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

FORM 10-Q

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

For the quarterly period ended June 30, 2019

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 000-51122

EyePoint Pharmaceuticals, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**26-2774444**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
480 Pleasant Street Watertown, MA	**02472**
(Address of principal executive offices)	(Zip Code)

(617) 926-5000

(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.001	EYPT	The Nasdaq Stock Market LLC

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

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

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

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

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

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

There were 106,297,792 shares of the registrant's common stock, $0.001 par value, outstanding as of August 5, 2019.

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
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Item 1. Unaudited Financial Statements

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited)
(In thousands except share amounts)

	June 30, 2019	December 31, 2018
Assets		
Current assets:		
Cash and cash equivalents	$ 44,161	$ 45,261
Accounts and other receivables	9,598	627
Prepaid expenses and other current assets	3,144	1,434
Inventory	1,670	279
Total current assets	58,573	47,601
Property and equipment, net	417	288
Operating lease right-of-use assets	3,291	—
Intangible assets, net	28,899	30,129
Restricted cash	150	150
Total assets	$ 91,330	$ 78,168
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 6,066	$ 2,640
Accrued expenses	4,214	3,789
Accrued development milestone	—	15,000
Deferred revenue	—	30
Operating lease liabilities - current portion	441	—
Total current liabilities	10,721	21,459
Long-term debt	46,250	17,621
Operating lease liabilities - noncurrent	3,149	—
Other long-term liabilities	3,000	1,455
Total liabilities	63,120	40,535
Contingencies (Note 13)		
Stockholders' equity:		
Preferred stock, $.001 par value, 5,000,000 shares authorized, no shares issued and outstanding	—	—
Common stock, $.001 par value, 150,000,000 shares authorized at June 30, 2019 and December 31, 2018; 106,297,792 and 95,372,236 shares issued and outstanding at June 30, 2019 and December 31, 2018, respectively	106	95
Additional paid-in capital	466,493	445,192
Accumulated deficit	(439,229)	(408,493)
Accumulated other comprehensive income	840	839
Total stockholders' equity	28,210	37,633
Total liabilities and stockholders' equity	$ 91,330	$ 78,168

See notes to consolidated financial statements

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(Unaudited).
(In thousands except per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	**2018**	**2019**	**2018**
Revenues:				
Product sales, net	$ 6,705	$ —	$ 7,932	$ —
Collaborative research and development	5	218	70	742
Royalty income	500	497	1,220	901
Total revenues	7,210	715	9,222	1,643
Operating expenses:				
Cost of sales, excluding amortization of acquired intangible assets	706	—	1,035	—
Research and development	3,955	4,765	7,753	8,090
Sales and marketing	7,284	1,512	14,595	1,512
General and administrative	4,815	4,220	9,425	6,501
Amortization of acquired intangible assets	615	—	1,230	—
Total operating expenses	17,375	10,497	34,038	16,103
Loss from operations	(10,165)	(9,782)	(24,816)	(14,460)
Other income (expense):				
Interest and other income, net	266	27	509	52
Interest expense	(1,599)	(720)	(2,619)	(720)
Loss on extinguishment of debt	—	—	(3,810)	—
Change in fair value of derivative liability	—	(23,953)	—	(26,278)
Total other expense, net	(1,333)	(24,646)	(5,920)	(26,946)
Net loss	$ (11,498)	$ (34,428)	$ (30,736)	$ (41,406)
Net loss per share - basic and diluted	$ (0.11)	$ (0.62)	$ (0.30)	$ (0.82)
Weighted average shares outstanding - basic and diluted	106,238	55,387	100,847	50,542
Net loss	$ (11,498)	$ (34,428)	$ (30,736)	$ (41,406)
Foreign currency translation adjustments	1	1	1	2
Comprehensive loss	$ (11,497)	$ (34,427)	$ (30,735)	$ (41,404)

See notes to consolidated financial statements

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(Unaudited)
(In thousands except share data)

	Common Stock		Additional		Accumulated Other	Total
	Number of Shares	Par Value Amount	Paid-In Capital	Accumulated Deficit	Comprehensive Income	Stockholders' Equity
Balance at March 31, 2018	53,909,917	$ 54	$ 336,870	$ (329,563)	$ 837	$ 8,198
Net loss	—	—	—	(34,428)	—	(34,428)
Other comprehensive income	—	—	—	—	1	1
Issuance of stock, net of issue costs	20,184,224	20	36,357	—	—	36,377
Fair value of warrants issued	—	—	87	—	—	87
Exercise of stock options	310,900	—	503	—	—	503
Vesting of stock units	107,007	—	(25)	—	—	(25)
Stock-based compensation	—	—	974	—	—	974
Balance at June 30, 2018	74,512,048	$ 74	$ 374,766	$ (363,991)	$ 838	$ 11,687
Balance at March 31, 2019	95,554,228	$ 96	$ 446,673	$ (427,731)	$ 839	$ 19,877
Net loss	—	—	—	(11,498)	—	(11,498)
Other comprehensive income	—	—	—	—	1	1
Issuance of stock, net of issue costs	10,526,500	10	18,333	—	—	18,343
Exercise of stock options	25,000	—	44	—	—	44
Vesting of stock units	192,064	—	(53)	—	—	(53)
Stock-based compensation	—	—	1,496	—	—	1,496
Balance at June 30, 2019	106,297,792	$ 106	$ 466,493	$ (439,229)	$ 840	$ 28,210

	Common Stock		Additional		Accumulated Other	Total
	Number of Shares	Par Value Amount	Paid-In Capital	Accumulated Deficit	Comprehensive Income	Stockholders' Equity
Balance at January 1, 2018	45,256,999	$ 45	$ 331,609	$ (322,585)	$ 836	$ 9,905
Net loss	—	—	—	(41,406)	—	(41,406)
Other comprehensive income	—	—	—	—	2	2
Issuance of stock, net of issue costs	28,790,548	29	40,909	—	—	40,938
Fair value of warrants issued	—	—	355	—	—	355
Exercise of stock options	310,900	—	503	—	—	503
Vesting of stock units	153,601	—	(27)	—	—	(27)
Stock-based compensation	—	—	1,417	—	—	1,417
Balance at June 30, 2018	74,512,048	$ 74	$ 374,766	$ (363,991)	$ 838	$ 11,687
Balance at January 1, 2019	95,372,236	$ 95	$ 445,192	$ (408,493)	$ 839	$ 37,633
Net loss	—	—	—	(30,736)	—	(30,736)
Other comprehensive income	—	—	—	—	1	1
Issuance of stock, net of issue costs	10,526,500	10	18,333	—	—	18,343
Exercise of stock options	166,760	1	307	—	—	308
Vesting of stock units	232,296	—	(73)	—	—	(73)
Stock-based compensation	—	—	2,734	—	—	2,734
Balance at June 30, 2019	106,297,792	$ 106	$ 466,493	$ (439,229)	$ 840	$ 28,210

See notes to consolidated financial statements

EYEPOINT PHARMACEUTICALS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(In thousands)

	Six Months Ended June 30,	
	2019	**2018**
Cash flows from operating activities:		
Net loss	$ (30,736)	$ (41,406)
Adjustments to reconcile net loss to cash flows used in operating activities:		
Amortization of intangible assets	1,230	615
Depreciation of property and equipment	78	84
Amortization of debt discount	270	209
Non-cash interest expense	406	—
Loss on extinguishment of debt	3,810	—
Stock-based compensation	2,734	1,417
Change in fair value of derivative liability	—	26,278
Changes in operating assets and liabilities:		
Accounts receivable and other current assets	(10,681)	(241)
Inventory	(1,392)	—
Accounts payable and accrued expenses	3,826	2,659
Right-of-use assets and operating lease liabilities	44	—
Deferred revenue	(30)	(505)
Deferred rent		(11)
Net cash used in operating activities	(30,441)	(10,901)
Cash flows from investing activities:		
Acquisition of Icon Bioscience Inc., net of cash acquired	—	(16,780)
Purchases of property and equipment	(207)	(44)
Net cash used in investing activities	(207)	(16,824)
Cash flows from financing activities:		
Proceeds from issuance of stock, net of issuance costs	18,343	34,471
Proceeds from issuance of long-term debt	50,000	20,000
Payment of debt issue costs	(1,341)	(1,347)
Payment of long-term debt principal	(20,000)	—
Payment of extinguishment of debt costs	(2,716)	—
Net settlement of stock units to satisfy statutory tax withholding	(46)	—
Proceeds from exercise of stock options	308	503
Payment of contingent development milestone	(15,000)	—
Net cash provided by financing activities	29,548	53,627
Effect of foreign exchange rate changes on cash and cash equivalents	—	(2)
Net (decrease) increase in cash, cash equivalents and restricted cash	(1,100)	25,900
Cash, cash equivalents and restricted cash at beginning of period	45,411	13,026
Cash, cash equivalents and restricted cash at end of period	$ 44,311	$ 38,926
Supplemental cash flow information:		
Cash interest paid	$ 1,175	$ 258
Supplemental disclosure of non-cash investing and financing activities:		
Accrued development milestone	—	15,000
Accrued term loan exit fee	3,000	1,200
Fair value of second tranche purchase liability	—	4,734
Fair value of warrants issued with debt	—	355
Fair value of second tranche warrants	—	18,165

See notes to consolidated financial statements

1. Operations and Basis of Presentation

Overview

The accompanying condensed consolidated financial statements of EyePoint Pharmaceuticals, Inc. and subsidiaries (collectively, the "Company") as of June 30, 2019 and for the three and six months ended June 30, 2019 and 2018 are unaudited. Certain information in the footnote disclosures of these financial statements has been condensed or omitted in accordance with the rules and regulations of the Securities and Exchange Commission (the "SEC"). These financial statements should be read in conjunction with the Company's audited consolidated financial statements and footnotes included in the Company's Transition Report on Form 10-K for the six months ended December 31, 2018. In the opinion of management, these statements have been prepared on the same basis as the audited consolidated financial statements as of and for the six months ended December 31, 2018, and include all adjustments, consisting only of normal recurring adjustments, that are necessary for the fair presentation of the Company's financial position, results of operations, comprehensive loss and cash flows for the periods indicated. The preparation of financial statements in accordance with United States ("U.S.") generally accepted accounting principles ("GAAP") requires management to make assumptions and estimates that affect, among other things, (i) reported amounts of assets and liabilities; (ii) disclosure of contingent assets and liabilities at the date of the consolidated financial statements; and (iii) reported amounts of revenues and expenses during the reporting period. The results of operations for the three and six months ended June 30, 2019 are not necessarily indicative of the results that may be expected for the entire fiscal year or any future period.

The Company is a specialty biopharmaceutical company committed to developing and commercializing innovative ophthalmic products for the treatment of eye diseases. The Company has two products, YUTIQ® and DEXYCU®, which were approved by the U.S. Food and Drug Administration ("FDA") in October 2018 and February 2018, respectively.

YUTIQ (fluocinolone acetonide intravitreal implant) 0.18 mg for intravitreal injection, was launched directly in the U.S. in February 2019. YUTIQ is indicated for the treatment of chronic non-infectious uveitis affecting the posterior segment of the eye, which affects between 55,000 to 120,000 people in the U.S. each year and causes approximately 30,000 new cases of blindness every year, making it the third leading cause of blindness. Injected into the eye in an office visit, YUTIQ is a micro-insert that delivers a micro-dose of a corticosteroid to the back of the eye on a sustained constant (zero order release) basis for up to 36 months. YUTIQ is based on the Company's proprietary Durasert™ sustained-release drug delivery technology platform, which can deliver drugs for predetermined periods of time ranging from months to years.

DEXYCU (dexamethasone intraocular suspension) 9%, for intraocular administration, was launched directly in the U.S. in March 2019. Indicated for the treatment of post-operative ocular inflammation, DEXYCU is administered as a single dose at the end of ocular surgery and is the first long-acting intraocular product approved by the FDA for this indication. DEXYCU utilizes the Company's proprietary Verisome® drug-delivery platform, which allows for a single intraocular injection that releases dexamethasone, a corticosteroid, over time. There were approximately 4.8 million cataract surgeries performed during 2018 in the U.S., with growth projected at an estimated annual rate of 8%, and the Company launched DEXYCU with a primary focus on its use following cataract surgery. The Company acquired DEXYCU in connection with its acquisition of Icon Bioscience, Inc. ("Icon") in March 2018.

ILUVIEN® for diabetic macular edema ("DME"), the Company's lead licensed product, is sold directly in the U.S. and several European Union ("EU") countries by Alimera Sciences, Inc. ("Alimera"). In July 2017, the Company expanded its license agreement with Alimera to include the uveitis indication utilizing the Durasert technology in Europe, the Middle East and Africa ("EMEA"), which received European regulatory approval in March 2019 and, subject to obtaining pricing and reimbursement in each applicable country, will be marketed as ILUVIEN. Retisert®, one of the Company's earlier generation products, was approved in 2005 by the FDA for the treatment of chronic non-infectious uveitis affecting the posterior segment of the eye and is sold in the U.S. by Bausch & Lomb Inc. ("Bausch & Lomb"). The Company's development programs are focused primarily on developing sustained release products that utilize its Durasert and Verisome technology platforms to deliver approved drugs to treat chronic diseases. The Company's strategy includes developing products independently while continuing to leverage its technology platforms through collaborations and license agreements.

Liquidity

The Company has a history of operating losses and has not had significant recurring cash inflows from revenue. The Company's operations have been financed primarily from sales of its equity securities, issuance of debt and a combination of royalty income and other fees received from collaboration partners. In April 2019, the Company consummated an equity offering of its common stock ("Common Stock"), resulting in net proceeds of approximately $18.3 million. During April 2019, the Company exercised its option to draw an additional $15.0 million under the new term loan agreement (the "CRG Loan Agreement") with CRG Servicing LLC ("CRG") and paid a $15.0 million development milestone that was due to the former Icon security holders following the first commercial sale of DEXYCU (see Note 3). The Company had cash and cash equivalents of $44.2 million at June 30, 2019 .

In the first quarter of 2019, the Company commenced the U.S. launch of its first two commercial products, YUTIQ and DEXYCU. Overall, the commercial launch of YUTIQ and DEXYCU has been encouraging with demand for YUTIQ exceeding the Company's expectations. Interest in DEXYCU remains strong within the physician groups that have received training and are now authorized to order DEXYCU from their wholesalers, and DEXYCU demand within these groups have been increasing during the second quarter of 2019. However, overall DEXYCU demand has been slower than anticipated due in part to Ambulatory Surgical Centers' office management generally adopting a cautious approach to the reimbursement process, as reimbursement for other surgical drugs has been inconsistent in the past. Even though DEXYCU has a "J" code which should enable a more straightforward and consistent reimbursement process, particularly when patients are covered by commercial and Medicare Advantage plans, many Ambulatory Surgical Centers nevertheless are waiting to ensure reimbursement of DEXYCU across multiple insurers before ordering the product in significant volume. Additionally, physicians have been utilizing the Company's non-revenue sample program to facilitate their training. These factors have contributed to a reduced anticipated cash flow from the early launch of DEXYCU. The Company expects that its existing cash and cash equivalents at June 30, 2019 and cash inflows from anticipated YUTIQ and DEXYCU product sales will be sufficient to fund the Company's operating plan into 2020.

The Company, however, has no history of direct commercialization of its products and management does not yet have sufficient historical evidence to assert that it is probable that the Company will receive sufficient revenues from its sales of YUTIQ and DEXYCU to fund operations. Actual cash requirements could differ from management's projections due to many factors, including the success of commercialization for YUTIQ and DEXYCU, the actual costs of these commercialization efforts, additional investments in research and development programs, competing technological and market developments and the costs of any strategic acquisitions and/or development of complementary business opportunities. Accordingly, the foregoing conditions, taken together, continue to raise substantial doubt about the Company's ability to continue as a going concern for one year from the issuance of these financial statements.

Recently Adopted and Recently Issued Accounting Pronouncements

New accounting pronouncements are issued periodically by the Financial Accounting Standards Board ("FASB") and are adopted by the Company as of the specified effective dates. Unless otherwise disclosed below, the Company believes that recently issued and adopted accounting pronouncements will not have a material impact on the Company's financial position, results of operations and cash flows or do not apply to the Company's operations.

In February 2016, the FASB issued Accounting Standards Update ("ASU") No. 2016-02, *Leases* (*Topic 842*) ("ASU 2016-02"). In July 2018, the FASB issued ASU No. 2018-11, Leases (Topic 842), Targeted Improvements, which contains certain amendments to ASU 2016-02 intended to provide relief in implementing the new standard. The new standard establishes a right-of-use ("ROU") model that requires a lessee to record a ROU asset and a lease liability on the balance sheet for all operating leases, with an exception provided for leases with a duration of one year or less. The Company adopted ASU 2016-02 on January 1, 2019 using the modified retrospective transition approach which, pursuant to ASU 2018-11, allows companies to recognize existing leases at the adoption date without requiring comparable period presentation. Comparative periods are presented in accordance with the previous guidance in Accounting Standards Codification ("ASC") 840, Leases.

In adopting the new standard, the Company elected to utilize the available package of practical expedients permitted under the transition guidance within the new standard, which does not require the reassessment of the following: (i) whether existing or expired arrangements are or contain a lease, (ii) the lease classification of existing or expired leases, and (iii) whether previous initial direct costs would qualify for capitalization under the new lease standard. Additionally, the Company elected to combine lease and non-lease components and to exclude leases with a term of 12 months or less. The adoption of this accounting standard resulted in recording operating lease ROU assets for three real estate operating lease arrangements and corresponding operating lease liabilities of $3.5 million and $3.7 million, respectively, as of January 1, 2019. The operating lease assets at adoption were lower than the operating lease liabilities because the balance of the Company's deferred rent liabilities at December 31, 2018, which represented lease incentives, was reclassified into operating lease assets. The adoption of the standard did not have a material effect on the Company's consolidated statements of operations or consolidated statements of cash flows.

Under Topic 842, the Company determines whether the arrangement is or contains a lease at inception. Operating leases are recognized on the consolidated balance sheets as ROU assets, current portion of lease liabilities and long-term lease liabilities. ROU assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. Operating lease liabilities and their corresponding ROU assets are recorded based on the present value of lease payments over the expected remaining lease term. For this purpose, the Company considers only payments that are fixed and determinable at the time of commencement. The operating lease ROU assets also include any lease payments made and adjustments for prepayments and lease incentives. The interest rate implicit in lease contracts is typically not readily determinable. As a result, the Company utilized its incremental borrowing rate, which is the rate incurred to borrow on a collateralized basis over a similar term an amount equal to the lease payments in a similar economic environment. Lease terms may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. Lease expense for lease payments is recognized on a straight-line basis over the lease term.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, to replace the current incurred loss impairment methodology for financial assets measured at amortized cost with a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information, including forecasted information, to develop credit loss estimates. ASU 2016-13 is effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Early adoption is permitted for fiscal years beginning after December 15, 2018. This standard will be effective for the Company in the first quarter of its fiscal year ending December 31, 2020. The Company is currently evaluating the impact the adoption of this update will have on its consolidated financial statements.

