

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**FORM 10-Q**

(Mark One)

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

For the quarterly period ended September 30, 2020

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 001-38503

**Iterum Therapeutics plc**

(Exact name of registrant as specified in its charter)

Ireland  
(State or other jurisdiction of  
incorporation or organization)

98-1283148  
(I.R.S. Employer  
Identification No.)

Block 2 Floor 3, Harcourt Centre,  
Harcourt Street,  
Dublin 2, Ireland  
(Address of principal executive offices)

Not applicable  
(Zip Code)

(+353) 1 903-8920

(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Ordinary Shares, \$0.01 par value per share	ITRM	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, 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	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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

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

As of October 31, 2020, the registrant had 43,035,245 ordinary shares, \$0.01 par value per share, outstanding.

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## SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements that involve risks and uncertainties. All statements other than statements of historical facts contained in this Quarterly Report are forward-looking statements. In some cases, you can identify forward-looking statements by words such as “anticipate,” “believe,” “contemplate,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “plan,” “potential,” “predict,” “project,” “seek,” “should,” “target,” “will,” “would,” or the negative of these words or other comparable terminology. These forward-looking statements include, but are not limited to, statements about:

- our use of cash reserves;
- the initiation, timing, progress and results of our preclinical studies and clinical trials, and our research and development programs;
- our ability to retain the continued service of our key professionals and to identify, hire and retain additional qualified professionals;
- our ability to advance product candidates into, and successfully complete, clinical trials;
- the potential advantages of our product candidates;
- our plans to move forward with our new drug application for oral sulopenem for the treatment of uncomplicated urinary tract infections in patients with a quinolone non-susceptible pathogen;
- the timing or likelihood of regulatory filings and approvals;
- the commercialization of our product candidates, if approved;
- our manufacturing plans;
- our sales, marketing and distribution capabilities and strategy;
- market acceptance of any product we successfully commercialize;
- the pricing, coverage and reimbursement of our product candidates, if approved;
- the implementation of our business model, strategic plans for our business and product candidates;
- the scope of protection we are able to establish and maintain for intellectual property rights covering our product candidates and our ability to defend and enforce any such intellectual property rights;
- our ability to enter into strategic arrangements, collaborations and/or commercial partnerships in the United States and other territories and the potential benefits of such arrangements;
- our estimates regarding expenses, capital requirements and needs for additional financing;
- our expectations regarding how far into the future our cash on hand will fund our ongoing operations;
- our financial performance;
- developments relating to our competitors and our industry;
- our ability to continue as a going concern;
- the impact of COVID-19, including the responsive measures taken by governmental authorities and others, on our clinical trials, on future commercialization of, and future demand for, our products, available funding, our operations and the economy in general, which may precipitate or exacerbate other risks and/or uncertainties;
- our ability to regain and maintain compliance with listing requirements of the Nasdaq Global Market; and
- the outcome, impact, effects and results of our evaluation of corporate, organizational, strategic, financial and financing alternatives, including the terms, timing, structure, value, benefits and costs of any corporate, organizational, strategic, financial or financing alternative and our ability to complete one at all.

These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in “Risk Factors” and elsewhere in this Quarterly Report. Moreover, we operate in a very competitive and rapidly changing environment, and new risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this Quarterly Report may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee that the future results, levels of activity, performance or events and circumstances reflected in the forward-looking statements will be achieved or occur. We undertake no obligation to update publicly any forward-looking statements for any reason after the date of this Quarterly Report to conform these statements to new information, actual results or to changes in our expectations, except as required by law.

You should read this Quarterly Report and the documents that we have filed with the Securities and Exchange Commission (SEC), as exhibits to this Quarterly Report with the understanding that our actual future results, levels of activity, performance, and events and circumstances may be materially different from what we expect.

In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Quarterly Report, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements.

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements (Unaudited).

ITERUM THERAPEUTICS PLC  
Condensed Consolidated Balance Sheets  
(In thousands except share and per share data)  
(Unaudited)

	September 30, 2020	December 31, 2019
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 8,570	\$ 4,801
Prepaid expenses and other current assets	3,429	6,887
Current portion of restricted cash	60	30
Total current assets	12,059	11,718
Property and equipment, net	461	572
Restricted cash, less current portion	66	60
Other assets	13,684	13,401
<b>Total assets</b>	<b>\$ 26,270</b>	<b>\$ 25,751</b>
<b>Liabilities and Shareholders' Deficit</b>		
Current liabilities:		
Accounts payable	\$ 2,645	\$ 15,486
Accrued expenses	2,229	12,458
Derivative liability	26,097	—
Current portion of long-term debt	6,084	5,800
Current portion of royalty-linked notes	74	—
Income taxes payable	—	200
Other current liabilities	3,737	3,042
Total current liabilities	40,866	36,986
Long-term debt, less current portion	21,653	7,625
Royalty-linked notes, less current portion	12,492	—
Other liabilities	7,162	7,378
Total liabilities	\$ 82,173	\$ 51,989
Commitments and contingencies (Note 13)		
Shareholders' deficit:		
Undesignated preferred shares, \$0.01 par value per share: 100,000,000 shares authorized at September 30, 2020 and December 31, 2019; no shares issued at September 30, 2020 and December 31, 2019	—	—
Ordinary shares, \$0.01 par value per share: 150,000,000 shares authorized, 21,239,093 shares issued at September 30, 2020; 50,000,000 shares authorized, 14,868,973 shares issued at December 31, 2019	212	149
Additional paid-in capital	219,628	208,536
Accumulated deficit	(275,743)	(234,923)
Total shareholders' deficit	\$ (55,903)	\$ (26,238)
<b>Total liabilities and shareholders' deficit</b>	<b>\$ 26,270</b>	<b>\$ 25,751</b>

The accompanying notes are an integral part of these condensed consolidated financial statements.

**ITERUM THERAPEUTICS PLC**  
**Condensed Consolidated Statements of Operations and Comprehensive Loss**  
(In thousands, except share and per share data)  
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2020	2019	2020	2019
Revenue	\$ —	\$ —	\$ —	\$ 37
Operating expenses:				
Research and development	\$ (3,937)	\$ (28,066)	\$ (18,723)	\$ (69,892)
General and administrative	(2,398)	(2,933)	(8,759)	(8,988)
Total operating expenses	(6,335)	(30,999)	(27,482)	(78,880)
Operating loss	(6,335)	(30,999)	(27,482)	(78,843)
Interest expense, net	(4,183)	(216)	(10,854)	(455)
Financing transaction costs	(685)	—	(2,815)	—
Adjustments to fair value of derivatives	(644)	—	1,023	—
Other income, net	68	48	27	204
Total other expense	(5,444)	(168)	(12,619)	(251)
Loss before income taxes	(11,779)	(31,167)	(40,101)	(79,094)
Income tax expense	(420)	(104)	(719)	(395)
Net loss and comprehensive loss	(12,199)	(31,271)	(40,820)	(79,489)
Net loss attributable to ordinary shareholders	\$ (12,199)	\$ (31,271)	\$ (40,820)	\$ (79,489)
Net loss per share attributable to ordinary shareholders – basic and diluted	\$ (0.60)	\$ (2.15)	\$ (2.39)	\$ (5.52)
Weighted average ordinary shares outstanding – basic and diluted	20,392,357	14,571,278	17,078,326	14,412,755

The accompanying notes are an integral part of these condensed consolidated financial statements.

**ITERUM THERAPEUTICS PLC**  
**Condensed Consolidated Statements of Cash Flows**  
(In thousands, except share and per share data)  
(Unaudited)

	Nine Months Ended September 30,	
	2020	2019
<b>Cash flows from operating activities:</b>		
Net loss	\$ (40,820 )	\$ (79,489 )
Adjustments to reconcile net loss to cash used in operating activities:		
Depreciation	122	113
Share-based compensation expense	2,633	1,674
Gain on short-term investments	—	(125 )
Interest on short-term investments	—	(44 )
Amortization of debt discount and deferred financing costs	7,818	243
Interest on exchangeable notes - non-cash	2,338	—
Financing transaction costs included in financing activities	2,815	—
Adjustments to fair value of derivatives	(1,023 )	—
Other	907	25
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	3,593	1,758
Other assets	—	(1,036 )
Accounts payable	(12,879 )	10,487
Accrued expenses	(10,229 )	8,030
Income taxes	(89 )	(7 )
Other liabilities	(683 )	(498 )
Net cash used in operating activities	(45,497 )	(58,869 )
<b>Cash flows from investing activities:</b>		
Purchases of property and equipment	(11 )	(22 )
Proceeds from sale of short-term investments	—	40,125
Net cash (used) / provided by investing activities	(11 )	40,103
<b>Cash flows from financing activities:</b>		
Proceeds from PPP Loan	744	—
Repayments of long-term debt	(4,655 )	—
Proceeds from private placement and rights offering, net of transactions costs	44,699	—
Proceeds from registered direct offerings, net of transaction costs	8,560	—
Proceeds from issuance of ordinary shares, net of transaction costs	—	3,037
Proceeds from exercise of share options	—	60
Net cash provided by financing activities	49,348	3,097
Effect of exchange rates on cash and cash equivalents	(35 )	(29 )
Net increase in cash, cash equivalents and restricted cash	3,805	(15,698 )
Cash, cash equivalents and restricted cash, at beginning of period	4,891	44,671
Cash, cash equivalents and restricted cash, at end of period	\$ 8,696	\$ 28,973
<b>Supplemental Disclosure of Cash Flow Information:</b>		
Income tax paid - US	\$ 89	\$ 402
Interest paid	\$ 767	\$ 1,067

The accompanying notes are an integral part of these condensed consolidated financial statements.

**ITERUM THERAPEUTICS PLC**  
**Notes to Unaudited Condensed Consolidated Financial Statements**  
(In thousands, except share and per share data)

**1. Basis of Presentation**

Iterum Therapeutics plc (the Company) was incorporated under the laws of the Republic of Ireland in June 2015 as a limited company and re-registered as a public limited company on March 20, 2018. The Company maintains its registered office at Block 2 Floor 3, Harcourt Centre, Harcourt Street, Dublin 2, Ireland. The Company commenced operations in November 2015. The Company licensed global rights to its novel anti-infective compound, sulopenem, from Pfizer Inc. (Pfizer). The Company is a clinical-stage pharmaceutical company dedicated to developing and commercializing sulopenem to be potentially the first and only oral and intravenous (IV) branded penem available globally.

Since inception, the Company has devoted substantially all of its efforts to research and development, recruiting management and technical staff and raising capital, and has financed its operations through the issuance of ordinary shares and convertible preferred shares, debt raised under financing arrangements with Silicon Valley Bank (SVB) including the Paycheck Protection Program loan (PPP loan), a sub-award from the Trustees of Boston University under the Combating Antibiotic Resistant Bacteria Biopharmaceutical Accelerator (CARB-X) program and the proceeds of a private placement and subsequent rights offering pursuant to which its wholly owned subsidiary, Iterum Therapeutics Bermuda Limited (Iterum Bermuda), issued and sold approximately \$51.8 million aggregate principal amount of 6.500% Exchangeable Senior Subordinated Notes due 2025 (Exchangeable Notes) and \$0.1 million aggregate principal amount of Limited Recourse Royalty-Linked Subordinated Notes (the RLNs and, together with the Exchangeable Notes, the Securities). The Company has not generated any product revenue. The Company is subject to risks and uncertainties common to early-stage companies in the pharmaceutical industry, including, but not limited to, the ability to secure additional capital to fund operations, failure to achieve regulatory approval, failure to successfully develop and commercialize its product candidates, development by competitors of new technological innovations, dependence on key personnel, protection of proprietary technology and compliance with government regulations. Product candidates currently under development will require additional research and development efforts, including regulatory approval prior to commercialization.

Even if the Company's product development efforts are successful, it is uncertain when, if ever, the Company will realize significant revenue from product sales.

The accompanying condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) and include the accounts of the Company and its subsidiaries.

On July 5, 2019, the Company filed a universal shelf registration statement on Form S-3 with the SEC, which was declared effective on July 16, 2019 (File No. 333-232569), and pursuant to which it registered for sale up to \$150.0 million of any combination of its ordinary shares, preferred shares, debt securities, warrants and/or units from time to time and at prices and on terms that the Company may determine.

On January 21, 2020, the Company completed a private placement pursuant to which its wholly owned subsidiary, Iterum Bermuda, issued and sold approximately \$51.6 million aggregate principal amount of Exchangeable Notes and \$0.1 million aggregate principal amount of RLNs to a group of accredited investors (the Private Placement). The Securities were sold in units (the Units) in the Private Placement and Rights Offering with each Unit consisting of an Exchangeable Note in the original principal amount of \$1,000 and 50 RLNs. In connection with the Private Placement, the Company agreed to undertake a rights offering of subscription rights to purchase additional Units (the Rights Offering). Under the Rights Offering, the Company and Iterum Bermuda, distributed to the Company's eligible holders of ordinary shares and eligible warrant holders one non-transferable subscription right for each ordinary share owned (or deemed owned in the case of eligible warrant holders) as of the close of business on the record date, August 5, 2020. The subscription period for the Rights Offering expired on August 31, 2020 and right holders subscribed for 220 units. As a result, on September 8, 2020, Iterum Bermuda issued and sold approximately \$0.2 million aggregate principal amount of Exchangeable Notes and \$0.02 million aggregate principal amount of RLNs. The Units were sold at a price of \$1,000 per Unit. The Exchangeable Notes are exchangeable for the Company's ordinary shares, cash or a combination of ordinary shares and cash, at an initial exchange rate of 1,000 shares per \$1,000 of principal and interest on the Exchangeable Notes (equivalent to an initial exchange price of \$1.00 per ordinary share), subject to specified limitations, which exchange rate was adjusted to 1,286.1845 shares per \$1,000 of principal and interest on the Exchangeable Notes (equivalent to an exchange price of approximately \$0.7775 per ordinary share) as of November 2, 2020 and is subject to further adjustment pursuant to the terms and conditions of the indenture governing the Exchangeable Notes. The RLNs entitle holders to payments based on a percentage of the Company's net revenues from potential U.S. sales of specified sulopenem products, subject to the terms and conditions of the indenture governing the RLNs. Pursuant to the indenture governing the RLNs, the payments on the RLNs will be up to either 15% or 20% of net revenues from U.S. sales of such products, depending on the indication approved by the U.S. Food and Drug Administration (the FDA). The aggregate amount of payments on each RLN is capped at \$160.00 (or 4,000 times the principal amount of such RLN). Iterum Bermuda received net proceeds from the sales of the Securities of approximately \$45.0 million, after deducting placement agent fees and offering expenses.



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In April 2020, the Company began deferring payment on its share of U.S. payroll taxes owed, as allowed by the Coronavirus Aid, Relief and Economic Security Act (CARES Act) through December 31, 2020. The Company is able to defer half of its share of U.S. payroll taxes owed until December 31, 2021, with the remaining half due on December 31, 2022.

On April 3, 2020, the U.S. Small Business Administration (SBA) launched a Paycheck Protection Program (the Program) established following the signing of the CARES Act on March 27, 2020. On April 30, 2020, the Company's wholly owned subsidiary, Iterum Therapeutics US Limited, (the Borrower) entered into the PPP loan with SVB (the Lender) under the Program, pursuant to the Company receiving a loan of \$0.7 million with a fixed 1% annual interest rate and a maturity of two years. Under the terms of the agreement, there shall be no payments due by the Company until the later of the date the SBA remits the forgiveness amount to the borrower or 10 months after the end of the six-month period beginning April 30, 2020 (the Deferral Period). Following the Deferral Period, equal monthly repayments of principal and interest will be due to fully amortize the principal amount outstanding on the PPP loan on the last day of the Deferral Period by the maturity date. Under the terms of the Program, the SBA will forgive the portion of loan proceeds used for U.S. payroll costs and other designated operating expenses for up to 24 weeks, provided at least 60% of the loan proceeds are used for U.S. payroll costs. The Company incurred qualifying payroll costs and other operating expenses in the 24 weeks following April 30, 2020, and has requested forgiveness for a portion of the PPP loan from the Lender. Any forgiveness of the PPP loan will be made in accordance with SBA requirements and subject to approval by SVB. No assurance is provided that the Company will obtain forgiveness in whole or in part.

On June 3, 2020, the Company entered into a Securities Purchase Agreement (June 3 SPA) with certain institutional investors (the June 3 Purchasers) pursuant to which the Company issued and sold, in a registered direct offering (June 3 Offering), an aggregate of 2,971,770 ordinary shares, \$0.01 nominal value per share, at a purchase price per share of \$1.6825, for aggregate gross proceeds to the Company of \$5.0 million and net proceeds of \$4.3 million after deducting fees payable to the placement agent and other offering expenses payable by the Company. We offered the ordinary shares in the June 3 Offering pursuant to our universal shelf registration statement on Form S-3. Pursuant to the June 3 SPA, in a concurrent private placement, the Company issued and sold to the June 3 Purchasers warrants to purchase up to 1,485,885 ordinary shares. Upon closing, the warrants became exercisable immediately at an exercise price of \$1.62 per ordinary share, subject to adjustment in certain circumstances, and will expire on December 5, 2025. The closing date of the June 3 Offering was June 5, 2020. Warrants to purchase 208,023 ordinary shares, amounting to 7% of the ordinary shares issued under the June 3 SPA, were issued to designees of the placement agent on the closing of the June 3 Offering. Upon closing, the warrants issued to such designees were exercisable immediately at an exercise price of \$2.1031 per ordinary share, and will expire on June 3, 2025.

On June 30, 2020, the Company entered into a securities purchase agreement (June 30 SPA) with certain institutional investors (the June 30 Purchasers) pursuant to which the Company issued and sold in a registered direct offering (June 30 Offering) an aggregate of 3,372,686 ordinary shares, \$0.01 nominal value per share, at a purchase price per share of \$1.4825, for aggregate gross proceeds to the Company of \$5.0 million and net proceeds of \$4.2 million after deducting fees payable to the placement agent and other offering expenses payable by the Company. We offered the ordinary shares in the June 30 Offering pursuant to our universal shelf registration statement on Form S-3. Pursuant to the June 30 SPA, in a concurrent private placement, the Company issued and sold to the June 30 Purchasers warrants to purchase up to 1,686,343 ordinary shares. Upon closing, the warrants were exercisable immediately at an exercise price of \$1.42 per ordinary share, subject to adjustment in certain circumstances, and will expire on January 2, 2026. The June 30 Offering closed on July 2, 2020. Warrants to purchase 236,088 ordinary shares, amounting to 7% of the ordinary shares issued under the June 30 SPA, were issued to designees of the placement agent on closing of the June 30 Offering. Upon closing, the warrants issued to such designees were exercisable immediately at an exercise price of \$1.8531 per ordinary share, and will expire on June 30, 2025.

On October 27, 2020, the Company completed a registered public offering (the October Offering) in which it sold an aggregate of (i) 15,511,537 ordinary shares, \$0.01 nominal value per share, (ii) pre-funded warrants exercisable for an aggregate of 11,411,539 ordinary shares and (iii) warrants exercisable for an aggregate of 20,192,307 ordinary shares. The pre-funded warrants were issued and sold to certain purchasers whose purchase of ordinary shares in the October Offering would have otherwise resulted in the purchaser, together with its affiliates and certain related parties, beneficially owning more than 4.99% (or, at the election of the purchaser, 9.99%) of the Company's outstanding ordinary shares immediately following the consummation of the October Offering, if the purchaser so chose in lieu of ordinary shares that would have otherwise resulted in such excess ownership. The ordinary shares and pre-funded warrants were each offered together with the warrants, but the ordinary shares and pre-funded warrants were issued separately from the warrants. The combined offering price was \$0.65 per ordinary share and warrant and \$0.64 per pre-funded warrant and warrant. The Company's net proceeds from the October Offering, after deducting placement agent fees and other estimated offering expenses payable by the Company, were approximately \$15.3 million. The warrants are exercisable upon issuance at a price of \$0.65 per ordinary share, subject to adjustment in certain circumstances, and expire on October 27, 2025. The pre-funded warrants are exercisable upon issuance at a price of \$0.01 per ordinary share, subject to adjustment in certain circumstances, and expire when exercised in full, subject to certain conditions. As of October 31, 2020, pre-funded warrants to purchase 6,284,615 ordinary shares had

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been exercised for net proceeds of \$0.06 million. In connection with the October Offering, the Company entered into a Securities Purchase Agreement (the Purchase Agreement) on October 22, 2020 with certain institutional investors. The Purchase Agreement contains customary representations and warranties of the Company, termination rights of the parties, and certain indemnification obligations of the Company and ongoing covenants of the Company, including a prohibition on issuance of ordinary shares or securities convertible or exchangeable into ordinary shares by the Company for a period of 45 days after the closing of the October Offering and a prohibition on the Company entering into variable rate transactions for a period of 12 months after the closing of the October Offering, subject to certain exceptions. Warrants to purchase 1,884,615 ordinary shares, which represents a number of ordinary shares equal to 7.0% of the aggregate number of ordinary shares and pre-funded warrants sold in the October Offering, were issued to designees of the placement agent on closing of the October Offering. Upon closing, the warrants issued to such designees became exercisable immediately at an exercise price of \$0.8125 per ordinary share and will expire on October 22, 2025.

In accordance with Accounting Standards Update (ASU) 2014-15, *Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern (Subtopic 205-40)*, the Company has evaluated whether there are conditions and events, considered in aggregate, that raise substantial doubt about the Company's ability to continue as a going concern within one year of the date of issue of these quarterly condensed consolidated financial statements.

The Company has funded its operations to date primarily with proceeds from the sale of preferred shares and ordinary shares, warrants, debt raised under financing arrangements with SVB including the PPP loan, payments received under the CARB-X program and the proceeds of the Private Placement and Rights Offering. The Company has incurred operating losses since inception, including net losses of \$40,820 and \$79,489 for the nine months ended September 30, 2020 and 2019, respectively, and a net loss of \$103,130 for the year ended December 31, 2019. The Company had an accumulated deficit of \$275,743 as of September 30, 2020 and expects to continue to incur net losses for the foreseeable future. The Company's future cash flows are dependent on key variables such as its ability to secure additional sources of funding in the form of public or private financing of debt or equity or collaboration agreements.

The Company may not be able to obtain financing on acceptable terms, or at all. The terms of any financing may adversely affect the holdings or the rights of the Company's shareholders. If the Company is unable to obtain funding, it could be forced to delay, reduce or eliminate some or all of its research and development programs or commercialization efforts, which could adversely affect its business prospects, or the Company may be unable to continue operations. Although management continues to pursue these plans, and the Company has successfully raised capital in the past, there is no assurance that the Company will be successful in obtaining sufficient funding on terms acceptable to the Company to fund continuing operations, if at all.

In addition, in parallel, the Company is evaluating its corporate, organizational, strategic, financial and financing alternatives, with the goal of maximizing value for its stakeholders while prudently managing its resources. These alternatives could potentially include the licensing, sale or divestiture of the Company's assets or proprietary technologies, a sale of the Company, a merger or other business combination, another strategic transaction involving the Company, restructuring activities, winding down of operations, dissolving and liquidating assets or seeking protection under bankruptcy laws. The evaluation of corporate, organizational, strategic, financial and financing alternatives may not result in any particular action or any transaction being pursued, entered into or consummated, and there is no assurance as to the timing, sequence or outcome of any action or transaction or series of actions or transactions.

Based on the Company's operating losses since inception, the expectation of continued operating losses for the foreseeable future and the need to raise additional capital to finance its future operations, management have concluded there is substantial doubt about the Company's ability to continue as a going concern within one year from the date this Quarterly Report on Form 10-Q is issued. The accompanying condensed consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty. Accordingly, the condensed consolidated financial statements have been prepared on a basis that assumes the Company will continue as a going concern and which contemplates the realization of assets and satisfaction of liabilities and commitments in the ordinary course of business.

**COVID-19 Global Pandemic**

In December 2019, an outbreak of COVID-19 was reported in Wuhan, China. On March 11, 2020, the World Health Organization declared COVID-19 a global pandemic and on March 13, 2020, President Donald J. Trump declared the virus a national emergency. This highly contagious disease has spread to most of the countries in the world and throughout the United States, creating a serious impact on customers, workforces, and suppliers, disrupting economies and financial markets and leading to a world-wide economic downturn. It has caused a disruption of the normal operations of many businesses, including the temporary closure or scale-back of business operations and/or the imposition of either quarantine or remote work or meeting requirements for employees, either by government order or on a voluntary basis. The pandemic may impact the ability of the Company's strategic partners to operate and fulfill their contractual obligations, and result in an increase in their costs and cause delays in performance. These effects, and the direct effect of the virus and any potential disruption on the Company's operations, may negatively impact the Company's ability to

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meet the Company's strategic targets. The Company's employees, in most cases, are working remotely due to safety concerns and using various technologies to perform their functions. Additionally, the disruption and volatility in the global and domestic capital markets may increase the cost of capital and limit the Company's ability to access capital. Both the health and economic aspects of COVID-19 are highly fluid and the future course of each is uncertain. For these reasons and other reasons that may come to light if the coronavirus pandemic and associated protective or preventative measures expand, the Company may experience a material adverse effect on its business operations and financial condition; however, its ultimate impact is highly uncertain and subject to change.

The Company cannot foresee if and when the outbreak of COVID-19 will be effectively contained, nor can the Company predict the severity and duration of its impact. Management is actively monitoring the global situation on its financial condition, liquidity, operations, suppliers, industry, and workforce. Given the daily evolution of the COVID-19 outbreak and the global responses to curb its spread, the Company is not able to estimate the adverse effects of the COVID-19 outbreak on its results of operations, financial condition, or liquidity.

***Interim Financial Information***

The condensed consolidated balance sheet at December 31, 2019 was derived from audited financial statements, but does not include all disclosures required by GAAP. The accompanying unaudited condensed consolidated financial statements as of September 30, 2020 and for the three and nine months ended September 30, 2020 and 2019 have been prepared by the Company pursuant to the rules and regulations of the SEC for interim financial statements. Certain information and footnote disclosures normally included in financial statements prepared in accordance with GAAP have been condensed or omitted pursuant to such rules and regulations. These condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements and the notes thereto for the year ended December 31, 2019, included in the Company's Annual Report on Form 10-K filed with the SEC on March 12, 2020. In the opinion of management, all adjustments, consisting only of normal recurring adjustments necessary for a fair statement of the Company's financial position as of September 30, 2020, and results of operations for the three and nine months ended September 30, 2020 and 2019, and cash flows for the nine months ended September 30, 2020 and 2019 have been made. The results of operations for the three and nine months ended September 30, 2020 are not necessarily indicative of the results of operations that may be expected for the year ending December 31, 2020.

**2. Summary of Significant Accounting Policies**

There have been no material changes in the Company's significant accounting policies, other than the addition of accounting policies for Exchangeable Notes, derivative liabilities (the Derivative liability) and RLNs and the adoption of accounting pronouncements as described below, as compared to the significant accounting policies described in the Company's Annual Report on Form 10-K for the year ended December 31, 2019.

***Use of Estimates***

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. Significant estimates and assumptions reflected in these condensed consolidated financial statements include, but are not limited to, the accrual for research and development expenses, the valuation of restricted ordinary shares, the valuation of share-based compensation awards, the valuation of the RLNs and the Derivative liability. The Company bases its estimates on historical experience, known trends and other market-specific or other relevant factors that it believes to be reasonable under the circumstances. On an ongoing basis, management evaluates its estimates as there are changes in circumstances, facts and experience. Actual results could differ materially from those estimates. The Company has contemplated the impact of COVID-19 within its financial statements and is not aware of any specific event or circumstance that would require the Company to update estimates, judgments or revise the carrying value of any assets or liabilities.

Specifically, management has estimated variables used to calculate the discounted cash flow analysis (DCF) and assumptions used in the BlackScholes and binomial lattice models to value derivative instruments (see Note 3 - Fair Value of Financial Assets and Liabilities).

***Cash and Cash Equivalents***

The Company's cash and cash equivalents consist of cash balances and highly liquid investments with maturities of three months or less at the date of purchase. Accounts held at U.S. financial institutions are insured by the Federal Deposit Insurance Corporation up to \$250, while accounts held at Irish financial institutions are insured under the Deposit Guarantee Scheme up to \$117 (€100).

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Cash accounts with any type of restriction are classified as restricted cash. If restrictions are expected to be lifted in the next twelve months, the restricted cash account is classified as current. Included within restricted cash on the Company's condensed consolidated balance sheet is a certificate of deposit for \$90 which is being held by a third party bank as collateral for the irrevocable letter of credit issued in March 2018 to secure an office lease (see Note 6 - Leases). Also included within restricted cash on the Company's condensed consolidated balance sheet is \$17 relating to the warrants issued on June 5, 2020 pursuant to the June 3 SPA and \$19 relating to the warrants issued on July 2, 2020 pursuant to the June 30 SPA. On the closing date of each of the June 3 Offering and June 30 Offering, each investor deposited \$0.01 per warrant issued being the nominal value of the underlying ordinary share represented by each warrant. This amount will be held in trust by the Company pending a decision by the relevant investor to exercise the warrant by means of a "cashless exercise" pursuant to the terms of the warrant, in which case the \$0.01 will be used to pay up the nominal value of the ordinary share issued pursuant to the warrant. Upon the exercise of the warrants other than by means of a "cashless exercise", the amount held in trust will be returned to the relevant investor in accordance with the terms of the applicable SPA.

**Concentration of Credit Risk**

Financial instruments that potentially expose the Company to concentrations of credit risk consist primarily of cash and cash equivalents. The Company has most of its cash and cash equivalents at two accredited financial institutions in the United States and Ireland, in amounts that exceed federally insured limits. The Company did not hold any short-term investments as of September 30, 2020. The Company does not believe that it is subject to unusual credit risk beyond the normal credit risk associated with commercial banking relationships.

**Net Loss Per Ordinary Share**

Basic and diluted net loss per ordinary share is determined by dividing net loss attributable to ordinary shareholders by the weighted-average ordinary shares outstanding during the period in accordance with Accounting Standard Codification (ASC) 260, *Earnings per Share*. For the periods presented, the following ordinary shares underlying the options, unvested restricted ordinary shares, unvested restricted share units, unvested performance restricted share units and the warrants have been excluded from the calculation because they would be anti-dilutive.

	Nine Months Ended	
	September 30, 2020	September 30, 2019
Options to purchase ordinary shares	1,147,490	1,150,439
Unvested restricted ordinary shares	—	8,542
Unvested restricted share units	—	31,367
Unvested performance restricted share units	1,042,000	50,000
Warrants	3,636,229	19,890
<b>Total</b>	<b>5,825,719</b>	<b>1,260,238</b>

**Segment and Other Information**

The Company determines and presents operating segments based on the information that is internally provided to the Chief Executive Officer, Chief Scientific Officer and Chief Financial Officer, who together are considered the Company's chief operating decision maker, in accordance with ASC 280, *Segment Reporting*. The Company has determined that it operates as a single business segment, which is the development and commercialization of innovative treatments for drug resistant bacterial infections.

The distribution of total operating expenses by geographical area was as follows:

Operating expenses	Three Months Ended		Nine Months Ended September 30,	
	September 30,			
	2020	2019	2020	2019
Ireland	\$ 4,859	\$ 28,309	\$ 19,931	\$ 70,006
U.S.	1,476	2,690	7,551	8,874
<b>Total</b>	<b>\$ 6,335</b>	<b>\$ 30,999</b>	<b>\$ 27,482</b>	<b>\$ 78,880</b>

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The distribution of long-lived assets by geographical area was as follows:

Long-lived assets	September 30, 2020	December 31, 2019
Ireland	\$ 11,041	\$ 10,936
U.S.	3,104	3,037
<b>Total</b>	<b>\$ 14,145</b>	<b>\$ 13,973</b>

**Exchangeable Notes**

The Company evaluates its debt and equity issuances to determine if those contracts, or embedded components of those contracts, qualify as derivatives under ASC 815, *Derivatives and Hedging*. Where embedded exchange features are determined to be derivatives, under ASC 815-15, which requires bifurcation, these contracts are recorded at fair value and deducted from the book value of the debt host as a debt discount at inception. The debt host is subsequently measured at amortized cost. Debt discounts are recognized to interest expense over the term of the debt using the effective interest method.

**Derivative Liability**

The Company accounts for derivative instruments in accordance with ASC 815, which establishes accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other financial instruments or contracts which require bifurcation and measurement at fair value for accounting purposes on the balance sheet date. Any liabilities recorded at fair value are revalued each reporting period with the resulting change in fair value reflected in other (expense) / income, net.

In determining the appropriate fair values, the Company uses a variety of valuation techniques applying DCF, Black-Scholes and binomial lattice models, which are discussed in Note 3 - Fair Value of Financial Assets and Liabilities. The Company's derivative financial instruments consist of embedded features in the Exchangeable Notes. The embedded derivatives include provisions that provide the noteholder with certain exchange rights and protections on a fundamental change such as a change of control. The effects of interactions between embedded derivatives are calculated and accounted for in arriving at the overall fair value of the financial instruments.

**Royalty-Linked Notes**

The RLNs qualify as debt instruments under ASC 470, *Debt*, and are initially recorded at fair value, applying a DCF model, and then subsequently measured at amortized cost. The Company assesses the valuation of this debt for any significant changes to the facts and circumstances in the initial valuation which would impact the carrying value, and if required, make adjustments to revalue the debt as appropriate. Amortization is recognized as interest expense over the term of the debt instrument using the effective interest method.

**Ordinary Share Warrants**

The Company accounts for ordinary share warrants in accordance with applicable accounting guidance provided in ASC 815, *Derivatives and Hedging – Contracts in Entity's Own Equity*, as either derivative liabilities or as equity instruments depending on the specific terms of the warrant agreement. Any warrants that (i) require physical settlement or net-share settlement or (ii) provide the Company with a choice of net-cash settlement or settlement in its own shares (physical settlement or net-share settlement), provided that such warrants are indexed to the Company's own shares is classified as equity. The Company's June 3 Offering and June 30 Offering contain freestanding derivatives which satisfy the criteria for classification as equity instruments as the warrants do not contain cash settlement features or variable settlement provision that cause them to not be indexed to the Company's own stock. The Company assesses classification of its ordinary share warrants at each reporting date to determine whether the instruments still qualify for the scope exception under ASC 815.

