

# ESPERION THERAPEUTICS, INC.

## FORM 10-Q (Quarterly Report)

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

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**Form 10-Q**

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

For the quarterly period ended September 30, 2016

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: 001-35986

**Esperion Therapeutics, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**26-1870780**  
(I.R.S. Employer  
Identification No.)

**3891 Ranchero Drive, Suite 150**  
**Ann Arbor, MI 48108**  
(Address of principal executive office) (Zip Code)

Registrant's telephone number, including area code:  
**(734) 887-3903**

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 and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted 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 and post such files). Yes  No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

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

As of November 1, 2016, there were 22,553,851 shares of the registrant's Common Stock, \$0.001 par value per share, outstanding.

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**Esperion Therapeutics, Inc.**

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## Esperion Therapeutics, Inc.

**Condensed Balance Sheets**  
(in thousands, except share data)

	September 30, 2016 (unaudited)	December 31, 2015
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 47,140	\$ 77,336
Short-term investments	162,961	134,925
Prepaid clinical development costs	1,732	888
Other prepaid and current assets	1,634	1,245
Total current assets	<u>213,467</u>	<u>214,394</u>
Property and equipment, net	622	807
Intangible assets	56	56
Long-term investments	49,646	80,315
Total assets	<u>\$ 263,791</u>	<u>\$ 295,572</u>
<b>Liabilities and stockholders' equity</b>		
Current liabilities:		
Accounts payable	\$ 1,783	\$ 707
Current portion of long-term debt	1,682	1,604
Accrued clinical development costs	2,447	2,191
Other accrued liabilities	2,248	1,123
Total current liabilities	<u>8,160</u>	<u>5,625</u>
Long-term debt, net of discount and issuance costs	<u>1,451</u>	<u>2,688</u>
Total liabilities	<u>9,611</u>	<u>8,313</u>
<b>Stockholders' equity:</b>		
Preferred stock, \$0.001 par value; 5,000,000 shares authorized as of September 30, 2016 and December 31, 2015; no shares issued or outstanding at September 30, 2016 and December 31, 2015	—	—
Common stock, \$0.001 par value; 120,000,000 shares authorized as of September 30, 2016 and December 31, 2015; 22,553,851 shares issued and outstanding at September 30, 2016 and 22,518,907 shares issued and 22,516,508 outstanding at December 31, 2015	23	23
Additional paid-in capital	454,379	441,940
Accumulated other comprehensive income (loss)	22	(482)
Accumulated deficit	<u>(200,244)</u>	<u>(154,222)</u>
Total stockholders' equity	<u>254,180</u>	<u>287,259</u>
Total liabilities and stockholders' equity	<u>\$ 263,791</u>	<u>\$ 295,572</u>

*See accompanying notes to the condensed financial statements.*

## Esperion Therapeutics, Inc.

Condensed Statements of Operations and Comprehensive Loss  
(in thousands, except share and per share data)  
(unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
<b>Operating expenses:</b>				
Research and development	\$ 13,498	\$ 7,247	\$ 32,987	\$ 21,846
General and administrative	4,214	5,672	13,878	14,960
Total operating expenses	17,712	12,919	46,865	36,806
<b>Loss from operations</b>	(17,712)	(12,919)	(46,865)	(36,806)
Interest expense	(89)	(130)	(298)	(399)
Other income, net	399	248	1,141	543
<b>Net loss</b>	\$ (17,402)	\$ (12,801)	\$ (46,022)	\$ (36,662)
Net loss per common share (basic and diluted)	\$ (0.77)	\$ (0.57)	\$ (2.04)	\$ (1.68)
Weighted-average shares outstanding (basic and diluted)	22,550,438	22,494,075	22,541,137	21,854,685
<b>Other comprehensive loss:</b>				
Unrealized gain (loss) on investments	\$ (96)	\$ 71	\$ 504	\$ 70
<b>Total comprehensive loss</b>	\$ (17,498)	\$ (12,730)	\$ (45,518)	\$ (36,592)

See accompanying notes to the condensed financial statements.

## Esperion Therapeutics, Inc.

**Condensed Statements of Cash Flows**  
**(in thousands)**  
**(unaudited)**

	<b>Nine Months Ended September 30,</b>	
	<b>2016</b>	<b>2015</b>
<b>Operating activities</b>		
Net loss	\$ (46,022)	\$ (36,662)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation expense	190	169
Amortization of debt discount	17	22
Amortization of debt issuance costs	18	24
Amortization of premiums and discounts on investments	766	396
Stock-based compensation expense	12,386	8,341
(Gain) on sale of assets	—	(3)
Changes in assets and liabilities:		
Prepays and other assets	(1,233)	(2,391)
Accounts payable	1,076	(80)
Other accrued liabilities	1,388	477
Net cash used in operating activities	<u>(31,414)</u>	<u>(29,707)</u>
<b>Investing activities</b>		
Purchases of investments	(163,526)	(242,195)
Proceeds from sales/maturities of investments	165,897	76,870
Proceeds from sale of assets	—	9
Purchase of property and equipment	(5)	(97)
Net cash provided by (used in) investing activities	<u>2,366</u>	<u>(165,413)</u>
<b>Financing activities</b>		
Proceeds from issuance of common stock, net of issuance costs	—	189,982
Proceeds from exercise of common stock options	45	1,177
Payments on long-term debt	(1,193)	(253)
Net cash (used in) provided by financing activities	<u>(1,148)</u>	<u>190,906</u>
Net decrease in cash and cash equivalents	(30,196)	(4,214)
Cash and cash equivalents at beginning of period	77,336	85,038
Cash and cash equivalents at end of period	<u>\$ 47,140</u>	<u>\$ 80,824</u>

*See accompanying notes to the condensed financial statements.*

**Esperion Therapeutics, Inc.**  
**Notes to the Condensed Financial Statements**  
**(unaudited)**

**1. The Company and Basis of Presentation**

The Company is a pharmaceutical company focused on developing and commercializing oral therapies for the treatment of patients with elevated low density lipoprotein cholesterol (“LDL-C”). Bempedoic acid, the Company’s lead product candidate, is a first-in-class ATP Citrate Lyase (“ACL”) inhibitor that reduces cholesterol biosynthesis and lowers elevated levels of LDL-C by up-regulating the LDL receptor, but with reduced potential for muscle-related side effects. In June 2016, the Company provided a clinical development and regulatory update for bempedoic acid and the clinical program, known as Cholesterol Lowering via Bempedoic Acid, an ACL-inhibiting Regimen (“CLEAR”). The CLEAR program has two major components: 1) the global pivotal Phase 3 LDL-C lowering program in patients with hypercholesterolemia who are on maximally tolerated background lipid-modifying therapy, including patients who are only able to tolerate less than the lowest approved daily starting dose of a statin (considered “statin intolerant”), and 2) the global cardiovascular outcomes trial (“CLEAR Outcomes”), in patients with hypercholesterolemia who are at high risk for cardiovascular disease and who can be considered statin intolerant. In October 2016, the Company announced that the CLEAR LDL-C lowering program will include patients with hypercholesterolemia on maximally tolerated background lipid-modifying therapy, including on any statin at any dose, based on positive top-line results from the Phase 2 pharmacokinetics and pharmacodynamics study (1002-035) of bempedoic acid added to atorvastatin 80 mg and the Phase 1 pharmacokinetics study (1002-037) to assess the safety and tolerability of bempedoic acid and its effects on the pharmacokinetics of single doses of four high-dose statins, and the previously completed Phase 1 and Phase 2 studies. Prior to the end of 2016, the Company expects to initiate the three global pivotal Phase 3 CLEAR LDL-C lowering efficacy studies — 1002-046, 1002-047, and 1002-048— and the CLEAR Outcomes study. The Company owns the exclusive worldwide rights to bempedoic acid.

The Company’s primary activities since incorporation have been conducting research and development activities, including nonclinical, preclinical and clinical testing, performing business and financial planning, recruiting personnel, and raising capital. Accordingly, the Company has not commenced principal operations and is subject to risks and uncertainties which include the need to research, develop, and clinically test potential therapeutic products; obtain regulatory approvals for its products and commercialize them, if approved; expand its management and scientific staff; and finance its operations with an ultimate goal of achieving profitable operations.

The Company has sustained operating losses since inception and expects such losses to continue over the foreseeable future. Management plans to continue to fund operations through public or private equity or debt financings or through other sources, which may include collaborations with third parties. If adequate funds are not available, the Company may not be able to continue the development of its current or future product candidates, or to commercialize its current or future product candidates, if approved.

**Basis of Presentation**

The accompanying condensed financial statements are unaudited and were prepared by the Company in accordance with generally accepted accounting principles in the United States of America (“GAAP”). In the opinion of management, the Company has made all adjustments, which include only normal recurring adjustments necessary for a fair statement of the Company’s financial position and results of operations for the interim periods presented. Certain information and disclosures normally included in the annual financial statements prepared in accordance with GAAP have been condensed or omitted. These condensed interim financial statements should be read in conjunction with the audited financial statements as of and for the year ended December 31, 2015, and the notes thereto, which are included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2015. The results of operations for the interim periods are not necessarily indicative of the results to be expected for a full year, any other interim periods or any future year or period.

**2. Summary of Significant Accounting Policies**

In February 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2016-02 which is intended to improve financial reporting about leasing transactions. The updated guidance will require a lessee to recognize assets and liabilities for leases with lease terms of more than twelve months. Consistent with current GAAP, the recognition, measurement and presentation of expenses and cash flows arising from a lease by a lessee primarily will depend on its classification as a capital or operating lease. Unlike current GAAP — which requires only capital leases to be recognized on the balance sheet — the updated guidance will require both types of leases to be recognized on the balance sheet. The standard is effective for public companies for fiscal years beginning after December 15, 2018, and interim periods within those years. Early adoption is permitted for annual or interim reporting periods for which the financial statements have not previously been issued. The Company does not believe

the adoption of this standard will have a material impact on its financial position, results of operations or related financial statement disclosures.

In March 2016, the FASB issued ASU 2016-09 which includes provisions intended to simplify the various aspects related to how share-based payments are accounted for and presented in the financial statements. The updated guidance will require all income tax effects of awards to be recognized in the income statement when the awards vest or are settled. Additionally, under the updated guidance companies will have to elect whether to account for forfeitures of share-based payments by (1) recognizing forfeitures as they occur or (2) estimating the number of awards expected to be forfeited and adjusting the estimate when it is likely to change, as is currently required. The standard is effective for public business entities for fiscal years beginning after December 15, 2016, and interim periods within those years. Early adoption is permitted for annual or interim reporting periods for which the financial statements have not previously been issued. The Company does not believe the adoption of this standard will have a material impact on its financial position, results of operations or related financial statement disclosures.

There have been no other material changes to the significant accounting policies previously disclosed in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2015.

### 3. Debt

In June 2014, the Company entered into a loan and security agreement (the "Credit Facility") with Oxford Finance LLC which provided for initial borrowings of \$5.0 million under the term loan (the "Term A Loan") and additional borrowings of \$15.0 million (the "Term B Loan") at the Company's option, for a maximum of \$20.0 million. On June 30, 2014, the Company received proceeds of \$5.0 million from the issuance of secured promissory notes under the Term A Loan. Upon achieving positive clinical development results in March 2015, the remaining \$15.0 million under the Term B Loan became available to be drawn down, at the Company's sole discretion, until March 31, 2015. The Company did not elect to draw down the Term B Loan as of March 31, 2015. The secured promissory notes issued under the Credit Facility are due on July 1, 2018, and are collateralized by substantially all of the Company's personal property, other than its intellectual property.

The Company is obligated to make monthly, interest-only payments on the Term A Loan until July 1, 2015, and, thereafter, to pay 36 consecutive, equal monthly installments of principal and interest from August 1, 2015, through July 1, 2018. The Term A Loan bears interest at an annual rate of 6.40%. In addition, a final payment equal to 8.0% of the Term A Loan is due upon the earlier of the maturity date or prepayment of the term loan. The Company is recognizing the final payment as interest expense using the effective interest method over the life of the Credit Facility.

There are no financial covenants associated to the Credit Facility. However, so long as the Credit Facility is outstanding, there are negative covenants that limit or restrict the Company's activities, which include limitations on incurring indebtedness, granting liens, mergers or acquisitions, dispositions of assets, making certain investments, entering into certain transactions with affiliates, paying dividends or distributions, encumbering or pledging interest in its intellectual property and certain other business transactions. Additionally, the Credit Facility includes events of default, the occurrence and continuation of any of which provides the lenders the right to exercise remedies against the Company and the collateral securing the loans under the Credit Facility, which includes cash. These events of default include, among other things, non-payment of any amounts due under the Credit Facility, insolvency, the occurrence of a material adverse event, inaccuracy of representations and warranties, cross default to material indebtedness and a material judgment against the Company. Upon the occurrence of an event of default, all obligations under the Credit Facility shall accrue interest at a rate equal to the fixed annual rate plus five percentage points.

In connection with the borrowing of the Term A Loan, the Company issued a warrant to purchase 8,230 shares of common stock at an exercise price of \$15.19 (see Note 4). The warrant resulted in a debt discount of \$0.1 million which is amortized into interest expense using the effective interest method over the life of the Term A Loan. In addition, the Company incurred debt issuance costs of \$0.1 million in connection with the borrowing of the Term A Loan. The debt issuance costs were capitalized and included in long-term debt on the condensed balance sheet at the inception of the Term A Loan, and are amortized to interest expense using the effective interest method over the same term. As of September 30, 2016, the remaining unamortized discount and debt issuance costs associated with the debt were less than \$0.1 million and less than \$0.1 million, respectively.

Estimated future principal payments due under the Credit Facility are as follows:

<b>Years Ending December 31,</b>	<b>(in thousands)</b>
2016	\$ 411
2017	1,709
2018	1,049
Total	\$ 3,169



During the three and nine months ended September 30, 2016, the Company recognized \$0.1 million and \$0.3 million, respectively, of interest expense, and made cash interest payments of \$0.1 million and \$0.2 million, respectively, related to the Credit Facility. During the three and nine months ended September 30, 2015, the Company recognized \$0.1 million and \$0.4 million, respectively, of interest expense, and made cash interest payments of \$0.1 million and \$0.2 million, respectively.

#### **4. Warrants**

In connection with the Credit Facility entered into in June 2014, the Company issued a warrant to purchase 8,230 shares of common stock at an exercise price of \$15.19. The warrant will terminate on the earlier of June 30, 2019, and the closing of a merger or consolidation transaction in which the Company is not the surviving entity. The warrant was recorded at fair value of \$0.1 million to additional paid-in capital in accordance with Accounting Standards Codification (“ASC”) 815-10 based upon the allocation of the debt proceeds. The Company estimated the fair value of the warrant using a Black-Scholes option-pricing model, which is based, in part, upon subjective assumptions including but not limited to stock price volatility, the expected life of the warrant, the risk-free interest rate and the fair value of the common stock underlying the warrant. The Company estimates the volatility of its stock based on public company peer group historical volatility that is in line with the expected remaining life of the warrant. The risk-free interest rate is based on the United States (“U.S.”) Treasury zero-coupon bond for a maturity similar to the expected remaining life of the warrant. The expected remaining life of the warrant is assumed to be equivalent to its remaining contractual term.

Upon the closing of the Company’s initial public offering in July 2013, all warrants exercisable for 1,940,000 shares of Series A preferred stock, at an exercise price of \$1.00 per share (unadjusted for stock splits), were automatically converted into warrants exercisable for 277,690 shares of common stock, at an exercise price of \$6.99 per share. As a result, the Company concluded the warrants outstanding no longer met the criteria to be classified as liabilities and were reclassified to additional paid-in capital at fair value on the date of reclassification. During the nine months ended September 30, 2015, 29,330 warrants were net exercised for 25,445 shares of the Company’s common stock. The remaining 248,360 warrants outstanding as of September 30, 2016, expire in February 2018.

As of September 30, 2016, the Company had warrants outstanding that were exercisable for a total of 256,590 shares of common stock at a weighted-average exercise price of \$7.25 per share.

#### **5. Commitments and Contingencies**

On January 12, 2016, a purported stockholder of the Company filed a putative class action lawsuit in the United States District Court for the Eastern District of Michigan, against the Company and Tim Mayleben, captioned *Kevin L. Dougherty v. Esperion Therapeutics, Inc., et al.* (No. 16-cv-10089). An amended complaint was filed on May 20, 2016. The amended complaint alleges that the Company and Mr. Mayleben violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and SEC Rule 10b-5 by allegedly failing to disclose in an August 17, 2015, public statement that the Food and Drug Administration would require a cardiovascular outcomes trial before approving the Company’s lead product candidate. The lawsuit seeks, among other things, compensatory damages in connection with an allegedly inflated stock price between August 18, 2015, and September 28, 2015, as well as attorneys’ fees and costs. On July 5, 2016, the Company filed a motion to dismiss the amended complaint. In light of, among other things, the early stage of the litigation, the Company is unable to predict the outcome of this matter and is unable to make a meaningful estimate of the amount or range of loss, if any, that could result from an unfavorable outcome.