2. Summary of Significant Accounting Policies

The Company's significant accounting policies are described in Note 2 to our audited financial statements included in the Company's Transition Report on Form 10-K for the six-month transition period ended December 31, 2018. There have been no subsequent changes to the Company's significant accounting policies except for the policies discussed below related to revenue and cost of goods sold for commercial product sales and for the adoption of the new accounting standard for lessee operating leases (see Note 1).

Revenue Recognition

Revenue is recognized when a customer obtains control of promised goods or services, in an amount that reflects the consideration which the entity expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that an entity determines are within the scope of ASC 606, Revenue from Contracts with Customers ("ASC 606"), the Company performs the following five steps: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the entity satisfies a performance obligation. The Company only applies the five-step model to contracts when it is probable that the entity will collect the consideration it is entitled to in exchange for the goods or services it transfers to the customer. At contract inception, once the contract is determined to be within the scope of ASC 606, the Company assesses the goods or services promised within each contract, determines those that are performance obligations and assesses whether each promised good or service is distinct. The Company then recognizes as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied. Sales, value add, and other taxes collected on behalf of third parties are excluded from revenue.

Product sales, net — The Company began selling YUTIQ and DEXYCU in February and March 2019, respectively. The Company is currently selling YUTIQ and DEXYCU in the U.S. through a single third-party logistics provider (the "3PL"), which takes title to the goods. The 3PL distributes the products through a limited number of specialty distributors and specialty pharmacies (collectively the "Distributors"), with whom the Company has entered into formal agreements, for delivery to physician practices for YUTIQ and to hospital outpatient departments and ambulatory surgical centers for DEXYCU. The Company recognizes revenue on sales of products when the 3PL obtains control of the products, which occurs at a point in time, typically upon delivery. The Company expects to enter into arrangements with healthcare providers and payors that provide for government mandated and/or privately negotiated rebates, chargebacks, and discounts with respect to the purchase of the Company's products.

Reserves for variable consideration — Product sales are recorded at the wholesale acquisition costs, net of applicable reserves for variable consideration. Components of variable consideration include trade discounts and allowances, provider chargebacks and discounts, payor rebates, product returns, and other allowances that are offered within contracts between the Company and its Distributors, payors, and other contracted purchasers relating to the Company's product sales. These reserves, as detailed below, are based on the amounts earned, or to be claimed on the related sales, and are classified either as reductions of accounts receivable or a current liability, depending on how the amount is to be settled. Overall, these reserves reflect the Company's best estimates of the amount of consideration to which it is entitled based on the terms of the respective underlying contracts. Actual amounts of consideration ultimately received may differ from our estimates. If actual results in the future vary from our estimates, the Company adjusts these estimates, which would affect product revenue and earnings in the period such variances become known.

Distribution fees — The Company compensates its Distributors for services explicitly stated in the Company's contracts and are recorded as a reduction of revenue in the period the related product sale is recognized.

Provider chargebacks and discounts — Chargebacks are discounts that represent the estimated obligations resulting from contractual commitments to sell products at prices lower than the list prices charged to our Distributors. These Distributors charge us for the difference between what they pay for the product and our contracted selling price. These reserves are established in the same period that the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability. Reserves for chargebacks consist of amounts that the Company expects to pay for units that remain in the distribution channel inventories at each reporting period-end that the Company expects will be sold under a contracted selling price, and chargebacks that Distributors have claimed, but for which the Company has not yet settled.

Government rebates — The Company is subject to discount obligations under state Medicaid programs and Medicare. These reserves are recorded in the same period the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability which is included in accrued expenses and other current liabilities on the condensed consolidated balance sheets. The Company's liability for these rebates consists of invoices received for claims from prior quarters that have not been paid or for which an invoice has not yet been received, estimates of claims for the current quarter, and estimated future claims that will be made for product that has been recognized as revenue, but which remains in the distribution channel inventories at the end of each reporting period.

Payor rebates — The Company expects to contract with certain private payor organizations, primarily insurance companies, for the payment of rebates with respect to utilization of its products. The Company estimates these rebates and records such estimates in the same period the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability.

Co-Payment assistance — The Company offers co-payment assistance to commercially insured patients meeting certain eligibility requirements. The calculation of the accrual for co-pay assistance is based on an estimate of claims and the cost per claim that the Company expects to receive associated with product that has been recognized as revenue.

Product returns — The Company generally offers a limited right of return based on its returned goods policy, which includes damaged product and remaining shelf life. The Company estimates the amount of its product sales that may be returned and records this estimate as a reduction of revenue in the period the related product revenue is recognized, as well as reductions to trade receivables, net on the condensed consolidated balance sheets.

Cost of sales, excluding amortization of acquired intangible assets — Cost of sales, excluding amortization of acquired intangible assets, consist of costs associated with the manufacture of YUTIQ and DEXYCU, certain period costs, product shipping and, as applicable, royalty expense. The inventory costs for YUTIQ include purchases of various components, the active pharmaceutical ingredient ("API") and internal labor and overhead for the product manufactured in the Company's Watertown, MA facility. The inventory costs for DEXYCU include purchased components, the API and third-party manufacturing and assembly. Capitalization of inventory costs begins after FDA approval of the product. Prior thereto, inventory costs of products and product candidates are recorded as research and development expense, even if this inventory may later be sold as commercial product.

3. Acquisition of Icon Bioscience, Inc.

On March 28, 2018, the Company and its newly-created wholly-owned subsidiary, Oculus Merger Sub, Inc., acquired Icon, a specialty biopharmaceutical company, through a reverse triangular merger (the "Icon Acquisition") pursuant to an Agreement and Plan of Merger (the "Merger Agreement") between the Company, Icon, and Shareholder Representative Services LLC ("SRS"), solely in its capacity as representative of Icon's securityholders. The Icon Acquisition was accounted for as an asset acquisition because substantially all of the fair value of the gross assets acquired were deemed to be concentrated in a group of similar identifiable assets related to Icon's lead product, DEXYCU. A portion of the Icon Acquisition was funded by a debt financing and an equity financing, both of which closed concurrently with the Icon Acquisition (see Notes 9 and 10).

Pursuant to the Merger Agreement, the Company made a closing payment of $15.0 million to SRS, net of an estimated $127,000 working capital adjustment, and is obligated to pay certain post-closing contingent cash payments upon the achievement of specified milestones and based upon certain net sales and partnering revenue standards, in each case subject to the terms and conditions set forth in the Merger Agreement. These include but are not limited to (i) a one-time development milestone of $15.0 million payable in cash upon the first commercial sale of DEXYCU in the U.S., (ii) sales milestone payments totaling up to $95.0 million upon the achievement of certain sales thresholds and subject to certain Centers for Medicare & Medicaid Services ("CMS") reimbursement conditions set forth in the Merger Agreement, (iii) quarterly earn-out payments equal to 12% on net sales of DEXYCU in a given year, which earn-out payments will increase to 16% of net sales of DEXYCU in such year beginning in the calendar quarter for such year to the extent aggregate annual DEXYCU consideration exceeds $200.0 million in such year, (iv) quarterly earn-out payments equal to 20% of partnering revenue received by the Company for DEXYCU outside of the U.S., and (v) single-digit percentage quarterly earn-out payments with respect to net sales and/or partnering income, if any, resulting from future clinical development, regulatory approval and commercialization of any other product candidates the Company acquired in the Icon Acquisition. Following the first commercial sale of DEXYCU, the Company paid the $15.0 million one-time development milestone to SRS in April 2019.

The purchase price on the date of the Icon Acquisition was $32.0 million, and was comprised of the closing consideration of $15.0 million, including the assumption of an estimated $127,000 of net current liabilities of Icon, the contingent development milestone payment of $15.0 million and transaction costs of approximately $2.0 million. Given the stage of development of DEXYCU, the Company determined these payments did not represent research and development costs. The contingent consideration in the form of sales milestones will be capitalized as additional intangible assets when any such consideration becomes probable and can be reasonably estimated. Sales-based royalty payments will be expensed as incurred.

The purchase price was allocated to a single finite-lived intangible asset with an expected amortization life of approximately 13 years. The intangible asset is being amortized on a straight-line basis over that period. The acquisition did not have a net tax impact due to a full valuation allowance against the acquired net deferred tax assets.

For the three and six months ended June 30, 2019, the Company accrued sales-based royalty expense of $0 and $99,000 respectively, as a component of cost of sales.

4. License and Collaboration Agreements

Alimera

Under a collaboration agreement with Alimera, as amended in March 2008 (the "Prior Alimera Agreement"), the Company licensed to Alimera the rights to develop, market and sell certain product candidates, including ILUVIEN for DME, and Alimera assumed all financial responsibility for the development of the licensed products. The Company was entitled to receive a share of any net profits (as defined) on sales of each licensed product (including ILUVIEN) by Alimera, measured on a quarter-by-quarter and country-by-country basis, and Alimera was entitled to recover a share of previously incurred and unapplied net losses (as defined) for commercialization of each product in a country. The Company was also entitled to reimbursement of certain patent maintenance costs with respect to the patents licensed to Alimera.

On July 10, 2017, the Company entered into a further amended and restated collaboration agreement (the "Amended Alimera Agreement"), pursuant to which the Company (i) licensed its then Durasert three-year uveitis product candidate (currently marketed by the Company as YUTIQ in the U.S.) to Alimera for regulatory approval and distribution under its ILUVIEN trade name in EMEA and (ii) converted the net profit share arrangement for each licensed product (including ILUVIEN) under the Prior Alimera Agreement to a sales-based royalty on a calendar quarter basis commencing July 1, 2017, with payments from Alimera due 60 days following the end of each quarter.

Following the completion of the Amended Alimera Agreement, Alimera filed a Type II variation in December 2017 for ILUVIEN for the treatment of non-infectious uveitis affecting the posterior segment of the eye in all seventeen European countries in which it previously received regulatory approval for ILUVIEN for DME. In March 2019, Alimera received regulatory approval for the uveitis indication. After the label for this new indication is finalized consistent with each such country's local requirements, Alimera has indicated that it plans to commercialize the product for this indication under its ILUVIEN trademark.

Under the Amended Alimera Agreement, sales-based royalties started at the rate of 2%. Commencing December 12, 2018, the royalty rate increased to 6% on aggregate calendar year net sales up to $75 million and to 8% on any calendar year net sales in excess of $75 million. Alimera's share of contingently recoverable accumulated ILUVIEN commercialization losses under the Prior Alimera Agreement, capped at $25 million, are being reduced as follows: (i) $10.0 million was cancelled in lieu of an upfront license fee on the effective date of the Amended Alimera Agreement; (ii) for the period from December 12, 2018 through calendar year 2020, 50% of earned sales-based royalties in excess of 2% will be offset against quarterly royalty payments otherwise due from Alimera; (iii) in March 2019, another $5.0 million was cancelled upon Alimera's receipt of regulatory approval for ILUVIEN for the uveitis indication; and (iv) commencing in calendar year 2021, 20% of earned sales-based royalties in excess of 2% will be offset against quarterly royalty payments otherwise due from Alimera until such time as the balance of the original $25 million of recoverable commercialization losses has been fully recouped. At June 30, 2019, the remaining recoverable balance of these commercialization losses was approximately $9.4 million.

Revenue recognized under the Amended Alimera Agreement totaled $505,000 and $199,000 for the three months ended June 30, 2019 and 2018, respectively, and $1,056,000 and $433,000 for the six months ended June 30, 2019 and 2018, respectively. In addition to patent fee reimbursements in both periods, the Company recorded $500,000 and $196,000 of sales-based royalty income for the three months ended June 30, 2019 and 2018, respectively, and $1,016,000 and $379,000 for the six months ended June 30, 2019 and 2018, respectively.

Bausch & Lomb

Pursuant to a licensing and development agreement, as amended, Bausch & Lomb has a worldwide exclusive license to make and sell Retisert in return for royalties based on sales. Royalty income was $0 and $301,000 for the three months ended June 30, 2019 and 2018, respectively, and $204,000 and $522,000 for the six months ended June 30, 2019 and 2018, respectively. Accounts receivable from Bausch & Lomb was $0 at June 30, 2019 and $253,000 at December 31, 2018.

OncoSil Medical

The Company entered into an exclusive, worldwide royalty-bearing license agreement in December 2012, amended and restated in March 2013, with OncoSil Medical UK Limited (f/k/a Enigma Therapeutics Limited), a wholly-owned subsidiary of OncoSil Medical Ltd ("OncoSil") for the development of BrachySil, the Company's previous product candidate for the treatment of pancreatic and other types of cancer. The Company received an upfront fee of $100,000 and is entitled to 8% sales-based royalties, 20% of sublicense consideration and milestone payments based on aggregate product sales. OncoSil is obligated to pay an annual license maintenance fee of $100,000 by the end of each calendar year, the most recent of which was received in December 2018. For each calendar year commencing with 2014, the Company is entitled to receive reimbursement of any patent maintenance costs, sales-based royalties and sub-licensee sales-based royalties earned, but only to the extent such amounts, in the aggregate, exceed the $100,000 annual license maintenance fee. As of June 30, 2019, OncoSil has not received regulatory approval in any jurisdiction. In March 2019 the Clinical Oversight Committee of the British Standards Institute ("BSI") advised OncoSil that insufficient clinical benefit had been demonstrated to recommend approval of its longstanding CE Mark application. OncoSil is awaiting confirmation of a follow-up meeting with BSI to discuss next steps. The Company has no consequential performance obligations under the OncoSil license agreement. No revenue was recognized related to the OncoSil agreement for each of the three and six months ended June 30, 2019 and 2018. As of June 30, 2019, no deferred revenue was recorded for this agreement.

Ocumension Therapeutics

In November 2018, the Company entered into an exclusive license agreement with Ocumension Therapeutics ("Ocumension") for the development and commercialization of its three-year micro insert using the Durasert technology for the treatment of chronic non-infectious uveitis affecting the posterior segment of the eye in the greater China territory, which is comprised of China, Hong Kong, Macau and Taiwan. The Company received a one-time upfront payment of $1.75 million from Ocumension and is eligible to receive up to approximately $10 million upon the achievement by Ocumension of certain prescribed development, regulatory and commercial sales-based milestones. In addition, the Company is entitled to receive mid-single digit sales-based royalties.

Other than a fixed number of hours of technical assistance support to be provided at no cost by the Company, Ocumension is responsible for all development, regulatory and commercial costs, including any additional technical assistance requested. Ocumension has a first right of negotiation for an additional exclusive license to the Company's shorter-duration line extension candidate for this indication.

During the three and six months ended June 30, 2019, $0 and $30,000, respectively, attributable to the Company's technical assistance obligation was recognized as revenue. At June 30, 2019, no deferred revenue was recorded for this agreement.

Feasibility Study Agreements

The Company from time to time enters into funded agreements to evaluate the potential use of its technology systems for sustained release of third-party drug candidates in the treatment of various diseases. Consideration received is generally recognized as revenue over the term of the feasibility study agreement. Revenue recognition for consideration, if any, related to a license option right is assessed based on the terms of any such future license agreement or is otherwise recognized at the completion of the feasibility study agreement. No revenue under feasibility study agreements was recognized for the three and six months ended June 30, 2019, and revenues of $215,000 and $685,000 were recognized for the three and six months ended June 30, 2018, respectively. At June 30, 2019, no deferred revenue was recorded for any such agreements.

5. Intangible Assets

The reconciliation of intangible assets for the six months ended June 30, 2019 and 2018 was as follows (in thousands):

	June 30, 2019	June 30, 2018
Patented technologies		
Gross carrying cost at beginning of period	$ 68,322	$ 36,349
Acquisition of Icon Bioscience Inc.	—	31,973
Gross carrying cost at end of period	68,322	68,322
Accumulated amortization at beginning of period	(38,193)	(36,349)
Amortization expense	(1,230)	(615)
Accumulated amortization at end of period	(39,423)	(36,964)
Net book value at end of period	$ 28,899	$ 31,358

The Company amortizes intangible assets with finite lives on a straight-line basis over their respective estimated useful lives. Amortization of intangible assets totaled $615,000 and $1.2 million for the three and six months ended June 30, 2019, respectively, and $615,000 for each of the three and six month periods ended June 30, 2018. The Company's previously acquired finite-lived intangible assets were fully amortized as of December 31, 2017.

In connection with the Icon Acquisition (see Note 3), the initial purchase price was attributed to the DEXYCU product intangible asset. This finite-lived intangible asset is being amortized on a straight-line basis over its expected remaining useful life of 11.75 years at the rate of approximately $2.5 million per year. Amortization expense was reported as a component of cost of sales for the three and six months ended June 30, 2019, and was included in research and development for the three and six months ended June 30, 2018 in the condensed consolidated statement of comprehensive loss. In each of the next five years, the amortization expense is expected to be $2.5 million, respectively.

6. Accrued Expenses

Accrued expenses consisted of the following at June 30, 2019 and December 31, 2018 (in thousands):

	June 30, 2019	December 31, 2018
Personnel costs	$ 2,066	$ 1,998
Clinical trial costs	554	798
Professional fees	400	571
Product revenue allowances and reserves	1,051	—
Other	143	422
	$ 4,214	$ 3,789

7. Leases

On May 17, 2018, the Company amended the lease for its headquarters in Watertown, Massachusetts. The original five-year lease for approximately 13,650 square feet of combined office and laboratory space was set to expire in April 2019. Under the amendment, the Company leased an additional 6,590 square feet of rentable area of the building, with a commencement date of September 10, 2018. The amendment extended the term of the lease for the combined space through May 31, 2025. The landlord agreed to provide the Company a construction allowance of up to $670,750 to be applied toward the aggregate work completed on the total space. The Company has an option to further extend the term of the lease for one additional five-year period. Per the terms of the lease agreement, the Company does not have a residual value guarantee. The Company previously provided a cash-collateralized $150,000 irrevocable standby letter of credit as security for the Company's obligations under the lease, which was extended through the period that is four months beyond the expiration date of the amended lease. The Company will also be required to pay its proportionate share of certain operating costs and property taxes applicable to the leased premises in excess of new base year amounts.

In July 2017, the Company leased approximately 3,000 square feet of office space in Basking Ridge, New Jersey under a lease term extending through June 2022, with two five-year renewal options at 95% of the then-prevailing market rates. In addition to base rent, the Company is obligated to pay its proportionate share of building operating expenses and real estate taxes in excess of base year amounts. In June 2018, the Company subleased an additional 1,381 square feet of adjoining space from Caladrius Biosciences, Inc. ("Caladrius") through May 2022. The Chief Executive Officer of Caladrius is a director of the Company. Per the terms of the lease and sublease agreements, the Company does not have any residual value guarantees.