**Income Taxes**

The CARES Act lifts certain deduction limitations originally imposed by the Tax Cuts and Jobs Act of 2017 (2017 Tax Act). Corporate taxpayers may carryback net operating losses (NOLs) originating during 2018 through 2020 for up to five years, which was not previously allowed under the 2017 Tax Act. The CARES Act also eliminates the 80% of taxable income limitations by allowing corporate entities to fully utilize NOL carryforwards to offset taxable income in 2018, 2019 or 2020. Taxpayers may generally deduct interest up to the sum of 50% of adjusted taxable income plus business interest income (30% limit under the 2017 Tax Act) for tax years beginning January 1, 2019 and 2020. The CARES Act allows taxpayers with alternative minimum tax credits to claim a refund in 2020 for the entire amount of the credits instead of recovering the credits through refunds over a period of years, as originally

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enacted by the 2017 Tax Act. The enactment of the CARES Act did not result in any material adjustments to the Company's income tax provision for the nine months ended September 30, 2020, or to the Company's net deferred tax assets as of September 30, 2020.

**Recently Adopted Accounting Pronouncements**

In June 2016, the Financial Accounting Standards Board (FASB) issued ASU 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*. The new guidance within ASU 2016-13, along with related updates (collectively ASC 326) introduces an approach based on expected losses to estimate credit losses on certain types of financial instruments by using all practical and relevant information. The new guidance became effective for annual periods beginning after December 15, 2019, and interim periods within those annual periods. Further clarification on disclosures relating to the standard were released in March 2020, in ASU 2020-03, *Codification Improvements to Financial Instruments*, which outlined seven areas of improvements relating to financial instrument guidance. The new standards were effective January 1, 2020 and adoption did not have a material impact on the Company's condensed consolidated financial statements.

In August 2018, the FASB issued ASU No. 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework - Changes to the Disclosure Requirements for Fair Value Measurement*. This standard modifies certain disclosure requirements on fair value measurements. This standard became effective for the Company on January 1, 2020, and did not have a material impact on the Company's disclosures.

**Recent Accounting Pronouncements**

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*. The new guidance is intended to simplify the accounting for income taxes by removing certain exceptions and by updating accounting requirements around franchise taxes, goodwill recognized for tax purposes, the allocation of current and deferred tax expense among legal entities, among other minor changes. ASU 2019-12 is effective for fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. Early adoption is permitted. The Company is assessing what impact ASU 2019-12 will have on the condensed consolidated financial statements.

In January 2020, the FASB issued ASU 2020-01, *Investments—Equity Securities (Topic 321), Investments—Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815): Clarifying the Interactions between Topic 321, Topic 323, and Topic 815*. The amendments in ASU 2020-01 clarify the interaction of the accounting for equity securities under Topic 321 and investments accounted for under the equity method of accounting. ASU 2020-01 is effective for fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. Early adoption is permitted. The Company is assessing what impact ASU 2020-01 will have on the condensed consolidated financial statements.

**3. Fair Value of Financial Assets and Liabilities**

The following table presents information about the Company's financial assets that were carried at fair value on a recurring basis on the condensed consolidated balance sheet as of September 30, 2020 and December 31, 2019 and indicates the fair value hierarchy of the valuation inputs utilized to determine such fair value.

<b>September 30, 2020</b>				
<b>Assets</b>	<b>Total</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>
Other asset – advance payment to supplier	\$ 3,919	—	—	3,919
<b>December 31, 2019</b>				
<b>Assets</b>	<b>Total</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>
Other asset – advance payment to supplier	\$ 3,884	—	—	3,884

The other asset above relates to advance payments made to a supplier that were recorded at fair value using DCF analysis as of September 30, 2020 and December 31, 2019. The fair value measurements of these advance payments were determined based on significant unobservable inputs, including discount rates of 21% and 15%, as of September 30, 2020 and December 31, 2019, respectively, and the expected time to recovery of the payment. Changes to the inputs described above are not expected to have a material impact on the Company's financial position and results of operations in any given period.

The carrying amounts reported in the condensed consolidated balance sheets for prepaid expenses and other current assets, accounts payable, accrued expenses and other current liabilities approximate their fair value based on the short-term maturity of these instruments.

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The following table presents information about the Company's debt, Exchangeable Notes, Derivative liability and RLNs. The Company's long-term debt were carried at amortized cost on the condensed consolidated balance sheet as of September 30, 2020 and December 31, 2019 and indicates the fair value hierarchy of the valuation inputs utilized to determine the approximate fair value:

September 30, 2020	Book Value	Approximate Fair Value	Level 1	Level 2	Level 3
<b>Liabilities</b>					
<b>Debt</b>					
Current portion of long-term debt	\$ 6,084	\$ 6,084	—	6,084	—
Long-term debt, less current portion	3,757	3,541	—	3,541	—
<b>Exchangeable Notes</b>					
Long-term exchangeable note	17,896	30,027	—	30,027	—
Derivative liability - exchange option and change of control	26,097	26,097	—	—	26,097
<b>Revenue Futures</b>					
Current portion of royalty linked notes	74	74	—	—	74
Long-term royalty linked notes, less current portion	12,492	15,708	—	—	15,708
<b>Total</b>	<b>\$ 66,400</b>	<b>\$ 81,531</b>	<b>—</b>	<b>39,652</b>	<b>41,879</b>
<b>December 31, 2019</b>					
<b>Liabilities</b>					
Current portion of long-term debt	\$ 5,800	\$ 5,800	—	5,800	—
Long-term debt, less current portion	7,625	7,213	—	7,213	—
<b>Total</b>	<b>\$ 13,425</b>	<b>\$ 13,013</b>	<b>—</b>	<b>13,013</b>	<b>—</b>

The book value of the current portion of long-term debt approximates its fair value due to the short-term nature of the balance. The fair value of long-term debt, less current portion were determined using DCF analysis using quoted market interest rates, without consideration of transaction costs, which represents a Level 2 basis of fair value measurement. The counterparty to the long-term debt is a major international financial institution.

The fair value of long-term Exchangeable Notes were determined using DCF analysis using the fixed interest rate outlined in the Exchangeable Note indenture, without consideration of transaction costs, which represents a Level 2 basis of fair value measurement.

The Level 3 liabilities held as of September 30, 2020 consist of the embedded exchange option and change of control premium contained in the Exchangeable Notes (see Note 8 - Debt) and a separate financial instrument, that was issued as part of the Units, the RLNs (see Note 9 - Royalty-Linked Notes). The exchange option and change of control premium met the criteria requiring these to be bifurcated and accounted for separately from the host debt in accordance with ASC 815-15, *Derivatives and Hedging: Embedded Derivatives*. The exchange option and change of control premium are presented as a Derivative liability. At any time on or after January 21, 2021, subject to specified limitations, the Exchangeable Notes are exchangeable for the Company's ordinary shares, cash or a combination of ordinary shares and cash, at an initial exchange rate of 1,000 shares per \$1,000 of principal and interest on the Exchangeable Notes (equivalent to an initial exchange price of approximately \$1.00 per ordinary share), which exchange rate was adjusted to 1,286.1845 shares per \$1,000 principal and interest on the Exchangeable Note (equivalent to an exchange price of approximately \$0.7775 per ordinary share) as of November 2, 2020 and is subject to further adjustment pursuant to the terms of the indenture governing the Exchangeable Notes. The Derivative liability, representing the exchange option and change of control premium, was recorded at a fair value of \$27,038 upon issuance of the Exchangeable Notes under the Private Placement and is subsequently remeasured to fair value at the end of each reporting period. The fair value of the exchange option at September 30, 2020 amounted to \$12,791.

In the event of a fundamental change that is not a liquidation event (Fundamental Change), under the Exchangeable Note indenture, the Company will be required to pay the holder of the Exchangeable Notes the greater of three times the outstanding principal amount of such Exchangeable Note and the consideration that would be received by the holder of such Exchangeable Note, in connection with such Fundamental Change, if the holder had exchanged its note for ordinary shares immediately prior to the consummation of such Fundamental Change, plus any accrued and unpaid interest. The Derivative liability, representing the change of control feature, was recorded at a fair value of \$13,306 at September 30, 2020.

The fair value of each component of the Derivative liability was determined using a valuation technique applying DCF analysis or Black-Scholes in combination with binomial lattice models, without consideration of transaction costs, which represents a Level 3 basis of fair value measurement. The key inputs to valuing the Derivative liability as of September 30, 2020 include the

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indenture terms of the Exchangeable Notes, the Company's share price at the exchange date, the expected annual volatility of the Company's ordinary shares, management's assumption regarding the probability of a fundamental change pursuant to the terms of the Exchangeable Notes indenture, and a risk-adjusted discount rate. Fair value measurements are highly sensitive to changes in these inputs and significant changes in these inputs could result in a significantly higher or lower fair value.

The following table presents the changes in fair value of the Company's Derivative liability for the nine months ended September 30, 2020

Balance at December 31, 2019	\$ —
Initial fair value upon issuance of the Exchangeable Notes in the Private Placement	27,038
Fair value added upon issuance of Exchangeable Notes in the Rights Offering	82
Adjustment to fair value	(1,023)
Balance at September 30, 2020	<u>\$ 26,097</u>

The following summary table shows the assumptions used in the Black-Scholes and binomial lattice pricing models to estimate the fair value of the exchange option:

	<u>September 30, 2020</u>	<u>January 21, 2020</u> (Issuance Date)
Expected term in years	4.30	4.98
Volatility	120 %	80 %
Risk-free interest rate	0.28 %	1.57 %
Dividend rate	0 %	0 %
Discount rate	21 %	21 %

The significant assumptions used in the DCF model, to estimate the fair value of the change of control feature at September 30, 2020, were a discount rate of 21% and management's assumption regarding the probability of a fundamental change pursuant to the terms of the Exchangeable Notes indenture.

The RLN liability is carried at amortized cost on the condensed consolidated balance sheet as of September 30, 2020 (see Note 9 – Royalty-Linked Notes). The book value of the current portion of the RLN liability approximates its fair value due to the short-term nature of the balance. The total fair value of \$15,782 was determined using DCF analysis, without consideration of transaction costs, which represents a Level 3 basis of fair value measurement. The key inputs to valuing the RLNs were the indenture terms of the RLNs, the expected cash flows to be received by holders of the RLNs based on management's revenue forecasts of U.S. sulopenem sales and a risk-adjusted discount rate to derive the net present value of expected cash flows. The RLNs will be subject to a maximum return amount, including all principal and payments and certain default interest in respect of uncurable defaults, of \$160.00 (or 4,000 times the principal amount of such note). The discount rate applied to the model was 21%. The book value of the current portion of the RLN liability approximates its fair value due to the short-term nature of the balance. Fair value measurements are highly sensitive to changes in these inputs and significant changes in these inputs could result in a significantly higher or lower fair value.

There have been no transfers of assets or liabilities between the fair value measurement levels.

#### 4. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consist of the following:

	<u>September 30,</u> <u>2020</u>	<u>December 31,</u> <u>2019</u>
Short-term deposits	1,334	1,139
Prepaid research and development expenses	734	1,679
Deferred financing expenses (1)	—	2,339
Research and development tax credit receivable	720	1,036
Prepaid insurance	397	569
Value added tax receivable	37	68
Other prepaid assets	207	57
Total	<u>\$ 3,429</u>	<u>\$ 6,887</u>

(1) See Notes 8 and 9 to the condensed consolidated financial statements for further details on movements in deferred financing expenses.



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**5. Property and Equipment**

Property and equipment and related accumulated depreciation are as follows:

	September 30, 2020	December 31, 2019
Leasehold improvements	\$ 592	\$ 592
Furniture and fixtures	120	120
Laboratory equipment	86	81
Computer equipment	138	132
	<u>936</u>	<u>925</u>
Less: accumulated depreciation	(475)	(353)
	<u>\$ 461</u>	<u>\$ 572</u>

Depreciation expense was \$122 for the nine months ended September 30, 2020 and \$152 for the year ended December 31, 2019.

**6. Leases**

The Company has entered into a number of operating leases, primarily for office space and commercial property. These leases have terms which range from four to 19 years, and generally include one or more options to terminate or renew. The termination options can reduce the lease term for periods ranging from two to 10 years, however the remaining lease terms do not represent these early termination dates as management have concluded that it is reasonably certain that the Company will not exercise these options. The renewal terms can extend the lease term for additional periods ranging from three to five years. These renewal options are represented in the remaining lease term as management have concluded that it is reasonably certain that the Company will exercise the renewal option. In September 2020, the Company entered into a sublease agreement for commercial property. This sublease has a term of three years. Certain leases contain variable lease payments, including payments based on an index or rate. Variable lease payments based on an index or rate are initially measured using the index or rate in effect at lease commencement. Certain agreements contain both lease and non-lease components. The Company has elected to separately account for these components in determining the lease liabilities and right-of-use assets. The Company's lease agreements generally do not provide an implicit borrowing rate; therefore, an internal incremental borrowing rate was determined based on information available at lease commencement date for the purposes of determining the present value of lease payments. The Company used the incremental borrowing rate on January 1, 2019 for all leases that commenced prior to that date. All operating lease expenses are recognized on a straight-line basis over the lease term. The Company recognized \$736 and \$760 of operating lease costs for right-of-use assets during the nine months ended September 30, 2020 and 2019, respectively. The Company recognized \$26 of sublease income during the nine months ended September 30, 2020. The Company was not party to any sublease agreement during the nine months ended September 30, 2019.

Information related to the Company's right-of-use assets and related lease liabilities is as follows:

	Three Months Ended September 30, 2020	Three Months Ended September 30, 2019	Nine Months Ended September 30, 2020	Nine Months Ended September 30, 2019
Cash paid for operating lease liabilities	\$ 97	\$ 65	\$ 683	\$ 498
Right-of-use assets obtained in exchange for new operating lease obligation	—	—	—	7,622
			September 30, 2020	December 31, 2019
Weighted-average remaining lease term			12.0 years	12.5 years
Weighted-average discount rate			7.5%	7.6%

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Right-of-use assets and lease liabilities for the Company's operating leases were recorded in the condensed consolidated balance sheet as follows representing the Company's right to use the underlying asset for the lease term ("Other assets") and the Company's obligation to make lease payments ("Other current liabilities" and "Other liabilities"):

	September 30, 2020	December 31, 2019
Other assets	\$ 6,738	\$ 7,144
Other current liabilities	\$ 723	\$ 580
Other liabilities	6,532	6,748
Total lease liabilities	<u>\$ 7,255</u>	<u>\$ 7,328</u>

Future lease payments included in the measurement of lease liabilities on the condensed consolidated balance sheet as of September 30, 2020 for the following five fiscal years and thereafter were as follows:

Due in 12 month period ended September 30,	
2021	\$ 1,216
2022	1,057
2023	1,065
2024	1,069
2025	1,031
Thereafter	5,084
	<u>\$ 10,522</u>
Less imputed interest	<u>(3,267)</u>
Total lease liabilities	<u>\$ 7,255</u>

#### 7. Accrued Expenses

Accrued expenses consist of the following:

	September 30, 2020	December 31, 2019
Accrued clinical trial costs	\$ 660	\$ 9,866
Accrued payroll and bonus expenses	553	1,207
Accrued manufacturing expenses	137	136
Accrued other expenses	879	1,249
Total	<u>\$ 2,229</u>	<u>\$ 12,458</u>

#### 8. Debt

##### *Secured Credit Facility*

On April 27, 2018, the Company's subsidiaries, Iterum Therapeutics International Limited, Iterum Therapeutics US Holding Limited and Iterum Therapeutics US Limited (the Borrowers), entered into a loan and security agreement (Loan and Security Agreement) with SVB pursuant to which SVB agreed to lend the Borrowers up to \$30,000 in two term loans. \$15,000 of the secured credit facility was funded on closing. A second draw of up to \$15,000 was available to the Company through October 31, 2019, upon satisfaction of either of the following: (i) the achievement by the Company of both non-inferiority and superiority primary endpoints from its Phase 3 uncomplicated urinary tract infection (uUTI) trial, as well as reporting satisfactory safety data from the trial, or (ii) the achievement of non-inferiority primary endpoints from both its Phase 3 uUTI and complicated urinary tract infection (cUTI) trials, as well as reporting satisfactory safety data from the trials. A non-utilization fee of 1.50% of the aggregate undrawn principal amount was to apply if the Company satisfied the above conditions but chose not to draw down the second term loan. The Company did not satisfy the conditions for the second draw above before the deadline of October 31, 2019.

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Required monthly amortization payments for the initial \$15,000 draw commenced on November 1, 2019 and total principal repayments of \$4,655 were made during the nine months ended September 30, 2020. Interest accrues at a floating per annum rate equal to the greater of (i) 8.31%; or (ii) 3.89% above the Wall Street Journal prime rate, and is payable monthly in arrears. All outstanding principal, plus a 4.20% final interest payment, will be due and payable on the earliest to occur of March 1, 2022 (the maturity date), the acceleration of the term loan or the prepayment of the term loan. The final payment fee of \$630, which represents 4.2% of the funded loan, is accreted using the effective interest method over the life of the loan as interest expense. Voluntary prepayments are permitted at any time, subject to a prepayment fee of 4.00% in the first year, 3.00% in the second year, and 2.00% thereafter.

In connection with the initial \$15,000 draw, the Company issued SVB and Life Sciences Fund II LLC (LSF) warrants to purchase an aggregate of 19,890 Series B convertible preferred shares (which converted into warrants to purchase 19,890 ordinary shares upon the Company's initial public offering (IPO)) at an exercise price of \$18.85 per share. If the second term loan had been drawn down, each of SVB and LSF would have been automatically entitled to purchase additional ordinary shares in an aggregate amount equal to 2.50% of the second term loan divided by the applicable exercise price.

The loan proceeds were allocated based on the relative fair values of the debt instrument and the warrant instrument. The fair value of the warrants and the closing costs were recorded as debt discounts and are being amortized using the effective interest rate method over the term of the loan. The effective annual interest rate of the outstanding debt is approximately 12.51% as of September 30, 2020. The Company recognized \$1,091 and \$1,310 of interest expense related to the loan agreement during the nine months ended September 30, 2020 and 2019, respectively, including \$324 and \$243 related to the accretion of the debt discounts and deferred financing costs during the nine months ended September 30, 2020 and 2019, respectively.

In connection with the Private Placement, Iterum Bermuda was joined as a party to the Loan and Security Agreement as a borrower and the Loan and Security Agreement was amended on January 16, 2020 to, among other things, modify the definition of subordinated debt to include the RLNs and Exchangeable Notes.

#### ***2025 Exchangeable Notes***

On January 21, 2020, the Company completed a Private Placement pursuant to which its wholly owned subsidiary, Iterum Bermuda issued and sold approximately \$51.6 million aggregate principal amount of 6.500% Exchangeable Notes and \$0.1 million aggregate principal amount of RLNs, to a group of accredited investors. On September 8, 2020, the Company completed a Rights Offering pursuant to which Iterum Bermuda issued and sold approximately \$0.2 million aggregate principal amount of 6.500% Exchangeable Notes and \$0.02 million aggregate principal amount of RLNs, to existing shareholders. The Securities were sold in Units with each Unit consisting of an Exchangeable Note in the original principal amount \$1,000 and 50 RLNs. The Units were sold at a price of \$1,000 per Unit.

At any time on or after January 21, 2021, subject to specified limitations, the Exchangeable Notes are exchangeable for the Company's ordinary shares, cash or a combination of ordinary shares and cash, at the Company's election, at an initial exchange rate of 1,000 shares per \$1,000 of principal and interest on the Exchangeable Notes (equivalent to an initial exchange price of approximately \$1.00 per ordinary share), which exchange rate was adjusted to 1,286.1845 shares per \$1,000 principal and interest on the Exchangeable Note (equivalent to an exchange price of approximately \$0.7775 per ordinary share) as of November 2, 2020 and is subject to further adjustment pursuant to the terms of the indenture governing the Exchangeable Notes. Any accrued and unpaid interest being exchanged will be calculated to include all interest accrued on the Exchangeable Notes being exchanged to, but excluding, the exchange settlement date.

In addition, the Exchangeable Notes will become due and payable by the Company upon the occurrence of a Fundamental Change as defined in the Exchangeable Notes indenture. The Company will be required to pay the holder of the Exchangeable Notes the greater of three times the outstanding principal amount of such Exchangeable Note and the consideration that would be received by the holder of such Exchangeable Note in connection with such Fundamental Change if the holder had exchanged its note for ordinary shares immediately prior to the consummation of such Fundamental Change, plus any accrued and unpaid interest.

The Company evaluates its debt and equity issuances to determine if those contracts, or embedded components of those contracts, qualify as derivatives under ASC 815-15, *Derivatives and Hedging*, requiring separate recognition in the Company's financial statements. The Company evaluated the accounting for the issuance of the Exchangeable Notes and concluded that the embedded exchange option and change of control feature are considered a Derivative liability under ASC 815-15 requiring bifurcation, from the Exchangeable Notes, as it does not qualify for the scope exceptions for contracts in an entity's own equity given the terms of the Exchangeable Notes. The exchange option and change of control feature are accounted for as a Derivative liability, under ASC 815-15, and are required to be separated and recorded as a single liability, which is revalued each reporting period with the

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resulting change in fair value reflected in other (expense) / income, net, in the condensed consolidated statements of operations and comprehensive loss.

The fair value of the Derivative liability at January 21, 2020 was \$27,038, and the fair value of the Derivative liability related to the Rights Offering was \$82, both of which were recorded as a reduction to the book value of the host debt contract. This debt discount is being amortized to interest expense over the term of the debt using the effective interest method. Transaction costs amounting to \$2,815 were allocated to the exchange option. These costs are reflected in financing transaction costs in the condensed consolidated statements of operations and comprehensive loss for the nine months ended September 30, 2020. Transaction costs amounting to \$2,814 were allocated to the debt host and capitalized in the host debt book value.

In circumstances where the embedded exchange option in a convertible instrument is required to be bifurcated, and there are other embedded derivative instruments in the convertible instrument that are required to be bifurcated, the derivative instruments are accounted for as a single, compound derivative instrument. The classification of derivative instruments, including whether such instruments should be recorded as liabilities or as equity, is reassessed at the end of each reporting period. Derivative instrument liabilities are classified in the balance sheet as current or non-current based on whether or not settlement of the derivative instrument is expected within twelve months of the balance sheet date.

The Company determined that all other features of the Exchangeable Notes were clearly and closely associated with a debt host and did not require bifurcation as a Derivative liability.

The Company recognized \$860 and \$2,339 of interest expense related to the Exchangeable Notes during the three and nine months ended September 30, 2020 and \$2,062 and \$5,665 related to the amortization of the debt discounts and deferred financing costs during the three and nine months ended September 30, 2020. These amounts are recorded in interest expense in the condensed consolidated statements of operations and comprehensive loss for the three and nine months ended September 30, 2020. The balance of the Exchangeable Notes as of September 30, 2020 is as follows:

	September 30, 2020	
	Principal	Accrued Interest
January 2020 \$1,000 Exchangeable Notes exchangeable into ordinary shares at \$1 per share, 6.5% interest, due January 31, 2025 (2025 Exchangeable Notes)	\$ 51,588	\$ 2,338
September 2020 \$1,000 Exchangeable Notes exchangeable into ordinary shares at \$1 per share, 6.5% interest, due January 31, 2025 (2025 Exchangeable Notes)	\$ 220	\$ 1
2025 Exchangeable Notes	51,808	2,339
Unamortized discount and debt issuance costs	(36,251)	—
2025 Exchangeable Notes, net	\$ 15,557	\$ 2,339

***Payment Protection Program***

On April 3, 2020, the SBA launched the Program following the signing of the CARES Act on March 27, 2020. On April 30, 2020, the Borrower entered into the PPP loan with the Lender under the Program, pursuant to the Company receiving a PPP loan of approximately \$744 with a fixed 1% annual interest rate and a maturity of two years. Under the terms of the agreement, there shall be no payments due by the Company until after the Deferral Period. Following the Deferral Period, equal monthly repayments of principal and interest will be due to fully amortize the principal amount outstanding on the PPP loan on the last day of the Deferral Period by the maturity date. Under the terms of the Program, the SBA will forgive the portion of loan proceeds used for U.S. payroll costs and other designated operating expenses for up to 24 weeks, provided at least 60% of the loan proceeds are used for U.S. payroll costs. The Company incurred qualifying payroll costs and other operating expenses in the 24 weeks following April 30, 2020, and has requested forgiveness for a portion of the PPP loan from the Lender. The Company recognized \$1 and \$3 of interest expense related to the loan agreement during the three and nine months ended September 30, 2020. Any forgiveness of the PPP loan will be made in accordance with SBA requirements and subject to approval by SVB. No assurance is provided that the Company will obtain forgiveness in whole or in part.

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Scheduled principal payments on outstanding debt, including principal amounts owed to RLN holders (see Note 9 – Royalty-Linked Notes), as of September 30, 2020, for the following five fiscal years and thereafter were as follows:

Year Ending September 30, (unaudited)		
2021	\$	6,300
2022		3,755
2023		—
2024		—
2025		51,808
Thereafter		104
<b>Total</b>	<b>\$</b>	<b>61,967</b>

**9. Royalty-Linked Notes**

*Liability Related to Sale of Future Royalties*

On January 21, 2020, as part of the Private Placement, the Company issued 2,579,400 RLNs to a group of accredited investors. On September 8, 2020, as part of the Rights Offering, the Company issued 11,000 RLNs to existing shareholders. The RLNs will entitle the holders thereof to payments, at the applicable payment rate, based solely on a percentage of the Company's net revenues from U.S. sales of specified sulopenem products earned through December 31, 2045, but will not entitle the holders thereof to any payments unless the Company receives FDA approval for one or more specified sulopenem products prior to December 31, 2025 and the Company earns net revenues on such product. If any portion of the principal amount of the outstanding RLNs, equal to \$0.04 per RLN, has not been paid as of the end date on December 31, 2045 (or December 31, 2025, in the event that the Company has not yet received FDA approval with respect to one or more specified sulopenem products by such date), Iterum Bermuda must pay the unpaid portion of the principal amount. The RLNs will earn default interest if the Company breaches certain obligations under the indenture governing the RLNs (but do not otherwise bear interest) and will be subject to a maximum return amount, including all principal and payments and certain default interest in respect of uncurable defaults, of \$160.00 (or 4,000 times the principal amount of such note). The RLNs will be redeemable at the Company's option, subject to the terms of the indenture governing the RLNs (RLN Indenture).

In accordance with exceptions allowed under ASC 815-10, *Derivatives and Hedging*, due to a limit on the amount of royalties that the noteholders can earn under the RLN, this transaction is accounted for as a debt liability under ASC 470, *Debt*, that is being amortized using the effective interest method over the life of the arrangement. The Company has no obligation to pay any amount to the noteholders until the net revenue of the specified products are earned. In order to record the amortization of the liability, the Company is required to estimate the total amount of future net revenue to be earned in each period under the RLN Indenture and the payments that will be passed through to the noteholders over the life of the RLN Indenture.

The note proceeds from both the Private Placement and subsequent Rights Offering were allocated based on the relative fair value of the debt instrument, less transactions costs amounting to \$1,239, as debt discounts. The Company imputes interest on the amortized cost of the liability using an estimated effective interest rate of 31.1% as of September 30, 2020. Payments to the noteholders in each period, related to future sales of sulopenem, would offset the liability. The Company periodically assesses the revenue forecasts of the specified sulopenem products and the related payments, and to the extent such payments are greater or less than the initial estimate, the Company adjusts the amortization of the liability and interest rate, to ensure the liability is fully amortized on fulfillment of the agreement.

The Company recognized \$636 and \$1,525 of interest expense related to the RLNs, in the [condensed consolidated statements of operations and comprehensive loss](#) for the three and nine months ended September 30, 2020, respectively, related to the accretion of the debt discounts and deferred financing costs. These amounts are recorded in interest expense in the [condensed consolidated statements of operations and comprehensive loss](#) for the three and nine months ended September 30, 2020. The balance of the RLNs as of September 30, 2020 is as follows:

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	<b>September 30, 2020</b>
Total liability related to the sale of future royalties, on inception	\$ 10,990
Liability related to the sale of future royalties, arising from the Rights Offering	51
Amortization of discount and debt issuance costs	1,525
Total liability related to the sale of future royalties at September 30, 2020	\$ 12,566
Current Portion	74
Long-term Portion	\$ 12,492

**10. Shareholders' Equity / (Deficit)**

The following tables present a reconciliation of the Company's beginning and ending balances in shareholders' equity / (deficit) for the nine months ended September 30, 2020 and 2019:

	<b>Total Shareholders' Deficit</b>
Shareholders' deficit at January 1, 2020	\$ (26,238 )
Share-based compensation expense	2,633
Issuance of ordinary shares, net	5,326
Issuance of warrants	3,196
Net loss	(40,820 )
Shareholders' deficit at September 30, 2020	\$ (55,903 )

  

	<b>Total Shareholders' Equity / (Deficit)</b>
Shareholders' equity at January 1, 2019	\$ 71,622
Issuance of ordinary shares	3,037
Exercise of share options	60
Share-based compensation expense	1,674
Net loss	(79,489 )
Shareholders' deficit at September 30, 2019	\$ (3,096 )

The Company's capital structure consists of ordinary shares and undesignated preferred shares. Under Irish law, the Company is prohibited from allotting shares without consideration. Accordingly, at least the nominal value of the shares issued underlying any restricted share award, restricted share unit, performance share award, bonus share or any other share based grant must be paid pursuant to the Irish Companies Act 2014 (Irish Companies Act).

**Ordinary Shares**

On December 14, 2018, the Company and Iterum Therapeutics International Limited (ITIL) entered into a subscription agreement with a supplier of ITIL pursuant to which the supplier agreed to subscribe for ordinary shares in the Company in satisfaction of amounts due and owing under certain commercial agreements entered into between the supplier and ITIL (the Subscription Agreement). Pursuant to the terms of the Subscription Agreement, upon receipt by ITIL of a valid invoice from the supplier, the Company can elect to require the supplier to subscribe for ordinary shares in the capital of the Company (up to a maximum of 700,000 ordinary shares in total) to the value of the invoiced amount (a Subscription). On a Subscription, the supplier will direct ITIL to pay the Company such invoiced amount as subscription monies on the supplier's behalf in satisfaction of the invoiced amount.

On July 15, 2019, the Company elected that the supplier subscribe for 17,222 ordinary shares for an aggregate subscription price of \$0.11 million (the July Subscription Monies) upon receipt by ITIL of valid invoices up to that amount from the supplier. On that date, the Company, ITIL and the supplier executed a payment direction letter pursuant to which the parties directed ITIL to pay \$0.11 million (€0.10 million) to the Company in satisfaction of the supplier's obligation to pay the July Subscription Monies to the Company and ITIL's obligation to pay the invoiced amount to the supplier.

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On August 17, 2019, the Company elected that the supplier subscribe for 245,493 ordinary shares for an aggregate subscription price of \$1.67 million (the August Subscription Monies) upon receipt by ITIL of valid invoices up to that amount from the supplier. On that date, the Company, ITIL and the supplier executed a payment direction letter pursuant to which the parties directed ITIL to pay \$1.67 million (€1.50 million) to the Company in satisfaction of the supplier's obligation to pay the August Subscription Monies to the Company and ITIL's obligation to pay the invoiced amount to the supplier.

On September 30, 2019, the Company elected that the supplier subscribe for 199,056 ordinary shares for an aggregate subscription price of \$1.26 million (the September Subscription Monies) upon receipt by ITIL of valid invoices up to that amount from the supplier. On that date, the Company, ITIL and the supplier executed a payment direction letter pursuant to which the parties directed ITIL to pay \$1.26 million (€1.15 million) to the Company in satisfaction of the supplier's obligation to pay the September Subscription Monies to the Company and ITIL's obligation to pay the invoiced amount to the supplier.

On June 3, 2020, the Company entered into the June 3 SPA with the June 3 Purchasers pursuant to which the Company issued and sold, in the June 3 Offering, an aggregate of 2,971,770 ordinary shares, \$0.01 nominal value per share, at a purchase price per share of \$1.6825, for aggregate gross proceeds to the Company of \$5.0 million and net proceeds of \$4.3 million after deducting fees payable to the placement agent and other offering expenses payable by the Company. The closing date of the June 3 Offering was June 5, 2020.

On June 30, 2020, the Company entered into the June 30 SPA with the June 30 Purchasers pursuant to which the Company issued and sold, in the June 30 Offering, an aggregate of 3,372,686 ordinary shares, \$0.01 nominal value per share, at a purchase price per share of \$1.4825, for aggregate gross proceeds to the Company of \$5.0 million and net proceeds of \$4.2 million after deducting fees payable to the placement agent and other offering expenses payable by the Company. The closing date of the June 30 Offering was July 2, 2020. The Company offered the ordinary shares in the June 3 Offering and June 30 Offering pursuant to its universal shelf registration statement on Form S-3.

On October 27, 2020, the Company completed the October Offering in which it sold an aggregate of (i) 15,511,537 ordinary shares, \$0.01 nominal value per share, (ii) pre-funded warrants exercisable for an aggregate of 11,411,539 ordinary shares and (iii) warrants exercisable for an aggregate of 20,192,307 ordinary shares. The ordinary shares and pre-funded warrants were each offered together with the warrants, but the ordinary shares and pre-funded warrants were issued separately from the warrants. The combined offering price was \$0.65 per ordinary share and warrant and \$0.64 per pre-funded warrant and warrant. Aggregate gross proceeds to the Company from the October Offering were approximately \$17.4 million and net proceeds were approximately \$15.3 million after deducting fees payable to the placement agent and other estimated offering expenses payable by the Company.

At the Company's annual general meeting of shareholders on June 10, 2020, the Company's shareholders approved an increase of 100,000,000 ordinary shares to the number of authorized ordinary shares and the Company's Articles of Association were amended accordingly. The Company has authorized ordinary shares of 150,000,000 ordinary shares of \$0.01 par value each as of September 30, 2020. The holders of ordinary shares are entitled to one vote for each share held. The holders of ordinary shares have no automatic preemptive or other subscription rights, and there are no redemption or sinking fund provisions with respect to such shares.

***Warrants to purchase Ordinary Shares***

In connection with the initial drawdown of the SVB Secured Credit Facility, the Company issued SVB and LSF warrants to purchase an aggregate of 19,890 Series B convertible preferred shares (which converted into warrants to purchase 19,890 ordinary shares upon the Company's IPO) at an exercise price of \$18.85 per share.

