2. Effective as of the Release Date, and subject to Section 13.6, Medytox, on behalf of itself, each of its Affiliates and each of its respective officers, directors, shareholders, members, agents, and representatives, hereby irrevocably and unconditionally releases, acquits and forever discharges Evolus and all current, former, and future Affiliates, subsidiaries, members, managers, directors, officers, shareholders, employees, predecessors, successors, and agents, and its customers, agents, attorneys, licensors, distributors, resellers, purchasers, donees, vendors, or vendees (collectively, the "Evolus Releasees") from all past and present actions, causes of action, claims for relief or demands in law or in equity, and from any claims for or allegations of liability, debts, contracts, promises, obligations, damages, attorneys' fees, costs, interest, or expenses, whether fixed or contingent, asserted or unasserted, that Medytox now has against any of the Evolus Releasees, for, upon, or by reason of any act, omission, representation, or any other matter or cause, respecting the Commercialization or Manufacturing of Licensed Products and the Licensed Rights in the Territory during the Initial Royalty Period and in the Renewal Territory during the Renewal License Period, and all causes of action that were, could have been, or will be asserted in the Actions. Nothing contained in this Section 2.2 will release the Evolus Releasees from any claim based upon any material misrepresentations made in this Agreement unless cured within sixty (60) days of receiving written notice thereof from Medytox, or material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not remedied to the reasonable satisfaction of Medytox within sixty (60) days of service of written notice by Medytox. Medytox agrees that Evolus can, without interference from Medytox, Manufacture, have Manufactured, Commercialize, and obtain or maintain Marketing Authorization and any Regulatory Materials related to the Licensed Product in the Territory during the Initial Royalty Period, and thereafter in the Renewal Territory during the Renewal License Period pursuant to Section 5.

2.3. Effective as of the Release Date, Evolus, on behalf of itself, each of its Affiliates and each of its respective officers, directors, shareholders, members, agents, and representatives, hereby irrevocably and unconditionally releases, acquits and forever discharges Medytox, and its current, former, and future Affiliates, subsidiaries, members, managers, directors, officers, shareholders, employees, predecessors, successors, and agents, and its customers, agents, attorneys, licensors, distributors, resellers, purchasers, donees, vendors, or vendees (collectively, the "Medytox Releasees") from all past and present actions, causes of action, claims for relief or demands in law or in equity, and from any claims for or allegations of liability, debts, contracts, promises, obligations, damages, attorneys' fees, costs, interest, or expenses, whether fixed or contingent, asserted or unasserted, that Evolus has against any of the Medytox Releasees, for, upon, or by reason of any act, omission, representation, or any other matter or cause, respecting the Licensed Rights as they pertain to the Commercialization or Manufacturing of Licensed Products or component(s) thereof, and all causes of action that were, could have been, or will be asserted in the Actions. Nothing contained in this Section 2.3 will release the Medytox Releasees from any claim based upon any material misrepresentations made in this Agreement unless cured within sixty (60) days of receiving written notice thereof from Evolus, or material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not remedied to the reasonable satisfaction of Evolus within sixty (60) days of service of written notice by Evolus.

2.4. Effective as of the Effective Date, Evolus hereby releases, indemnifies, and holds Medytox harmless from any and all product liability claims, actions, losses, damages, and liabilities resulting from or arising out of the use or sale of Licensed Products under this Agreement.

2.5. For the avoidance of doubt, all releases under this Section 2 do not release either Party and/or their Affiliates from their contractual obligations under this Agreement and are without prejudice to the Parties' rights to raise claims, defend claims, and seek remedies for breach of this Agreement.

2.6. For the avoidance of doubt, Alphaeon Corporation, Alphaeon 1 LLC, Aeon Biopharma Inc., and Strathspey Crown Holdings Group LLC are not Affiliates of Evolus and do not obtain any releases pursuant to this Agreement, including the releases contained in this Section 2.

2.7. **Unknown Claims/California Civil Code Section 1542 Waiver**: The Parties each expressly assume the risk that by entering into this Agreement and the releases contained herein, each will forever waive claims, causes of action, and damages that may exist before the Effective Date of this Agreement, but which it does not know of, or suspect to exist, and which, if known, would have materially affected the Party's decision to enter into this Agreement. In that regard, the Parties acknowledge that they have been informed by their counsel of the provisions of Section 1542 of the Civil Code of the State of California, and expressly waive and relinquish all rights and benefits which they might have had under that section which reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The Parties hereby expressly waive and relinquish all rights and benefits under that Section 1542 of the Civil Code of the State of California and any law or legal principle of similar effect in any jurisdiction with respect to the release granted in this Settlement Agreement.

3. Initial License.

3.1. **Commercialization License**. During the Initial Royalty Period, Medytox hereby grants Evolus and its Affiliates a non-exclusive, royalty-bearing, irrevocable (except pursuant to Sections 9.2 or 9.3 or the occurrence of the circumstances described in Section 13.6) right and license to the Licensed Rights to Commercialize and obtain or maintain the Marketing Authorization and all Regulatory Materials related to any Licensed Product in the Territory (the "**Commercialization License**").

3.2. **Manufacturing License**. During the Initial Royalty Period, Medytox hereby grants Evolus and its Affiliates a non-exclusive, royalty-bearing, irrevocable (except pursuant to Sections 9.2 or 9.3 or the occurrence of the circumstances described in Section 13.6) right and license to the Licensed Rights to Manufacture or have Manufactured Licensed Product (including by non-Affiliates of Evolus, and specifically including Daewoong or its Affiliates, or any successor to Daewoong or its Affiliates) for the Territory, including to Manufacture and have Manufactured Licensed Product outside the Territory so long as such Licensed Product is or will be Commercialized, used to obtain or maintain Marketing Authorization and all Regulatory Materials related to any Licensed Product in the Territory (the "**Manufacturing License**" and collectively with the Commercialization License, the "**Initial Licenses**"). For the avoidance of doubt, the Initial Licenses shall be operable during the Royalty Period notwithstanding any potential remedies issued in the Korean Actions.

3.3. Evolus and its Affiliates shall have the right to grant written sublicenses of the Commercialization License granted under Section 3.1 and/or the Manufacturing License granted under Section 3.2 to non-Affiliate entities (individually, "**Sublicensee**" and collectively, "**Sublicensees**"), with prior approval from Medytox, which shall not be unreasonably withheld. For the avoidance of doubt, Medytox expressly approves Clarion Medical Technologies and its Affiliates, which has contracted with Evolus to help Commercialize Licensed Product in certain Territories, as Evolus's Sublicensee of the Initial License pursuant to this Section 3.3. If Evolus grants such a sublicense, Evolus shall ensure that all of the applicable terms and conditions of this Agreement shall apply to the Sublicensee to the same extent that they apply to Evolus for all purposes. For the avoidance of doubt, Sublicensee does not include any Third-Party through which Evolus

or its Affiliates utilize the Commercialization License or Manufacturing License pursuant to Section 3.1 and 3.2 respectively.

3.4. For the avoidance of doubt Alphaeon Corporation, Alphaeon 1 LLC, Aeon Biopharma Inc., and Strathspey Crown Holdings Group LLC are not Affiliates of Evolus and do not obtain any licensing rights under this Agreement, including those described in this Section 3.

4. License Payments.

4.1. In consideration for the grant of the Initial Licenses described in Section 3, Evolus shall provide Medytox the following consideration set forth in Sections 4.1.1 and 4.1.2 (the "**Initial License Payments**"):

4.1.1. **Issuance of Equity**. Evolus shall issue 6,762,652 shares of Common Stock (the "**Issued Shares**") to Medytox pursuant to the terms of the Share Issuance Agreement attached hereto as Exhibit A.

4.1.2. **Royalties**. During the Initial Royalty Period, Evolus will be obligated to pay the Initial Royalty to Medytox. Such Initial Royalty payments will be made for a given Initial Reporting Period within seventy-five (75) days of the end of each calendar quarter containing the applicable Initial Reporting Period; provided that, for Net Sales in the Territory made during the Initial Reporting Period from **[***]** through **[***]**, the Initial Royalty shall be payable at the same time as the Initial Royalty payable for the Reporting Period from **[***]** to **[***]**. Each Royalty payment shall be accompanied by a Sales and Royalty Report sent to Medytox at the E-mail address set forth in Section 13.4. For the avoidance of doubt, the Sales and Royalty Report shall be considered Confidential Information under this Agreement and shall be limited to those employees of Medytox that have a need to know such information for purposes of accounting for the Initial Royalty and shall not be utilized for Medytox's pricing strategy, sales, marketing, or other commercial activities.

4.2. Payments due under this Section will remitted in accordance with instructions to be provided by Medytox.

4.3. To the extent that there are any deductions to Net Sales for an Initial Reporting Period that occur after the Initial Royalty payment for that Initial Reporting Period has been made, such deductions shall be accounted for as a credit against any Initial Royalty payment payable in a subsequent Initial Reporting Period. Any such credit shall be set forth on the Sales and Royalty Report for the Reporting Period in which the credit is accounted for.

4.4. For the avoidance of doubt, only one Royalty Payment under Section 4.1 is due for any Licensed Product, whether manufactured or sold by Evolus, their Affiliates, sublicensees, agents, resellers, distributors, suppliers, partners, co-promoters, or similar associates for Commercialization.

4.5. For the avoidance of doubt, Evolus shall be required to continue making the Initial License Payments regardless of the status or expiration of the Licensed Rights. In the event of termination, as set forth in Sections 9.1, 9.2, or 9.3, Evolus shall still be required to make any Royalty payments accrued through the effective date of such termination on the schedule set forth in Section 4.1.2 and Medytox shall still be required to make any reimbursements for any deductions to Net Sales that occur after Evolus has made its last Royalty payment on the schedule set forth in Section6.2.

5. Renewal License.

5.1. Immediately following the Initial Royalty Period and with no gap or interruption with respect to any license or rights, the Commercialization License granted in Section 3.1, above, and the Manufacturing License granted in Section 3.2, above, shall each become fully paid up and irrevocable, except in the event of termination of this Agreement pursuant to Sections 9.2 or 9.3 or the occurrence of the circumstances described in Section 13.6 (the "**Renewal License Period**"), and shall be extended from the Territory to the Renewal Territory (together, the "**Renewal License**"). For the avoidance of doubt, the Renewal License shall be operable notwithstanding any potential remedies issued in the ITC Action, the California Action, or the Korean Actions.

5.2. Evolus and its Affiliates shall have the right to grant written sublicenses of the Renewal License granted under Section 5.1 to non-Affiliate entities (also individually, "Sublicensee" and collectively, "Sublicensees"), with prior approval from Medytox, which shall not be unreasonably withheld. For the avoidance of doubt, Medytox expressly approves Clarion Medical Technologies and its Affiliates, which has contracted with Evolus to help Commercialize Licensed Product in certain Territories, as Evolus's Sublicensee of the Renewal License pursuant to this Section 5.2. If Evolus grants such a sublicense, Evolus shall ensure that all of the applicable terms and conditions of this Agreement shall apply to the Sublicensee to the same extent that they apply to Evolus for all purposes. For the avoidance of doubt, Sublicensee does not include any Third-Party through which Evolus or its Affiliates utilize the Renewal License pursuant to Section 5.1.

5.3. For the avoidance of doubt, Alphaeon Corporation, Alphaeon 1 LLC, Aeon Biopharma Inc., and Strathspey Crown Holdings Group LLC are not Affiliates of Evolus and do not obtain any licensing rights under this Agreement, including those described in this Section 5.

6. Renewal License Payments.

6.1. In consideration for the grant of the Renewal License described in Section 5, Evolus shall provide Medytox the following consideration set forth in Section 6.1.1 (the "**Renewal License Payment**"):

6.1.1. **Renewal Royalties:** Beginning on September 17, 2022, Evolus will be obligated to pay the Renewal Royalty for the Renewal Royalty Period. Such Renewal Royalty payments will be made for a given Renewal Reporting Period within seventy-five (75) days of the end of each calendar quarter containing the applicable Renewal Reporting Period. Each Renewal Royalty payment shall be accompanied by a Sales and Royalty Report sent to Medytox at the E-mail address set forth in Section 13.4. For the avoidance of doubt, the Sales and Royalty Report shall be considered Confidential Information under this Agreement and shall be limited to those employees of Medytox that have a need to know such information for purposes of accounting for the Renewal Royalty and shall not be utilized for Medytox's pricing strategy, sales, marketing, or other commercial activities

6.2. To the extent that there are any deductions to Net Sales for a Renewal Reporting Period that occur after the Renewal Royalty payment for that Renewal Reporting Period has been made, such deductions shall be accounted for as a credit against any Renewal Royalty payment payable in a subsequent Renewal Reporting Period. Any such credit shall be set forth on the Sales and Royalty Report for the Renewal Reporting Period in which the credit is accounted for. To the extent that there are any deductions to Net Sales that occur after Evolus has made its last Renewal Royalty Payment, or, in the event of termination pursuant to Sections 9.1, 9.2, or 9.3 during the Initial Royalty Period, its last Initial Royalty Payment, Medytox shall reimburse Evolus for such deduction within twenty (20) Business Days after Evolus notifies Medytox of such deduction, provided such notice is made within sixty (60) days of the end of the calendar Initial Royalty Period or Renewal Royalty Period, as applicable.

6.3. For the avoidance of doubt, only one Renewal Royalty Payment under Section 6.1.1 is due for any Licensed Product, whether manufactured or sold by Evolus, its Affiliates, sublicensees, agents, resellers, distributors, suppliers, partners, co-promoters, or similar associates for Commercialization.

6.4. For the avoidance of doubt, Evolus shall be required to continue making the Renewal License Payments regardless of the status or expiration of the Licensed Rights. In the event of termination, as set forth in Sections 9.1, 9.2, or 9.3, Evolus shall still be required to make any Renewal Royalty Payments accrued through the effective date of such termination on the schedule set forth in Section 6.1.1 and Medytox shall still be required to make any reimbursements for any deductions to Net Sales that occur after

Evolus has made its last Renewal Royalty Payment on the schedule set forth in Section 6.2.

7. **Records and Audits.**

7.1. Evolus shall keep complete, true, and accurate books and records in accordance with the Accounting Standards in relation to this Agreement, including in relation to Net Sales of Licensed Products, Initial Royalties, and Renewal Royalties. Evolus will keep such books and records for at least three (3) years following the calendar year to which they pertain.

7.2. **Audit Rights**. On an annual basis, Medytox may, upon written request and at its own expense, cause an internationally recognized independent accounting firm ("Auditor"), which is reasonably acceptable to Evolus, to inspect the relevant records of Evolus to verify the Initial Royalties and Renewal Royalties payable by Evolus and the related reports, statements, and books of accounts, within the three (3) years prior to the year in which such audit is conducted, as applicable. Before beginning its audit, the Auditor shall execute an undertaking acceptable to Evolus by which the Auditor agrees to keep confidential all information reviewed during the audit. Medytox may designate one external law firm who, upon execution of the same undertaking to Evolus required of the Auditor, may review the Auditor's work and the information on which it is based. The Auditor shall have the right to disclose to Medytox only its conclusions regarding any payments owed under this Agreement.

7.3. Evolus shall make its records available for inspection by the Auditor during Evolus's regular business hours at such place or places where such records are customarily kept, upon receipt of reasonable advance notice from Medytox and/or the Auditor. The records shall be reviewed solely to verify the accuracy of Evolus's Initial Royalty payments and Renewal Royalty payments, and compliance with this Agreement. Such inspection right shall not be exercised more than once in any calendar year and not more frequently than once with respect to records covering any specific period of time, unless a prior inspection has revealed any underpayment by Evolus. Medytox agrees to hold in strict confidence all information received and all information learned in the course of any audit or inspection, except to the extent necessary to enforce its rights under this Agreement or to the extent required to comply with any law, regulation, or judicial order.

7.4. The Auditor shall provide its audit report and the basis for any determination to Evolus at the time such report is provided to Medytox before it is considered final.

7.5. In the event that the final result of the inspection reveals an undisputed underpayment or overpayment by Evolus, the underpaid or overpaid amount shall be settled promptly.

7.6. Medytox shall pay for such inspections, as well as its expenses associated with enforcing its rights with respect to payments hereunder. If an underpayment of more

than seven point five percent (7.5%) of the total payments due for the applicable audit period is discovered, the reasonable fees and expenses charged by the Auditor shall be paid by Evolus.

8. Information Rights/Quarterly Business Meetings

8.1. **Information Rights**. So long as Medytox owns **[***]** or more of the issued and outstanding Common Stock of Evolus, on a fully diluted basis, Evolus will furnish to Medytox:

8.1.1. as soon as available, but not less than one hundred twenty (120) days after the end of each fiscal year, a balance sheet of Evolus, as at the end of such fiscal year, and a statement of income and a statement of cash flows of Evolus, for such year, all prepared in accordance with the Accounting Standards consistently applied (except as noted therein or as disclosed to the recipients thereof) and setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail. Such financial statements shall be accompanied by a report and opinion thereon by independent public accountants selected by Evolus's Board of Directors;

8.1.2. as soon as available, but not less than forty-five (45) days after the end of each of the first, second and third quarterly accounting periods in each fiscal year of Evolus, a balance sheet of Evolus as of the end of each such quarterly period, and a statement of income and a statement of cash flows of Evolus for such period and for the current fiscal year to date, prepared in accordance with generally accepted accounting principles consistently applied (except as noted therein or as disclosed to the recipients thereof), with the exception that no notes need be attached to such statements and year-end audit adjustments may not have been made;

8.2. **Quarterly Business Reviews** . Once per fiscal quarter, Medytox may request a business review of Evolus attended by the Chief Executive Officer of Evolus and such other business leaders as selected by Medytox that are reasonably available on such date for one full business day (the "Quarterly Business Review"). The purpose of the Quarterly Business Review shall be for Medytox to review and discuss topics, subject to any attorney-client or work product privilege limitations, including sales results, marketing activities, research and development activities, regulatory status, promotional plans, business development activities and such other matters reasonably requested by Medytox. Each Party shall bear the expense of participation of its respective employees in the Quarterly Business Review meetings. Information presented or discussed at Quarterly Business Reviews shall be considered Confidential Information.