There have been no other material changes to the Company’s contractual obligations and commitments and contingencies outside the ordinary course of business from those previously disclosed in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2015.

**6. Investments**

The following table summarizes the Company's cash equivalents and investments:

	September 30, 2016			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
	(in thousands)			
<b>Cash equivalents:</b>				
Money market funds	\$ 42,490	\$ —	\$ —	\$ 42,490
<b>Short-term investments:</b>				
Certificates of deposit	23,281	3	(12)	23,272
U.S. treasury notes	36,524	14	(3)	36,535
U.S. government agency securities	103,122	42	(10)	103,154
<b>Long-term investments:</b>				
Certificates of deposit	10,121	5	(18)	10,108
U.S. treasury notes	20,554	8	(12)	20,550
U.S. government agency securities	18,983	11	(6)	18,988
<b>Total</b>	<b>\$ 255,075</b>	<b>\$ 83</b>	<b>\$ (61)</b>	<b>\$ 255,097</b>

  

	December 31, 2015			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
	(in thousands)			
<b>Cash equivalents:</b>				
Money market funds	\$ 31,761	\$ —	\$ —	\$ 31,761
<b>Short-term investments:</b>				
Certificates of deposit	19,774	—	(28)	19,746
U.S. treasury notes	12,620	—	(14)	12,606
U.S. government agency securities	102,683	—	(110)	102,573
<b>Long-term investments:</b>				
Certificates of deposit	12,299	—	(42)	12,257
U.S. treasury notes	22,553	—	(105)	22,448
U.S. government agency securities	45,793	—	(183)	45,610
<b>Total</b>	<b>\$ 247,483</b>	<b>\$ —</b>	<b>\$ (482)</b>	<b>\$ 247,001</b>

At September 30, 2016, and December 31, 2015, remaining contractual maturities of available-for-sale investments classified as current on the balance sheet were less than 12 months and remaining contractual maturities of available-for-sale investments classified as long-term were less than two years.

During the three and nine months ended September 30, 2016, other income, net in the statements of operations includes interest income on available-for-sale investments of \$0.7 million and \$1.9 million, respectively, and expense for the amortization of premiums and discounts on investments of \$0.3 million and \$0.8 million, respectively. During the three and nine months ended September 30, 2015, other income, net in the statements of operations includes interest income on available-for-sale investments of \$0.4 million and \$0.9 million, respectively, and expense for the amortization of premiums and discounts on investments of \$0.2 million and \$0.4 million, respectively.

There were no unrealized gains or losses on investments reclassified from accumulated other comprehensive income (loss) to other income in the Statements of Operations during the three and nine months ended September 30, 2016, and September 30, 2015.

**7. Fair Value Measurements**

The Company follows accounting guidance that emphasizes that fair value is a market-based measurement, not an entity-specific measurement. Fair value is defined as “the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.” Fair value measurements are defined on a three level hierarchy:

- Level 1 inputs: Quoted prices for identical assets or liabilities in active markets;
- Level 2 inputs: Observable inputs other than Level 1 prices, such as quoted market prices for similar assets or liabilities or other inputs that are observable or can be corroborated by market data; and
- Level 3 inputs: Unobservable inputs that are supported by little or no market activity and require the reporting entity to develop assumptions that market participants would use when pricing the asset or liability.

The following table presents the Company’s financial assets and liabilities that have been measured at fair value on a recurring basis:

Description	Total	Level 1	Level 2	Level 3
	(in thousands)			
<b>September 30, 2016</b>				
Assets:				
Money market funds	\$ 42,490	\$ 42,490	\$ —	\$ —
Available-for-sale securities:				
Certificates of deposit	33,380	33,380	—	—
U.S. treasury notes	57,085	57,085	—	—
U.S. government agency securities	122,142	—	122,142	—
Total assets at fair value	<u>\$ 255,097</u>	<u>\$ 132,955</u>	<u>\$ 122,142</u>	<u>\$ —</u>
<b>December 31, 2015</b>				
Assets:				
Money market funds	\$ 31,761	\$ 31,761	\$ —	\$ —
Available-for-sale securities:				
Certificates of deposit	32,003	32,003	—	—
U.S. treasury notes	35,054	35,054	—	—
U.S. government agency securities	148,183	—	148,183	—
Total assets at fair value	<u>\$ 247,001</u>	<u>\$ 98,818</u>	<u>\$ 148,183</u>	<u>\$ —</u>

There were no transfers between Levels 1, 2 or 3 during the three and nine months ended September 30, 2016.

**8. Stock Compensation**

**2013 Stock Option and Incentive Plan**

In May 2015, the Company’s stockholders approved the amended and restated 2013 Stock Option and Incentive Plan (as amended, the “2013 Plan”). The number of shares of common stock available for awards under the 2013 Plan was set to 2,975,000 shares, plus (i) shares of common stock that are forfeited, cancelled, held back upon the exercise or settlement of an award to cover the exercise price or tax withholding, reacquired by the Company prior to vesting, satisfied without the issuance of common stock or otherwise terminated (other than by exercise) under the 2013 Plan and the Company’s 2008 Incentive Stock Option and Restricted Stock Plan are added back to the shares of common stock available for issuance under the 2013 Plan, and (ii) on January 1, 2016, and each January 1, thereafter, the number of shares of common stock reserved and available for issuance under the 2013 Plan will be cumulatively increased by 2.5% of the number of shares of common stock outstanding on the immediately preceding December 31, or such lesser number of shares of common stock determined by the compensation committee.

The 2013 Plan provides for the granting of stock options, stock appreciation rights, restricted stock awards, restricted stock units, unrestricted stock awards, cash-based awards, performance share awards and dividend equivalent rights. The Company incurs stock-based compensation expense related to stock options and restricted stock units (“RSUs”). The fair value of RSUs is determined by the closing market price of the Company’s common stock on the date of grant. The fair value of stock options is calculated using a

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Black-Scholes option pricing model. The Company accounts for stock-based compensation in accordance with the provisions of ASC 718, Compensation—Stock Compensation. Accordingly, compensation costs related to equity instruments granted are recognized over the requisite service periods of the awards on a straight-line basis at the grant-date fair value, taking into account estimated forfeitures.

The following table summarizes the activity relating to the Company’s options to purchase common stock for the nine months ended September 30, 2016:

	Number of Options	Weighted-Average Exercise Price Per Share	Weighted-Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value  (in thousands)
Outstanding at December 31, 2015	2,662,862	\$ 32.42	8.36	\$ 16,433
Granted	611,250	\$ 15.89		
Forfeited or expired	(88,168)	\$ 29.94		
Exercised	(27,757)	\$ 1.61		
Outstanding at September 30, 2016	<u>3,158,187</u>	\$ 29.56	7.91	\$ 6,218

The following table summarizes information about the Company’s stock option plan as of September 30, 2016:

	Number of Options	Weighted-Average Exercise Price Per Share	Weighted-Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value  (in thousands)
Vested and expected to vest at September 30, 2016	3,057,211	\$ 29.39	7.87	\$ 6,137
Exercisable at September 30, 2016	<u>1,558,436</u>	\$ 24.74	7.08	\$ 4,955

During the three and nine months ended September 30, 2016, the Company recognized approximately \$3.6 million and \$12.1 million, respectively, of stock-based compensation related to stock options. During the three and nine months ended September 30, 2015, the Company recognized approximately \$3.3 million and \$8.3 million, respectively, of stock-based compensation related to stock options. As of September 30, 2016, there was approximately \$30.6 million of unrecognized stock-based compensation expense related to unvested options, adjusted for forfeitures, which will be recognized over a weighted-average period of approximately 2.5 years.

The following table summarizes the activity relating to the Company’s RSUs for the nine months ended September 30, 2016:

	Number of RSUs	Weighted-Average Fair Value Per Share
Outstanding and unvested at December 31, 2015	25,000	\$ 57.54
Granted	3,000	\$ 15.97
Forfeited or expired	(3,000)	\$ 15.97
Vested	(7,187)	\$ 57.54
Outstanding and unvested at September 30, 2016	<u>17,813</u>	\$ 57.54

During the three and nine months ended September 30, 2016, the Company recognized approximately \$0.1 million and \$0.3 million, respectively, of stock-based compensation expense recognized related to RSUs. During the three and nine months ended September 30, 2015, the Company recognized less than \$0.1 million of stock-based compensation expense recognized related to RSUs. As of September 30, 2016, there was approximately \$0.9 million of unrecognized stock-based compensation expense related to unvested RSUs, adjusted for forfeitures, which will be recognized over a weighted-average period of approximately 2.8 years.

**9. Income Taxes**

There was no provision for income taxes for the three and nine months ended September 30, 2016 and 2015 because the Company has incurred operating losses since inception. At September 30, 2016, the Company concluded that it is not more likely than

not that the Company will realize the benefit of its deferred tax assets due to its history of losses. Accordingly, a full valuation allowance has been applied against the net deferred tax assets.

#### 10. Net Loss Per Common Share

Basic net loss per share is calculated by dividing net loss by the weighted-average number of common shares outstanding during the period, without consideration for common stock equivalents. Diluted net loss per share is computed by dividing net loss by the weighted-average number of common stock equivalents outstanding for the period determined using the treasury-stock method. For purposes of this calculation, warrants for common stock, stock options and unvested restricted stock and RSUs are considered to be common stock equivalents and are only included in the calculation of diluted net loss per share when their effect is dilutive.

The shares outstanding at the end of the respective periods presented below were excluded from the calculation of diluted net loss per share due to their anti-dilutive effect:

	<u>September 30, 2016</u>	<u>December 31, 2015</u>
Warrants for common stock	256,590	256,590
Common shares under option	3,158,187	2,662,862
Unvested restricted stock and RSUs	17,813	27,399
Total potential dilutive shares	<u>3,432,590</u>	<u>2,946,851</u>

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

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our condensed financial statements and related notes appearing elsewhere in this Quarterly Report on Form 10-Q and our annual report on Form 10-K for the fiscal year ended December 31, 2015.*

### **Forward-Looking Statements**

*This Quarterly Report on Form 10-Q contains “forward-looking statements” within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended (the Exchange Act). These forward-looking statements are based on our management’s belief and assumptions and on information currently available to management. Although we believe that the expectations reflected in these forward-looking statements are reasonable, these statements relate to future events, including our clinical development plans, or our future financial performance and involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements, including in relation to the clinical development of bempedoic acid to be materially different from any future results, performance or achievements, including in relation to the clinical development of bempedoic acid, expressed or implied by these forward-looking statements.*

*Forward -looking statements are often identified by the use of words such as , but not limited to, “ may,” “will,” “should,” “expects,” “intends,” “plans,” “anticipates,” “believes,” “estimates,” “predicts,” “potential,” “continue” or the negative of these terms or other similar terminology. These statements are only predictions. You should not place undue reliance on forward-looking statements because they involve known and unknown risks, uncertainties and other factors, which are, in some cases, beyond our control and that could materially affect results. Factors that may cause actual results to differ materially from current expectations include, among other things, those referred to or discussed in or incorporated by reference into the section titled “Risk Factors” included in Item 1A of Part II of this Quarterly Report on Form 10-Q . If one or more of these risks or uncertainties occur, or if our underlying assumptions prove to be incorrect, actual events or results may vary significantly from those implied or projected by the forward-looking statements. No forward-looking statement is a guarantee of future performance.*

*The forward-looking statements in this report represent our views as of the date of this quarterly report. Except as required by law, we undertake no obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements.*

### **Overview**

#### **Corporate Overview**

We are a pharmaceutical company focused on developing and commercializing oral therapies for the treatment of patients with elevated low density lipoprotein cholesterol, or LDL-C. Bempedoic acid, our lead product candidate, is a first-in-class ATP Citrate Lyase, or ACL, inhibitor that reduces cholesterol biosynthesis and lowers elevated levels of LDL-C by up-regulating the LDL receptor, but with reduced potential for muscle-related side effects. In June 2016, we provided a clinical development and regulatory update for bempedoic acid and our clinical program, known as Cholesterol Lowering via Bempedoic Acid, an ACL-inhibiting Regimen, or CLEAR. Our CLEAR program has two major components: 1) the global pivotal Phase 3 LDL-C lowering program in patients with hypercholesterolemia who are on maximally tolerated background lipid-modifying therapy, including patients who are only able to tolerate less than the lowest approved daily starting dose of a statin (statin intolerance), and 2) the global cardiovascular outcomes trial, or CVOT (CLEAR Outcomes), in patients with hypercholesterolemia who are at high risk for cardiovascular, or CV, disease and who can be considered statin intolerant. In October 2016, we announced that the CLEAR LDL-C lowering program will include patients with hypercholesterolemia on maximally tolerated background lipid-modifying therapy, including on any statin at any dose, based on positive top-line results from our Phase 2 pharmacokinetics and pharmacodynamics, or PK/PD, study (1002-035) of bempedoic acid added to atorvastatin 80 mg and our Phase 1 PK study (1002-037) to assess the safety and tolerability of bempedoic acid and its effects on the PK of single doses of four high-dose statins, and the previously completed Phase 1 and Phase 2 studies. Prior to year-end, we expect to initiate the three global pivotal Phase 3 CLEAR LDL-C lowering efficacy studies — 1002-046, 1002-047, and 1002-048— and our CLEAR Outcomes study. We own the exclusive worldwide rights to bempedoic acid.

We were incorporated in Delaware in January 2008, and commenced our operations in April 2008. Since our inception, we have focused substantially all of our efforts and financial resources on developing bempedoic acid. We have funded our operations to date primarily through proceeds from sales of preferred stock, convertible promissory notes and warrants, public offerings of common stock and the incurrence of indebtedness, and we have incurred losses in each year since our inception.

We have not commenced principal operations and do not have any products approved for sale. To date, we have not generated any revenue. We have never been profitable and our net losses were \$17.4 million and \$12.8 million for the three months ended September 30, 2016 and 2015, respectively, and were \$46.0 and \$36.7 million for the nine months ended September 30, 2016 and 2015, respectively. Substantially all of our net losses resulted from costs incurred in connection with research and development programs, general and administrative costs associated with our operations. We expect to incur significant expenses and increasing

operating losses for the foreseeable future. We expect our expenses to increase in connection with our ongoing activities, including, among others:

- initiating the global pivotal Phase 3 CLEAR efficacy studies and the CLEAR Outcomes study for bempedoic acid;
- completing the clinical development of bempedoic acid;
- undertaking development activities on a fixed dose combination, or FDC, of bempedoic acid and ezetimibe;
- seeking regulatory approval for bempedoic acid;
- commercializing bempedoic acid; and
- operating as a public company.

Accordingly, we will need additional financing to support our continuing operations. We will seek to fund our operations through public or private equity or debt financings or through other sources, which may include collaborations with third parties. Adequate additional financing may not be available to us on acceptable terms, or at all. Our failure to raise capital as and when needed would have a material adverse effect on our financial condition and our ability to pursue our business strategy or continue operations. We will need to generate significant revenues to achieve profitability and we may never do so.

### ***Product Overview***

Bempedoic acid, our lead product candidate, is a first-in-class ACL inhibitor that reduces cholesterol biosynthesis and lowers elevated levels of LDL-C by up-regulating the LDL receptor, but with reduced potential for muscle-related side effects. Bempedoic acid is being developed for patients with hypercholesterolemia. We acquired the rights to bempedoic acid from Pfizer in 2008. We own the exclusive worldwide rights to bempedoic acid and we are not obligated to make any royalty or milestone payments to Pfizer.

During the nine months ended September 30, 2016, we incurred \$12.4 million in expenses related to our global pivotal Phase 3 CLEAR Harmony (1002-040) long-term safety and tolerability study of bempedoic acid in patients with hypercholesterolemia on maximally tolerated background lipid-modifying therapy, our Phase 2 PK/PD (1002-035) study and our Phase 1 PK (1002-037) study .

During the nine months ended September 30, 2015, we incurred \$12.9 million in expenses related to our Phase 2b (1002-009) clinical study in patients with elevated LDL-C already receiving statin therapy and our Phase 2 (1002-014) exploratory clinical safety study in patients with both elevated LDL-C and hypertension.