In connection with the June 3 Offering completed on June 5, 2020, pursuant to the June 3 SPA, in a concurrent private placement, the Company issued and sold to the June 3 Purchasers warrants to purchase up to 1,485,885 ordinary shares. Upon closing, the warrants became exercisable immediately at an exercise price of \$1.62 per ordinary share, subject to adjustment in certain circumstances, and will expire on December 5, 2025. Warrants to purchase 208,023 ordinary shares, amounting to 7% of the ordinary shares issued under the June 3 SPA, were issued to designees of the placement agent on the closing of the June 3 Offering. Upon closing, the warrants issued to such designees were exercisable immediately at an exercise price of \$2.1031 per ordinary share and will expire on June 3, 2025.

The Company has classified the warrants as equity in accordance with ASC 815. The fair value of the warrants were valued at issuance using the Black-Scholes option pricing model with the following assumptions:

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	<b>June 5, 2020</b>
Volatility	120 %
Expected term in years	2.50 - 2.75
Dividend rate	0 %
Risk-free interest rate	0.47 %
Share price	\$ 1.53
Fair value of warrants issued	\$0.92 - \$1.03

In connection with the June 30 Offering completed on July 2, 2020, pursuant to the June 30 SPA, in a concurrent private placement, the Company has also issued and sold to the June 30 Purchasers warrants to purchase up to 1,686,343 ordinary shares. Upon closing, the warrants became exercisable immediately at an exercise price of \$1.42 per ordinary share, subject to adjustment in certain circumstances, and will expire on January 2, 2026. Warrants to purchase 236,088 ordinary shares, amounting to 7% of the ordinary shares issued under the June 30 SPA, were issued to designees of the placement agent on closing of the June 30 Offering. Upon closing, the warrants issued to such designees were exercisable immediately at an exercise price of \$1.8531 per ordinary share and will expire on June 30, 2025.

The Company has classified the warrants as equity in accordance with ASC 815. The fair value of the warrants were valued at issuance using the Black-Scholes option pricing model with the following assumptions:

	<b>July 02, 2020</b>
Volatility	120 %
Expected term in years	2.50 - 2.75
Dividend rate	0 %
Risk-free interest rate	0.47 %
Share price	\$ 1.19
Fair value of warrants issued	\$0.69 - \$0.78

On October 27, 2020, the Company completed the October Offering in which it sold an aggregate of (i) 15,511,537 ordinary shares, \$0.01 nominal value per share, (ii) pre-funded warrants exercisable for an aggregate of 11,411,539 ordinary shares and (iii) warrants exercisable for an aggregate of 20,192,307 ordinary shares. The ordinary shares and pre-funded warrants were each offered together with the warrants, but the ordinary shares and pre-funded warrants were issued separately from the warrants. The combined offering price was \$0.65 per ordinary share and warrant and \$0.64 per pre-funded warrant and warrant. The warrants are exercisable upon issuance at a price of \$0.65 per ordinary share, subject to adjustment in certain circumstances, and expire on October 27, 2025. The pre-funded warrants are exercisable upon issuance at a price of \$0.01 per ordinary share, subject to adjustment in certain circumstances, and expire when exercised in full, subject to certain conditions. As of October 31, 2020, pre-funded warrants to purchase 6,284,615 ordinary shares had been exercised for net proceeds of \$0.06 million. Warrants to purchase 1,884,615 ordinary shares, which represents a number of ordinary shares equal to 7.0% of the aggregate number of ordinary shares and pre-funded warrants sold in the October Offering, were issued to designees of the placement agent on closing of the October Offering. Upon closing, the warrants issued to such designees became exercisable immediately at an exercise price of \$0.8125 per ordinary share and expire on October 22, 2025.

***Undesignated Preferred Shares***

The Company has authorized 100,000,000 undesignated preferred shares of \$0.01 par value each as of September 30, 2020. The Directors are authorized by the Company's Articles of Association to determine the rights attaching to the undesignated preferred shares including rights of redemption, rights as to dividends, rights on winding up and conversion rights.

**11. Share-Based Compensation**

On November 18, 2015, the Company's Board of Directors adopted and approved the 2015 Equity Incentive Plan (the 2015 Plan), which authorized the Company to grant up to 223,424 ordinary shares in the form of incentive share options, nonstatutory share options, share appreciation rights, restricted share awards, restricted share units and other share awards. The types of share-based awards, including the rights, amount, terms, and exercisability provisions of grants are determined by the Company's Board of Directors. The purpose of the 2015 Plan is to provide the Company with the flexibility to issue share-based awards as part of an overall compensation package to attract and retain qualified personnel. On May 18, 2017, the Company amended the 2015 Plan to increase the number of ordinary shares available for issuance under the 2015 Plan by 219,605 shares to 443,029 shares.



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On March 14, 2018, the Company's Board of Directors adopted and approved the 2018 Equity Incentive Plan (the 2018 Plan), which became effective upon the execution and delivery of the underwriting agreement related to the Company's IPO in May 2018. No further grants will be made under the 2015 Plan. The ordinary shares underlying any options that are forfeited, cancelled, repurchased or are otherwise terminated by the Company under the 2015 Plan will not be added back to the ordinary shares available for issuance.

The 2018 Plan authorizes the Company to grant up to 1,018,459 ordinary shares in the form of incentive share options, nonstatutory share options, share appreciation rights, restricted share awards, restricted share units, performance share awards, performance cash awards and other share awards. The types of share-based awards, including the amount, terms, and exercisability provisions of grants are determined by the Company's Board of Directors. The ordinary shares underlying any options that are forfeited, cancelled, repurchased or are otherwise terminated by the Company under the 2018 Plan will be added back to the ordinary shares available for issuance under the 2018 Plan.

On December 5, 2018, pursuant to powers delegated to it by the Board of Directors of the Company, the Compensation Committee approved an increase in the number of ordinary shares available to be granted pursuant to the 2018 Plan by 4% of the total number of shares of the Company's issued share capital on December 31, 2018, being 574,081 ordinary shares.

On February 14, 2020, pursuant to powers delegated to it by the Board of Directors of the Company, the Compensation Committee approved, by written resolution, an increase of 594,758 ordinary shares to the number of ordinary shares available to be granted pursuant to the 2018 Plan, being just under 4% of the total number of the Company's ordinary shares outstanding shares on December 31, 2019, in accordance with the terms of the 2018 Plan.

On June 10, 2020, at the Company's annual general meeting of shareholders, the shareholders approved and adopted an amended and restated 2018 Plan which, among other things includes an increase of 2,250,000 ordinary shares in the number of ordinary shares reserved for issuance under the 2018 Plan.

***Restricted Ordinary Shares***

In connection with the Company's formation, 413,110 restricted ordinary shares were issued on October 14, 2015 to the Company's founders at par value. These ordinary shares are subject to various restrictions pursuant to ordinary share purchase agreements between the Company and each founder, including restrictions on transfer and a Company right of repurchase. The restricted ordinary shares were 25% vested as of October 14, 2016 and 1/36th of the remaining restricted ordinary shares vest on a monthly basis thereafter (subject to acceleration of vesting in connection with certain change of control transactions). A change in status occurred on November 18, 2015 when the founders became employees of the Company. The grant date of these shares is now considered to be November 18, 2015 when the fair value was \$3.14 per share.

Restricted ordinary shares were fully vested as of December 31, 2019 and there was no restricted ordinary share activity for the nine months ended September 30, 2020.

The Company recorded share-based compensation expense for the restricted ordinary shares based on the grant date fair value. The Company recorded an expense of \$247 for the nine months ended September 30, 2019. Total unamortized compensation expense related to restricted ordinary shares was \$13 as of September 30, 2019 recognized over a weighted average period of 0.04 years as of September 30, 2019.

***Share Options***

The Company granted 64,840 and 512,178 share options to employees and directors during the nine months ended September 30, 2020 and 2019, respectively, under the 2018 Plan. There were 420,783 and 880,529 unvested employee options outstanding as of September 30, 2020 and September 30, 2019, respectively. Total expense recognized related to employee share options was \$922 and \$1,019 for the nine months ended September 30, 2020 and 2019, respectively. Total unamortized compensation expense related to employee share options was \$1,722 and \$3,711 as of September 30, 2020 and September 30, 2019, respectively, which is expected to be recognized over a remaining average vesting period of 1.81 years and 2.84 years as of September 30, 2020 and September 30, 2019, respectively.

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The range of assumptions that the Company used to determine the grant date fair value of employee and director options granted were as follows

	Nine Months Ended September 30,	
	2020	2019
Volatility	90.3% - 99.5%	68.9% - 70.2%
Expected term in years	5.5 - 6.25	5.5 - 6.25
Dividend rate	0 %	0%
Risk-free interest rate	0.18% - 0.78%	1.96% - 2.57%
Share price	\$1.68 - \$2.03	\$5.80 - \$6.80
Fair value of option on grant date	\$1.27 - \$1.52	\$3.74 - \$4.41

The following table summarizes the number of options outstanding and the weighted-average exercise price as of September 30, 2020:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life in Years	Aggregate Intrinsic Value (in thousands)
Options outstanding December 31, 2019	1,150,270	\$ 7.92	8.59	\$ 254
Granted	64,840	1.69		
Exercised	—			
Forfeited	(42,438)	8.00		
Expired	(25,182)	8.33		
Options outstanding September 30, 2020	1,147,490	7.56	6.48	—
Exercisable at September 30, 2020 (unaudited)	726,707	7.94	5.45	—

**Restricted share units (RSUs)**

No RSUs were granted to directors during the nine months ended September 30, 2020. The Company granted 31,367 RSUs to directors during the nine months ended September 30, 2019.

The table below shows the number of RSUs outstanding covering an equal number of the Company's ordinary shares and the weighted-average grant date fair value of the RSUs outstanding as of September 30, 2020:

	Number of Shares	Weighted Average Grant Date Fair Value per Share
RSUs outstanding December 31, 2019	31,367	\$ 7.01
Granted	—	
Shares vested	(25,664)	7.01
Forfeited	(5,703)	7.01
RSUs outstanding September 30, 2020	—	

The fair value of the RSUs is determined on the date of grant based on the market price of the Company's ordinary shares on that date. The fair value of RSUs is expensed ratably over the vesting period, which is generally one year for directors. Total expense recognized related to the RSUs was \$63 and \$257 for the nine months ended September 30, 2020 and 2019, respectively. All RSUs were fully vested as of nine months ended September 30, 2020. Total unamortized compensation expense related to RSUs was \$154 as of September 30, 2019, which was recognized over a remaining average vesting period of 0.70 years as of September 30, 2019.

The Company awarded 1,079,000 and 50,000 RSUs to certain employees during the nine months ended September 30, 2020 and 2019, respectively, which are subject to certain performance-based vesting conditions (Performance RSUs). None were awarded in the three months ended September 30, 2020 and 2019.

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The table below shows the number of Performance RSUs outstanding covering an equal number of the Company's ordinary shares and the weighted-average grant date fair value of the Performance RSUs outstanding as of September 30, 2020:

	Number of Shares	Weighted Average Grant Date Fair Value per Share
Performance RSUs outstanding December 31, 2019	50,000	\$ 8.21
Granted	1,079,000	2.04
Shares vested	—	
Forfeited	(87,000)	2.89
Performance RSUs outstanding September 30, 2020	1,042,000	2.08

The weighted average grant date fair values of Performance RSUs with a market condition were determined using the Monte Carlo simulation model. The fair value of Performance RSUs is expensed evenly over the vesting period. Total expense recognized related to Performance RSUs was \$1,648 and \$151 for the nine months ended September 30, 2020 and 2019, respectively. Total unamortized compensation expense related to Performance RSUs was \$381 and \$259 as of September 30, 2020 and September 30, 2019, respectively, which is expected to be recognized over a remaining average vesting period of 0.42 years and 1.06 years as of September 30, 2020 and September 30, 2019, respectively.

The Company's share-based compensation expense was classified in the condensed consolidated statements of operations and comprehensive loss as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2020	2019	2020	2019
	(unaudited)		(unaudited)	
Research and development expense	\$ 292	\$ 189	\$ 872	\$ 548
General and administrative expense	558	372	1,761	1,126

There was a total of \$2,103 and \$4,137 unamortized share-based compensation expense for restricted ordinary shares, options, restricted share units and Performance RSUs as of September 30, 2020 and September 30, 2019, respectively, which is expected to be recognized over a remaining average vesting period of 0.65 years and 2.66 years as of September 30, 2020 and September 30, 2019, respectively.

## 12. Income Taxes

In accordance with the FASB ASC 270, *Interim Reporting*, and ASC 740, *Income Taxes*, at the end of each interim period, the Company is required to determine the best estimate of its annual effective tax rate and then apply that rate in providing for income taxes on a current year-to-date (interim period) basis. For the nine months ended September 30, 2020 and 2019, the Company recorded an income tax expense of \$719 and \$395, respectively. For the three months ended September 30, 2020 and 2019, the Company recorded an income tax expense of \$420 and \$104, respectively.

Deferred tax assets and deferred tax liabilities are recognized based on temporary differences between the financial reporting and tax bases of assets and liabilities using statutory rates. Management of the Company has evaluated the positive and negative evidence bearing upon the realizability of its deferred tax assets, including the Company's history of losses and determined that it is more-likely-than-not that these net deferred tax assets will not be realized. As of September 30, 2020 and December 31, 2019, the Company has net operating loss carryforwards in Ireland which result in tax benefits of approximately \$29,879 and \$26,195, respectively, for which a full valuation allowance has been recognized. The net operating loss carryforwards do not expire, but are carried forward indefinitely. Realization of these deferred tax assets is dependent on the generation of sufficient taxable income. If the Company demonstrates consistent profitability in the future, the evaluation of the recoverability of these deferred tax assets may change and the remaining valuation allowance may be released in part or in whole. While management expects to realize the deferred tax assets, net of valuation allowances, changes in estimates of future taxable income or in tax laws may alter this expectation.

**ITERUM THERAPEUTICS PLC**  
**Notes to Unaudited Condensed Consolidated Financial Statements**  
(In thousands, except share and per share data)

**13. Commitments and Contingencies**

***License Agreement***

On November 18, 2015, the Company entered into a license agreement with Pfizer for the worldwide exclusive rights to research, develop, manufacture and commercialize sulopenem.

As part of the license agreement, the Company is obligated to pay Pfizer potential future regulatory milestone payments, as well as sales milestones upon achievement of net sales ranging from \$250.0 million to \$1.0 billion for each product type. The Company is also obligated to pay Pfizer royalties ranging from a single-digit to mid-teens percentage based on marginal net sales of each licensed product.

***Royalty-Linked Notes***

On January 21, 2020, as part of the Private Placement, the Company issued 2,579,400 RLNs to a group of accredited investors. On September 8, 2020, as part of the Rights Offering, the Company issued 11,000 RLNs to existing shareholders. The RLNs will entitle the holders thereof to payments, at the applicable payment rate, based solely on a percentage of the Company's net revenues from U.S. sales of specified sulopenem products earned through December 31, 2045, but will not entitle the holders thereof to any payments unless the Company receives FDA approval for one or more specified sulopenem products prior to December 31, 2025 and the Company earns net revenues on such product. If any portion of the principal amount of the outstanding RLNs, equal to \$0.04 per RLN, has not been paid as of the end date on December 31, 2045 (or December 31, 2025, in the event that the Company has not yet received FDA approval with respect to one or more specified sulopenem products by such date), Iterum Bermuda must pay the unpaid portion of the principal amount. The RLNs will earn default interest if the Company breaches certain obligations under the indenture governing the RLNs (but do not otherwise bear interest) and will be subject to a maximum return amount, including all principal and payments and certain default interest in respect of uncured defaults, of \$160.00 (or 4,000 times the principal amount of such note). The RLNs will be redeemable at the Company's option, subject to the terms of the RLN Indenture.

***Contingencies***

Liabilities for loss contingencies arising from claims, assessments, litigation, fines, penalties and other sources are recorded when it is probable that a liability has been incurred and the amount can be reasonably estimated. At each reporting date the Company evaluates whether or not a potential loss amount or a potential loss range is probable and reasonably estimable under the provisions of the authoritative guidelines that address accounting for contingencies. The Company expenses costs as incurred in relation to such legal proceedings. The Company is not currently involved in any legal matters arising in the normal course of business.

Under the terms of their respective employment agreements, each of the named executive officers is eligible to receive severance payments and benefits upon a termination without "cause" or due to "permanent disability", or upon "resignation for good reason", contingent upon the named executive officer's continued performance for the Company.

**14. Condensed Consolidating Financial Statements**

On January 21, 2020, the Company completed a Private Placement pursuant to which its wholly owned subsidiary, Iterum Bermuda, issued and sold approximately \$51.6 million aggregate principal amount of Exchangeable Notes and \$0.1 million aggregate principal amount of RLNs to a group of accredited investors. On September 8, 2020, the Company completed a Rights Offering pursuant to which Iterum Bermuda issued and sold approximately \$0.2 million aggregate principal amount of Exchangeable Notes and \$0.02 million aggregate principal amount of RLNs to existing shareholders. The Securities were sold in Units with each Unit consisting of an Exchangeable Note in the original principal amount of \$1,000 and 50 RLNs.

The Units were issued by Iterum Bermuda, which was formed on November 6, 2019 and is a 100% owned "finance subsidiary" of the Company under Rule 3-10 of Regulation S-X with no independent function other than financing activities. Iterum Therapeutics plc, as the parent company, has no independent assets or operations, and its operations are conducted solely through its subsidiaries. The Company and each of its subsidiaries other than Iterum Bermuda (the Subsidiary Guarantors) have provided a full and unconditional guarantee of Iterum Bermuda's obligations under the Exchangeable Notes and the RLNs, and each of the guarantees constitutes the joint and several obligations of the applicable guarantor. The Subsidiary Guarantors are 100% directly or indirectly owned subsidiaries of the Company. There are no significant restrictions upon the Company's or the Subsidiary Guarantors' ability to obtain funds from their subsidiaries by dividend or loan. None of the assets of Iterum Bermuda or the Subsidiary Guarantors represent restricted net assets pursuant to Rule 4-08(e)(3) of Regulation S-X.

**ITERUM THERAPEUTICS PLC**  
**Notes to Unaudited Condensed Consolidated Financial Statements**  
(In thousands, except share and per share data)

**15. Subsequent Events**

On October 27, 2020, the Company completed the October Offering in which it sold an aggregate of (i) 15,511,537 ordinary shares, \$0.01 nominal value per share, (ii) pre-funded warrants exercisable for an aggregate of 11,411,539 ordinary shares and (iii) warrants exercisable for an aggregate of 20,192,307 ordinary shares. The pre-funded warrants were issued and sold to certain purchasers whose purchase of ordinary shares in the October Offering would have otherwise resulted in the purchaser, together with its affiliates and certain related parties, beneficially owning more than 4.99% (or, at the election of the purchaser, 9.99%) of the Company's outstanding ordinary shares immediately following the consummation of the October Offering, if the purchaser so chose in lieu of ordinary shares that would have otherwise resulted in such excess ownership. The ordinary shares and pre-funded warrants were each offered together with the warrants, but the ordinary shares and pre-funded warrants were issued separately from the warrants. The combined offering price was \$0.65 per Share and Warrant and \$0.64 per Pre-Funded Warrant and Warrant. The Company's net proceeds from the October Offering, after deducting placement agent fees and other estimated offering expenses payable by the Company, were approximately \$15.3 million.

The warrants are exercisable upon issuance at a price of \$0.65 per ordinary share, subject to adjustment in certain circumstances, and expire on October 27, 2025. The pre-funded warrants are exercisable upon issuance at a price of \$0.01 per ordinary share, subject to adjustment in certain circumstances, and expire when exercised in full, subject to certain conditions. As of October 31, 2020, pre-funded warrants to purchase 6,284,615 ordinary shares had been exercised for net proceeds of \$0.06 million.

In connection with the October Offering, the Company entered into a Purchase Agreement on October 22, 2020 with certain institutional investors. The Purchase Agreement contains customary representations and warranties of the Company, termination rights of the parties, and certain indemnification obligations of the Company and ongoing covenants of the Company, including a prohibition on issuance of ordinary shares or securities convertible or exchangeable into ordinary shares by the Company for a period of 45 days after the closing of the October Offering and a prohibition on the Company entering into variable rate transactions for a period of 12 months after the closing of the October Offering, subject to certain exceptions.

Warrants to purchase 1,884,615 ordinary shares, which represents a number of ordinary shares equal to 7.0% of the aggregate number of ordinary shares and pre-funded warrants sold in the October Offering, were issued to designees of the placement agent on closing of the October 27 Offering. Upon closing, the warrants issued to such designees became exercisable immediately at an exercise price of \$0.8125 per ordinary share and expire on October 22, 2025.

Following the October Offering, the exchange rate of the Exchangeable Notes increased and the exchange price of the Exchangeable Notes adjusted from the previous exchange price of \$1.00 per ordinary share (at the exchange rate of 1,000 shares per \$1,000 of principal and interest on the Exchangeable Notes) to \$0.7775 per ordinary share (at an adjusted exchange rate of 1,286.1845 shares per \$1,000 of principal and interest on the Exchangeable Notes), effective as of November 2, 2020.

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

*You should read the following discussion and analysis of our financial condition and results of operations together with our condensed consolidated financial statements and the related notes and the other financial information included elsewhere in this Quarterly Report on Form 10-Q. Some of the information contained in this discussion and analysis or set forth elsewhere in this Quarterly Report on Form 10-Q, including information with respect to our plans and strategy for our business and related financing, includes forward-looking statements that involve risks and uncertainties. As a result of many factors, including those factors set forth in the "Risk Factors" section of this Quarterly Report on Form 10-Q, our actual results could differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.*

### Overview

We are a pharmaceutical company dedicated to developing and commercializing sulopenem to be potentially the first and only oral and intravenous (IV) branded penem available globally. Penems, including thienopenems and carbapenems, belong to a class of antibiotics more broadly defined as  $\beta$ -lactam antibiotics, the original example of which was penicillin, but which now also includes cephalosporins. Sulopenem is a potent, thienopenem antibiotic delivered intravenously which is active against bacteria that belong to the group of organisms known as gram-negatives and cause urinary tract and intra-abdominal infections. We have also successfully developed sulopenem in an oral tablet formulation, sulopenem etzadroxil-probenecid, which we refer to herein as oral sulopenem. We believe that sulopenem and oral sulopenem have the potential to be important new treatment alternatives to address growing concerns related to antibacterial resistance without the known toxicities of some of the most widely used antibiotics, specifically fluoroquinolones.

During the third quarter of 2018, we initiated all three clinical trials in our Phase 3 development program which included: a Phase 3 uncomplicated urinary tract infection (uUTI) clinical trial, known as Sulopenem for Resistant Enterobacteriaceae (SURE) 1, comparing oral sulopenem to oral ciprofloxacin in women with uUTI, a Phase 3 complicated urinary tract infection (cUTI) clinical trial known as SURE 2, comparing IV sulopenem followed by oral sulopenem to IV ertapenem followed by oral ciprofloxacin in adults with cUTI and a Phase 3 complicated intra-abdominal infection (cIAI) clinical trial known as SURE 3, comparing IV sulopenem followed by oral sulopenem to IV ertapenem followed by a combination of oral ciprofloxacin and oral metronidazole in adults with cIAI. We designed one Phase 3 clinical trial in each indication based on our end of Phase 2 meeting with the U.S. Food and Drug Administration (FDA) and feedback from the European Medicines Agency (EMA). We conducted the Phase 3 clinical trials under Special Protocol Assessment (SPA) agreements from the FDA. In December 2019, we announced that sulopenem did not meet the primary endpoint of statistical non-inferiority compared to the control therapy for the cIAI trial. In the second quarter of 2020, we announced the results of our Phase 3 clinical trials in cUTI and uUTI. In the cUTI trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to the control therapies with the difference in response rates driven almost entirely by higher rates of asymptomatic bacteriuria on the sulopenem IV to oral sulopenem arm relative to the ertapenem IV to oral ciprofloxacin arm, only evident at the test of cure visit. The rates of patients receiving additional antibiotics or with residual cUTI symptoms were similar between therapies. Similarly, in the uUTI trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to ciprofloxacin in the population of patients with baseline pathogens susceptible to ciprofloxacin driven to a large degree by a greater amount of asymptomatic bacteriuria in the sulopenem treated patients at the test of cure visit relative to those receiving ciprofloxacin. However, in the uUTI trial, in the population of patients with baseline pathogens resistant to quinolones, sulopenem achieved the related primary endpoint by demonstrating superiority to ciprofloxacin, providing evidence of a treatment effect in patients with uUTI. Based on discussions with the FDA at a pre-New Drug Application, or NDA, meeting in September 2020 and previous correspondence with the FDA, we plan to proceed with an NDA submission for oral sulopenem for the treatment of uUTIs in patients with a quinolone non-susceptible pathogen in the fourth quarter of 2020.

On May 30, 2018 we completed an initial public offering (IPO) of our ordinary shares, and issued and sold 6,150,000 ordinary shares at a public offering price of \$13.00 per share, resulting in net proceeds of \$71.8 million after deducting underwriting discounts and commissions and offering costs payable by us. On June 26, 2018, we issued and sold an additional 200,000 ordinary shares at the IPO price of \$13.00 per share pursuant to the underwriters' partial exercise of their option to purchase additional ordinary shares, resulting in additional net proceeds of \$2.4 million after deducting underwriting discounts and commissions and offering costs payable by us. Aggregate net proceeds from the IPO totalled \$74.2 million after deducting underwriting discounts and commissions and offering costs payable by us.

On July 5, 2019, we filed a universal shelf registration statement on Form S-3 with the Securities and Exchange Commission (SEC), which was declared effective on July 16, 2019 (File No. 333-232569), and pursuant to which we registered for sale up to \$150.0 million of any combination of our ordinary shares, preferred shares, debt securities, warrants and/or units from time to time and at prices and on terms that we may determine.

On January 21, 2020, we completed a private placement pursuant to which our wholly owned subsidiary, Iterum Therapeutics Bermuda Limited (Iterum Bermuda), issued and sold approximately \$51.6 million aggregate principal amount of 6.500% Exchangeable Senior Subordinated Notes due 2025 (Exchangeable Notes) and \$0.1 million aggregate principal amount of Limited Recourse Royalty-Linked Subordinated Notes (the RLNs and, together with the Exchangeable Notes, the Securities) to a group of

accredited investors (the Private Placement). On September 8, 2020, we completed a rights offering (the Rights Offering) pursuant to which our wholly owned subsidiary, Iterum Bermuda, issued and sold approximately \$0.2 million aggregate principal amount of 6.500% Exchangeable Notes and \$0.02 million aggregate principal amount of RLNs to existing shareholders. The Securities were sold in units (the Units) with each Unit consisting of an Exchangeable Note in the original principal amount of \$1,000 and 50 RLNs. The Units were sold at a price of \$1,000 per Unit. At any time on or after January 21, 2021, subject to specified limitations, the Exchangeable Notes are exchangeable for our ordinary shares, cash or a combination of ordinary shares and cash, at an initial exchange rate of 1,000 shares per \$1,000 of principal and interest on the Exchangeable Notes (equivalent to an initial exchange price of approximately \$1.00 per ordinary share), which exchange rate was adjusted to 1,286.1845 shares per \$1,000 principal and interest on the Exchangeable Note (equivalent to an exchange price of approximately \$0.7775 per ordinary share) as of November 2, 2020 and is subject to further adjustment pursuant to the terms of the indenture governing the Exchangeable Notes. The RLNs entitle holders to payments based on a percentage of our net revenues from potential U.S. sales of specified sulopenem products, subject to the terms and conditions of the indenture governing the RLNs. Pursuant to the indenture governing the RLNs, the payments on the RLNs will be up to either 15% or 20% of net revenues from U.S. sales of such products, depending on the indication approved by the FDA. The aggregate amount of payments on each RLN is capped at \$160.00 (or 4,000 times the principal amount of such RLN). Iterum Bermuda received net proceeds from the sale of the Units in both the Private Placement and Rights Offering of approximately \$44.7 million, after deducting placement agent fees and offering expenses.

In April 2020, we began deferring payment on our share of U.S. payroll taxes owed, as allowed by the Coronavirus Aid Relief and Economic Security Act (CARES Act) through December 31, 2020. We are able to defer half of our share of U.S. payroll taxes owed until December 31, 2021, with the remaining half due on December 31, 2022.

On April 3, 2020 the U.S. Small Business Administration (SBA) launched a Paycheck Protection Program (the Program) established following the signing of the CARES Act on March 27, 2020. On April 30, 2020, our wholly owned subsidiary, Iterum Therapeutics US Limited, (the Borrower) entered into a note (PPP loan) with Silicon Valley Bank (SVB) (the Lender) under the Program, pursuant to the Borrower receiving a PPP loan of \$0.7 million with a fixed 1% annual interest rate and a maturity of two years. Under the terms of the agreement, there shall be no payments due by us until the later of the date the SBA remits the forgiveness amount to the Borrower or 10 months after the end of the six-month period beginning April 30, 2020 (the Deferral Period). Following the Deferral Period, equal monthly repayments of principal and interest will be due to fully amortize the principal amount outstanding on the PPP loan on the last day of the Deferral Period by the maturity date. Under the terms of the Program, the SBA will forgive the portion of loan proceeds used for U.S. payroll costs and other designated operating expenses for up to 24 weeks, provided at least 60% of the loan proceeds are used for U.S. payroll costs. We incurred qualifying payroll costs and other operating expenses in the 24 weeks following April 30, 2020 such that we have requested forgiveness for a portion of the PPP loan from the Lender. Any forgiveness of the PPP loan will be made in accordance with SBA requirements and subject to approval by SVB. No assurance is provided we will obtain forgiveness in whole or in part.

On June 3, 2020, we entered into a Securities Purchase Agreement (June 3 SPA) with certain institutional investors (the June 3 Purchasers) pursuant to which we issued and sold, in a registered direct offering (the June 3 Offering), an aggregate of 2,971,770 ordinary shares, \$0.01 nominal value per share, at a purchase price per share of \$1.6825, for aggregate gross proceeds to us of \$5.0 million and net proceeds of \$4.3 million after deducting fees payable to the placement agent and other offering expenses payable by us. We offered the ordinary shares in the June 3 Offering pursuant to our universal shelf registration statement on Form S-3. Pursuant to the June 3 SPA, in a concurrent private placement, we issued and sold to the June 3 Purchasers warrants to purchase up to 1,485,885 ordinary shares. Upon closing, the warrants became exercisable immediately at an exercise price of \$1.62 per ordinary share, subject to adjustment in certain circumstances, and will expire on December 5, 2025. The closing date of the June 3 Offering was June 5, 2020. Warrants to purchase 208,023 ordinary shares, amounting to 7% of the ordinary shares issued under the June 3 SPA, were issued to designees of the placement agent on closing of the June 3 Offering. Upon closing, the warrants issued to such designees became exercisable immediately at an exercise price of \$2.1031 per ordinary share, and will expire on June 3, 2025.

On June 30, 2020, we entered into a securities purchase agreement (June 30 SPA) with certain institutional investors (the June 30 Purchasers) pursuant to which we issued and sold in a registered direct offering (the June 30 Offering) an aggregate of 3,372,686 ordinary shares, \$0.01 nominal value per share, at a purchase price per share of \$1.4825, for aggregate gross proceeds to us of \$5.0 million and net proceeds of \$4.2 million after deducting fees payable to the placement agent and other offering expenses payable by us. We offered the ordinary shares in the June 30 Offering pursuant to our universal shelf registration statement on Form S-3. Pursuant to the June 30 SPA, in a concurrent private placement, we issued and sold to the June 30 Purchasers warrants to purchase up to 1,686,343 ordinary shares. Upon closing the warrants were exercisable immediately at an exercise price of \$1.42 per ordinary share, subject to adjustment in certain circumstances, and will expire on January 2, 2026. The June 30 Offering closed on July 2, 2020. Warrants to purchase 236,088 ordinary shares, amounting to 7% of the ordinary shares issued under the June 30 SPA, were issued to designees of the placement agent on closing of the June 30 Offering. Upon closing, the warrants issued to such designees were exercisable immediately at an exercise price of \$1.8531 per ordinary share, and will expire on June 30, 2025.

On October 27, 2020, we completed a registered public offering (the October Offering) in which we sold an aggregate of (i) 15,511,537 ordinary shares, \$0.01 nominal value per share, (ii) pre-funded warrants exercisable for an aggregate of 11,411,539

ordinary shares and (iii) warrants exercisable for an aggregate of 20,192,307 ordinary shares. The pre-funded warrants were issued and sold to certain purchasers whose purchase of ordinary shares in the October Offering would have otherwise resulted in the purchaser, together with its affiliates and certain related parties, beneficially owning more than 4.99% (or, at the election of the purchaser, 9.99%) of the Company's outstanding ordinary shares immediately following the consummation of the October Offering, if the purchaser so chose in lieu of ordinary shares that would have otherwise resulted in such excess ownership. The ordinary shares and pre-funded warrants were each offered together with the warrants, but the ordinary shares and pre-funded warrants were issued separately from the warrants. The combined offering price was \$0.65 per ordinary share and warrant and \$0.64 per pre-funded warrant and warrant. Our net proceeds from the October Offering, after deducting placement agent fees and other estimated offering expenses payable by us, were approximately \$15.3 million. The warrants are exercisable upon issuance at a price of \$0.65 per ordinary share, subject to adjustment in certain circumstances, and expire on October 27, 2025. The pre-funded warrants are exercisable upon issuance at a price of \$0.01 per ordinary share, subject to adjustment in certain circumstances, and expire when exercised in full, subject to certain conditions. As of October 31, 2020, pre-funded warrants to purchase 6,284,615 ordinary shares had been exercised for net proceeds of \$0.06 million. In connection with the October Offering, we entered into a Securities Purchase Agreement (the Purchase Agreement) on October 22, 2020 with certain institutional investors. The Purchase Agreement contains customary representations and warranties of ours, termination rights of the parties, and certain indemnification obligations of ours and ongoing covenants of ours, including a prohibition on issuance of ordinary shares or securities convertible or exchangeable into ordinary shares by us for a period of 45 days after the closing of the October Offering and a prohibition us entering into variable rate transactions for a period of 12 months after the closing of the October Offering, subject to certain exceptions. Warrants to purchase 1,884,615 ordinary shares, which represents a number of ordinary shares equal to 7.0% of the aggregate number of ordinary shares and pre-funded warrants sold in the October Offering, were issued to designees of the placement agent on closing of the October Offering. Upon closing, the warrants issued to such designees became exercisable immediately at an exercise price of \$0.8125 per ordinary share and expire on October 22, 2025.