The Company identified and assessed the following significant assumptions in recognizing its ROU assets and corresponding lease liabilities:

- As the Company's leases do not provide an implicit rate, the Company estimated the incremental borrowing rate in calculating the present value of the lease payments. The Company utilized the borrowing rate under its existing 5-year term loan facility (see Note 9) as the discount rate.
- Since the Company elected to account for each lease component and its associated non-lease components as a single combined component, all contract consideration was allocated to the combined lease component.
- The expected lease terms include noncancelable lease periods. Renewal option periods have not been included in the determination of the lease terms as they are not deemed reasonably certain of exercise.
- Variable lease payments, such as common area maintenance, real estate taxes and property insurance are not included in the determination of the lease's ROU asset or lease liability.

As of June 30, 2019, the weighted average remaining term of the Company's operating leases was 5.7 years and the lease liabilities arising from obtaining ROU assets reflect a weighted average discount rate of 12.5%. Maturities of lease liabilities due under these operating lease agreements as of June 30, 2019 are as follows (in thousands):

Remainder of 2019	$	425
2020		867
2021		889
2022		849
2023		815
Thereafter		1,176
Total lease payments		5,021
Less imputed interest		(1,431)
Total operating lease liabilities		3,590
Less: current portion		441
Non-current portion	$	3,149

Operating lease expense recognized during the three and six months ended June 30, 2019 related to ROU assets were $213,000 and $427,000, respectively, excluding $9,000 and $18,000 of variable lease costs, respectively, and were included in general and administrative expense in the Company's statement of comprehensive loss. Cash paid for amounts included in the measurement of operating lease liabilities were $205,000 and $383,000, respectively, for the three and six months ended June 30, 2019.

As previously disclosed in the Company's Transition Report on Form 10-K for the six months ended December 31, 2018, and, under the previous lease accounting standard, ASC 840, *Leases*, the Company's total future minimum lease payments under non-cancellable operating leases at December 31, 2018 were as follows (in thousands):

2019	$ 826
2020	879
2021	895
2022	849
2023 and beyond	1,990
	$ 5,439

8. Product Revenue Reserves and Allowances

To date, the Company's only source of product revenues has been from sales of YUTIQ and DEXYCU in the U.S., which it began shipping to its 3PL in February 2019 and March 2019, respectively.

Net product revenues by product for the three and six months ended June 30, 2019 were as follows (in thousands):

	Three Months Ended June 30, 2019	Six Months Ended June 30, 2019
YUTIQ	$ 6,705	$ 7,248
DEXYCU	—	684
Total product sales, net	$ 6,705	$ 7,932

During the three and six months ended June 30, 2019, revenues from the Company's single 3PL accounted for 93.0% and 86.0% of total revenues, respectively. Accounts receivable from the 3PL accounted for 94.7% of total accounts receivable at June 30, 2019.

The following table summarizes activity in each of the product revenue allowance and reserve categories for the six months ended June 30, 2019 (in thousands):

	Chargebacks, Discounts and Fees	Government and Other Rebates	Returns	Total
Beginning balance at January 1, 2019	$ —	$ —	$ —	$ —
Provision related to sales in the current year	877	76	187	1,140
Adjustments related to prior period sales	—	—	—	—
Credits and payments made	(89)	—	—	(89)
Ending balance at June 30, 2019	$ 788	$ 76	$ 187	$ 1,051

All product revenue allowances and reserves at June 30, 2019 are recorded as a component of accrued expenses on the condensed consolidated balance sheets (See Note 6).

9. Term Loan Agreements

CRG Term Loan Agreement

On February 13, 2019 (the "CRG Closing Date"), the Company entered into the CRG Loan Agreement among the Company, as borrower, CRG Servicing LLC, as administrative agent and collateral agent (the "Agent"), and the lenders party thereto from time to time (the "Lenders"), providing for a senior secured term loan of up to $60 million (the "CRG Loan"). On the CRG Closing Date, $35 million of the CRG Loan was advanced (the "CRG Initial Advance"). The Company utilized the proceeds from the CRG Initial Advance for the repayment in full of all outstanding obligations under its prior credit agreement (the "SWK Credit Agreement") with SWK Funding LLC ("SWK"). In April 2019, the Company exercised its option to borrow an additional $15 million of the CRG Loan (the "CRG Second Advance"). The Company may draw up to an additional $10 million, subject to achievement of prescribed three-month trailing product revenues of YUTIQ and DEXYCU on or before March 31, 2020.

The CRG Loan is due and payable on December 31, 2023 (the "Maturity Date"). The CRG Loan bears interest at a fixed rate of 12.5% per annum payable in arrears on the last business day of each calendar quarter. The Company is required to make quarterly, interest only payments until the Maturity Date. So long as no default has occurred and is continuing, the Company may elect on each applicable interest payment date to pay 2.5% of the 12.5% per annum interest as Paid In-Kind ("PIK"), whereby such PIK amount would be added to the aggregate principal amount and accrue interest at 12.5% per annum. Through June 30, 2019, total PIK amounts of $406,000 have been added to the principal balance of the CRG Loan. In addition, the Company is required to pay an upfront fee of 1.5% of amounts borrowed under the CRG Loan (excluding any paid-in-kind amounts), which is payable as amounts are advanced under the CRG Loan. The Company will also be required to pay an exit fee equal to 6% of (i) the aggregate principal amounts advanced and (ii) PIK amounts issued, under the CRG Loan Agreement. In connection with the CRG Initial Advance, a 1.5% financing fee of $525,000 and an expense reimbursement of $350,000 were deducted from the net borrowing proceeds. In connection with the CRG Second Advance, a 1.5% financing fee of $225,000 was deducted from the net borrowing proceeds.

Upon the occurrence of a bankruptcy-related event of default, all amounts outstanding with respect to the CRG Loan become due and payable immediately, and upon the occurrence of any other Event of Default (as defined in the CRG Loan Agreement), all or any amounts outstanding with respect to the CRG Loan may become due and payable upon request of the Agent or majority Lenders. Subject to certain exceptions, the Company is required to make mandatory prepayments of the CRG Loan with the proceeds of assets sales and in the event of a change of control of the Company. In addition, the Company may make a voluntary prepayment of the CRG Loan, in whole or in part, at any time. All mandatory and voluntary prepayments of the CRG Loan are subject to the payment of prepayment premiums as follows: (i) if prepayment occurs on or prior to December 31, 2019, an amount equal to 10% of the aggregate outstanding principal amount of the CRG Loan being prepaid, (ii) if prepayment occurs after December 31, 2019 and on or prior to December 31, 2020, 5% of the aggregate outstanding principal amount of the CRG Loan being prepaid and (iii) if prepayment occurs after December 31, 2020 and on or prior to December 31, 2021, an amount equal to 3% of the aggregate outstanding principal amount of the Loan being prepaid. No prepayment premium is due on any principal prepaid after December 31, 2021. Certain of the Company's existing and future subsidiaries are guaranteeing the obligations of the Company under the CRG Loan Agreement. The obligations of the Company under the CRG Loan Agreement and the guarantee of such obligations are secured by a pledge of substantially all of the Company's and the guarantors' assets.

The CRG Loan Agreement contains affirmative and negative covenants customary for financings of this type, including limitations on our and our subsidiaries' abilities, among other things, to incur additional debt, grant or permit additional liens, make investments and acquisitions, merge or consolidate with others, dispose of assets, pay dividends and distributions and enter into affiliate transactions, in each case, subject to certain exceptions. In addition, the CRG Loan Agreement contains the following financial covenants requiring the Company and the Guarantors to maintain:

- liquidity in an amount which shall exceed the greater of (i) $5 million and (ii) to the extent the Company has incurred certain permitted debt, the minimum cash balance, if any, required of the Company by the creditors of such permitted debt; and
- annual minimum product revenue from YUTIQ and DEXYCU: (i) for the twelve-month period beginning on January 1, 2019 and ending on December 31, 2019, of at least $15 million, (ii) for the twelve-month period beginning on January 1, 2020 and ending on December 31, 2020, of at least $45 million, (iii) for the twelve-month period beginning on January 1, 2021 and ending on December 31, 2021, of at least $80 million and (iv) for the twelve-month period beginning on January 1, 2022 and ending on December 31, 2022, of at least $90 million.

The total debt discount related to the CRG Initial Advance was approximately $3.2 million and consisted of (i) the accrual of a $2.1 million exit fee; (ii) the $525,000 upfront fee; and (iii) $591,000 of legal and other transaction costs. This amount is being amortized as additional interest expense over the term of the Loan using the effective interest rate method.

The total debt discount related to the CRG Second Advance was approximately $1.1 million and consisted of (i) the accrual of a $900,000 exit fee; and (ii) the $225,000 upfront fee. This amount is being amortized as additional interest expense over the term of the Loan using the effective interest rate method.

Amortization of debt discount under the CRG Loan totaled $130,000 and $185,000 for the three and six months ended June 30, 2019.

SWK Credit Agreement

On March 28, 2018 (the "SWK Closing Date"), the Company entered into the SWK Credit Agreement among the Company, as borrower, SWK, as agent, and the lenders party thereto from time to time, providing for a senior secured term loan of up to $20 million (the "SWK Loan"). On the SWK Closing Date, $15 million of the SWK Loan was advanced (the "SWK Initial Advance"). The remaining $5 million of the SWK Loan was advanced on June 26, 2018 (the "SWK Additional Advance").

In connection with the SWK Loan, the Company issued a warrant (the "SWK Warrant") to the Agent to purchase (a) 409,091 shares of Common Stock (the "Initial Advance Warrant Shares") at an exercise price of $1.10 per share and (b) 77,721 shares of Common Stock (the "Additional Advance Warrant Shares") at an exercise price of $1.93 per share (see Note 10). The SWK Warrant is exercisable (i) with respect to the Initial Advance Warrant Shares, any time on or after the SWK Closing Date until the close of business on the 7-year anniversary of the SWK Initial Advance and (ii) with respect to the Additional Advance Warrant Shares, any time on or after the closing of the SWK Additional Advance until the close of business on the 7-year anniversary of the SWK Additional Advance. The Agent may exercise the SWK Warrant on a cashless basis at any time. In the event the Agent exercises the SWK Warrant on a cashless basis, the Company will not receive any proceeds.

The Additional Advance Warrant Shares were recorded as a liability at the Closing Date and were remeasured at fair value at each reporting period until the date of the SWK Additional Advance. The aggregate fair value of the Additional Advance Warrant Shares at the Closing Date was $69,000. The Initial Advance Warrant Shares were recorded as equity on the Company's balance sheet at their relative fair value of $284,000. The remaining $14.6 million of the proceeds received were allocated to the SWK Initial Advance term loan. Upon the closing of the SWK Additional Advance in June 2018, the Additional Advance Warrant Shares were re-valued at $87,000 and reclassified to equity.

The total debt discount related to the SWK Initial Advance was $2.1 million and was comprised of (1) $1.8 million, which included a 1.5% upfront fee, a 6% exit fee (the "Exit Fee") and legal and other transaction costs, which were ratably allocated to each of the two tranches of the SWK Loan based upon the total principal amount available to the Company under each tranche and (2) $353,000 related to the aggregate fair value of the Initial Advance Warrant Shares and the Additional Advance Warrant Shares. This amount was being amortized as additional interest expense over the term of the SWK Loan using the effective interest rate method.

The total debt issue costs related to the SWK Additional Advance was $299,000 and was comprised of the allocated portions of the 1.5% upfront fee and the Exit Fee. This amount was recorded as a prepaid expense to be amortized ratably from the SWK Closing Date through December 31, 2018. Through the date of the SWK Additional Advance, $97,000 was amortized and the remaining balance of $202,000 was reclassified to debt discount in June 2018. Together with the 6% Exit Fee on the SWK Additional Advance and other transaction costs, total debt discount of $652,000 associated with the SWK Additional Advance was to be amortized over the remaining life of the SWK Additional Advance portion of the SWK Loan using the effective interest rate method.

The SWK Loan was originally scheduled to mature on March 27, 2023 and bore interest at a per annum rate of the three-month LIBOR rate (subject to a 1.5% floor) plus 10.50%. On February 13, 2019, the Company repaid the SWK Loan in connection with the consummation of the CRG Loan Agreement. In addition to repayment of the $20 million principal balance, the Company paid (i) a $1.2 million prepayment penalty, (ii) the $1.2 million Exit Fee, (iii) accrued and unpaid interest of $664,000 through that date and (iv) an additional make-whole interest payment of $306,000 covering the additional period through what would have been the first anniversary of the SWK Loan. In connection with the prepayment of the SWK Loan, the Company recorded a loss on extinguishment of debt of $3.8 million in the three months ended March 31, 2019. In addition to the prepayment penalty and make-whole interest payment amounts, the loss on extinguishment of debt included the write-off of the remaining balance of unamortized debt discount of approximately $2.3 million.

Amortization of debt discount under the SWK Loan totaled $84,000 in the first quarter of 2019 through the SWK loan extinguishment date. The Company recorded $209,000 of amortized deferred debt issue costs and debt discount for the three and six months ended June 30, 2018.

10. Stockholders' Equity

2019 Equity Financing

In April 2019, the Company sold 10,526,500 shares of common stock in an underwritten public offering at a price of $1.90 per share for gross proceeds of $20.0 million. Underwriter discounts and commissions and other share issue costs totaled approximately $1.7 million.

2018 Equity Financing

On the SWK Closing Date, the Company entered into a Securities Purchase Agreement (the "First Tranche Securities Purchase Agreement") with EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P. (collectively, the "First Tranche Investors"), pursuant to which the Company offered and sold to the First Tranche Investors an aggregate of 8,606,324 shares of Common Stock at a purchase price of $1.10 per share (the "First Tranche Purchase Price") for aggregate gross proceeds of approximately $9.5 million (the "First Tranche Transaction").

On the SWK Closing Date, the Company entered into a Second Securities Purchase Agreement (the "Second Tranche Securities Purchase Agreement" and together with the First Tranche Securities Purchase Agreement, the "Securities Purchase Agreements") with the First Tranche Investors and certain other accredited investors (collectively, the "Second Tranche Investors"), pursuant to which the Company, subject to the approval of the Company's stockholders, would offer and sell to the Second Tranche Investors an aggregate of approximately $25.5 million of Units, with each Unit consisting of (a) one share of Common Stock and (b) one warrant to purchase a share of Common Stock (the "Second Tranche Transaction" and together with the First Tranche Transaction, the "Equity Transactions").

At a special meeting of stockholders held on June 22, 2018, the Company's stockholders approved the Second Tranche Transaction, following which, on June 25, 2018, the Company sold to the Second Tranche Investors an aggregate of 20,184,224 Units at a purchase price of $1.265 per Unit for gross proceeds of approximately $25.5 million, not including any proceeds that would be received from an exercise of the warrants (each a "Second Tranche Warrant", and collectively, the "Second Tranche Warrants"). In addition, the stockholders approved the adoption of an amendment to the Company's Certificate of Incorporation, as amended, to increase the number of authorized shares of Common Stock from 120,000,000 shares to 150,000,000 shares.

The Company determined that the shares of Common Stock issued in the First Tranche Transaction and the future obligation to issue Units in the Second Tranche Transaction were freestanding instruments. The Common Stock issued in the First Tranche Transaction was recorded as equity on the Company's balance sheet. The future obligation to issue Units in the Second Tranche Transaction was recorded as a liability on the Company's balance sheet, subject to remeasurement at fair value at each reporting period until settled.

The Company determined that the First Tranche Transaction and the Second Tranche Transaction should be accounted for as a single transaction. Accordingly, the total consideration received on the SWK Closing Date of $9.5 million was first allocated to the future obligation to issue Units in the Second Tranche Transaction at fair value as of the SWK Closing Date, with the residual amount allocated to the Common Stock issued in the First Tranche Transaction. Further, issuance costs of $343,000 were allocated to each of the freestanding instruments on the basis of relative fair value. A net amount of approximately $4.6 million was allocated to each of the Common Stock issued in the First Tranche Transaction and the future obligation to issue Units in the Second Tranche Transaction, respectively, as of the SWK Closing Date. As of March 31, 2018, the fair value of the Second Tranche Transaction derivative liability was approximately $6.9 million and the Company recorded the $2.2 million change in fair value for the quarter ended March 31, 2018.

The future obligation to issue Units in the second tranche transaction was revalued immediately prior to the Second Tranche Transaction on June 25, 2018 and resulted in a change in fair value of approximately $22.2 million. Upon consummation of the Second Tranche Transaction, the resulting derivative liability balance of approximately $29.1 million was reclassified to equity.

The Company determined that the Second Tranche Warrants were considered puttable warrants that represented an obligation that was indexed to the repurchase of the Company's shares and could require a transfer of assets that required classification as derivative liabilities. The initial valuation of the Second Tranche Warrants on June 25, 2018 of approximately $18.2 million was revalued at June 30, 2018 and then immediately prior to exercise and resulted in a change in fair value of $1.6 million and $18.9 million, respectively. The change in fair value immediately prior to exercise, in September 2018, was determined as the excess of the closing share price of the Company's Common Stock on the respective dates on which exercise notices were submitted by each of the Second Tranche Investors over the $1.43 exercise price. Upon exercise of the Second Tranche Warrants, the resulting derivative liability balance of $38.7 million was reclassified to equity.

ATM Facility

In January 2019, the Company entered into an at-the-market ("ATM") program (the "ATM Program"). Pursuant to the ATM Program, under a Form S-3 shelf registration statement that was declared effective by the SEC in December 2018, the Company may, at its option, offer and sell shares of its Common Stock from time to time for an aggregate offering price of up to $20.0 million. The Company will pay the sales agent a commission of up to 3.0% of the gross proceeds from any future sales of such shares.

The Company did not sell any shares of its Common Stock pursuant to the ATM program during the three and six months ended June 30, 2019.

Warrants to Purchase Common Shares

The following table provides a reconciliation of fixed price warrants to purchase shares of the Company's Common Stock for the six months ended June 30, 2019 and 2018:

	Six Months Ended June 30,			
	2019		2018	
	Number of Warrants	Weighted Average Exercise Price	Number of Warrants	Weighted Average Exercise Price
Balance at beginning of period	486,812	$ 1.23	—	$ —
Issued	—	—	486,812	1.23
Balance and exercisable at end of period	486,812	$ 1.23	486,812	$ 1.23

In connection with the SWK Credit Agreement (see Note 9), the Company issued the SWK Warrant to purchase (i) 409,091 Initial Advance Warrant Shares on March 28, 2018 at an exercise price of $1.10 per share with a seven-year term and (ii) 77,721 Additional Advance Warrant Shares on June 26, 2018 at an exercise price of $1.93 per share with a seven-year term. At June 30, 2019 the weighted average remaining life of the warrants was approximately 5.75 years.

At June 30, 2018 a total of 20,184,224 Second Tranche Warrants were outstanding with a variable exercise price and, accordingly, were excluded from the above table. These warrants were exercised in full in late September 2018 for proceeds of approximately $28.9 million.