### ***Program Developments***

#### *1002-035—Phase 2 pharmacokinetics/pharmacodynamics clinical study in patients treated with high-dose statin therapy*

On October 13, 2016, we announced top-line results for our Phase 2 PK/PD (1002-035) clinical study. The eight-week, U.S.-based, multi-center, randomized, double-blind, parallel group study evaluated 68 patients on stable atorvastatin 80 mg per day. All patients in the study received atorvastatin 80 mg for four weeks. Patients were then randomized to receive either bempedoic acid 180 mg, or placebo, for four weeks. The primary objectives of the study were to assess the LDL-C lowering efficacy of bempedoic acid 180 mg versus placebo on a background of atorvastatin 80 mg, as well as multiple-dose plasma PK of atorvastatin 80 mg alone and in combination with bempedoic acid. Secondary objectives included assessment of the effect of bempedoic acid on lipid and cardiometabolic biomarkers, including high-sensitivity C-reactive protein, or hsCRP; and characterization of the tolerability and safety of bempedoic acid.

Patients treated with bempedoic acid 180 mg achieved 22 percent (p=0.0028) LDL-C lowering from baseline compared to placebo with all patients on a background of atorvastatin 80 mg. There was a 13 percent reduction in LDL-C in the bempedoic acid group and a nine percent increase in LDL-C in the placebo group when added to background atorvastatin 80 mg. Bempedoic acid also demonstrated an incremental reduction of 35 percent (p=0.0020) in hsCRP. Bempedoic acid added to atorvastatin 80 mg produced no clinically relevant effects on atorvastatin PK, and appeared to be safe and well-tolerated, with no serious adverse events reported.

*1002-037—Phase 1 clinical pharmacology study to assess the safety and tolerability of bempedoic acid added to maximally tolerated statin therapy*

On October 13, 2016, we announced top-line results from our Phase 1 PK (1002-037) clinical study. The open-label study assessed the PK levels in 48 healthy volunteers receiving single doses of the highest doses of the most commonly prescribed statins — atorvastatin 80 mg, rosuvastatin 40 mg, simvastatin 40 mg and pravastatin 80 mg — when added to steady-state bempedoic acid 180 mg. The PK profiles demonstrated in 1002-037 were consistent with those seen in previous studies conducted with bempedoic acid, and did not increase with the highest doses of the statins tested in combination with bempedoic acid.

**Ongoing Clinical Studies**

*1002-034—Phase 1 bioavailability study to assess the relative oral bioavailability of bempedoic acid 180 mg and ezetimibe 10 mg*

1002-034 is a Phase 1, randomized, open-label, single-dose study which is designed to assess the relative oral bioavailability of bempedoic acid 180 mg and ezetimibe 10 mg co-administered as individual tablets versus as two different FDC formulation tablets in healthy human subjects. The development of the FDC was prompted by the results of a 12-week, Phase 2b (1002-008) study of co-administered 180 mg of bempedoic acid and 10 mg of ezetimibe, which demonstrated an almost 50 percent lowering of LDL-C from baseline; significantly greater reductions in hsCRP; and a favorable safety and tolerability profile. 1002-034, which was initiated in July 2016, will help determine the appropriate formulation for the FDC for use in our future clinical studies of patients with elevated levels of LDL-C.

*CLEAR Harmony (1002-040)—Global pivotal Phase 3 long-term safety and tolerability study in patients with hypercholesterolemia on maximally tolerated background lipid-modifying therapy*

CLEAR Harmony (1002-040) is a global pivotal Phase 3 randomized, multicenter, double-blind, placebo-controlled study evaluating 180 mg of bempedoic acid versus placebo in patients with hypercholesterolemia with atherosclerotic cardiovascular disease (ASCVD) and/or heterozygous familial hypercholesterolemia (HeFH) on maximally tolerated background lipid-modifying therapies, including patients on any statin at any dose. At initiation, the study included 900 patients but has been expanded to 1,950 patients to further support our regulatory submissions for an LDL-C lowering indication expected in the first half of 2019. The study will enroll patients at approximately 125 sites in the U.S., Canada and the European Union. The primary objective is to assess safety and tolerability of patients treated with bempedoic acid for 52 weeks. Secondary objectives include assessing the effects of bempedoic acid on lipid and cardiometabolic risk markers, including LDL-C and hsCRP. We initiated CLEAR Harmony in January 2016, and, as a result of the expanded enrollment, expect to report top-line results by mid-2018.

**Additional Studies**

*Global Pivotal Phase 3 LDL-C Lowering Program — CLEAR Efficacy Studies*

Prior to year-end, we plan to initiate our global pivotal Phase 3 CLEAR efficacy studies — 1002-046, 1002-047 and 1002-048 — in patients with hypercholesterolemia on maximally tolerated background lipid-modifying therapy, including patients on any statin at any dose. The global pivotal Phase 3 CLEAR efficacy studies are designed to measure the change in LDL-C from baseline at 12 weeks. Top-line results from the global pivotal Phase 3 CLEAR LDL-C lowering program are anticipated by mid-2018. The proposed high-level design details are included below and additional detail of these studies will be made available at study initiation.

- 1002-046: 24-week study to assess the 12-week LDL-C efficacy primary endpoint of bempedoic acid 180 mg versus placebo in hypercholesterolemic patients (with or without ASCVD) on maximally tolerated background lipid-modifying therapy. This study is designed to enroll 300 patients who are only able to tolerate less than the lowest approved daily starting dose of a statin and can be considered statin intolerant. This study is expected to initiate before year-end.
- 1002-047: 52-week study to assess the 12-week LDL-C efficacy primary endpoint of bempedoic acid 180 mg versus placebo in hypercholesterolemic patients (with ASCVD and/or HeFH) on maximally tolerated background lipid-modifying therapy. This study is designed to enroll approximately 750 patients and is expected to initiate before year-end.
- 1002-048: 12-week study to assess the LDL-C efficacy primary endpoint of bempedoic acid 180 mg versus placebo in hypercholesterolemic patients (with or without ASCVD) when added to ezetimibe. This study is designed to enroll approximately 225 patients and is expected to initiate before year-end.



*Global Cardiovascular Outcomes Trial — CLEAR Outcomes*

CLEAR Outcomes is a randomized, double-blind, placebo-controlled study to assess the effects of bempedoic acid in patients with hypercholesterolemia who are at high risk of CV disease and who are only able to tolerate less than the lowest approved starting dose of a statin and can be considered statin intolerant. CLEAR Outcomes is expected to enroll approximately 12,600 patients at up to 1,000 sites in approximately 30 countries. Patients enrolled in the study will be required to have a history of, or be at high risk for, CV disease with LDL-C levels between 100 mg/dL and 190 mg/dL despite background lipid-modifying therapy. The trial will be an event-driven study with the primary efficacy endpoint of the effect of bempedoic acid versus placebo on the risk of major adverse cardiovascular events (cardiovascular death, non-fatal myocardial infarction, non-fatal stroke, hospitalization for unstable angina, or coronary revascularization; also referred to as “five-component MACE”). We intend to initiate CLEAR Outcomes before year-end, and the study is intended to support our submissions for a CV disease risk reduction indication in the U.S. and Europe by 2022.

**Financial Operations Overview**

***Revenue***

To date, we have not generated any revenue. In the future, we may never generate revenue from the sale of bempedoic acid or other product candidates. If we fail to complete the development of bempedoic acid or any other product candidates and secure approval from regulatory authorities, our ability to generate future revenue and our results of operations and financial position will be adversely affected.

***Research and Development Expenses***

Since our inception, we have focused our resources on our research and development activities, including conducting nonclinical, preclinical and clinical studies. Our research and development expenses consist primarily of costs incurred in connection with the development of bempedoic acid, which include:

- expenses incurred under agreements with consultants, contract research organizations, or CROs, and investigative sites that conduct our preclinical and clinical studies;
- the cost of acquiring, developing and manufacturing clinical study materials;
- employee-related expenses, including salaries, benefits, stock-based compensation and travel expenses;
- allocated expenses for rent and maintenance of facilities, insurance and other supplies; and
- costs related to compliance with regulatory requirements.

We expense research and development costs as incurred. To date, substantially all of our research and development work has been related to bempedoic acid. Costs for certain development activities, such as clinical studies, are recognized based on an evaluation of the progress to completion of specific tasks using data such as patient enrollment, clinical site activations or information provided to us by our vendors. Our direct research and development expenses consist principally of external costs, such as fees paid to investigators, consultants, central laboratories and CROs in connection with our clinical studies. We do not allocate acquiring and manufacturing clinical study materials, salaries, stock-based compensation, employee benefits or other indirect costs related to our research and development function to specific programs.

Our research and development expenses are expected to increase in the foreseeable future. Costs associated with the development of bempedoic acid will increase as we further its clinical development, including in connection with the commencement of our global pivotal Phase 3 CLEAR efficacy studies and our CLEAR Outcomes study. We cannot determine with certainty the duration and completion costs associated with the ongoing or future clinical studies of bempedoic acid. Also, we cannot conclude with certainty if, or when, we will generate revenue from the commercialization and sale of bempedoic acid, if ever. We may never succeed in obtaining regulatory approval for bempedoic acid. The duration, costs and timing associated with the development and commercialization of bempedoic acid will depend on a variety of factors, including uncertainties associated with the results of our clinical studies and our ability to obtain regulatory approval. For example, if the Food and Drug Administration, or FDA, or another regulatory authority were to require us to conduct clinical studies beyond those that we currently anticipate will be required for the completion of clinical development or post-commercialization clinical studies of bempedoic acid, or if we experience significant delays in enrollment in any of our clinical studies, we could be required to expend significant additional financial resources and time on the completion of clinical development or post-commercialization clinical studies of bempedoic acid.

***General and Administrative Expenses***

General and administrative expenses primarily consist of salaries and related costs for personnel, including stock-based compensation and travel expenses, associated with our executive, accounting and finance, operational and other administrative

functions. Other general and administrative expenses include facility related costs, communication expenses and professional fees for legal, patent prosecution, protection and review, consulting and accounting services.

We anticipate that our general and administrative expenses will increase in the future in connection with the continued research and development and commercialization of bempedoic acid, increases in our headcount, expansion of our information technology infrastructure, and increased expenses associated with being a public company and complying with exchange listing and Securities and Exchange Commission, or SEC, requirements, including the additional complexities and related costs of our transition from an “emerging growth company” to a “large accelerated filer” under the rules of the SEC. These increases will likely include higher legal, compliance, accounting and investor and public relations expenses.

### ***Interest Expense***

Interest expense consists primarily of cash interest costs associated with our credit facility and non-cash interest costs associated with the amortization of the related debt discount, deferred issuance costs and final payment fee.

### **Critical Accounting Policies and Significant Judgments and Estimates**

Our discussion and analysis of our financial condition and results of operations is based on our financial statements, which have been prepared in accordance with generally accepted accounting principles in the United States of America. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities and expenses and the disclosure of contingent assets and liabilities in our financial statements. We evaluate our estimates and judgments on an ongoing basis, including those related to accrued expenses and stock-based compensation. We base our estimates on historical experience, known trends and events, contractual milestones and other various factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Our actual results may differ from these estimates under different assumptions or conditions.

In February 2016, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, 2016-02 which is intended to improve financial reporting about leasing transactions. The updated guidance will require a lessee to recognize assets and liabilities for leases with lease terms of more than twelve months. Consistent with current GAAP, the recognition, measurement and presentation of expenses and cash flows arising from a lease by a lessee primarily will depend on its classification as a capital or operating lease. Unlike current GAAP — which requires only capital leases to be recognized on the balance sheet — the updated guidance will require both types of leases to be recognized on the balance sheet. The standard is effective for public companies for fiscal years beginning after December 15, 2018, and interim periods within those years. Early adoption is permitted for annual or interim reporting periods for which the financial statements have not previously been issued. We do not believe the adoption of this standard will have a material impact on our financial position, results of operations or related financial statement disclosures.

In March 2016, the FASB issued ASU 2016-09 which includes provisions intended to simplify the various aspects related to how share-based payments are accounted for and presented in the financial statements. The updated guidance will require all income tax effects of awards to be recognized in the income statement when the awards vest or are settled. Additionally, under the updated guidance companies will have to elect whether to account for forfeitures of share-based payments by (1) recognizing forfeitures as they occur or (2) estimating the number of awards expected to be forfeited and adjusting the estimate when it is likely to change, as is currently required. The standard is effective for public business entities for fiscal years beginning after December 15, 2016, and interim periods within those years. Early adoption is permitted for annual or interim reporting periods for which the financial statements have not previously been issued. We do not believe the adoption of this standard will have a material impact on our financial position, results of operations or related financial statement disclosures.

There have been no other material changes to the significant accounting policies previously disclosed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015.

**Results of Operations****Comparison of the Three Months Ended September 30, 2016 and 2015**

The following table summarizes our results of operations for the three months ended September 30, 2016 and 2015:

	<b>Three Months Ended September 30,</b>		<b>Change</b>
	<b>2016</b>	<b>2015</b>	
	<b>(unaudited, in thousands)</b>		
<b>Operating Expenses:</b>			
Research and development	\$ 13,498	\$ 7,247	\$ 6,251
General and administrative	4,214	5,672	(1,458)
<b>Loss from operations</b>	<b>(17,712)</b>	<b>(12,919)</b>	<b>(4,793)</b>
Interest expense	(89)	(130)	41
Other income, net	399	248	151
<b>Net loss</b>	<b>\$ (17,402)</b>	<b>\$ (12,801)</b>	<b>\$ (4,601)</b>

**Research and development expenses**

Research and development expenses for the three months ended September 30, 2016, were \$13.5 million, compared to \$7.2 million for the three months ended September 30, 2015, an increase of \$6.3 million. The increase in research and development expenses was primarily related to the further clinical development of bempedoic acid, which includes increases in our headcount and increased stock-based compensation expense.

**General and administrative expenses**

General and administrative expenses for the three months ended September 30, 2016, were \$4.2 million, compared to \$5.7 million for the three months ended September 30, 2015, a decrease of \$1.5 million. The decrease in general and administrative expenses was primarily attributable to a reduction in pre-commercialization activities partially offset by increases in costs to support public company operations, increases in our headcount and other costs to support our growth.

**Interest expense**

We incurred interest expense of \$0.1 million and \$0.1 million for the three months ended September 30, 2016 and 2015, respectively. Interest expense was related to our credit facility.

**Other income, net**

Other income, net for the three months ended September 30, 2016, was \$0.4 million, compared to \$0.2 million for the three months ended September 30, 2015. This increase was primarily related to an increase in interest income earned on our cash, cash equivalents and investment securities.

**Results of Operations****Comparison of the Nine Months Ended September 30, 2016 and 2015**

The following table summarizes our results of operations for the nine months ended September 30, 2016 and 2015:

	<b>Nine Months Ended September 30,</b>		<b>Change</b>
	<b>2016</b>	<b>2015</b>	
	<b>(unaudited, in thousands)</b>		
<b>Operating Expenses:</b>			
Research and development	\$ 32,987	\$ 21,846	\$ 11,141
General and administrative	13,878	14,960	(1,082)
<b>Loss from operations</b>	<b>(46,865)</b>	<b>(36,806)</b>	<b>(10,059)</b>
Interest expense	(298)	(399)	101
Other income, net	1,141	543	598
<b>Net loss</b>	<b>\$ (46,022)</b>	<b>\$ (36,662)</b>	<b>\$ (9,360)</b>

**Research and development expenses**

Research and development expenses for the nine months ended September 30, 2016, were \$33.0 million, compared to \$21.8 million for the nine months ended September 30, 2015, an increase of approximately \$11.2 million. The increase in research and development expenses was primarily related to the further clinical development of bempedoic acid, which includes increases in our headcount and increased stock-based compensation expense.

**General and administrative expenses**

General and administrative expenses for the nine months ended September 30, 2016, were \$13.9 million, compared to \$15.0 million for the nine months ended September 30, 2015, a decrease of \$1.1 million. The decrease in general and administrative expenses was primarily attributable to a reduction in pre-commercialization activities partially offset by increases in costs to support public company operations, increases in our headcount and other costs to support our growth.

**Interest expense**

We incurred interest expense of \$0.3 million and \$0.4 million for the nine months ended September 30, 2016 and 2015, respectively. Interest expense was related to our credit facility.

**Other income, net**

Other income, net for the nine months ended September 30, 2016, was \$1.1 million, compared to \$0.5 million for the nine months ended September 30, 2015. This increase was primarily related to an increase in interest income earned on our cash, cash equivalents and investment securities.

**Liquidity and Capital Resources**

We have funded our operations to date primarily through proceeds from sales of preferred stock, convertible promissory notes and warrants, public offerings of common stock and the incurrence of indebtedness. In June 2014, we entered into a loan and security agreement (the credit facility) with Oxford Finance LLC whereby we received net proceeds of \$4.9 million from the issuance of secured promissory notes under a term loan as part of the facility. In October 2014, we sold 4,887,500 shares of common stock at a price of \$20.00 per share for net proceeds of \$91.6 million. In March 2015, we sold 2,012,500 shares of common stock at a price of \$100.00 per share for net proceeds of \$190.0 million. To date, we have not generated any revenue and we anticipate that we will continue to incur losses for the foreseeable future.