9. **Term and Termination.**

9.1. This Agreement begins on the Effective Date and shall continue in full force and effect until the end of the Renewal License Period and be irrevocable, except pursuant to Sections 9.2 or 9.3 provided herein or the occurrence of circumstances described in Section 13.6. Notwithstanding the foregoing, the payment obligations,

including without limitation the payment obligations under Section 4 and Section 6, including any credit for any deductions, for Net Sales prior to termination, and the audit rights provided in Section 7 that are necessary to audit the records relevant to those obligations, will survive termination of this Agreement.

9.2. **Termination for Challenge**. If Evolus or any of its Affiliates or Sublicensees challenges before a court, tribunal, or government agency the validity, enforceability, scope, or protected status of any of the Licensed Rights, including but not limited to the trade secret status of any trade secret included within the scope of this Agreement, then Medytox may terminate this Agreement after fifteen (15) Business Days of service of written notice to Evolus.

9.3. **Termination for Cause**. Any Party may terminate the Agreement with immediate effect by written notice to the other Party in the event that the other Party commits a material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not remedied to the reasonable satisfaction of the non-breaching Party within sixty (60) days of service of written notice by the non-breaching Party.

9.4. Any right to terminate this Agreement or to cancel rights and obligations hereunder is in addition to and without prejudice to any other rights or remedies any Party may be entitled to under this Agreement, at law or otherwise. On termination or expiry of this Agreement, any rights or remedies either Party may have arising from any breach of this Agreement shall continue to be enforceable.

9.5. In the event of this Agreement being terminated, the confidentiality provisions of Section 12, the arbitration provisions of Section 13.7, and any other terms of this Agreement as may be necessary for interpretative purposes, shall survive such termination or expiry.

10. **Representations and Warranties.** Each Party is entering into this Agreement in reliance of the following representations and warranties of the other Parties, all of which are acknowledged to be material, and which include the following:

10.1. The execution, delivery, and performance of the obligations under this Agreement are within its power, and have been duly authorized by all necessary corporate or business action, do not contravene any law or any contractual provision binding on it, and do not require any consent or approval of any person or government authority except as set forth herein or such consents and approvals as have been obtained and are in full force and effect.

10.2. This Agreement constitutes the Party's legal, valid, and binding obligation and is enforceable in accordance with its terms.

10.3. As of the Effective Date, Medytox represents and warrants that it has the exclusive right and power to grant the Initial Licenses and the Renewal License to the License Rights.

10.4. As of the Effective Date, Medytox represents and warrants that the California Action, the ITC Action, the Korean Actions, and Medytox's submissions to the U.S. Food and Drug Administration and Health Canada represent the only suits, complaints, grievances, demands, claims, citizen's petitions, causes of action in, of or before any Governmental Authority to which Medytox is a party, or in which Medytox is directly or indirectly participating, that would (i) adversely affect Evolus's right to make, have made, Commercialize, or obtain or maintain Marketing Authorization and any Regulatory Materials for the Licensed Products in the Territory and in the Renewal Territory, (ii) stop Evolus's right to Manufacture or have Manufactured the Licensed Products, or any of its components, for Commercialization, or (iii) adversely affect Evolus's ability to maintain the Marketing Authorization or any Regulatory Materials related to the Licensed Products in the Territory and in the Renewal Territory. Medytox further represents and warrants that the Lee Actions do not directly or indirectly (i) adversely affect Evolus's right to make, have made, Commercialize, or obtain or maintain Marketing Authorization and any Regulatory Materials for the Licensed Products in the Territory and in the Renewal Territory, (ii) stop Evolus's right to Manufacture or have Manufactured the Licensed Products, or any of its components, for Commercialization, or (iii) adversely affect Evolus's ability to maintain the Marketing Authorization or any Regulatory Materials related to the Licensed Products in the Territory and in the Renewal Territory.

10.5. Evolus warrants, as to the Initial License Payments and the Renewal License Payments, that at the time of any such payment that Evolus will make or cause to be made pursuant to Section 4 or Section 6 of this Agreement, Evolus will not be insolvent, nor will the Initial License Payments or Renewal License Payments required to be made render Evolus insolvent, within the meaning of and/or for the purposes of the United States Bankruptcy Code, including §§ 101 and 547 thereof.

10.6. Evolus represents and warrants that, as of the Effective Date, Evolus and Daewoong are not a party to any agreements other than (a) the Evolus-Daewoong Supply Agreement (b) the Amendments to Evolus-Daewoong Supply Agreement, (c) that certain Convertible Promissory Note Purchase Agreement, dated as of July 6, 2020 by and among Evolus and Daewoong and (d) Convertible Promissory Note, dated July 30, 2020 and issued by Evolus to Daewoong. Except as disclosed in the prior sentence, as of the Effective Date, there are no agreements between Evolus and Daewoong whereby Daewoong or an Affiliate of Daewoong could acquire, directly or indirectly, equity in Evolus.

10.7. **CFIUS Representation**. Evolus does not: produce, design, test, manufacture, fabricate, or develop one or more "critical technologies," as that term is

defined in the Defense Production Act of 1950, as amended, including all implementing regulations thereof.

10.8. Each Party hereto represents and warrants to the other Party that, as of the Effective Date, the warranting Party is not subject to any judgment, order, injunction, decree, or award of any court, administrative agency, or governmental body that would or might interfere with its performance of any of its obligations hereunder.

10.9. Each Party warrants that it will not form any new or use any existing entity, or assign its rights and obligations under this Agreement or its other assets to another entity, to avoid compliance with any of the provisions of this Agreement

10.10. Each of the Parties agrees that this Agreement is a compromise of the Parties' claims and defenses in the disputed California Action and ITC Action, and is intended to be, a full and complete settlement, discharge and release of those Actions and related claims as to the Parties, subject to Section 13.6. None of the Parties admits to or concedes any liability or wrongdoing whatsoever, and this Agreement is not, and shall not be described or characterized by any Party, or by its directors, executives, employees, agents or other representatives, as an admission by any Party or their Affiliates of any liability or wrongdoing.

10.11. The existence of this Settlement Agreement, its provisions and terms shall not be interpreted, construed, deemed, invoked, offered or received in evidence or otherwise used by any person in this or any other action or proceeding, civil, criminal or administrative, except in a proceeding to enforce the terms or conditions of the Agreement. The existence of this Agreement, its provisions and terms are not, and shall not be argued by any person to be or to be deemed to be evidence of, a concession or admission of, nor to create a presumption of any fault, liability or wrongdoing as to any facts or claims alleged or asserted in the California Action or ITC Action or any other action or proceeding.

10.12. Each of the Parties agrees to take all action necessary to carry out the intentions of the Parties as expressed in this Agreement.

10.13. **Covenant Not to Sue.** Medytox on behalf of itself, and each of its Affiliates and each of their respective officers, directors, shareholders, members, agents, and representatives, each covenant not to, directly or indirectly, alone or by, with or through others, cause, induce, allow to continue or authorize or voluntarily assist, participate, or cooperate in the commencement, maintenance, or prosecution of any action, proceeding, petition, or investigation alleging misappropriation of the Licensed Rights or any cause of action asserted or that could have been asserted in any of the Actions, which would adversely affect Evolus's right to Commercialize the Licensed Products in the Territory, to obtain or maintain Marketing Authorization and any Regulatory Materials for the Licensed Products in the Territory, or to Manufacture or have Manufactured the Licensed Products, or any component thereof, for Commercialization or use in the Territory during the Initial Royalty Period, and, in the

Renewal Territory during the Renewal License Period, **except that** the foregoing shall not apply in the event (i) Evolus commits a material breach of any material provision of this Agreement that is incapable of remedy, or if capable of remedy is not remedied to the reasonable satisfaction of Medytox within sixty (60) days of service of written notice by Medytox or (ii) the occurrence of the circumstances described in Section 13.6.

10.14. **No Other Warranties**. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, (A) NO REPRESENTATION, CONDITION OR WARRANTY WHATSOEVER IS MADE OR GIVEN BY OR ON BEHALF OF EITHER PARTY; AND (B) ALL OTHER CONDITIONS AND WARRANTIES WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE ARE HEREBY EXPRESSLY EXCLUDED, INCLUDING ANY CONDITIONS AND WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

11. Daewoong.

11.1. Nothing in this Agreement creates any right enforceable by Daewoong.

12. **Confidentiality.**

12.1. **Settlement Terms**. This Agreement, its Exhibit, and its terms and conditions including all financial terms, and the substance of all negotiations and Confidential Information disclosed by either Party in connection with it, are confidential to the Parties, their Affiliates, and their advisers, who shall not disclose them to, or otherwise communicate them to, any Third Party without the written consent of the other Party, other than:

- to the relevant Party's auditors, insurers, and lawyers on terms which preserve confidentiality;
- pursuant to an order of a court of competent jurisdiction, or pursuant to any proper order or demand made by any competent authority or body where they are under a legal or regulatory obligation to make such a disclosure;
- as far as necessary to implement and enforce any of the terms of this Agreement on terms which preserve confidentiality; or
- as otherwise authorized in writing and in advance by all other Parties.

Except as provided in Section 9.2, no Party shall issue a press release regarding this Agreement or make any public disclosure of the terms of this Agreement without the prior written approval of the other Parties. Any Party may confirm that the ITC Action has been resolved on confidential terms. For the avoidance of doubt, no Party is restricted from disclosing information about the Settlement Terms to the extent such terms have been made public in a manner consistent with the terms of this Agreement.

The Parties understand and agree that Evolus shall be required to file the complete Agreement as an exhibit to a Current Report on Form 8-K and future securities filings,

which will be filed with the Securities and Exchange Commission, less those financial terms that Evolus together with its counsel reasonably believes it may obtain confidential treatment for from the Securities and Exchange Commission. Evolus shall notify the other Parties within three (3) Business Days if the Securities and Exchange Commission denies confidential treatment of any part of the Agreement.

Notwithstanding anything to the contrary in this Agreement, the Parties understand and agree that each Party cay disclose the existence and/or terms of this Agreement (a) to comply with its obligations under the law, including, without limitation, the United States Securities Act of 1933, as amended, and the United States Securities Exchange Act of 1934, as amended (the "Exchange Act"); (b) in order to comply with the listing standards, rules, regulations or agreements of any national or international securities exchange, the NASDAQ Global Market or New York Stock Exchange or other similar laws, rules, or regulations of a governmental or regulatory authority; (c) to respond to an inquiry of a government authority or regulatory authority as required by law; (d) to comply with a court order or applicable law, governmental regulations, or investigative requests; or (e) in a judicial, administrative, or arbitration proceeding, if, in the reasonable opinion of the disclosing Party's counsel is mandated by a subpoena, discovery request, or other compulsory process. In any such event, the Party making such disclosure shall (i) provide the other Parties as much advance notice as reasonably practicable of the required disclosure, (ii) cooperate with the other Parties in any reasonable attempt to prevent or limit the disclosure, including to secure a protective order or confidential treatment of this Agreement or portions thereof, and (iii) limit any disclosure to the specific purpose at issues.

12.2. **Confirmation of Settlement.** The Parties are entitled to confirm to Third Parties the fact that the California Action and the ITC Action have been resolved on confidential terms, but not the terms of such resolution as set forth in this Agreement, in the form of a statement to be agreed, to the extent such terms have not otherwise been made public in a manner consistent with the terms of this Agreement.

13. **General Provisions.**

13.1. **Choice of Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the United States of America, without regard to the principles of conflicts of laws. To the extent any dispute between the Parties regarding this Agreement is not arbitrated pursuant to Section 13.7, the federal and state courts in California shall have jurisdiction over the parties hereto in all matters arising hereunder and the parties hereto agree that the venue with respect to such matters will be [***].

13.2. **Headings.** Headings are solely for the convenience of the Parties and shall not be deemed to define, construe, characterize, or limit any of the provisions of this Agreement.

13.3. **Assignments.** This Agreement shall inure to the benefit of, and be binding upon, the successors, legal representatives or assigns of the Parties. For the avoidance of doubt, this Agreement shall survive a change of control of one or more of the Parties and no Party shall gain the right to terminate this Agreement upon the change of control of the other Party.

13.4. **Notices.** All notices required or permitted by this Agreement shall be in writing and shall be sent by first class mail, postage prepaid, or by delivery by a reputable delivery service such as Federal Express or DHL, addressed as follows, or sent via fax transmission with confirmation of receipt, and additional copy via email as indicated:

Medytox:

[***]
[***]
[***]
[***]
[***]

Evolus:

[***]
[***]
[***]
[***]

Any Party may change the address to which notices shall be sent to it by notice in writing to all other Parties.

13.5. **Equitable Relief**. Each Party acknowledges and agrees that the Parties' obligations and undertakings pursuant to Section 2 of this Agreement are reasonable and necessary to protect their respective legitimate interests, that the Parties would not have entered into this Agreement in the absence of such provisions, and that a Party's material breach or threatened breach or failure to comply with Section 2 shall cause the other Party significant and irreparable harm, the amount of which shall be extremely difficult to estimate and ascertain, and for which money damages shall not be adequate. The Parties further acknowledge and agree that they shall have the right to apply to any court of competent jurisdiction for an injunction order restraining any material breach or threatened breach of Section 2 of this Agreement or sales of Licensed Products not consistent with the rights granted under this Agreement and specifically enforcing the terms and provisions of such Section of this Agreement. Each Party agrees that it shall

not challenge any of the foregoing acknowledgements and agreements in this Section 13.5 concerning injunctive relief in any proceeding brought by the other Party.

13.6. **Bankruptcy.** If a case is commenced in respect of Evolus under Title 11 of the United States Code or similar domestic or foreign law, or if a trustee, receiver, conservator or other fiduciary is appointed under any similar domestic or foreign law, and in the event of the entry of a final order of a court of competent jurisdiction determining that the transfer of money or any portion thereof under this Agreement to or on behalf of Medytox to be a preference, voidable transfer, fraudulent transfer, or similar transaction and any portion thereof is required to be returned, then the Parties shall jointly move the relevant court or agency of competent jurisdiction to vacate any releases made pursuant to this Agreement, which releases shall then be null and void, and the Parties shall be restored to their respective positions in the California Action, the ITC Action, and the Korean Actions immediately prior to the date of this Agreement.

13.7. **Arbitration**. Except for disputes regarding equitable relief under Section 13.5, if any disputes arise out of or in connection with this Agreement or any further amendment thereto, the Parties shall try to resolve such dispute amicably. In the event that the Parties fail to settle the dispute through amicable negotiation, such dispute shall be submitted to and finally settled by arbitration in **[***]** in accordance with the rules of JAMS by one or more arbitrators appointed in accordance with such rules. The language to be used in the arbitral proceedings shall be English.

13.8 **Taxes; Withholding**. (a) In the event that any payment under this Agreement becomes subject to withholding taxes under applicable laws or regulations, the payor shall withhold from the payment the amount of such taxes due and timely pay to the proper governmental authority the amount of any taxes withheld. The payor shall deliver to the payee the original or a certified copy of a receipt issued by the applicable governmental authority evidencing the payment of the taxes withheld, a copy of the tax return reporting such payment, or other evidence of such payment reasonably satisfactory to payee. The Parties agree to cooperate with one another and use reasonable efforts to minimize or eliminate any such tax withholding or similar obligations in respect of any payments or transfers (including the issuance or transfer of shares of stock) made to Medytox under this Agreement including taking into account any reduction to withholding available under a tax treaty to which the payee is entitled and taking all appropriate steps related thereto. Each Party agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect (including pursuant to Section 13.8(c)(ii) below), it shall update such form or certification or promptly notify the other Party in writing of its legal inability to do so.
(b) In furtherance of the foregoing, the Parties shall cooperate to (i) determine to which jurisdiction or jurisdictions each payment made hereunder is allocable and the portion allocable to each such jurisdiction (based upon the Net Sales or the utilization of intellectual property in each such jurisdiction), (ii) determine the treatment of each such payment for tax purposes in each such jurisdiction, and (iii) report each payment made

hereunder consistent with such determination for all tax purposes in all affected jurisdictions.

(c) With respect to the portion of any payments made under this Agreement that are allocable to sources within the United States in accordance with the principles of Paragraph (b) or Paragraph (d) hereof:

(i) Medytox represents that it is, and at all relevant times will be, entitled to the benefits of the United States - Republic of Korea Income Tax Convention (the "**Treaty**"), including, without limitation, where applicable the reduced rate of taxation on royalties specified in paragraph (1) of Article 14 thereof, with respect to such payments of which it is the beneficial owner;

(ii) Medytox shall provide Evolus with a validly completed and duly executed IRS Form W-8BEN-E (or IRS Form W-9 if applicable) claiming any exemption from or reduced rate of withholding described in clause (i); and

(iii) the Parties agree that each such Initial License Payment and Renewal License Payment shall be treated as a payment of a royalty pursuant to the Internal Revenue Code of 1986, as amended, and the Treaty.