Since our inception, we have incurred significant operating losses. Our ability to generate product revenue sufficient to achieve profitability will depend heavily on the successful development and eventual commercialization of our products. As of September 30, 2020, we had an accumulated deficit of \$275.7 million. We expect to continue to incur significant expenses for the foreseeable future as we seek regulatory approval and engage in market preparation and pre-commercialization activities. In addition, if we obtain marketing approval for oral sulopenem, sulopenem or any future product candidate and undertake commercialization activities, we expect to incur significant commercialization expenses related to product manufacturing, marketing, sales and distribution. We are currently evaluating our commercialization strategy in the United States and other territories. We may also incur expenses in connection with the establishment of additional sources for the manufacture of sulopenem tablets and IV vials or the in-license or acquisition of additional product candidates. Additionally, we have incurred and expect to incur additional costs associated with operating as a public company, including significant legal, accounting, investor relations and other expenses that we did not incur as a private company.

As a result, we will require additional capital to fund our operations, to continue to develop our sulopenem program and to execute our strategy. Until such time as we can obtain marketing approval for oral sulopenem, sulopenem or any future product candidate and generate significant revenue from product sales, if ever, we expect to finance our operations through a combination of equity offerings, debt financings, collaboration agreements, other third-party funding, strategic alliances, licensing arrangements, marketing and distribution arrangements or government funding. We may be unable to raise additional funds or enter into such other agreements or arrangements when needed on favorable terms, or at all. If we fail to raise capital or enter into such agreements as, and when, needed, we may have to significantly delay, scale back or discontinue the development and commercialization of our sulopenem program, or otherwise change our strategy.

Because of the numerous risks and uncertainties associated with product development, we are unable to predict the timing or amount of increased expenses or when or if we will be able to achieve or maintain profitability. Even if we are able to generate product sales, we may not become profitable. If we fail to become profitable or are unable to sustain profitability on a continuing basis, then we may be unable to continue our operations at planned levels and be forced to reduce or terminate our operations.

As of September 30, 2020, we had cash, cash equivalents and restricted cash of \$8.7 million. We estimate that the net proceeds of approximately \$15.3 million from the October Offering, together with our cash and cash equivalents as of September 30, 2020, should be sufficient to fund our operating expenses and capital expenditure requirements into the third quarter of 2021, including our planned NDA submission for oral sulopenem for the treatment of uUTI in patients with quinolone non-susceptible pathogens and the potential FDA acceptance of such NDA submission, into the anticipated FDA review period of such NDA submission. We could deplete our capital resources sooner than expected. We have based this estimate on assumptions that may prove to be wrong, and our operating plans may change as a result of many factors and various risks and uncertainties. For example, this estimate assumes, among other things, the continuation of regular monthly amortization payments of the principal amount outstanding under our credit facility with SVB and that the balance of the principal amount does not become due and payable until the maturity date of March 1, 2022. Our expected cash usage for the next 12 months assumes that planned programs and expenditure continue and that we do not reduce or eliminate some or all of our planned research and development programs or commercialization efforts. Our future viability is dependent on our ability to raise additional capital to finance our operations. Without additional external funding, we do not believe



that our existing cash and cash equivalents will enable us to fund our operating expenses and capital expenditure requirements for the next 12 months. As such, we believe there is substantial doubt about our ability to continue as a going concern for at least one year from the date this Quarterly Report on Form 10-Q is issued. The condensed consolidated financial statements do not include any adjustments relating to the recoverability and classification of liabilities that might be necessary should we be unable to continue as a going concern.

In light of our limited cash resources, we are evaluating our corporate, organizational, strategic, financial and financing alternatives, with the goal of maximizing value for our stakeholders while prudently managing our resources. These alternatives could potentially include the licensing, sale or divestiture of our assets or proprietary technologies, a sale of our company, a merger or other business combination, another strategic transaction involving us, restructuring activities, winding down of operations, dissolving and liquidating assets or seeking protection under bankruptcy laws. The evaluation of corporate, organizational, strategic, financial and financing alternatives may not result in any particular action or any transaction being pursued, entered into or consummated, and there is no assurance as to the timing, sequence or outcome of any action or transaction or series of actions or transactions.

#### ***COVID-19 Global Pandemic***

In December 2019, an outbreak of COVID-19 was reported in Wuhan, China. On March 11, 2020, the World Health Organization declared COVID-19 a global pandemic and on March 13, 2020, President Donald J. Trump declared the virus a national emergency. This highly contagious disease has spread to most of the countries in the world and throughout the United States, creating a serious impact on customers, workforces, and suppliers, disrupting economies and financial markets, and potentially leading to a world-wide economic downturn. It has caused a disruption of the normal operations of many businesses, including the temporary closure or scale-back of business operations and/or the imposition of either quarantine or remote work or meeting requirements for employees, either by government order or on a voluntary basis. The pandemic may impact the ability of our strategic partners to operate and fulfill their contractual obligations, and result in an increase in their costs and cause delays in performance. These effects, and the direct effect of the virus and any potential disruption on our operations, may negatively impact our ability to meet our strategic targets. Our employees, in most cases, are working remotely due to safety concerns and using various technologies to perform their functions. We feel we have sufficient office and IT resources to allow employees to return to office work or work from home indefinitely based on the latest government advice. Additionally, the disruption and volatility in the global and domestic capital markets may increase the cost of capital and limit our ability to access capital. Both the health and economic aspects of COVID-19 are highly fluid and the future course of each is uncertain. For these reasons and other reasons that may come to light if the coronavirus pandemic and associated protective or preventative measures expand, we may experience a material adverse effect on our business operations and financial condition; however, its ultimate impact is highly uncertain and subject to change.

We cannot foresee if and when the outbreak of COVID-19 will be effectively contained, nor can we predict the severity and duration of its impact. Management is actively monitoring the global situation on our financial condition, liquidity, operations, suppliers, industry, and workforce. Given the daily evolution of the COVID-19 outbreak and the global responses to curb its spread, we are not able to estimate the adverse effects of the COVID-19 outbreak on our results of operations, financial condition, or liquidity.

### **Components of Our Results of Operations**

#### ***Revenue***

To date, we have not generated any revenue from product sales and do not expect to generate any revenue from the sale of oral sulopenem or sulopenem in the near future. If our development efforts for our sulopenem program are successful and result in regulatory approval and/or license agreements with third parties, we may generate revenue in the future from product sales. To date, all of our revenue has been derived from our Combating Antibiotic Resistant Bacteria Biopharmaceutical Accelerator (CARB-X) award. We expect that our revenue for the foreseeable future will be derived primarily from payments under government awards that we may enter into in the future. In June 2017, CARB-X awarded us funds of up to \$1.5 million to advance the development of our sulopenem program. The CARB-X award was structured as a cost reimbursement arrangement and was recognized over a period of 20 months from August 2017 to March 2019.

#### ***Operating Expenses***

##### ***Research and Development Expenses***

Research and development expenses consist primarily of costs incurred in connection with the development of our sulopenem program, which include:

- expenses incurred under agreements with contract research organizations (CROs), contract manufacturing organizations (CMOs), as well as investigative sites and consultants that conduct our clinical trials, preclinical studies and other scientific development services;

- manufacturing scale-up expenses and the cost of acquiring and manufacturing preclinical and clinical trial materials and commercial materials, including manufacturing validation batches;
- employee-related expenses, including salaries, related benefits, travel and share-based compensation expense for employees engaged in research and development functions;
- costs related to compliance with regulatory requirements, including the preparation and support of regulatory filings;
- facilities costs, depreciation and other expenses, which include rent under operating lease agreements and utilities; and
- payments made in cash, equity securities or other forms of consideration under third-party licensing agreements.

We expense research and development costs as incurred. Advance payments we make for goods or services to be received in the future for use in research and development activities are recorded as prepaid expenses. We recognize external development costs based on an evaluation of the progress to completion of specific tasks using information provided to us by our service providers.

Research and development activities are central to our business model. Product candidates in advanced stages of clinical development generally have higher development costs than those in earlier stages of clinical development, primarily due to the increased size and duration of later stage clinical trials. As a result, our research and development expenses increased substantially throughout 2019 as we substantially completed the Phase 3 clinical trials for our sulopenem program, increased personnel costs, including share-based compensation, conducted other clinical trials and prepared for potential regulatory filings for oral sulopenem and sulopenem.

The successful development and commercialization of oral sulopenem and/or sulopenem is highly uncertain. At this time, we cannot reasonably estimate or know the nature, timing and costs of the efforts that will be necessary to complete the clinical development of our sulopenem program or when, if ever, material net cash inflows may commence from any of our product candidates. This uncertainty is due to the numerous risks and uncertainties associated with product development and commercialization, including the uncertainty of:

- the impact of the COVID-19 pandemic on the economy and our business generally including commercialization of any future products;
- the scope, progress, outcome and costs of our clinical trials and other research and development activities;
- successful patient enrollment in, and the initiation and completion of, clinical trials;
- our ability to apply for regulatory approval and the timing or likelihood of any such filings and approvals;
- the timing, receipt and terms of any marketing approvals from applicable regulatory authorities;
- establishing commercial manufacturing capabilities or making arrangements with third-party manufacturers;
- development and timely delivery of commercial drug formulations (i) that can be used in our clinical trials and (ii) that are available for commercial launch;
- obtaining, maintaining, defending and enforcing patent claims and other intellectual property rights;
- significant and changing government regulation;
- launching commercial sales of our product candidates, if and when approved, whether alone or in collaboration with others; and
- maintaining a continued acceptable safety profile of the product candidates following approval.

We may never succeed in achieving regulatory approval for any of our product candidates. We may obtain unexpected results from our clinical trials. For example, in the results of our cIAI clinical trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to the control therapy for the cIAI trial; however, we believe the secondary supporting analyses and safety data support the potential of sulopenem in the treatment of multi-drug resistant infections. In the second quarter of 2020, we announced the results of our Phase 3 clinical trials in cUTI and uUTI. In the cUTI trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to the control therapies with the difference in response rates driven almost entirely by higher rates of asymptomatic bacteriuria on the sulopenem IV to oral sulopenem arm relative to the ertapenem IV to oral ciprofloxacin arm, only evident at the test of cure visit; the rates of patients receiving additional antibiotics or with residual cUTI symptoms were similar between therapies. Similarly, in the uUTI trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to ciprofloxacin in the population of patients with baseline pathogens susceptible to ciprofloxacin, driven to a large degree by a greater amount of asymptomatic bacteriuria in the sulopenem treated patients at the test of cure visit relative to those receiving ciprofloxacin.

However, in the uUTI trial, in the population of patients with baseline pathogens resistant to quinolones, sulopenem achieved the related primary endpoint by demonstrating superiority to ciprofloxacin, providing evidence of a treatment effect in patients with uUTI. Based on discussions with the FDA at a pre-NDA meeting in September 2020 and previous correspondence with the FDA, we plan to proceed with an NDA submission in the fourth quarter of 2020 for oral sulopenem for the treatment of uUTI in patients with a quinolone non-susceptible pathogen. We may elect to discontinue, delay or modify clinical trials of some product candidates or focus on others. Any changes in the outcome of any of these variables with respect to the development of our product candidates in clinical development could mean a significant change in the costs and timing associated with the development of these product candidates.

#### *General and Administrative Expenses*

General and administrative expenses consist primarily of salaries, related benefits and share-based compensation expense for personnel in executive, finance, market research and administrative functions. General and administrative expenses also include director compensation, travel expenses, insurance, professional fees for legal, patent, consulting, accounting and audit services and market preparation expenses.

If and when we believe regulatory approval of oral sulopenem and/or sulopenem appears likely, we anticipate an increase in payroll and expenses as a result of our preparation for commercial operations.

#### *Interest Expense, Net*

Interest expense, net consists of interest incurred and amortization of debt costs on our loan from SVB, interest incurred on our PPP loan, interest accrued and amortization of debt costs with respect to the Exchangeable Notes and RLNs and interest earned on our cash and cash equivalents, which are generally invested in money market accounts. Interest on the Exchangeable Notes is not payable until maturity of the instrument unless exchanged prior to maturity in accordance with the terms of the indenture governing the Exchangeable Notes at which time any accrued and unpaid interest becomes due and payable.

#### *Financing Transaction Costs*

Financing transaction costs consist of the portion of transaction costs incurred in relation to the Private Placement and the Rights Offering allocated to derivative liabilities (the Derivative liability).

#### *Adjustments to Fair Value of Derivatives*

Derivative liabilities are revalued at each balance sheet date and the change in fair value during the reporting period is recorded in other (expense) / income in the condensed consolidated statements of operations as adjustments to fair value of derivatives.

#### *Other (Expense) / Income, Net*

Other (expense) / income, net consists of realized and unrealized foreign currency gains (losses) incurred in the normal course of business based on movement in the applicable exchange rates.

#### *Provision for Income Taxes*

We recognize income taxes under the asset and liability method. Deferred income taxes are recognized for differences between the financial reporting and tax bases of assets and liabilities at enacted statutory tax rates in effect for the years in which the differences are expected to reverse. The effect on deferred taxes of a change in tax rates is recognized in income in the period that includes the enactment date. In evaluating our ability to recover our deferred tax assets, we consider all available positive and negative evidence including past operating results, the existence of cumulative income in the most recent fiscal years, changes in the business in which we operate and our forecast of future taxable income. In determining future taxable income, we are responsible for assumptions utilized including the amount of Irish, U.S. and other foreign pre-tax operating income, the reversal of temporary differences and the implementation of feasible and prudent tax planning strategies. These assumptions require significant judgment about the forecasts of future taxable income and are consistent with the plans and estimates that we are using to manage the underlying business.

Valuation allowances are provided if it is more likely than not that some portion or all of the deferred tax assets will not be realized. We account for uncertain tax positions using a more-likely-than-not threshold for recognizing and resolving uncertain tax positions. The evaluation of uncertain tax positions is based on factors including, but not limited to, changes in tax law, the measurement of tax positions taken or expected to be taken in tax returns, the effective settlement of matters subject to audit, new audit activity and changes in facts or circumstances related to a tax position. We evaluate our tax positions on a quarterly basis. We also accrue for potential interest and penalties related to unrecognized tax benefits in income tax expense.

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

Our condensed consolidated financial statements are prepared in accordance with generally accepted accounting principles in the United States. The preparation of our condensed consolidated financial statements and related disclosures requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue, costs and expenses, and the disclosure of

contingent assets and liabilities in our financial statements. We believe that our critical accounting policies described under the heading “Management’s Discussion and Analysis of Financial Condition and Results of Operations–Critical Accounting Policies and Significant Judgments and Estimates” in our Annual Report on Form 10-K filed with the SEC on March 12, 2020, involve the most judgment and complexity. Accordingly, we believe the policies set forth in such Annual Report on Form 10-K are critical to fully understanding and evaluating our financial condition and results of operations. If actual results or events differ materially from the estimates, judgments and assumptions used by us in applying these policies, our reported financial condition and results of operations could be materially affected. There have been no significant changes to our critical accounting policies from those described in our Annual Report on Form 10-K filed with the SEC on March 12, 2020, other than the addition of accounting policies for Exchangeable Notes, the Derivative liability and RLNs and the adoption of accounting pronouncements as described in Note 2 to the condensed consolidated financial statements appearing elsewhere in this Quarterly Report on Form 10-Q.

## Results of Operations

### Comparison of the three months ended September 30, 2020 and 2019

The following table summarizes our operating losses for the three months ended September 30, 2020 and 2019 (in thousands):

	Three Months Ended		
	September 30,		
	2020	2019	Change
Revenue	\$ —	\$ —	\$ —
Operating expenses:			
Research and development	(3,937)	(28,066)	24,129
General and administrative	(2,398)	(2,933)	535
Total operating expenses	\$ (6,335)	\$ (30,999)	\$ 24,664
Operating loss	(6,335)	(30,999)	24,664

### Research and Development Expenses (in thousands)

	Three Months Ended		
	September 30,		
	2020	2019	Change
CRO and other preclinical and clinical trial expenses	\$ 1,885	\$ 24,401	\$ (22,516)
Consulting fees	944	891	53
Chemistry, manufacturing and control (CMC) related expenses	650	1,128	(478)
Personnel related (including share-based compensation)	458	1,646	(1,188)
Total research and development expenses	\$ 3,937	\$ 28,066	\$ (24,129)

The decrease in CRO and other preclinical and clinical trial expenses of \$22.5 million was primarily due to a decrease in costs incurred related to our three Phase 3 clinical trials, which completed enrollment in the second half of 2019. The increase in consulting fees of \$0.1 million was primarily due to an increase in consultants used for preparation of our planned NDA filing in the fourth quarter of 2020 partially offset by a decrease in consultants used in relation to our Phase 3 clinical trials. CMC related expenses decreased by \$0.5 million primarily as a result of the completion of active pharmaceutical ingredient (API) process validation by our primary supplier in 2019. Personnel related costs decreased by \$1.2 million primarily as a result of a reduction in headcount in our CMC and clinical functions. Personnel related costs for the three months ended September 30, 2020 and 2019 included share-based compensation expense of \$0.3 million and \$0.2 million, respectively.

### General and Administrative Expenses (in thousands)

	Three Months Ended		
	September 30,		
	2020	2019	Change
Personnel related (including share-based compensation)	\$ 1,223	\$ 1,372	\$ (149)
Facility related and other	710	868	(158)
Professional and consulting fees	465	693	(228)
Total general and administrative expenses	\$ 2,398	\$ 2,933	\$ (535)

Personnel related costs decreased by \$0.1 million primarily as a result of a decrease in headcount partially offset by an increase in share-based compensation for employees in our general and administrative and commercial functions. Personnel related costs for the three months ended September 30, 2020 and 2019 included share-based compensation expense of \$0.5 million and \$0.3 million, respectively. Facility related and other costs decreased by \$0.2 million primarily as a result of a decrease in directors’ share-based compensation. Facility related costs for the three months ended September 30, 2020 and 2019 included share-based

compensation expense of \$0.0 million and \$0.1 million, respectively, for directors. Professional and consulting fees decreased by \$0.2 million as a result of a decrease in consultants used for pre-commercialization activities partially offset by increased legal fees.

The following table summarizes our total other (expense) / income for the three months ended September 30, 2020 and 2019 (in thousands):

	Three Months Ended		
	September 30,		
	2020	2019	Change
Interest expense, net	\$ (4,183)	\$ (216)	\$ (3,967)
Financing transaction costs	(685)	—	(685)
Adjustments to fair value of derivatives	(644)	—	(644)
Other (expense) / income, net	68	48	20
Total other (expense) / income	<u>\$ (5,444)</u>	<u>\$ (168)</u>	<u>\$ (5,276)</u>

#### *Interest Expense, Net*

Interest expense, net increased by \$4.0 million for the three months ended September 30, 2020 as compared to the prior year period primarily as a result of our recognition of \$0.9 million of interest expense related to the interest accruing on our Exchangeable Notes and \$2.7 million related to amortization of the debt discounts and deferred financing costs relating to the Exchangeable Notes and RLNs.

#### *Financing Transaction Costs*

Financing transaction costs allocated to the Derivative liability and related to the Rights Offering were \$0.7 million for the three months ended September 30, 2020. No such expenses were incurred during the three months ended September 30, 2019.

#### *Adjustments to Fair Value of Derivatives*

Adjustments to the fair value of the Derivative liability were \$0.6 million for the three months ended September 30, 2020. No derivative liabilities were recorded in the three months ended September 30, 2019.

#### *Other (Expense) / Income, Net*

Other (expense) / income, net consists of realized and unrealized foreign currency gains incurred in the normal course of business based on movement in the applicable exchange rates.

#### **Comparison of the nine months ended September 30, 2020 and 2019**

The following table summarizes our operating losses for the nine months ended September 30, 2020 and 2019 (in thousands):

	Nine Months Ended		
	September 30,		
	2020	2019	Change
Revenue	\$ —	\$ 37	\$ (37)
Operating expenses:			
Research and development	(18,723)	(69,892)	51,169
General and administrative	(8,759)	(8,988)	229
Total operating expenses	<u>\$ (27,482)</u>	<u>\$ (78,880)</u>	<u>\$ 51,398</u>
Operating loss	(27,482)	(78,843)	51,361

#### *Revenue*

In June 2017, CARB-X awarded us funds of up to \$1.5 million to advance the development of our sulopenem program. The funds were receivable as we incurred qualifying expenses over a 20-month period from August 2017 to March 31, 2019. During the nine months ended September 30, 2019, we recognized \$0.0 million of revenue under this award.

Research and Development Expenses (in thousands)

	Nine Months Ended		
	September 30,		
	2020	2019	Change
CRO and other preclinical and clinical trial expenses	\$ 9,387	\$ 55,721	\$ (46,334)
Personnel related (including share-based compensation)	4,395	5,647	(1,252)
Consulting fees	2,555	2,372	183
Chemistry, manufacturing and control (CMC) related expenses	2,386	6,152	(3,766)
Total research and development expenses	\$ 18,723	\$ 69,892	\$ (51,169)

The decrease in CRO and other preclinical and clinical trial expenses of \$46.3 million was primarily due to a decrease in costs incurred related to our three Phase 3 clinical trials, which completed enrollment in the second half of 2019. Personnel related costs decreased by \$1.3 million primarily as a result of a reduction in headcount in our CMC and clinical functions. Personnel related costs for the nine months ended September 30, 2020 and 2019 included share-based compensation expense of \$0.9 million and \$0.5 million, respectively. The increase in consulting fees of \$0.2 million was primarily due to an increase in consultants used for preparation of our planned NDA filing in the fourth quarter of 2020 partially offset by a decrease in consultants used in relation to our Phase 3 clinical trials. CMC related expenses decreased by \$3.8 million primarily as a result of the completion of API process validation by our primary supplier in 2019.

General and Administrative Expenses (in thousands)

	Nine Months Ended		
	September 30,		
	2020	2019	Change
Personnel related (including share-based compensation)	\$ 4,375	\$ 3,965	\$ 410
Facility related and other	2,377	2,445	(68)
Professional and consulting fees	2,007	2,578	(571)
Total general and administrative expenses	\$ 8,759	\$ 8,988	\$ (229)

Personnel related costs increased by \$0.4 million primarily as a result of an increase in share-based compensation for employees in our general and administrative and commercial functions partially offset by a decrease in headcount. Personnel related costs for the nine months ended September 30, 2020 and 2019 included share-based compensation expense of \$1.6 million and \$0.8 million, respectively. Facility related and other costs decreased by \$0.1 million primarily as a result of a decrease in directors' share-based compensation. Facility related costs for the nine months ended September 30, 2020 and 2019 included share-based compensation expense of \$0.2 million and \$0.3 million, respectively, for directors. Professional and consulting fees decreased by \$0.6 million as a result of a decrease in consultants used for pre-commercialization activities partially offset by increased legal fees.

The following table summarizes our total other (expense) / income for the nine months ended September 30, 2020 and 2019 (in thousands):

	Nine Months Ended		
	September 30,		
	2020	2019	Change
Interest expense, net	\$ (10,854)	\$ (455)	\$ (10,399)
Financing transaction costs	(2,815)	—	(2,815)
Adjustments to fair value of derivatives	1,023	—	1,023
Other (expense) / income, net	27	204	(177)
Total other (expense) / income	\$ (12,619)	\$ (251)	\$ (12,368)

Interest Expense, Net

Interest expense, net increased by \$10.4 million for the nine months ended September 30, 2020 as compared to the prior year period primarily as a result of our recognition of \$2.3 million of interest expense related to the interest accruing on our Exchangeable Notes, \$7.2 million related to amortization of the debt discounts and deferred financing costs relating to the Exchangeable Notes and RLNs and a decrease of \$0.8 million in interest income.

Financing Transaction Costs

Financing transaction costs allocated to the Derivative liability were \$2.8 million for the nine months ended September 30, 2020. No such expenses were incurred during the nine months ended September 30, 2019.

Adjustments to Fair Value of Derivatives

Adjustments to the fair value of derivative liabilities were \$1.0 million for the nine months ended September 30, 2020. No derivative liabilities were recorded in the nine months ended September 30, 2019.

*Other (Expense) / Income, Net*

Other (expense) / income, net consists of realized and unrealized foreign currency gains incurred in the normal course of business based on movement in the applicable exchange rates.

**Liquidity and Capital Resources**

Since our inception, we have incurred significant operating losses and negative cash flows from our operations. We have generated limited revenue to date from a funding arrangement with CARB-X. We have funded our operations to date primarily through the issuance of ordinary and convertible preferred shares, debt raised under financing arrangements with SVB including the PPP loan, a sub-award from the Trustees of Boston University under the CARB-X program and the proceeds of the Private Placement and the Rights Offering pursuant to which our wholly owned subsidiary, Iterum Bermuda issued and sold approximately \$51.8 million aggregate principal amount of 6.500% Exchangeable Notes and \$0.1 million aggregate principal amount of RLNs. Through September 30, 2020, we had received cash proceeds of \$198.2 million from sales of our Series A and Series B preferred shares and ordinary shares, \$15.0 million from the first drawdown of our SVB loan, net proceeds of \$44.7 million from the Private Placement and the Rights Offering, \$0.7 million from the drawdown of our PPP loan, and combined net proceeds of \$8.6 million from the June 3 Offering and the June 30 Offering.

As of September 30, 2020, we had cash, cash equivalents and restricted cash of \$8.7 million. In October 2020, we issued and sold, in the October Offering, ordinary shares and pre-funded warrants exercisable for ordinary shares, each offered together with warrants exercisable for ordinary shares, for aggregate gross proceeds to us of approximately \$17.4 million and net proceeds of approximately \$15.3 million after deducting fees payable to the placement agent and other estimated offering expenses payable by us. As of October 31, 2020, pre-funded warrants to purchase 6,284,615 ordinary shares had been exercised for net proceeds of \$0.06 million.

On July 5, 2019, we filed a universal shelf registration statement on Form S-3 with the SEC, which was declared effective on July 16, 2019 (File No. 333-232569), and pursuant to which we registered for sale up to \$150.0 million of any combination of our ordinary shares, preferred shares, debt securities, warrants and/or units from time to time and at prices and on terms that we may determine.

As discussed in the Overview in Management's Discussion and Analysis, we believe there is substantial doubt about our ability to continue as a going concern. Should we be unable to adequately finance our business, our results of operations, liquidity and financial condition would be materially and negatively affected, and we would be unable to continue as a going concern. The financial statements do not include any adjustments relating to the recoverability and classification of liabilities that might be necessary should we be unable to continue as a going concern.

***Secured Credit Facility***

On April 27, 2018, our subsidiaries, Iterum Therapeutics International Limited, Iterum Therapeutics US Holding Limited and Iterum Therapeutics US Limited (the Borrowers), entered into a loan and security agreement (Loan and Security Agreement) with SVB pursuant to which SVB agreed to lend the Borrowers up to \$30 million in two term loans. \$15 million of the secured credit facility was funded on closing. A second draw of up to \$15 million was available to us through October 31, 2019, upon satisfaction of either of the following: (i) our achievement of both non-inferiority and superiority primary endpoints from our Phase 3 uUTI clinical trial, as well as reporting satisfactory safety data from the trial, or (ii) our achievement of non-inferiority primary endpoints from both our Phase 3 uUTI and cUTI clinical trials, as well as reporting satisfactory safety data from the trials. A non-utilization fee of 1.50% of the aggregate undrawn principal amount was to apply if we satisfied the above conditions but chose not to draw down the second term loan. We did not satisfy the conditions for the second draw above before the deadline of October 31, 2019.

Required monthly amortization payments for the initial \$15 million draw commenced on November 1, 2019 and total principal repayments of \$4.7 million were made during the nine months ended September 30, 2020. Interest accrues at a floating per annum rate equal to the greater of (i) 8.31%; or (ii) 3.89% above the Wall Street Journal prime rate, and is payable monthly in arrears. All outstanding principal, plus a 4.20% final interest payment, will be due and payable on the earliest to occur of March 1, 2022 (the maturity date), the acceleration of the term loan or the prepayment of the term loan. The final payment fee of \$0.6 million which represents 4.2% of the funded loan, is accreted using the effective interest method over the life of the loan as interest expense. Voluntary prepayments are permitted at any time, subject to a prepayment fee of 4.00% in the first year, 3.00% in the second year, and 2.00% thereafter.

In connection with the initial \$15 million draw, we issued SVB and Life Sciences Fund II LLC (LSF) warrants to purchase an aggregate of 19,890 Series B convertible preferred shares (which converted into warrants to purchase 19,890 ordinary shares upon our IPO) at an exercise price of \$18.85 per share. If the second term loan had been drawn down, each of SVB and LSF would have been

automatically entitled to purchase additional ordinary shares in an aggregate amount equal to 2.50% of the second term loan divided by the applicable exercise price.

Obligations under the secured credit facility are secured by substantially all of our existing and future assets and the existing and future assets of our subsidiaries, including intellectual property.

In connection with the Private Placement, Iterum Bermuda was joined as a party to the Loan and Security Agreement as a borrower and the Loan and Security Agreement was amended on January 16, 2020 to, among other things, modify the definition of subordinated debt to include the RLNs and Exchangeable Notes.

#### ***2025 Exchangeable Notes and Royalty-Linked Notes***

On January 21, 2020, we completed the Private Placement pursuant to which our wholly owned subsidiary, Iterum Bermuda issued and sold approximately \$51.6 million aggregate principal amount of 6.500% Exchangeable Notes and \$0.1 million aggregate principal amount of RLNs, to a group of accredited investors. On September 8, 2020, we completed the Rights Offering pursuant to which our wholly owned subsidiary, Iterum Bermuda issued and sold approximately \$0.2 million aggregate principal amount of 6.500% Exchangeable Notes and \$0.02 million aggregate principal amount of RLNs, to existing shareholders. The Securities were sold in Units with each Unit consisting of an Exchangeable Note in the original principal amount of \$1,000 and 50 RLNs. The Units were sold at a price of \$1,000 per Unit. At any time on or after January 21, 2021, subject to specified limitations, the Exchangeable Notes are exchangeable for our ordinary shares, cash or a combination of ordinary shares and cash, at an initial exchange rate of 1,000 shares per \$1,000 of principal and interest on the Exchangeable Notes (equivalent to an initial exchange price of approximately \$1.00 per ordinary share), which exchange rate was adjusted to 1,286.1845 shares per \$1,000 principal and interest on the Exchangeable Note (equivalent to an exchange price of approximately \$0.7775 per ordinary share) as of November 2, 2020 and is subject to further adjustment pursuant to the terms of the indenture governing the Exchangeable Notes. The Exchangeable Notes will mature on January 31, 2025. The RLNs entitle holders to payments based on a percentage of our net revenues from potential U.S. sales of specified sulopenem products subject to the terms and conditions of the indenture governing the RLNs. Pursuant to the indenture governing the RLNs, the payments on the RLNs will be up to either 15% or 20% of net revenues from U.S. sales of such products, depending on the indication approved by the FDA. The aggregate amount of payments on each RLN is capped at \$160.00 (or 4,000 times the principal amount of such RLN). Iterum Bermuda received net proceeds from the sale of the Units of \$44.7 million, after deducting placement agent fees and estimated offering expenses.

#### ***Registered Direct Offerings***

On June 3, 2020, we entered into the June 3 SPA with the June 3 Purchasers pursuant to which we issued and sold, in the June 3 Offering, an aggregate of 2,971,770 ordinary shares, \$0.01 nominal value per share, at a purchase price per share of \$1.6825, for aggregate gross proceeds to us of \$5.0 million and net proceeds of \$4.3 million after deducting fees payable to the placement agent and other offering expenses payable by us. We offered the ordinary shares in the June 3 Offering pursuant to our universal shelf registration statement on Form S-3. Pursuant to the June 3 SPA, in a concurrent private placement, we issued and sold to the June 3 Purchasers warrants to purchase up to 1,485,885 ordinary shares. Upon closing, the warrants became exercisable immediately at an exercise price of \$1.62 per ordinary share, subject to adjustment in certain circumstances, and will expire on December 5, 2025. The closing date of the June 3 Offering was June 5, 2020. Warrants to purchase 208,023 ordinary shares, amounting to 7% of the ordinary shares issued under the June 3 SPA, were issued to designees of the placement agent on the closing of the June 3 Offering. Upon closing, the warrants issued to such designees became exercisable immediately at an exercise price of \$2.1031 per ordinary share, and will expire on June 3, 2025.

On June 30, 2020, we entered into the June 30 SPA with the June 30 Purchasers pursuant to which we issued and sold in the June 30 Offering an aggregate of 3,372,686 ordinary shares, \$0.01 nominal value per share, at a purchase price per share of \$1.4825, for aggregate gross proceeds to us of \$5.0 million and net proceeds of \$4.2 million after deducting fees payable to the placement agent and other offering expenses payable by us. We offered the ordinary shares in the June 30 Offering pursuant to our universal shelf registration statement on Form S-3. Pursuant to the June 30 SPA, in a concurrent private placement, we issued and sold to the June 30 Purchasers warrants to purchase up to 1,686,343 ordinary shares. Upon closing, the warrants were exercisable immediately at an exercise price of \$1.42 per ordinary share, subject to adjustment in certain circumstances, and will expire on January 2, 2026. The offering closed on July 2, 2020. Warrants to purchase 236,088 ordinary shares, amounting to 7% of the ordinary shares issued under the June 30 SPA, were issued to designees of the placement agent on closing of the June 30 Offering. Upon closing, the warrants issued to such designees were exercisable immediately at an exercise price of \$1.8531 per ordinary share, and will expire on June 30, 2025.

#### ***October Offering***

On October 27, 2020, we completed the October Offering in which we sold an aggregate of (i) 15,511,537 ordinary shares, \$0.01 nominal value per share, (ii) pre-funded warrants exercisable for an aggregate of 11,411,539 ordinary shares and (iii) warrants exercisable for an aggregate of 20,192,307 ordinary shares. The pre-funded warrants were issued and sold to certain purchasers whose purchase of ordinary shares in the October Offering would have otherwise resulted in the purchaser, together with its affiliates and



certain related parties, beneficially owning more than 4.99% (or, at the election of the purchaser, 9.99%) of the Company's outstanding ordinary shares immediately following the consummation of the October Offering, if the purchaser so chose in lieu of ordinary shares that would have otherwise resulted in such excess ownership. The ordinary shares and pre-funded warrants were each offered together with the warrants, but the ordinary shares and pre-funded warrants were issued separately from the warrants. The combined offering price was \$0.65 per ordinary share and warrant and \$0.64 per pre-funded warrant and warrant. Our net proceeds from the October Offering, after deducting placement agent fees and other estimated offering expenses payable by us, were approximately \$15.3 million. The warrants are exercisable upon issuance at a price of \$0.65 per ordinary share, subject to adjustment in certain circumstances, and expire on October 27, 2025. The pre-funded warrants are exercisable upon issuance at a price of \$0.01 per ordinary share, subject to adjustment in certain circumstances, and expire when exercised in full, subject to certain conditions. As of October 31, 2020, pre-funded warrants to purchase 6,284,615 ordinary shares had been exercised for net proceeds of \$0.06 million. In connection with the October Offering, we entered into a Purchase Agreement on October 22, 2020 with certain institutional investors. The Purchase Agreement contains customary representations and warranties of ours, termination rights of the parties, and certain indemnification obligations of ours and ongoing covenants of ours, including a prohibition on issuance of ordinary shares or securities convertible or exchangeable into ordinary shares by us for a period of 45 days after the closing of the October Offering and a prohibition on us entering into variable rate transactions for a period of 12 months after the closing of the October Offering, subject to certain exceptions. Warrants to purchase 1,884,615 ordinary shares, which represents a number of ordinary shares equal to 7.0% of the aggregate number of ordinary shares and pre-funded warrants sold in the October Offering, were issued to designees of the placement agent on closing of the October Offering. Upon closing, the warrants issued to such designees became exercisable immediately at an exercise price of \$0.8125 per ordinary share and expire on October 22, 2025.