As of September 30, 2016, our primary sources of liquidity were our cash and cash equivalents and available-for-sale investments, which totaled \$47.1 million and \$212.6 million, respectively. We invest our cash equivalents and investments in highly liquid, interest-bearing investment-grade and government securities to preserve principal.

The following table summarizes the primary sources and uses of cash for the periods presented below:

	<b>Nine Months Ended September 30,</b>	
	<b>2016</b>	<b>2015</b>
	<b>(in thousands)</b>	
Cash used in operating activities	\$ (31,414)	\$ (29,707)
Cash provided by (used in) investing activities	2,366	(165,413)
Cash (used in) provided by financing activities	(1,148)	190,906
<b>Net decrease in cash and cash equivalents</b>	<b>\$ (30,196)</b>	<b>\$ (4,214)</b>

**Operating Activities**

We have incurred and expect to continue to incur, significant costs in the areas of research and development, regulatory and other clinical study costs, associated with the development of bempedoic acid and our operations.

Net cash used in operating activities totaled \$31.4 million and \$29.7 million for the nine months ended September 30, 2016 and 2015, respectively. The primary use of our cash was to fund the development of bempedoic acid, adjusted for non-cash expenses such as stock-based compensation expense, depreciation and amortization and changes in working capital.

**Investing Activities**

Net cash provided by investing activities of \$2.4 million for the nine months ended September 30, 2016, consisted primarily of proceeds from the sale and maturities of highly liquid, interest bearing investment-grade and government securities.

### ***Financing Activities***

Net cash used in financing activities of \$1.1 million for the nine months ended September 30, 2016, related primarily to payments on our credit facility.

### ***Plan of Operations and Funding Requirements***

We expect to continue to incur significant expenses and increasing operating losses for the foreseeable future as we progress through the clinical development program for bempedoic acid. We expect to announce top-line results from our global pivotal Phase 3 CLEAR LDL-C lowering efficacy and safety studies in mid-2018, and that our existing cash and cash equivalents and available-for-sale investments are sufficient to fund operations into early 2019. We will likely need to raise additional capital thereafter to continue to fund the further development and commercialization efforts for bempedoic acid and our operations, including our initial submissions for an LDL-C lowering indication in the U.S. and Europe and to complete the CLEAR Outcomes study. In January 2016, we initiated our global pivotal Phase 3 CLEAR Harmony (1002-040) study. In July 2016, we initiated our Phase 1 1002-034 study. We plan to initiate our global pivotal Phase 3 CLEAR efficacy studies and our CLEAR Outcomes study before year-end. We have based these estimates on assumptions that may prove to be wrong, and we may use our available capital resources sooner than we currently expect. Because of the numerous risks and uncertainties associated with the development and commercialization of bempedoic acid and the extent to which we may enter into collaborations with pharmaceutical partners regarding the development and commercialization of bempedoic acid, we are unable to estimate the amounts of increased capital outlays and operating expenses associated with completing the development and commercialization of bempedoic acid. Our future funding requirements will depend on many factors, including, but not limited to:

- our ability to successfully develop and commercialize bempedoic acid or other product candidates;
- the costs, timing, design and outcomes of our ongoing and planned clinical studies of bempedoic acid;
- the time and cost necessary to obtain regulatory approvals for bempedoic acid, if at all;
- our ability to establish a sales, marketing and distribution infrastructure to commercialize bempedoic acid in the U.S. and abroad or our ability to establish any future collaboration or commercialization arrangements on favorable terms, if at all;
- the costs of preparing, filing and prosecuting patent applications, maintaining and enforcing our intellectual property rights and defending intellectual property-related claims; and
- the implementation of operational and financial information technology.

Until such time, if ever, as we can generate substantial product revenues, we expect to finance our cash needs through a combination of equity offerings, debt financings, collaborations, strategic alliances and licensing arrangements. We do not have any committed external source of funds. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect your rights as a common stockholder. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. If we raise additional funds through collaborations, strategic alliances or licensing arrangements with pharmaceutical partners, we may have to relinquish valuable rights to our technologies, future revenue streams or bempedoic acid or grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds through equity or debt financings or through collaborations, strategic alliances or licensing arrangements when needed, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market bempedoic acid that we would otherwise prefer to develop and market ourselves.

### **Contractual Obligations and Commitments**

There have been no other material changes to our contractual obligations and commitments outside the ordinary course of business from those previously disclosed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015.

### **Off-Balance Sheet Arrangements**

We do not currently have, nor did we have during the periods presented, any off-balance sheet arrangements as defined by Securities and Exchange Commission rules.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

We had cash and cash equivalents and available-for-sale investments of approximately \$47.1 million and \$212.6 million at September 30, 2016, and \$77.3 million and \$215.2 million at December 31, 2015, respectively. The primary objectives of our investment activities are to preserve principal, provide liquidity and maximize income without significantly increasing risk. Our primary exposure to market risk relates to fluctuations in interest rates which are affected by changes in the general level of U.S. interest rates. Given the short-term nature of our cash and cash equivalents, we believe that a sudden change in market interest rates would not be expected to have a material impact on our financial condition and/or results of operation. We do not have any foreign currency or other derivative financial instruments.

We do not believe that our cash and cash equivalents and available-for-sale investments have significant risk of default or illiquidity. While we believe our cash and cash equivalents do not contain excessive risk, we cannot provide absolute assurance that in the future our investments will not be subject to adverse changes in market value. In addition, we maintain significant amounts of cash and cash equivalents at one or more financial institutions that are in excess of federally insured limits.

Inflation generally affects us by increasing our cost of labor and clinical study costs. We do not believe that inflation has had a material effect on our results of operations during the nine months ended September 30, 2016.

### **Item 4. Controls and Procedures**

#### ***Evaluation of Disclosure Controls and Procedures***

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in the reports that we file or submit under the Securities and Exchange Act of 1934 is (1) recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and (2) accumulated and communicated to our management, including our President and Chief Executive Officer, who is our principal executive officer and principal financial officer, to allow timely decisions regarding required disclosure.

As of September 30, 2016, our management, with the participation of our principal executive officer and principal financial officer, evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities and Exchange Act of 1934). Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Our principal executive officer and principal financial officer has concluded based upon the evaluation described above that, as of September 30, 2016, our disclosure controls and procedures were effective at the reasonable assurance level.

#### ***Changes in Internal Control over Financial Reporting***

There were no changes to our internal control over financial reporting that occurred during the period covered by this report 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**

On January 12, 2016, a purported stockholder of the Company filed a putative class action lawsuit in the United States District Court for the Eastern District of Michigan, against us and Tim Mayleben, captioned *Kevin L. Dougherty v. Esperion Therapeutics, Inc., et al.* (No. 16-cv-10089). An amended complaint was filed on May 20, 2016. The amended complaint alleges that we and Mr. Mayleben violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and SEC Rule 10b-5 by allegedly failing to disclose in an August 17, 2015, public statement that the FDA would require a cardiovascular outcomes trial before approving our lead product candidate. The lawsuit seeks, among other things, compensatory damages in connection with an allegedly inflated stock price between August 18, 2015, and September 28, 2015, as well as attorneys' fees and costs. On July 5, 2016, we filed a motion to dismiss the amended complaint. In light of, among other things, the early stage of the litigation, we are unable to predict the outcome of this matter and are unable to make a meaningful estimate of the amount or range of loss, if any, that could result from an unfavorable outcome.

In the future, we may become party to legal matters and claims arising in the ordinary course of business, the resolution of which we do not anticipate would have a material adverse impact on our financial position, results of operations or cash flows.

### **Item 1A. Risk Factors**

*Except for the historical information contained herein or incorporated by reference, this report and the information incorporated by reference contains forward-looking statements that involve risks and uncertainties. These statements include projections about our accounting and finances, plans and objectives for the future, future operating and economic performance and other statements regarding future performance. These statements are not guarantees of future performance or events. Our actual results could differ materially from those discussed in this report. Factors that could cause or contribute to these differences include, but are not limited to, those discussed in the following section, as well as those discussed in Part II, Item 7 entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and elsewhere throughout this report and in any documents incorporated in this report by reference.*

*You should consider carefully the following risk factors, together with those set forth in Item 1A in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015, and in all of the other information included or incorporated in this report. If any of the following risks, either alone or taken together, or other risks not presently known to us or that we currently believe to not be significant, develop into actual events, then our business, financial condition, results of operations or prospects could be materially adversely affected. If that happens, the market price of our common stock could decline, and stockholders may lose all or part of their investment.*

#### **Risks Related to our Business and the Clinical Development and Commercialization of Bempedoic Acid**

*We depend almost entirely on the success of one product candidate, bempedoic acid, which only recently commenced Phase 3 clinical development. We cannot be certain that we will be able to obtain regulatory approval for, or successfully commercialize, bempedoic acid.*

We currently have only one product candidate, bempedoic acid, in clinical development, and our business depends almost entirely on its successful clinical development, regulatory approvals and commercialization. We currently have no drug products for sale and may never be able to develop marketable drug products. Bempedoic acid, for which we recently launched our global pivotal Phase 3 CLEAR clinical program in January 2016, will require substantial additional clinical development, testing, and regulatory approvals before we are permitted to commence its commercialization. Any other product candidates are still in preclinical development stages. The clinical studies of our product candidates are, and the manufacturing and marketing of our product candidates will be, subject to extensive and rigorous review and regulation by numerous government authorities in the U.S. and in other countries where we intend to test and, if approved, market any product candidate. Before obtaining regulatory approvals for the commercial sale of any product candidate, we must demonstrate through preclinical testing and clinical studies that the product candidate is safe and effective for use in each target indication. This process can take many years and may include post-marketing studies and surveillance, including a Risk Evaluation and Mitigation Strategy, or REMS program, which will require the expenditure of substantial resources beyond the proceeds we have raised. Of the large number of drugs in development in the U.S., only a small percentage successfully complete the approval process at the FDA, European Medicines Authority (EMA) or any other foreign regulatory agency, and are commercialized. Accordingly, even if we are able to obtain the requisite financing to continue to fund our development and clinical

programs, we cannot assure you that bempedoic acid or any other of our product candidates will be successfully developed or commercialized.

We are not permitted to market bempedoic acid in the U.S. or Europe until we receive approval of a New Drug Application (NDA), from the FDA, a Marketing Authorization Application (MAA), from the EMA, or in any other foreign countries until we receive the requisite approval from such countries. As a condition to submitting an NDA to the FDA or an MAA to EMA for bempedoic acid to treat patients with elevated LDL-C, we have currently completed seven Phase 2 clinical studies and expect to complete the global pivotal Phase 3 CLEAR efficacy and safety studies, and to at least initiate, and potentially complete, the CLEAR Outcomes study.

Additionally, while we currently intend to submit our NDA for bempedoic acid for an LDL-C lowering indication in patients with hypercholesterolemia, the FDA has indicated its position regarding an LDL-C lowering indication could be impacted by potential future changes in their view of LDL-C lowering as a surrogate endpoint or the possibility of a shift in the future standard-of-care for statin intolerant patients with elevated LDL-C levels. In the event that FDA determines LDL-C lowering is no longer a surrogate endpoint for initial approval of bempedoic acid in the future, we would plan to submit our NDA with a proposed indication of CV disease reduction in statin intolerant patients on the basis of a completed and successful CLEAR Outcomes study, which would include the results of the global pivotal Phase 3 CLEAR efficacy studies, by 2022. Obtaining approval of an NDA is a complex, lengthy, expensive and uncertain process, and the FDA may delay, limit or deny approval of bempedoic acid for many reasons, including, among others:

- the FDA, EMA or any other regulatory authorities may change their approval policies or adopt new regulations, including with respect to whether LDL-C lowering is a surrogate endpoint for initial approval of bempedoic acid;
- we may not be able to demonstrate that bempedoic acid is safe and effective in treating patients with elevated LDL-C to the satisfaction of the FDA, EMA or any other regulatory agency;
- the results of our clinical studies may not meet the level of statistical or clinical significance required by the FDA or EMA for marketing approval;
- the magnitude of the treatment effect must also be clinically meaningful along with the drug's safety for a favorable benefit/risk assessment by the FDA, EMA or any other regulatory agency;
- the FDA, EMA or any other regulatory agency may disagree with the number, design, size, duration, exposure of patients, or conduct or implementation of our clinical studies;
- the FDA, EMA or any other regulatory agency may require that we conduct additional clinical studies;
- the FDA, EMA or any other regulatory agency may not approve the formulation, specifications or labeling of bempedoic acid;
- the clinical research organizations, or CROs, that we retain to conduct our clinical studies may take actions outside of our control that materially adversely impact our clinical studies;
- the FDA, EMA or any other regulatory agency may find the data from preclinical studies and clinical studies insufficient to demonstrate that bempedoic acid's clinical and other benefits outweigh its safety risks;
- the FDA, EMA or any other regulatory agency may disagree with our interpretation of data from our preclinical studies and clinical studies;
- the FDA, EMA or any other regulatory agency may not accept data generated at our clinical study sites;
- if our NDA, if and when submitted, is reviewed by an advisory committee, the FDA may have difficulties scheduling an advisory committee meeting in a timely manner or the advisory committee may recommend against approval of our application or may recommend that the FDA require, as a condition of approval, additional preclinical studies or clinical studies, limitations in approved labeling or distribution and use restrictions;
- the FDA, EMA or any other regulatory agency may require the development of a REMS as a condition of approval or post-approval; or
- the FDA, EMA or any other regulatory agency may not approve the manufacturing processes or facilities of third-party manufacturers with which we contract.

Any of these factors, many of which are beyond our control, could jeopardize our ability to obtain regulatory approval for and successfully market bempedoic acid. Moreover, because our business is almost entirely dependent upon this one product candidate, any setback in our pursuit of its regulatory approval would have a material adverse effect on our business and prospects.

***Failures or delays in the completion of our global pivotal Phase 3 CLEAR efficacy and safety studies or our CLEAR Outcomes study of bempedoic acid could result in increased costs to us and could delay, prevent or limit our ability to generate revenue and continue our business.***

In January 2016, we commenced our global pivotal Phase 3 CLEAR Harmony (1002-040) study. We do not know whether our ongoing clinical studies will be completed on schedule, if at all. We also plan to initiate additional global pivotal Phase 3 CLEAR



efficacy studies and the CLEAR Outcomes study, and we do not know whether these studies will begin or be completed on schedule. Successful completion of such clinical studies and, if required by the FDA due to a change in regulatory policy, our CLEAR Outcomes study, are likely prerequisites to submitting an initial NDA to the FDA, MAA to the EMA or a similar application to any other foreign regulatory authorities from whom we seek to obtain approval and, consequently, the ultimate approval and commercialization of bempedoic acid. The commencement and completion of clinical studies can be delayed or prevented for a number of reasons, including, among others:

- the FDA, EMA or any other regulatory authority may not agree to the study design or overall program;
- the FDA, EMA or any other regulatory authority may place a clinical study on hold;
- delays in reaching or failing to reach agreement on acceptable terms with prospective CROs and study sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and study sites;
- inadequate quantity or quality of a product candidate or other materials necessary to conduct clinical studies;
- difficulties or delays obtaining institutional review board, or IRB, approval to conduct a clinical study at a prospective site or sites;
- challenges in recruiting and enrolling patients to participate in clinical studies or in our CLEAR Outcomes study, including the size and nature of the patient population, the proximity of patients to clinical sites, eligibility criteria for the clinical study, the nature of the clinical study protocol, the availability of approved effective treatments for the relevant disease and competition from other clinical study programs, including PCSK9 inhibitors, for similar indications;
- severe or unexpected drug-related side effects experienced by patients in a clinical study, including instances of muscle pain or weakness or other side effects previously identified in our completed clinical studies;
- reports from preclinical or clinical testing of other cardiometabolic therapies that raise safety or efficacy concerns; and
- difficulties retaining patients who have enrolled in a clinical study but may be prone to withdraw due to rigors of the study, lack of efficacy, side effects, personal issues or loss of interest.

Clinical studies may also be delayed or terminated as a result of ambiguous or negative interim results. In addition, a clinical study may be suspended or terminated by us, the FDA, the EMA, the IRBs at the sites where the IRBs are overseeing a clinical study, a data safety monitoring board, or DSMB, overseeing the clinical study at issue or any other regulatory authorities due to a number of factors, including, among others:

- failure to conduct the clinical study in accordance with regulatory requirements or our clinical protocols;
- inspection of the clinical study operations or study sites by the FDA, EMA or any other regulatory authorities that reveals deficiencies or violations that require us to undertake corrective action, including the imposition of a clinical hold;
- unforeseen safety issues;
- changes in government regulations or administrative actions;
- problems with clinical supply materials; and
- lack of adequate funding to continue the clinical study.