11. Share-Based Payment Awards

Equity Incentive Plan

The 2016 Long-Term Incentive Plan (the "2016 Plan"), approved by the Company's stockholders on December 12, 2016 (the "Adoption Date"), provides for the issuance of up to 3,000,000 shares of the Company's Common Stock reserved for issuance under the 2016 Plan plus any additional shares of the Company's Common Stock that were available for grant under the 2008 Incentive Plan (the "2008 Plan") at the Adoption Date or would otherwise become available for grant under the 2008 Plan as a result of subsequent termination or forfeiture of awards under the 2008 Plan. At the Company's Annual Meeting of Stockholders held on June 25, 2019, the Company's stockholders approved an amendment to the 2016 Plan to increase the number of shares authorized for issuance by 11,000,000 shares. At June 30, 2019, a total of 8,923,038 shares were available for new awards.

Certain inducement awards, although not awarded under the 2016 Plan or the 2008 Plan, are subject to and governed by the terms and conditions of the 2016 Plan or 2008 Plan, as applicable.

Stock Options

The following table provides a reconciliation of stock option activity under the Company's equity incentive plans and for inducement awards for the six months ended June 30, 2019:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding at January 1, 2019	8,139,377	$ 2.83		
Granted	4,162,096	2.43		
Exercised	(166,760)	1.84		
Forfeited	(555,474)	2.55		
Expired	(32,100)	2.26		
Outstanding at June 30, 2019	11,547,139	$ 2.72	7.68	$ 89
Exercisable at June 30, 2019	4,398,395	$ 3.18	5.33	$ 9

During the six months ended June 30, 2019, the Company granted 2,892,060 options to employees with ratable monthly vesting over four years, 788,000 options to employees with 25% vesting after one year followed by ratable monthly vesting over three years, 80,000 options to a newly appointed non-executive director with ratable annual vesting over three years, 13,500 options to employees with ratable annual vesting over three years, and 388,536 options to directors and two external consultants with 1-year cliff vesting. All option grants have a 10-year term. Options to purchase a total of 1,212,780 shares of the Company's Common Stock vested during the six months ended June 30, 2019.

In determining the grant date fair value of option awards during the six months ended June 30, 2019, the Company applied the Black-Scholes option pricing model based on the following key assumptions:

Option life (in years)	5.50 - 6.08
Stock volatility	60% - 64%
Risk-free interest rate	1.76% - 2.63%
Expected dividends	0.0%

The following table summarizes information about employee, non-executive director and external consultant stock options for the six months ended June 30, 2019 (in thousands, except per share amount):

	Six Months Ended June 30, 2019
Weighted-average grant date fair value per share	$ 0.96
Total cash received from exercise of stock options	308
Total intrinsic value of stock options exercised	63

Time-Vested Restricted Stock Units

Time-vested restricted stock unit awards ("RSUs") issued to date under the 2016 Plan generally vest on a ratable annual basis over 3 years. The related stock-based compensation expense is recorded over the requisite service period, which is the vesting period. The fair value of all time-vested RSUs is based on the closing share price of the Company's Common Stock on the date of grant.

The following table provides a reconciliation of RSU activity under the 2016 Plan for the six months ended June 30, 2019:

	Number of Restricted Stock Units	Weighted Average Grant Date Fair Value
Nonvested at January 1, 2019	590,213	$ 1.86
Granted	587,761	1.90
Vested	(206,067)	1.79
Forfeited	(102,845)	2.19
Nonvested at June 30, 2019	869,062	$ 1.86

At June 30, 2019, the weighted average remaining vesting term of the RSUs was 1.53 years.

Performance-Based Stock Units

Performance Stock Units ("PSUs") were previously awarded under the 2016 Plan to certain employees. The performance conditions associated with the PSU awards were as follows: (a) for one third of the PSUs, upon an FDA acceptance of the Company's NDA submission of YUTIQ for review on or before March 31, 2018 and (b) for two-thirds of the PSUs, upon an FDA approval of YUTIQ on or before March 31, 2019. For each performance criteria achieved, 50% of the PSUs associated with that performance condition vest at the achievement date and 50% vest on the first anniversary of such date, in each case subject to continued employment through such date. As a result of the achievement of the first performance condition on March 19, 2018, 48,332 PSUs vested at that date and the other 48,334 PSUs became subject only to a service-based condition with a vesting date of March 19, 2019. As a result of the achievement of the second performance condition on October 12, 2018, 96,668 PSUs vested at that date and the other 96,666 PSUs became subject only to a service-based condition with a vesting date of October 12, 2019.

In addition, there were 225,000 outstanding PSUs at June 30, 2019 and December 31, 2018 that were granted as inducement awards to the Company's Chief Financial Officer in connection with his hire at August 1, 2018. The PSUs are subject to proportional vesting based on cumulative measurement over a 3-year period, with two-thirds of the award based upon the achievement of defined amounts of the Company's product revenues through June 30, 2021 and one-third of the award based upon the net present value of each applicable business development transaction, as defined, through August 1, 2021 measured as of the date that each such transaction is consummated by the Company. The performance conditions of the PSUs were not deemed to be probable of occurrence at June 30, 2019 and, accordingly, no stock-based compensation has been recorded for the three and six months ended June 30, 2019. The Company's Chief Financial Officer resigned from his position on July 8, 2019 and as a result, the performance metrics will not be met for vesting.

The following table provides a reconciliation of PSU activity for the six months ended June 30, 2019:

	Number of Performance Stock Units	Weighted Average Grant Date Fair Value
Nonvested at January 1, 2019	370,000	$ 2.01
Vested	(48,334)	1.52
Forfeited	(20,000)	1.77
Nonvested at June 30, 2019	301,666	$ 2.10

The weighted-average remaining vesting term of the outstanding PSUs at June 30, 2019 under the 2016 Plan was approximately 3.4 months.

Deferred Stock Units

There were 417 and 35,418 non-vested deferred stock units ("DSUs") issued and outstanding to the Company's non-executive directors at each of June 30, 2019 and December 31, 2018, respectively. Each DSU vests one year from the date of grant. Subsequent to vesting, the DSUs will be settled in shares of the Company's Common Stock upon the earliest to occur of (i) each director's termination of service on the Company's Board of Directors and (ii) the occurrence of a change of control as defined in the award agreement. At June 30, 2019, there were 70,834 vested DSUs that have not been settled in shares of the Company's Common Stock.

	Number of Deferred Stock Units	Weighted Average Grant Date Fair Value
Nonvested at January 1, 2019	35,418	$ 1.95
Vested	(35,001)	1.95
Nonvested at June 30, 2019	417	$ 2.32

At June 30, 2019, the weighted average remaining vesting term of the DSUs was approximately 2.3 months.

Market-Based Restricted Stock Units

At June 30, 2019 and December 31, 2018, there were 500,000 market-based RSUs ("market-based RSUs") outstanding that were issued on September 15, 2016 as an inducement award to the Company's President and CEO in connection with her hire. Subject to a service condition through September 15, 2019, the number of shares underlying the market-based RSUs that will vest will be based upon the determination of the relative percentile rank of the 3-year change in the closing price of the Company's Common Stock compared to that of the companies that make up the Nasdaq Biotechnology Index over that same 3-year period. The weighted average grant date fair value of the market-based RSUs of $1.45 per share was determined using a Monte Carlo valuation model at the date of grant. Stock-based compensation has been recorded from the grant date on a straight-line basis.

Employee Stock Purchase Plan

On June 25, 2019, the Company's stockholders approved the adoption of the EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan (the "ESPP") and authorized up to 1,100,000 shares of Common Stock reserved for issuance to participating employees. The ESPP allows qualified participants to purchase the Company's Common Stock at 85% of the lesser of the average of the high and low sales price of the Company's Common Stock on (i) the first trading day of the relevant offering period and (ii) the last trading day of the relevant offering period. The first six month offering period under the ESPP will begin on August 1, 2019 and end on January 31, 2020. As of June 30, 2019, no shares of the Company's Common Stock were issued pursuant to the ESPP.

Stock-Based Compensation Expense

The Company's consolidated statements of comprehensive loss included total compensation expense from stock-based payment awards for the three and six months ended June 30, 2019 and 2018, respectively, as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Compensation expense included in:				
Research and development	$ 268	$ 345	$ 664	$ 660
Sales and marketing	179	50	323	50
General and administrative	1,049	579	1,747	707
	$ 1,496	$ 974	$ 2,734	$ 1,417

At June 30, 2019, there was approximately $6.0 million of unrecognized compensation expense related to outstanding equity awards under the 2016 Plan, the 2008 Plan and the inducement awards that is expected to be recognized as expense over a weighted-average period of approximately 1.6 years.

12. Fair Value Measurements

The following tables summarize the Company's assets carried at fair value measured on a recurring basis at June 30, 2019 and December 31, 2018 by valuation hierarchy (in thousands):

	June 30, 2019			
Description	**Total Carrying Value**	**Quoted prices in active markets (Level 1)**	**Significant other observable inputs (Level 2)**	**Significant unobservable inputs (Level 3)**
Assets:				
Cash equivalents	$ 43,202	$ 43,202	$ —	$ —
	$ 43,202	$ 43,202	$ —	$ —

	December 31, 2018			
Description	**Total Carrying Value**	**Quoted prices in active markets (Level 1)**	**Significant other observable inputs (Level 2)**	**Significant unobservable inputs (Level 3)**
Assets:				
Cash equivalents	$ 43,194	$ 43,194	$ —	$ —
	$ 43,194	$ 43,194	$ —	$ —

Financial instruments that potentially subject the Company to concentrations of credit risk have historically consisted principally of cash and cash equivalents. At June 30, 2019 and December 31, 2018, substantially all of the Company's interest-bearing cash equivalent balances were concentrated in one U.S. Government institutional money market fund that has investments consisting primarily of U.S. Government Agency debt, U.S. Treasury Repurchase Agreements and U.S. Government Agency Repurchase Agreements. These deposits may be redeemed upon demand and, therefore, generally have minimal risk. The Company's cash equivalents are classified within Level 1 on the basis of valuations using quoted market prices.

As described in Note 10, the Second Tranche Transaction was determined to be liability classified, which required that the liability be measured at fair value each period with changes in fair value being recorded as a component of net income (loss) in the statement of operations. The purchase price for each share of Common Stock issuable in the Second Tranche Transaction was defined as the lower of (a) $1.265 (which was a 15% premium to the First Tranche Purchase Price) and (b) a 20% discount to the volume weighted average price ("VWAP") of the shares of Common Stock on the Nasdaq Stock Market for the 20 trading days immediately prior to the closing of the Second Tranche Transaction; provided, however, that the purchase price could not be lower than $0.88, which was a 20% discount to the First Tranche Purchase Price.

The Second Tranche Warrants were exercisable any time on or after the closing of the Second Tranche Transaction until on or prior to the close of business on the 15th business day following the date on which the holders of the Second Tranche Warrants received written notice from the Company that CMS had announced that a new C-code had been established for DEXYCU. The exercise price of each Second Tranche Warrant was an amount equal to the lower of (a) $1.43 (a 30% premium to the First Tranche Purchase Price) and (b) a 20% discount to the VWAP of the shares of the Company's Common Stock on Nasdaq for the 20 trading days immediately prior to the exercise of a Second Tranche Warrant; provided, however, that the exercise price could not be lower than $0.88, which was a 20% discount to the First Tranche Purchase Price.

The valuation of the Second Tranche Transaction was determined to be a level 3 valuation because it included unobservable inputs. Changes in the valuation subsequent to the initial valuation were recorded as a component of non-operating expense in the consolidated statement of comprehensive loss. The Second Tranche Transaction liability was valued using a Monte Carlo simulation valuation model. This model incorporated several inputs, including the Common Stock price on the date of valuation, the historical volatility of the price of Common Stock, the risk-free interest rate and management's assessment of the probability and timing of the issuance of the Units occurring. A significant fluctuation in the Company's stock price or the Company's estimate of the number of Units to be issued could result in a material increase or decrease in the fair value of the Second Tranche liability. The Second Tranche Transaction liability was settled upon the closing of the Second Tranche Transaction in June 2018. The Company remeasured the Second Tranche Transaction liability to fair value immediately prior to settlement. This valuation at settlement was calculated as the excess of the sum of (i) the fair value of the Second Tranche Warrants and (ii) the fair value of the shares of Common Stock issued to settle the liability over the cash proceeds received by the Company for the Units. Significant assumptions used to value this liability were as follows:

	March 28, 2018 (Date of Issuance)	June 25, 2018 (Date of Settlement)
Volatility	54.20%	N/A
Risk free interest rate	1.70%	N/A
Estimated date of stockholder approval	June 2018	N/A
Estimated number of units issuable	26,900,000	20,184,224
Valuation date stock price	$ 1.07	$ 1.93

Upon the closing of the Second Tranche Transaction, the Company issued the Second Tranche Warrants, which were determined to be liability classified, which required that the liability be measured at fair value each period with changes in fair value being recorded as a component of non-operating expense in the consolidated statement of comprehensive loss. This valuation was determined to be a level 3 valuation because it included unobservable inputs. The Second Tranche Warrants were valued using a Monte Carlo simulation valuation model. This model incorporated several inputs, including the Common Stock price on the date of valuation, the historical volatility of the price of the Common Stock and the risk-free interest rate. Following written notice of CMS approval to the holders of the Second Tranche Warrants, the Second Tranche Warrants were exercised in September 2018 at a purchase price of $1.43 per share for gross proceeds of $28.9 million. Significant assumptions used to value this liability prior to exercise in September 2018 were as follows:

	June 25, 2018 (Date of issuance)	June 30, 2018
Volatility	81.00%	85.40%
Risk free interest rate	2.10%	2.10%
Term (in years)	0.5	0.5
Dividend rate	0%	0%
Valuation date stock price	$ 2.00	$ 2.08
Probability of issuance	100%	100%

The Additional Advance Warrant Shares were determined to be liability classified (see Note 9), which required that the liability be measured at fair value each period with changes in fair value being recorded as a component of non-operating expense in the condensed consolidated statement of comprehensive loss. The Additional Advance Warrant Shares were recorded as a liability at the SWK Closing Date and were remeasured at fair value at each reporting period until the date of the SWK Additional Advance. The aggregate fair value of the Additional Advance Warrant Shares at the SWK Closing Date was $69,000. The Initial Advance Warrant Shares were recorded as equity on the Company's balance sheet at their relative fair value of $284,000. Upon the closing of the SWK Additional Advance, the Additional Advance Warrant Shares were re-valued at $87,000 and reclassified to equity.

This valuation was determined to be a level 3 valuation because it included unobservable inputs. The Additional Advance Warrant liability was valued using a Monte Carlo simulation valuation model. This model incorporated several inputs including the Company's Common Stock price on the date of valuation, the historical volatility of the price of the Common Stock, the risk-free interest rate and management's assessments of the probability of the Additional Advance being drawn upon. Upon the closing of the Second Tranche Transaction in June 2018, the Additional Advance Warrants no longer met the criteria to be classified as a liability. The Company remeasured the Additional Advance Warrants immediately prior to the close of the Second Tranche Transaction and reclassified the liability balance to equity. Significant assumptions used to value this liability were as follows:

	March 28, 2018 (Date of Issuance)	June 25, 2018 (Date of Reclassification to Equity)
Volatility	55.20%	55.10%
Risk free interest rate	1.70%	2.80%
Term (in years)	7	7
Dividend rate	0%	0%
Valuation date stock price	$ 1.07	$ 1.93
Probability of issuance	80%	100%

The following table sets forth a summary of changes in the fair value of the Company's derivative liability for which fair value was determined by Level 3 inputs (in thousands):

	Second Tranche Liability	Additional Advance Warrant Liability	Second Tranche Warrants	Total
Balance at January 1, 2018	$ —	$ —	$ —	$ —
Initial fair value of derivative liability	4,734	69	18,165	22,968
Change in fair value	24,319	18	1,615	25,952
Reclassification to equity	—	(87)	—	(87)
Settlement	(29,053)	—	—	(29,053)
Balance at June 30, 2018	$ —	$ —	$ 19,780	$ 19,780

Also included in the change in fair value was $326,000 of transaction costs that were expensed in connection with the issuance of the derivative liabilities.

13. Contingencies

Legal Proceedings

The Company is subject to various other routine legal proceedings and claims incidental to its business, which management believes will not have a material effect on the Company's financial position, results of operations or cash flows.

14. Net Loss per Share

Basic net loss per share is computed by dividing the net loss by the weighted average number of common shares outstanding during the period. For periods in which the Company reports net income, diluted net income per share is determined by adding to the basic weighted average number of common shares outstanding the total number of dilutive common equivalent shares using the treasury stock method, unless the effect is anti-dilutive. Potentially dilutive shares were not included in the calculation of diluted net loss per share for each of the three and six months ended June 30, 2019 and 2018, respectively, as their inclusion would be anti-dilutive.

Potential common stock equivalents excluded from the calculation of diluted earnings per share because the effect would have been anti-dilutive were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	**2018**	**2019**	**2018**
Stock options	11,552,639	7,750,244	11,552,639	7,750,244
Warrants	486,812	20,671,036	486,812	20,671,036
Restricted stock units	1,376,364	1,398,129	1,376,364	1,398,129
Performance stock units	301,666	466,668	301,666	466,668
Deferred stock units	417	35,001	417	35,001
	13,717,898	30,321,078	13,717,898	30,321,078

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

Note Regarding Forward-Looking Statements

Various statements made in this Quarterly Report on Form 10-Q are forward-looking and involve risks and uncertainties. All statements that address activities, events or developments that we intend, expect or believe may occur in the future are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements give our current expectations or forecasts of future events and are not statements of historical or current facts. These statements include, among others, statements about:

- the potential advantages of DEXYCU® and YUTIQ® for the treatment of eye diseases;
- our ability to manufacture DEXYCU and YUTIQ, or any future products or product candidates in sufficient quantities and quality;
- our commercialization of DEXYCU and YUTIQ;
- our expectations regarding the timing of a line extension application for approval of our YUTIQ next-generation, shorter-duration treatment for non-infectious posterior segment uveitis;
- our ability to further develop sales and marketing capabilities, whether alone or with potential future collaborators;
- our expectation that existing cash and cash equivalents at June 30, 2019 and cash inflows from anticipated YUTIQ and DEXYCU product sales will be sufficient to fund our operating plan into 2020.
- future expenses and capital expenditures;
- our expectations regarding the timing and design of our clinical development plans;
- our ability to establish or maintain collaborations and obtain milestone, royalty and/or other payments from any such collaborators;
- the ability of Alimera Sciences, Inc., or Alimera, to commercialize ILUVIEN® for the treatment of non-infectious posterior uveitis in Europe, the Middle East and Africa;
- the implication of results from pre-clinical and clinical trials and our other research activities;
- our intentions regarding our research into other uses and applications of our Durasert™ and Verisome® technology platforms;
- our expectations regarding our ability to obtain and adequately maintain sufficient intellectual property protection for DEXYCU, YUTIQ and our other product candidates, and to avoid claims of infringement of third-party intellectual property rights;
- the scope and duration of intellectual property protection; and
- the effect of legal and regulatory developments.