#### **Payment Protection Program**

In April 2020, we began deferring payment on our share of U.S. payroll taxes owed, as allowed by the CARES Act through December 31, 2020. We are able to defer half of our share of U.S. payroll taxes owed until December 31, 2021, with the remaining half due on December 31, 2022.

On April 3, 2020 the SBA launched the Program established following the signing of the CARES Act on March 27, 2020. On April 30, 2020, our wholly owned subsidiary, the Borrower, entered into the PPP loan with the Lender under the Program, pursuant to the Borrower receiving a loan of \$0.7 million with a fixed 1% annual interest rate and a maturity of two years. Under the terms of the agreement, there shall be no payments due by us until after the Deferral Period. Following the Deferral Period, equal monthly repayments of principal and interest will be due to fully amortize the principal amount outstanding on the PPP loan on the last day of the Deferral Period by the maturity date. Under the terms of the Program, the SBA will forgive the portion of loan proceeds used for U.S. payroll costs and other designated operating expenses for up to 24 weeks, provided at least 60% of the loan proceeds are used for U.S. payroll costs. We incurred qualifying payroll costs and other operating expenses in the 24 weeks following April 30, 2020 such that we have requested forgiveness for a portion of the PPP loan from the Lender. Any forgiveness of the PPP loan will be made in accordance with SBA requirements and subject to approval by the Lender. No assurance is provided that we will obtain forgiveness in whole or in part.

#### **Cash Flows**

The following table summarizes our cash flows for each of the periods presented (in thousands):

	<u>Nine Months Ended September 30,</u>	
	<u>2020</u>	<u>2019</u>
Net cash used in operating activities	(45,497)	(58,869)
Net cash (used in) / provided by investing activities	(11)	40,103
Net cash provided by financing activities	49,348	3,097
Effect of exchange rates on cash and cash equivalents	(35)	(29)
Net increase in cash, cash equivalents and restricted cash	<u>\$ 3,805</u>	<u>\$ (15,698)</u>

#### **Operating Activities**

During the nine months ended September 30, 2020, operating activities used \$45.5 million of cash, resulting from our net loss of \$40.8 million and net cash used by changes in our operating assets and liabilities of \$20.3 million, partially offset by net non-cash charges of \$12.8 million and financing transaction costs reclassified to financing activities of \$2.8 million. Net cash used by changes in our operating assets and liabilities for the nine months ended September 30, 2020 consisted primarily of decreases in accounts payable and accrued expenses, primarily due to payments made for clinical trial expenses incurred in the fourth quarter of 2019 and lower clinical trial expenses for the nine months ended September 30, 2020.

During the nine months ended September 30, 2019, operating activities used \$58.9 million of cash, resulting from our net loss of \$79.5 million, partially offset by net cash provided by changes in our operating assets and liabilities of \$18.7 million and non-

cash charges of \$1.9 million. Net cash provided by changes in our operating assets and liabilities for the nine months ended September 30, 2019 consisted primarily of increases in accounts payable and accrued expenses, primarily due to increases in clinical trial expenses, and a decrease in prepaid expenses and other current assets, largely related to advance payments to CROs, partially offset by an increase in other assets, primarily related to advance payments to a supplier for equipment.

#### *Investing Activities*

During the nine months ended September 30, 2020, net cash used by investing activities of \$0.0 million was related to purchases of property and equipment. During the nine months ended September 30, 2019, net cash generated by investing activities of \$40.1 million was related to sales of short-term investments.

#### *Financing Activities*

During the nine months ended September 30, 2020, net cash provided by financing activities was \$49.3 million and consisted of net cash proceeds of \$44.7 million from the Private Placement and the Rights Offering, net cash proceeds of \$8.6 million from the June 3 and June 30 Offerings and \$0.7 million from the drawdown of the PPP loan, partially offset by principal repayments of \$4.7 million made to SVB under the Loan and Security Agreement. During the nine months ended September 30, 2019, net cash provided by financing activities was \$3.1 million and consisted of cash proceeds from the private placement of our ordinary shares, pursuant to a subscription agreement with one of our suppliers.

#### **Funding Requirements**

We expect to continue to incur significant expenses and increasing operating losses as we seek potential marketing approval for oral sulopenem, carry out pre-commercialization activities and pursue the development of our sulopenem program in additional indications, including through preclinical and clinical development. Our expenses will also increase substantially if and as we:

- conduct additional clinical trials for oral sulopenem and/or sulopenem, which include our planned Phase 1 clinical trials related to pediatric indications;
- initiate other studies as part of our sulopenem program, some of which may be required for regulatory approval of our product candidates;
- establish a sales, marketing and distribution infrastructure to commercialize oral sulopenem and/or sulopenem in the United States, if we obtain marketing approval from the FDA, and we choose to commercialize directly in the United States;
- establish manufacturing and supply chain capacity sufficient to provide commercial quantities of oral sulopenem and/or sulopenem, if we obtain marketing approval and undertake commercialization activities;
- pursue the development of our sulopenem program in additional indications;
- maintain, expand, defend and protect our intellectual property portfolio;
- hire additional clinical, scientific and commercial personnel;
- add operational, financial and management information systems and personnel, including personnel to support our product development and planned future commercialization efforts; and
- acquire or in-license other product candidates or technologies.

Because of the numerous risks and uncertainties associated with research, development and commercialization of pharmaceutical product candidates, we are unable to estimate the exact amount of our working capital requirements. Our future funding requirements, both short-term and long-term, will depend on many factors, including:

- the timing and costs of clinical trials of oral sulopenem and/or sulopenem, including our planned Phase 1 clinical trials related to pediatric indications and any other studies which may be required for regulatory approval of our product candidates;
- the initiation, progress, timing, costs and results of preclinical studies and clinical trials of other potential product candidates and of our current product candidates in additional indications;
- the amount of funding that we receive under government awards that we may apply for in the future;
- the number and characteristics of product candidates that we pursue;
- our ability to apply for regulatory approval and the outcome, timing and costs of seeking any such regulatory approvals;

- the costs of commercialization activities for oral sulopenem and/or sulopenem and other product candidates if we receive marketing approval, including the costs and timing of establishing product sales, marketing, distribution and manufacturing capabilities;
- the receipt of marketing approval and revenue received from any potential commercial sales of oral sulopenem and/or sulopenem;
- the terms and timing of any future collaborations, licensing or other arrangements that we may establish;
- the amount and timing of any payments we may be required to make, or that we may receive, in connection with the licensing, filing, prosecution, defense and enforcement of any patents or other intellectual property rights, including milestone and royalty payments and patent prosecution fees that we are obligated to pay pursuant to an exclusive license agreement with Pfizer Inc. (Pfizer) (the Pfizer License) or other future license agreements;
- the amount and timing of any payments we may be required to make in connection with our RLNs;
- the costs of preparing, filing and prosecuting patent applications, maintaining and protecting our intellectual property rights and defending against any intellectual property related claims;
- the costs of operating as a public company;
- the extent to which we in-license or acquire other products and technologies;
- the impact of the COVID-19 pandemic on the economy and our business generally including commercialization of any future products; and
- the outcome, impact, effects and results of our evaluation of corporate, organizational, strategic, financial and financing alternatives, including the terms, timing, structure, value, benefits and costs of any corporate, organizational, strategic, financial or financing alternative and our ability to complete one at all.

Until such time, if ever, that we can generate product revenue sufficient to achieve profitability, we expect to finance our cash needs through a combination of public or private equity offerings, debt financings, collaboration agreements, other third-party funding, strategic alliances, licensing arrangements, marketing and distribution arrangements or government funding. The disruption and volatility in the global and domestic capital markets resulting from the COVID-19 pandemic may increase the cost of capital and limit our ability to access capital. To the extent that we raise additional capital through the sale of equity or convertible debt securities, our shareholders' ownership interest will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of our ordinary shareholders. Debt financing and preferred equity financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. Our secured credit facility with SVB, the RLNs, the Exchangeable Notes and the investor rights agreement we entered into in connection with the Private Placement each impose operating and other restrictions on us. Such restrictions affect, and in many cases limit or prohibit, our ability to dispose of certain assets, pay dividends, incur additional indebtedness, undergo a change of control and enter into certain collaborations, strategic alliances or other similar partnerships, among other things. The Purchase Agreement entered into in connection with the October offering also contains ongoing covenants for us, including a prohibition on issuance of ordinary shares or securities convertible or exchangeable into our ordinary shares for a period of 45 days after the closing of the October Offering and a prohibition on us entering into variable rate transactions for a period of 12 months after the closing of the October Offering, subject to certain exceptions. If we raise additional funds through other third-party funding, collaboration agreements, strategic alliances, licensing arrangements or marketing and distribution arrangements, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates or grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds through equity or debt financings when needed, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market products or product candidates that we would otherwise prefer to develop and market ourselves. In addition, as described above, we are evaluating our corporate, organizational, strategic, financial and financing alternatives, with the goal of maximizing value for our stakeholders while prudently managing our resources.

## Contractual Obligations and Commitments

The following table summarizes our contractual obligations as of September 30, 2020, and the effects that such obligations are expected to have on our liquidity and cash flows in future periods (in thousands):

	Total	Less than 1 year	1 to 3 years	4 to 5 years	More than 5 years
Operating lease commitments (1)	5,591	1,216	1,883	1,322	1,170
Principal debt repayments (2)	61,967	6,300	3,755	51,808	104
Total	67,558	7,516	5,638	53,130	1,274

(1) See Note 6 to the condensed consolidated financial statements for further details regarding leases.

(2) See Note 8 to the condensed consolidated financial statements for further details regarding debt. Principal payments relate to our SVB loan, our PPP loan, our Exchangeable Notes and our RLNs.

Under the Pfizer License, we have agreed to make certain regulatory and sales milestone payments, pay royalties and make a potential one-time payment related to sublicensing income that exceeds a certain threshold. We have not included any contingent payment obligations, such as milestones, royalties, or one-time payments, in the table above as the amount, timing and likelihood of such payments are not known. We are obligated to pay Pfizer royalties ranging from a single-digit to mid-teens percentage based on marginal net sales of each licensed product.

Under the indenture governing the RLNs, holders of RLNs will be entitled to payments based solely on a percentage of our net revenues from U.S. sales of specified sulopenem products (Specified Net Revenues). Payments will be due within 75 days of the end of each six-month payment measuring period (Payment Measuring Period), beginning with the Payment Measuring Period ending June 30, 2020 until (i) the "Maximum Return" (as described below) has been paid in respect of the RLNs, or (ii) the "End Date" occurs, which is December 31, 2045, or (iii) December 31, 2025, in the event that we have not yet received FDA approval with respect to one or more specified sulopenem products by such date. The aggregate amount of payments in respect of all RLNs during each Payment Measuring Period will be equal to the product of total Specified Net Revenues earned during such period and the applicable payment rate (the Payment Rate), determined based on which of the specified sulopenem products have received FDA approval. The Payment Rate will be based on the maximum aggregate principal amount of RLNs and will equal (i) up to 15% if we or one of our affiliates has received FDA approval for the use of specified sulopenem products for the treatment of uUTIs and (ii) up to 20% if we or one of our affiliates has received FDA approval for the use of specified sulopenem products for the treatment of cUTIs but has not received FDA approval for treatment of uUTIs. There was no payment due for the Payment Measuring Period ending June 30, 2020. Prior to the End Date, we are obligated to make payments on the RLNs from Specified Net Revenues until each RLN has received payments equal to \$160.00 (or 4,000 times the principal amount of such RLN) (Maximum Return). Other than the principal amount of \$104, we have not included any payment obligations on the RLNs in the table above as the amount, timing and likelihood of such payments are not known.

## Emerging Growth Company Status

The Jumpstart Our Business Startups Act of 2012 permits an "emerging growth company" such as us to take advantage of an extended transition period to comply with new or revised accounting standards applicable to public companies until those standards would otherwise apply to private companies. We have irrevocably elected to "opt out" of this provision and, as a result, we will comply with new or revised accounting standards when they are required to be adopted by public companies that are not emerging growth companies.

## Off-Balance Sheet Arrangements

We did not have during the periods presented, and we do not currently have, any off-balance sheet arrangements, as defined in the rules and regulations of the SEC.

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

As of September 30, 2020, we had cash and cash equivalents of \$8.6 million, consisting of cash only. We did not have any marketable securities as of September 30, 2020.

We contract with CROs and CMOs globally. We may be subject to fluctuations in foreign currency rates in connection with certain of these agreements. Transactions denominated in currencies other than the functional currency are recorded based on exchange rates at the time such transactions arise. As of September 30, 2020 and December 31, 2019, substantially all of our liabilities were denominated in U.S. dollars. Realized net foreign currency gains and losses did not have a material effect on our results of operations for the nine months ended September 30, 2020 and 2019 or for the year ended December 31, 2019.

The interest rate on our secured credit facility is sensitive to changes in interest rates. Interest accrues at a per annum rate equal to the greater of (i) 8.31%; or (ii) 3.89% above The Wall Street Journal prime rate. The Wall Street Journal prime rate decreased from 5.50% to 5.25% on August 1, 2019, to 5.00% on September 19, 2019, to 4.75% on October 31, 2019, to 4.25% on March 4, 2020 and then to 3.25% on March 16, 2020.

**Item 4. Controls and Procedures.*****Evaluation of Disclosure Controls and Procedures***

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer (our principal executive officer and principal financial officer, respectively), evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2020. The term “disclosure controls and procedures,” as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company’s management, including its principal executive and principal financial officers, as appropriate, to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on the evaluation of our disclosure controls and procedures as of September 30, 2020, our Chief Executive Officer and Chief 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***

No change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) occurred during the three months ended September 30, 2020, that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings

From time to time, we may be involved in legal proceedings or be subject to claims arising out of our operations. We are not currently a party to any legal proceedings that in the opinion of our management, would have a material adverse effect on our business.

### Item 1A. Risk Factors.

*Careful consideration should be given to the following risk factors, in addition to the other information set forth in this Quarterly Report and in other documents that we file with the Securities and Exchange Commission (SEC), in evaluating our company and our business. Investing in our ordinary shares involves a high degree of risk. If any of the events described in the following Risk Factors and the risks described elsewhere in this Quarterly Report on Form 10-Q actually occur, our business, financial condition, results of operations and future growth prospects could be materially and adversely affected. In these circumstances, the market price of our ordinary shares could decline, and you may lose all or part of your investment.*

#### Risks Related to Our Financial Position and Capital Requirements

***We have incurred net losses in each year since our inception and anticipate that we will continue to incur significant losses unless we successfully commercialize our sulopenem program.***

We are a clinical-stage pharmaceutical company with a limited operating history. We have not generated any product revenue and have incurred net losses in each year since our inception in 2015. As of September 30, 2020, we had an accumulated deficit of \$275.7 million, and cash and cash equivalents of \$8.6 million. Our product candidates, oral sulopenem and sulopenem (together, the sulopenem program), are in clinical development, and have not been approved for sale and we may never have our product candidates approved for commercialization.

We have financed our operations to date primarily with the issuance of ordinary shares and convertible preferred shares pre-funded warrants and warrants, debt raised under financing arrangements with Silicon Valley Bank (SVB), a sub-award from the Trustees of Boston University under the Combating Antibiotic Resistant Bacteria Biopharmaceutical Accelerator (CARB-X) program and the proceeds of a private placement which closed in January 2020 (the Private Placement) and a subsequent rights offering (the Rights Offering) pursuant to which our wholly owned subsidiary, Iterum Therapeutics Bermuda Limited (Iterum Bermuda), sold units (Units) consisting of (i) 6.500% Exchangeable Senior Subordinated Notes due 2025 (Exchangeable Notes); and (ii) Limited Recourse Royalty-Linked Subordinated Notes (RLNs and, together with the Exchangeable Notes, the Securities), to certain existing and new investors. In April 2018, we entered into a secured credit facility with SVB and made an initial drawdown of \$15.0 million pursuant to a loan and security agreement (the Loan and Security Agreement). In April 2020, we entered into a note (PPP loan) with SVB of \$0.7 million under the Paycheck Protection Program. In early June 2020, we issued and sold, in a registered direct offering (June 3 Offering), ordinary shares for aggregate gross proceeds to us of \$5.0 million and net proceeds of \$4.3 million after deducting fees payable to the placement agent and other offering expenses payable by us. In late June 2020, we issued and sold, in a registered direct offering (June 30 Offering), ordinary shares for aggregate gross proceeds to us of \$5.0 million and net proceeds of \$4.2 million after deducting fees payable to the placement agent and other offering expenses payable by us. In October 2020, we issued and sold, in a registered public offering (October Offering), ordinary shares and pre-funded warrants exercisable for ordinary shares, each offered together with warrants exercisable for ordinary shares, for aggregate gross proceeds to us of approximately \$17.4 million and net proceeds of approximately \$15.3 million after deducting fees payable to the placement agent and other estimated offering expenses payable by us. We have devoted substantially all of our financial resources and efforts to research and development, including preclinical and clinical development, for our sulopenem program.

We expect to continue to incur significant expenses and increasing operating losses as we seek potential marketing approval for oral sulopenem, carry out pre-commercialization activities, and pursue the development of our sulopenem program in additional indications through preclinical and clinical development. Our expenses will also increase substantially if and as we:

- conduct additional clinical trials for oral sulopenem and/or sulopenem, which include our planned Phase 1 clinical trials related to pediatric indications;
- initiate other studies as part of our sulopenem program, some of which may be required for regulatory approval of our product candidates;
- establish a sales, marketing and distribution infrastructure to commercialize oral sulopenem and/or sulopenem in the United States, if we obtain marketing approval from the U.S. Food and Drug Administration (FDA) and we choose to commercialize directly in the United States;

- establish manufacturing and supply chain capacity sufficient to provide commercial quantities of oral sulopenem and/or sulopenem, if we obtain marketing approval and undertake commercialization activities;
- pursue the development of our sulopenem program in additional indications;
- maintain, expand, defend and protect our intellectual property portfolio;
- hire additional clinical, scientific and commercial personnel;
- add operational, financial and management information systems and personnel, including personnel to support our product development and planned future commercialization efforts; and
- acquire or in-license other product candidates or technologies.

***We will require additional capital to fund our operations, and there is substantial doubt about our ability to continue as a going concern for a period of one year from the date of this Quarterly Report on Form 10-Q. If we fail to obtain financing when needed or on acceptable terms, we may not be able to complete the development and commercialization of our sulopenem program.***

Developing pharmaceutical products is a time-consuming, expensive and uncertain process that takes years to complete. We expect to continue to incur significant expenses as we seek potential marketing approval for oral sulopenem, carry out pre-commercialization activities, and pursue the development of our sulopenem program in additional indications through preclinical and clinical development. If we obtain marketing approval for oral sulopenem, sulopenem or any future product candidate and undertake commercialization activities, we expect to incur significant commercialization expenses related to product sales, marketing, distribution and manufacturing. Some of these expenses may be incurred in advance of marketing approval, and could be substantial.

We estimate that the net proceeds of approximately \$15.3 million from the October Offering, together with our cash and cash equivalents as of September 30, 2020, should be sufficient to fund our operating expenses and capital expenditure requirements into the third quarter of 2021, including our planned new drug application (NDA) submission for oral sulopenem for the treatment of uncomplicated urinary tract infections (uUTI) in patients with quinolone non-susceptible pathogens and the potential FDA acceptance of such NDA submission, into the anticipated FDA review period of such NDA submission. We could deplete our capital resources sooner than expected. We have based this estimate on assumptions that may prove to be wrong, and our operating plans may change as a result of many factors and various risks and uncertainties. For example, this estimate assumes, among other things, the continuation of regular monthly amortization payments of the principal amount outstanding under our credit facility with SVB and that the balance of the principal amount does not become due and payable until the maturity date of March 1, 2022. Our expected cash usage for the next 12 months assumes that planned programs and expenditure continue and that we do not reduce or eliminate some or all of our planned research and development programs or commercialization efforts. Our future viability is dependent on our ability to raise additional capital to finance our operations. Without additional external funding, we do not believe that our existing cash and cash equivalents will enable us to fund our operating expenses and capital expenditure requirements for the next 12 months. As such, we believe there is substantial doubt about our ability to continue as a going concern for at least one year from the date this Quarterly Report on Form 10-Q is issued. The condensed consolidated financial statements do not include any adjustments relating to the recoverability and classification of liabilities that might be necessary should we be unable to continue as a going concern.

We will be required to obtain further funding through public or private equity offerings, debt financings, collaborations and licensing arrangements or other sources. Adequate additional financing may not be available to us on acceptable terms, or at all. Although we have successfully raised capital in the past, there is no assurance that we will be successful in obtaining sufficient funding on terms acceptable to us to fund continuing operations, if at all. Our failure to raise capital as and when needed would have a negative effect on our financial condition and our ability to develop and commercialize our sulopenem program and otherwise pursue our business strategy and we may be unable to continue as a going concern.

In addition, we are evaluating our corporate, organizational, strategic, financial and financing alternatives, with the goal of maximizing value for our stakeholders while prudently managing our resources. These alternatives could potentially include the licensing, sale or divestiture of our assets or proprietary technologies, a sale of our company, a merger or other business combination, another strategic transaction involving us, restructuring activities, winding down of operations, dissolving and liquidating assets or seeking protection under bankruptcy laws, and a determination to file for bankruptcy could occur at a time that is earlier than when we would otherwise exhaust our cash resources. If we decide to dissolve and liquidate our assets or to seek protection under the bankruptcy laws, it is unclear to what extent we would be able to pay our obligations and, accordingly, it is further unclear whether and to what extent any resources would be available for distributions to our shareholders. The evaluation of corporate, organizational, strategic, financial and financing alternatives may not result in any particular action or any transaction being pursued, entered into or consummated, and there is no assurance as to the timing, sequence or outcome of any action or transaction or series of actions or transactions.

Because of the numerous risks and uncertainties associated with research, development and commercialization of pharmaceutical product candidates, we are unable to estimate the exact amount of our working capital requirements. Changing circumstances could cause us to consume capital significantly faster than we currently anticipate, and we may need to spend more than currently expected because of circumstances beyond our control. Our future funding requirements, both short-term and long-term, will depend on many factors, including:

- the timing and costs of our clinical trials of oral sulopenem and sulopenem, including our planned Phase 1 clinical trials related to pediatric indications and any other studies which may be required for regulatory approval of our product candidates;
- the initiation, progress, timing, costs and results of preclinical studies and clinical trials of other potential product candidates and of our current product candidates in additional indications;
- the amount of funding that we receive under government awards that we have applied for or may apply for in the future;
- the number and characteristics of product candidates that we pursue;
- the outcome, timing and costs of seeking regulatory approvals;
- the costs of commercialization activities for oral sulopenem and/or sulopenem and other product candidates if we receive marketing approval, including the costs and timing of establishing product sales, marketing, distribution and manufacturing capabilities;
- the receipt of marketing approval and revenue received from any potential commercial sales of oral sulopenem and/or sulopenem;
- the terms and timing of any future collaborations, licensing or other arrangements that we may establish;
- the amount and timing of any payments we may be required to make, or that we may receive, in connection with the licensing, filing, prosecution, defense and enforcement of any patents or other intellectual property rights, including milestone and royalty payments and patent prosecution fees that we are obligated to pay pursuant to an exclusive license agreement with Pfizer Inc. (Pfizer) (the Pfizer License) or other future license agreements;
- the amount and timing of any payments we may be required to make in connection with the RLNs;
- the costs of preparing, filing and prosecuting patent applications, maintaining and protecting our intellectual property rights and defending against any intellectual property related claims;
- the costs of operating as a public company;
- the extent to which we in-license or acquire other products and technologies; and
- the impact of the COVID-19 pandemic on the economy and our business generally including commercialization of any future products.

***Provisions in the EN Indenture, RLN Indenture and our other financing documents may deter or prevent us from raising additional capital to fund our operations.***

Provisions in the agreements we entered into in connection with our financings may deter or prevent us from raising additional capital to fund our operations as and when needed. For example, the indenture governing the Exchangeable Notes (the EN Indenture) contains negative covenants prohibiting Iterum Bermuda, as well as us and our wholly owned subsidiaries and their subsidiaries (the Guarantors), who guaranteed Iterum Bermuda's obligations under the Exchangeable Notes, from, among other things, incurring any indebtedness that is not permitted by the EN Indenture and entering into transactions with significant shareholders (as defined in the EN Indenture). In addition, the indenture governing the RLNs (the RLN Indenture) contains negative covenants prohibiting Iterum Bermuda and the Guarantors from, among other things, selling, transferring or assigning certain assets and taking other actions outside the ordinary course of business that would reasonably be expected to reduce the amount of payments under the RLNs.

In addition, pursuant to the terms of an investor rights agreement we entered into in connection with the Private Placement (the 2020 Investor Rights Agreement), for so long as Sarissa Capital Offshore Master Fund LP, Sarissa Capital Catapult Fund LLC and Sarissa Capital Hawkeye Fund LP (collectively with their affiliates, Sarissa) own 10% of our outstanding ordinary shares on a fully diluted basis, Sarissa has a right of first offer with respect to our future proposed equity financings up to that portion of such new securities which equals Sarissa's then-percentage ownership of our outstanding ordinary shares on a fully diluted basis, subject to specified exceptions for certain exempt issuances and pursuant to specified procedures.



In connection with the October Offering, we entered into a Securities Purchase Agreement (the Purchase Agreement) on October 22, 2020 with certain institutional investors. The Purchase Agreement contains certain covenants, including covenants prohibiting the issuance of our ordinary shares or securities convertible or exchangeable into our ordinary shares for a period of 45 days after the closing of the October Offering and prohibiting us from entering into variable rate transactions for a period of 12 months after the closing of the October Offering, subject to certain exceptions. These and other provisions in the financing documents could deter or prevent us from raising additional capital. Our failure to raise capital as and when needed would have a negative effect on our financial condition and our ability to develop and commercialize our sulopenem program and otherwise pursue our business strategy and we may be unable to continue as a going concern.

***We are heavily dependent on the success of our sulopenem program, and our ability to develop, obtain marketing approval for and successfully commercialize oral sulopenem and sulopenem. If we are unable to achieve and sustain profitability, the market value of our ordinary shares will likely decline.***

Our ability to become and remain profitable depends on our ability to generate revenue. To date, we have invested substantially all of our efforts and financial resources in the development of oral sulopenem and sulopenem, which are currently our two product candidates in development. Our prospects, including our ability to finance our operations and generate revenue from product sales, currently depends entirely on the development and commercialization of our sulopenem program.

We do not expect to generate significant revenue unless and until we obtain marketing approval for, and commercialize, oral sulopenem and/or sulopenem. Our ability to generate future revenue from product sales will require us to be successful in a range of challenging clinical and commercial activities, including:

- enrolling and successfully completing our planned Phase 1 clinical trials related to pediatric indications and any other clinical trials that may be required for regulatory approval of our product candidates;
- applying for and obtaining marketing approval for oral sulopenem and/or sulopenem;
- protecting and maintaining our rights to our intellectual property portfolio related to our sulopenem program;
- establishing and maintaining supply and manufacturing relationships with third parties that can support clinical development and can provide adequate commercial quantities of oral sulopenem and/or sulopenem, if approved;
- establishing sales, marketing and distribution capabilities to effectively market and sell oral sulopenem and/or sulopenem, or entering into collaboration arrangements for the commercialization of oral sulopenem and/or sulopenem where we choose not to commercialize directly ourselves; and
- obtaining market acceptance of oral sulopenem and/or sulopenem as viable treatment options.

Because of the numerous risks and uncertainties associated with developing pharmaceutical products, we are unable to predict the extent of any future losses or when, or if, we will become profitable. We may never succeed in any or all of these activities and, even if we do, we may never generate revenue that is significant or large enough to achieve profitability. Our expenses could increase if we are required by the FDA, the European Medicines Agency (EMA), or any comparable foreign regulatory authority, to perform different studies or studies in addition to those currently expected, or if there are any delays in completing such studies or with the development of our sulopenem program or any future product candidates. Even if oral sulopenem or sulopenem are approved for commercial sale, we anticipate incurring significant costs associated with the commercial launch of oral sulopenem and/or sulopenem. Where we enter into collaboration arrangements with third-party collaborators for commercialization of product candidates, our product revenues or the profitability of these product revenues to us would likely be lower than if we were to directly market and sell products in those markets.

Our failure to become and remain profitable would decrease the value of our company and could impair our ability to raise capital, maintain our research and development efforts, expand our business or continue our operations. A decline in the value of our company could cause our shareholders to lose all or part of their investment.

***Our indebtedness imposes certain operating and other restrictions on us and could adversely affect our ability to raise additional capital.***

On April 27, 2018, our subsidiaries, Iterum Therapeutics International Limited, Iterum Therapeutics US Holding Limited and Iterum Therapeutics US Limited (Borrowers), entered into a secured credit facility with SVB pursuant to which SVB agreed to lend the Borrowers up to \$30.0 million in two term loans. \$15.0 million of the secured credit facility was funded on closing and the other \$15.0 million was available at our option upon the satisfaction of certain draw requirements. However, we did not satisfy the second draw conditions before the deadline of October 31, 2019. Obligations under the secured credit facility are secured by substantially all

of our existing and future assets and the existing and future assets of our subsidiaries, including intellectual property. Our secured credit facility imposes operating and other restrictions on us. Such restrictions affect, and in many respects limit or prohibit, our ability to, among other things, dispose of certain assets, pay dividends and incur additional indebtedness. Failure to make payments or comply with these and other terms and covenants under our secured credit facility could result in an event of default, which could lead to an acceleration of amounts due and foreclosure upon and/or sale or other liquidation of all of our and our subsidiaries' assets, including intellectual property. Any of the foregoing would have a material adverse effect on our operations and financial condition. In addition, this indebtedness and the security interests granted to secure it could make it more difficult for us to raise additional capital to fund our operations.

In connection with the Private Placement, Iterum Bermuda was joined as a party to the Loan and Security Agreement as a borrower and the Loan and Security Agreement was amended on January 16, 2020 to, among other things, modify the definition of subordinated debt to include the RLNs and Exchangeable Notes.

In addition, the EN Indenture and the RLN Indenture each contain affirmative and negative covenants which impose operating and other restrictions on us, including, among other things, incurring any indebtedness that is not permitted by the EN Indenture or amending the terms of any subordinated indebtedness, entering into strategic transactions or transferring any material assets and undergoing a change of control transaction (subject to certain exceptions, including in the case of a change of control transaction, a transaction in which each holder of an outstanding Exchangeable Note receives cash consideration of at least 300% of the outstanding principal amount of such Exchangeable Note). Failure to comply with these terms could result in an event of default which could lead, among other things, to an acceleration of amounts due under the EN Indenture and the obligation to pay default interest. Moreover, obtaining a consent to a waiver of these terms is subject to a veto right of the holders of 30% of the outstanding Exchangeable Notes, in the case of the EN Indenture, and 30% of the outstanding RLNs, in the case of the RLN Indenture, and in each case which must include Sarissa so long as Sarissa and its affiliates own at least 10% of the outstanding Exchangeable Notes or RLNs, respectively. This veto right could make it more difficult for us to obtain a waiver than would otherwise be the case. In addition, the rate at which the Exchangeable Notes are exchangeable for our ordinary shares is subject to adjustment, including pursuant to anti-dilution protections. For example, following the October Offering, the exchange rate of the Exchangeable Notes increased and the exchange price of the Exchangeable Notes adjusted from the previous exchange price of \$1.00 per ordinary share (at the exchange rate of 1,000 shares per \$1,000 of principal and interest on the Exchangeable Notes) to \$0.7775 per ordinary share (at an adjusted exchange rate of 1,286.1845 shares per \$1,000 of principal and interest on the Exchangeable Notes). In addition, the exercise price and the number of shares issuable under our outstanding warrants are subject to adjustment pursuant to the terms of the applicable warrant. This indebtedness could make it more difficult for us to raise additional capital to fund our operations.

***Servicing our indebtedness will require a significant amount of cash, and we may not have sufficient cash flow from our business to pay our indebtedness.***

Our ability to make payments of the principal of, to pay interest and special interest on or to refinance our secured credit facility and the Exchangeable Notes, or to make cash payments, if we so elect, in connection with any exchange of Exchangeable Notes depends on our future performance, which is subject to economic, financial, competitive and other factors beyond our control. Our business may not generate cash flow sufficient to service our term loan, the Exchangeable Notes or other indebtedness and make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as selling assets, restructuring indebtedness or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our term loan, the Exchangeable Notes or other indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations.

***Despite our current debt levels, we may still incur substantially more debt or take other actions that would intensify the risks discussed above.***

Despite our current consolidated debt levels, we and our subsidiaries may be able to incur substantial additional debt in the future, subject to the restrictions contained in our current and future debt instruments, some of which may be secured debt. While the Loan and Security Agreement and the EN Indenture restrict our ability to incur additional indebtedness, including secured indebtedness, both allow for certain additional indebtedness and any such restrictions may be waived. In addition, if the Loan and Security Agreement matures or is repaid, we may not be subject to similar restrictions under the terms of any subsequent indebtedness. If new debt is added to our current debt levels, the related risks that we now face could intensify.