(d) Notwithstanding anything to the contrary in this Agreement or the Share Issuance Agreement, Evolus shall not reduce the number of Issued Shares issuable to Medytox on account of any U.S. withholding taxes. Medytox shall deposit, promptly following the date hereof (and shall use commercially reasonable efforts to deposit no later than five (5) Business Days following the date hereof) an amount equal to [***] (the "**Issued Shares Escrow Amount**") into an escrow account (the "**Escrow Account**") with a nationally recognized third party escrow agent (the "**Escrow Agent**") mutually agreed by Medytox and Evolus, which such Escrow Account shall be established in accordance with Treasury Regulation section 1.1441-3(d)(1), pending the determination in accordance with this section 13.8(d) of the source of the income of Medytox for U.S. tax purposes resulting from the issuance of Issued Shares hereunder. The release of funds from the Escrow Account shall be governed by a customary escrow agreement, in a form mutually agreed by Medytox and Evolus promptly following the date hereof. The costs and expenses of the Escrow Agent shall be borne equally by both Parties. In addition, until such time as the Final Withholding Amount (as defined below) is determined pursuant to this section 13.8(d), Evolus shall promptly deposit an amount equal to [***] of each Initial Royalty payment and Renewal License Payment to the Escrow Account (the aggregate amount of such payments, at any given time, the "**License Escrow Amount**" and, together with the Issued Shares Escrow Amount, the "**Total Escrow Amount**") substantially concurrently with the payment of the remaining portion of the Initial Royalty or Renewal License Payment, as applicable, to Medytox (and the full amount of the Initial Royalty or Renewal License Payment, as applicable, shall be deemed paid to Medytox in accordance with this Agreement notwithstanding any deposit to the Escrow Account). Promptly following the date hereof, and in no event later than thirty (30) days following the date hereof, Medytox and Evolus shall jointly engage a United States based "Big 4"

accounting and U.S. tax expert mutually agreeable to both Parties (the "**Accounting Expert**") to determine the portion of any Initial Royalty payment or Renewal License Payment and the value of the Issued Shares that are attributable to U.S. sources and the portions that are attributable to Korean or other non-U.S. sources (including, for the avoidance of doubt, taking into consideration the portion, if any, of such payments that relate to the manufacture of products within the Republic of Korea), and the determination of such Accounting Expert shall be rendered within three (3) months after the date hereof, and binding on both Parties. The costs and expenses of engaging the Accounting Expert shall be borne equally by both Parties. Once the determination of the Accounting Expert has been rendered, the Parties shall deliver joint written instructions to the Escrow Agent to pay promptly (i) a cash amount equal to (A) [***] multiplied by the U.S. source portion of any Initial Royalty payment or Renewal License Payment from which any amount was deposited in the Escrow Account plus (B) [***] multiplied by the U.S. source portion of the value of the Issued Shares (based on the closing price of the Issued Shares on the date of issuance) (such amount, the "**Final Withholding Amount**") to the U.S. Internal Revenue Service and (ii) the balance of the Escrow Account (after deducting the Final Withholding Amount) to Medytox.

(e) Within thirty (30) days after demand therefore, Medytox shall indemnify Evolus and each of its directors, officers and affiliates, and hold each of them harmless from and against, and shall pay and reimburse each of them for, (i) any loss or liability attributable to any breach or violation of, or failure to fully perform, any covenant, agreement, or obligation in this Section 13.8, and (ii) all U.S. federal withholding taxes, penalties, fees, interest, additions to tax or other assessments related to the underpayment of any taxes, or the failure to pay to the Internal Revenue Service any taxes that were required to be withheld from any payment made hereunder, together with any out-of-pocket fees and expenses (including attorneys' and accountants' fees) incurred in connection therewith arising from a claim made against Evolus by the Internal Revenue Service, **provided** that (a) in the event of such a claim Medytox is provided prompt notice thereof, (b) Evolus reasonably cooperates in good faith with Medytox in the adjudication of said claim, (c) the claim results in a final order requiring a payment within the scope of this subsection, and (d) such claim is not settled or otherwise resolved without Medytox's consent (not to be unreasonably withheld, conditioned or delayed). Medytox further agrees that Evolus shall have the right, in its discretion, to offset any Initial Royalty or Renewal License Payment required to be paid pursuant to this Agreement or any License Payment (as such term is defined in the US Settlement and License Agreement) required to be made pursuant to the US Settlement and License Agreement by any amount due under this Section 13.8(e) to the extent such amount is not otherwise paid by Medytox to Evolus within the thirty day period provided in this paragraph (and any amount subject to such offset shall be treated as paid to Evolus for all purposes under this Agreement or the US Settlement and License Agreement, as applicable).

(f) The Parties shall not take any position for any tax purpose inconsistent with any provision of this Section 13.8, absent a final and binding determination by a taxing authority in the relevant jurisdiction(s), in which case parties shall also cooperate to seek

conforming adjustments in any other relevant jurisdictions. The Parties shall keep each other reasonably informed, and shall notify the other Party promptly of any inquiry of any taxing authority relating in any way to such determination, allocation or treatment or otherwise in respect of the taxation of any payments made hereunder (including the issuance of the Issued Shares), and shall, without limiting the generality of Section 13.8(a), reasonably cooperate in responding to any such inquiry and in any related audit or contest. No settlement of any audit, proceeding, examination or contest with respect to taxes or the taxation of the parties with respect to any payments made hereunder shall be agreed to by either Party without the consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed).

13.8. **Entire Agreement.** All rights not expressly granted by the Parties under this Agreement are reserved by the Parties and, except as explicitly set on in this Agreement, no other express or implied license or rights under any intellectual property of any Party are granted or intended to be granted under this Agreement. The Parties acknowledge that this Agreement sets forth the entire agreement and understanding of the Parties and supersedes all prior written or oral agreements or understandings with respect to the subject matter hereof. No modification of any of the terms of this Agreement, or any amendments thereto, shall be deemed to be valid unless in writing and signed by an authorized agent or representative of both parties hereto. No course of dealing or usage of trade shall be used to modify the terms and conditions herein. This Agreement shall be binding on each of the Parties and their respective permitted successors and assigns.

13.9. **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful, invalid, void, or unenforceable in whole or in part for any reason, such provision or such part thereof shall be deemed separate from and shall in no way affect the validity, legality, and enforceability of the remainder of this Agreement. If such provision or part thereof is deemed unlawful, void, or unenforceable due to its scope or breadth, such provision or part thereof shall be deemed valid to the extent of the scope or breadth permitted by law. The Parties agree to renegotiate in good faith any provision held to be invalid, illegal, or unenforceable, it being the intent of the Parties that the basic purposes of the Agreement are to be effectuated.

13.10. **Counterparts.** This Agreement may be executed in counterparts, and execution by each of the Parties of any one of such counterparts will constitute due execution of this Agreement. Each such counterpart hereof shall be deemed to be an original instrument, and all such counterparts together shall constitute but one agreement. Execution and delivery of this Agreement by facsimile by either Party shall be legal, valid, and binding to the same extent as an original signature.

IN WITNESS WHEREOF, the Parties have fully executed and delivered this Settlement Agreement as of the day and year first written above.

MEDYTOX, INC.
By: /s/ Hyun Ho Jung
Name: Hyun Ho Jung
Title: CEO & President

EVOLUS, INC.
By: /s/ David Moatazedi
Name: David Moatazedi
Title: President and Chief Executive Officer

EVOLUS, INC.

SHARE ISSUANCE AGREEMENT

This Share Issuance Agreement (this "***Agreement***") is made as of February 18, 2021, by and among Evolus, Inc., a Delaware corporation (the "***Company***"), and Medytox, Inc., a company organized under the laws of Korea ("***Medytox***").

RECITALS

A. Concurrently with the entrance by the Company and Medytox into this Agreement, the Company and Medytox are also entering into (i) that certain Settlement and License Agreement, on even date herewith (the "***Settlement Agreement***") and (ii) that certain Registration Rights Agreement, on even date herewith (the "***Registration Rights Agreement***" and, together with the Settlement Agreement, the "***Related Agreements***").

B. Contingent on, and substantially simultaneously with, the execution of the Settlement Agreement and in consideration for the promises set forth in the Settlement Agreement, the Company desires to issue to Medytox 6,762,652 shares of its common stock, par value $0.00001 per share (the "***Securities***").

AGREEMENT

In consideration of the mutual promises contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties to this Agreement agree as follows:

1. **Issuance of Securities.**

a. Issuance of Securities. Subject to the terms and conditions of this Agreement, Medytox agrees to execute the Related Agreements at the Closing (as defined below), and the Company agrees at the Closing to execute the Related Agreements and to issue to Medytox the Securities in exchange for the promises set forth in the Settlement Agreement (the "***Issuance***").

b. Closing; Delivery. The Issuance shall take place by electronic transmission of signature pages concurrently with, but immediately following, the execution of this Agreement by the Company and Medytox on the date set forth above (the "***Closing***"). At the Closing, the Company shall deliver to Medytox evidence of the Securities against execution of the Settlement Agreement by Medytox.

2. **Representations and Warranties of the Company.** The Company hereby represents and warrants to Medytox as of the Closing that:

a. Organization, Standing and Power. Each of the Company and its Subsidiaries is duly organized, validly existing and in good standing, to the extent applicable, under the laws of its jurisdiction of incorporation or organization, and has the requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted. Each of the Company and its Subsidiaries is duly qualified and in good standing, to the extent applicable, to do business as a foreign corporation or other legal entity in each other jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary, except in each case where the failure to so qualify would not, individually or in the aggregate, reasonably be likely to have a Company

Material Adverse Effect. None of the Company or any of its Subsidiaries is in violation of its Organizational Documents.

b. Authority. The Company has all necessary power and authority to execute and deliver this Agreement and the Related Agreements, to perform its obligations hereunder and thereunder and to consummate the Issuance. The execution and delivery of this Agreement by the Company and the consummation by the Company of the Issuance have been duly and validly authorized by all necessary action, and no other proceedings on the part of the Company are necessary to authorize this Agreement or to consummate the Issuance. This Agreement, when executed and delivered by the Company and assuming due authorization, execution and delivery by Medytox, constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar Laws relating to or affecting creditors generally or by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law). The Board of Directors of the Company has determined, at a duly convened meeting or pursuant to a unanimous written consent, that the execution and delivery of this Agreement and the Related Agreements and the consummation of the transactions contemplated hereby and thereby (including the Issuance), are in the best interests of the Company.

c. No Conflict; Required Filings and Consents.

i. The execution and delivery of this Agreement and the Related Agreements by the Company does not, and the consummation by the Company of the transactions contemplated hereby and thereby (including the Issuance) will not, conflict with, result in a violation of, or constitute a default (with or without notice or lapse of time, or both) under, or give rise to a right of, or result by its terms in the termination, amendment, cancellation or acceleration of any obligation or the loss of a material benefit under, or the creation of a Lien on, or the loss of, any assets pursuant to: (A) any provision of the Organizational Documents of the Company or (B) except as, in the aggregate, would not reasonably be likely to have a Company Material Adverse Effect, subject to obtaining or making the consents, approvals, orders, authorizations, registrations, declarations and filings referred to in paragraph (ii) below, (1) any loan, credit agreement, note, mortgage, bond, indenture, lease, benefit plan or other agreement, obligation, instrument, permit, concession, franchise or license of the Company or any Subsidiary of the Company, or (2) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Company or any Subsidiary of the Company or their respective properties or assets.

ii. The execution and delivery of this Agreement and the Related Agreements by the Company do not, and the consummation of the transactions contemplated thereby (including the Issuance) by the Company will not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority or any other Person, other than:

1. filings and reports required under the Exchange Act;

2. any filings pursuant to Regulation D of the Securities Act or required by applicable state securities laws; and

3. filing of the LAS (as defined and described below in Section 4(b) with The Nasdaq Stock Market ("***Nasdaq***").

d. Capitalization; Issuance.

i. The authorized capital stock of the Company consists of 100,000,000 shares of Common Stock and 10,000,000 shares of preferred stock, par value $0.00001 per share (the "Preferred Stock"). As of the close of business on February 14, 2021, there were (A) 33,830,180 shares of Common Stock outstanding, (B) no shares of Preferred Stock outstanding, (C) 3,115,831 shares of Common Stock reserved for issuance upon the conversion of the certain Convertible Promissory Note, dated July 30, 2020, for the benefit of Daewoong Pharmaceutical Co., Ltd., and (D) no shares of Common Stock held in the treasury of the Company. As of December 31, 2020, there were (E) 5,581,239 shares of Common Stock are reserved for issuance upon the exercise or vesting of outstanding incentive equity awards granted pursuant to the Company's incentive equity plans ("Stock Awards"), and (F) 2,049,553 shares of Common Stock were reserved for issuance pursuant to Stock Awards not yet granted or other Company benefit plans. Except for the Stock Awards and Convertible Note, there are no outstanding subscriptions, options, rights, warrants, convertible securities, stock appreciation rights, phantom equity, or other agreements or commitments obligating the Company to issue, transfer, sell, redeem, repurchase or otherwise acquire any shares of its capital stock of any class or other equity in the Company.

ii. The Securities to be issued pursuant to this Agreement have been duly authorized by the Company by all necessary corporate action, and when issued in accordance with the terms of this Agreement, such Securities will be duly and validly issued, fully paid and nonassessable and, subject to the compliance by Medytox with the representations, warranties, covenants and agreements of Medytox set forth herein, will have been issued in compliance with all applicable federal and state securities laws. From December 31, 2020 through the date of this Agreement, there have been no issuances of any Common Stock, Preferred Stock or any other equity or voting securities or interests in the Company, other than issuances of shares of Common Stock pursuant to the exercise, vesting or settlement, as applicable, of Stock Awards or Company benefit plans outstanding as of December 31, 2020 in accordance with the terms of such Stock Awards or Company benefit plans.

e. SEC Filings; Financial Statements.

i. The Company has filed on a timely basis the SEC Reports. The SEC Reports (A) were prepared in accordance with the requirements of the Securities Act or the Exchange Act, as the case may be, and the rules and regulations promulgated thereunder, and (B) did not at the time they were filed contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

ii. Each of the consolidated financial statements (including, in each case, any notes thereto) contained in the SEC Reports was prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto and, in the case of quarterly financial statements, as permitted by Quarterly Reports on Form 10-Q under the Exchange Act) and each fairly presented in all material respects the consolidated financial position, results of operations and cash flows of the Company and its consolidated subsidiaries as at the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein (subject, in the case of unaudited statements, to normal and recurring year-end adjustments).

f. Material Changes. Since the date of the latest audited financial statements included within the SEC Reports, except as disclosed in subsequent SEC Reports filed prior to the date hereof, there have been no events, occurrences or developments that have had or would reasonably be expected to have, either individually or in the aggregate, a Company Material Adverse Effect. Since the date of the latest audited financial statements included within the SEC Reports, except for the transactions contemplated by this Agreement, no event, liability or development has occurred or exists with respect to the Company or its Subsidiaries or their respective business, properties, operations or financial condition that is required to have been disclosed by the Company under applicable U.S. federal securities laws at the time this representation is made that has not been publicly disclosed at least one Business Day prior to the date that this representation is made.

g. Compliance. Except as disclosed in the SEC Reports, neither the Company nor any of its Subsidiaries (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any of its Subsidiaries under), nor has the Company or any of its Subsidiaries received written notice of a claim that it is in default under or that it is in violation of, any loan, credit agreement, note, mortgage, bond, indenture, lease, benefit plan or other agreement, obligation, instrument, permit, concession, franchise, license or other contract (whether or not such default or violation has been waived), (ii) is in violation of any order of which the Company or any of its Subsidiaries has been made aware in writing of any court, arbitrator or governmental body having jurisdiction over the Company or any of its Subsidiaries or their respective properties or assets, or (iii) is in violation of, or in receipt of written notice that it is in violation of, any statute, rule or regulation of any Governmental Authority applicable to the Company or any of its Subsidiaries, except in each case as would not have or reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

h. Brokers. No broker, finder, investment banker or other person is entitled to any brokerage, finder's or other fee or commission in connection with the Issuance based upon arrangements made by or on behalf of the Company.

i. Private Placement. Assuming the accuracy of Medytox's representations and warranties set forth herein, (i) no registration under the Securities Act is required for the Issuance and (ii) the Issuance does not contravene the rules and regulations of Nasdaq.

j. Listing and Maintenance Requirements. The Securities are registered pursuant to Section 12(b) of the Exchange Act, and the Company has taken no action designed to terminate the registration of the Securities under the Exchange Act nor has the Company received any notification that the SEC is contemplating terminating such registration. The Company is in compliance in all material respects with the listing and maintenance requirements for continued trading of the Securities on Nasdaq. To the extent required, the Securities issuable hereunder will be approved for listing with Nasdaq in accordance with its listing standards. Subject to the outcome and final determination of the Company's independent auditor's audit and review process, the Company expects to account for the Issuance on its books and records at a price not below the "minimum price" under applicable Nasdaq listing standards.

k. Authorized Securities. The Company has sufficient authorized but unissued shares of its common stock sufficient to complete the Issuance.

l. CFIUS Representation. The Company does not: produce, design, test, manufacture, fabricate, or develop one or more "critical technologies," as that term is defined in the Defense Production Act of 1950, as amended, including all implementing regulations thereof.