Forward-looking statements also include statements other than statements of current or historical fact, including, without limitation, all statements related to any expectations of revenues, expenses, cash flows, earnings or losses from operations, cash required to maintain current and planned operations, capital or other financial items; any statements of the plans, strategies and objectives of management for future operations; any plans or expectations with respect to product research, development and commercialization, including regulatory approvals; any other statements of expectations, plans, intentions or beliefs; and any statements of assumptions underlying any of the foregoing. We often, although not always, identify forward-looking statements by using words or phrases such as "likely", "expect", "intend", "anticipate", "believe", "estimate", "plan", "project", "forecast" and "outlook".

The following are some of the factors that could cause actual results to differ materially from the anticipated results or other expectations expressed, anticipated or implied in our forward-looking statements: uncertainties with respect to: our ability to achieve profitable operations and access to needed capital; fluctuations in our operating results; our ability to successfully produce sufficient commercial quantities of YUTIQ and DEXYCU and to successfully commercialize YUTIQ and DEXYCU in the U.S.; our ability to sustain and enhance an effective commercial infrastructure and enter into and maintain commercial agreements for the commercialization of YUTIQ and DEXYCU; the regulatory approval and successful release of our YUTIQ line extension shorter-duration treatment for non-infectious uveitis affecting the posterior segment of the eye; potential off-label sales of ILUVIEN for non-infectious uveitis affecting the posterior segment of the eye; consequences of fluocinolone acetonide side effects for YUTIQ; consequences of dexamethasone side effects for DEXYCU; successful commercialization of, and receipt of revenues from, ILUVIEN for diabetic macular edema ("DME"); Alimera's ability to obtain additional marketing approvals and the effect of pricing and reimbursement decisions on sales of ILUVIEN for DME; Alimera's ability to commercialize ILUVIEN for non-infectious uveitis affecting the posterior segment of the eye in

its licensed territory; our ability to market and sell products; the success of current and future license agreements; termination or breach of current license agreements; our dependence on contract research organizations, contract sales organizations, vendors and investigators; effects of competition and other developments affecting sales of products; market acceptance of products; effects of guidelines, recommendations and studies; protection of intellectual property and avoiding intellectual property infringement; retention of key personnel; product liability; industry consolidation; compliance with environmental laws; manufacturing risks; risks and costs of international business operations; volatility of stock price; possible dilution; absence of dividends; and other factors described in our filings with the Securities and Exchange Commission, or the SEC. We cannot guarantee that the results and other expectations expressed, anticipated or implied in any forward-looking statement will be realized. The risks set forth under Item 1A of our Transition Report on Form 10-K for the six months ended December 31, 2018 describe major risks to our business, and you should read and interpret any forward-looking statements together with these risks. A variety of factors, including these risks, could cause our actual results and other expectations to differ materially from the anticipated results or other expectations expressed, anticipated or implied in our forward-looking statements. Should known or unknown risks materialize, or should underlying assumptions prove inaccurate, actual results could differ materially from past results and those anticipated, estimated or projected in the forward-looking statements. You should bear this in mind as you consider any forward-looking statements.

Our forward-looking statements speak only as of the dates on which they are made. We do not undertake any obligation to publicly update or revise our forward-looking statements even if experience or future changes makes it clear that any projected results expressed or implied in such statements will not be realized.

Our Business

Overview

We are a specialty biopharmaceutical company committed to developing and commercializing innovative ophthalmic products for the treatment of eye diseases. We have two products, YUTIQ® and DEXYCU®, which were approved by the United States ("U.S.") Food and Drug Administration ("FDA") in October 2018 and February 2018, respectively. During the six months ended June 30, 2019, we launched both products directly in the U.S.

YUTIQ (fluocinolone acetonide intravitreal implant) 0.18 mg for intravitreal injection, was launched directly in the U.S. in February 2019. YUTIQ is indicated for the treatment of chronic non-infectious uveitis affecting the posterior segment of the eye, which affects between 55,000 to 120,000 people in the U.S. each year and causes approximately 30,000 new cases of blindness every year, making it the third leading cause of blindness. Injected into the eye in an office visit, YUTIQ is a micro-insert that delivers a micro-dose of a corticosteroid to the back of the eye on a sustained constant (zero order release) basis for up to 36 months. YUTIQ is based on our proprietary Durasert™ sustained-release drug delivery technology platform, which can deliver drugs for predetermined periods of time ranging from months to years.

DEXYCU (dexamethasone intraocular suspension) 9%, for intraocular administration, was launched directly in the U.S. in March 2019. Indicated for the treatment of post-operative ocular inflammation, DEXYCU is administered as a single dose at the end of ocular surgery and is the first long-acting intraocular product approved by the FDA for this indication. DEXYCU utilizes our proprietary Verisome® drug-delivery platform, which allows for a single intraocular injection that releases dexamethasone, a corticosteroid, over time. There were approximately 4.8 million cataract surgeries performed during 2018 in the U.S., with growth projected at an estimated annual rate of 8%, and we launched DEXYCU with a primary focus on its use following cataract surgery. We acquired DEXYCU in connection with its acquisition of Icon Bioscience, Inc. ("Icon") in March 2018.

ILUVIEN® for diabetic macular edema ("DME"), our lead licensed product, is sold directly in the U.S. and several European Union ("EU") countries by Alimera Sciences, Inc. ("Alimera"). In July 2017, we expanded our license agreement with Alimera to include the uveitis indication utilizing the Durasert technology in Europe, the Middle East and Africa ("EMEA"), which received European regulatory approval in March 2019 and, subject to obtaining pricing and reimbursement in each applicable country, will be marketed as ILUVIEN. Retisert®, one of our earlier generation products, was approved in 2005 by the FDA for the treatment of chronic non-infectious uveitis affecting the posterior segment of the eye and is sold in the U.S. by Bausch & Lomb Incorporated ("Bausch & Lomb"). Our development programs are focused primarily on developing sustained release products that utilize our Durasert and Verisome technology platforms to deliver approved drugs to treat chronic diseases. Our strategy includes developing products independently while continuing to leverage our technology platforms through collaborations and license agreements.

DEXYCU®, YUTIQ® and Durasert™ are our trademarks. Retisert® is Bausch & Lomb's trademark. ILUVIEN® is Alimera's trademark. Verisome® is Ramscor, Inc.'s trademark. Information with respect to ILUVIEN, including regulatory and marketing information, and Alimera's plans and intentions, reflects information publicly disclosed by Alimera.

Recent Developments

Recent developments and ongoing activities regarding the commercialization of YUTIQ include:

- YUTIQ received a notification from the Centers for Medicare & Medicaid Services (CMS) for a specific J-code, J-7314, through the Healthcare Common Procedure Coding System (HCPCS) which would become effective October 1, 2019.
- Ten Key Account Managers (KAMs) have been engaged, who are dedicated to calling predominantly on uveitis specialists across the U.S.
- Since the February 2019 launch of YUTIQ and as of July 31 2019, approximately 95% of the top decile of uveitis specialists have been visited by the ten KAMs.
- As of July 31, 2019, YUTIQ has been included in more than 20 academic formularies and is pending inclusion for an additional eight.
- As of July 31, 2019, our market access has been well established with 100% of Medicare patients being covered and over 95% of Medicare Advantage and Commercial patients being covered.

Recent developments and ongoing activities regarding the commercialization of DEXYCU include:

- 33 KAMs have been engaged, who are dedicated to the promotion of DEXYCU, and have focused on a phased launch program to ensure proper physician training for the preparation, application and administration of DEXYCU.
- Since the March 2019 launch of DEXYCU and as of July 31, 2019, over 400 surgeons in more than 275 ambulatory surgical centers have completed the training/certification program and are now able to purchase DEXYCU.
- As of July 31, 2019, over 4,200 patients have been injected with DEXYCU, primarily via our sampling program.
- As of July 31, 2019, over 3,000 medical professionals and office staff have been called on to discuss DEXYCU.
- As of July 31, 2019, our market access initiatives have resulted in 100% of Medicare fee for service lives being covered and benefit investigations being approved for over 90% of Medicare Advantage and commercial plan patients.

R&D Highlights

- At the 37th Annual Scientific Meeting of the American Society of Retina Specialists (ASRS) that took place July 26-30, 2019 in Chicago, three podium presentations highlighted data supporting YUTIQ for the treatment of non-infectious posterior segment uveitis. Highlights from each of the presentations include:
  - Results at the 36-month follow up of the Phase 3 trial of YUTIQ demonstrated that visual acuity gains of 3-lines were more common with YUTIQ (33% vs 15%) and losses were more common with sham (9% vs 1%).
  - At 36-months, the recurrence rate in YUTIQ randomized eyes was significantly lower than in sham treated eyes (56.3% vs. 92.9%, respectively; $p<0.001$). The number of eyes with at least 1 recurrence was 49 for YUTIQ and 39 for sham treated eyes, with total recurrences of 103 for YUTIQ and 166 for sham treated eyes. The median time to the first recurrence was 1,051 days for YUTIQ (95% CI 686, 1,125) and 95 days for sham-treated eyes (95% CI 71, 117).
  - Safety data showed 19.5% of YUTIQ treated eyes needed the assistance of adjunctive intraocular/periocular injection medication for uveitic inflammation compared to 69.0% for sham treated eyes .

Critical Accounting Policies and Estimates

The preparation of consolidated financial statements in conformity with GAAP requires that we make certain estimates, judgments and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses. We base our estimates, judgments and assumptions on historical experience, anticipated results and trends, and on various other factors that we believe are reasonable under the circumstances at the time. By their nature, these estimates, judgments and assumptions are subject to an inherent degree of uncertainty. Actual results may differ from our estimates under different assumptions or conditions. In our Transition Report on Form 10-K for the six months ended December 31, 2018, we set forth our critical accounting policies and estimates, which included revenue recognition and recognition of expense in outsourced clinical trial agreements. In the first quarter of 2019, we began selling commercial products and consider reserves for variable consideration related to product sales to be a critical accounting estimate. See Note 2 of the notes to our unaudited condensed consolidated financial statements contained in this quarterly report on Form 10-Q for a description of our accounting policies and estimates for reserves for variable consideration related to product sales.

Results of Operations

Three Months Ended June 30, 2019 Compared to Three Months Ended June 30, 2018:

	Three Months Ended June 30,		Change	
	2019	2018	Amounts	%
	(In thousands except percentages)			
Revenues:				
Product sales, net	$ 6,705	$ —	$ 6,705	na
Collaborative research and development	5	218	(213)	(98)%
Royalty income	500	497	3	1%
Total revenues	7,210	715	6,495	908%
Operating expenses:				
Cost of sales, excluding amortization of acquired intangible assets	706	—	706	na
Research and development	3,955	4,765	(810)	(17)%
Sales and marketing	7,284	1,512	5,772	382%
General and administrative	4,815	4,220	595	14%
Amortization of acquired intangible assets	615	—	615	na
Total operating expenses	17,375	10,497	6,878	66%
Loss from operations	(10,165)	(9,782)	(383)	(4)%
Other income (expense):				
Interest and other income	266	27	239	885%
Interest expense	(1,599)	(720)	(879)	(122)%
Change in fair value of derivative liability	—	(23,953)	23,953	na
Other expense, net	(1,333)	(24,646)	23,313	95%
Net loss	$ (11,498)	$ (34,428)	$ 22,930	67%

Product Sales, net

Product sales, net represents the gross sales of DEXYCU and YUTIQ less provisions for product sales allowances and accruals. We commenced U.S. commercial sales of YUTIQ in February 2019 and net sales totaled $6.7 million for the quarter ended June 30, 2019. We commenced commercial sales of DEXYCU in March 2019 and our 3PL utilized existing inventory to meet demand during the quarter ended June 30,2019. We had no product revenue during the three months ended June 30, 2018. We expect significant increases in product sales by quarter during the remainder of fiscal 2019.

Collaborative Research and Development

Collaborative research and development revenues decreased by 98%, or $213,000 to $5,000 for the three months ended June 30, 2019 compared to $218,000 for the three months ended June 30, 2018. This decrease was attributable primarily to the absence in the current period of $190,000 in revenues recognized from a feasibility study agreement.

Royalty Income

Royalty income increased by $3,000, or 1%, to $500,000 for the three months ended June 30, 2019 compared to $497,000 for the three months ended June 30, 2018. The increase was attributable primarily to a combination of an increase in the net sales-based royalty rate from 2% to 4% and higher ILUVIEN net sales under the Amended Alimera Agreement. This increase in ILUVIEN royalties was offset by recognizing no revenue for Retisert royalty as the licensee, Bausch and Lomb informed us during the quarter that they consider this agreement to have ended due to the expiration of certain patents.

Cost of Sales, Excluding Amortization of Acquired Intangible Assets

Cost of sales, excluding amortization of acquired intangible assets, of approximately $706,000 for the three months ended June 30, 2019 consisted of costs associated with the manufacturing of YUTIQ and DEXYCU, certain period costs and product shipping costs. We expensed manufacturing costs as research and development expenses in the periods prior to FDA approval of the products. In the fourth quarter of 2018, we began capitalizing inventory costs for YUTIQ and DEXYCU manufactured in preparation for our launch in the United States. We had no cost of sales for the three months ended June 30, 2018.

Research and Development

Research and development expenses decreased by $810,000, or 17%, to $4.0 million for the three months ended June 30, 2019 from $4.8 million for the same period in the prior year. This decrease was attributable primarily to (i) $903,000 of contract research organization costs for our YUTIQ Phase 3 clinical development program included in the three months ended June 30 2018 amount that was not incurred in the corresponding period in 2019 and (ii) $615,000 of amortization of the March 2018 acquired Intangible asset from the Icon Acquisition (classified as a separate line item in cost of sales post product launches), partially offset by increases of (i) $329,000 of personnel and related expenses for the build-out of our medical affairs group and expansion of regulatory and quality staffing including offsets for manufacturing related expenses absorbed into our cost of sales and (ii) $449,000 for medical affairs program expenses, including advisory board meetings and pharmacovigilance.

Sales and Marketing

With the commercial launch of DEXYCU and YUTIQ, we continued the build-out of our commercial infrastructure and marketing activities during the second quarter of fiscal 2019. Sales and marketing expense, expenses increased by $5.8 million, or 382%, to $7.3 million for the three months ended June 30, 2019 from $1.5 million for the same period in the prior year. This increase was primarily attributable to (i) $3.1 million related to our contract sales organization which includes 10 YUTIQ and 33 DEXYCU key account managers, (ii) $1.4 million of personnel and related costs and (iii) $1.2 million of marketing program and agency costs

General and Administrative

General and administrative expenses increased by $595,000, or 14%, to $4.8 million for the three months ended June 30, 2019 from $4.2 million for the same period in the prior year. This increase was attributable primarily to (i) a $1.2 million increase in personnel and related expenses related senior management additions in finance, legal, human resources, information technology and business development, including $469,000 of stock-based compensation, partially offset by (i) a $456,000 decrease in legal, audit and other professional fees., and (ii) a $410,000 decrease in consulting services.

Amortization of Acquired Intangible Assets

Amortization of acquired intangible assets totaled $615,000 for the three months ended June 30, 2019. This amount was attributable to the DEXYCU product intangible asset that resulted from the Icon Acquisition (see Note 3). Prior to our product launches, the amortization was classified in Research and development.

Interest (Expense) Income

Interest expense totaled $1.6 million for the three months ended June 30, 2019, which included $130,000 of amortization of debt discount and $294,000 of non-cash payment-in-kind interest expense all related to the CRG Debt. Interest expense in the three months ended June 30, 2018 was $720,000 related to the SWK Loan.

Interest income from amounts invested in an institutional money market fund increased to $266,000 for the three months ended June 30, 2019 compared to $27,000 in the prior year quarter, due primarily to significantly higher interest-bearing assets and higher money market interest rates.

Change in Fair Value of Derivative Liability

The future obligation to issue Units in the Second Tranche Transaction was measured at fair value and recorded as a derivative liability on our balance sheet upon consummation of the First Tranche Transaction on March 28, 2018, subject to remeasurement at each balance sheet date. At June 30, 2018, the fair value re-measurement resulted in a $24.0 million change in fair value of derivative liability that was recorded as a component of non-operating expense for the three months ended June 30, 2018.

Six Months Ended June 30, 2019 Compared to Six Months Ended June 30, 2018:

	Six Months Ended June 30,		Change	
	2019	2018	Amounts	%
	(In thousands except percentages)			
Revenues:				
Product sales, net	$ 7,932	$ —	$ 7,932	na
Collaborative research and development	70	742	(672)	(91)%
Royalty income	1,220	901	319	35%
Total revenues	9,222	1,643	7,579	461%
Operating expenses:				
Cost of sales, excluding amortization of acquired intangible assets	1,035	—	1,035	na
Research and development	7,753	8,090	(337)	(4)%
Sales and marketing	14,595	1,512	13,083	865%
General and administrative	9,425	6,501	2,924	45%
Amortization of acquired intangible assets	1,230	—	1,230	na
Total operating expenses	34,038	16,103	17,935	111%
Loss from operations	(24,816)	(14,460)	(10,356)	(72)%
Other income (expense):				
Interest and other income	509	52	457	879%
Interest expense	(2,619)	(720)	(1,899)	(264)%
Loss on extinguishment of debt	(3,810)	—	(3,810)	na
Change in fair value of derivative liability	—	(26,278)	26,278	na
Other expense, net	(5,920)	(26,946)	21,026	78%
Net loss	$ (30,736)	$ (41,406)	$ 10,670	26%

Product Sales, net

Product sales, net represents the gross sales of DEXYCU and YUTIQ less provisions for product sales allowances and accruals. We commenced U.S. commercial sales of YUTIQ in February 2019 and net sales totaled $7.2 million for the six months ended June 30, 2019. We commenced commercial sales of DEXYCU in March 2019. Our 3PL utilized this existing inventory to meet demand during the quarter ended June 30,2019. We had no product revenue during the six months ended June 30, 2018. We expect significant increases in product sales by quarter during the remainder of fiscal 2019.

Collaborative Research and Development

Collaborative research and development revenues decreased by 91%, or $672,000 to $70,000 for the six months ended June 30, 2019 compared to $742,000 for the six months ended June 30, 2018. This decrease was attributable primarily to the absence in the current period of $655,000 in revenues recognized from a feasibility study agreement.

Royalty Income

Royalty income increased by $319,000, or 35%, to $1.2 million for the six months ended June 30, 2019 compared to $901,000 for the six months ended June 30, 2018. The increase was attributable primarily to a combination of an increase in the net sales-based royalty rate from 2% to 4% and higher ILUVIEN net sales under the Amended Alimera Agreement. This increase in ILUVIEN royalties was partially offset by recognizing no revenue as the licensee, Bausch and Lomb informed us during the second quarter that they consider this agreement to have ended due to the expiration of certain patents.

Cost of Sales, Excluding Amortization of Acquired Intangible Assets

Cost of sales, excluding amortization of acquired intangible assets, of approximately $1.0 million for the six months ended June 30, 2019 consisted of costs associated with the manufacturing of YUTIQ and DEXYCU, certain period costs, accrued royalty expense on DEXYCU net sales payable to the former Icon security holders and product shipping costs. We expensed manufacturing costs as research and development expenses in the periods prior to FDA approval of the products. In the fourth quarter of 2018, we began capitalizing inventory costs for YUTIQ and DEXYCU manufactured in preparation for our launch in the United States. We had no cost of sales for the six months ended June 30, 2018.