***We may not have the ability to raise the funds necessary to settle exchanges of the Exchangeable Notes in cash or to repurchase the Exchangeable Notes upon a fundamental change, and the Loan and Security Agreement and our future debt may limit our ability to pay cash upon exchange or repurchase of the Exchangeable Notes.***

Holders of the Exchangeable Notes will have the right to require us to repurchase all or a portion of their Exchangeable Notes upon the occurrence of a fundamental change at specified repurchase prices. In addition, upon exchange of the Exchangeable Notes, unless we elect to deliver solely ordinary shares to settle such exchange (other than paying cash in lieu of delivering any fractional share), we would be required to make specified cash payments in respect of the Exchangeable Notes being exchanged. However, we may not have enough available cash or be able to obtain financing at the time we are required to make repurchases of Exchangeable Notes surrendered therefor or to pay cash with respect to Exchangeable Notes being exchanged. In addition, our ability to repurchase or to pay cash upon exchange of the Exchangeable Notes may be limited by law, regulatory authority, the Loan and Security Agreement and future indebtedness.

Our failure to repurchase Exchangeable Notes at a time when the repurchase is required by the EN Indenture or to pay cash upon exchange of the Exchangeable Notes as required by the EN Indenture would constitute a default under the EN Indenture. A default under the EN Indenture or a fundamental change itself could also lead to a default under the Loan and Security Agreement and other agreements governing our future indebtedness. If the payment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness and any accrued and unpaid interest and repurchase the Exchangeable Notes or to pay cash upon exchange of the Exchangeable Notes.

***The exchange feature of the Exchangeable Notes may adversely affect our financial condition and operating results.***

On or after January 21, 2021 and prior to the earlier of (i) the close of business on the scheduled trading day immediately preceding a mandatory exchange notice for the Exchangeable Notes, which would be triggered by the occurrence of any of certain mandatory exchange trigger events specified in the EN Indenture, and (ii) the close of business on the second scheduled trading day immediately preceding the interest record date, holders of Exchangeable Notes will be entitled to exchange the Exchangeable Notes at any time at their option. If one or more holders elect to exchange their Exchangeable Notes, unless we elect to satisfy our exchange obligation by delivering solely ordinary shares (other than paying cash in lieu of delivering any fractional share), we would be required to settle a portion or all of our exchange obligation in cash, which could adversely affect our liquidity. The relevant accounting rules require that we recognize liabilities which appropriately reflect our obligations specified in the EN Indenture. Therefore, even if holders do not elect to exchange their Exchangeable Notes, our liabilities and statement of operations could be significantly impacted.

***We have a limited operating history and no history of commercializing pharmaceutical products, which may make it difficult to evaluate the prospects for our future viability.***

We began operations in November 2015. Since our inception, we have devoted substantially all of our financial resources and efforts to organizing and staffing our company, business planning, raising capital, planning for potential commercialization, and research and development, including preclinical and clinical development, for our sulopenem program. While the members of our development team have successfully developed and registered other antibiotics in past roles at different companies, our company has limited experience and has not yet demonstrated an ability to successfully obtain marketing approval, manufacture a commercial scale product (or arrange for a third party to do so on our behalf), or conduct sales and marketing activities necessary for successful product commercialization. Consequently, predictions about our future success or viability may not be as accurate as they could be if we had a longer operating history or a history of successfully developing and commercializing pharmaceutical products.

Assuming we obtain marketing approval for oral sulopenem or sulopenem, we will need to transition from a company with a research and development focus to a company capable of supporting commercial activities whether we choose to commercialize product candidates directly ourselves or seek to commercialize them through third-party collaboration arrangements. We may encounter unforeseen expenses, difficulties, complications and delays, and may not be successful in such a transition.

***Raising additional capital may cause dilution to our shareholders, restrict our operations or require us to relinquish rights to our technologies or product candidates.***

Unless and until we can generate a substantial amount of revenue from our sulopenem program or future product candidates, we expect to finance our future cash needs through equity offerings, debt financings, collaboration agreements, other third-party funding, strategic alliances, licensing arrangements, marketing and distribution arrangements or government funding.

We may seek additional capital due to favorable market conditions or strategic considerations, even if we believe that we have sufficient funds for our current or future operating plans.

We have filed a universal shelf registration statement on Form S-3 with the SEC, which was declared effective on July 16, 2019 (File No. 333-232569), and pursuant to which we registered for sale up to \$150.0 million of any combination of our ordinary shares, preferred shares, debt securities, warrants and/or units from time to time and at prices and on terms that we may determine. The extent to which we are able to utilize the shelf registration statement as a source of funding will depend on a number of factors, including the prevailing market price of our ordinary shares, general market conditions and restrictions on our ability to utilize the shelf registration statement to sell more than one-third of the market value of our public float, meaning the aggregate market value of voting and non-voting ordinary shares held by non-affiliates shares held by non-affiliates, in any trailing 12-month period. As of September 30, 2020, we had issued \$10 million of securities registered under our universal shelf registration statement.

Our issuance of additional securities, whether equity or debt, or the possibility of such issuance, may cause the market price of our ordinary shares to decline, and our shareholders may not agree with our financing plans or the terms of such financings. To the extent that we raise additional capital through the sale of ordinary shares, convertible securities or other equity securities, the ownership interests of our then existing shareholders may be materially diluted, and the terms of these securities could include liquidation or other preferences and antidilution protections that could adversely affect the rights of our then existing shareholders. Further debt financing, if available, would result in increased fixed payment obligations and may involve agreements that include restrictive covenants that limit our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends, which could adversely affect our ability to conduct our business. In addition, securing additional financing would require a substantial amount of time and attention from our management and may divert a disproportionate amount of their attention away from day-to-day activities, which may adversely affect our management's ability to oversee the development of our product candidates.

If we raise additional funds through collaborations, strategic alliances or marketing, distribution or licensing arrangements with third parties, we may have to relinquish valuable rights to our technologies, future revenue streams or product candidates or grant licenses on terms that may not be favorable to us.

***We may expend our limited resources to pursue a particular product candidate or indication and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.***

Because we have limited financial resources, we initially focused our sulopenem development program on the specific indications of uUTI, complicated urinary tract infections (cUTI) and complicated intra-abdominal infections (cIAI), all of which are focused on what we believe to be the most pressing near-term medical needs, in terms of both their potential for marketing approval and commercialization. As sulopenem did not meet the primary endpoint of statistical non-inferiority compared to the control therapy in our Phase 3 cIAI clinical trial, we have decided to focus our development program on the indications for uUTI and cUTI. As a result, we may forego or delay pursuit of opportunities with other potential product candidates or developing our sulopenem program in other indications that may prove to have greater commercial potential. In addition, in the cUTI trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to the control therapies, with the difference in response rates driven almost entirely by higher rates of asymptomatic bacteriuria on the sulopenem IV to oral sulopenem arm relative to the ertapenem IV to oral ciprofloxacin arm, only evident at the test of cure visit; the rates of patients receiving additional antibiotics or with residual cUTI symptoms were similar between therapies. Similarly, in the uUTI trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to ciprofloxacin in the population of patients with baseline pathogens susceptible to ciprofloxacin, driven to a large degree by a greater amount of asymptomatic bacteriuria in the sulopenem treated patients at the test of cure visit relative to those receiving ciprofloxacin. However, in the uUTI trial, in the population of patients with baseline pathogens resistant to quinolones, sulopenem achieved the related primary endpoint by demonstrating superiority to ciprofloxacin, providing evidence of a treatment effect in patients with uUTI. Based on discussions with the FDA at a pre-NDA meeting and previous correspondence with the FDA, we plan to proceed with an NDA submission for oral sulopenem for the treatment of uUTIs in patients with a quinolone non-susceptible pathogen in the fourth quarter of 2020. However, due to a variety of factors, including those described in this "Risk Factors" section, we may nonetheless be delayed in obtaining or ultimately be unable to obtain FDA approval for sulopenem for this or any other indication or for any other product or to successfully commercialize sulopenem.

Our resource allocation decisions may cause us to fail to capitalize on viable commercial products or profitable market opportunities. Our spending on current and future research and development programs and product candidates for specific indications may not yield any commercially viable product candidates. If we do not accurately evaluate the commercial potential or target market for a particular product candidate, we may relinquish valuable rights to that product candidate through collaboration, licensing or other royalty arrangements in cases in which it would have been more advantageous for us to retain sole development and commercialization rights to the product candidate.

***We have broad discretion in the use of our funds and may not use them effectively.***

We have broad discretion in the application of our available funds and could spend the funds in ways that do not improve our results of operations or enhance the value of our ordinary shares. Our failure to apply these funds effectively could result in financial losses that could have a material adverse effect on our business, cause the price of our ordinary shares to decline and delay the development of our product candidates. Pending their use, we may invest funds in a manner that does not produce income or that loses value.

#### **Risks Related to Clinical Development and Commercialization**

*We are heavily dependent on the success of our sulopenem program, and our ability to develop, obtain marketing approval for and successfully commercialize oral sulopenem and/or sulopenem. If we are unable to obtain marketing approvals for oral sulopenem or sulopenem, or if thereafter we fail to commercialize oral sulopenem or sulopenem or experience significant delays in doing so, our business will be materially harmed.*

We currently have no products approved for sale and have invested substantially all of our efforts and financial resources in the development of our sulopenem program. Our near-term prospects are substantially dependent on our ability to develop, apply for and obtain marketing approval for and successfully commercialize oral sulopenem and/or sulopenem. The success of our sulopenem program will depend on several factors, including the following:

- completion of clinical trials, including our planned Phase 1 clinical trials related to pediatric indications and any other clinical trials that may be required for regulatory approval of our product candidates;
- successful enrollment in, and completion of, our planned Phase 1 clinical trials related to pediatric indications and any other clinical trials that may be required for regulatory approval of our product candidates;
- clinical trial results with safety, tolerability and efficacy profiles that are satisfactory to the FDA or any comparable foreign regulatory authority;
- timely completion of any additional clinical trials and non-clinical studies conducted to support the filing for regulatory approvals of our sulopenem program, if required by the FDA or any comparable foreign regulatory authority;
- receipt of marketing approvals from applicable regulatory authorities;
- establishment and maintenance of arrangements with third-party manufacturers to obtain commercial supply at a scale sufficient to meet anticipated demand and at a cost appropriate for our commercialization;
- acquisition and maintenance of patent, trade secret and other intellectual property protection and regulatory exclusivity, both in the United States and internationally, including our ability to maintain the Pfizer License;
- protection of our rights in our intellectual property portfolio;
- launch of commercial sales of oral sulopenem and/or sulopenem, if approved, whether alone or in collaboration with others;
- the effectiveness of our own or any future collaborators' marketing, sales and distribution strategy and operations;
- acceptance of oral sulopenem and/or sulopenem, if approved, by patients, physicians and the medical community at large;
- our ability to obtain and sustain coverage and an adequate level of reimbursement by third-party payors;
- the prevalence, frequency and severity of adverse side effects of oral sulopenem and/or sulopenem;
- the availability, perceived advantages, relative cost and relative efficacy of alternative and competing therapies; and
- an acceptable safety profile of oral sulopenem and/or sulopenem following approval.

Many of these factors are beyond our control, including clinical development, the regulatory submission process, potential threats to our intellectual property rights, manufacturing and the impact of competition.

Based on discussions with the FDA at a pre-NDA meeting and previous correspondence with the FDA, we plan to proceed with an NDA submission for oral sulopenem for the treatment of uUTIs in patients with a quinolone non-susceptible pathogen in the fourth quarter of 2020. However, due to a variety of factors, including those described in this "Risk Factors" section, we may nonetheless be delayed in obtaining or ultimately be unable to obtain FDA approval for sulopenem for this or any other indication or any other product or to successfully commercialize sulopenem.

If we are unable to develop, receive marketing approval for, or successfully commercialize oral sulopenem and/or sulopenem, or if we experience delays as a result of any of these factors or otherwise, our business could be materially harmed.

***Our company has no experience in obtaining regulatory approval for a drug.***

Our company has never obtained regulatory approval for, or commercialized, a drug. We must complete extensive preclinical and clinical trials to demonstrate the safety and efficacy of our product candidates in humans before we will be able to obtain these approvals. To gain approval to market a product candidate, we must provide the FDA and foreign regulatory authorities with non-clinical, clinical and chemistry, manufacturing, and controls (CMC) data that adequately demonstrates the safety and efficacy of the product for the intended indication(s) applied for in the NDA(s) or other respective regulatory filing.

We may never succeed in achieving regulatory approval for any of our product candidates. For example, in the results of our cIAI clinical trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to the control therapy for the cIAI trial; however, we believe the secondary supporting analyses and safety data support the potential of sulopenem in the treatment of multi-drug resistant infections. In the second quarter of 2020, we announced the results of our Phase 3 clinical trials of sulopenem for the treatment of cUTI and uUTI. In the cUTI trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to the control therapies with the difference in response rates driven almost entirely by higher rates of asymptomatic bacteriuria on the sulopenem IV to oral sulopenem arm relative to the ertapenem IV to oral ciprofloxacin arm, only evident at the test of cure visit; the rates of patients receiving additional antibiotics or with residual cUTI symptoms were similar between therapies. Similarly, in the uUTI trial, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to ciprofloxacin in the population of patients with baseline pathogens susceptible to ciprofloxacin driven to a large degree by a greater amount of asymptomatic bacteriuria in the sulopenem treated patients at the test of cure visit relative to those receiving ciprofloxacin. However, in the uUTI trial, in the population of patients with baseline pathogens resistant to quinolones, sulopenem achieved the related primary endpoint by demonstrating superiority to ciprofloxacin, providing evidence of a treatment effect in patients with uUTI. Based on discussions with the FDA at a pre-NDA meeting and previous correspondence with the FDA, we plan to proceed with an NDA submission for oral sulopenem for the treatment of uUTI in patients with a quinolone non-susceptible pathogen in the fourth quarter of 2020. It is possible that the FDA may refuse to accept our planned NDA for substantive review or may conclude after review of our data that our application is insufficient to obtain regulatory approval for any current or future product candidates. If the FDA does not approve our planned NDA, it may require that we conduct additional costly clinical, non-clinical or manufacturing validation studies before it will reconsider our application(s). Depending on the extent of these or any other FDA-required studies, approval of any NDA(s) or other application that we submit may be significantly delayed, possibly for several years, or may require us to expend more resources than we have available.

We may elect to discontinue, delay or modify clinical trials of some product candidates or focus on others. Any changes in the outcome of any of these variables with respect to the development of our product candidates in clinical development could mean a significant change in the costs and timing associated with the development of these product candidates.

Additionally, any failure or delay in obtaining regulatory approvals would prevent us from commercializing oral sulopenem and/or sulopenem, generating revenues and achieving and sustaining profitability. It is also possible that additional studies, if performed and completed, may not be considered sufficient by the FDA to approve any NDA(s) or other application that we submit. If any of these outcomes occur, we may be forced to abandon the development of our product candidates, which would materially adversely affect our business and could potentially cause us to cease operations. We face similar risks for our applications in other countries.

***If clinical trials of oral sulopenem, sulopenem or any other product candidate that we may advance to clinical trials fail to demonstrate safety and efficacy to the satisfaction of the FDA or comparable foreign regulatory authorities, or do not otherwise produce favorable results, we may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of oral sulopenem, sulopenem or any other product candidate.***

We may not commercialize, market, promote, or sell any product candidate in the United States without obtaining marketing approval from the FDA or in other countries without obtaining approvals from comparable foreign regulatory authorities, such as the EMA, and we may never receive such approvals. Clinical testing is expensive, difficult to design and implement, can take many years to complete and is inherently uncertain as to outcome. We have not previously submitted an NDA to the FDA or similar applications to comparable foreign regulatory authorities for any of our product candidates.

Our business currently heavily depends on the successful development, regulatory approval and commercialization of our sulopenem program. The clinical development of our sulopenem program, or any future product candidates, is susceptible to the risk of failure inherent at any stage of drug development, including failure to demonstrate efficacy in a clinical trial or across a broad population of patients, the occurrence of severe adverse events, failure to comply with protocols or applicable regulatory requirements, and determination by the FDA or any comparable foreign regulatory authority that a drug product is not approvable. A number of companies in the pharmaceutical industry, including biotechnology companies, have suffered significant setbacks in clinical trials, even after promising results in earlier non-clinical studies or clinical trials. The results of preclinical and other non-clinical studies and/or early clinical trials of our product candidates or future product candidates may not be predictive of the results of later-stage

clinical trials and interim results of a clinical trial do not necessarily predict final results. Notwithstanding any promising results in early non-clinical studies or clinical trials, we cannot be certain that we will not face similar setbacks.

Preclinical and clinical data are often susceptible to varying interpretations and analyses. Although data from clinical trials of oral sulopenem and sulopenem provides support for the overall safety profile of the product candidates, many companies that believed their product candidates performed satisfactorily in preclinical studies and clinical trials have nonetheless failed to obtain marketing approval for the product candidates. Even if we believe that the results of our clinical trials warrant marketing approval, the FDA or comparable foreign regulatory authorities may disagree and may not grant marketing approval of our product candidates. We have a scheduled meeting with the FDA to discuss our potential regulatory filing options at the end of the third quarter.

In some instances, there can be significant variability in safety and/or efficacy results between different clinical trials of the same product candidate due to numerous factors, including changes in trial procedures set forth in protocols, differences in the size and type of the patient populations, adherence to the dosing regimen and other trial protocols and the rate of dropout among clinical trial participants, among others. It is possible that even if one or more of our product candidates has a beneficial effect, that effect will not be detected during clinical evaluation as a result of one of the factors listed or otherwise. Conversely, as a result of the same factors, our clinical trials may indicate an apparent positive effect of a product candidate that is greater than the actual positive effect, if any. Similarly, in our clinical trials, we may fail to detect toxicity or intolerance of our product candidates or may determine that our product candidates are toxic or not well tolerated when that is not in fact the case. In the case of our clinical trials, results may differ on the basis of the type of bacteria with which patients are infected. We cannot assure our shareholders that any clinical trials that we are conducting or other clinical trials that we may conduct will demonstrate consistent or adequate efficacy and safety to obtain regulatory approval to market our product candidates.

We may encounter unforeseen events prior to, during, or as a result of, clinical trials that could delay or prevent us from obtaining regulatory approval for oral sulopenem, sulopenem or any of our other product candidates, including:

- although we conducted our Phase 3 clinical trials pursuant to Special Protocol Assessment (SPA) agreements and met with the FDA at a pre-NDA meeting, the FDA or other comparable foreign regulatory authorities may ultimately disagree as to the design or implementation of our Phase 3 clinical trials or other clinical trials;
- we may not reach agreement on acceptable terms with all clinical trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different trial sites;
- clinical trials of our product candidates may produce unfavorable or inconclusive results;
- we may decide, or regulators may require us, to conduct additional clinical trials or abandon product development programs;
- our third-party contractors, including those manufacturing our product candidates or conducting clinical trials on our behalf, may fail to comply with regulatory requirements or meet their contractual obligations to us in a timely manner, or at all;
- the FDA, the local National Health Authorities or institutional review boards may not authorize us or our investigators to commence a clinical trial or conduct a clinical trial at a prospective trial site;
- we may have to suspend or terminate clinical trials of a product candidate for various reasons, including non-compliance with regulatory requirements or a finding that the participants are being exposed to unacceptable health risks, undesirable side effects or other unexpected characteristics of the product candidate;
- the FDA or comparable foreign regulatory authorities may fail to approve the manufacturing processes or facilities of third-party manufacturers with which we enter into agreement for clinical and commercial supplies; or
- the supply or quality of our product candidates or other materials necessary to conduct clinical trials of our product candidates may be insufficient or inadequate.

If we are required to conduct additional clinical trials or other testing of oral sulopenem, sulopenem or any other product candidate beyond the clinical trials and testing that we contemplate, if we are unable to successfully complete clinical trials or other testing of our product candidates, if the results of these clinical trials or tests are unfavorable or are only modestly favorable or if there are safety concerns associated with oral sulopenem, sulopenem or any other product candidate, we may:

- incur additional unplanned costs;
- be delayed in obtaining marketing approval for our product candidates;
- not obtain marketing approval at all;

- obtain approval for indications or patient populations that are not as broad as intended or desired
- obtain approval with labeling that includes significant use or distribution restrictions or significant safety warnings, including boxed warnings;
- be subject to additional post-marketing testing or other requirements; or
- be required to remove the product from the market after obtaining marketing approval.

Our failure to successfully initiate and complete clinical trials of our product candidates and to demonstrate the efficacy and safety necessary to obtain regulatory approval to market any of our product candidates would significantly harm our business. Significant clinical trial delays also could shorten any periods during which we may have the exclusive right to commercialize our product candidates or allow our competitors to bring products to market before we do and impair our ability to successfully commercialize our product candidates, which may harm our business and results of operations. In addition, many of the factors that cause, or lead to, delays of clinical trials may ultimately lead to the denial of regulatory approval of oral sulopenem, sulopenem or any other product candidate.

***If we experience delays or difficulties in the enrollment of patients in clinical trials, clinical development activities could be delayed or otherwise adversely affected.***

The timely completion of clinical trials in accordance with their protocols depends, among other things, on our ability to enroll a sufficient number of patients who remain in the study until its conclusion. While enrollment has completed for all three of our Phase 3 clinical trials, we may not be able to initiate, continue or complete other clinical trials of oral sulopenem, sulopenem or any other product candidate that we develop if we are unable to locate and enroll a sufficient number of eligible patients to participate in clinical trials as required by the FDA or comparable foreign regulatory authorities, such as the EMA. Patient enrollment is a significant factor in the timing of clinical trials, and is affected by many factors, including:

- the size and nature of the patient population;
- the severity of the disease under investigation;
- the proximity of patients to clinical sites;
- the eligibility criteria for participation in the clinical trial;
- the number of sites at which we conduct the trial and the speed at which we are able to open such sites;
- the prevalence of antibiotic resistance to pathogens where we conduct the clinical trial;
- the accuracy of certain estimates and assumptions upon which the design of the protocols are predicated;
- our ability to recruit clinical trial investigators with appropriate experience;
- competing clinical trials and clinicians' and patients' perceptions as to the potential advantages and risks of the product candidate being studied in relation to other available therapies, including any new drugs that may be approved for the indications that we are investigating;
- our ability to obtain and maintain patient consents;
- the risk that patients enrolled in clinical trials will drop out of the clinical trials before completion; and
- the impact on access to hospitals and willingness of patients to participate in clinical trials such as our planned Phase 1 clinical trials related to pediatric indications and any other clinical trials that may be required for regulatory approval of our product candidates, as a result of pandemics, like COVID-19, and other health crises.

In addition, we may face competition in enrolling suitable patients as a result of other companies conducting clinical trials for antibiotic product candidates that are intended to treat similar infections, resulting in slower than anticipated enrollment in our clinical trials. Enrollment delays in our clinical trials may result in increased development costs for oral sulopenem and/or sulopenem, or slow down or halt our product development for oral sulopenem and/or sulopenem.

Our inability to enroll a sufficient number of patients for our clinical trials would result in significant delays or might require us to abandon one or more clinical trials altogether. Enrollment delays in our clinical trials, such as our planned Phase 1 clinical trials related to pediatric indications, may result in increased development costs for our product candidates, slow down or halt our product candidate development and approval process and jeopardize our ability to seek and obtain the marketing approval required to commence product sales and generate revenue, which would cause the value of our company to decline and limit our ability to obtain



additional financing if needed. Furthermore, we rely on and expect to continue to rely on contract research organizations (CROs) and clinical trial sites to ensure the proper and timely conduct of our clinical trials, and we have limited influence over their performance or the impact of pandemics, like COVID-19, to their business

***Success in non-clinical testing and early clinical trials does not ensure that later clinical trials will be successful, and we cannot assure our shareholders that any clinical trials that we may conduct will demonstrate consistent or adequate efficacy and safety to obtain regulatory approval to market our sulopenem program in any indication.***

Although we believe that oral sulopenem and sulopenem have the potential to treat uUTIs and cUTIs in humans based on the results of prior preclinical studies and clinical trials, we cannot guarantee that oral sulopenem and/or sulopenem will demonstrate the expected efficacy in clinical trial patients to the satisfaction of the FDA and/or other regulators. We also cannot guarantee that the projections made from the pharmacokinetic and pharmacodynamic models that we developed from non-clinical and clinical oral sulopenem and sulopenem studies will be validated in these clinical trials. For example, while we believe that sulopenem has the potential to treat cIAIs and cUTIs in humans based on the results of prior preclinical studies and clinical trials, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to the control therapy in our Phase 3 cIAI and cUTI clinical trials. While we believe the secondary supporting analyses and safety data support the potential of sulopenem in the treatment of multi-drug resistant infections, we cannot guarantee that these supporting analyses are indicative of efficacy of sulopenem in treating cIAIs or cUTIs. Similarly, while we believe that sulopenem has the potential to treat uUTIs in humans based on the results of prior preclinical studies and clinical trials, and based on our Phase 3 uUTI clinical trial, in the population of patients with baseline pathogens resistant to quinolones, in which sulopenem met the related primary endpoint by demonstrating superiority to ciprofloxacin, sulopenem did not meet the primary endpoint of statistical non-inferiority compared to ciprofloxacin in the population of patients with baseline pathogens susceptible to ciprofloxacin in our Phase 3 uUTI clinical trial. Based on discussions with the FDA at a pre-NDA meeting and previous correspondence with the FDA, we plan to proceed with an NDA submission for oral sulopenem for the treatment of uUTIs in patients with a quinolone non-susceptible pathogen in the fourth quarter of 2020. It is possible that the FDA may refuse to accept our planned NDA for substantive review or may conclude after review of our data that our application is insufficient to obtain regulatory approval for any current or future product candidates. Other companies in the pharmaceutical industry have frequently suffered significant setbacks in later clinical trials, even after achieving promising results in earlier non-clinical studies or clinical trials.

***Serious adverse events or undesirable side effects or other unexpected properties of oral sulopenem, sulopenem or any other product candidate may be identified during development or after approval that could delay, prevent or cause the withdrawal of regulatory approval, limit the commercial potential, or result in significant negative consequences following marketing approval.***

Serious adverse events or undesirable side effects caused by, or other unexpected properties of, our product candidates could cause us, an institutional review board (IRB), or regulatory authorities to interrupt, delay or halt our clinical trials and could result in a more restrictive label, the imposition of distribution or use restrictions or the delay or denial of regulatory approval by the FDA or comparable foreign regulatory authorities. If oral sulopenem, sulopenem or any of our other product candidates is associated with serious or unexpected adverse events or undesirable side effects, the FDA or the IRBs at the institutions in which our studies are conducted, could suspend or terminate our clinical trials or the FDA or comparable foreign regulatory authorities could order us to cease clinical trials or deny approval of our product candidates for any or all targeted indications. Treatment-related side effects could also affect patient recruitment or the ability of enrolled patients to complete the clinical trial or result in potential product liability claims. Any of these occurrences may harm our business, financial condition and prospects significantly.

To date, sulopenem and sulopenem etzadroxil have generally been well tolerated in clinical trials conducted in healthy subjects and patients. During the development of oral sulopenem and sulopenem, patients have experienced drug-related side effects including diarrhea, temporary increases in hepatic enzymes, allergic reactions, and rash. In the Japanese program, one patient reported a serious adverse event related to sulopenem of a transient elevation in liver function tests. The patient died due to metastatic lung cancer. Other serious adverse events recorded in patients receiving sulopenem in the Japanese program, which were not considered by the investigator to be related to sulopenem, included myocardial infarction with respiratory failure and progression of underlying ovarian carcinoma, in both cases resulting in death. For each of these patients, sulopenem was not determined to be the cause of death.

While the active pharmaceutical ingredient in the bilayer tablet is sulopenem etzadroxil, the combination product with probenecid has not yet been tested extensively in patients. In the cIAI trial, patients received either sulopenem IV followed by sulopenem etzadroxil or ertapenem followed by ciprofloxacin/metronidazole or amoxicillin-clavulanate. Among 668 treated patients, treatment-related adverse events were observed in 6.0% and 5.1% of patients on sulopenem and ertapenem, respectively, with the most commonly reported drug-related adverse event being diarrhea, which was observed in 4.5% and 2.4% of patients on sulopenem and ertapenem, respectively. Discontinuations from treatment were uncommon for both regimens, occurring in 1.5% of patients on sulopenem and 2.1% of patients on ertapenem. Serious adverse events unrelated to study treatment were seen in 7.5% of patients on sulopenem and 3.6% of patients on ertapenem. In the cUTI trial, patients received either sulopenem IV followed by sulopenem

etzadroxil, if eligible for oral therapy, or ertapenem IV followed by ciprofloxacin or amoxicillin-clavulanate, if eligible for oral therapy. Among 1,392 treated patients, treatment-related adverse events were observed in 6.0% and 9.2% of patients on sulopenem and ertapenem, respectively, with the most commonly reported adverse events being headache (3.0% and 2.2%), diarrhea (2.7% and 3.0%) and nausea (1.3% and 1.6%), on sulopenem and ertapenem, respectively. Discontinuations from treatment were uncommon for both regimens, occurring in 0.4% of patients on sulopenem and 0.6% of patients on ertapenem. Serious adverse events unrelated to study treatment were seen in 2.0% of patients on sulopenem and 0.9% of patients on ertapenem. In the uUTI trial, patients received either oral sulopenem or ciprofloxacin. Among 1,660 treated patients, treatment related adverse events were observed in 17.0% and 6.2% of patients on sulopenem and ciprofloxacin, respectively. The most commonly reported adverse events were diarrhea (12.4% and 2.5%), nausea (3.7% and 3.6%), and headache (2.2% and 2.2%), for sulopenem and ciprofloxacin patients, respectively. The difference in adverse events was driven by diarrhea which, in the majority of patients, was mild and self-limited. Overall discontinuations due to adverse events were uncommon on both regimens and were seen in 1.6% of patients on sulopenem and 1.0% of patients on ciprofloxacin. Serious adverse events were seen in 0.7% of patients on sulopenem with one drug-related serious adverse event due to transient angioedema and 0.2% of patients on ciprofloxacin with no drug-related serious adverse event.

While we believe these results support a positive safety and tolerability profile for sulopenem, in future trials there may be unforeseen serious adverse events or side effects that differ from those seen in our Phase 3 program, in Phase 1 normal healthy volunteers with oral sulopenem or the prior post-marketing experience with probenecid. There may also be unexpected adverse events associated with probenecid that have not been seen to date.

If unexpected adverse events occur in any of our clinical trials, we may need to abandon development of our product candidates, or limit development to lower doses or to certain uses or subpopulations in which the undesirable side effects or other unfavorable characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective. Many compounds that initially showed promise in clinical or earlier stage testing are later found to cause undesirable or unexpected side effects that prevent further development of the compound.

Undesirable side effects or other unexpected adverse events or properties of oral sulopenem, sulopenem or any of our other future product candidates could arise or become known either during clinical development or, if approved, after the approved product has been marketed. If such an event occurs during development, our clinical trials could be suspended or terminated and the FDA or comparable foreign regulatory authorities could order us to cease further development of, or could deny approval of, oral sulopenem, sulopenem or other product candidates. If such an event occurs after such product candidates are approved, a number of potentially significant negative consequences may result, including:

- regulatory authorities may withdraw the approval of such product;
- we may be required to recall a product or change the way such product is administered to patients;
- regulatory authorities may require additional warnings on the label or impose distribution or use restrictions;
- regulatory authorities may require one or more post-marketing studies;
- regulatory authorities may require the addition of a “black box” warning;
- we may be required to implement a Risk Evaluation and Mitigation Strategy (REMS), including the creation of a medication guide outlining the risks of such side effects for distribution to patients;
- we could be sued and held liable for harm caused to patients;
- our product may become less competitive; and
- our reputation may suffer.

Any of these events could prevent us from achieving or maintaining market acceptance of the affected product candidate, if approved, or could substantially increase commercialization costs and expenses, which could delay or prevent us from generating revenue from the sale of our products and harm our business and results of operations.

***Even if a product candidate does obtain regulatory approval, it may never achieve the market acceptance by physicians, patients, hospitals, third-party payors and others in the medical community that is necessary for commercial success, and the market opportunity may be smaller than we estimate.***

Even if we obtain FDA or other regulatory approvals and are able to launch oral sulopenem, sulopenem or any other product candidate commercially, the product candidate may not achieve market acceptance among physicians, patients, hospitals (including pharmacy directors) and third-party payors and, ultimately, may not be commercially successful. For example, physicians are often reluctant to switch their patients from existing therapies even when new and potentially more effective or convenient treatments enter

the market. Moreover, many antibiotics currently exist for the pathogens underlying uUTI, cUTI and cIAI. While many of those pathogens are resistant to certain drugs in the market, the selection is broad, and individual physicians' prescribing patterns vary widely and are affected by resistance rates in their geographies, whether their patients are at elevated risk, the ability of patients to afford branded drugs and concerns regarding generating resistance with specific classes of antibiotics.

Efforts to educate the medical community and third-party payors on the benefits of our product candidates may require significant resources and may not be successful. If oral sulopenem, sulopenem or any other product candidate that we develop does not achieve an adequate level of market acceptance, we may not generate significant product revenues and, therefore, we may not become profitable. Market acceptance of any product candidate for which we receive approval depends on a number of factors, including:

- the efficacy and safety of the product candidate as demonstrated in clinical trials as compared to alternative treatments;
- the potential and perceived advantages and disadvantages of the product candidates, including cost and clinical benefit relative to alternative treatments;
- relative convenience and ease of administration;
- the clinical indications for which the product candidate is approved;
- the willingness of physicians to prescribe the product;
- the willingness of hospital pharmacy directors to purchase the product for their formularies;
- acceptance by physicians, patients, operators of hospitals and treatment facilities and parties responsible for coverage and reimbursement of the product;
- the availability of coverage and adequate reimbursement by third-party payors and government authorities;
- the effectiveness of our sales and marketing efforts or those of collaborators, where we choose not to commercialize directly ourselves;
- the strength of marketing and distribution support;
- limitations or warnings, including distribution or use restrictions, contained in the product's approved labeling or an approved REMS;
- whether the product is designated under physician treatment guidelines as a first-line therapy or as a second- or third-line therapy for particular infections;
- the approval of other new products for the same indications;
- the timing of market introduction of the approved product as well as competitive products;
- adverse publicity about the product or favorable publicity about competitive products;
- the emergence of bacterial resistance to the product; and
- the rate at which resistance to other drugs in the target infections grows.

In addition, the potential market opportunity for oral sulopenem and sulopenem is difficult to estimate. Our estimates of the potential market opportunity are predicated on several key assumptions such as industry knowledge and publications, third-party research reports and other surveys. While we believe that our internal assumptions are reasonable, these assumptions involve the exercise of significant judgment on the part of our management, are inherently uncertain and the reasonableness of these assumptions has not been assessed by an independent source. If any of the assumptions proves to be inaccurate, then the actual market for oral sulopenem and/or sulopenem could be smaller than our estimates of the potential market opportunity. If the actual market for oral sulopenem and/or sulopenem is smaller than we expect, or if the product fails to achieve an adequate level of acceptance by physicians, health care payors, patients, hospitals and others in the medical community, our product revenue may be limited and it may be more difficult for us to achieve or maintain profitability.