***Positive results from completed Phase 1 and Phase 2 clinical studies of bempedoic acid are not necessarily predictive of the results of our ongoing global pivotal Phase 3 and planned Phase 3 clinical studies and CVOT of bempedoic acid, nor do they guarantee approval of bempedoic acid by the FDA, EMA or any other regulatory agency. If we cannot replicate the positive results from our completed Phase 1 and Phase 2 clinical studies of bempedoic acid in our ongoing clinical studies and CVOT, we may be unable to successfully develop, obtain regulatory approval for and commercialize bempedoic acid.***

There is a high failure rate for drugs proceeding through clinical studies. Even if we are able to complete our ongoing global pivotal Phase 3 and planned Phase 3 clinical studies and CVOT of bempedoic acid according to our current development timeline, the positive results from our completed Phase 1 and Phase 2 clinical studies of bempedoic acid, including those of our Phase 2 PK/PD (1002-035) study completed in October 2016, may not be replicated in our ongoing global pivotal Phase 3 or planned Phase 3 clinical studies or CVOT results, nor do they guarantee approval of bempedoic acid by the FDA, EMA or any other regulatory authorities in a timely manner or at all. Many companies in the pharmaceutical and biotechnology industries have suffered significant setbacks in late-stage clinical studies after achieving positive results in early stage development, and we cannot be certain that we will not face similar setbacks. These setbacks have been caused by, among other things, preclinical findings made while clinical studies were underway or safety or efficacy observations made in clinical studies, including previously unreported adverse events. In addition, regulatory delays or rejections may be encountered as a result of many factors, including changes in regulatory policy during the period of product development.

Moreover, preclinical and clinical data are often susceptible to varying interpretations and analyses, and many companies that believed their product candidates performed satisfactorily in preclinical studies and clinical studies nonetheless failed to obtain FDA and/or EMA approval. If we fail to obtain positive results in our ongoing global pivotal Phase 3 and planned Phase 3 clinical studies

and CVOT of bempedoic acid, the development timeline and regulatory approval and commercialization prospects for our leading product candidate, and, correspondingly, our business and financial prospects, would be materially adversely affected.

***We will need substantial additional capital in the future. If additional capital is not available, we will have to delay, reduce or cease operations.***

We reported top-line results from our Phase 2b (1002-008) clinical study in October 2014, our Phase 2b (1002-009) clinical study in March 2015, our Phase 2a (1002-014) exploratory clinical safety study in July 2015, and our Phase 2 PK/PD (1002-035) clinical study and Phase 1 PK (1002-037) study in October 2016. We held our End-of-Phase 2 meeting with the FDA in August 2015. In January 2016, we commenced our global pivotal Phase 3 CLEAR Harmony (1002-040) study. We have engaged in active dialogue in 2016 with the FDA and EMA to discuss our Phase 3 clinical program for bempedoic acid in the statin intolerant patient population, and we plan to initiate our global pivotal Phase 3 CLEAR efficacy studies and our CLEAR Outcomes study in the fourth quarter of 2016.

In the event that FDA determines LDL-C lowering is no longer a surrogate endpoint for initial approval of bempedoic acid in the future, we would plan to submit our NDA for CV disease reduction indication on the basis of a completed and successful CVOT, which would include the results of the LDL-C lowering efficacy studies, by 2022. However, we expect that these clinical studies will consume substantial additional financial resources, and that our existing cash and cash equivalents only will be sufficient to fund our operations into early 2019. We will likely need to raise additional capital to continue to fund the further development and commercialization of bempedoic acid and our operations. Our future capital requirements may be substantial and will depend on many factors including:

- the scope, size, rate of progress, results and costs of initiating and completing our CLEAR Outcomes study of bempedoic acid;
- the scope, size, rate of progress, results and costs of completing our global pivotal Phase 3 CLEAR LDL-C lowering program of bempedoic acid, which currently includes multiple global pivotal Phase 3 clinical efficacy and safety studies;
- the cost, timing and outcome of our efforts to obtain marketing approval for bempedoic acid, including to fund the preparation and filing of an NDA with the FDA and a MAA with the EMA for bempedoic acid and to satisfy related FDA and EMA requirements;
- the number and characteristics of any additional product candidates we develop or acquire;
- the costs associated with commercializing bempedoic acid or any future product candidates if we receive marketing approval, including the cost and timing of developing sales and marketing capabilities or entering into strategic collaborations to market and sell bempedoic acid or any future product candidates;
- the cost of manufacturing bempedoic acid or any future product candidates and any products we successfully commercialize; and
- the costs associated with general corporate activities, such as the cost of filing, prosecuting and enforcing patent claims.

Changing circumstances may cause us to consume capital significantly faster than we currently anticipate. Because the outcome of any clinical study is highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully complete the development, regulatory approval and commercialization of bempedoic acid and any future product candidates. Additional financing may not be available when we need it or may not be available on terms that are favorable to us. In addition, we may seek additional capital due to favorable market conditions or strategic considerations, even if we believe we have sufficient funds for our current or future operating plans. If adequate funds are unavailable to us on a timely basis, or at all, we may not be able to continue the development of bempedoic acid or any future product candidate, or to commercialize bempedoic acid or any future product candidate, if approved, unless we find a partner.

***Changes in regulatory requirements, FDA or EMA guidance or unanticipated events during our global pivotal Phase 3 clinical studies or our CVOT of bempedoic acid may occur, which may result in changes to clinical study protocols or additional clinical study requirements, which could result in increased costs to us and could delay our development timeline.***

Changes in regulatory requirements, FDA or EMA guidance or unanticipated events during our clinical studies may force us to amend clinical study protocols or the FDA or EMA may impose additional clinical study requirements. Significant amendments to our clinical study protocols may require resubmission to the FDA and/or IRBs for review and approval, which may adversely impact the cost, timing and/or successful completion of these studies. If we experience substantial delays completing—or if we terminate—any of our global pivotal Phase 3 clinical studies or our CVOT, or if we are required to conduct additional clinical studies, the commercial prospects for bempedoic acid may be harmed and our ability to generate product revenue will be delayed.

We may not be able to identify and enroll the requisite number of patients in our global pivotal Phase 3 CLEAR LDL-C lowering program or CLEAR Outcomes study. Even if we are successful in enrolling patients in these studies, we may not ultimately be able to demonstrate sufficient clinical benefits from bempedoic acid and our failure to do so may delay or hinder our ability to obtain FDA or EMA approval for bempedoic acid. While we currently plan to submit an NDA for bempedoic acid for an LDL-C lowering indication in patients with hypercholesterolemia after initiating our CLEAR Outcomes study, the FDA has indicated its position regarding an LDL-C lowering indication could be impacted by potential future changes in their view of LDL-C lowering as a surrogate endpoint or the possibility of a shift in the future standard-of-care for statin intolerant patients with elevated LDL-C levels. Conducting our CLEAR Outcomes study will be costly and time-consuming, and any requirement to complete the CVOT prior to approval of bempedoic acid would adversely affect our development timeline and financial condition.

***Even if we receive marketing approval for bempedoic acid, we may still face future development and regulatory difficulties.***

Even if we receive marketing approval for bempedoic acid, regulatory authorities may still impose significant restrictions on bempedoic acid's indicated uses or marketing or impose ongoing requirements for potentially costly post-approval studies, such as a CVOT. Bempedoic acid will also be subject to ongoing FDA requirements governing the packaging, storage, labeling, advertising and promotion of the product, recordkeeping and submission of safety updates and other post-marketing information. The FDA has significant post-marketing authority, including, for example, the authority to require labeling changes based on new safety information and to require post-marketing studies or clinical studies to evaluate serious safety risks related to the use of a drug product. The FDA also has the authority to require, as part of an NDA or post-approval, the submission of a REMS. Any REMS required by the FDA may lead to increased costs to assure compliance with post-approval regulatory requirements and potential requirements or restrictions on the sale of approved products, all of which could lead to lower sales volume and revenue. The EMA and other foreign regulatory authorities may impose similar requirements on bempedoic acid as those described above with respect to the FDA.

Manufacturers of drug products and their facilities are subject to continual review and periodic inspections by the FDA and other regulatory authorities for compliance with current Good Manufacturing Practices and other regulations. If we or a regulatory agency discover problems with bempedoic acid, such as adverse events of unanticipated severity or frequency, or problems with the facility where bempedoic acid is manufactured, a regulatory agency may impose restrictions on bempedoic acid, the manufacturer or us, including requiring withdrawal of bempedoic acid from the market or suspension of manufacturing. If we, bempedoic acid or the manufacturing facilities for bempedoic acid fail to comply with applicable regulatory requirements, a regulatory agency may, among other things:

- issue warning letters or untitled letters;
- seek an injunction or impose civil or criminal penalties or monetary fines;
- suspend or withdraw marketing approval;
- suspend any ongoing clinical studies;
- refuse to approve pending applications or supplements to applications submitted by us;
- suspend or impose restrictions on operations, including costly new manufacturing requirements; or
- seize or detain products, refuse to permit the import or export of products, or request that we initiate a product recall.

***Even if we receive marketing approval for bempedoic acid in the U.S., we may never receive regulatory approval to market bempedoic acid outside of the U.S., or vice versa.***

In order to market any product outside of the U.S., we must establish and comply with the numerous and varying efficacy, safety and other regulatory requirements of the countries in which we intend to market our product. Approval procedures vary among countries and can involve additional product candidate testing and additional administrative review periods. The time required to obtain approvals in other countries might differ from that required to obtain FDA approval. The marketing approval processes in other countries may include all of the risks detailed above regarding FDA approval in the U.S. as well as other risks, or vice versa. In particular, in many countries outside of the U.S., products must receive pricing and reimbursement approval before the product can be commercialized. Obtaining this approval can result in substantial delays in bringing products to market in such countries. Marketing approval in one country does not ensure marketing approval in another, but a failure or delay in obtaining marketing approval in one country may have a negative effect on the regulatory process in others. Failure to obtain marketing approval in other countries or any delay or other setback in obtaining such approval would impair our ability to commercialize bempedoic acid in such foreign markets. Any such impairment would reduce the size of our potential market, which could have a material adverse impact on our business, results of operations and prospects.

***Even if we receive marketing approval for bempedoic acid, it may not achieve broad market acceptance, which would limit the revenue that we generate from its sales.***

The commercial success of bempedoic acid, if approved by the FDA or other regulatory authorities, will depend upon the awareness and acceptance of bempedoic acid among the medical community, including physicians, patients and healthcare payors. Market acceptance of bempedoic acid, if approved, will depend on a number of factors, including, among others:

- bempedoic acid's demonstrated ability to treat statin intolerant patients for LDL-C lowering or CV disease risk reduction as an add-on for patients already on statin therapy, as compared with other available therapies;
- the relative convenience and ease of administration of bempedoic acid, including as compared with other treatments for patients for LDL-C lowering or CV disease risk reduction;
- the prevalence and severity of any adverse side effects such as muscle pain or weakness;
- limitations or warnings contained in the labeling approved for bempedoic acid by the FDA;
- availability of alternative treatments, including a number of competitive therapies already approved for LDL-C lowering or CV disease risk reduction, including PCSK9 inhibitors, or expected to be commercially launched in the near future;
- pricing and cost effectiveness;
- the effectiveness of our sales and marketing strategies;
- our ability to increase awareness of bempedoic acid through marketing efforts;
- our ability to obtain sufficient third-party coverage or reimbursement; and
- the willingness of patients to pay out-of-pocket in the absence of third-party coverage.

If bempedoic acid is approved but does not achieve an adequate level of acceptance by patients, physicians and payors, we may not generate sufficient revenue from bempedoic acid to become or remain profitable. Our efforts to educate the medical community and third-party payors about the benefits of bempedoic acid may require significant resources and may never be successful.

***Guidelines and recommendations published by various organizations may adversely affect the FDA's review of bempedoic acid for LDL-C lowering in statin intolerant patients or the use or commercial viability of bempedoic acid, if approved for any indication or patient population.***

Government agencies issue regulations and guidelines directly applicable to us and to bempedoic acid, including guidelines generally relating to therapeutically significant LDL-C levels. In addition, professional societies, practice management groups, private health or science foundations and other organizations involved in the research, treatment and prevention of various diseases from time to time publish guidelines or recommendations to the medical and patient communities. These various sorts of recommendations may relate to such matters as product usage and use of related or competing therapies. For example, organizations such as the American Heart Association have made recommendations about therapies in the cardiovascular therapeutics market. We expect that the FDA's view of the standard of care for patients with elevated LDL-C at the time we submit an NDA for our LDL-C-lowering program in patients with elevated LDL-C will impact the evaluation of such NDA, including how this standard of care evolves in light of guidelines and recommendations in respect of the use of PCSK9 inhibitors. In addition, following any approval, we expect that changes to these existing recommendations or other guidelines advocating alternative therapies could result in decreased use of bempedoic acid, which would adversely affect our results of operations.

***Our market is subject to intense competition. If we are unable to compete effectively, our opportunity to generate revenue from the sale of bempedoic acid, if approved, will be materially adversely affected.***

The LDL-C lowering therapies market is highly competitive and dynamic and dominated by the sale of statin treatments, including the cheaper generic versions of statins. We estimate that the total statin monotherapy and fixed combination market, including generic drugs, accounted for 69% of U.S. sales in the LDL-C lowering market in 2012. Our success will depend, in part, on our ability to obtain a share of the market, initially, for patients who are statin intolerant. Potential competitors in North America, Europe and elsewhere include major pharmaceutical companies, specialty pharmaceutical companies, biotechnology firms, universities and other research institutions and government agencies. Other pharmaceutical companies may develop LDL-C lowering therapies for statin intolerant patients that compete with bempedoic acid, if approved, that do not infringe the claims of our patents, pending patent applications or other proprietary rights, which could materially adversely affect our business and results of operations. The FDA has also indicated to us that approval of other therapies that may be taken by statin intolerant patients could have an impact on their review of an NDA we submit for bempedoic acid for our LDL-C lowering program in these patients.

LDL-C lowering therapies currently on the market that would compete with bempedoic acid include the following:

- Branded statins and their cheaper generic versions;
- Cholesterol absorption inhibitors, such as Zetia® (ezetimibe), a monotherapy marketed by Merck & Co.;
- PCSK9 inhibitors such as Praluent® (alirocumab) and Repatha® (evolocumab), marketed by Sanofi/Regeneron and Amgen Inc. respectively;

- Bile acid sequestrants such as Welchol® (colesevelam), marketed by Daiichi Sankyo Inc.;
- MTP inhibitors, such as Juxtapid® (lomitapide), marketed by Aegerion Pharmaceuticals, Inc.;
- Apo B Anti-Sense therapy, such as KYNAMRO® (mipomersen), marketed by Genzyme Corp. a Sanofi company;
- Combination therapies, such as Vytorin® (ezetimibe and simvastatin) and Liptruzet® (ezetimibe and atorvastatin), marketed by Merck & Co., Inc.; and
- Other lipid-lowering monotherapies (including cheaper generic versions), such as Tricor® (fenofibrate) and Niaspan® (niacin extended release), both of which are marketed by AbbVie, Inc.

Several other pharmaceutical companies have other LDL-C lowering therapies in development that may be approved for marketing in the U.S. or outside of the U.S. Based on publicly available information, we believe the current therapies in development that would compete with bempedoic acid include:

- PCSK9 inhibitors in development from Lilly, Novartis, Roche, Kowa and The Medicines Company/Alnylam; and
- CETP inhibitors, such as anacetrapib and dalcetrapib, therapies, in Phase 3 clinical testing being developed by Merck and DalCor, respectively.

Many of our potential competitors have substantially greater financial, technical and human resources than we do and significantly greater experience discovering and developing drug candidates, obtaining FDA and other marketing approvals of products and commercializing those products. Accordingly, our competitors may be more successful than we may be in obtaining FDA approval for drugs and achieving widespread market acceptance. Our competitors' drugs may be more effective, or more effectively marketed and sold, than bempedoic acid, if approved, and may render bempedoic acid obsolete or non-competitive before we can recover the expenses of developing and commercializing it. If approved, bempedoic acid may also compete with unapproved and off-label LDL-C lowering treatments, and following the expiration of additional patents covering the LDL-C lowering market, we may also face additional competition from the entry of new generic drugs. We anticipate that we will encounter intense and increasing competition as new drugs enter the market and advanced technologies become available.