Research and Development

Research and development expenses decreased by $338,000, or 4%, to $7.8 million for the six months ended June 30, 2019 from $8.1 million for the same period in the prior year. This decrease was attributable primarily to (i) $1.5 million of contract research organization costs for our YUTIQ Phase 3 clinical development program and (ii) $615,000 of amortization of the acquired Intangible asset from the Icon Acquisition (classified as a separate line item post product launches), partially offset by increases of (i) $1.2 million of personnel and related expenses for the build-out of our medical affairs group and expansion of regulatory and quality staffing including offsets for manufacturing related expenses absorbed into our cost of sales and (ii) $712,000 for medical affairs program expenses, including advisory board meetings and pharmacovigilance.

Sales and Marketing

With the commercial launch of DEXYCU and YUTIQ, we continued the build-out of our commercial infrastructure and marketing activities during the six months ended June 30, 2019. Sales and marketing expenses increased by $13.1 million, or 865%, to $14.6 million for the six months ended June 30, 2019 from $1.5 million for the same period in the prior year. This increase was primarily attributable to (i) $6.1 million related to our contract sales organization which includes 10 YUTIQ and 33 DEXYCU key account managers, (ii) $2.8 million of personnel and related costs and (iii) $3.2 million of marketing program and agency costs

General and Administrative

General and administrative expenses increased by $2.9 million, or 45%, to $9.4 million for the six months ended June 30, 2019 from $6.5 million for the same period in the prior year. This increase was attributable primarily to (i) a $2.5 million increase in personnel and related expenses related to senior management additions in finance, legal, human resources, information technology and business development, including $1.0 million of stock-based compensation, partially offset by a $238,000 decrease in legal, audit and other professional fees.

Amortization of Acquired Intangible Assets

Amortization of acquired intangible assets totaled $1.2 million for the six months ended June 30, 2019. This amount was attributable to the DEXYCU product intangible asset that resulted from the Icon Acquisition (see Note 3). Prior to our product launches, the amortization was classified in Research and development.

Interest (Expense) Income

Interest expense totaled $2.6 million for the six months ended June 30, 2019, which included $185,000 of amortization of debt discount and $406,000 of non-cash payment-in-kind interest expense related to the CRG Debt. Interest expense in the six months ended June 30, 2018 was $720,000 related to the SWK Loan.

Interest income from amounts invested in an institutional money market fund increased to $509,000 for the six months ended June 30, 2019 compared to $52,000 in the prior year quarter, due primarily to significantly higher interest-bearing assets and higher money market interest rates.

Loss on Extinguishment of Debt

Repayment of the SWK Loan in February 2019 resulted in a $3.8 million loss on extinguishment of debt, which consisted of (i) a $2.3 million write-off of the remaining balance of unamortized debt discount; (ii) a $1.2 million prepayment penalty; and (iii) a $306,000 make-whole interest payment covering the period from the date of the loan repayment to what would have been the first anniversary of the original loan closing date, or March 28, 2019.

Change in Fair Value of Derivative Liability

The future obligation to issue Units in the Second Tranche Transaction was measured at fair value and recorded as a derivative liability on our balance sheet upon consummation of the First Tranche Transaction on March 28, 2018, subject to remeasurement at each balance sheet date. At June 30, 2018, the fair value re-measurement resulted in a $26.3 million change in fair value of derivative liability that was recorded as a component of non-operating expense for the six months ended June 30, 2018.

Liquidity and Capital Resources

We have had a history of operating losses and an absence of significant recurring cash inflows from revenue, and at June 30, 2019 we had a total accumulated deficit of $439.2 million. Our operations have been financed primarily from sales of our equity securities, issuance of debt and a combination of royalty income and other fees received from collaboration partners.

Financing Activities

Our total cash and cash equivalents were $44.2 million at June 30, 2019. During the six months ended June 30, 2019 we refinanced our then existing $20.0 million term loan with SWK Funding LLC (“SWK Loan”) and made an initial draw of $35.0 million from a new term loan agreement (the “CRG Loan Agreement”) with CRG Servicing LLC (“CRG”) (see Note 9), resulting in incremental net proceeds of approximately $11.4 million. In addition, we received net proceeds of $18.3 million from the issuance of 10,526,500 shares of our common stock (“Common Stock”) (see Note 10). We also exercised an option to draw an additional $15.0 million under the CRG Loan Agreement and paid a $15.0 million development milestone that was due to the former Icon security holders following the first commercial sale of DEXYCU.

Pursuant to the terms of the CRG Loan Agreement, subject to achieving product net revenue from YUTIQ and DEXYCU of at least $25.0 million during any three-month period ending on or before March 31, 2020, we are entitled to borrow up to an additional $10.0 million.

The CRG Loan is due and payable on December 31, 2023 (the “Maturity Date”). The CRG Loan bears interest at a per annum rate (subject to increase during an event of default) equal to 12.5%, of which 2.5% may be paid in-kind at the election of the Company, so long as no default or event of default under the CRG Loan Agreement has occurred and is continuing. The Company is required to make interest only payments on a quarterly basis until the Maturity Date. The Company will also be required to pay an exit fee equal to 6% of the aggregate principal amounts advanced (including any paid-in-kind amounts) under the CRG Loan Agreement.

Subject to certain exceptions, we are required to make mandatory prepayments of the CRG Loan with the proceeds of assets sales and in the event of a change of control of our Company. In addition, we may make a voluntary prepayment of the CRG Loan, in whole or in part, at any time. All mandatory and voluntary prepayments of the CRG Loan are subject to the payment of prepayment premiums as follows: (i) if prepayment occurs on or prior to December 31, 2019, an amount equal to 10% of the aggregate outstanding principal amount of the CRG Loan being prepaid, (ii) if prepayment occurs after December 31, 2019 and on or prior to December 31, 2020, 5% of the aggregate outstanding principal amount of the CRG Loan being prepaid and (iii) if prepayment occurs after December 31, 2020 and on or prior to December 31, 2021, an amount equal to 3% of the aggregate outstanding principal amount of the CRG Loan being prepaid. No prepayment premium is due on any principal prepaid after December 31, 2021.

Certain of the Company's existing and future subsidiaries, including the Guarantors, are guaranteeing the obligations of us under the CRG Loan Agreement. Our obligations under the CRG Loan Agreement and the guarantee of such obligations are secured by a pledge of substantially all of our and the Guarantors' assets.

The CRG Loan Agreement contains affirmative and negative covenants customary for financings of this type, including limitations on our and our subsidiaries' abilities, among other things, to incur additional debt, grant or permit additional liens, make investments and acquisitions, merge or consolidate with others, dispose of assets, pay dividends and distributions and enter into affiliate transactions, in each case, subject to certain exceptions. In addition, the CRG Loan Agreement contains the following financial covenants requiring us and the Guarantors to maintain:

- liquidity in an amount which shall exceed the greater of (i) $5 million and (ii) to the extent we have incurred certain permitted debt, the minimum cash balance, if any, required of the Company by the creditors of such permitted debt; and
- annual minimum product revenue from YUTIQ and DEXYCU: (i) for the twelve-month period beginning on January 1, 2019 and ending on December 31, 2019, of at least $15 million, (ii) for the twelve-month period beginning on January 1, 2020 and ending on December 31, 2020, of at least $45 million, (iii) for the twelve-month period beginning on January 1, 2021 and ending on December 31, 2021, of at least $80 million and (iv) for the twelve-month period beginning on January 1, 2022 and ending on December 31, 2022, of at least $90 million.

Future Funding Requirements

In the first quarter of 2019, the Company commenced the U.S. launch of its first two commercial products, YUTIQ and DEXYCU. Overall, the commercial launch of YUTIQ and DEXYCU has been encouraging, with demand for YUTIQ exceeding the Company's expectations. Interest in DEXYCU remains strong within the physician groups that have received training and are now authorized to order DEXYCU from their wholesalers, and DEXYCU sales within these groups increased during the second quarter of 2019. However, overall DEXYCU sales have been slower than anticipated due in part to ambulatory surgical center office managements generally adopting a cautious approach to the reimbursement process, as reimbursement for other surgical drugs has been inconsistent in the past. Even though the DEXYCU "J" code should enable a more straightforward and consistent reimbursement process, particularly when patients are covered by commercial and Medicare Advantage plans, many ambulatory surgical centers nevertheless are waiting to ensure reimbursement of DEXYCU across multiple insurers before ordering the product in significant volume. Additionally, physicians have been utilizing the Company's non-revenue sample program to facilitate their training. These factors have contributed to a reduced anticipated cash flow from the early launch of DEXYCU. We expect that the Company's existing cash and cash equivalents at June 30, 2019 and cash inflows from anticipated YUTIQ and DEXYCU product sales, will be sufficient to fund our operating plan into 2020.

Actual cash requirements may differ from projections and will depend on many factors, including, but not limited to:

- the success of our U.S. direct commercialization of DEXYCU for the treatment of postoperative ocular inflammation including, among other things, patient and physician acceptance of DEXYCU and our ability to obtain adequate coverage and reimbursement for DEXYCU;
- the success of our U.S. direct commercialization of YUTIQ for the treatment of non-infectious uveitis affecting the posterior segment of the eye including, among other things, patient and physician acceptance of YUTIQ and our ability to obtain adequate coverage and reimbursement for YUTIQ;
- the cost of commercialization activities for DEXYCU and YUTIQ, including product manufacturing, marketing, sales and distribution;
- whether and to what extent we internally fund, whether and when we initiate, and how we conduct other product development programs;
- payments we receive under any new collaboration agreements;
- whether and when we are able to enter into strategic arrangements for our products or product candidates and the nature of those arrangements;
- whether and when we acquire new technologies, products or businesses;
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing any patent claims; and
- continued real world efficacy and safety results in line with or better than our products labels.
- changes in our operating plan, resulting in increases or decreases in our need for capital.

The Company, however, has no history of direct commercialization of its products and management does not yet have sufficient historical evidence to assert that it is probable that the Company will receive sufficient revenues from its sales of YUTIQ and DEXYCU to fund operations. Actual cash requirements could differ from management's projections due to many factors, including the success of commercialization for YUTIQ and DEXYCU, the actual costs of these commercialization efforts, additional investments in research and development programs, competing technological and market developments and the costs of any strategic acquisitions and/or development of complementary business opportunities. Accordingly, the foregoing conditions, taken together, continue to raise substantial doubt about the Company's ability to continue as a going concern for one year from the issuance of these financial statements.

We do not know whether additional capital will be available if and when needed or on terms favorable to us or our stockholders. Collaboration, licensing or other agreements may not be available on favorable terms, or at all. We do not know the extent to which we will receive funds from the commercialization of YUTIQ or DEXYCU. If we seek to sell our equity securities under our ATM program or in another offering, we do not know whether and to what extent we will be able to do so, or on what terms. If available, additional equity financing may be dilutive to stockholders, debt financing may involve restrictive covenants or other unfavorable terms and dilute our existing stockholders' equity, and funding through collaboration, licensing or other commercial agreements may be on unfavorable terms, including requiring us to relinquish rights to certain of our technologies or products. If adequate financing is not available if and when needed, we may delay, reduce the scope of, or eliminate research or development programs, independent commercialization of YUTIQ and DEXYCU, or other new products, if any, postpone or cancel the pursuit of product candidates, including pre-clinical and clinical trials and new business opportunities, reduce staff and operating costs, or otherwise significantly curtail our operations to reduce our cash requirements and extend our capital. Additionally, we may never become profitable, or if we do, we may not be able to sustain profitability on a recurring basis.

Our consolidated statements of historical cash flows are summarized as follows (in thousands):

	Six Months Ended June 30,		
	2019	**2018**	**Change**
Net loss:			
Changes in operating assets and liabilities	(8,233)	1,902	(10,135)
Other adjustments to reconcile net loss to cash flows from operating activities	(22,208)	(12,803)	(9,405)
Net cash used in operating activities	(30,441)	(10,901)	(19,540)
Net cash used in investing activities	(207)	(16,824)	16,617
Net cash provided by financing activities	29,548	53,627	(24,079)

Operating cash outflows for the six months ended June 30, 2019 totaled $30.4 million, primarily due to our net loss of $30.7 million, reduced by $8.4 million of non-cash expenses, which included a $3.8 million loss on extinguishment of our SWK Loan, $2.7 million of stock-based compensation, $1.2 million of amortization of the DEXYCU finite-lived intangible asset, and $676,000 of non-cash interest and amortization of debt discount.

Operating cash outflows for the six months ended June 30, 2018 totaled $10.9 million, primarily due to our net loss of $41.4 million, reduced by $28.6 million of non-cash expenses, which included a $26.3 million change in fair value of derivative liability and $1.4 million of stock-based compensation

Net cash used in investing activities for the six months ended June 30, 2019 consisted of $207,000 of purchases of property and equipment. Net cash used in investing activities for the six months ended June 30, 2018 consisted of a $14.9 million closing payment for the Icon Acquisition plus $1.9 million of transaction costs paid, net of $38,000 of cash acquired.

Net cash provided by financing activities for the six months ended June 30, 2019 totaled $29.5 million and consisted of the following:

(i) $34.1 million of net proceeds from the initial drawdown under the CRG Loan Agreement, net of debt issue costs; and
(ii) $18.3 million of net proceeds from the issuance of 10,526,500 shares of our common stock ("Common Stock"); and
(iii) $15.0 million of net proceeds from our second drawdown under the CRG Loan Agreement offset by payment of a $15.0 million development milestone that was due to the former Icon security holders following the first commercial sale of DEXYCU.; and
(iv) $308,000 of proceeds from the exercise of stock options; partially offset by
(v) $22.7 million repayment of the SWK Loan, which included principal of $20.0 million, a $1.2 million prepayment penalty, a $1.2 million exit fee and $306,000 of make whole interest.

Net cash provided by financing activities for the six months ended June 30, 2018 totaled $53.6 million and consisted of the following:

(i) $34.5 million of net proceeds received from the sale of 8,606,324 shares of common stock in the First Tranche Transaction and the sale of 20,184,224 Units in the Second Tranche Transaction, in connection with the Icon Acquisition; and
(ii) $18.7 million of net proceeds from the initial and second drawdowns under SWK Loan, net of issue costs; and
(iii) $503,000 of proceeds from the exercise of stock options

Off-Balance Sheet Arrangements

We had no off-balance sheet arrangements as of June 30, 2019 that have, or are reasonably likely to have, a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that would be material to investors.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

We are exposed to various market risks, which may result in potential losses arising from adverse changes in market rates, such as interest rates. We do not enter into derivatives or other financial instruments for trading or speculative purposes and do not believe we are exposed to material market risk with respect to our cash and cash equivalents.

As of June 30, 2019, we had cash and cash equivalents of $44.2 million. We do not engage in any hedging activities against changes in interest rates. Because of the short-term maturities of our cash and cash equivalents, we do not believe that an immediate 10% increase in interest rates would have a significant impact on the realized value of our investments.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our principal executive officer and principal financial officer, evaluated the effectiveness of our disclosure controls and procedures as of June 30, 2019. The term “disclosure controls and procedures”, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure, particularly during the period in which this Quarterly Report on Form 10-Q was being prepared. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their desired objectives, and our management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on the evaluation of our disclosure controls and procedures as of June 30, 2019, our principal executive officer and principal financial officer concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

During the quarter ended June 30, 2019, there have been no changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II: OTHER INFORMATION

Item 1A.Risk Factors

There have been no material changes to the risk factors previously disclosed in Part I, “Item 1A, Risk Factors” of our Transition Report on Form 10-K for the six months ended December 31, 2018, which was filed with the SEC on March 18, 2019.

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

None

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

None.

Item 5. Other Information

On August 5, 2019, we appointed Nancy Lurker, our President and Chief Executive Officer, as our principal financial officer and principal accounting officer, effective August 10, 2019.

Ms. Lurker, age 61, has been our President and Chief Executive Officer since September 2016. From 2008 to 2015, Ms. Lurker served as President and Chief Executive Officer and a director of PDI, Inc., a Nasdaq-listed healthcare commercialization company now named Interpace Diagnostics Group, Inc. From 2006 to 2007, Ms. Lurker was Senior Vice President and Chief Marketing Officer of Novartis Pharmaceuticals Corporation, the U.S. subsidiary of Novartis AG. From 2003 to 2006, she served as President and Chief Executive Officer of ImpactRx, Inc., a privately held healthcare information company. From 1998 to 2003, Ms. Lurker served as Group Vice President, Global Primary Care Products and Vice President, General Therapeutics for Pharmacia Corporation (Pharmacia), now a part of Pfizer, Inc. She also served as a member of Pharmacia’s U.S. executive management committee. Previously, Ms. Lurker spent 14 years at Bristol-Myers Squibb Company, rising from a sales representative to Senior Director, Worldwide Cardiovascular Franchise Management. Since April 2018, Ms. Lurker has served as a member of the board of directors of Aquestive Therapeutics, a Nasdaq-listed company. Ms. Lurker also serves as chair of the board of directors of X4 Pharmaceuticals, Inc. and as a member of the board of directors of the Cancer Treatment Centers of America, both privately held companies. Ms. Lurker previously served as a member of the boards of directors of publicly held Auxilium Pharmaceuticals, Inc. from 2011 to 2015 and Mallinckrodt Pharmaceuticals, plc from 2013 to 2016, in addition to serving as a director of PDI, Inc. from 2008 to 2015. Ms. Lurker received a B.S. in Biology from Seattle Pacific University and an M.B.A. from the University of Evansville.

No new compensatory arrangements will be entered into with Ms. Lurker in connection with her appointment as our principal financial officer and principal accounting officer.

Ms. Lurker was not appointed as our principal financial officer and principal accounting officer pursuant to any arrangement or understanding with any other person. Ms. Lurker does not have any family relationships with any of our executive officers or directors and she is not a party to any transaction required to be disclosed pursuant to Item 404(a) of Regulation S-K.