3. **Representations and Warranties of Medytox.** Medytox hereby represents and warrants to the Company as of the Closing that:

a. Organization. Medytox is duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has the requisite power and authority and all necessary governmental approvals to own, lease and operate its properties and to carry on its business as it is now being conducted, except where the failure to be so organized, existing or in good standing or to have such power, authority and governmental approvals would not prevent or delay consummation of the Issuance, or otherwise prevent Medytox from performing its obligations under this Agreement.

b. Authority. Medytox has all necessary power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the Issuance. The execution and delivery of this Agreement by Medytox and the consummation by Medytox of the Issuance have been duly and validly authorized by all necessary action, and no other proceedings on the part of Medytox are necessary to authorize this Agreement or to consummate the Issuance. This Agreement has been duly and validly executed and delivered by Medytox, and, assuming due authorization, execution and delivery by the Company, constitutes legal, valid and binding obligations of Medytox enforceable against Medytox in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar Laws relating to or affecting creditors generally or by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

c. No Conflict; Required Filings and Consents.

i. The execution and delivery of this Agreement by Medytox does not, and the consummation by Medytox of the Issuance will not, conflict with, or result in a violation of, constitute a default (with or without notice or lapse of time, or both) under, or give rise to a right of, or result by its terms in the termination, amendment, cancellation or acceleration of any obligation or the loss of a material benefit under, or the creation of a Lien on, or the loss of, any assets pursuant to: (A) any provision of the Organizational Documents of Medytox or (B) except as, in the aggregate, would not reasonably be likely to have a Medytox Material Adverse Effect, subject to obtaining or making the consents, approvals, orders, authorizations, registrations, declarations and filings referred to in paragraph (ii) below, (1) any loan, credit agreement, note, mortgage, bond, indenture, lease, benefit plan or other agreement, obligation, instrument, permit, concession, franchise, license, or (2) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Medytox or any Subsidiary of Medytox or their respective properties or assets.

ii. The execution and delivery of this Agreement by Medytox do not, and the consummation of the Issuance by Medytox does not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority or any other Person.

d. Non-Distribution. Medytox is purchasing the Securities for its own account for investment purposes only and not with a view towards, or for resale in connection with, the public sale or distribution thereof in violation of applicable Laws.

e. Accredited Investor Status. Medytox is an "accredited investor" as that term is defined in Rule 501(a)(3) of Regulation D promulgated under the Securities Act. Medytox was not organized solely for the purpose of acquiring the Securities.

f. Reliance on Exemptions. Medytox understands that the Securities are being offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and Medytox's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Medytox set forth herein in order to determine the availability of such exemptions and the eligibility Medytox to acquire the Securities.

g. Information. Medytox and its advisors have been furnished with all materials relating to the business, finances and operations of the Company and its Subsidiaries and materials relating to the Issuance, which have been requested by Medytox. Medytox and its advisors have been afforded the opportunity to ask questions of the Company and have received complete and satisfactory answers to any such inquiries. Medytox understands that its investment in the Securities involves a high degree of risk. Medytox has sought such accounting, legal, tax and other advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Securities. Medytox is able to bear the economic risk of holding the Securities for an indefinite period of time (including total loss of its investment), and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of such investment.

h. Transfer or Resale. Medytox understands that the Securities have not been and are not being registered under the Securities Act or any state securities laws, and may not be transferred unless subsequently registered thereunder or sold or transferred pursuant to an exemption from such registration.

i. Affiliate Status**.** Medytox understands that, immediately following the Issuance, it may be considered an affiliate for purposes of Rule 144 under the Act (as defined below).

j. Legend. Medytox understands that the Securities will bear the following legend(s):

i. "THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***"), OR UNDER THE SECURITIES LAWS OF ANY STATES IN THE UNITED STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

ii. Any legend required by the Blue Sky laws of any state to the extent such laws are applicable to the Securities.

k. Foreign Investors. If Medytox is not a United States person (as defined by Rule 902(k) under the Securities Act), Medytox hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Securities

or any use of this Agreement, including (i) the legal requirements within its jurisdiction for the purchase of the Securities, (ii) any foreign exchange restrictions applicable to such purchase, (iii) any governmental or other consents that may need to be obtained and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale or transfer of the Securities. Medytox's subscription and payment for, and Medytox's continued beneficial ownership of the Securities, will not violate any applicable securities or other laws of Medytox's jurisdiction.

l. Brokers. No broker, finder, investment banker or other person is entitled to any brokerage, finder's or other fee or commission in connection with the Issuance based upon arrangements made by or on behalf of Medytox.

4. **Covenants**.

a. Public Announcements. The parties shall consult with each other before issuing any press release with respect to the announcement of this Agreement or the Issuance and neither shall issue any such press release, make any such public statement or make any filings required by Law without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed; provided, however, that a party may, without the prior consent of the other party, issue such press release, make such public statement or disclosure or make such required filing as may upon the advice of counsel be required by Law or any exchange on which the Company's securities are listed if, to the extent time permits, it has used all commercially reasonable efforts to consult with the other party prior thereto; provided, further, however, that a party may publish, make, repeat or otherwise use any statement previously consented to by the other unless and until such other party objects in writing to the use thereof.

b. Nasdaq Filings Required. In connection with the Issuance, the Company will file a Listing of Additional Shares Notification Form ("***LAS***") as required under the regulations of Nasdaq.

c. Reporting Requirements; Rule 144. Until such time as Medytox no longer owns any of the Securities, the Company shall use its commercially reasonable efforts (i) to be and remain in compliance with the periodic filing requirements imposed under the SEC's rules and regulations, including the Exchange Act, and any other applicable laws or rules, (ii) to timely file all forms, reports and documents required to be filed by the Company with the SEC (including the exhibits thereto and documents incorporated by reference therein), including pursuant to Section 13(a) or 15(d) of the Exchange Act to enable Medytox to sell the Securities without registration under the Securities Act consistent with the exemptions from registration under the Securities Act provided by (A) Rule 144 under the Securities Act, as amended from time to time, or (B) any similar SEC rule or regulation then in effect, and (iii) to list the Company's Common Stock on Nasdaq. Until such time as Medytox no longer owns any of the Securities, the Company shall (x) at the request of Medytox in connection with a proposed sale of the Securities in compliance with Rule 144, reasonably cooperate with Medytox, including with respect to the removal of any applicable restrictive legends at the time of the relevant sale and, if required, delivery of an opinion of counsel to the Company in connection with such removal and (y) furnish to Medytox, promptly upon request, a written statement by the Company as to the status of the Company's compliance with the reporting requirements of Rule 144.

d. Agreement to Vote Securities. Up to and through February 16, 2022, at every meeting of the stockholders of the Company, and at every adjournment thereof, and on every action or approval by written consent of the stockholders of the Company, Medytox shall cause the Securities to be

voted (i) in the case of any action or proposal relating to the election of directors of the Company, in line with the recommendation(s) of the Company's board of directors and (ii) in the case of any other action or proposal, at Medytox's option either (A) in line with the recommendation(s) of the Company's board of directors or any committee thereof or (B) in the same manner (including by voting "for" or "against", abstaining or withholding votes) as, and in the same proportion to, the votes case "for" or "against", and abstentions or vote withholdings made, in respect of all outstanding voting securities of the Company other than voting securities held by (x) Medytox, (y) directors or officers of the Company or (z) Alphaeon 1, LLC or any of its Affiliates. The obligations set forth in this Section 4(d) shall expire on February 17, 2022.

e. Lock-Up.

i. From the Closing and until February 16, 2022 (the "**Lockup Release Date**"), without the prior approval of the Company, Medytox shall not Dispose of (x) any of the Securities, together with any shares of Common Stock issued in respect thereof as a result of any stock split, stock dividend, share exchange, merger, consolidation or similar recapitalization, and (y) any Common Stock issued as (or issuable upon the exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange or in replacement of, the shares of Common Stock described in clause (x) of this sentence (collectively (x) and (y), the "**Lockup Shares**"); provided, however, that, beginning 12 months after the Closing, the foregoing restrictions shall not prohibit Medytox from entering into a Permitted Pledge.

ii. The parties agree that: (w) from February 16, 2022 to September 16, 2023, Medytox may Dispose of up to 25% of the Lockup Shares; (x) from September 16, 2023 to September 16, 2024, Medytox may Dispose of up to an additional 25% of the Lockup Shares (in addition to any Lockup Shares not Disposed of under Section 4(e)(ii)(w) above); (y) from September 16, 2024 to September 16, 2025, Medytox may Dispose of up to an additional 25% of the Lockup Shares (in addition to any Lockup Shares not Disposed of under Sections 4(e)(ii)(w) and (x) above); and (z) from September 16, 2025, Medytox may Dispose of the remaining 25% of the Lockup Shares (in addition to any Lockup Shares not Disposed of under Sections 6(d)(ii)(w), (x) and (y) above). For clarity, Medytox may Dispose of any or all Lockup Shares from and after September 16, 2025.

iii. Notwithstanding the limitations on Disposing the Lockup Shares set forth in this Section 4(e), Medytox shall be permitted to transfer any number of the Lockup Shares (x) at any time to any Affiliate of Medytox, provide such Affiliate agrees in writing to be subject to the terms and conditions of this Agreement and Medytox shall remain liable for any breach of such terms and conditions hereof by such Affiliate, (y) in connection with any transaction resulting in, or expected to result in, a change in control of over 50% of the equity ownership or voting control of the Company (including by way of merger, purchase of equity or assets, third party tender offer, or other substantially similar transactions), or (z) at any time following any material breach of the Settlement Agreement by the Company (subject to applicable cure periods contained therein).

iv. "Disposition" or "Dispose" means a sale, pledge (other than Permitted Pledge), contract to sell, sale of any option or contract to purchase, purchase of any option or contract to sell, grant of any option, right or warrant for the sale of, or other disposition of or transfer of any shares of Lockup Shares, or the economic interests therein.

v. "Permitted Pledge" shall mean the grant of a collateral security interest in any Lockup Shares by or on behalf of Medytox in a bona fide financing transaction with a financial institution; provided that (i) Medytox advises the Company in advance of the identity of the proposed lender(s) and secured party(ies) (if different from the lender(s)) (the "Pledgee(s)") and affords the Company an opportunity to consult with Medytox with respect thereto and (ii) in the event the beneficial ownership of such Common Stock subject to a Permitted Pledge is transferred from Medytox to the Pledgee or any assignee of the Pledgee (the "Transferee") by foreclosure or otherwise, such Transferee (a) is subject to all of the restrictions and limitations imposed on such Lockup Shares and Medytox in respect thereof prior to such Transfer, and (b) shall agree with the Company in writing to be bound by the obligations and restrictions applicable to Medytox hereunder.

f. Regulatory Accommodation. If, at any time following a written inquiry or demand from a Governmental Authority to the Company or Medytox with respect to the Securities or the transactions contemplated by this Agreement, Medytox, in its sole discretion acting in good faith, reasonably believes that such Governmental Authority has undertaken or intends to undertake a formal investigation of Medytox regarding the Securities or any of the transactions contemplated by this Agreement, Medytox may (i) sell, transfer and divest itself of the Securities, notwithstanding restrictions to the contrary under this Agreement (including, for the avoidance of doubt, the provisions set forth in Section 4(e)) and/or (ii) upon reasonably prior written notice to the Company, require the Company to take commercially reasonable steps to cooperate with Medytox to restructure Medytox's ownership of the Securities in a manner that avoids, mitigates, satisfies or remediates any remedial requirements or conditions imposed by, proposed to be imposed by or requested by such Governmental Authority.

g. Stock Certificate(s). From and after the date here, Medytox shall be entitled to request, and the Company shall execute and deliver, a certificate(s) representing the Securities from the Company. From time to time following the initial delivery of such certificate(s), upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of any such certificate(s), the Company will execute and deliver new certificate(s) representing the Securities, of like tenor.

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

a. "Action" shall mean any action, suit, notice of violation, proceeding (including any partial proceeding such as a deposition) or investigation pending or threatened in writing against the Company, any Subsidiary of the Company or any of their respective properties or any officer, director or employee of the Company or any Subsidiary of the Company acting in his or her capacity as an officer, director or employee before or by any federal, state, county, local or foreign court, arbitrator, governmental or administrative agency, or regulatory authority.

b. "Affiliate" shall have the meaning set forth in Rule 12b-2 promulgated under the Exchange Act.

c. "Business Day" shall mean any day other than (i) a Saturday or a Sunday or (ii) a day on which banking and savings and loan institutions are authorized or required by Law to be closed in Los Angeles, CA or Seoul, Korea.

d. "Code" shall mean the Internal Revenue Code of 1986, as amended.

e. "Company Material Adverse Effect" shall mean, when used in connection with the Company or any of its Subsidiaries, any event, circumstance, change or effect individually or collectively with one or more other events, circumstances, changes or effects, that (i) has had, or is reasonably likely to have, a material adverse effect on the business, assets, financial condition or results of operations of the Company and its Subsidiaries taken as a whole, or (ii) is, or is reasonably likely to, prevent or materially delay the consummation of the Issuance; provided, however, that any event, circumstance, change or effect resulting from any of the following, individually or collectively, will not be considered when determining whether a Company Material Adverse Effect has occurred for purposes of clause (i) above: (A) any change in economic conditions generally or capital and financial markets generally, including changes in interest or exchange rates, (B) any change in the industry generally in which the Company or its Subsidiaries operate, (C) any change in Laws or accounting standards, or the enforcement or interpretation thereof, applicable to the Company or its Subsidiaries, (D) conditions in jurisdictions in which the Company or its Subsidiaries operate, including a pandemic, hostilities, acts of war, sabotage, terrorism or military actions, or any escalation or worsening of any of the foregoing, (E) any action taken by Medytox and any of its Affiliates or representatives, (F) any hurricane, flood, tornado, earthquake or other natural disaster, (G) the failure in and of itself of the Company or its Subsidiaries to achieve any financial projections, forecasts or timing or predictions related to re-launching the Company's toxin related products (but not the underlying cause of such failure), (H) changes in the trading price or trading volume of the Company's common stock, (I) any change in the status of, or the resolution of, any Action disclosed in the SEC Reports, (J) any change as a result of entry into the Settlement Agreement or (K) any change in the limited exclusion order or cease and desist order issued by the U.S. International Trade Commission in investigation no. 337-TA-1145; provided, that any adverse effects resulting from matters described in any of the foregoing clauses (A), (B), (C), (D), (F) or (H) may be taken into account in determining whether there is or has been a Company Material Adverse Effect to the extent, and only to the extent, that they have a materially disproportionate effect on the Company or its Subsidiaries relative to other participants in the industries or geographies in which the Company or its Subsidiaries operate.

f. "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

g. "GAAP" shall mean generally accepted accounting principles.

h. "Governmental Authority" shall mean any national, federal, state, provincial or local governmental, regulatory or administrative authority, agency, instrumentality, commission, court, tribunal, arbitral body or self-regulated entity, whether domestic or foreign.

i. "Laws" shall include all foreign, federal, state and local laws, statutes, ordinances, rules, regulations, orders, judgments and decrees.

j. "Liens" shall mean any liens, pledges, security interests, claims, options, rights of first offer or refusal, charges or other encumbrances.

k. "Medytox Material Adverse Effect" shall mean, with respect to Medytox, any event, circumstance, change or effect individually or collectively with one or more other events, circumstances, changes or effects, that is or would be reasonably likely to prevent or materially delay the consummation of the Issuance.

l. "Organizational Documents" shall mean, with respect to any entity, the certificate or articles of incorporation and by-laws of such entity, or any similar organizational documents of such entity in effect as of the date of this Agreement.

m. "Person" shall mean any individual, firm, corporation, partnership, limited liability company or other entity, and shall include any successor (by merger, amalgamation or otherwise) of such entity.

n. "SEC" shall mean the United States Securities and Exchange Commission.

o. "SEC Reports" shall mean the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2019 filed with the SEC on February 25, 2020, the Company's Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 2020, June 30, 2020 and September 30, 2020, filed with the SEC on May 11, 2020, August 10, 2020 and October 29, 2020, respectively, the Company's Current Reports on Form 8-K filed with the SEC on November 19, 2020, December 16, 2020 and January 5, 2021, and the information specifically incorporated into the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2019 from the Company's Definitive Proxy Statement on Schedule 14A filed with the SEC on April 21, 2020 (including, in each case, the exhibits thereto and documents incorporated by reference therein).

p. "Securities Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

q. "Subsidiary" shall mean, when used with respect to either the Company or Medytox, as applicable, any other Person that the Company or Medytox, as applicable, directly or indirectly owns or has the power to vote or control more than 50.0% of (i) any class or series of capital stock of such Person, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by the Company or Medytox, as applicable.