### **Risks Related to our Financial Position and Capital Requirements**

***We have not generated any revenue from bempedoic acid and may never be profitable.***

Our ability to become profitable depends upon our ability to generate revenue. To date, we have not generated any revenue from our lead product candidate, bempedoic acid, and we do not know when, or if, we will generate any revenue. We do not expect to generate significant revenue unless and until we obtain marketing approval of, and begin to sell, bempedoic acid. Our ability to generate revenue depends on a number of factors, including, but not limited to, our ability to:

- initiate and successfully complete our CLEAR Outcomes study;
- successfully complete our global pivotal Phase 3 CLEAR LDL-C lowering program;
- initiate and successfully complete all safety studies required to obtain U.S. and foreign marketing approval for bempedoic acid as a treatment for statin intolerant patients for LDL-C lowering or CV disease risk reduction;
- commercialize bempedoic acid, if approved, by developing a sales force or entering into collaborations with third parties; and
- achieve market acceptance of bempedoic acid in the medical community and with third-party payors.

Absent our entering into a collaboration or partnership agreement, we expect to incur significant sales and marketing costs as we prepare to commercialize bempedoic acid. Even if we initiate and successfully complete our clinical program of bempedoic acid and achieve all clinical endpoints and bempedoic acid is approved for commercial sale, and despite expending these costs, bempedoic acid may not be a commercially successful drug. We may not achieve profitability soon after generating product sales, if ever. If we are unable to generate product revenue, we will not become profitable and may be unable to continue operations without continued funding.

You should carefully review and consider the information regarding certain factors that could materially affect our business, financial condition or future results set forth under Item 1A. (Risk Factors) in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015. Except for the factors disclosed above, there have been no material changes from the factors disclosed in our 2015 Annual Report on Form 10-K.

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

None.

**Item 6. Exhibits**

The exhibits filed or furnished as part of this Quarterly Report on Form 10-Q are set forth on the Exhibit Index, which Exhibit Index is incorporated herein by reference.

**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.

ESPERION THERAPEUTICS, INC.

November 3, 2016

By: /s/ Tim M. Mayleben  
Tim M. Mayleben  
*President and Chief Executive Officer*  
*(Principal Executive Officer and Principal Financial Officer)*

**EXHIBIT INDEX**

Exhibit No.	Description	Incorporated by Reference to:			
		Form or Schedule	Exhibit No.	Filing Date with SEC	SEC File Number
3.1	Amended and Restated Certificate of Incorporation of the Registrant.	S-1/A	3.1	6/12/2013	333-188595
3.2	Amended and Restated By-Laws of the Registrant.	S-1/A	3.2	6/12/2013	333-188595
4.1	Specimen Common Stock Certificate of the Registrant.	S-1/A	4.1	6/12/2013	333-188595
10.1*	Amended and Restated 2013 Stock Option and Incentive Plan and forms of agreements thereunder				
31.1*	Certification of Principal Executive Officer and Principal Financial Officer pursuant to Exchange Act rules 13a-14 or 15d-14.				
32.1+	Certification of Principal Executive Officer and Principal Financial Officer pursuant to Exchange Act rules 13a-14(b) or 15d-14(b) and 18 U.S.C. Section 1350.				
101.INS*	XBRL Instance Document.				
101.SCH*	XBRL Taxonomy Extension Schema Document.				
101.CAL*	XBRL Taxonomy Extension Calculation Document.				
101.DEF*	XBRL Taxonomy Extension Definition Linkbase Document.				
101.LAB*	XBRL Taxonomy Extension Labels Linkbase Document.				
101.PRE*	XBRL Taxonomy Extension Presentation Link Document.				

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\* Filed herewith.

+ The certification furnished in Exhibit 32.1 hereto is deemed to be furnished with this Quarterly Report on Form 10-Q and will not be deemed to be “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, except to the extent that the Registrant specifically incorporates it by reference.



**AMENDED AND RESTATED ESPERION THERAPEUTICS, INC.  
2013 STOCK OPTION AND INCENTIVE PLAN**

SECTION 1. *GENERAL PURPOSE OF THE PLAN; DEFINITIONS*

The name of the plan is the Amended and Restated Esperion Therapeutics, Inc. 2013 Stock Option and Incentive Plan (the “Plan”). The purpose of the Plan is to encourage and enable the officers, employees, Non-Employee Directors and other key persons (including Consultants) of Esperion Therapeutics, Inc. (the “Company”) and its Subsidiaries upon whose judgment, initiative and efforts the Company largely depends for the successful conduct of its business to acquire a proprietary interest in the Company. It is anticipated that providing such persons with a direct stake in the Company’s welfare will assure a closer identification of their interests with those of the Company and its stockholders, thereby stimulating their efforts on the Company’s behalf and strengthening their desire to remain with the Company.

The following terms shall be defined as set forth below:

“*Act*” means the Securities Act of 1933, as amended, and the rules and regulations thereunder.

“*Administrator*” means either the Board or the compensation committee of the Board or a similar committee performing the functions of the compensation committee and which is comprised of not less than two Non-Employee Directors who are independent.

“*Award*” or “*Awards*,” except where referring to a particular category of grant under the Plan, shall include Incentive Stock Options, Non-Qualified Stock Options, Stock Appreciation Rights, Restricted Stock Units, Restricted Stock Awards, Unrestricted Stock Awards, Cash-Based Awards, Performance Share Awards and Dividend Equivalent Rights.

“*Award Certificate*” means a written or electronic document setting forth the terms and provisions applicable to an Award granted under the Plan. Each Award Certificate is subject to the terms and conditions of the Plan.

“*Board*” means the Board of Directors of the Company.

“*Cash-Based Award*” means an Award entitling the recipient to receive a cash-denominated payment.

“*Code*” means the Internal Revenue Code of 1986, as amended, and any successor Code, and related rules, regulations and interpretations.

“*Consultant*” means any natural person that provides bona fide services to the Company, and such services are not in connection with the offer or sale of securities in a capital-raising transaction and do not directly or indirectly promote or maintain a market for the Company’s securities.

“*Covered Employee*” means an employee who is a “Covered Employee” within the meaning of Section 162(m) of the Code.

“*Dividend Equivalent Right*” means an Award entitling the grantee to receive credits based on cash dividends that would have been paid on the shares of Stock specified in the Dividend Equivalent Right (or other award to which it relates) if such shares had been issued to and held by the grantee.

“*Effective Date*” means the date on which the Plan is approved by stockholders as set forth in Section 21.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

“*Fair Market Value*” of the Stock on any given date means the fair market value of the Stock determined in good faith by the Administrator; provided, however, that if the Stock is admitted to quotation on the National

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Association of Securities Dealers Automated Quotation System (“NASDAQ”), NASDAQ Global Market or another national securities exchange, the determination shall be made by reference to market quotations. If there are no market quotations for such date, the determination shall be made by reference to the last date preceding such date for which there are market quotations; provided further, however, that if the date for which Fair Market Value is determined is the first day when trading prices for the Stock are reported on a national securities exchange, the Fair Market Value shall be the “Price to the Public” (or equivalent) set forth on the cover page for the final prospectus relating to the Company’s Initial Public Offering.

“*Incentive Stock Option*” means any Stock Option designated and qualified as an “incentive stock option” as defined in Section 422 of the Code.

“*Initial Public Offering*” means the consummation of the first underwritten, firm commitment public offering pursuant to an effective registration statement under the Act covering the offer and sale by the Company of its equity securities, or such other event as a result of or following which the Stock shall be publicly held.

“*Non-Employee Director*” means a member of the Board who is not also an employee of the Company or any Subsidiary.

“*Non-Qualified Stock Option*” means any Stock Option that is not an Incentive Stock Option.

“*Option*” or “*Stock Option*” means any option to purchase shares of Stock granted pursuant to Section 5.

“*Performance-Based Award*” means any Restricted Stock Award, Restricted Stock Units, Performance Share Award or Cash-Based Award granted to a Covered Employee that is intended to qualify as “performance-based compensation” under Section 162(m) of the Code and the regulations promulgated thereunder.

“*Performance Criteria*” means the criteria that the Administrator selects for purposes of establishing the Performance Goal or Performance Goals for an individual for a Performance Cycle. The Performance Criteria (which shall be applicable to the organizational level specified by the Administrator, including, but not limited to, the Company or a unit, division, group, or Subsidiary of the Company) that will be used to establish Performance Goals are limited to the following: total shareholder return, earnings before interest, taxes, depreciation and amortization, net income (loss) (either before or after interest, taxes, depreciation and/or amortization), changes in the market price of the Stock, economic value-added, sales or revenue, development, clinical or regulatory milestones, acquisitions or strategic transactions, operating income (loss), cash flow (including, but not limited to, operating cash flow and free cash flow), return on capital, assets, equity, or investment, return on sales, gross or net profit levels, productivity, expense, margins, operating efficiency, customer satisfaction, working capital, earnings (loss) per share of Stock, sales or market shares and number of customers, any of which may be measured either in absolute terms or as compared to any incremental increase or as compared to results of a peer group.

“*Performance Cycle*” means one or more periods of time, which may be of varying and overlapping durations, as the Administrator may select, over which the attainment of one or more Performance Criteria will be measured for the purpose of determining a grantee’s right to and the payment of a Restricted Stock Award, Restricted Stock Units, Performance Share Award or Cash-Based Award, the vesting and/or payment of which is subject to the attainment of one or more Performance Goals. Each such period shall not be less than 12 months.

“*Performance Goals*” means, for a Performance Cycle, the specific goals established in writing by the Administrator for a Performance Cycle based upon the Performance Criteria.

“*Performance Share Award*” means an Award entitling the recipient to acquire shares of Stock upon the attainment of specified Performance Goals.

“*Restricted Stock Award*” means an Award of shares of Stock subject to such restrictions and conditions as the Administrator may determine at the time of grant.

“*Restricted Stock Units*” means an Award of phantom stock units to a grantee.

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“*Sale Event*” shall mean (i) the sale of all or substantially all of the assets of the Company on a consolidated basis to an unrelated person or entity, (ii) a merger, reorganization or consolidation pursuant to which the holders of the Company’s outstanding voting power and outstanding stock immediately prior to such transaction do not own a majority of the outstanding voting power and outstanding stock or other equity interests of the resulting or successor entity (or its ultimate parent, if applicable) immediately upon completion of such transaction, (iii) the sale of all of the Stock of the Company to an unrelated person, entity or group thereof acting in concert, or (iv) any other transaction in which the owners of the Company’s outstanding voting power immediately prior to such transaction do not own at least a majority of the outstanding voting power of the Company or any successor entity immediately upon completion of the transaction other than as a result of the acquisition of securities directly from the Company.

“*Sale Price*” means the value as determined by the Administrator of the consideration payable, or otherwise to be received by stockholders, per share of Stock pursuant to a Sale Event.

“*Section 409A*” means Section 409A of the Code and the regulations and other guidance promulgated thereunder.

“*Stock*” means the Common Stock, par value \$0.001 per share, of the Company, subject to adjustments pursuant to Section 3.

“*Stock Appreciation Right*” means an Award entitling the recipient to receive shares of Stock having a value equal to the excess of the Fair Market Value of the Stock on the date of exercise over the exercise price of the Stock Appreciation Right multiplied by the number of shares of Stock with respect to which the Stock Appreciation Right shall have been exercised.

“*Subsidiary*” means any corporation or other entity (other than the Company) in which the Company has at least a 50 percent interest, either directly or indirectly.

“*Ten Percent Owner*” means an employee who owns or is deemed to own (by reason of the attribution rules of Section 424(d) of the Code) more than 10 percent of the combined voting power of all classes of stock of the Company or any parent or subsidiary corporation.

“*Unrestricted Stock Award*” means an Award of shares of Stock free of any restrictions.

## SECTION 2. ADMINISTRATION OF PLAN; ADMINISTRATOR AUTHORITY TO SELECT GRANTEES AND DETERMINE AWARDS

(a) *Administration of Plan.* The Plan shall be administered by the Administrator.

(b) *Powers of Administrator.* The Administrator shall have the power and authority to grant Awards consistent with the terms of the Plan, including the power and authority:

- (i) to select the individuals to whom Awards may from time to time be granted;
  - (ii) to determine the time or times of grant, and the extent, if any, of Incentive Stock Options, Non-Qualified Stock Options, Stock Appreciation Rights, Restricted Stock Awards, Restricted Stock Units, Unrestricted Stock Awards, Cash-Based Awards, Performance Share Awards and Dividend Equivalent Rights, or any combination of the foregoing, granted to any one or more grantees;
  - (iii) to determine the number of shares of Stock to be covered by any Award;
  - (iv) to determine and modify from time to time the terms and conditions, including restrictions, not inconsistent with the terms of the Plan, of any Award, which terms and conditions may differ among individual Awards and grantees, and to approve the forms of Award Certificates;
  - (v) to accelerate at any time the exercisability or vesting of all or any portion of any Award;
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(vi) subject to the provisions of Section 5(b), to extend at any time the period in which Stock Options may be exercised; and

(vii) at any time to adopt, alter and repeal such rules, guidelines and practices for administration of the Plan and for its own acts and proceedings as it shall deem advisable; to interpret the terms and provisions of the Plan and any Award (including related written instruments); to make all determinations it deems advisable for the administration of the Plan; to decide all disputes arising in connection with the Plan; and to otherwise supervise the administration of the Plan.

All decisions and interpretations of the Administrator shall be binding on all persons, including the Company and Plan grantees.

(c) *Delegation of Authority to Grant Awards.* Subject to applicable law, the Administrator, in its discretion, may delegate to the Chief Executive Officer of the Company all or part of the Administrator's authority and duties with respect to the granting of Awards to individuals who are (i) not subject to the reporting and other provisions of Section 16 of the Exchange Act and (ii) not Covered Employees. Any such delegation by the Administrator shall include a limitation as to the amount of Awards that may be granted during the period of the delegation and shall contain guidelines as to the determination of the exercise price and the vesting criteria. The Administrator may revoke or amend the terms of a delegation at any time but such action shall not invalidate any prior actions of the Administrator's delegate or delegates that were consistent with the terms of the Plan.

(d) *Award Certificate.* Awards under the Plan shall be evidenced by Award Certificates that set forth the terms, conditions and limitations for each Award which may include, without limitation, the term of an Award and the provisions applicable in the event employment or service terminates.

(e) *Indemnification.* Neither the Board nor the Administrator, nor any member of either or any delegate thereof, shall be liable for any act, omission, interpretation, construction or determination made in good faith in connection with the Plan, and the members of the Board and the Administrator (and any delegate thereof) shall be entitled in all cases to indemnification and reimbursement by the Company in respect of any claim, loss, damage or expense (including, without limitation, reasonable attorneys' fees) arising or resulting therefrom to the fullest extent permitted by law and/or under the Company's articles or bylaws or any directors' and officers' liability insurance coverage which may be in effect from time to time and/or any indemnification agreement between such individual and the Company.

(f) *Foreign Award Recipients.* Notwithstanding any provision of the Plan to the contrary, in order to comply with the laws in other countries in which the Company and its Subsidiaries operate or have employees or other individuals eligible for Awards, the Administrator, in its sole discretion, shall have the power and authority to: (i) determine which Subsidiaries shall be covered by the Plan; (ii) determine which individuals outside the United States are eligible to participate in the Plan; (iii) modify the terms and conditions of any Award granted to individuals outside the United States to comply with applicable foreign laws; (iv) establish subplans and modify exercise procedures and other terms and procedures, to the extent the Administrator determines such actions to be necessary or advisable (and such subplans and/or modifications shall be attached to this Plan as appendices); provided, however, that no such subplans and/or modifications shall increase the share limitations contained in Section 3(a) hereof; and (v) take any action, before or after an Award is made, that the Administrator determines to be necessary or advisable to obtain approval or comply with any local governmental regulatory exemptions or approvals. Notwithstanding the foregoing, the Administrator may not take any actions hereunder, and no Awards shall be granted, that would violate the Exchange Act or any other applicable United States securities law, the Code, or any other applicable United States governing statute or law.

### SECTION 3. STOCK ISSUABLE UNDER THE PLAN; MERGERS; SUBSTITUTION

(a) *Stock Issuable.* The maximum number of shares of Stock reserved and available for issuance under the Plan shall equal the sum of (i) 2,975,000 shares (the "Initial Limit") plus (ii) on January 1, 2016 and each January 1 thereafter, the number of shares of Stock reserved and available for issuance under the Plan shall be cumulatively increased by two and a half percent of the number of shares of Stock issued and outstanding on the immediately preceding December 31 or such lesser number of shares of Stock as determined by the Administrator (the "Annual Increase") plus (iii) the shares

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underlying any Awards granted under the HDL Therapeutics, Inc. 2008 Incentive Stock Option and Restricted Stock Plan that are forfeited, canceled, held back upon the exercise of an Option or settlement of an Award to cover the exercise price or tax withholding, reacquired by the Company prior to vesting, satisfied without the issuance of stock or otherwise terminated (other than by exercise). Subject to such overall limitation, the maximum aggregate number of shares of Stock that may be issued in the form of Incentive Stock Options shall not exceed the Initial Limit cumulatively increased on January 1, 2016 and on each January 1 thereafter by the lesser of the Annual Increase for such year or 700,000 shares of Stock. For purposes of this limitation, the shares of Stock underlying any Awards that are forfeited, canceled, held back upon exercise of an Option or settlement of an Award to cover the exercise price or tax withholding, reacquired by the Company prior to vesting, satisfied without the issuance of Stock or otherwise terminated (other than by exercise) shall be added back to the shares of Stock available for issuance under the Plan. In the event the Company repurchases shares of Stock on the open market, such shares shall not be added to the shares of Stock available for issuance under the Plan. Subject to such overall limitations, shares of Stock may be issued up to such maximum number pursuant to any type or types of Award; provided, however, that Stock Options or Stock Appreciation Rights with respect to no more than 1,100,000 may be granted to any one individual grantee during any one calendar year period. The shares available for issuance under the Plan may be authorized but unissued shares of Stock or shares of Stock reacquired by the Company.