Item 6. Exhibits

Exhibit No.	Exhibit Description	Incorporated by Reference to SEC Filing		
		Form	SEC Filing Date	Exhibit No.
1.1	Underwriting Agreement, dated March 28, 2019, by and between EyePoint Pharmaceuticals, Inc. and Guggenheim Securities, LLC	8-K	04/01/19	1.1
3.1	Certificate of Incorporation of pSivida Corp.	8-K12G3	06/19/08	3.1
3.2	Certificate of Amendment of the Certificate of Incorporation of pSivida Corp.	10-K	09/13/17	3.2
3.3	Certificate of Amendment of the Certificate of Incorporation of pSivida Corp.	8-K	04/02/18	3.1
3.4	Certificate of Amendment of Certificate of Incorporation, as amended, of EyePoint Pharmaceuticals, Inc.	8-K	06/27/18	3.1
3.5	By-Laws of EyePoint Pharmaceuticals, Inc.	10-K	09/18/18	3.5
3.6	Amendment No. 1 to the By-Laws of EyePoint Pharmaceuticals, Inc.	8-K	11/06/18	3.1
4.1	Form of Specimen Stock Certificate for Common Stock	8-K12G3	06/19/08	4.1
4.2	Warrant to Purchase Common Stock of pSivida Corp., issued March 28, 2018, to SWK Funding, LLC	8-K	3/29/18	4.1
4.3	Registration Rights Agreement, dated as of March 28, 2018, by and among pSivida Corp. and EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P.	8-K	3/29/18	10.3
4.4	Second Registration Rights Agreement, dated as of June 25, 2018, by and among EyePoint Pharmaceuticals, Inc. and EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P. and each other person identified on the signature pages thereto	8-K	06/27/18	10.1
10.1	EyePoint Pharmaceuticals, Inc. 2016 Long Term Incentive Plan	8-K	06/28/19	10.1
10.2	Amendment No. 1 to EyePoint Pharmaceuticals, Inc. 2016 Long Term Incentive Plan	8-K	06/28/19	10.2
10.3	EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan	8-K	06/28/19	10.3
10.4*	Employment Agreement between EyePoint Pharmaceuticals, Inc. and Scott Jones, dated May 30, 2019			
10.5*	Form of Indemnification Agreement between EyePoint Pharmaceuticals, Inc. and its officers and directors			
31.1*	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002			
31.2*	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002			

32.1**	Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2**	Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101	The following materials from EyePoint Pharmaceuticals' Quarterly Report on Form 10-Q for the quarter ended June 30, 2019, formatted in eXtensible Business Reporting Language (XBRL): (i) Condensed Consolidated Balance Sheets; (ii) Condensed Consolidated Statements of Comprehensive Loss; (iii) Condensed Consolidated Statements of Stockholders' Equity; (iv) Condensed Consolidated Statements of Cash Flows; and (v) Notes to Condensed Consolidated Financial Statements.

* Filed herewith

** Furnished herewith

SIGNATURES

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

EyePoint Pharmaceuticals, Inc.

Date: August 7, 2019

By: /s/ Nancy Lurker
Name: Nancy Lurker
Title: President and Chief Executive Officer

EMPLOYMENT AGREEMENT

This Employment Agreement (hereinafter the "Agreement") is made as of May 30, 2019, by and between **Scott Jones**, who currently resides at xxx ("Employee") and **EyePoint Pharmaceuticals, Inc.** (formerly pSivida, Inc. and hereinafter together with its parent, subsidiary, and related or affiliated entities referred to as the "Company"), having its headquarters at 480 Pleasant Street, Suite A210, Watertown, Massachusetts 02472 (collectively the "Parties").

Recitals

WHEREAS, the Employee desires to be employed by and the Company desires to employ Employee as its Chief Commercial Officer; and

WHEREAS, the Company and Employee desire to set forth the terms and conditions under which the Company agrees to employ Employee and Employee agrees to be employed by the Company;

Agreement

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Company and the Employee hereby agree as follows:

1. Position and Duties.

(a) Employee will commence employment on June 10, 2019 or such other date as the Company and Employee may agree (the "Start Date") on a full-time basis, as the SVP & Chief Commercial Officer, reporting to the President and Chief Executive Officer ("CEO") of the Company. This is an exempt position. During Employee's employment, Employee may be asked from time to time to serve as a director or officer of one or more of the Company's subsidiaries, in each case, without further compensation. If Employee's employment with the Company terminates for any reason, then concurrently with such termination, Employee will be deemed to have resigned from any director, officer, trustee, or other positions Employee may hold with the Company, the Company's subsidiaries, or any of their respective related committees, trusts, or other similar entities, in each case unless otherwise agreed in writing by the Company and Employee.

(b) Employee agrees to perform the duties of Employee's position and such other duties as may reasonably be assigned to Employee consistent therewith from time to time. Employee also agrees that, while employed by the Company, Employee will devote Employee's full business time and best efforts, business judgment, skill and knowledge exclusively to the advancement of the business interests of the Company and to the discharge of all assigned duties and responsibilities for them.

(c) Employee agrees that, while employed by the Company, Employee will comply with all Company policies, practices and procedures and all codes of ethics or business conduct applicable to Employee's position, as in effect from time to time.

2. Compensation and Benefits. During Employee's employment, as compensation for all services performed by Employee for the Company and its subsidiaries and subject to Employee's full performance of Employee's obligations hereunder, the Company will provide Employee the following pay and benefits:

(a) Base Salary. The Company will pay Employee a base salary at the rate of $350,000 per year, payable in accordance with the regular payroll practices of the Company (as may be adjusted, from time to time, the "Base Salary").

(b) Bonus Compensation. For each fiscal year completed during Employee's employment under this Agreement, Employee will be eligible for an annual cash bonus. Employee's target bonus will be 40% of the Base Salary (the "Target Bonus"), with the actual amount of any such bonus being determined by the Board of Directors of the Company (the "Board") in its sole discretion, based on Employee's performance and that of the Company against goals established by the Board and consistent with any applicable plan or program documents and generally applicable Company policies. Employee's bonus eligibility for calendar year 2019 will be subject to proration for the partial year of Employee's employment by the Company during 2019. Except as otherwise expressly provided in Section 4 hereof, Employee must be employed through the date a bonus is paid in order to earn the bonus. If Employee's employment terminates, for any reason, prior to payout of the bonus, the bonus is not earned.

(c) Participation in Employee Benefit Plans. Employee will be entitled to participate in all employee benefit plans from time to time in effect for employees of the Company generally, except to the extent such plans are duplicative of benefits otherwise provided Employee under this Agreement (e.g., a severance pay plan). Employee's participation will be subject to the terms of the applicable plan documents and generally applicable Company policies, as the same may be in effect from time to time, and any other restrictions or limitations imposed by law.

(d) Vacations. Employee will be entitled to four (4) weeks of vacation per year, in addition to holidays observed by the Company. Vacation will accrue monthly on a pro-rated basis. Vacation may be taken at such times and intervals as Employee shall determine, subject to the business needs of the Company. Vacation shall otherwise be subject to the policies of the Company, as in effect from time to time.

(e) Business Expenses. The Company will pay or reimburse Employee for all reasonable business expenses incurred or paid by Employee in the performance of Employee's duties and responsibilities for the Company, subject to any maximum annual limit and other restrictions on such expenses set by the Company and to such reasonable substantiation and documentation as may be specified from time to time. Employee's right to payment or reimbursement for business expenses hereunder shall be subject to the following additional rules: (i) the amount of expenses eligible for payment or reimbursement during any calendar year shall not affect the expenses eligible for payment or reimbursement in any other calendar year, (ii) payment or reimbursement shall be made not later than December 31 of the calendar year following the calendar year in which the expense or payment was incurred, and (iii) the right to payment or reimbursement is not subject to liquidation or exchange for any other benefit.

3. Termination of Employment. Employee's employment under this Agreement shall continue until terminated pursuant to this Section 3.

(a) By the Company for Cause. The Company may terminate Employee's employment for Cause upon notice to Employee setting forth in reasonable detail the nature of the Cause. The following, as determined by the Board in its reasonable, good faith judgment, shall constitute "Cause" for termination: (i) material or willful failure to perform duties reasonably expected and/or requested of Employee (other than by reason of disability) if not cured within 30 days of written notice of such failure; (ii) material breach of this Agreement or any other agreement between Employee and the Company, including but not limited to any Confidential Information, Non-Disclosure, Non-Solicitation, Non-Compete, and Rights to Intellectual Property Agreement if not cured within 30 days of written notice of such breach; (iii) commission of, or plea of nolo contendere to, a felony or other crime involving moral turpitude; (iv) commission of fraudulent or illegal act in commission of Employee's duties or otherwise with respect to the Company; (v) failure to adhere to moral and ethical business principles consistent with the Company's Code of Business Conduct and/or policies in effect from time to time; (vi) engaging in an act or series of acts constituting misconduct resulting in a misstatement of the Company's financial statements due to material non-compliance with any financial reporting requirement within the meaning of Section 304 of the Sarbanes-Oxley Act of 2002; or (vii) other conduct that is or could reasonably be expected to be harmful to the interests or reputation of the Company.

(b) By the Company Without Cause. The Company may terminate Employee's employment at any time other than for Cause upon thirty (30) days' notice to employee.

(c) By Employee for Good Cause. Employee may terminate Employee's employment for Good Cause by (A) providing notice to the Company specifying in reasonable detail the condition giving rise to the Good Cause no later than the thirtieth (30th) day following Employee's first becoming aware of such event or condition; (B) providing the Company a period of (30) days to remedy the event or condition; and (C) written notice terminating Employee's employment for Good Cause within fifteen (15) days following the expiration of the period to remedy if the Company fails to remedy the condition. The following, if occurring without Employee's consent, shall constitute "Good Cause" for termination by Employee: (i) a material diminution in the nature or scope of Employee's position, duties, or authority (other than temporarily while Employee is physically or mentally incapacitated to such a degree that Employee would be eligible for disability benefits under the Company's disability income plan or as required by applicable law); (ii) a material reduction in the Base Salary or the Target Bonus percentage; or (iii) a material breach by the Company of this Agreement.

(d) By Employee Without Good Cause. Employee may terminate Employee's employment at any time without Good Cause upon thirty (30) days' notice to the Company. The Board may elect to waive such notice period or any portion thereof; but in that event, the Company shall pay Employee the Base Salary for that portion of the notice period so waived.

(e) Death and Disability. Employee's employment hereunder shall automatically terminate in the event of Employee's death during employment. In the event Employee becomes disabled during employment and, as a result, is unable to continue to perform substantially all of Employee's duties and responsibilities under this Agreement, either with or without reasonable accommodation, the Company will continue to pay Employee the Base Salary and to provide Employee benefits in accordance with Section 2(c) above, to the extent permitted by plan terms, for up to twelve (12) weeks of disability during any period of three hundred sixty-five (365) consecutive calendar days.

4. Other Matters Related to Termination.

(a) Final Compensation. In the event of termination of Employee's employment with the Company, howsoever occurring, the Company shall pay Employee (i) the Base Salary for the final payroll period of Employee's employment, pro-rated through the date that Employee's employment terminates; (ii) compensation at the rate of the Base Salary for any accrued, unused vacation time; and (iii) reimbursement, in accordance with Section 2(e) hereof, for business expenses incurred by Employee but not yet paid to Employee as of the date Employee's employment terminates; provided Employee submits all expenses and supporting documentation required within sixty (60) days of the date Employee's employment terminates, and provided further that such expenses are reimbursable under Company policies as then in effect (all of the foregoing, "Final Compensation"). Except as otherwise provided in Section 5(a)(iii), Final Compensation will be paid to Employee within thirty (30) days following the date of termination (or such shorter period required by law).

(b) Severance Payments. In the event of any termination of Employee's employment pursuant to Section 3(b) or Section 3(c) above, the Company will pay Employee, in addition to Final Compensation, (i) the Base Salary for the period of twelve (12) months from the date of termination, provided, however, that if such termination occurs within twelve (12) months following the Start Date (a "Year One Termination"), the Company will instead pay Employee, in addition to Final Compensation, the Base Salary for the period of six (6) months from the date of termination; (ii) one times the Target Bonus, or 0.5 times the Target Bonus in the event of a Year One Termination, in either case, payable in equal installments during the period of Base Salary continuation under clause (i). Provided Employee timely elects continuation coverage for Employee and Employee's eligible dependents under the federal law known as "COBRA" or similar state law, the Company will pay the monthly amount that equals the portion of the monthly health premiums paid by the Company on Employee's behalf and that of Employee's eligible dependents immediately preceding the date that Employee's employment terminates until the earlier of (A) the last day of the period of Base Salary continuation under clause (i) and (B) the date that Employee and Employee's eligible dependents become ineligible for COBRA coverage to the extent permissible by law and plan terms. The severance payments described in clauses (i) through (iii) above are referred to as the "Severance Payments". Upon a Change of Control, any options to purchase Stock or shares of restricted Stock held by Employee that are not fully vested at the time of the Change of Control shall immediately accelerate and vest in full, provided that Employee is employed by the Company on the date of the Change in Control.

(c) Conditions to and Timing of Severance Payments. Any obligation of the Company to provide Employee the Severance Payments and the Equity Acceleration is conditioned, however, on Employee's cooperation in the transition of Employee's duties and Employee's execution and return to the Company of a Severance Agreement and General Release acceptable to the Company which shall include a release of all claims against the Company, all affiliated and related entities, and/or persons deemed necessary by the Company. The Release may also include Confidentiality, Non-Disparagement, No-Reapply, Tax Indemnification, and/or other appropriate terms. Except as otherwise provided by this Agreement, any Severance Payments to which Employee is entitled will be provided in the form of salary continuation, payable in accordance with the normal payroll practices of the Company. Unless otherwise provided by this Agreement, the first payment will be made on the Company's next regular payday following the effective date of the Severance Agreement and General Release; but that first payment shall include all amounts accrued retroactive to the day following the date Employee's employment terminated.

(d) Benefits Termination. Except as provided in Section 4(b) above or under COBRA, Employee's participation in all employee benefit plans shall terminate in accordance with the terms of the applicable benefit plans based on the date of termination of Employee's employment, without regard to any continuation of the Base Salary or other payment to Employee following termination and Employee shall not be eligible to earn vacation or other paid time off following the termination of Employee's employment.

(e) Assistance in Litigation. Employee agrees to reasonably cooperate with the Company in the defense or prosecution of any claims or actions that relate to events or occurrences that transpired while Employee is or was employed by the Company. Employee's cooperation includes, but is not limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness on behalf of the Company as requested at mutually convenient times. Employee's cooperation also includes fully cooperating with the Company in connection with any investigation or review by any federal, state, or local regulatory authority as any such investigation or review relates to events or occurrences that transpired while Employee is or was employed by the Company.

(f) Survival. Provisions of this Agreement shall survive any termination of employment if so provided in this Agreement or if necessary or desirable to accomplish the purposes of other surviving provisions, including without limitation Employee's obligations under Section 4. The obligation of the Company to make payments to Employee under Section 4, are expressly conditioned upon continued full performance of Employee's obligations under Section 4 hereof. Upon termination by either Employer or the Company, all rights, duties and obligations of Employee and the Company to each other shall cease, except as otherwise expressly provided in this Agreement.

5. Timing of Payments and Section 409A.

(a) Notwithstanding anything to the contrary in this Agreement, if at the time Employee's employment terminates, Employee is a "specified employee," as defined below, any and all amounts payable under this Agreement on account of such separation from service that would (but for this provision) be payable within six (6) months following the date of termination, shall instead be paid on the next business day following the expiration of such six (6) month period or, if earlier, upon Employee's death; except (A) to the extent of amounts that do not constitute a

deferral of compensation within the meaning of Treasury regulation Section l.409A-1(b) (including without limitation by reason of a short-term deferral or the safe harbor set forth in Section l.409A l (b)(9)(iii), as determined by the Company in its reasonable good faith discretion); (B) benefits which qualify as excepted welfare benefits pursuant to Treasury regulation Section l.409A l(a)(5); or (C) other amounts or benefits that are not subject to the requirements of, or satisfy an exception from treatment as deferred compensation under, Section 409A of the Internal Revenue Code of 1986, as amended ("Section 409A"). For purposes of this Agreement, all references to "termination of employment" and correlative phrases shall be construed to require a "separation from service" (as defined in Section l.409A-l(h) of the Treasury regulations after giving effect to the presumptions contained therein), and the term "specified employee" means an individual determined by the Company to be a specified employee under Treasury regulation Section l.409A-l(i).

(b) Each payment made under this Agreement shall be treated as a separate payment and the right to a series of installment payments under this Agreement is to be treated as a right to a series of separate payments.

(c) In no event shall the Company have any liability relating to the failure or alleged failure of any payment or benefit under this Agreement to comply with, or be exempt from, the requirements of Section 409A.

6. Definitions. For purposes of this Agreement, the following definitions apply: "Change of Control" means

(a) The acquisition by any Person (defined for purposes of this definition as any individual, entity or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Securities Exchange Act of 1934, as amended ("Exchange Act")) of beneficial ownership (within the meaning of *Rule* 13d-3 promulgated under the Exchange Act) of 35% or more of the common stock of the Company; provided, however, that for purposes of this subsection (A), an acquisition shall not constitute a Change of Control if it is: (i) either by or directly from the Company, or by an entity controlled by the Company, (ii) by any employee benefit plan, including any related trust, sponsored or maintained by the Company or an entity controlled by the Company ("Benefit Plan"), or (iii) by an entity pursuant to a transaction that complies with clauses (i), (ii) and (iii) of subsection (b) below; or Individuals who, as of the effective date of this Agreement, constitute the Board (together with the individuals identified in the proviso to this subsection (B), the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the effective date of this agreement whose election, or nomination for election by the Company's stockholders, was approved by at least a majority of the directors then comprising the Incumbent Board shall be treated as a member of the Incumbent Board unless he or she assumed office as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(b) Consummation of a reorganization, merger or consolidation involving the Company, or a sale or other disposition of all or substantially all of the assets of the Company (a "Transaction"), in each case unless, following such Transaction, (i) all or substantially all of the Persons who were the beneficial owners of the common stock of the Company outstanding immediately prior to such Transaction beneficially own, directly or indirectly, more than 50% of

the combined voting power of the then outstanding voting securities of the entity resulting from such Transaction (including, without limitation, an entity that as a result of such Transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Transaction, of the outstanding common stock of the Company, (ii) no Person (excluding any entity or wholly-owned subsidiary of any entity resulting from such Transaction or any Benefit Plan of the Company or such entity or wholly-owned subsidiary of such entity resulting from such Transaction) beneficially owns, directly or indirectly, 35% or more of the combined voting power of the then outstanding voting securities of such entity except to the extent that such ownership existed prior to the transaction and (iii) at least a majority of the members of the board of directors or similar board of the entity resulting from such Transaction were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Transaction; or

(c) Approval by the stockholders of the Company of a liquidation or dissolution of the Company.

"Person" means an individual, a corporation, a limited liability company, an association, a partnership, an estate, a trust or any other entity or organization, other than the Company or any of its subsidiaries.

7. Conflicting Agreements. Employee hereby represents and warrants that the signing of this Agreement and the performance of Employee's obligations under it will not breach or be in conflict with any other agreement to which Employee is a party or is bound, and that Employee is not subject to any covenants against competition or similar covenants or any court order that could affect the performance of Employee's obligations under this Agreement. Employee agrees that Employee will not disclose to or use on behalf of the Company any confidential or proprietary information of a third party without that party's consent.

8. Withholding. All payments made by the Company under this Agreement shall be reduced by any tax or other amounts required to be withheld by the Company under applicable law.

9. Assignment. Neither Employee nor the Company may make any assignment of this Agreement or any interest in it, by operation of law or otherwise, without the prior written consent of the other; provided, however, the Company may assign its rights and obligations under this Agreement without Employee's consent to one of its subsidiaries or to any Person with whom the Company shall hereafter effect a reorganization, consolidate or merge, or to whom the Company shall hereafter transfer all or substantially all of its properties or assets. This Agreement shall inure to the benefit of and be binding upon Employee and the Company, and each of its respective successors, executors, administrators, heirs and permitted assigns.