6. **Miscellaneous.**

a. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

b. Governing Law; Consent to Jurisdiction; Waiver of Jury Trial.

i. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law.

ii. Any claim, complaint, or action brought under this Agreement shall be brought in a court of competent jurisdiction in the State of Delaware, whose courts shall have exclusive jurisdiction over claims, complaints, or actions brought under this Agreement, and the parties hereby agree and submit to the personal jurisdiction and venue thereof.

iii. THE COMPANY AND MEDYTOX EACH HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS AGREEMENT OR THE TRANSACTIONS RELATED HERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. THE COMPANY AND MEDYTOX EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE COMPANY AND MEDYTOX MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

c. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. This Agreement may also be executed and delivered by facsimile or other electronic delivery of signature.

d. Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

e. Notices. Any notice or communication provided for by this Agreement shall be in writing and shall be delivered in person, or sent by telecopy or fax or electronic mail, or mailed, first class, postage prepaid, or sent by internationally recognized overnight delivery service addressed to the Company or Medytox at their respective addresses, email addresses or fax numbers set forth on the signature page hereto. All notices, demands and other communications shall be deemed to have been duly given when delivered by hand, if personally delivered; when delivered by courier, if delivered by commercial courier service; five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; and when receipt is mechanically acknowledged, if faxed or emailed.

f. Amendments and Waivers. Any term of this Agreement may be amended or waived only with the written consent of the Company and Medytox (which may be withheld by each of the Company and Medytox in their respective sole and absolute discretion).

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

h. Entire Agreement. This Agreement, together with the Related Agreements, constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements existing between the parties hereto are expressly canceled.

i. Expenses. The Company and Medytox shall each bear its respective expenses and legal fees incurred with respect to this Agreement and the transactions contemplated hereby.

[Signature page follows]

The parties have executed this Share Issuance Agreement as of the date first written above.

COMPANY:

EVOLUS, INC.

By: /s/ David Moatazedi

Name: David Moatazedi
Title: President and Chief Executive Officer

Address: [***]

MEDYTOX:

MEDYTOX, INC.

By: /s/ Hyunho Jung

Name: Hyunho Jung
Title: CEO & President

Address: [***]

CONFIDENTIAL SETTLEMENT AND RELEASE AGREEMENT

This Confidential Settlement and Release Agreement (the "Agreement") is made and entered into as of March 23, 2021 (the "Execution Date") by and between Evolus, Inc., a corporation organized and existing under the laws of the State of Delaware, United States ("Evolus"), on the one hand, and Daewoong Pharmaceutical Co., Ltd., a corporation organized and existing under the laws of the Republic of Korea ("Daewoong"; together with Evolus, individually, a "Party" and collectively, the "Parties"), on the other hand.

RECITALS

WHEREAS, Daewoong and Evolus are parties to that certain License and Supply Agreement dated September 30, 2013, and amended as of February 26, 2014 and July 15, 2014 (the "License Agreement") concerning Daewoong's supply to Evolus and Evolus's marketing and sale of pharmaceutical and biologic preparations containing botulinum toxin type A with 900 kDa protein (the "Product") in the United States, among other territories;

WHEREAS, Daewoong and Evolus were named as Respondents in that certain investigation in the United States International Trade Commission (the "ITC") styled *In the Matter of Certain Botulinum Toxin Products, Processes for Manufacturing or Relating to Same and Certain Products Containing Same*, being Investigation No. 337-TA-1145 (the "ITC Investigation");

WHEREAS, the ITC Investigation was commenced based on a complaint filed by Medytox Inc. of Seoul, Republic of Korea ("Medytox"), together with Allergan plc (now Allergan Limited) of Dublin, Ireland and Allergan, Inc. of Irvine, California (both now affiliates of AbbVie Inc.) (collectively, the "ITC Complainants");

WHEREAS, Medytox requested a criminal investigation and filed a civil complaint against Daewoong that is currently pending in the Seoul Central District Court in the Republic of Korea, bearing Case No. 2017가합574026 ("Korea Actions"), wherein Medytox asserts claims based on substantially the same facts as those alleged by the ITC Complainants in the ITC Investigation and seeks relief that may affect Evolus' rights under the License Agreement;

WHEREAS, in the Korea Actions, Medytox seeks to enjoin Daewoong's manufacturing and sale of the Product, among other relief;

WHEREAS, on or about June 7, 2017, Medytox filed a complaint against Evolus, Daewoong, and certain other persons and entities styled *Medytox Inc. v. Daewoong Pharmaceutical Co., Ltd., et al.*, being Case No. 30-2017-00924912-CU-IP-CJC in the Superior Court of the State of California for the County of Orange (the "California Lawsuit" and together with the ITC Investigation and the Korea Actions, the "Medytox Actions");

WHEREAS, effective February 18, 2021, Evolus, Medytox, and Allergan entered into a certain Settlement and License Agreement concerning the marketing and sale of products in the United

States (the "Evolus-Medytox US Settlement"), and Evolus and Medytox entered into a certain Settlement and License Agreement concerning the marketing and sale of products outside of the United States (the "Evolus-Medytox ROW Settlement"), which two agreements (together, with any associated agreements or documents, the "Evolus-Medytox Settlement Agreements") resolve certain disputed claims made in the Medytox Actions and under which Evolus is obligated to provide consideration as defined in those agreements;

WHEREAS, Daewoong denies the material allegations against it in the Medytox Actions;

WHEREAS, concurrently with the execution of this Agreement, Evolus and Daewoong will enter into certain other agreements between them, to wit: the Third Amendment to License and Supply Agreement, the Convertible Promissory Note Conversion Agreement and the Addendum to the Exclusive Distribution and Supply Agreement (collectively, the "Additional Party Agreements").

WHEREAS, Evolus and Daewoong mutually desire to enter into a settlement and compromise of potential claims arising from or related to the Medytox Actions.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual undertakings set forth in this Agreement, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. No Admissions

1.1. It is understood and agreed that this is a compromise settlement of disputed claims and potential disputed claims. This Agreement is solely the result of a good-faith compromise and settlement between the Parties, who desire to continue to pursue their business collaboration for their mutual benefit. Neither this Agreement, the activities performed in contemplation of, in connection with, or in furtherance of this Agreement, nor statements made by any Party or any of its representatives concerning or relating to this Agreement are to be construed as an admission by Daewoong of liability, wrongdoing, or responsibility. For the avoidance of doubt, Daewoong has denied and continues to deny any and all allegations or accusations of liability or wrongdoing of any kind whatsoever, and retains, and does not waive, any and all defenses it may have with respect to such matters, subject to the terms of this Agreement.

2. Effective Date

2.1. Prior to the Execution Date, Daewoong has obtained the Bank of Korea's acceptance of the foreign exchange report made in connection with this Agreement and the payments made hereunder. This Agreement will become effective upon the execution and delivery of the Additional Party Agreements. The date on which the requirements of this Section 2.1 are met shall be the "Effective Date."

3. Payments and Cancellation

3.1. Subject to the terms and conditions herein and to Evolus's performance of its obligations hereunder, Daewoong shall pay to Evolus a lump sum payment of US$25,500,000 (twenty-five million five hundred thousand dollars) (the "Lump Sum Payment") within fifteen (15) calendar days of the Execution Date, via wire transfer to the following account:

Bank: Bank of America, N.A.
Account Address: [***]
[***]
Routing Number ACH/EFT: [***]
Routing Number DOM. WIRES: [***]
Swift Code for US Dollar Wires: [***]
Swift Code for Foreign Currency: [***]
Account Name: [***]
Account Number: [***]

3.1. Subject to the terms and conditions herein and to Evolus's performance of its obligations hereunder, Daewoong: (a) shall pay within [***] days of the Execution Date [***]% of the reasonable legal fees incurred and invoiced prior to the Execution Date (but not yet paid as of the Execution Date) by counsel of record for Evolus, Paul, Weiss Rifkind, Wharton & Garrison LLP ("Paul Weiss"), in connection with Paul Weiss's rendering of legal services in support of Evolus's defense of the ITC Investigation and the appeal of the remedial orders arising from the ITC Investigation to the United States Court of Appeals for the Federal Circuit ("Indemnified Legal Services"), and (b) shall pay within [***] days of presentment [***]% of the reasonable legal fees incurred prior to the Execution Date and invoiced after the Execution Date solely for Indemnified Legal Services (subsections (a) and (b) together are the "Legal Fee Indemnity"). For sake of clarity and without limiting the foregoing, Daewoong shall have no obligation to pay any portion of Paul Weiss's invoices for services rendered in connection with: the Evolus-Medytox Settlement Agreements; any claims or allegations by Evolus against Daewoong; or the negotiation and drafting of this Agreement.

3.2. Subject to the terms and conditions herein and to Evolus's performance of its obligations hereunder, Daewoong agrees to cancel up to US$10,500,000 (ten million five hundred thousand dollars) of milestone payments under Article 6.7 of the License Agreement which would otherwise be due and owing on the Execution Date or which would have otherwise become due and owing after the Execution Date (the "Cancellation Amount"). Such milestone payments shall not be due and shall be deemed cancelled and of no further force or effect at the time when the milestone

payment would otherwise be due. The cancellation of the milestone payment shall be contingent upon Evolus providing within thirty (30) days after what would have been the achievement of a milestone after the Execution Date a written notice to Daewoong of the particular milestone achieved, and the amount of the payment cancelled. In the event that the total sum of milestone payments cancelled under this provision is less than US$10,500,000, then Evolus shall not be entitled to compensation for the remainder and shall not be entitled to any further consideration, payment, compensation, accommodation or cancellation under this provision. For sake of clarity and without limiting the foregoing, this Agreement creates no obligation for Daewoong to refund or return any milestone payments previously paid by Evolus on or before the Execution Date and any such previously paid payments shall remain non-creditable and non-refundable as provided in Article 6.7 of the License Agreement.

3.3. Subject to the terms and conditions herein and to Evolus's performance of its obligations hereunder, Daewoong shall reimburse Evolus US$[***] ([***] dollars) for each 100 IU vial (or $[***] for each 50 IU vial) of the Product on which Evolus will actually make payment to Medytox and Allergan pursuant to Article 5.3 of the Evolus-Medytox US Settlement during the period commencing on December 16, 2020 and ending on September 16, 2022 (the "US Payment Reimbursement"). Within forty-five (45) days of the end of each calendar quarter containing the applicable Reporting Period (as defined in Article 5.3 of the Evolus-Medytox US Settlement), Evolus shall provide to Daewoong an advanced copy of the Sales and Royalty Report that Evolus intends to send to Allergan and Medytox as provided in Article 5.3 of the Evolus-Medytox US Settlement (the "Advanced Report"). Within [***] ([***]) days of receipt of the Advanced Report, Daewoong shall make the U.S. Payment Reimbursement by wire transfer of immediately available funds. Thereafter, Evolus shall also provide to Daewoong a copy of the Sales and Royalty Report when sent to Allergan and Medytox as provided in Article 5.3 of the Evolus-Medytox US Settlement (the "Final Report"). If there is a difference between the Advanced Report and the Final Report then (i) if the difference would have required Daewoong to make a lower US Payment Reimbursement, then Evolus shall credit such balance against the next US Payment Reimbursement or (ii) if the difference would have required Daewoong to make a higher US Payment Reimbursement, then Evolus shall provide an invoice for the balance of the US Payment Reimbursement for such quarter and Daewoong shall pay such invoice within [***] ([***]) days of receipt thereof. If any credit pursuant to subsection (i) remains after September 16, 2022, Evolus shall pay such remainder to Daewoong on or before October 1, 2022. The US Payment Reimbursement shall be net of any deduction or credit applied under Article 5.4 of the Evolus-Medytox US Settlement, and Evolus shall credit to Daewoong the portion of any reimbursement pursuant to such Article 5.4 which had been previously paid by Daewoong under the US Payment Reimbursement against future US Payment Reimbursement, provided, however, that if such credit relates to the period from June 30, 2022 to September 16, 2022, then Evolus shall return such amounts to Daewoong.

3.4. The Parties jointly agree that the statements set forth on Schedule A are true and correct. Daewoong shall pay the Lump Sum Payment, the Legal Fee Indemnity, the Cancellation Amount, and the US Payment Reimbursement (collectively, the "Settlement Consideration") without deduction for any withholding and free and clear of any taxes imposed by or under the authority of the government of South Korea; provided, however, that (A) in the event the tax authority of the government of South Korea deems any portion of the Settlement Consideration to be subject to withholding and/or taxation (including penalty tax), (i) Daewoong shall use commercially reasonable efforts (including commencement of litigation if necessary) to obtain a determination that the Settlement Consideration is not subject to South Korean withholding and/or taxation (including penalty tax), including, without limitation, by pursuing any remedy with the applicable competent authority or otherwise available pursuant to the United States - Republic of Korea Income Tax Convention; and (ii) Evolus shall use commercially reasonable efforts in cooperating with Daewoong in obtaining such determination; and (B) if any portion of the Settlement Consideration is nonetheless finally determined to be subject to South Korean withholding and/or taxation (including penalty tax), Evolus shall be solely responsible for such withholding and/or tax amount determined to be applicable and [***]% of any penalty tax. Daewoong shall provide commercially reasonable assistance to facilitate Evolus's payment of such taxes and (if applicable) obtaining corresponding tax credits, refunds or other benefits that are available to offset such taxes including, without limitation, by pursuing any remedy with the applicable competent authority or otherwise available pursuant to the United States - Republic of Korea Income Tax Convention. Evolus shall have the financial responsibility to pay all taxes as finally determined by applicable United States or other law to be Evolus's obligation to pay, and Daewoong shall not be liable at any time for any such taxes incurred in connection with or related to amounts paid under this Agreement.

3.5. Other than the Settlement Consideration, Daewoong is not obligated to provide any other payment, forgiveness, offset, compensation, accommodation, cancellation, or consideration in connection with this Agreement.

3.6. Without limiting the foregoing, the consideration paid under this Agreement and the Additional Party Agreements (including the Settlement Consideration) shall not give rise to an offset under the Section 5 of the parties' Convertible Promissory Note Purchase Agreement entered into as of July 6, 2020. The rights and obligations of the Parties under such agreement shall not be modified by this Agreement or the Additional Party Agreements except as explicitly provided therein.

4. Evolus Obligations

4.1. Evolus shall, to the extent it is not inconsistent with its obligations under the Evolus-Medytox Settlement Agreements, cooperate in good faith with Daewoong's reasonable requests for assistance and coordination in legal matters pertaining to the Medytox Actions. Evolus shall use commercially reasonable efforts to cause

Medytox to make a filing with an appropriate document in the Korea Actions that Medytox is not seeking any damages related to any sales of the Product by Daewoong to Evolus, including for any periods prior to December 16, 2020.

4.2. Evolus on behalf of itself and its employees, officers, owners, agents, representatives, shareholders, partners, directors, subsidiaries, divisions, parent companies, affiliates, attorneys, insurers, successors, and assignees each covenant not to, directly or indirectly, alone or by, with or through others, cause, induce, allow to continue or authorize or voluntarily assist, participate, or cooperate in the commencement, maintenance, or prosecution of any action, proceeding, petition, or investigation arising out of or relating to the allegations made in or subject matter of the Medytox Actions, which would adversely affect Daewoong or any Daewoong affiliate, distributor, or collaboration partner.

5. Release

5.1. Upon the Effective Date, Evolus, on behalf of itself and each of its past and present employees, officers, owners, representatives, agents, representatives, shareholders, partners, officers, directors, subsidiaries, divisions, parent companies, affiliates, attorneys, insurers, successors, and assignees (collectively, the "Evolus Releasors") hereby knowingly and voluntarily acknowledges full and complete satisfaction of, and does hereby irrevocably, fully and forever release, relinquish, and discharge Daewoong and each of its past and present employees, officers, owners, representatives, agents, representatives, shareholders, officers, directors, subsidiaries, divisions, parent companies, affiliates, attorneys, insurers, successors, and assignees (collectively, the "Daewoong Releasees") from, and covenants not to assert or maintain, any and all proceedings, claims, actions, requests for indemnification, rights, causes of action, demands, suits, costs, obligations, duties, expenses, compensation in any form, including attorneys' fees, and statutory, compensatory, exemplary, punitive, or other damages, liabilities or liability of whatever kind or type, whether known or unknown, asserted or unasserted, fixed or contingent, whether at law or in equity, which any Evolus Releasor may have or had, or may claim to have or have had, or may claim in the future to have, against any Daewoong Releasee that arise out of, relate to, or share a common nexus of fact with: (a) the allegations made in or subject matter of the Medytox Actions; (b) any and all orders, remedies, prohibitions, injunctions, damages, losses, or injuries resulting directly or indirectly from the Medytox Actions; (c) any and all allegations concerning Daewoong's actual or alleged relationship with Dr. Byung Kook Lee; (d) the Evolus-Medytox Settlement Agreements; or (e) any alleged delay or failure (past, present or future) by Daewoong to fulfill an order by Evolus wherein such delay or failure arises from or is related to Medytox's enforcement or execution of an order or judgment arising from or related to the Medytox Actions or the allegations made in or subject matter of the Medytox Actions. For purposes of clarity and without limiting the foregoing, the release shall encompass, and Daewoong shall not be liable for: any losses or liabilities arising from the Evolus-Medytox Settlement Agreements, including any Evolus indemnification

obligation under any of those Agreements; or any claim that Daewoong is the cause of any interruption or delay (past, present or future) of supply of the Product wherein such interruption or delay arises from or is related to the Medytox Actions or the action of any judicial, executive, legislative, governmental, or regulatory authority arising from, related to, or sharing any common nexus of fact with any allegation made in the Medytox Actions.

5.2. Evolus Releasors expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, or international or foreign law, which would limit the scope of the release provided above, including any provision which is similar, comparable, or equivalent to Section 1542 of the California Civil Code, which provides: A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY. Evolus Releasors acknowledge that they may hereafter discover facts in addition to or different from those which they now believe to be true with respect to the subject matters of the claims released herein, but hereby stipulate and agree that they have fully, finally, and forever settled and released any and all such claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, concealed or hidden, which now exist or heretofore existed upon any theory of law or equity now existing or coming into existence in the future, without regard to the discovery or existence of such different or additional facts.