***We currently have no commercial organization. If we are unable to establish sales, marketing and distribution capabilities or enter into sales, marketing and distribution agreements with third parties, we may not be successful in commercializing oral sulopenem, sulopenem or any other product candidate if such product candidate is approved.***

If we are unable to establish sales, marketing and distribution capabilities or enter into sales, marketing and distribution agreements with third parties, we may not be successful in commercializing oral sulopenem, sulopenem or any other product candidate if such product candidate is approved.

We are currently evaluating our commercialization strategy in the United States and other territories. We are focusing our initial commercial efforts on the United States market, which we believe represents the largest market opportunity for our sulopenem program. We currently do not have a sales, marketing or distribution infrastructure and we have no experience in the sales, marketing or distribution of pharmaceutical products. To achieve commercial success for any approved product, we must either build our marketing, sales, distribution, managerial and other non-technical capabilities, or make arrangements to outsource those functions to third parties. If oral sulopenem and/or sulopenem receive regulatory approval, we may build a commercial organization and recruit a targeted sales force with technical expertise, an internal marketing and health resource group, as well as a managed markets group focused on reimbursement activities with third-party payors and a specialty distribution team to ensure pharmacy-level stocking and, where we choose not to commercialize directly ourselves, we will seek to commercialize oral sulopenem and/or sulopenem through collaboration arrangements. The development of sales, marketing and distribution capabilities will require substantial resources, will be time-consuming and could delay any product launch. If the commercial launch of a product candidate for which we recruit a sales force and establish marketing and distribution capabilities is delayed or does not occur for any reason, we would have prematurely or unnecessarily incurred these commercialization costs. This may be costly, and our investment would be lost if we cannot retain or reposition our sales and marketing personnel. In addition, we may not be able to hire a sales force in the United States that is sufficient in size or has adequate expertise in the medical markets that we intend to target. If we are unable to establish a sales force and marketing and distribution capabilities, our operating results may be adversely affected. Any failure or delay in the development of our internal sales, marketing and distribution capabilities would adversely impact the commercialization of our product candidates.

Factors that may inhibit our efforts to commercialize our products directly include:

- challenges in developing a commercialization strategy or launching new drug products using a traditional marketing model during a global health crisis or pandemic, like COVID-19;
- our inability to recruit and retain adequate numbers of effective sales and marketing personnel;
- the inability of a health resources group to obtain access to educate physicians regarding the attributes of our future products;
- the lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive product lines; and
- costs and expenses associated with creating an independent sales and marketing organization.

For those countries in which we choose not to commercialize directly ourselves, which may include the United States, we intend to use collaborators that have direct sales forces and established distribution systems to assist with the commercialization of oral sulopenem, sulopenem and any other product candidate. As a result of entering into arrangements with third parties to perform sales, marketing and distribution services, our product revenues or the profitability of these product revenues to us would likely be lower than if we were to directly market and sell products in those markets.

Furthermore, we may be unsuccessful in entering into the necessary arrangements with third parties or may be unable to do so on terms that are favorable to us. In addition, we likely would have little control over such third parties, and any of them might fail to devote the necessary resources and attention to sell and market our products effectively.

If we do not establish sales and marketing capabilities successfully, either on our own or in collaboration with third parties, we will not be successful in commercializing our product candidates.

***We face substantial competition from other pharmaceutical and biotechnology companies and our business may suffer if we fail to compete effectively.***

The development and commercialization of new drug products is highly competitive. We face competition from major pharmaceutical companies, specialty pharmaceutical companies and biotechnology companies worldwide with respect to oral sulopenem, sulopenem and other product candidates that we may seek to develop and commercialize in the future. There are a number of pharmaceutical and biotechnology companies that currently market and sell products or are pursuing the development of product candidates for the treatment of multi-drug resistant infections. Potential competitors also include academic institutions, government agencies and other public and private research organizations. Our competitors may succeed in developing, acquiring or licensing technologies and drug products that are more effective or less costly than oral sulopenem, sulopenem or any other product candidates that we may develop, which could render our product candidates obsolete and noncompetitive.

There are a variety of available oral therapies marketed for the treatment of multi-drug resistant infections that we would expect would compete with oral sulopenem and sulopenem, such as levofloxacin, ciprofloxacin, nitrofurantoin, fosfomycin, amoxicillin-clavulanate, cephalexin and trimethoprim-sulfamethoxazole. Many of the available therapies are well established and widely accepted by physicians, patients and third-party payors. Insurers and other third-party payors may also encourage the use of generic products, for example in the fluoroquinolone class. If oral sulopenem or sulopenem is approved, the pricing may be at a significant premium over other competitive products that are generic. This may make it difficult for oral sulopenem or sulopenem to compete with these products.

There are also a number of oral product candidates in clinical development by third parties that are intended to treat UTIs. Some mid- to late-stage product candidates include gepotidacin from GlaxoSmithKline, tebipenem pivoxil from Spero Therapeutics, Inc. and pivmecillinam from Utility Therapeutics Limited. If our competitors obtain marketing approval from the FDA or comparable foreign regulatory authorities for their product candidates more rapidly than us, it could result in our competitors establishing a strong market position before we are able to enter the market.

There are several IV-administered products marketed for the treatment of infections resistant to first-line therapy for gram-negative infections, including Avycaz from Allergan plc and Pfizer, Vabomere from Melinta Therapeutics, Inc., Zerbaxa from Merck & Co., Zemdri from Cipla, Xerava from La Jolla Pharmaceutical Company, Recarbrio from Merck & Co, and Fetroja from Shionogi & Co., Ltd. In addition, Nabriva Therapeutics plc's Contepo is an IV-administered product candidate in late-stage clinical development intended to treat resistant gram-negative infections and Allecrea Therapeutics' IV administered product candidate cefepime-enmetazobactam for the treatment of cUTIs is also in late-stage clinical development.

Many of our competitors have significantly greater financial resources and expertise in research and development, manufacturing, preclinical testing, conducting clinical trials, obtaining regulatory approvals and marketing approved products than we do. Mergers and acquisitions in the pharmaceutical and biotechnology industries may result in even more resources being concentrated among a smaller number of our competitors. Smaller and other early stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. These third parties compete with us in recruiting and retaining qualified scientific, management and sales and marketing personnel, establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs.

In July 2012, the Food and Drug Administration Safety and Innovation Act was passed, which included the Generating Antibiotics Incentives Now Act (the GAIN Act). The GAIN Act is intended to provide incentives for the development of new, qualified infectious disease products (QIDP). One such incentive is that, once a product receives QIDP designation and completes the necessary clinical trials and is approved by the FDA, it will be given an additional five years of regulatory exclusivity regardless of whether it is protected by a patent, provided that it is already eligible for another type of regulatory exclusivity. The FDA has designated sulopenem and oral sulopenem as QIDPs for the indications of uUTI, cUTI, cIAI, community-acquired bacterial pneumonia, acute bacterial prostatitis, gonococcal urethritis, and pelvic inflammatory disease. Fast track designation for these seven indications in both the oral and intravenous formulations has also been granted. In December 2016, the Cures Act was passed, providing additional support for the development of new infectious disease products. These incentives may result in more competition in the market for new antibiotics, and may cause pharmaceutical and biotechnology companies with more resources than we have to shift their efforts towards the development of product candidates that could be competitive with oral sulopenem, sulopenem and our other product candidates.

*Even if we are able to commercialize oral sulopenem, sulopenem or any other product candidate, the product may become subject to unfavorable pricing regulations, or third-party payor coverage and reimbursement policies that could harm our business.*

Marketing approvals, pricing, coverage and reimbursement for new drug products vary widely from country to country. Some countries require approval of the sale price of a drug before it can be marketed. In many countries, the pricing review period begins after marketing or product licensing approval is granted. In some foreign markets, prescription pharmaceutical pricing remains subject to continuing governmental control even after initial approval is granted. As a result, we might obtain marketing approval for a product in a particular country, but then be subject to price regulations that delay our commercial launch of the product, possibly for lengthy time periods, which may negatively affect the revenues that we are able to generate from the sale of the product in that country. Adverse pricing limitations may hinder our ability to recoup our investment in one or more product candidates, even if our product candidates obtain marketing approval.

The commercial success of oral sulopenem and any future product candidates, if approved, will depend substantially, both in the United States and outside the United States, on the extent to which coverage and adequate reimbursement for the product and related treatments are available from government health programs, private health insurers and other third-party payors. If coverage is not available, or reimbursement is limited, we may not be able to successfully commercialize our product candidates. Even if coverage is provided, the approved reimbursement amount may not be high enough to allow us to establish or maintain pricing sufficient to realize a sufficient return on our investments. Government authorities and third-party payors, such as health insurers and managed care organizations, publish formularies that identify the medications they will cover and the related payment levels. The healthcare industry is focused on cost containment, both in the United States and elsewhere. Government authorities and third-party payors have attempted to control costs by limiting coverage and the amount of reimbursement for particular medications, which could affect our ability to sell our product candidates profitably.

In the United States, sales of our product candidates will depend, in part, on the availability and extent of coverage and reimbursement by third-party payors, such as government health programs, including Medicare and Medicaid, commercial insurance and managed healthcare organizations. There is no uniform coverage and reimbursement policy among third-party payors; however, private third-party payors often follow Medicare coverage policy and payment limitations in setting their own reimbursement rates. Obtaining coverage and reimbursement approval for a product candidate from third-party payors is a time-consuming and costly process that may require the provision of supporting scientific, clinical and cost effectiveness data for the use of such product candidate to the third-party payor. There may be significant delays in obtaining such coverage and reimbursement for newly approved products, and coverage may be more limited than the purposes for which the product candidate is approved by the FDA. Moreover, eligibility for coverage and reimbursement does not imply that a product candidate will be paid for in all cases or at a rate that covers operating costs, including research, development, intellectual property, manufacture, sales and distribution expenses. Reimbursement rates may vary according to the use of the product candidate and the clinical setting in which it is used, may be based on reimbursement levels already set for lower cost products and may be incorporated into existing payments for other services. It is difficult to predict what third-party payors will decide with respect to coverage and reimbursement for our product candidates.

We currently expect that sulopenem IV, if approved, will be administered in a hospital setting, and oral sulopenem, if approved, will be used in a community setting and possibly be administered in a hospital inpatient setting as well. In the United States, third-party payors generally reimburse hospitals a single bundled payment established on a prospective basis intended to cover all items and services provided to the patient during a single hospitalization. Hospitals bill third-party payors for all or a portion of the fees associated with the patient's hospitalization and bill patients for any deductibles or co-payments. Because there is typically no separate reimbursement for drugs administered in a hospital inpatient setting, some of our target customers may be unwilling to adopt our product candidates in light of the additional associated cost. If we are forced to lower the price we charge for our product candidates, if approved, our gross margins may decrease, which would adversely affect our ability to invest in and grow our business. Centers for Medicare and Medicaid Services (CMS) recently revised its reimbursement system for certain antibiotics in order to address challenges associated with antimicrobial resistance. Based on the final rule published on August 2, 2019, CMS is finalizing an alternative new technology add-on payment pathway for certain breakthrough devices, and under this policy, a QIDP product will be considered new and will not need to demonstrate that it meets the substantial clinical improvement criterion. Instead it will only need to meet the cost criterion. CMS has also increased the new technology add-on payment percentage to 75 percent for an antimicrobial designated by the FDA as a QIDP. As this rule has only recently been implemented, we cannot at present assess its potential impact on sulopenem. On January 21, 2020, CMS updated its billing guidance on changes to new technology add-on payments for innovative antibiotics.

An inability to promptly obtain coverage and adequate payment rates from third-party payors for any approved product candidates that we develop could have a material adverse effect on our operating results, our ability to raise capital needed to commercialize products and our overall financial condition.

***We cannot predict whether bacteria may develop resistance to oral sulopenem or sulopenem, which could affect their revenue potential.***

We are developing oral sulopenem and sulopenem to treat drug-resistant bacterial infections. The bacteria responsible for these infections evolve quickly and readily transfer their resistance mechanisms within and between species. We cannot predict whether or when bacterial resistance to oral sulopenem and sulopenem may develop.

As with some commercially available carbapenems, oral sulopenem and sulopenem are not active against organisms expressing a resistance mechanism mediated by enzymes known as carbapenemases. Although occurrence of this resistance mechanism is currently uncommon, we cannot predict whether carbapenemase-mediated resistance will become widespread in regions where we intend to market sulopenem if it is approved. The use of carbapenems or penems in areas with drug-resistant infections or in countries with poor public health infrastructures, or the potentially extensive use of oral sulopenem or sulopenem outside of controlled hospital settings or in the community, could contribute to the rise of resistance. In addition, prescribers may be less likely to prescribe oral sulopenem and sulopenem if they are concerned about contributing to the rise of antibiotic resistance. If resistance to oral sulopenem or sulopenem becomes prevalent, or concerns about such resistance are strong, our ability to generate revenue from oral sulopenem and sulopenem could suffer.

***We may be subject to costly product liability claims related to our clinical trials and product candidates and, if we are unable to obtain adequate insurance or are required to pay for liabilities resulting from a claim excluded from, or beyond the limits of our insurance coverage, a material liability claim could adversely affect our financial condition.***

Because we conduct clinical trials with human patients, we face the risk that the use of our product candidates may result in adverse side effects to patients in our clinical trials. We face even greater risks upon any commercialization of our product candidates. Although we have product liability insurance, which covers our clinical trials for up to \$10.0 million, our insurance may be insufficient to reimburse us for any expenses or losses we may suffer. We will need to increase our insurance coverage if and when we receive marketing approval for and begin selling oral sulopenem, sulopenem or any other product candidate. We do not know whether we will be able to continue to obtain product liability coverage and obtain expanded coverage if we require it, on acceptable terms, if at all.

We may not have sufficient resources to pay for any liabilities resulting from a claim excluded from, or beyond the limits of, our insurance coverage. Where we have provided indemnities in favor of third parties under our agreements with them, there is also a risk that these third parties could incur a liability and bring a claim under such indemnities. An individual may bring a product liability claim against us alleging that one of our product candidates or products causes, or is claimed to have caused, an injury or is found to be unsuitable for consumer use. Any product liability claim brought against us, with or without merit, could result in:

- withdrawal of clinical trial volunteers, investigators, patients or trial sites;
- the inability to commercialize our product candidates;
- decreased demand for our product candidates;
- regulatory investigations that could require costly recalls or product modifications;
- loss of revenue;
- substantial costs of litigation;
- liabilities that substantially exceed our product liability insurance, which we would then be required to pay ourselves;
- an increase in our product liability insurance rates or the inability to maintain insurance coverage in the future on acceptable terms, if at all;
- the diversion of management's attention from our business; and
- damage to our reputation and the reputation of our products.

***Our operations, including our use of hazardous materials, chemicals, bacteria and viruses, require us to comply with regulatory requirements and expose us to significant potential liabilities.***

Our operations involve the use of hazardous materials, including chemicals, and may produce dangerous waste products. Accordingly, we, along with the third parties that conduct clinical trials and manufacture our products and product candidates on our behalf, are subject to federal, state, local and foreign laws and regulations that govern the use, manufacture, distribution, storage, handling, exposure, disposal and recordkeeping with respect to these materials. We are also subject to a variety of environmental and

occupational health and safety laws. Compliance with current or future laws and regulations can require significant costs and we could be subject to substantial fines and penalties in the event of non-compliance. In addition, the risk of contamination or injury from these materials cannot be completely eliminated. In such event, we could be held liable for substantial civil damages or costs associated with the cleanup of hazardous materials.

***If we experience a significant disruption in our information technology systems or breaches of data security, our business could be adversely affected.***

We rely on information technology systems to keep financial records, capture laboratory data, maintain clinical trial data and corporate records, communicate with staff and external parties and operate other critical functions. Our information technology systems are potentially vulnerable to disruption due to breakdown, malicious intrusion and computer viruses or other disruptive events including, but not limited to, natural disaster. If we were to experience a prolonged system disruption in our information technology systems or those of certain of our vendors, it could delay or negatively impact the development and commercialization of our sulopenem program and any future product candidates or technology, which could adversely impact our business. Although we maintain offsite back-ups of our data, if operations at our facilities were disrupted, it may cause a material disruption in our business if we are not capable of restoring function on an acceptable timeframe. In addition, our information technology systems are potentially vulnerable to data security breaches—whether by employees or others—which may expose sensitive data to unauthorized persons. Such data security breaches could lead to the loss of trade secrets or other intellectual property or, could lead to the public exposure of personal information (including sensitive personal information) of our employees and others, any of which could have a material adverse effect on our business, financial condition and results of operations. Moreover, a security breach or privacy violation that leads to disclosure or modification of, personally identifiable information, could harm our reputation, compel us to comply with applicable European, and United States federal and/or state, breach notification laws, subject us to mandatory corrective action, require us to verify the correctness of database contents and otherwise subject us to litigation and liability under laws and regulations that protect personal data, resulting in increased costs or loss of revenue. In addition, a data security breach could result in loss of clinical trial data or damage to the integrity of that data. If we are unable to prevent such security breaches or privacy violations or implement satisfactory remedial measures, our operations could be disrupted, and we may suffer reputational damage, financial loss and other negative consequences because of lost or misappropriated information. In addition, these breaches and other inappropriate access can be difficult to detect, and any delay in identifying them may lead to increased harm of the type described above.

### **Risks Related to Our Dependence on Third Parties**

***If we fail to comply with our obligations in our agreement with Pfizer, we could lose such rights that are important to our business.***

We rely heavily on the Pfizer License pursuant to which we exclusively in-license certain patent rights and know-how related to sulopenem etzadroxil and certain know-how related to the IV formulation of sulopenem. The Pfizer License imposes diligence, development and commercialization timelines, milestone payments, royalties, insurance and other obligations on us, and we may enter into additional agreements, including license agreements, with other parties in the future which impose similar obligations.

The Pfizer License gives us exclusive worldwide rights to develop, manufacture, and commercialize sulopenem etzadroxil and sulopenem, or any other prodrug of sulopenem previously identified by Pfizer as well as the right to use relevant information and regulatory documentation developed by Pfizer to support any regulatory filing worldwide. In exchange for those rights, we are obligated to satisfy diligence requirements, including using commercially reasonable efforts to develop, obtain regulatory approval for and commercialize sulopenem etzadroxil and sulopenem by implementing a specified development plan and providing an update on progress on an annual basis. Under the Pfizer License, we paid Pfizer a one-time non-refundable upfront fee of \$5.0 million, clinical milestone payments totaling \$15.0 million, upon first patient dosing of oral sulopenem and sulopenem in a Phase 3 clinical trial, and are obligated to pay Pfizer milestone payments upon the achievement of other specified regulatory and sales milestones as well as royalties ranging from a single-digit to mid-teens percentage based on the amount of marginal net sales of each licensed product. Pfizer also received 381,922 of our Series A preferred shares (which converted to ordinary shares in connection with our initial public offering (IPO)) as additional payment for the licensed rights.

If we fail to comply with our obligations to Pfizer under the Pfizer License, Pfizer may have the right to terminate the Pfizer License, in which event we would not be able to develop, obtain regulatory approval for, manufacture or market any product candidate that is covered by the Pfizer License, including sulopenem etzadroxil and sulopenem, which would materially harm our business, financial condition, results of operations and growth prospects. Any termination of the Pfizer License or reduction or elimination of our rights thereunder may result in our having to negotiate new or reinstated agreements with less favorable terms. Any termination of the Pfizer License would cause us to lose our rights to important intellectual property or technology.



***We expect to depend on collaborations with third parties for the development and commercialization of oral sulopenem and/or sulopenem in certain territories. Our prospects with respect to those product candidates will depend in part on the success of those collaborations.***

Although we are focusing our initial commercial efforts on the United States market, which we believe represents the largest market opportunity for our sulopenem program, we are also evaluating our commercialization strategy both within and outside the United States. We currently do not have a sales, marketing or distribution infrastructure and we have no experience in the sales, marketing or distribution of pharmaceutical products. To achieve commercial success for any approved product, we must either build our marketing, sales, distribution, managerial and other non-technical capabilities, or make arrangements to outsource those functions to third parties. For those countries in which we choose not to commercialize directly ourselves, we intend to seek to commercialize oral sulopenem and/or sulopenem through collaboration arrangements. In addition, we may seek third-party collaborators for development and commercialization of other product candidates in the United States and other territories. Our likely collaborators for any marketing, distribution, development, licensing or broader collaboration arrangements include large and mid-size pharmaceutical companies, regional and national pharmaceutical companies and biotechnology companies. We are not currently party to any such arrangements but plan to initiate discussions with potential commercial partners. The EN Indenture and RLN Indenture each contain restrictions on entering into collaborations requiring consent of a portion of the holders of each of the Exchangeable Notes and RLNs. There is no guarantee that we would be able to obtain such consent.

We may derive revenue from research and development fees, license fees, milestone payments and royalties under any collaborative arrangement into which we enter. Our ability to generate revenue from these arrangements will depend on our collaborators' abilities to successfully perform the functions assigned to them in these arrangements. In addition, our collaborators may have the right to abandon research or development projects and terminate applicable agreements, including funding obligations, prior to or upon the expiration of the agreed upon terms. As a result, we can expect to relinquish some or all of the control over the future success of a product candidate that we license to a third party.

We face significant competition in seeking and obtaining appropriate collaborators. Collaborations involving our product candidates may pose a number of risks, including the following:

- collaborators have significant discretion in determining the efforts and resources that they will apply to these collaborations;
- collaborators may not perform their obligations as expected;
- collaborators may not pursue development and commercialization of our product candidates or may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in the collaborators' strategic focus or available funding, or external factors, such as an acquisition, that divert resources or create competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial or abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing;
- product candidates discovered in collaboration with us may be viewed by our collaborators as competitive with their own product candidates or products, which may cause collaborators to cease to devote resources to the commercialization of our product candidates;
- a collaborator with marketing and distribution rights to one or more products may not commit sufficient resources to the marketing and distribution of such product or products;
- disagreements with collaborators, including disagreements over proprietary rights, contract interpretation or the preferred course of development, might cause delays or termination of the research, development or commercialization of product candidates, might lead to additional responsibilities for us with respect to product candidates, or might result in litigation or arbitration, any of which would be time consuming and expensive;
- collaborators may not properly maintain, defend or enforce our intellectual property rights or may use our proprietary information in such a way as to invite litigation that could jeopardize or invalidate our intellectual property or proprietary information or expose us to potential litigation;
- collaborators may infringe, misappropriate or otherwise violate the intellectual property rights of third parties, which may expose us to litigation and potential liability; and
- collaborations may be terminated and, if terminated, may result in a need for additional capital to pursue further development or commercialization of the applicable product candidates.

Collaboration agreements may not lead to development or commercialization of product candidates in the most efficient manner or at all. If a collaborator of ours is involved in a business combination, it could decide to delay, diminish or terminate the development or commercialization of any product candidate licensed to it by us.

***We rely on third parties to conduct our preclinical studies and our clinical trials. If these third parties do not successfully carry out their contractual duties or meet expected deadlines, we may be unable to obtain regulatory approval for or commercialize any of our product candidates. If they do not perform satisfactorily, our business may be materially harmed.***

We do not independently conduct non-clinical studies that comply with good laboratory practice (GLP) requirements. We also do not have the ability to independently conduct clinical trials of any of our product candidates. We rely on third parties, such as CROs, clinical data management organizations, medical institutions, and clinical investigators to conduct our clinical trials of oral sulopenem and sulopenem and expect to rely on these third parties to conduct clinical trials of any potential product candidates. Any of these third parties may terminate their engagements with us at any time. If we need to enter into alternative arrangements, it would delay our product development activities.

Our reliance on these third parties for clinical development activities limits our control over these activities but we remain responsible for ensuring that each of our studies is conducted in accordance with the applicable protocol, legal, regulatory and scientific standards. For example, notwithstanding the obligations of a CRO for a clinical trial of one of our product candidates, we remain responsible for ensuring that each of our clinical trials is conducted in accordance with the general investigational plan and protocols for the clinical trial. While we will have agreements governing their activities, we control only certain aspects of their activities and have limited influence over their actual performance. The third parties with whom we contract for execution of our GLP studies and our clinical trials play a significant role in the conduct of these studies and clinical trials and the subsequent collection and analysis of data. Although we rely on these third parties to conduct our GLP-compliant non-clinical studies and clinical trials, we remain responsible for ensuring that each of our non-clinical studies and clinical trials are conducted in accordance with applicable laws and regulations, and our reliance on the CROs does not relieve us of our regulatory responsibilities. The FDA and regulatory authorities in other jurisdictions also require us to comply with standards, commonly referred to as good clinical practices (GCPs), for conducting, monitoring, recording and reporting the results of clinical trials to assure that data and reported results are accurate and that the trial subjects are adequately informed of the potential risks of participating in clinical trials. The FDA enforces these GCPs through periodic inspections of trial sponsors, principal investigators, clinical trial sites and institutional review boards. If we or our third-party contractors fail to comply with applicable GCPs, the clinical data generated in our clinical trials may be deemed unreliable and the FDA may require us to perform additional clinical trials before approving our product candidates, which would delay the regulatory approval process. We cannot assure our shareholders that, upon inspection, the FDA will determine that any of our clinical trials comply with GCPs. We are also required to register clinical trials and post the results of completed clinical trials on a government-sponsored database, ClinicalTrials.gov, within certain timeframes. Failure to do so can result in fines, adverse publicity and civil and criminal sanctions.

Furthermore, the third parties conducting clinical trials on our behalf are not our employees, and except for remedies available to us under our agreements with such contractors, we cannot control whether or not they devote sufficient time and resources to our development programs. These contractors may also have relationships with other commercial entities, including our competitors, for whom they may also be conducting clinical trials or other drug development activities, which could impede their ability to devote appropriate time to our clinical programs. If these third parties do not successfully carry out their contractual duties, meet expected deadlines or conduct our clinical trials in accordance with regulatory requirements or our stated protocols, we may not be able to obtain, or may be delayed in obtaining, marketing approvals for our product candidates. If that occurs, we may not be able to, or may be delayed in our efforts to, successfully commercialize our product candidates. In such an event, our financial results and the commercial prospects for oral sulopenem, sulopenem or other product candidates could be harmed, our costs could increase and our ability to generate revenue could be delayed, impaired or foreclosed.

We also rely on other third parties to store and distribute drug supplies for our clinical trials. Any performance failure on the part of our distributors could delay clinical development or marketing approval of our product candidates or commercialization of any resulting products, producing additional losses and depriving us of potential product revenue.

***We contract with third parties for the manufacture of preclinical and clinical supplies of oral sulopenem and sulopenem and expect to continue to do so in connection with any future commercialization and for any future clinical trials and commercialization of our product candidates and potential product candidates. This reliance on third parties increases the risk that we will not have sufficient quantities of our product candidates or such quantities at an acceptable cost, which could delay, prevent or impair our development or commercialization efforts.***

We do not have the internal infrastructure or capability to manufacture oral sulopenem and sulopenem for use in the conduct of our preclinical research or clinical trials or for commercialization. We rely on third-party contract manufacturers to manufacture

supplies of oral sulopenem and sulopenem, and we expect to rely on third-party contract manufacturers to manufacture commercial quantities of any product candidate that we commercialize following approval for marketing by applicable regulatory authorities, if any. Reliance on third-party manufacturers entails risks, including:

- manufacturing delays if our third-party manufacturers give greater priority to the supply of other products over our product candidates or otherwise do not satisfactorily perform according to the terms of their agreement with us;
- the possible termination or nonrenewal of the agreement by the third party at a time that is costly or inconvenient for us;
- the possible breach of the manufacturing agreement by the third party;
- the failure of the third-party manufacturer to comply with applicable regulatory requirements; and
- the possible misappropriation of our proprietary information, including our trade secrets and know-how.

We currently rely on a small number of third-party contract manufacturers for all of our required raw materials, drug substance and finished product for our preclinical research and clinical trials. We do not have long-term agreements with any of these third parties. We also do not have any current contractual relationships for the manufacture of commercial supplies of any of our product candidates although negotiations are well advanced. If any of our existing manufacturers should become unavailable to us for any reason, we may incur delays in identifying or qualifying replacements.

We will enter into agreements with third-party contract manufacturers for the commercial production of oral sulopenem and/or sulopenem. This process is difficult and time consuming and we may face competition for access to manufacturing facilities as there are a limited number of contract manufacturers operating under current Good Manufacturing Practices, or cGMPs, that are capable of manufacturing our product candidates. Consequently, we may not be able to reach agreement with third-party manufacturers on satisfactory terms, which could delay our commercialization.

Third-party manufacturers are required to comply with cGMPs and similar regulatory requirements outside the United States. Facilities used by our third-party manufacturers must be approved by the FDA after we submit an NDA(s) and before potential approval of the product candidate. Similar regulations apply to manufacturers of our product candidates for use or sale in countries outside of the United States. We have no direct control over the ability of our third-party manufacturers to maintain adequate quality control, quality assurance and qualified personnel, and are completely dependent on our third-party manufacturers for compliance with the applicable regulatory requirements for the manufacture of our product candidates. If our manufacturers cannot successfully manufacture material that conforms to the strict regulatory requirements of the FDA and any applicable regulatory authority, they will not be able to secure the applicable approval for their manufacturing facilities. If these facilities are not approved for commercial manufacture, we may need to find alternative manufacturing facilities, which could result in delays in obtaining approval for the applicable product candidate. In addition, our manufacturers are subject to ongoing periodic unannounced inspections by the FDA and corresponding state and foreign agencies for compliance with cGMPs and similar regulatory requirements. Failure by any of our manufacturers to comply with applicable cGMPs or other regulatory requirements could result in sanctions being imposed on us, including fines, injunctions, civil penalties, delays, suspensions or withdrawals of approvals, operating restrictions, interruptions in supply and criminal prosecutions, any of which could significantly and adversely affect supplies of our product candidates and have a material adverse effect on our business, financial condition and results of operations.

We and our third-party suppliers also continue to refine and improve the manufacturing process, certain aspects of which are complex and unique, and we may encounter difficulties with new or existing processes, particularly as we seek to significantly increase our capacity to commercialize oral sulopenem and/or sulopenem. Our reliance on contract manufacturers also exposes us to the possibility that they, or third parties with access to their facilities, will have access to and may appropriate our trade secrets or other proprietary information.

As drug candidates are developed through non-clinical studies to late-stage clinical trials towards approval and commercialization, it is common that various aspects of the development program, such as manufacturing methods, methods of making drug formulations, and drug formulations, are altered along the way in an effort to optimize processes and results. Such changes carry the risk that they will not achieve these intended objectives. Any of these changes could cause our drug candidates to perform differently and affect the results of clinical trials or other future clinical trials conducted with the altered materials. Such changes may also require additional testing, FDA notification or FDA approval. This could delay completion of clinical trials, require the conduct of bridging clinical trials or the repetition of one or more clinical trials, increase clinical trial costs, delay approval of our drug candidates and jeopardize our ability to commence sales and generate revenue.

Our current and anticipated future dependence upon others for the manufacture of oral sulopenem and sulopenem and any future product candidates may adversely affect our future profit margins and our ability to commercialize any products for which we receive marketing approval on a timely and competitive basis.

## Risks Related to Our Intellectual Property

***We rely heavily on the Pfizer License for the patent rights and know-how required to develop and commercialize oral sulopenem and the know-how required to develop the IV formulation of sulopenem.***

We currently do not own any patents and rely heavily on the Pfizer License for intellectual property rights that are important or necessary for the development of oral sulopenem and sulopenem. We do not own or license any patent rights that cover the IV formulation of sulopenem. In addition, all patents directed to the compound sulopenem expired prior to us entering into the Pfizer License. Licenses to additional third-party intellectual property, technology and materials that may be required for the development and commercialization of our sulopenem program or any other product candidates or technology may not be available at all or on commercially reasonable terms. In that event, we may be required to expend significant time and resources to redesign our sulopenem program and any other product candidates or technology we may obtain in the future or to develop or license replacement technology, all of which may not be feasible on a technical or commercial basis. If we are unable to do so, we may be unable to develop or commercialize oral sulopenem or sulopenem or other future product candidates or technologies, which could materially harm our business, financial condition, results of operations and growth prospects.

Under the Pfizer License, and we expect under certain of our future license agreements, we are responsible for prosecution and maintenance of the licensed patents and for bringing any actions against any third party for infringing on such patents. In addition, the Pfizer License requires, and we expect certain of our future license agreements would also require, us to meet certain development thresholds to maintain the license, including establishing a set timeline for developing and commercializing products. In addition, such license agreements are complex, and certain provisions in such agreements may be susceptible to multiple interpretations. The resolution of any contract interpretation disagreement that may arise could narrow what we believe to be the scope of our rights to the relevant intellectual property or technology, or increase what we believe to be our financial or other obligations under the relevant agreement, either of which could have a material adverse effect on our business, financial condition, results of operations and growth prospects. Disputes may arise regarding intellectual property subject to the Pfizer License or any of our future license agreements, including:

- the scope of rights granted under the license agreement and other interpretation-related issues;
- the extent to which our technology and processes infringe, misappropriate or otherwise violate any intellectual property of the licensor that is not subject to the licensing agreement;
- the sublicensing of patent and other rights under the license agreement;
- our diligence obligations under the license agreement and what activities satisfy those diligence obligations;
- the inventorship and ownership of inventions and know-how resulting from the joint creation or use of intellectual property by our licensors and us and our partners; and
- the priority of invention of patented technology.

In spite of our best efforts, Pfizer and any potential future licensors might conclude that we have materially breached our license agreements and might therefore terminate the relevant license agreements, thereby removing our ability to develop and commercialize products and technology covered by such license agreements. If any of our inbound license agreements are terminated, or if the underlying patents fail to provide the intended exclusivity, competitors would have the freedom to seek regulatory approval of, and to market, products identical to ours. This could have a material adverse effect on our competitive position, business, financial condition, results of operations and growth prospects.