10. Severability. If any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

11. **Miscellaneous.** This Agreement sets forth the entire agreement between Employee and the Company, and replaces all prior and contemporaneous communications, agreements and understandings, written or oral, with respect to the terms and conditions of Employee's employment, other than the **Confidential Information, Non-Disclosure, Non-Solicitation, Non-Compete and Rights to Intellectual Property Agreement** dated May 30, 2019, a copy of which is attached as Exhibit A and incorporated herein by reference. This Agreement may not be modified or amended, and no breach shall be deemed to be waived, unless agreed to in writing by Employee and an expressly authorized representative of the Board.

12. **Notice.** Any notice required to, or permitted to, be given under this agreement shall be sufficient if in writing (a) delivered personally, (b) sent by first class certified mail, return receipt requested, postage and fees pre-paid, or (c) sent by prepaid overnight delivery service, to the Parties at the following addresses (or at such other addresses as shall be specified by the Parties in a like notice);

If to Company: EyePoint Pharmaceuticals, Inc.
110 Allen Road
Second Floor
Basking Ridge, NJ 07920
Attention: Senior Vice President Human Resources

If to Employee: Scott Jones
9116 SW 51st Rd, A302
Gainesville, FL 32608

All notices shall be deemed to have been given upon receipt if delivered personally, or by recognized overnight courier, or five (5) days after mailing if mailed.

13. **Governing Law**. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New Jersey, without regard to its conflicts of law provisions. Any claim arising out of, or relating to this Agreement including, without limitation, any action commenced by the Company for preliminary and permanent injunctive relief or other equitable relief, shall be instituted in any federal or state court in the State of New Jersey. Each party agrees not to assert by way of motion, as a defense or otherwise, in any such claim, that such party is not subject personally to the jurisdiction of such court, that the claim is brought in an inconvenient forum, that the venue of the claim is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court. Each party further irrevocably submits to the exclusive jurisdiction of such court in any such claim.

Any and all service of process and any other notice in any such claim shall be effective against any party if given personally or by registered mail, return receipt requested, mailed to such party as provided herein. Nothing herein contained shall be deemed to affect the right of any party to serve process in any manner permitted by law.

14. **Usage**. All pronouns and any variations thereof shall be considered to refer to the masculine, feminine or neuter, singular or plural, as the context may require. All terms defined in the Agreement in their singular or plural forms have correlative meanings when used herein in their singular or plural forms, respectively. Unless otherwise expressly provided the words "include" "includes" and "including" do not limit the preceding words or terms and shall be deemed followed by the words "without limitation."

15. **Headings**. The headings in this Agreement are for reference only, and shall not affect the interpretation of this Agreement.

16. **Counterparts**. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts, together shall constitute one, and the same, instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

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

EyePoint Pharmaceuticals, Inc.

By:	/s/ Nancy Lurker	/s/ Scott Jones
	Nancy Lurker	Scott Jones
	President & CEO	
	Date: May 30, 2019	Date: May 30, 2019

EXHIBIT A

Confidential Information, Non-Disclosure, Non-Solicitation, and Rights to Intellectual Property Agreement

Exhibit 10.5

INDEMNIFICATION AGREEMENT

This Indemnification Agreement ("Agreement") is made as of _____ __, 20___ by and between EyePoint Pharmaceuticals, Inc., a Delaware corporation (the "Company"), and _____ ("Indemnitee"). This Agreement supersedes and replaces any and all previous agreements between the Company and Indemnitee covering the subject matter of this Agreement.

RECITALS

WHEREAS, the Board of Directors of the Company (the "Board") believes that highly competent persons have become more reluctant to serve publicly-held corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Certificate of Incorporation of the Company (as amended, the "Certificate of Incorporation") requires indemnification of the officers and directors of the Company. Indemnitee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware (the "DGCL"). The Certificate of Incorporation and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the board of directors, officers and other persons with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification may increase the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company and its stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of the Certificate of Incorporation and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, Indemnitee does not regard the protection available under the Certificate of Incorporation and insurance as adequate in the present circumstances, and may not be willing to serve or continue to serve as an officer or director without adequate protection, and the Company desires Indemnitee to serve or continue to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that Indemnitee be so indemnified.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Services to the Company. Indemnitee agrees to serve as a director or officer, as applicable, of the Company. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to continue Indemnitee in such position. This Agreement shall not be deemed an employment contract between the Company (or any of its subsidiaries or any Enterprise) and Indemnitee. Indemnitee specifically acknowledges that Indemnitee's employment with the Company (or any of its subsidiaries or any Enterprise), if any, is at will, and the Indemnitee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment contract between Indemnitee and the Company (or any of its subsidiaries or any Enterprise), other applicable formal severance policies duly adopted by the Board, or, with respect to service as a director or officer of the Company, by the Certificate of Incorporation, the Company's By-laws (the "By-laws"), and the DGCL. The foregoing notwithstanding, this Agreement shall continue in force after Indemnitee has ceased to serve as an officer or director of the Company, as provided in Section 16 hereof.

Section 2. Definitions. As used in this Agreement:

(a) References to "agent" shall mean any person who is or was a director, officer, or employee of the Company or a subsidiary of the Company or other person authorized by the Company to act for the Company, to include such person serving in such capacity as a director, officer, employee, fiduciary or other official of another corporation, partnership, limited liability company, joint venture, trust or other enterprise at the request of, for the convenience of, or to represent the interests of the Company or a subsidiary of the Company.

(b) A "Change in Control" shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

i. Acquisition of Stock by Third Party. Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company's then outstanding securities unless the change in relative Beneficial Ownership of the Company's securities by any Person results solely from a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors;

ii. Change in Board of Directors. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 2(b)(i), 2(b)(iii) or 2(b)(iv)) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the members of the Board;

iii. Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the Surviving Entity) more than 50% of the combined voting power of the voting securities of the Surviving Entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such Surviving Entity;

iv. Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets, including by license; and

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

For purposes of this Section 2(b), the following terms shall have the following meanings:

(A) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended from time to time.

(B) "Person" shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(C) "Beneficial Owner" shall have the meaning given to such term in Rule 13d-3 under the Exchange Act; provided, however, that Beneficial Owner shall exclude any Person otherwise becoming a Beneficial Owner by reason of the stockholders of the Company approving a merger of the Company with another entity.

(d) "Surviving Entity" shall mean the surviving entity in a merger or consolidation or any entity that controls, directly or indirectly, such surviving entity.

(c) "Corporate Status" describes the status of a person who is or was a director, officer, employee or agent of the Company or of any other corporation, limited liability company, partnership or joint venture, trust or other enterprise which such person is or was serving at the request of the Company.

(d) "Disinterested Director" shall mean a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(e) "Enterprise" shall mean the Company and any other corporation, limited liability company, partnership, joint venture, trust or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, officer, trustee, partner, managing member, employee, agent or fiduciary.

(f) "Expenses" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts and other professionals, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses shall also include (i) Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent, and (ii) for purposes of Section 14(d) only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement, by litigation or otherwise. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee's counsel as being reasonable in the good faith judgment of such counsel shall be presumed conclusively to be reasonable. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) "Independent Counsel" shall mean a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees and expenses of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(h) The term "Proceeding" shall include any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative, legislative, or investigative (formal or informal) nature, including any appeal therefrom, in which Indemnitee was, is or will be involved as a party, potential party, non-party witness or otherwise by reason of Indemnitee's Corporate Status, by reason of any action taken by Indemnitee (or a failure to take action by Indemnitee) or of any action (or failure to act) on Indemnitee's part while acting pursuant to Indemnitee's Corporate Status, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification, reimbursement, or advancement of Expenses can be provided under this Agreement. If the Indemnitee believes in good faith that a given situation may lead to or culminate in the institution of a Proceeding, this shall be considered a Proceeding under this paragraph.

(i) Reference to "other enterprise" shall include employee benefit plans; references to "fines" shall include any excise tax assessed with respect to any employee benefit plan; references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner Indemnitee reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Agreement.

Section 3. Indemnity in Third-Party Proceedings. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments, fines and amounts paid in settlement) actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal Proceeding had no reasonable cause to believe that Indemnitee's conduct was unlawful. The parties hereto intend that this Agreement shall provide to the fullest extent permitted by law for indemnification in excess of that expressly permitted by statute, including, without limitation, any indemnification provided by the Certificate of Incorporation, the By-laws, vote of its stockholders or disinterested directors or applicable law.

Section 4. Indemnity in Proceedings by or in the Right of the Company. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 4 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 4, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company. No indemnification for Expenses shall be made under this Section 4 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Company, unless and only to the extent that the Delaware Court (as hereinafter defined) or any court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification.

Section 5. Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provisions of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is a party to (or a participant in) and is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with or related to each successfully resolved claim, issue or matter to the fullest extent permitted by law. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 6. Indemnification For Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is, by reason of Indemnitee's Corporate Status, a witness or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith.

Section 7. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

Section 8. Additional Indemnification.

(a) Notwithstanding any limitation in Sections 3, 4, or 5, the Company shall indemnify Indemnitee to the fullest extent permitted by applicable law if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) by reason of Indemnitee's Corporate Status.

(b) For purposes of Section 8(a), the meaning of the phrase "to the fullest extent permitted by applicable law" shall include, but not be limited to:

i. to the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL, and

ii. to the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

Section 9. Exclusions. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnification payment in connection with any claim involving Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for (i) an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act (as defined in Section 2(b) hereof) or similar provisions of state statutory law or common law, (ii) any reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act) or (iii) any reimbursement of the Company by Indemnitee of any compensation pursuant to any compensation recoupment or clawback policy adopted by the Board or the compensation committee of the Board, including but not limited to any such policy adopted to comply with stock exchange listing requirements implementing Section 10D of the Exchange Act; or

(c) except as provided in Section 14(d) of this Agreement, in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law.

Section 10. Advances of Expenses. Notwithstanding any provision of this Agreement to the contrary (other than Section 14(d)), the Company shall advance, to the extent not prohibited by law, the Expenses incurred by Indemnitee in connection with any Proceeding (or any part of any Proceeding) not initiated by Indemnitee or any Proceeding initiated by Indemnitee with the prior approval of the Board as provided in Section 9(c), and such advancement shall be made within thirty (30) days after the receipt by the Company of a statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement. In accordance with Section 14(d), advances shall include any and all Expenses incurred pursuing an action to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Company to support the advances claimed. The Indemnitee shall qualify for advances upon the execution and delivery to the Company of this Agreement, which shall constitute an undertaking providing that the Indemnitee undertakes to repay the amounts advanced (without interest) to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Company. No other form of undertaking shall be required other than the execution of this Agreement. This Section 10 shall not apply to any claim made by Indemnitee for which indemnity is excluded pursuant to Section 9.

Section 11. Procedure for Notification and Defense of Claim.

(a) Indemnitee shall notify the Company in writing of any matter with respect to which Indemnitee intends to seek indemnification or advancement of Expenses hereunder as soon as reasonably practicable following the receipt by Indemnitee of written notice thereof. The written notification to the Company shall include a description of the nature of the Proceeding and the facts underlying the Proceeding. To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such Proceeding. The omission by Indemnitee to notify the Company hereunder will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay in so notifying the Company shall not constitute a waiver by Indemnitee of any rights under this Agreement. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

Section 12. Procedure Upon Application for Indemnification.

(a) Upon written request by Indemnitee for indemnification pursuant to Section 11(a), a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall be made in the specific case: (i) if a Change in Control shall have occurred, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee; or (ii) if a Change in Control shall not have occurred, (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy

of which shall be delivered to Indemnitee or (D) if so directed by the Board, by the stockholders of the Company; and, if it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten (10) days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or Expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom. The Company promptly will advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied.

(b) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 12(a) hereof, the Independent Counsel shall be selected as provided in this Section 12(b). If a Change in Control shall not have occurred, the Independent Counsel shall be selected by the Board, and the Company shall give written notice to Indemnitee advising Indemnitee of the identity of the Independent Counsel so selected. If a Change in Control shall have occurred, the Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Board, in which event the preceding sentence shall apply), and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either event, Indemnitee or the Company, as the case may be, may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or the Delaware Court has determined that such objection is without merit. If, within twenty (20) days after the later of submission by Indemnitee of a written request for indemnification pursuant to Section 11(a) hereof and the final disposition of the Proceeding, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition the Delaware Court for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by such court or by such other person as such court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 12(a) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 14(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

Section 13. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall, to the fullest extent not prohibited by law, presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 11(a) of this Agreement, and the Company shall, to the fullest extent not prohibited by law, have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Company (including by its directors or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or Independent Counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) Subject to Section 14(e), if the person, persons or entity empowered or selected under Section 12 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall, to the fullest extent not prohibited by law, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 13(b) shall not apply (i) if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 12(a) of this Agreement and if **(**A) within fifteen (15) days after receipt by the Company of the request for such determination the Board has resolved to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy-five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat, or (ii) if the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 12(a) of this Agreement.

(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(d) For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the directors or officers of the Enterprise (as defined below) in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser, financial advisor or other expert selected with reasonable care by or on behalf of the Enterprise. The provisions of this Section 13(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) The knowledge and/or actions, or failure to act, of any director, officer, trustee, partner, managing member, fiduciary, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

Section 14. Remedies of Indemnitee.

(a) Subject to Section 14(e), in the event that (i) a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 10 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 12(a) of this Agreement within ninety (90) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 5, 6 or 7 or the second to last sentence of Section 12(a) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, (v) payment of indemnification pursuant to Section 3, 4 or 8 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, or (vi) in the event that the Company or any other person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or Proceeding designed to deny, or to recover from, the Indemnitee the benefits provided or intended to be provided to the Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of Indemnitee's entitlement to such indemnification or advancement of Expenses. Alternatively, Indemnitee, at Indemnitee's option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 14(a). The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 14 shall be conducted in all respects as a de novo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 14 the Company shall have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) If a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 14, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) The Company shall, to the fullest extent not prohibited by law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 14 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. It is the intent of the Company that, to the fullest extent permitted by law, the Indemnitee not be required to incur legal fees or other Expenses associated with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to the Indemnitee hereunder. The Company shall, to the fullest extent permitted by law, indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefor) advance, to the extent not prohibited by law, such Expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advancement of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company if, in the case of indemnification, Indemnitee is wholly successful on the underlying claims; if Indemnitee is not wholly successful on the underlying claims, then such indemnification shall be only to the extent Indemnitee is successful on such underlying claims or otherwise as permitted by law, whichever is greater.

(e) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement of Indemnitee to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding.

Section 15. Non-exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and to receive advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, the By-laws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by Indemnitee in Indemnitee's Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Certificate of Incorporation and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents of the Enterprise, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such claim or of the commencement of a Proceeding, as the case may be, to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event of any payment made by the Company under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable (or for which advancement is provided hereunder) hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, trustee, partner, managing member, fiduciary, employee or agent of any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of Expenses from such other corporation, limited liability company, partnership, joint venture, trust or other enterprise.

Section 16. Duration of Agreement. This Agreement shall continue until and terminate upon the later of: (a) ten (10) years after the date that Indemnitee shall have ceased to serve as a director or officer of the Company and (b) one (1) year after the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 14 of this Agreement relating thereto. The indemnification and advancement of expenses rights provided by or granted pursuant to this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or of any other Enterprise, and shall inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

Section 17. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 18. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving or continuing to serve as a director or officer of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; provided, however, that this Agreement is a supplement to and in furtherance of the Certificate of Incorporation, the By-laws and applicable law, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder.

Section 19. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement nor shall any waiver constitute a continuing waiver.

Section 20. Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company shall not relieve the Company of any obligation which it may have to the Indemnitee under this Agreement or otherwise.

Section 21. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, (b) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed, (c) mailed by reputable overnight courier and receipted for by the party to whom said notice or other communication shall have been directed or (d) sent by facsimile transmission or email, with receipt of oral confirmation that such transmission has been received:

(a) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee shall provide to the Company.

(b) If to the Company to

EyePoint Pharmaceuticals, Inc.
480 Pleasant Street
Watertown, MA 02472
Attention: Corporate Counsel
Facsimile: (617) 926-5050
Email: jmercer@eyepointpharma.com

or to any other address as may have been furnished to Indemnitee by the Company.

Section 22. Contribution. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

Section 23. Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 14(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Court of Chancery of the State of Delaware (the "Delaware Court"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, irrevocably RL&F Service Corp., 920 North King Street, 2nd Floor, Wilmington, New Castle County, Delaware 19801 as its agent in the State of Delaware as such party's agent for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

Section 24. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

Section 25. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. The headings of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

EYEPOINT PHARMACEUTICALS, INC.	INDEMNITEE
By: _____	_____
Name:	Name:
Office:	Address: _____
	_____
	_____

Schedule of Material Differences to Exhibit 10.5

The following directors and executive officers are parties to an Indemnification Agreement with the Company, each of which are substantially identical in all material respects to the representative Indemnification Agreement filed herewith as Exhibit 10.5 except as to the name of the signatory and the date of each signatory's Indemnification Agreement, which are listed below. The actual Indemnification Agreements are omitted pursuant to Instruction 2 to Item 601 of Regulation S-K.

Indemnitee	Effective Date
Nancy S. Lurker	September 15, 2016
David Price	August 1, 2018
Leonard S. Ross	September 26, 2016
Dario Paggiarino	September 26, 2016
David J. Mazzo	July 7, 2008
Douglas Godshall	March 5, 2012
Ronald W. Eastman	March 28, 2018
Jay S. Duker, M.D.	September 27, 2016
Kristine Peterson	June 27, 2017
Göran Ando, M.D.	June 14, 2018
John Landis	October 30, 2018
David R. Guyer M.D.	January 25, 2019
Scott Jones	June 10, 2019
Wendy DiCicco	July 15, 2019

Exhibit 31.1

Certification of Principal Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.

CERTIFICATIONS

I, Nancy Lurker, certify that:

1. I have reviewed this quarterly report on Form 10-Q of EyePoint Pharmaceuticals, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: August 7, 2019

/s/ Nancy Lurker

Name: Nancy Lurker
Title: President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

Certification of Principal Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.

CERTIFICATIONS

I, David Price, certify that:

1. I have reviewed this quarterly report on Form 10-Q of EyePoint Pharmaceuticals, Inc.;

1. 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;

2. 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;

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

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

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

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

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

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

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

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

Date: August 7, 2019

/s/ David Price

Name: David Price
Title: Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

Certification of Principal Executive Officer 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 of EyePoint Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the quarter ended June 30, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Nancy Lurker, President and Chief Executive Officer of the Company, certify that to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

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

Date: August 7, 2019

/s/ Nancy Lurker

Name: Nancy Lurker
Title: President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.2

Certification of Principal Financial Officer 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 of EyePoint Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the quarter ended June 30, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, David Price, Chief Financial Officer of the Company, certify that to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

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

Date: August 7, 2019

/s/ David Price

Name: David Price
Title: Chief Financial Officer
(Principal Financial Officer)