6. No Modification of Prior Agreements

6.1. Except as expressly provided herein, nothing contained herein shall be deemed to constitute a waiver of any right under, or modification or amendment of any term of, any prior executed agreement between the Parties, including without limitation the License Agreement.

7. Confidentiality

7.1. The terms and conditions of this Agreement shall be and shall remain at all times strictly confidential. No reference to the terms and conditions of this Agreement can be made in any press release, other publicity or any form of public or commercial advertising without the other Party's prior written consent; provided, however, that each Party may disclose the terms and conditions of this Agreement: (a) as required upon the advice of counsel pursuant to applicable law, including, without limitation, any US securities laws or the rules or regulations of any US securities exchange, (b) as required by any court or other governmental body, subject to a protective order or other confidentiality order if available; (c) in confidence, to their respective legal

counsel; (d) in confidence, to accountants, banks, and financing sources and their advisors; (e) in confidence, in connection with the enforcement of this Agreement or the exercise of rights under this Agreement; (f) in confidence, in connection with a merger or acquisition or proposed merger or acquisition; (g) as required in litigation, in which case the Parties shall seek the highest level of protection available under the applicable protective order or confidentiality order in place in the matter. Any disclosure pursuant to sections 9(b), (f), (g), shall be made only (to the extent possible) after prior written notice to the other Party has been provided with a reasonable amount of time (presumptively at least [***] ([***]) business days) for the other party to prevent disclosure, object, challenge, or move for a protective order with regard to such disclosure. For sake of clarity and without limiting the foregoing, Evolus shall not disclose the terms, conditions, and existence of this agreement to Medytox, Allergan, AbbVie Inc., or any employee, officer, owner, representative, agent, representative, shareholder, officer, director, subsidiary, division, parent company, affiliate, attorney, insurer, successor, or assignee thereof, unless Daewoong provides prior express written consent.

8. Entire Agreement

8.1. This Agreement, together with the Additional Party Agreements, represent the entire agreement between the Parties with respect to the matters addressed herein and therein, and supersedes all prior understandings, agreements, drafts, negotiations and discussions concerning such subject matters. This Agreement may not be modified, in whole or in part, except in a writing signed by all Parties.

9. Construction

9.1. Counsel for each of the Parties has participated in the drafting of this Agreement as a whole, and no term of this Agreement shall be construed against, or in favor of, any Party by reason of the extent to which that Party's counsel participated in its drafting.

10. Representation of No Reliance

10.1. The Parties each acknowledge that no person or entity has made any promises, representations, or warranties whatsoever, whether expressed, implied, or statutory, not contained in this Agreement, to induce the execution of this Agreement.

11. Successors & Assigns

11.1. This Agreement is binding on and shall inure to the benefit of the Parties and each of their respective successors and assigns.

12. Notice

12.1. Any notice to be given under this Agreement shall be made by electronic mail (email) and by overnight mail, addressed to the Parties as follows:

If to Daewoong: DAEWOONG PHARMACEUTICAL CO., LTD.
[***]
[***]
[***]
[***]
[***]

with a copy to (which shall not constitute notice): Kobre & Kim LLP
[***]
[***]
[***]
[***]
[***]

If to Evolus: EVOLUS, INC.
[***]
[***]
[***]
[***]

with a copy to (which shall not constitute notice): O'Melveny & Myers LLP
[***]
[***]
[***]
[***]

13. Governing Law

13.1. This Agreement shall be governed by and construed in accordance with the laws of the State of [***], without giving effect to that body of laws pertaining to conflicts of laws.

14. Counterparts

14.1. This Agreement may be signed in any number of counterparts or copies or on separate signature pages, which when taken together shall be deemed to be an original for all purposes.

15. Severability

15.1. If any term or provision of this Agreement shall be determined to be unenforceable or invalid or illegal in any respect, the unenforceability, invalidity or illegality shall not affect any other term or provision of this Agreement and this Agreement shall be

construed as if such unenforceable, invalid or illegal term or provision had never been contained herein.

16. Section Headings

16.1. Section numbers and headings have been set forth herein for convenience only, and shall not be construed to limit or enlarge any Party's rights, nor to affect the meaning or interpretation of any part of this Agreement.

17. Modification

17.1. This Agreement shall not be altered, amended, waived, modified, or otherwise changed in any respect except by writing duly executed by authorized representatives of the Parties expressly stating that it is modifying this Agreement. The Parties agree that they will make no claim at any time or place that this Agreement has been orally supplemented, modified, or altered in any respect whatsoever.

18. Attorneys' Fees and Costs

18.1. Each Party shall bear its own costs, expenses, and attorneys' fees incurred in connection with the negotiation and execution of this Agreement.

19. Authority to Execute

19.1. The Parties represent that: (a) each Party is duly organized and validly existing under the applicable laws of the jurisdiction of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out the provisions hereof; (b) the individuals who execute this Agreement are duly authorized to execute this Agreement on behalf of the Party that they purport to represent; (c) the Parties have the requisite power and authority to deliver and perform all of their obligations under this Agreement, and have taken all corporate action necessary to authorize the execution of this Agreement and the performance of their obligations under this Agreement; (d) no other signature, act, or authorization is necessary to bind any Party to the provisions of this Agreement; and (e) the Parties named herein are all the necessary and proper parties to this Agreement.

20. Dispute Resolution

20.1. In case any disputes arise out of or in connection with this Agreement or any further amendment thereto, the Parties shall try to resolve such dispute amicably. In the event that the Parties fail to settle this dispute through amicable negotiation, such dispute shall be submitted to and finally settled by arbitration in Singapore in accordance with the rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with such rules. The language to be used in the arbitral proceedings shall be English.

IN WITNESS WHEREOF, I HAVE READ THE FOREGOING CONFIDENTIAL SETTLEMENT AND RELEASE AGREEMENT, AND I ACCEPT AND AGREE TO THE PROVISIONS CONTAINED THEREIN AND HEREBY EXECUTE IT VOLUNTARILY AND WITH FULL UNDERSTANDING OF ITS CONSEQUENCES.

EVOLUS, INC.

By: /s/ David Moatazedi
Name: David Moatazedi
Title: President and Chief Executive Officer

DAEWOONG PHARMACEUTICAL CO., LTD.

By: /s/ Seng-Ho Jeon
Name: Seng-Ho Jeon
Title: CEO

EVOLUS, INC.

CONVERTIBLE PROMISSORY NOTE CONVERSION AGREEMENT

This Convertible Promissory Note Conversion Agreement (this "***Agreement***") is made as of March 23, 2021, by and among Evolus, Inc., a Delaware corporation (the "***Company***"), and Daewoong Pharmaceutical Co., Ltd. (the "***Holder***").

RECITALS

A. The Holder holds a Convertible Promissory Note, dated as of July 30, 2020 in the original principal sum of $40,000,000 (the "***Note***") issued by the Company in favor of Holder pursuant to that certain Convertible Promissory Note Purchase Agreement (the "***Purchase Agreement***") by and between Company and Holder dated as of July 6, 2020;

B. Upon certain terms and conditions set forth in the Note, the Note is convertible into shares of the Company's common stock, $0.00001 par value per share (the "***Common Stock***"), at a conversion price of $13.00 per share (the "***Conversion Price***");

C. As of the Closing (as defined below), the Note shall have an outstanding principal balance together with all accrued and unpaid interest and any other amounts due to the Holder in connection therewith as of the Closing equal to $40,779,303 (the "***Outstanding Balance***");

D. In connection with the entry of the parties into the other Transaction Documents (as defined below), the Holder desires to convert the Outstanding Balance into 3,136,869 shares of Common Stock (the "***Securities***") in complete satisfaction of any amounts due under the Note, and the Company consents to such conversion in accordance with the terms and conditions hereof.

AGREEMENT

In consideration of the mutual promises contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties to this Agreement agree as follows:

1. Waiver; Conversion; Cancellation of Note.

(a) Waiver of Note Provisions. The parties acknowledge that the Note contains certain terms and conditions related to the conversion of the Outstanding Balance and the Company and the Holder each hereby waive any such requirements in full. Without limiting the foregoing, each of the Company and the Holder hereby (i) agree that this Agreement constitutes the written notice required under Section 3(f) of the Note to increase the Beneficial Ownership Limit to 9.99% and (ii) waive the sixty one (61) day notice requirement relating thereto.

(b) Conversion. The Holder hereby agrees that on the Closing, the Outstanding Balance will be automatically converted into the Securities (the "***Conversion***"), and in connection with such Conversion, upon the satisfaction or waiver of each of the conditions set forth in Section 4 and Section 5 of this Agreement, Holder will have no further rights under the Note and such Note shall be deemed cancelled and satisfied in full and be of no further force or effect without need for further action by the Company or Holder. At the Closing, the Company shall deliver or cause its transfer agent to

deliver evidence to Holder that the Securities have been issued in book entry form. The parties hereby acknowledge and agree that Holder is making no cash payments in consideration for the Conversion and any payments made under any of the other Transaction Documents are not and shall not be deemed to be consideration for the Conversion.

(c) Closing; Delivery. The Conversion shall take place at the offices of O'Melveny & Myers LLP, 610 Newport Center Drive, 17th Floor, Newport Beach, CA 92660, at 10:00 a.m., on March 25, 2021 or such other time as the parties shall mutually agree (which time and place are designated as the "***Closing***").

2. Representations and Warranties of the Company. The Company hereby represents and warrants to the Holder that as of the Closing:

(a) Organization, Standing and Power. Each of the Company and its Subsidiaries is duly organized, validly existing and in good standing, to the extent applicable, under the laws of its jurisdiction of incorporation or organization, and has the requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted. Each of the Company and its Subsidiaries is duly qualified and in good standing, to the extent applicable, to do business as a foreign corporation or other legal entity in each other jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary, except in each case where the failure to so qualify would not, individually or in the aggregate, reasonably be likely to have a Company Material Adverse Effect. None of the Company or any of its Subsidiaries is in violation of its Organizational Documents.

(b) Authority. The Company has all necessary power and authority to execute and deliver this Agreement and each of the other Transaction Documents, to perform its obligations hereunder and thereunder and to consummate the Conversion. The execution and delivery of this Agreement and the other Transaction Documents by the Company and the consummation by the Company of the Conversion have been duly and validly authorized by all necessary action, and no other proceedings on the part of the Company are necessary to authorize this Agreement and each of the other Transaction Documents or to consummate the Conversion. This Agreement and each of the other Transaction Documents, when executed and delivered by the Company and assuming due authorization, execution and delivery by the Holder, constitute legal, valid and binding obligations of the Company enforceable against the Company in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar Laws relating to or affecting creditors generally or by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law). The Board of Directors of the Company has determined, at a duly convened meeting or pursuant to a unanimous written consent, that the consummation of the Conversion (including without limitation the issuance of the Securities), are in the best interests of the Company.

(c) No Conflict; Required Filings and Consents.

(i)The execution and delivery of this Agreement and each of the other Transaction Documents by the Company do not, and the consummation by the Company of the Conversion will not, conflict with, result in a violation of, or constitute a default (with or without notice or lapse of time, or both) under, or give rise to a right of, or result by its terms in the termination, amendment, cancellation or acceleration of any obligation or the loss of a material benefit under, or the creation of a Lien on, or the loss of, any assets pursuant to: (A) any provision of the Organizational Documents of the Company or (B) except as, in the aggregate, would not reasonably be likely to have a Company Material Adverse Effect,

subject to obtaining or making the consents, approvals, orders, authorizations, registrations, declarations and filings referred to in paragraph (ii) below, (1) any loan, credit agreement, note, mortgage, bond, indenture, lease, benefit plan or other agreement, obligation, instrument, permit, concession, franchise or license of the Company or any Subsidiary of the Company, or (2) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Company or any Subsidiary of the Company or their respective properties or assets.

(ii) The execution and delivery of this Agreement and each of the other Transaction Documents by the Company do not, and the consummation of the Conversion by the Company will not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority or any other Person, other than:

(1) filings and reports required under the Exchange Act;

(2) any filings pursuant to Regulation D of the Securities Act or required by applicable state securities laws; and

(3) compliance with the rules and regulations of Nasdaq (including any required notice of the Conversion and the application to list the Securities with Nasdaq), if required.

(d) Capitalization. Immediately following the Closing, there will be 43,732,996 shares of Common Stock issued and outstanding.

(e) SEC Filings; Financial Statements.

(i) The Company (1) has filed all reports required to be filed by Section 13 of the Exchange Act during the preceding 12 months, other than Form 8-K reports, and (2) is subject to the reporting requirements of Section 13 of the Exchange Act, and has been subject to such requirements for the past 90 days. The Company has filed on a timely basis the SEC Reports. The SEC Reports (A) were prepared in accordance with the requirements of the Securities Act or the Exchange Act, as the case may be, and the rules and regulations promulgated thereunder, and (B) did not at the time they were filed contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(ii) Each of the consolidated financial statements (including, in each case, any notes thereto) contained in the SEC Reports was prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto and, in the case of quarterly financial statements, as permitted by Quarterly Reports on Form 10-Q under the Exchange Act) and each fairly presented in all material respects the consolidated financial position, results of operations and cash flows of the Company and its consolidated subsidiaries as at the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein (subject, in the case of unaudited statements, to normal and recurring year-end adjustments).

(f) Material Changes. Since the date of the latest audited financial statements included within the SEC Reports, except as disclosed in subsequent SEC Reports filed prior to the date hereof, there have been no events, occurrences or developments that have had or would reasonably be expected to have, either individually or in the aggregate, a Company Material Adverse Effect. Since the date of the latest audited financial statements included within the SEC Reports, except for the transactions contemplated by this Agreement, no event, liability or development has occurred or exists with respect to

the Company or its Subsidiaries or their respective business, properties, operations or financial condition that is required to have been disclosed by the Company under applicable U.S. federal securities laws at the time this representation is made that has not been publicly disclosed at least one Business Day prior to the date that this representation is made.

(g) Compliance. Except as disclosed in the SEC Reports, neither the Company nor any of its Subsidiaries (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any of its Subsidiaries under), nor has the Company or any of its Subsidiaries received written notice of a claim that it is in default under or that it is in violation of, any loan, credit agreement, note, mortgage, bond, indenture, lease, benefit plan or other agreement, obligation, instrument, permit, concession, franchise, license or other contract (whether or not such default or violation has been waived), (ii) is in violation of any order of which the Company or any of its Subsidiaries has been made aware in writing of any court, arbitrator or governmental body having jurisdiction over the Company or any of its Subsidiaries or their respective properties or assets, or (iii) is in violation of, or in receipt of written notice that it is in violation of, any statute, rule or regulation of any Governmental Authority applicable to the Company or any of its Subsidiaries, except in each case as would not have or reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(h) Brokers. No broker, finder, investment banker or other person is entitled to any brokerage, finder's or other fee or commission in connection with the Conversion based upon arrangements made by or on behalf of the Company.

(i) Private Placement. Assuming the accuracy of the Holder's representations and warranties set forth herein, (i) no registration under the Securities Act is required for the Conversion and (ii) the Conversion does not contravene the rules and regulations of Nasdaq.

(j) Listing and Maintenance Requirements. The Securities are registered pursuant to Section 12(b) of the Exchange Act, and the Company has taken no action designed to terminate the registration of the Securities under the Exchange Act nor has the Company received any notification that the SEC is contemplating terminating such registration. The Company is in compliance in all material respects with the listing and maintenance requirements for continued trading of the Securities on Nasdaq. To the extent required, the Securities issuable hereunder will be approved for listing with Nasdaq in accordance with its listing standards.

(k) Authorized Securities. The Company has sufficient authorized but unissued shares of its Common Stock sufficient to complete the Conversion.

(l) Oxford Loan. (i) All obligations under that certain Loan and Security Agreement, dated as of March 15, 2019, by and among the Company, Oxford Finance LLC, as collateral agent for the lenders (the "***Collateral Agent***") and the lenders from time to time party thereto (the "***Lenders***") have been fully paid in cash, (ii) the Lenders have no commitment or obligation to lend any further funds to the Company, and (iii) all financing agreements among the Collateral Agent and the Lenders and the Company have been terminated.

3. Representations and Warranties of the Holder. The Holder hereby represents and warrants to the Company as of the Closing that:

(a) Organization. The Holder is duly incorporated and validly existing under the laws of the jurisdiction of its incorporation and has the requisite power and authority and all necessary

governmental approvals to own, lease and operate its properties and to carry on its business as it is now being conducted, except where the failure to be so organized or existing or to have such power, authority and governmental approvals would not prevent or delay consummation of the Conversion, or otherwise prevent the Holder from performing its obligations under this Agreement and any of the other Transaction Documents.

(b) Authority. The Holder has all necessary power and authority to execute and deliver this Agreement and any of the other Transaction Documents, to perform its obligations hereunder and thereunder, and to consummate the Conversion. The execution and delivery of this Agreement and the other Transaction Documents by the Holder and the consummation by the Holder of the Conversion have been duly and validly authorized by all necessary action, and no other proceedings on the part of the Holder are necessary to authorize this Agreement or any of the other Transaction Documents or to consummate the Conversion. This Agreement and each of the other Transaction Documents has been duly and validly executed and delivered by the Holder, and, assuming due authorization, execution and delivery by the Company, constitute legal, valid and binding obligations of the Holder enforceable against the Holder in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar Laws relating to or affecting creditors generally or by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) No Conflict; Required Filings and Consents.