(b) *Changes in Stock.* Subject to Section 3(c) hereof, if, as a result of any reorganization, recapitalization, reclassification, stock dividend, stock split, reverse stock split or other similar change in the Company's capital stock, the outstanding shares of Stock are increased or decreased or are exchanged for a different number or kind of shares or other securities of the Company, or additional shares or new or different shares or other securities of the Company or other non-cash assets are distributed with respect to such shares of Stock or other securities, or, if, as a result of any merger or consolidation, sale of all or substantially all of the assets of the Company, the outstanding shares of Stock are converted into or exchanged for securities of the Company or any successor entity (or a parent or subsidiary thereof), the Administrator shall make an appropriate or proportionate adjustment in (i) the maximum number of shares reserved for issuance under the Plan, including the maximum number of shares that may be issued in the form of Incentive Stock Options, (ii) the number of Stock Options or Stock Appreciation Rights that can be granted to any one individual grantee and the maximum number of shares that may be granted under a Performance-Based Award, (iii) the number and kind of shares or other securities subject to any then outstanding Awards under the Plan, (iv) the repurchase price, if any, per share subject to each outstanding Restricted Stock Award, and (v) the exercise price for each share subject to any then outstanding Stock Options and Stock Appreciation Rights under the Plan, without changing the aggregate exercise price (i.e., the exercise price multiplied by the number of Stock Options and Stock Appreciation Rights) as to which such Stock Options and Stock Appreciation Rights remain exercisable. The Administrator shall also make equitable or proportionate adjustments in the number of shares subject to outstanding Awards and the exercise price and the terms of outstanding Awards to take into consideration cash dividends paid other than in the ordinary course or any other extraordinary corporate event. The adjustment by the Administrator shall be final, binding and conclusive. No fractional shares of Stock shall be issued under the Plan resulting from any such adjustment, but the Administrator in its discretion may make a cash payment in lieu of fractional shares.

(c) *Mergers and Other Transactions.* Except as the Administrator may otherwise specify with respect to particular Awards in the relevant Award Certificate, in the case of and subject to the consummation of a Sale Event, all Options and Stock Appreciation Rights that are not exercisable immediately prior to the effective time of the Sale Event shall become fully exercisable as of the effective time of the Sale Event, all other Awards with time-based vesting, conditions or restrictions shall become fully vested and nonforfeitable as of the effective time of the Sale Event and all Awards with conditions and restrictions relating to the attainment of performance goals may become vested and nonforfeitable in connection with a Sale Event in the Administrator's discretion or to the extent specified in the relevant Award Certificate. In addition, except as the Administrator may otherwise specify with respect to particular Awards in the relevant Award Certificate, in the case of and subject to the consummation of a Sale Event, the parties thereto may cause the assumption or continuation of Awards theretofore granted by the successor entity, or the substitution of such Awards with new Awards of the successor entity or parent thereof, with appropriate adjustment as to the number and kind of shares and, if appropriate, the per share exercise prices, as such parties shall agree. To the extent the parties to such Sale Event do not provide for the assumption, continuation or substitution of Awards, upon the effective time of the Sale Event, the Plan and all outstanding Awards granted hereunder shall terminate. In the event of such termination of Awards, (i) the Company shall have the option (in its sole discretion) to make or provide for a cash payment to the grantees holding Options and Stock Appreciation Rights, in exchange for the cancellation thereof, in an amount equal to the difference between (A) the Sale Price multiplied by the number of shares of Stock subject to outstanding Options and

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Stock Appreciation Rights (to the extent then exercisable at prices not in excess of the Sale Price) and (B) the aggregate exercise price of all such outstanding Options and Stock Appreciation Rights; or (ii) each grantee shall be permitted, within a specified period of time prior to the consummation of the Sale Event as determined by the Administrator, to exercise all outstanding Options and Stock Appreciation Rights (to the extent then exercisable) held by such grantee.

(d) *Substitute Awards.* The Administrator may grant Awards under the Plan in substitution for stock and stock based awards held by employees, directors or other key persons of another corporation in connection with the merger or consolidation of the employing corporation with the Company or a Subsidiary or the acquisition by the Company or a Subsidiary of property or stock of the employing corporation. The Administrator may direct that the substitute awards be granted on such terms and conditions as the Administrator considers appropriate in the circumstances. Any substitute Awards granted under the Plan shall not count against the share limitation set forth in Section 3(a).

#### SECTION 4. *ELIGIBILITY*

Grantees under the Plan will be such full or part-time officers and other employees, Non-Employee Directors and key persons (including Consultants) of the Company and its Subsidiaries as are selected from time to time by the Administrator in its sole discretion.

#### SECTION 5. *STOCK OPTIONS*

Any Stock Option granted under the Plan shall be in such form as the Administrator may from time to time approve.

Stock Options granted under the Plan may be either Incentive Stock Options or Non-Qualified Stock Options. Incentive Stock Options may be granted only to employees of the Company or any Subsidiary that is a “subsidiary corporation” within the meaning of Section 424(f) of the Code. To the extent that any Option does not qualify as an Incentive Stock Option, it shall be deemed a Non-Qualified Stock Option.

Stock Options granted pursuant to this Section 5 shall be subject to the following terms and conditions and shall contain such additional terms and conditions, not inconsistent with the terms of the Plan, as the Administrator shall deem desirable. If the Administrator so determines, Stock Options may be granted in lieu of cash compensation at the optionee’s election, subject to such terms and conditions as the Administrator may establish.

(a) *Exercise Price.* The exercise price per share for the Stock covered by a Stock Option granted pursuant to this Section 5 shall be determined by the Administrator at the time of grant but shall not be less than 100 percent of the Fair Market Value on the date of grant. In the case of an Incentive Stock Option that is granted to a Ten Percent Owner, the option price of such Incentive Stock Option shall be not less than 110 percent of the Fair Market Value on the grant date.

(b) *Option Term.* The term of each Stock Option shall be fixed by the Administrator, but no Stock Option shall be exercisable more than ten years after the date the Stock Option is granted. In the case of an Incentive Stock Option that is granted to a Ten Percent Owner, the term of such Stock Option shall be no more than five years from the date of grant.

(c) *Exercisability; Rights of a Stockholder.* Stock Options shall become exercisable at such time or times, whether or not in installments, as shall be determined by the Administrator at or after the grant date. The Administrator may at any time accelerate the exercisability of all or any portion of any Stock Option. An optionee shall have the rights of a stockholder only as to shares acquired upon the exercise of a Stock Option and not as to unexercised Stock Options.

(d) *Method of Exercise.* Stock Options may be exercised in whole or in part, by giving written or electronic notice of exercise to the Company, specifying the number of shares to be purchased. Payment of the purchase price may be made by one or more of the following methods to the extent provided in the Option Award Certificate:

- (i) In cash, by certified or bank check or other instrument acceptable to the Administrator;
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(ii) Through the delivery (or attestation to the ownership) of shares of Stock that are not then subject to restrictions under any Company plan. Such surrendered shares shall be valued at Fair Market Value on the exercise date;

(iii) By the optionee delivering to the Company a properly executed exercise notice together with irrevocable instructions to a broker to promptly deliver to the Company cash or a check payable and acceptable to the Company for the purchase price; provided that in the event the optionee chooses to pay the purchase price as so provided, the optionee and the broker shall comply with such procedures and enter into such agreements of indemnity and other agreements as the Administrator shall prescribe as a condition of such payment procedure; or

(iv) With respect to Stock Options that are not Incentive Stock Options, by a “net exercise” arrangement pursuant to which the Company will reduce the number of shares of Stock issuable upon exercise by the largest whole number of shares with a Fair Market Value that does not exceed the aggregate exercise price.

Payment instruments will be received subject to collection. The transfer to the optionee on the records of the Company or of the transfer agent of the shares of Stock to be purchased pursuant to the exercise of a Stock Option will be contingent upon receipt from the optionee (or a purchaser acting in his stead in accordance with the provisions of the Stock Option) by the Company of the full purchase price for such shares and the fulfillment of any other requirements contained in the Option Award Certificate or applicable provisions of laws (including the satisfaction of any withholding taxes that the Company is obligated to withhold with respect to the optionee). In the event an optionee chooses to pay the purchase price by previously-owned shares of Stock through the attestation method, the number of shares of Stock transferred to the optionee upon the exercise of the Stock Option shall be net of the number of attested shares. In the event that the Company establishes, for itself or using the services of a third party, an automated system for the exercise of Stock Options, such as a system using an internet website or interactive voice response, then the paperless exercise of Stock Options may be permitted through the use of such an automated system.

(e) *Annual Limit on Incentive Stock Options.* To the extent required for “incentive stock option” treatment under Section 422 of the Code, the aggregate Fair Market Value (determined as of the time of grant) of the shares of Stock with respect to which Incentive Stock Options granted under this Plan and any other plan of the Company or its parent and subsidiary corporations become exercisable for the first time by an optionee during any calendar year shall not exceed \$100,000. To the extent that any Stock Option exceeds this limit, it shall constitute a Non-Qualified Stock Option.

#### SECTION 6. *STOCK APPRECIATION RIGHTS*

(a) *Exercise Price of Stock Appreciation Rights.* The exercise price of a Stock Appreciation Right shall not be less than 100 percent of the Fair Market Value of the Stock on the date of grant.

(b) *Grant and Exercise of Stock Appreciation Rights.* Stock Appreciation Rights may be granted by the Administrator independently of any Stock Option granted pursuant to Section 5 of the Plan.

(c) *Terms and Conditions of Stock Appreciation Rights.* Stock Appreciation Rights shall be subject to such terms and conditions as shall be determined from time to time by the Administrator. The term of a Stock Appreciation Right may not exceed ten years.

#### SECTION 7. *RESTRICTED STOCK AWARDS*

(a) *Nature of Restricted Stock Awards.* The Administrator shall determine the restrictions and conditions applicable to each Restricted Stock Award at the time of grant. Conditions may be based on continuing employment (or other service relationship) and/or achievement of pre-established performance goals and objectives. The terms and conditions of each such Award Certificate shall be determined by the Administrator, and such terms and conditions may differ among individual Awards and grantees.

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(b) *Rights as a Stockholder.* Upon the grant of the Restricted Stock Award and payment of any applicable purchase price, a grantee shall have the rights of a stockholder with respect to the voting of the Restricted Stock and receipt of dividends; provided that if the lapse of restrictions with respect to the Restricted Stock Award is tied to the attainment of performance goals, any dividends paid by the Company during the performance period shall accrue and shall not be paid to the grantee until and to the extent the performance goals are met with respect to the Restricted Stock Award. Unless the Administrator shall otherwise determine, (i) uncertificated Restricted Stock shall be accompanied by a notation on the records of the Company or the transfer agent to the effect that they are subject to forfeiture until such Restricted Stock are vested as provided in Section 7(d) below, and (ii) certificated Restricted Stock shall remain in the possession of the Company until such Restricted Stock is vested as provided in Section 7(d) below, and the grantee shall be required, as a condition of the grant, to deliver to the Company such instruments of transfer as the Administrator may prescribe.

(c) *Restrictions.* Restricted Stock may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of except as specifically provided herein or in the Restricted Stock Award Certificate. Except as may otherwise be provided by the Administrator either in the Award Certificate or, subject to Section 18 below, in writing after the Award is issued, if a grantee's employment (or other service relationship) with the Company and its Subsidiaries terminates for any reason, any Restricted Stock that has not vested at the time of termination shall automatically and without any requirement of notice to such grantee from or other action by or on behalf of, the Company be deemed to have been reacquired by the Company at its original purchase price (if any) from such grantee or such grantee's legal representative simultaneously with such termination of employment (or other service relationship), and thereafter shall cease to represent any ownership of the Company by the grantee or rights of the grantee as a stockholder. Following such deemed reacquisition of unvested Restricted Stock that are represented by physical certificates, a grantee shall surrender such certificates to the Company upon request without consideration.

(d) *Vesting of Restricted Stock.* The Administrator at the time of grant shall specify the date or dates and/or the attainment of pre-established performance goals, objectives and other conditions on which the non-transferability of the Restricted Stock and the Company's right of repurchase or forfeiture shall lapse. Subsequent to such date or dates and/or the attainment of such pre-established performance goals, objectives and other conditions, the shares on which all restrictions have lapsed shall no longer be Restricted Stock and shall be deemed "vested." Except as may otherwise be provided by the Administrator either in the Award Certificate or, subject to Section 18 below, in writing after the Award is issued, a grantee's rights in any shares of Restricted Stock that have not vested shall automatically terminate upon the grantee's termination of employment (or other service relationship) with the Company and its Subsidiaries and such shares shall be subject to the provisions of Section 7(c) above.

## SECTION 8. *RESTRICTED STOCK UNITS*

(a) *Nature of Restricted Stock Units.* The Administrator shall determine the restrictions and conditions applicable to each Restricted Stock Unit at the time of grant. Conditions may be based on continuing employment (or other service relationship) and/or achievement of pre-established performance goals and objectives. The terms and conditions of each such Award Certificate shall be determined by the Administrator, and such terms and conditions may differ among individual Awards and grantees. At the end of the deferral period, the Restricted Stock Units, to the extent vested, shall be settled in the form of shares of Stock. To the extent that an award of Restricted Stock Units is subject to Section 409A, it may contain such additional terms and conditions as the Administrator shall determine in its sole discretion in order for such Award to comply with the requirements of Section 409A.

(b) *Election to Receive Restricted Stock Units in Lieu of Compensation.* The Administrator may, in its sole discretion, permit a grantee to elect to receive a portion of future cash compensation otherwise due to such grantee in the form of an award of Restricted Stock Units. Any such election shall be made in writing and shall be delivered to the Company no later than the date specified by the Administrator and in accordance with Section 409A and such other rules and procedures established by the Administrator. Any such future cash compensation that the grantee elects to defer shall be converted to a fixed number of Restricted Stock Units based on the Fair Market Value of Stock on the date the compensation would otherwise have been paid to the grantee if such payment had not been deferred as provided herein. The Administrator shall have the sole right to determine whether and under what circumstances to permit such elections and to impose such limitations and other terms and conditions thereon as the Administrator deems appropriate. Any Restricted Stock Units that are elected to be received in lieu of cash compensation shall be fully vested, unless otherwise provided in the Award Certificate.

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(c) *Rights as a Stockholder.* A grantee shall have the rights as a stockholder only as to shares of Stock acquired by the grantee upon settlement of Restricted Stock Units; provided, however, that the grantee may be credited with Dividend Equivalent Rights with respect to the phantom stock units underlying his Restricted Stock Units, subject to such terms and conditions as the Administrator may determine.

(d) *Termination.* Except as may otherwise be provided by the Administrator either in the Award Certificate or, subject to Section 18 below, in writing after the Award is issued, a grantee's right in all Restricted Stock Units that have not vested shall automatically terminate upon the grantee's termination of employment (or cessation of service relationship) with the Company and its Subsidiaries for any reason.

#### SECTION 9. *UNRESTRICTED STOCK AWARDS*

*Grant or Sale of Unrestricted Stock.* The Administrator may, in its sole discretion, grant (or sell at par value or such higher purchase price determined by the Administrator) an Unrestricted Stock Award under the Plan. Unrestricted Stock Awards may be granted in respect of past services or other valid consideration, or in lieu of cash compensation due to such grantee.

#### SECTION 10. *CASH-BASED AWARDS*

*Grant of Cash-Based Awards.* The Administrator may, in its sole discretion, grant Cash-Based Awards to any grantee in such number or amount and upon such terms, and subject to such conditions, as the Administrator shall determine at the time of grant. The Administrator shall determine the maximum duration of the Cash-Based Award, the amount of cash to which the Cash-Based Award pertains, the conditions upon which the Cash-Based Award shall become vested or payable, and such other provisions as the Administrator shall determine. Each Cash-Based Award shall specify a cash-denominated payment amount, formula or payment ranges as determined by the Administrator. Payment, if any, with respect to a Cash-Based Award shall be made in accordance with the terms of the Award and may be made in cash or in shares of Stock, as the Administrator determines.

#### SECTION 11. *PERFORMANCE SHARE AWARDS*

(a) *Nature of Performance Share Awards.* The Administrator may, in its sole discretion, grant Performance Share Awards independent of, or in connection with, the granting of any other Award under the Plan. The Administrator shall determine whether and to whom Performance Share Awards shall be granted, the Performance Goals, the periods during which performance is to be measured, which may not be less than one year except in the case of a Sale Event, and such other limitations and conditions as the Administrator shall determine.

(b) *Rights as a Stockholder.* A grantee receiving a Performance Share Award shall have the rights of a stockholder only as to shares actually received by the grantee under the Plan and not with respect to shares subject to the Award but not actually received by the grantee. A grantee shall be entitled to receive shares of Stock under a Performance Share Award only upon satisfaction of all conditions specified in the Performance Share Award Certificate (or in a performance plan adopted by the Administrator).

(c) *Termination.* Except as may otherwise be provided by the Administrator either in the Award agreement or, subject to Section 18 below, in writing after the Award is issued, a grantee's rights in all Performance Share Awards shall automatically terminate upon the grantee's termination of employment (or cessation of service relationship) with the Company and its Subsidiaries for any reason.

#### SECTION 12. *PERFORMANCE-BASED AWARDS TO COVERED EMPLOYEES*

(a) *Performance-Based Awards.* Any employee or other key person providing services to the Company and who is selected by the Administrator may be granted one or more Performance-Based Awards in the form of a Restricted Stock Award, Restricted Stock Units, Performance Share Awards or Cash-Based Award payable upon the attainment of Performance Goals that are established by the Administrator and relate to one or more of the Performance Criteria, in each case on a specified date or dates or over any period or periods determined by the Administrator. The Administrator shall define in an objective fashion the manner of calculating the Performance Criteria it selects to use for any

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Performance Cycle. Depending on the Performance Criteria used to establish such Performance Goals, the Performance Goals may be expressed in terms of overall Company performance or the performance of a division, business unit, or an individual. The Administrator, in its discretion, may adjust or modify the calculation of Performance Goals for such Performance Cycle in order to prevent the dilution or enlargement of the rights of an individual (i) in the event of, or in anticipation of, any unusual or extraordinary corporate item, transaction, event or development, (ii) in recognition of, or in anticipation of, any other unusual or nonrecurring events affecting the Company, or the financial statements of the Company, or (iii) in response to, or in anticipation of, changes in applicable laws, regulations, accounting principles, or business conditions provided however, that the Administrator may not exercise such discretion in a manner that would increase the Performance-Based Award granted to a Covered Employee. Each Performance-Based Award shall comply with the provisions set forth below.

(b) *Grant of Performance-Based Awards.* With respect to each Performance-Based Award granted to a Covered Employee, the Administrator shall select, within the first 90 days of a Performance Cycle (or, if shorter, within the maximum period allowed under Section 162(m) of the Code) the Performance Criteria for such grant, and the Performance Goals with respect to each Performance Criterion (including a threshold level of performance below which no amount will become payable with respect to such Award). Each Performance-Based Award will specify the amount payable, or the formula for determining the amount payable, upon achievement of the various applicable performance targets. The Performance Criteria established by the Administrator may be (but need not be) different for each Performance Cycle and different Performance Goals may be applicable to Performance-Based Awards to different Covered Employees.

(c) *Payment of Performance-Based Awards.* Following the completion of a Performance Cycle, the Administrator shall meet to review and certify in writing whether, and to what extent, the Performance Goals for the Performance Cycle have been achieved and, if so, to also calculate and certify in writing the amount of the Performance-Based Awards earned for the Performance Cycle. The Administrator shall then determine the actual size of each Covered Employee's Performance-Based Award, and, in doing so, may reduce or eliminate the amount of the Performance-Based Award for a Covered Employee if, in its sole judgment, such reduction or elimination is appropriate.

(d) *Maximum Award Payable.* The maximum Performance-Based Award payable to any one Covered Employee under the Plan for a Performance Cycle is 1,100,000 shares of Stock (subject to adjustment as provided in Section 3(b) hereof) or \$2,000,000 in the case of a Performance-Based Award that is a Cash-Based Award.

### SECTION 13. *DIVIDEND EQUIVALENT RIGHTS*

(a) *Dividend Equivalent Rights.* A Dividend Equivalent Right may be granted hereunder to any grantee as a component of an award of Restricted Stock Units, Restricted Stock Award or Performance Share Award or as a freestanding award. The terms and conditions of Dividend Equivalent Rights shall be specified in the Award Certificate. Dividend equivalents credited to the holder of a Dividend Equivalent Right may be paid currently or may be deemed to be reinvested in additional shares of Stock, which may thereafter accrue additional equivalents. Any such reinvestment shall be at Fair Market Value on the date of reinvestment or such other price as may then apply under a dividend reinvestment plan sponsored by the Company, if any. Dividend Equivalent Rights may be settled in cash or shares of Stock or a combination thereof, in a single installment or installments. A Dividend Equivalent Right granted as a component of an award of Restricted Stock Units or Restricted Stock Award with performance vesting or Performance Share Award shall provide that such Dividend Equivalent Right shall be settled only upon settlement or payment of, or lapse of restrictions on, such other Award, and that such Dividend Equivalent Right shall expire or be forfeited or annulled under the same conditions as such other Award.

(b) *Interest Equivalents.* Any Award under this Plan that is settled in whole or in part in cash on a deferred basis may provide in the grant for interest equivalents to be credited with respect to such cash payment. Interest equivalents may be compounded and shall be paid upon such terms and conditions as may be specified by the grant.

(c) *Termination.* Except as may otherwise be provided by the Administrator either in the Award Certificate or, subject to Section 18 below, in writing after the Award is issued, a grantee's rights in all Dividend Equivalent Rights or interest equivalents granted as a component of an award of Restricted Stock Units, Restricted Stock Award or Performance Share Award that has not vested shall automatically terminate upon the grantee's termination of employment (or cessation of service relationship) with the Company and its Subsidiaries for any reason.

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#### SECTION 14. *TRANSFERABILITY OF AWARDS*

(a) *Transferability.* Except as provided in Section 14(b) below, during a grantee's lifetime, his or her Awards shall be exercisable only by the grantee, or by the grantee's legal representative or guardian in the event of the grantee's incapacity. No Awards shall be sold, assigned, transferred or otherwise encumbered or disposed of by a grantee other than by will or by the laws of descent and distribution or pursuant to a domestic relations order. No Awards shall be subject, in whole or in part, to attachment, execution, or levy of any kind, and any purported transfer in violation hereof shall be null and void.

(b) *Administrator Action.* Notwithstanding Section 14(a), the Administrator, in its discretion, may provide either in the Award Certificate regarding a given Award or by subsequent written approval that the grantee (who is an employee or director) may transfer his or her Non-Qualified Options to his or her immediate family members, to trusts for the benefit of such family members, or to partnerships in which such family members are the only partners, provided that the transferee agrees in writing with the Company to be bound by all of the terms and conditions of this Plan and the applicable Award. In no event may an Award be transferred by a grantee for value.

(c) *Family Member.* For purposes of Section 14(b), "family member" shall mean a grantee's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, any person sharing the grantee's household (other than a tenant of the grantee), a trust in which these persons (or the grantee) have more than 50 percent of the beneficial interest, a foundation in which these persons (or the grantee) control the management of assets, and any other entity in which these persons (or the grantee) own more than 50 percent of the voting interests.

(d) *Designation of Beneficiary.* Each grantee to whom an Award has been made under the Plan may designate a beneficiary or beneficiaries to exercise any Award or receive any payment under any Award payable on or after the grantee's death. Any such designation shall be on a form provided for that purpose by the Administrator and shall not be effective until received by the Administrator. If no beneficiary has been designated by a deceased grantee, or if the designated beneficiaries have predeceased the grantee, the beneficiary shall be the grantee's estate.

#### SECTION 15. *TAX WITHHOLDING*

(a) *Payment by Grantee.* Each grantee shall, no later than the date as of which the value of an Award or of any Stock or other amounts received thereunder first becomes includable in the gross income of the grantee for Federal income tax purposes, pay to the Company, or make arrangements satisfactory to the Administrator regarding payment of, any Federal, state, or local taxes of any kind required by law to be withheld by the Company with respect to such income. The Company and its Subsidiaries shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the grantee. The Company's obligation to deliver evidence of book entry (or stock certificates) to any grantee is subject to and conditioned on tax withholding obligations being satisfied by the grantee.

(b) *Payment in Stock.* Subject to approval by the Administrator, a grantee may elect to have the Company's minimum required tax withholding obligation satisfied, in whole or in part, by authorizing the Company to withhold from shares of Stock to be issued pursuant to any Award a number of shares with an aggregate Fair Market Value (as of the date the withholding is effected) that would satisfy the withholding amount due.

#### SECTION 16. *SECTION 409A AWARDS*

To the extent that any Award is determined to constitute "nonqualified deferred compensation" within the meaning of Section 409A (a "409A Award"), the Award shall be subject to such additional rules and requirements as specified by the Administrator from time to time in order to comply with Section 409A. In this regard, if any amount under a 409A Award is payable upon a "separation from service" (within the meaning of Section 409A) to a grantee who is then considered a "specified employee" (within the meaning of Section 409A), then no such payment shall be made prior to the date that is the earlier of (i) six months and one day after the grantee's separation from service, or (ii) the grantee's death, but only to the extent such delay is necessary to prevent such payment from being subject to interest,

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penalties and/or additional tax imposed pursuant to Section 409A. Further, the settlement of any such Award may not be accelerated except to the extent permitted by Section 409A.

SECTION 17. *TRANSFER, LEAVE OF ABSENCE, ETC.*

For purposes of the Plan, the following events shall not be deemed a termination of employment:

- (a) a transfer to the employment of the Company from a Subsidiary or from the Company to a Subsidiary, or from one Subsidiary to another; or
- (b) an approved leave of absence for military service or sickness, or for any other purpose approved by the Company, if the employee's right to re-employment is guaranteed either by a statute or by contract or under the policy pursuant to which the leave of absence was granted or if the Administrator otherwise so provides in writing.

SECTION 18. *AMENDMENTS AND TERMINATION*

The Board may, at any time, amend or discontinue the Plan and the Administrator may, at any time, amend or cancel any outstanding Award for the purpose of satisfying changes in law or for any other lawful purpose, but no such action shall adversely affect rights under any outstanding Award without the holder's consent. Except as provided in Section 3(c) or 3(d), without prior stockholder approval, in no event may the Administrator exercise its discretion to reduce the exercise price of outstanding Stock Options or Stock Appreciation Rights or effect repricing through cancellation and re-grants or cancellation of Stock Options or Stock Appreciation Rights in exchange for cash. To the extent required under the rules of any securities exchange or market system on which the Stock is listed, to the extent determined by the Administrator to be required by the Code to ensure that Incentive Stock Options granted under the Plan are qualified under Section 422 of the Code, or to ensure that compensation earned under Awards qualifies as performance-based compensation under Section 162(m) of the Code, Plan amendments shall be subject to approval by the Company stockholders entitled to vote at a meeting of stockholders. Nothing in this Section 18 shall limit the Administrator's authority to take any action permitted pursuant to Section 3(b) or 3(c).

SECTION 19. *STATUS OF PLAN*

With respect to the portion of any Award that has not been exercised and any payments in cash, Stock or other consideration not received by a grantee, a grantee shall have no rights greater than those of a general creditor of the Company unless the Administrator shall otherwise expressly determine in connection with any Award or Awards. In its sole discretion, the Administrator may authorize the creation of trusts or other arrangements to meet the Company's obligations to deliver Stock or make payments with respect to Awards hereunder, provided that the existence of such trusts or other arrangements is consistent with the foregoing sentence.

SECTION 20. *GENERAL PROVISIONS*

(a) *No Distribution.* The Administrator may require each person acquiring Stock pursuant to an Award to represent to and agree with the Company in writing that such person is acquiring the shares without a view to distribution thereof.

(b) *Delivery of Stock Certificates.* Stock certificates to grantees under this Plan shall be deemed delivered for all purposes when the Company or a stock transfer agent of the Company shall have mailed such certificates in the United States mail, addressed to the grantee, at the grantee's last known address on file with the Company. Uncertificated Stock shall be deemed delivered for all purposes when the Company or a Stock transfer agent of the Company shall have given to the grantee by electronic mail (with proof of receipt) or by United States mail, addressed to the grantee, at the grantee's last known address on file with the Company, notice of issuance and recorded the issuance in its records (which may include electronic "book entry" records). Notwithstanding anything herein to the contrary, the Company shall not be required to issue or deliver any certificates evidencing shares of Stock pursuant to the exercise of any Award, unless and until the Administrator has determined, with advice of counsel (to the extent the Administrator deems such advice necessary or advisable), that the issuance and delivery of such certificates is in compliance with all applicable laws, regulations of governmental authorities and, if applicable, the requirements of any exchange on which

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the shares of Stock are listed, quoted or traded. All Stock certificates delivered pursuant to the Plan shall be subject to any stop-transfer orders and other restrictions as the Administrator deems necessary or advisable to comply with federal, state or foreign jurisdiction, securities or other laws, rules and quotation system on which the Stock is listed, quoted or traded. The Administrator may place legends on any Stock certificate to reference restrictions applicable to the Stock. In addition to the terms and conditions provided herein, the Administrator may require that an individual make such reasonable covenants, agreements, and representations as the Administrator, in its discretion, deems necessary or advisable in order to comply with any such laws, regulations, or requirements. The Administrator shall have the right to require any individual to comply with any timing or other restrictions with respect to the settlement or exercise of any Award, including a window-period limitation, as may be imposed in the discretion of the Administrator.

(c) *Stockholder Rights.* Until Stock is deemed delivered in accordance with Section 20(b), no right to vote or receive dividends or any other rights of a stockholder will exist with respect to shares of Stock to be issued in connection with an Award, notwithstanding the exercise of a Stock Option or any other action by the grantee with respect to an Award.

(d) *Other Compensation Arrangements; No Employment Rights.* Nothing contained in this Plan shall prevent the Board from adopting other or additional compensation arrangements, including trusts, and such arrangements may be either generally applicable or applicable only in specific cases. The adoption of this Plan and the grant of Awards do not confer upon any employee any right to continued employment with the Company or any Subsidiary.

(e) *Trading Policy Restrictions.* Option exercises and other Awards under the Plan shall be subject to the Company's insider trading policies and procedures, as in effect from time to time.

(f) *Forfeiture of Awards under Sarbanes-Oxley Act.* If the Company is required to prepare an accounting restatement due to the material noncompliance of the Company, as a result of misconduct, with any financial reporting requirement under the securities laws, then any grantee who is one of the individuals subject to automatic forfeiture under Section 304 of the Sarbanes-Oxley Act of 2002 shall reimburse the Company for the amount of any Award received by such individual under the Plan during the 12-month period following the first public issuance or filing with the United States Securities and Exchange Commission, as the case may be, of the financial document embodying such financial reporting requirement.

#### SECTION 21. *EFFECTIVE DATE OF PLAN*

This Plan shall become effective immediately prior to the Company's Initial Public Offering, following stockholder approval of the Plan in accordance with applicable state law, the Company's bylaws and articles of incorporation, and applicable stock exchange rules or pursuant to written consent. No grants of Stock Options and other Awards may be made hereunder after the tenth anniversary of the Effective Date and no grants of Incentive Stock Options may be made hereunder after the tenth anniversary of the date the Plan is approved by the Board.

#### SECTION 22. *GOVERNING LAW*

This Plan and all Awards and actions taken thereunder shall be governed by, and construed in accordance with, the laws of the State of Delaware, applied without regard to conflict of law principles.

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**Certification**

I, Tim M. Mayleben certify that:

1. I have reviewed this quarterly report on Form 10-Q for the period ended September 30, 2016, of Esperion Therapeutics, 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. I am 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. I have disclosed, based on my 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: November 3, 2016

/s/ Tim M. Mayleben

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Tim M. Mayleben

*President and Chief Executive Officer*

*(Principal Executive Officer and Principal Financial Officer)*

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report on Form 10-Q of Esperion Therapeutics, Inc. (the "Company") for the period ended September 30, 2016, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Tim M. Mayleben, President and Chief Executive Officer of the Company, hereby certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that, to my knowledge as of the date hereof:

- 1) the Report which this statement accompanies fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- 2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 3, 2016

/s/ Tim M. Mayleben

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Tim M. Mayleben

*President and Chief Executive Officer*

*(Principal Executive Officer and Principal Financial Officer)*

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