(i) The execution and delivery of this Agreement and each of the other Transaction Documents by the Holder does not, and the consummation by the Holder of the Conversion will not, conflict with, or result in a violation of, constitute a default (with or without notice or lapse of time, or both) under, or give rise to a right of, or result by its terms in the termination, amendment, cancellation or acceleration of any obligation or the loss of a material benefit under, or the creation of a Lien on, or the loss of, any assets pursuant to: (A) any provision of the Organizational Documents of the Holder or (B) except as, in the aggregate, would not reasonably be likely to have a Holder Material Adverse Effect, subject to obtaining or making the consents, approvals, orders, authorizations, registrations, declarations and filings referred to in paragraph (ii) below, (1) any loan, credit agreement, note, mortgage, bond, indenture, lease, benefit plan or other agreement, obligation, instrument, permit, concession, franchise, license, or (2) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Holder or any Subsidiary of the Holder or their respective properties or assets.

(ii) Except for foreign exchange reports and filings required under Korean law, the execution and delivery of this Agreement and each of the other Transaction Documents by the Holder do not, and the consummation of the Conversion by the Holder does not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority or any other Person.

(d) Non-Distribution. The Holder is purchasing the Securities for its own account for investment purposes only and not with a view towards, or for resale in connection with, the public sale or distribution thereof in violation of applicable laws.

(e) Accredited Investor Status. The Holder is an "accredited investor" as that term is defined in Rule 501(a)(3) of Regulation D promulgated under the Securities Act. The Holder was not organized solely for the purpose of acquiring the Securities.

(f) Reliance on Exemptions. The Holder understands that the Securities are being offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and the Holder's compliance with, the representations, warranties, agreements, acknowledgments and understandings of the Holder set forth herein in order to determine the availability of such exemptions and the eligibility of the Holder to acquire the Securities.

(g) Information. The Holder and its advisors have been furnished with all materials relating to the business, finances and operations of the Company and its Subsidiaries and materials relating to the offer and sale of the Securities, which have been requested by the Holder. The Holder and its advisors have been afforded the opportunity to ask questions of the Company and have received complete and satisfactory answers to any such inquiries. The Holder understands that its investment in the Securities involves a high degree of risk. The Holder has sought such accounting, legal, tax and other advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Securities. The Holder is able to bear the economic risk of holding the Securities for an indefinite period of time (including total loss of its investment) and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of such investment.

(h) Transfer or Resale. The Holder understands that the Securities have not been and are not being registered under the Securities Act or any state securities laws and may not be transferred unless subsequently registered thereunder or sold or transferred pursuant to an exemption from such registration.

(i) Legend**.** The Holder understands that the Securities will bear the following legend(s):

(i)"THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***"), OR UNDER THE SECURITIES LAWS OF ANY STATES IN THE UNITED STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS."

(ii)Any legend required by the Blue Sky laws of any state to the extent such laws are applicable to the Securities.

(j) Reserved.

(k) Brokers. No broker, finder, investment banker or other person is entitled to any brokerage, finder's or other fee or commission in connection with the Conversion based upon arrangements made by or on behalf of the Holder.

(l) Ownership of Note. The Holder represents and warrants to the Company that Holder has, and at the time immediately prior to the Closing, it will have, good and valid title to the Note,

free and clear of all liens, security interests, encumbrances, equities and claims, with no defects of title whatsoever.

4. **Conditions of the Holders' Obligations at Closing.** The obligations of the Holder to the Company under this Agreement are subject to the fulfillment, on or before the Closing, of each of the following conditions, unless otherwise waived:

(a) Representations and Warranties. The representations and warranties of the Company contained in Section 2 shall be true and correct on and as of the Closing.

(b) Qualifications. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Securities pursuant to this Agreement shall be obtained and effective as of the Closing.

(c) Settlement Agreement. The Company and the Holder shall have each executed and delivered the Settlement Agreement.

(d) Amendment to License Agreement. The Company and the Holder shall each have executed and delivered the Amendment to License Agreement.

5. **Conditions of the Company's Obligations at Closing.** The obligations of the Company to the Holder under this Agreement are subject to the fulfillment, on or before the Closing, of each of the following conditions, unless otherwise waived:

(a) Representations and Warranties. The representations and warranties of the Holder contained in Section 3 shall be true and correct on and as of the Closing.

(b) Qualifications. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Securities pursuant to this Agreement shall be obtained and effective as of the Closing.

(c) Settlement Agreement. The Company and the Holder shall have each executed and delivered the Settlement Agreement.

(d) Amendment to License Agreement. The Company and the Holder shall each have executed and delivered the Amendment to License Agreement.

6. **Covenants**.

(a) Public Announcements. The parties shall consult with each other before issuing any press release with respect to this Agreement or the Conversion and neither shall issue any such press release, make any such public statement or make any filings required by Law without the prior consent of the other, which consent shall not be unreasonably withheld or delayed; provided, however, that a party may, without the prior consent of the other party, issue such press release, make such public statement or disclosure or make such required filing as may upon the advice of counsel be required by Law or any exchange on which the Company's securities are listed if, to the extent time permits, it has used all reasonable efforts to consult with the other party prior thereto; provided, further, however, that a party may publish, make, repeat or otherwise use any statement previously consented to by the other unless and

until such other party objects in writing to the use thereof. Notwithstanding the foregoing, Holder may make any foreign exchange reports and filings required under Korean law without providing notice to, or obtaining consent from, the Company.

(b) Reporting Requirements; Rule 144. Until the first anniversary of the date of this Agreement, the Company shall use its commercially reasonable efforts (i) to be and remain in compliance with the periodic filing requirements imposed under the SEC's rules and regulations, including the Exchange Act, and any other applicable laws or rules, and (ii) to timely file all forms, reports and documents required to be filed by the Company with the SEC (including the exhibits thereto and documents incorporated by reference therein), including pursuant to Section 13(a) or 15(d) of the Exchange Act to enable Holder to sell the Securities without registration under the Securities Act consistent with the exemptions from registration under the Securities Act provided by (A) Rule 144 under the Securities Act, as amended from time to time, or (B) any similar SEC rule or regulation then in effect.

(c) Nasdaq. The Company will use its commercially reasonable efforts to maintain the registration and listing of its Common Stock on Nasdaq. The Company shall file promptly with Nasdaq a Listing of Additional Shares notification for the Securities and shall use its commercially reasonable efforts to effect the listing of such Securities on Nasdaq. The Company shall pay all fees in connection with such listing of such Securities.

(d) Legends. Upon request of the holder of the Securities, the legend(s) described in Section 3(i) shall be removed and the Company shall (to the extent such shares are certificated) cause its transfer agent to issue a certificate or certificates without such legend to such holder, unless otherwise required by federal or state securities laws or unless the Company, with the advice of counsel, reasonably determines that such removal is appropriate.

7. Defined Terms. For purposes of this Agreement, the following terms shall have the following meanings:

(a) "Action" shall mean any action, suit, notice of violation, proceeding (including any partial proceeding such as a deposition) or investigation pending or threatened in writing against the Company, any Subsidiary of the Company or any of their respective properties or any officer, director or employee of the Company or any Subsidiary of the Company acting in his or her capacity as an officer, director or employee before or by any federal, state, county, local or foreign court, arbitrator, governmental or administrative agency, or regulatory authority.

(b) "Affiliate" shall have the meaning set forth in Rule 12b-2 promulgated under the Exchange Act.

(c) "Amendment to License Agreement" shall mean that certain Third Amendment to the License and Supply Agreement dated of as September 30, 2013, by and between the Company and the Holder, dated as of the date hereof.

(d) "Business Day" shall mean any day other than (i) a Saturday or a Sunday or (ii) a day on which banking and savings and loan institutions are authorized or required by Law to be closed in Los Angeles, CA.

(e) "Code" shall mean the Internal Revenue Code of 1986, as amended.

(f) "Company Material Adverse Effect" shall mean, when used in connection with the Company or any of its Subsidiaries, any event, circumstance, change or effect individually or collectively with one or more other events, circumstances, changes or effects, that (i) has had, or is reasonably likely to have, a material adverse effect on the business, assets, financial condition or results of operations of the Company and its Subsidiaries taken as a whole, or (ii) is, or is reasonably likely to, prevent or materially delay the consummation of the Conversion; provided, however, that any event, circumstance, change or effect resulting from any of the following, individually or collectively, will not be considered when determining whether a Company Material Adverse Effect has occurred for purposes of clause (i) above: (A) any change in economic conditions generally or capital and financial markets generally, including changes in interest or exchange rates, (B) any change in the industry generally in which the Company or its Subsidiaries operate, (C) any change in Laws or accounting standards, or the enforcement or interpretation thereof, applicable to the Company or its Subsidiaries, (D) conditions in jurisdictions in which the Company or its Subsidiaries operate, including a pandemic, hostilities, acts of war, sabotage, terrorism or military actions, or any escalation or worsening of any of the foregoing, (E) any action taken by the Holder and any of its Affiliates or representatives, (F) any hurricane, flood, tornado, earthquake or other natural disaster, (G) the failure in and of itself of the Company or its Subsidiaries to achieve any financial projections, forecasts or timing or predictions related to re-launching the Company's toxin related products (but not the underlying cause of such failure), (H) changes in the trading price or trading volume of the Company's Common Stock (I) any change in the status of, or the resolution of, any Action disclosed in the SEC Reports or (J) any change in the limited exclusion order or cease and desist order issued by the U.S. International Trade Commission in investigation no. 337-TA-1145; provided, that any adverse effects resulting from matters described in any of the foregoing clauses (A), (B), (C), (D), (F) or (H) may be taken into account in determining whether there is or has been a Company Material Adverse Effect to the extent, and only to the extent, that they have a materially disproportionate effect on the Company or its Subsidiaries relative to other participants in the industries or geographies in which the Company or its Subsidiaries operate.

(g) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(h) "GAAP" shall mean generally accepted accounting principles in the United States.

(i) "Governmental Authority" shall mean any national, federal, state, provincial or local governmental, regulatory or administrative authority, agency, instrumentality, commission, court, tribunal, arbitral body or self-regulated entity, whether domestic or foreign.

(j) "Holder Material Adverse Effect" shall mean, with respect to the Holder, any event, circumstance, change or effect individually or collectively with one or more other events, circumstances, changes or effects, that is or would be reasonably likely to prevent or materially delay the consummation of the Conversion.

(k) "Laws" shall include all foreign, federal, state and local laws, statutes, ordinances, rules, regulations, orders, judgments and decrees.]

(l) "Liens" shall mean any liens, pledges, security interests, claims, options, rights of first offer or refusal, charges or other encumbrances.

(m) "Nasdaq" means The Nasdaq Stock Market.

(n) "Organizational Documents" shall mean, with respect to any entity, the certificate or articles of incorporation and by-laws of such entity, or any similar organizational documents of such entity in effect as of the date of this Agreement.

(o) "Person" shall mean any individual, firm, corporation, partnership, limited liability company or other entity, and shall include any successor (by merger, amalgamation or otherwise) of such entity.

(p) "SEC" shall mean the United States Securities and Exchange Commission.

(q) "SEC Reports" shall mean the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2019 filed with the SEC on February 25, 2020, the Company's Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 2020, June 30, 2020 and September 30, 2020, filed with the SEC on May 11, 2020, August 10, 2020 and October 29, 2020, respectively, the Company's Current Reports on Form 8-K filed with the SEC on July 7, 2020, August 10, 2020, October 22, 2020, October 29, 2020, November 19, 2020, December 16, 2020, January 5, 2021, February 16, 2021, February 19, 2021, February 23, 2021 and February 26, 2021, and the information specifically incorporated into the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2019 from the Company's Definitive Proxy Statement on Schedule 14A filed with the SEC on March 17, 2020, as amended (including, in each case, the exhibits thereto and documents incorporated by reference therein).

(r) "Securities Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(s) "Settlement Agreement" shall mean that certain Confidential Settlement and Release Agreement by and between the Company and the Holder, dated as of the date hereof.

(t) "Subsidiary" shall mean, when used with respect to the Holder, any other Person that the Holder directly or indirectly owns or has the power to vote or control more than 50.0% of (i) any class or series of capital stock of such Person, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such Person.

(u) "Transaction Documents" shall mean this Agreement, the Amendment to License Agreement, the Settlement Agreement, all exhibits and schedules hereto and thereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

8. Miscellaneous.

(a) Survival. The representations, warranties and covenants contained in this Agreement shall survive the Closing for a period of one year.

(b) Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

(c) Governing Law; Consent to Jurisdiction; Waiver of Jury Trial.

(i) This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law.

(ii) Any claim, complaint, or action brought under this Agreement shall be brought in a court of competent jurisdiction in the State of Delaware, whose courts shall have exclusive jurisdiction over claims, complaints, or actions brought under this Agreement, and the parties hereby agree and submit to the personal jurisdiction and venue thereof.

(iii) THE COMPANY AND THE HOLDER EACH HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS AGREEMENT OR THE TRANSACTIONS RELATED HERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. THE COMPANY AND THE HOLDER EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE COMPANY AND THE HOLDER MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(d) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. This Agreement may also be executed and delivered by facsimile or other electronic delivery of signature.

(e) Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

(f) Notices. Any notice or communication provided for by this Agreement shall be in writing and shall be delivered in person, or sent by telecopy or fax or electronic mail, or mailed, first class, postage prepaid, or sent by internationally recognized overnight delivery service addressed to the Company or the Holder at their respective addresses, email addresses or fax numbers set forth on the signature page hereto. All notices, demands and other communications shall be deemed to have been duly given when delivered by hand, if personally delivered; when delivered by courier, if delivered by commercial courier service; five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; and when receipt is mechanically acknowledged, if faxed or emailed.

(g) Amendments and Waivers. Any term of this Agreement may be amended or waived only with the written consent of the Company and the Holder (which may be withheld by each of the Company and the Holder in their respective sole and absolute discretion).

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

(i) Entire Agreement. This Agreement, and any documents referred to herein, constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements existing between the parties hereto are expressly canceled.

(j) Expenses. The Company and the Holder shall each bear its respective expenses and legal fees incurred with respect to this Agreement and the transactions contemplated hereby.

[Signature page follows]

The parties have executed this Convertible Promissory Note Conversion Agreement as of the date first written above.

COMPANY:

EVOLUS, INC.

By: /s/ David Moatazedi

Name: David Moatazedi
Title: President & CEO

Address: 520 Newport Center Dr.,
Suite 1200
Newport Beach, CA 92660

HOLDER:

DAEWOONG PHARMACEUTICAL CO., LTD.

By: /s/ Seng-Ho Jeon
Name: Seng-Ho Jeon
Title: CEO

Address:
35-14, Jeyakgongdan 4-gil, Hyangnam-eup
Hwaseong-si, Gyeonggi-do
Republic of Korea

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE IT IS NOT MATERIAL AND IS THE TYPE THAT THE COMPANY TREATS AS PRIVATE OR CONFIDENTIAL. [***] INDICATES THAT INFORMATION HAS BEEN REDACTED.

THIRD AMENDMENT

This **Third Amendment** ("**Third Amendment**") is entered into on March 23, 2021 ("**Third Amendment Effective Date**") by and between Daewoong Pharmaceutical Co., Ltd. ("**DAEWOONG**") and Evolus Inc. ("**EVOLUS**") and amends that certain License & Supply Agreement between the Parties dated September 30, 2013, as amended by that certain First Amendment dated February 26, 2014 and that certain Second Amendment dated July 15, 2014 (collectively, the "**Original Agreement**").

The Parties, for their mutual benefit, now wish to amend the Original Agreement. Capitalized terms herein used which are not herein defined shall have the respective meanings ascribed to them in the Original Agreement. All references to the term "Agreement" in the Original Agreement shall be deemed to include all of the terms and conditions of this Third Amendment.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Condition to this Third Amendment. As a condition to the entry into this Third Amendment, DAEWOONG shall simultaneously enter into certain other agreements, to wit: Addendum to the Exclusive Distribution and Supply Agreement by and among EVOLUS, DAEWOONG and Clarion Medical Technologies, Inc., the Convertible Promissory Note Conversion Agreement between DAEWOONG and EVOLUS, the Confidential Settlement and Release Agreement by and between DAEWOONG and EVOLUS ("EVOLUS DAEWOONG Settlement Agreement").

2. AMENDMENTS.

(a) Definition of Territory. The definition of "Territory" in Section 1.36 of the Original Agreement is hereby deleted in its entirety and replaced with the following for purposes of the aesthetic indications of the Product:

> "Territory" means the United States of America and its territories and possessions (the "**US Territory**"), the European Territories, Russia, Commonwealth of Independent States (for the avoidance doubt, excluding Ukraine) ("**CIS**"), South Africa, Canada, Australia and Japan. As used herein, the **"European Territories"** means, collectively, (i) all of the member states of the European Union as of the Third Amendment Effective Date, (ii) the United Kingdom (iii) Switzerland, and (iii) all other members and cooperating countries of the European Economic Area as of the Third Amendment Effective Date. Each of the US Territory, the European Territories, Russia, CIS, South Africa, Canada, Australia, and Japan will be referred to collectively as the "**Sub-Territories**" and each individually a "**Sub-Territory**". In the event that EVOLUS fails to submit an application for either (a) Marketing Authorization or (b) to start clinical trials (an "Application") in each of Russia, CIS, South Africa or Australia within **[***]** (**[***]**) months of the Third Amendment Effective Date, the definition of "Territory" shall no longer include such Sub-Territory in which EVOLUS failed to submit an Application and the corresponding Target Performance for such Sub-Territory on Annex B shall be deleted and deemed to be of no further force and effect . Provided, however, if EVOLUS is making its best efforts to, and is diligently pursuing in good faith to, submit an Application in such Sub-Territory prior to the expiration of **[***]** (**[***]**) months of the Third Amendment Effective Date, then the period to submit the Application may be extended for a reasonable time as determined between the Parties working together in good faith.

(b) Modification of Sections 4.2 and 4.10. References in Sections 4.2 and 4.10 to "**[***]** (**[***]**) months" are hereby modified to "**[***]** (**[***]**) months" with respect to the binding portion of the Forecasts and Safety Stock with respect to the European Territories only.

(c) **Amendment of Section 5.1**. Section 5.1 of the Original Agreement is hereby amended and restated in its entirety and replaced with the following.

"5.1 **EVOLUS Minimum Annual Purchases Requirement**.

(a) Subject to Section 5.1(b), If EVOLUS fails to achieve the Minimum Annual Purchases, as specified in **Annex B** for a specific Sub-Territory, DAEWOONG may, upon thirty (30) days' prior written notice to EVOLUS, elect to convert the exclusive license to EVOLUS to a non-exclusive license in such specific Sub-Territory and, at its sole discretion, grant non-exclusive licenses to other Persons to market Product in such specific Sub-Territory.

(b) Notwithstanding the foregoing, if EVOLUS fails to achieve the Minimum Annual Purchases in any Sub-Territory, but EVOLUS both (i) achieves [***]% or greater than the Target Performance, as specified in **Annex B** in any such Sub-Territory ("**Target Performance**") and (ii) achieves [***]% of the total aggregate Target Performance calculated for the aggregate of all Sub-Territories collectively, then EVOLUS shall maintain exclusivity for all Sub-Territories. Provided, however, that, if EVOLUS fails to achieve at least [***]% of the Target Performance in a specific Sub-Territory, then regardless of the achievement of any aggregate Target Performance, DAEWOONG may, upon thirty (30) days' prior written notice to EVOLUS, elect to convert the exclusive license to EVOLUS to a non-exclusive license in such specific Sub-Territory in which the Target Performance is less than [***]% and, at its sole discretion, grant non-exclusive licenses to other Persons to market Product in such specific Sub-Territory."

(d) **[Reserved]**

(e) **Amendment of Section 7.9**. Section 7.9 of the Original Agreement is hereby amended and restated in its entirety and replaced with the following.

"7.9 All Product supplied by DAEWOONG to EVOLUS shall have, at time of receipt by EVOLUS, (i) [***]% of DAEWOONG's shelf life in the case of Product for the US Territory, Russia, CIS, South Africa, Australia, Canada, and Japan or (ii) 20 months of DAEWOONG's shelf life in the case of Product for the European Territories, in each case such shelf life defined as approved by the Governmental Authority granting Governmental Approval in the applicable Sub-Territory; provided, however, if the approved shelf life of a specific format of the Product is less than [***] months, then DAEWOONG will use Commercially Reasonable Efforts to maximize shelf life by manufacturing the Product on an as received basis (that is the shelf life will be the approved shelf life less the lead time to manufacture and supply the Product) and provided further that so long as the approved shelf-life for a specific format of the Product is less than [***] months, DAEWOONG shall have no obligation to produce Safety Stock for the specific format of the Product under Section 4.10. Subject to Product being supplied with the shelf life as set forth above, (a) DAEWOONG shall not be responsible for any expired units of the Product, including without limitation to those returned by wholesalers, pharmacists, doctors, or other Persons to whom EVOLUS sold the Product in the Territory, and (b) EVOLUS shall not be entitled to any replacement of the expired Product or to any compensation of any kind from DAEWOONG for such expired Product."

(f) **Amendment of Section 7.12**. The following is added to the end of Section 7.12 of the Original Agreement.

"Notwithstanding any other provision of this Agreement or any Amendment thereto, if DAEWOONG is found to be liable under this Agreement (including liable for indemnification under this Section 7.12) in connection with any Claim arising from the European Territories, Russia, Canada, CIS, and South Africa, and such finding of liability includes a finding that DAEWOONG is required to pay indemnification, damages or other compensation based upon a calculation of lost profits, such lost profits shall be calculated by using the pricing as stated in Annex B of the Original Agreement (the "Reduced Damage Calculation"). For clarity, such Reduced Damage Calculation shall not be calculated by using the pricing in Annex B as amended and restated pursuant to Section 2(k) of the Third Amendment; provided, however, that the Reduced Damage Calculation shall not apply to any Claim which is determined to be based upon harm willfully inflicted or caused by the gross or wanton negligence of DAEWOONG. In such case, lost profits shall not be calculated under the Reduced Damage Calculation, but shall instead be calculated using the pricing in Annex B as amended and restated pursuant to Section 2(k) of the Third Amendment. For clarity, this Amendment to Section 7.12 does not modify any applicable rule of law regarding the recoverability of lost profits or the method of calculation of lost profits if recoverable other than that if the pricing in Annex B is a component of the calculation, then the terms of this Amendment to Section 7.12 shall govern whether the original or amended pricing is to be used."

(g) **Amendment of Section 9.5**. Section 9.5 of the Original Agreement is hereby amended and restated in its entirety and replaced with the following.

"9.5 Subject to the EVOLUS Regulatory Right, EVOLUS shall provide DAEWOONG and DAEWOONG shall have the right to freely use (with such use occurring exclusively outside the Territory (as of the Third Amendment Effective Date) and not for the direct or indirect purpose of obtaining or pursuing any Governmental Approval or any other purpose in the Territory (as of the Third Amendment Effective Date)) all documents and information relating to Regulatory Approvals including but not limited to: (a) full dossiers and/or any other submitted documents to Governmental Authorities; (b) all correspondence and communication exchanged with Governmental Authorities; (c) any certificate of Drug Registrations in Territory related to Product issued by Governmental Authorities; (d) any "Certificate(s) of Pharmaceutical Product" and/or "Certificate(s) of Free Sales" based upon the Regulatory Approval and (e) any other regulatory documents. DAEWOONG shall use such documents and information in a truthful and non-misleading manner and shall not prejudice the use of such documents or information or the Regulatory Approvals by EVOLUS within the Territory. EVOLUS shall use Commercially Reasonable Efforts to provide such documents and information within 14 days from the request of DAEWOONG, and to the extent delayed, shall promptly provide the documents and information as soon as possible thereafter."

(h) **Addition of Section 13.8**. Section 13.8 shall be added to the Original Agreement as follows.

"13.8 In view of EVOLUS's having entered into certain agreements with Medytox Inc. ("Medytox") on February 18, 2021, including the "Evolus-Medytox US Settlement" and the "Evolus-Medytox ROW Settlement" as the terms are defined in the preamble of the EVOLUS DAEWOONG Settlement Agreement, EVOLUS hereby acknowledges and agrees to the following:

(a) In addition to and notwithstanding anything to the contrary under the confidentiality provisions of Article 14, during the Term of this Agreement and even after the expiration or termination of this Agreement regardless of the reason therefor, EVOLUS shall not provide, disclose, furnish, supply, or otherwise make available to Medytox and its employees, officers, owners, representatives, agents, partners, directors, subsidiaries, divisions, parent companies, affiliates, attorneys, insurers, successors, and assignees any Confidential Information of DAEWOONG without DAEWOONG's prior written consent thereto, regardless of any contractual obligations EVOLUS may have or may deem itself to have under its agreements with Medytox, including but not limited to, the Evolus-Medytox ROW Settlement. Breach of the foregoing provision shall be considered a Default that is not capable of cure under Section 16.1 of this Agreement.

(b) Notwithstanding Section 18.3 of this Agreement, the provisions under this Section 13.8 (a) shall survive expiration or termination of this Agreement.

(c) EVOLUS's discussions with Medytox and its employees, officers, owners, representatives, agents, partners, directors, subsidiaries, divisions, parent companies, affiliates, attorneys, insurers, successors, and assignees, including those conducted under Section 8.2 of the Evolus-Medytox ROW Settlement shall not unduly affect or in any way compromise (i) the purpose and activities (including the input on Product development and Commercialization Plans) of the JSC under Article 11 of this Agreement, including but not limited to the JSC's duty to exercise such authority in good faith under Section 11.3 and/or (ii) DAEWOONG's rights and obligations arising under this Agreement.

(i) **Amendment of Section 16.3**. Section 16.3 of the Original Agreement is hereby amended and restated in its entirety and replaced with the following

"16.3 Subject to the terms and conditions of Section 5.1, DAEWOONG shall have the right to elect to make all licenses granted to EVOLUS under this Agreement non-exclusive in such specific Sub-Territory upon thirty (30) day written notice to EVOLUS for EVOLUS' failure to achieve the Minimum Annual Purchases in such specific Sub-Territory."

(j) **Amendment of Section 23.1**. Section 23.1 of the Original Agreement is hereby amended and restated in its entirety and replaced with the following.

"23.1 EVOLUS shall autonomously perform its duties and obligations hereunder and shall not sub-contract or assign the same or any part thereof to any other person whatsoever without the prior written consent of DAEWOONG; provided, however, that (a) EVOLUS may assign this Agreement, including its duties and obligations hereunder to an Affiliate; and (b) EVOLUS may assign this Agreement in connection with any sale or transfer of the business to which this Agreement relates, whether by sale of assets, sale of stock, merger or otherwise; provided, further, however, that the assignee or successor of the business has the financial wherewithal to continue the obligation under this agreement, and the assignee or successor shall assume and/or take all of the duties and obligations under this Agreement.

The assignee or successor must agree in writing to be bound by the terms of this agreement prior to the assignment. Any attempted assignment in violation of the foregoing shall be null and void."

(k) **Annex B Amendment**. **Annex B** of the Original Agreement is hereby amended and restated with respect to the Territory for aesthetic uses of the product as set forth on **Annex B** attached to this Third Amendment. The parties agree that there are no Minimum Annual Purchases for Therapeutic Use.

3. **Counterparts.** This Third Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. Signatures to this Third Amendment transmitted by facsimile, email, portable document format (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of this Agreement shall have the same effect as the physical delivery of the paper document bearing original signatures.

4. **No Other Amendments.** Except as herein set forth, the Original Agreement has not been modified and, as amended by this Third Amendment, remains of full force and effect. This Third Amendment does not amend any terms related to the Therapeutic Use of the Product, which terms shall be set forth in a separate agreement. To the extent there are any inconsistencies or ambiguities between the specific subject matter of this Third Amendment and the Original Agreement, the terms of this Third Amendment shall supersede the Original Agreement.

In Witness Whereof, the duly authorized representatives of the Parties have executed this Third Amendment effective as of the Third Amendment Effective Date.

DAEWOONG PHARMACEUTICAL CO., LTD.

By: /s/ Seng-Ho Jeon
Name: Seng-Ho Jeon
Title: CEO & President

EVOLUS INC.

By: /s/ David Moatazedi
Name: David Moatazedi
Title: CEO & President

Annex B

Product Price and Minimum Annual Purchases

A Minimum Annual Purchase shall mean [***] ([***]) % of the Target Performance stated in the Tables below.

1. Target Performance for US Territory of aesthetic use *

(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Jeuveau®	[***]	[***]	[***]	[***]	[***]	[***]

(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Jeuveau®	[***]	[***]	[***]	[***]	[***]	[***]

* In the event that EVOLUS fails to achieve the Minimum Annual Purchases in the US Territory as described above (i.e., [***]% of the targeted performance for the US Territory), but EVOLUS or its Affiliates have achieved at least [***]% of the target performance by market share in the US Territory based upon the table set forth below, then EVOLUS and its Affiliates shall be deemed to have met the Annual Purchase Minimums for the US Territory for the applicable year. For the avoidance of doubt, if the Minimum Annual Purchase quantities are accomplished for the US Territory for any given year, then EVOLUS shall have met the Minimum Annual Purchases for the US Territory in such year regardless of the market share criteria set forth below.

Target percentage of market share for US Territories of aesthetic use

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Jeuveau®	[***]	[***]	[***]	[***]	[***]	[***]

2. Target Performance for European territories of aesthetic use *

(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

* In the event that EVOLUS fails to achieve the Minimum Annual Purchases in the European Territory as described above (i.e., [***]% of the targeted performance for the European), but EVOLUS or its Affiliates have achieved at least [***]% of the target performance by market share in the European Territory based upon the table set forth below, then EVOLUS and its Affiliates shall be deemed to have met the Annual Purchase Minimums for the European Territory for the applicable year. For the

avoidance of doubt, if the Minimum Annual Purchase quantities are accomplished for any given year in the European Territory, then EVOLUS shall have met the Minimum Annual Purchases for the European Territory in such year regardless of the market share criteria set forth below.

**In advance of the Commercial Launch of the [***] of the Product in the European Territories: (1) the first shipped lot shall be at a price of $[***] per [***] vial and (2) thereafter for a period of [***] after the first shipment date of the 50IU format in the European Territories, EVOLUS shall be permitted to purchase [***] vial of [***] free of charge ("Sample Vials") for every [***] purchased at the price set forth in the table above. Sample Vials shall not count towards the attainment of the target performance or Minimum Annual Purchases

*** Target percentage of market share for European Territories of aesthetic use**

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva ™	[***]	[***]	[***]	[***]	[***]	[***]

3. Target Performance for Russia, CIS and South Africa

Russia

(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

CIS

(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

South Africa

(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

* In the event that EVOLUS fails to achieve the Minimum Annual Purchases in Russia, CIS or South Africa territory as described above (i.e., [***]% of the targeted performance for such territory, but EVOLUS or its Affiliates have achieved at least [***]% of the target performance by market share in such territory based upon the table set forth below, then EVOLUS and its Affiliates shall be deemed to have met the Annual Purchase Minimums for the applicable territory for the applicable year. For the avoidance of doubt, if the Minimum Annual Purchase quantities are accomplished for any given year in the applicable territory, then EVOLUS shall have met the Minimum Annual Purchases for the applicable territory in such year regardless of the market share criteria set forth below.

Target percentage of market share for Russia, CIS, South Africa of aesthetic use

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva ™	[***]	[***]	[***]	[***]	[***]	[***]

4. Target Performance for Canada of aesthetic use*
(volume calculation based on [***] IU)

For purposes of Canada only, the 1st Year shall start October 1, 2020

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

* In the event that EVOLUS fails to achieve the Minimum Annual Purchases in Canada as described above (i.e., [***]% of the targeted performance for Canada), but EVOLUS or its Affiliates have achieved at least [***]% of the target performance by market share in Canada based upon the table set forth below, then EVOLUS and its Affiliates shall be deemed to have met the Annual Purchase Minimums for the Canada for the applicable year. For the avoidance of doubt, if the Minimum Annual Purchase quantities are accomplished for any given year in Canada, then EVOLUS shall have met the Minimum Annual Purchases for Canada in such year regardless of the market share criteria set forth below.

*** Target percentage of market share for Canada**

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

5. Target Performance for Australia of aesthetic use*
(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

* In the event that EVOLUS fails to achieve the Minimum Annual Purchases in Australia as described above (i.e., [***]% of the targeted performance for Australia), but EVOLUS or its Affiliates have achieved at least [***]% of the target performance by market share in Australia based upon the table set forth below, then EVOLUS and its Affiliates shall be deemed to have met the Annual Purchase Minimums for the Australia for the applicable year. For the avoidance of doubt, if the Minimum Annual Purchase quantities are accomplished for any given year in Australia, then EVOLUS shall have met the Minimum Annual Purchases for Australia in such year regardless of the market share criteria set forth below.

*** Target percentage of market share for Australia**

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

6. Target Performance for Japan of aesthetic use*
(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

* In the event that EVOLUS fails to achieve the Minimum Annual Purchases in Japan as described above (i.e., [***]% of the targeted performance for Australia), but EVOLUS or its Affiliates have achieved at least [***]% of the target performance by market share in Japan based upon the table set forth below, then EVOLUS and its Affiliates shall be deemed to have met the Annual Purchase Minimums for the Japan for the applicable year. For the avoidance of doubt, if the Minimum Annual Purchase quantities are accomplished for any given year in Japan, then EVOLUS shall have met the Minimum Annual Purchases for Japan in such year regardless of the market share criteria set forth below.

*** Target percentage of market share for Japan**

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nuceiva™	[***]	[***]	[***]	[***]	[***]	[***]

Exhibit 31.1

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, David Moatazedi, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Evolus, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: May 12, 2021

/s/ David Moatazedi
David Moatazedi
President, Chief Executive Officer and Director
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Lauren Silvernail, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Evolus, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: May 12, 2021

/s/ Lauren Silvernail
Lauren Silvernail
Chief Financial Officer and Executive Vice President, Corporate Development
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. § 1350 AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Each of the undersigned hereby certifies, in accordance with 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, in his or her capacity as an officer of Evolus, Inc., that, to his or her knowledge:

(1) Quarterly Report on Form 10-Q of Evolus, Inc. for the quarter ended March 31, 2021 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Evolus, Inc.

Date: May 12, 2021 By: /s/ David Moatazedi

David Moatazedi
President and Chief Executive Officer
(Principal Executive Officer)

Date: May 12, 2021 By: /s/ Lauren Silvernail

Lauren Silvernail
Chief Financial Officer and Executive Vice President, Corporate Development
(Principal Financial Officer)