***If we are unable to obtain and maintain patent protection or other intellectual property rights for oral sulopenem or our other technology and product candidates, or if the scope of the patent protection or intellectual property rights we obtain is not sufficiently broad, we may not be able to successfully develop or commercialize oral sulopenem or any other product candidates or technology or otherwise compete effectively in our markets.***

We rely upon a combination of patents, trademarks, trade secret protection, confidentiality agreements and other proprietary rights to protect the intellectual property related to our development programs and product candidates. Our success depends, in part, on obtaining and maintaining patent protection and successfully enforcing these patents and defending them against third-party challenges in the United States and other countries. If we or our licensors are unable to obtain or maintain patent protection with respect to oral sulopenem or any other product candidates or technology we develop, our business, financial condition, results of operations and growth prospects could be materially harmed.

We have sought to protect our proprietary position by in-licensing patents in the United States and abroad related to oral sulopenem. Our patent portfolio also contains two U.S. and international patent applications, one addressing the effect of probenecid

on the plasma concentrations of sulopenem after multi-day dosing and the second related to a method of preparing a bilayer tablet composed of sulopenem etzadroxil and probenecid. The patent prosecution process is expensive and time-consuming, and we and our licensors may not be able to file and prosecute all necessary or desirable patent applications at a reasonable cost or in a timely manner or in all jurisdictions. It is also possible that we will fail to identify patentable aspects of our research and development output before it is too late to obtain patent protection. Moreover, although we control prosecution of the patents we have licensed from Pfizer related to our sulopenem program, we may not always have the right to control the preparation, filing and prosecution of patent applications, or to maintain, enforce or defend the patents, covering technology that we may license from third parties. Therefore, these patents and patent applications may not be prosecuted, maintained, enforced or defended in a manner consistent with the best interests of our business.

If any patent applications we may own or in-license in the future with respect to our development programs or product candidates fail to issue, if their breadth or strength of protection is threatened or if they fail to provide meaningful exclusivity for our current and future product candidates, it could dissuade companies from collaborating with us to develop product candidates and threaten our ability to commercialize products. Any such outcome could materially harm our competitive position, business, financial condition, results of operations and growth prospects.

The patent position of pharmaceutical companies generally is highly uncertain, involves complex legal and factual questions and has in recent years been the subject of much litigation. In addition, the laws of countries outside the United States may not protect our rights to the same extent as the laws of the United States. For example, European Union (EU) patent law restricts the patentability of methods of treatment of the human body more than U.S. law does. In addition, publications of discoveries in scientific literature often lag behind the actual discoveries, patent applications in the United States and other jurisdictions remain confidential for a period after filing, and some remain so until issued. Therefore, we cannot know with certainty whether we were the first to make the inventions claimed in the patents or pending patent applications we currently own, license or may own or license in the future, or that we were the first to file for patent protection of such inventions. As a result, the issuance, scope, validity, enforceability and commercial value of our patent rights are highly uncertain. There is no assurance that all potentially relevant prior art relating to our patent rights has been found, and such prior art could potentially invalidate one or more of the patents we currently license or may own or license in the future or prevent a patent from issuing from one or more pending patent applications we own or may own or license in the future. There is also no assurance that prior art of which we are aware, but which we do not believe affects the validity or enforceability of a claim in our patent rights, may, nonetheless, ultimately be found to affect the validity or enforceability of a claim. Even if patents do successfully issue and even if such patents cover our current and future product candidates, third parties may challenge their ownership, validity, enforceability or scope, which may result in such patents being narrowed, invalidated or held unenforceable, which could allow third parties to commercialize our technology or products and compete directly with us, without payment to us, or result in our inability to manufacture or commercialize products without infringing third-party patent rights. Any successful opposition to these patents or any other patents owned by us in the future or licensed to us could deprive us of rights necessary for the successful commercialization of any product candidates that we may develop. Furthermore, even if they are unchallenged, our patents rights may not adequately protect our product candidates and technology, provide exclusivity for our product candidates, prevent others from designing around our claims or provide us with a competitive advantage. Any of these outcomes could impair our ability to prevent competition from third parties. Changes in either the patent laws or interpretation of the patent laws in the United States or other countries may diminish the value of our patent rights or narrow the scope of our patent protection.

We cannot offer any assurances about whether any issued patents will be found invalid and unenforceable or will be challenged by third parties. Any successful challenge or opposition to patents owned by or licensed to us could deprive us of rights necessary for the successful commercialization of any product candidates that we may develop. Further, if we encounter delays in regulatory approvals, the period of time during which we could market a product candidate under patent protection could be reduced.

Furthermore, our patent rights may be subject to a reservation of rights by one or more third parties. For example, certain research we conducted was funded in part by the U.S. government. As a result, the U.S. government may have certain march-in rights to patents and technology arising out of such research, if any. When new technologies are developed with government funding, the government generally obtains certain rights in any resulting patents, including a non-exclusive license authorizing the government to use the invention. These rights may permit the government to disclose our confidential information to third parties and to exercise march-in rights to use or allow third parties to use our licensed technology. The government can exercise its march-in rights if it determines that action is necessary because we fail to achieve practical application of the government-funded technology, to alleviate health or safety needs, to meet requirements of federal regulations or to give preference to U.S. industry. In addition, our rights in such inventions may be subject to certain requirements to manufacture products embodying such inventions in the United States. Any exercise by the government of such rights could harm our competitive position, business, financial condition, results of operations and growth prospects.

***We may not identify relevant third-party patents or may incorrectly interpret the relevance, scope or expiration of a third party patent which might adversely affect our ability to develop and market our product candidates.***

We cannot guarantee that any of our or our licensors' patent searches or analyses, including but not limited to the identification of relevant patents, the scope of patent claims or the expiration of relevant patents, are complete or thorough, nor can we be certain that we have identified each and every third-party patent and pending application in the United States and abroad that is relevant to or necessary for the commercialization of our product candidates in any jurisdiction. For example, U.S. applications filed before November 29, 2000 and certain U.S. applications filed after that date that will not be filed outside the United States remain confidential until patents issue. Patent applications in the United States and elsewhere are published approximately 18 months after the earliest filing for which priority is claimed, with such earliest filing date being commonly referred to as the priority date. Therefore, patent applications covering our product candidates could have been filed by others without our knowledge. Additionally, pending patent applications that have been published can, subject to certain limitations, be later amended in a manner that could cover our product candidates or the use of our product candidates. The scope of a patent claim is determined by an interpretation of the law, the written disclosure in a patent and the patent's prosecution history. Our interpretation of the relevance or the scope of a patent or a pending application may be incorrect, which may negatively impact our ability to market our product candidates. We may incorrectly determine that our product candidates are not covered by a third-party patent or may incorrectly predict whether a third party's pending application will issue with claims of relevant scope. Our determination of the expiration date of any patent in the United States or abroad that we consider relevant may be incorrect, which may negatively impact our ability to develop and market our product candidates. Our failure to identify and correctly interpret relevant patents may negatively impact our ability to develop and market our product candidates.

***The patent protection for our product candidates may expire before we are able to maximize their commercial value which may subject us to increased competition and reduce or eliminate our opportunity to generate product revenue.***

Patents have a limited lifespan. In the United States, if all maintenance fees are paid timely, the natural expiration of a patent is generally 20 years from its earliest U.S. non-provisional filing date. Various extensions may be available, but the life of a patent, and the protection it affords, is limited. The patents for our product candidates have varying expiration dates and, if these patents expire, we may be subject to increased competition and we may not be able to recover our development costs. For example, our licensed U.S. patent claim for a composition of matter patent for oral sulopenem is due to expire in 2029, subject to potential extension to 2034 under the Drug Price Competition and Patent Term Restoration Act of 1984 (referred to as the Hatch-Waxman Act). Given the amount of time required for the development, testing and regulatory review of new product candidates, patents protecting such product candidates might expire before or shortly after such product candidates are commercialized. As a result, our patent rights may not provide us with sufficient rights to exclude others from commercializing product candidates similar or identical to ours.

The FDA designated sulopenem and oral sulopenem as QIDPs for the indications of uUTI, cUTI, cIAI, community-acquired bacterial pneumonia, acute bacterial prostatitis, gonococcal urethritis, and pelvic inflammatory disease. Fast track designation for these seven indications in both the oral and intravenous formulations has also been granted. QIDP status provides the potential for a more rapid review cycle for an NDA and could add five years to any regulatory exclusivity period that we may be granted. However, that does not guarantee that we will receive any regulatory exclusivity or that any such exclusivity will be for a period sufficient to provide us with any commercial advantage. Moreover, we do not own or license any patent directed to the compound sulopenem.

Depending upon the timing, duration and conditions of FDA marketing approval of our product candidates, one or more of the U.S. patents we currently license may be eligible for limited patent term extension under the Hatch-Waxman Act, and similar legislation in the European Union. The Hatch-Waxman Act permits a patent term extension of up to five years for a patent covering an approved product as compensation for effective patent term lost during product development and the FDA regulatory review process. A patent term extension cannot extend the remaining term of a patent beyond a total of 14 years from the date of product approval, only one patent may be extended and only those claims covering the approved drug, a method for using it or a method for manufacturing it may be extended. We may not receive an extension if we fail to apply within applicable deadlines, fail to apply prior to expiration of the relevant patents or otherwise fail to satisfy applicable requirements and the length of the extension could be less than we request. To the extent we wish to pursue patent term extension based on a patent that we in-license from Pfizer or another third party, we would need the cooperation of Pfizer or the third party. Moreover, similar extensions may be available in some of the larger economic territories but may not be available in all of our markets of interest.

If we are unable to obtain patent term extension/restoration or some other exclusivity, or the term of any such extension is less than we request, the period during which we can enforce our exclusive rights for that product will be shortened and our competitors may obtain approval to market competing products sooner. As a result, we could be subject to increased competition and our opportunity to establish or maintain product revenue could be substantially reduced or eliminated. Furthermore, we may not have sufficient time to recover our development costs prior to the expiration of our U.S. and non-U.S. patent rights. If this occurs, our competitors may take advantage of our investment in development and trials by referencing our clinical and preclinical data and

launch their product earlier than might otherwise be the case. Any of the foregoing would materially harm our business, financial condition, results of operations and growth prospects.

***Intellectual property rights do not necessarily address all potential threats to our business.***

Once granted, patents may remain open to opposition, interference, re-examination, post-grant review *inter partes* review, nullification or derivation action in court or before patent offices or similar proceedings for a given period after allowance or grant, during which time third parties can raise objections against such grant. In the course of such proceedings, which may continue for a protracted period of time, the patent owner may be compelled to limit the scope of the allowed or granted claims thus attacked, or may lose the allowed or granted claims altogether. In addition, the degree of future protection afforded by our intellectual property rights is uncertain because even granted intellectual property rights have limitations, and may not adequately protect our business. The following examples are illustrative:

- others may be able to make compounds or formulations that are similar to oral sulopenem and sulopenem compounds or formulations but that are not covered by the claims of our patent rights;
- the patents of third parties may have an adverse effect on our business;
- we or our licensors or any future strategic partners might not have been the first to conceive or reduce to practice the inventions covered by the issued patents that we own or have exclusively licensed;
- we or our licensors or any future strategic partners might not have been the first to file patent applications covering certain of our inventions;
- others may independently develop similar or alternative technologies or duplicate any of our technologies without infringing our intellectual property rights;
- it is possible our pending patent applications, and any future patent applications, will not lead to issued patents or afford meaningful protection for our product candidates;
- issued patents that we may own in the future or have exclusively licensed may not provide us with any competitive advantage, or may be held invalid or unenforceable, as a result of legal challenges by our competitors;
- our competitors might conduct research and development activities in countries where we do not have patent rights and then use the information learned from such activities to develop competitive products for sale in our major commercial markets;
- third parties performing manufacturing or testing for us using our product candidates or technologies could use the intellectual property of others without obtaining a proper license; and
- we may not develop additional proprietary technologies that are patentable.

Should any of these events occur, they could have a material adverse effect on our business, financial condition, results of operations and growth prospects.

***Changes in patent laws or patent jurisprudence could diminish the value of patents in general, thereby impairing our ability to protect our product candidates.***

As is the case with other pharmaceutical companies, our success is heavily dependent on intellectual property, particularly patents. Obtaining and enforcing patents in the pharmaceutical industry involves both technological complexity and legal complexity. Therefore, obtaining and enforcing pharmaceutical patents is costly, time-consuming and inherently uncertain. In addition, the America Invents Act (the AIA) was signed into law on September 16, 2011, and many of its substantive changes became effective on March 16, 2013.

An important change introduced by the AIA is that, as of March 16, 2013, the United States transitioned to a “first-to-file” system for deciding which party should be granted a patent when two or more patent applications are filed by different parties claiming the same invention. A third party that files a patent application in the U.S. Patent and Trademark Office (USPTO) after that date but before us could therefore be awarded a patent covering an invention of ours even if we had made the invention before it was made by the third party. This will require us to be cognizant going forward of the time from invention to filing of a patent application, but circumstances could prevent us from promptly filing patent applications on our inventions.

Among some of the other changes introduced by the AIA are changes that limit where a patentee may file a patent infringement suit and providing opportunities for third parties to challenge any issued patent in the USPTO, including through post-issuance patent

review procedures such as *inter partes* review, post-grant review and covered business methods. This applies to all U.S. patents, including those issued before March 16, 2013. Because of a lower evidentiary standard in USPTO proceedings compared to the evidentiary standard in United States federal courts necessary to invalidate a patent claim, a third party could potentially provide evidence in a USPTO proceeding sufficient for the USPTO to hold a claim invalid even though the same evidence would be insufficient to invalidate the claim if first presented in a district court action. Accordingly, a third party may attempt to use the USPTO procedures to invalidate our patent claims that would not have been invalidated if first challenged by the third party as a defendant in a district court action. The AIA and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents.

In the last few years, the USPTO has developed regulations and procedures to govern administration of the AIA, and many of the substantive changes to patent law associated with the AIA, in particular, the first to file provisions only became effective on March 16, 2013. Accordingly, it is not clear what, if any, impact the AIA will have on the operation of our business and this may not be known until such time as we, or our licensors or collaboration partners, are filing patent applications for an invention or seeking to defend issued patents. However, the AIA and its implementation could increase the uncertainties and costs surrounding the prosecution of our or our licensors' or collaboration partners' patent applications and the enforcement or defense of our or our licensors' or collaboration partners' issued patents, all of which could have an adverse effect on our business and financial condition.

Moreover, the standards that the USPTO and foreign patent office's use to grant patents are not always applied predictably or uniformly and can change. Consequently, any patents we currently license or may own or license in the future may have a shorter patent term than expected or may not contain claims that will permit us to stop competitors from using our technology or similar technology or from copying our products. Similarly, the standards that courts use to interpret patents are not always applied predictably or uniformly and may evolve, particularly as new technologies develop. In addition, changes to patent laws in the United States or other countries may be applied retroactively to affect the ownership, validity, enforceability or term of patents we currently license or may own or license in the future.

For example, the U.S. Supreme Court's rulings on several patent cases in recent years, such as *Association for Molecular Pathology v. Myriad Genetics, Inc.*, *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, and *Alice Corporation Pty. Ltd. v. CLS Bank International*, either narrow the scope of patent protection available in certain circumstances or weaken the rights of patent owners in certain situations. In addition to increasing uncertainty with regard to our ability to obtain patents in the future, this combination of events has created uncertainty with respect to the value of patents, once obtained. Depending on decisions by the U.S. Congress, the federal courts and the USPTO, the laws and regulations governing patents could change in unpredictable ways that could weaken our ability to obtain new patents or to enforce our existing patents and patents that we might obtain in the future. Similarly, the complexity and uncertainty of European patent laws has also increased in recent years. In addition, the European patent system is relatively stringent in the type of amendments that are allowed during prosecution. These changes could limit our ability to obtain new patents in the future that may be important for our business.

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

Competitors may infringe, misappropriate or otherwise violate our patents, trademarks, copyrights or other intellectual property or those of our licensors. To counter infringement, misappropriation, unauthorized use or other violations, we may be required to file legal claims, which can be expensive and time consuming and divert the time and attention of our management and scientific personnel. We may not be able to prevent, alone or with our licensors, infringement, misappropriation or other violations of our intellectual property rights, particularly in countries where the laws may not protect those rights as fully as in the United States. Any claims we assert against perceived infringers could provoke these parties to assert counterclaims against us alleging that we infringe their patents. In addition, in a patent infringement proceeding, there is a risk that a court will decide that a patent of ours is invalid or unenforceable, in whole or in part, and that we do not have the right to stop the other party from using the invention at issue. There is also a risk that, even if the validity of such patents is upheld, the court will construe the patent's claims narrowly or decide that we do not have the right to stop the other party from using the invention at issue on the grounds that our patents do not cover the invention. An adverse outcome in a litigation or proceeding involving our patents could limit our ability to assert our patents against those parties or other competitors, and may curtail or preclude our ability to exclude third parties from making and selling similar or competitive products. Any of these occurrences could adversely affect our competitive business position, business prospects and financial condition. Similarly, if we assert trademark infringement claims, a court may determine that the marks we have asserted are invalid or unenforceable, or that the party against whom we have asserted trademark infringement has superior rights to the marks in question. In this case, we could ultimately be forced to cease use of such trademarks.

In any infringement, misappropriation or other intellectual property litigation, any award of monetary damages we receive may not be commercially valuable. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during litigation.



Moreover, there can be no assurance that we will have sufficient financial or other resources to file and pursue such infringement claims, which typically last for years before they are concluded. Even if we ultimately prevail in such claims, the monetary cost of such litigation and the diversion of the attention of our management and scientific personnel could outweigh any benefit we receive as a result of the proceedings.

***Third parties may initiate legal proceedings alleging that we are infringing, misappropriating or otherwise violating their intellectual property rights, the outcome of which would be uncertain and could have a negative impact on the success of our business.***

Our commercial success depends, in part, upon our ability, and the ability of our future collaborators, to develop, manufacture, market and sell oral sulopenem, sulopenem and any future product candidates, if approved, and use our proprietary technologies without alleged or actual infringement, misappropriation or other violation of the patents and other intellectual property rights of third parties. There have been many lawsuits and other proceedings involving patent and other intellectual property rights in the biotechnology and pharmaceutical industries, including patent infringement lawsuits, interferences, oppositions and reexamination proceedings before the USPTO and corresponding foreign patent offices. Numerous U.S. and foreign issued patents and pending patent applications, which are owned by third parties, exist in the fields in which we are developing product candidates. Some claimants may have substantially greater resources than we do and may be able to sustain the costs of complex intellectual property litigation to a greater degree and for longer periods of time than we could. In addition, patent holding companies that focus solely on extracting royalties and settlements by enforcing patent rights may target us. As the biotechnology and pharmaceutical industries expand and more patents are issued, the risk increases that our product candidates may be subject to claims of infringement of the intellectual property rights of third parties.

We may in the future become party to, or be threatened with, adversarial proceedings or litigation regarding intellectual property rights with respect to oral sulopenem, sulopenem or any future product candidates and technology, including interference or derivation proceedings, post grant review and *inter partes* review before the USPTO or similar adversarial proceedings or litigation in other jurisdictions. Similarly, we or our licensors or collaborators may initiate such proceedings or litigation against third parties, e.g., to challenge the validity or scope of intellectual property rights controlled by third parties. In order to successfully challenge the validity of any U.S. patent in federal court, we would need to overcome a presumption of validity. As this burden is a high one requiring us to present clear and convincing evidence as to the invalidity of any such U.S. patent claim, there is no assurance that a court would invalidate the claims of any such U.S. patent. Moreover, third parties may assert infringement claims against us based on existing patents or patents that may be granted in the future, regardless of their merit. There is a risk that third parties may choose to engage in litigation with us to enforce or to otherwise assert their patent rights against us. Even if we believe such claims are without merit, a court of competent jurisdiction could hold that these third-party patents are valid, enforceable and infringed, and the holders of any such patents may be able to block our ability to commercialize such product candidate unless we obtained a license under the applicable patents, or until such patents expire or are finally determined to be invalid or unenforceable. Similarly, if any third-party patents were held by a court of competent jurisdiction to cover aspects of our compositions, formulations, or methods of treatment, prevention or use, the holders of any such patents may be able to block our ability to develop and commercialize the applicable product candidate unless we obtained a license or until such patent expires or is finally determined to be invalid or unenforceable. In either case, such a license may not be available on commercially reasonable terms, or at all. Even if we were able to obtain a license, it could be nonexclusive, thereby giving our competitors access to the same technologies licensed to us. Furthermore, even in the absence of litigation, we may need to obtain licenses from third parties to advance our research. We may fail to obtain any of these licenses at a reasonable cost or on reasonable terms, if at all. In such an event, we would be unable to further practice our technologies or develop and commercialize any of our product candidates at issue, which could harm our business significantly.

Parties making claims against us may obtain injunctive or other equitable relief, which could effectively block our ability to further develop and commercialize one or more of our product candidates, if approved. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of management and employee time and resources from our business. Third parties making such claims may have the ability to dedicate substantially greater resources to these legal actions than we or our licensors or collaborators can. In the event of a successful claim of infringement, misappropriation or other violation against us, we may have to pay substantial damages, including treble damages and attorneys' fees for willful infringement, pay royalties, redesign our infringing products or obtain one or more licenses from third parties, which may be impossible or require substantial time and monetary expenditure.

There has been substantial litigation and other proceedings regarding patent and other intellectual property rights in the pharmaceutical and biotechnology industries. In addition to infringement claims against us, we may become a party to other patent litigation and other adversarial proceedings such as proceedings before the Patent Trial and Appeal Board and opposition proceedings in the European Patent Office regarding intellectual property rights with respect to our products and technology.

Patent litigation and other proceedings may also absorb significant management time. The cost to us of any patent litigation or other proceeding, even if resolved in our favor, could be substantial. During the course of any patent or other intellectual property litigation or other proceeding, there could be public announcements of the results of hearings, rulings on motions, and other interim proceedings or developments and if securities analysts or investors regard these announcements as negative, the perceived value of our product candidates or intellectual property could be diminished. Accordingly, the market price of our ordinary shares may decline. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could have a material adverse effect on our business, ability to compete in the marketplace, financial condition, results of operations and growth prospects.

***We may not be able to protect our intellectual property rights globally, which could negatively impact our business.***

Filing, prosecuting and defending patents covering oral sulopenem, sulopenem and any future product candidates globally would be prohibitively expensive, and our intellectual property rights in some countries outside the United States can be less extensive than those in the United States. In addition, the laws of some countries do not protect intellectual property rights to the same extent as federal and state laws in the United States. Further, licensing partners may not prosecute patents in certain jurisdictions in which we may obtain commercial rights, thereby precluding the possibility of later obtaining patent protection in these countries. Consequently, we may not be able to prevent third parties from practicing our inventions in all countries outside the United States, or from selling or importing products made using our inventions in and into the United States or other jurisdictions. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop their own products and may also export infringing products to territories where we have patent protection, but enforcement is not as strong as that in the United States. These products may compete with our product candidates, and our patents or other intellectual property rights may not be effective or sufficient to prevent them from competing.

Many companies have encountered significant problems in protecting and defending intellectual property rights in foreign jurisdictions. The legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents, trade secrets and other intellectual property protection, particularly those relating to biotechnology products, which could make it difficult for us to stop the infringement of our patents or marketing of competing products in violation of our proprietary rights generally. Proceedings to enforce our patent rights in foreign jurisdictions, whether or not successful, could result in substantial costs and divert our efforts and attention from other aspects of our business, could put our patents at risk of being invalidated or interpreted narrowly and any current or future patent applications at risk of not issuing, and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate and the damages or other remedies awarded, if any, may not be commercially meaningful. Accordingly, our efforts to enforce our intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop or license. Furthermore, while we intend to protect our intellectual property rights in our expected significant markets, we cannot ensure that we will be able to initiate or maintain similar efforts in all jurisdictions in which we may wish to market our product candidates. Accordingly, our efforts to protect our intellectual property rights in such countries may be inadequate, which may have an adverse effect on our ability to successfully commercialize our product candidates in all of our expected significant foreign markets.

Additionally, the requirements for patentability may differ in certain countries, particularly developing countries. For example, unlike other countries, China has a heightened requirement for patentability, and specifically requires a detailed description of medical uses of a claimed drug. In India, unlike the United States, there is no link between regulatory approval of a drug and its patent status. Furthermore, generic or biosimilar drug manufacturers or other competitors may challenge the scope, validity or enforceability of our or our licensors' patents, requiring us or our licensors to engage in complex, lengthy and costly litigation or other proceedings. Generic or biosimilar drug manufacturers may develop, seek approval for, and launch biosimilar versions of our products. In addition, certain countries in Europe and developing countries, including China and India, have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties. In those countries, we and our licensors may have limited remedies if patents are infringed or if we or our licensors are compelled to grant a license to a third party, which could materially diminish the value of those patents. This could limit our potential revenue opportunities. Accordingly, our and our licensors' efforts to enforce intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we own or license.

***We may be subject to claims that we or our employees, consultants, contractors or advisors have infringed, misappropriated or otherwise violated the intellectual property of a third party, or claiming ownership of what we regard as our own intellectual property.***

Many of our employees were previously employed at universities or other biotechnology or pharmaceutical companies, including our competitors or potential competitors. Although we try to ensure that our employees do not use the intellectual property and other proprietary information, know-how or trade secrets of others in their work for us, we may be subject to claims that we or these employees have used or disclosed such intellectual property or other proprietary information. Litigation may be necessary to defend against these claims.

In addition, we may in the future be subject to claims that former employees, collaborators or other third parties have an interest in our patents or other intellectual property as an inventor or co-inventor. While we typically require our employees, consultants and contractors who may be involved in the development of intellectual property to execute agreements assigning such intellectual property to us, we may be unsuccessful in executing such an agreement with each party who in fact develops intellectual property that we regard as our own. To the extent that we fail to obtain such assignments, such assignments do not contain a self-executing assignment of intellectual property rights or such assignments are breached, we may be forced to bring claims against third parties, or defend claims they may bring against us, to determine the ownership of what we regard as our intellectual property. If we fail in prosecuting or defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Such intellectual property rights could be awarded to a third party, and we could be required to obtain a license from such third party to commercialize our technology or products. Such a license may not be available on commercially reasonable terms or at all. Even if we are successful in prosecuting or defending against such claims, litigation could result in substantial costs and be a distraction to our management and scientific personnel.

***Obtaining and maintaining our patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.***

Periodic maintenance and annuity fees on any issued patent are due to be paid to the USPTO and foreign patent agencies in several stages over the lifetime of the patent. The USPTO and various foreign governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. While an inadvertent lapse can in many cases be cured by payment of a late fee or by other means in accordance with the applicable rules, there are situations in which non-compliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. Non-compliance events that could result in abandonment or lapse of a patent or a patent application include failure to respond to official actions within prescribed time limits, non-payment of fees and failure to properly legalize and submit formal documents. If we or our licensors fail to maintain the patents covering our products, our competitors might be able to enter the market, which would have a material adverse effect on our business, financial condition, results of operations and growth prospects.

***If we are unable to protect the confidentiality of our trade secrets, the value of our technology could be materially adversely affected and our business would be harmed.***

In addition to seeking patents for some of our technology and products, we also rely on trade secrets, including unpatented know-how, technology and other proprietary information, in seeking to develop and maintain a competitive position. We seek to protect these trade secrets, in part, by entering into non-disclosure and confidentiality agreements with parties who have access to them, such as our employees, consultants, independent contractors, advisors, corporate collaborators, outside scientific collaborators, contract manufacturers, suppliers and other third parties. We, as well as our licensors, also enter into confidentiality and invention or patent assignment agreements with employees and certain consultants. We also seek to preserve the integrity and confidentiality of our data, trade secrets and know-how by maintaining physical security of our premises and physical and electronic security of our information technology systems. Monitoring unauthorized uses and disclosures is difficult, and we do not know whether the steps we have taken to protect our proprietary technologies will be effective. We cannot guarantee that our trade secrets and other proprietary and confidential information will not be disclosed or that competitors will not otherwise gain access to our trade secrets. Any party with whom we have executed such an agreement may breach that agreement and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time consuming and the outcome is unpredictable. In addition, some courts both within and outside the United States may be less willing or unwilling to protect trade secrets. Further, if any of our trade secrets were to be lawfully obtained or independently developed by a competitor, we would have no right to prevent such third party, or those to whom they communicate such technology or information, from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor, our business and competitive position could be harmed.

Trade secrets and know-how can be difficult to protect as trade secrets and know-how will over time be disseminated within the industry through independent development, the publication of journal articles, and the movement of personnel skilled in the art from company to company or academic to industry scientific positions. If we fail to prevent material disclosure of the know-how, trade secrets and other intellectual property related to our technologies to third parties, we will not be able to establish or maintain a competitive advantage in our market, which could materially adversely affect our business, results of operations and financial condition. Even if we are able to adequately protect our trade secrets and proprietary information, our trade secrets could otherwise become known or could be independently discovered by our competitors. For example, competitors could purchase our products and attempt to replicate some or all of the competitive advantages we derive from our development efforts, design around our protected technology or develop their own competitive technologies that fall outside of our intellectual property rights. If any of our trade

secrets were to be lawfully obtained or independently developed by a competitor, in the absence of patent protection, we would have no right to prevent them, or those to whom they communicate, from using that technology or information to compete with us.

We may not be able to prevent misappropriation of our intellectual property, trade secrets or confidential information, particularly in countries where the laws may not protect those rights as fully as in the United States. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation.

***We have not yet registered our trademarks in certain jurisdictions. Failure to secure those registrations could adversely affect our business.***

We have registered trademarks for “Iterum” in the United States, European Union, Japan, Switzerland and Canada. If we are unable to secure registrations for our trademarks in other countries, we may encounter more difficulty in enforcing them against third parties than we otherwise would, which could adversely affect our business. We are in the process of registering trademarks for our product candidates in the United States, Europe and Canada. Any trademark applications we have filed for our product candidates or may file in the future are not guaranteed to be allowed for registration, and even if they are, we may fail to maintain or enforce such registered trademarks. During trademark registration proceedings in the United States, Europe, Canada and other jurisdictions, we may receive rejections. We are given an opportunity to respond to those rejections, but we may not be able to overcome such rejections. In addition, in the USPTO and in comparable agencies in many other jurisdictions, third parties are given an opportunity to oppose pending trademark applications and to seek to cancel registered trademarks. Opposition or cancellation proceedings may be filed against our trademarks, and our trademarks may not survive such proceedings.

In addition, any proprietary name we propose to use with oral sulopenem, sulopenem or any other product candidate in the United States must be approved by the FDA, and in Europe by the EMA, regardless of whether we have registered it, or applied to register it, as a trademark. The FDA and the EMA each typically conduct a review of proposed product names, including an evaluation of potential for confusion with other product names. If the FDA or the EMA object to any of our proposed proprietary product names, we may be required to expend significant additional resources in an effort to identify a suitable proprietary product name that would qualify under applicable trademark laws, not infringe, misappropriate or otherwise violate the existing rights of third parties and be acceptable to the FDA and the EMA.

Over the long term, if we are unable to establish name recognition based on our trademarks and trade names, then we may not be able to compete effectively and our business may be adversely affected. Our efforts to enforce or protect our proprietary rights related to trademarks, trade secrets, domain names, copyrights or other intellectual property may be ineffective and could result in substantial costs and diversion of resources and could adversely impact our business, financial condition, results of operations and growth prospects.

**Risks Related to Regulatory Approval and Other Legal Compliance Matters**

***If we are not able to obtain, or if there are delays in obtaining, required regulatory approvals, we will not be able to commercialize oral sulopenem, sulopenem or other future product candidates, and our ability to generate revenue will be materially impaired.***

Our product candidates, oral sulopenem and sulopenem, and the activities associated with their development and commercialization, including their design, testing, manufacture, safety, efficacy, recordkeeping, labeling, storage, approval, advertising, promotion, sale and distribution, are subject to comprehensive regulation by the FDA and other regulatory agencies in the United States and by comparable foreign regulatory authorities, with regulations differing from country to country. Failure to obtain marketing approval for a product candidate will prevent us from commercializing the product candidate. We currently do not have any products approved for sale in any jurisdiction. We have only limited experience in filing and supporting the applications necessary to gain marketing approvals and expect to rely on third-party contract research organizations to assist us in this process.

Although we have QIDP status and fast track designation for sulopenem and oral sulopenem for the indications of uUTI, cUTI and cIAI (and for the indications of community-acquired bacterial pneumonia, acute bacterial prostatitis, gonococcal urethritis, and pelvic inflammatory disease) which may provide for a more rapid NDA review cycle, the time required to obtain approval, if any, by the FDA and comparable foreign authorities is unpredictable and typically takes many years following the commencement of clinical trials and depends upon numerous factors, including the substantial discretion of the regulatory authorities. In addition, the COVID-19 pandemic could impact the FDA’s regulatory review process, including delays in meetings related to planned or completed clinical trials and ultimately the review and approval of our product candidates. Approval policies, regulations, or the type and amount of clinical data necessary to gain approval may also change during the course of a product candidate’s clinical development and may vary among jurisdictions. We have not obtained regulatory approval for any product candidate and it is possible that none of our existing product candidates or any product candidates we may seek to develop in the future will ever obtain regulatory approval.

Neither we nor any future collaborator is permitted to market any of our product candidates in the United States until we or they receive regulatory approval of an NDA(s) from the FDA.

In order to obtain approval to commercialize a product candidate in the United States or abroad, we or our collaborators must demonstrate to the satisfaction of the FDA or foreign regulatory agencies, that such product candidates are safe and effective for their intended uses. Results from non-clinical studies and clinical trials can be interpreted in different ways. Even if we believe that the non-clinical or clinical data for our product candidates are promising, such data may not be sufficient to support approval by the FDA and other regulatory authorities. Although we conducted our Phase 3 clinical trials pursuant to SPA agreements and met with the FDA at a pre-NDA meeting, the FDA may still require us to conduct additional non-clinical studies or clinical trials for our product candidates either prior to or post-approval, and it may otherwise object to elements of our clinical development program.

We have not submitted an NDA for any of our product candidates. We plan to submit an NDA for oral sulopenem for the treatment of uUTIs in patients with a quinolone non-susceptible pathogen in the fourth quarter of 2020. An NDA must include extensive preclinical and clinical data and supporting information to establish the product candidate's safety and efficacy for each desired indication. The NDA must also include significant information regarding the chemistry, manufacturing and controls for the product candidate. Obtaining approval of an NDA is a lengthy, expensive and uncertain process. The FDA has substantial discretion in the review and approval process and may refuse to accept for filing any application or may decide that our data is insufficient for approval and require additional non-clinical, clinical or other studies. Foreign regulatory authorities have differing requirements for approval of drugs with which we must comply prior to marketing. Obtaining marketing approval for marketing of a product candidate in one country does not ensure that we will be able to obtain marketing approval in other countries, but the failure to obtain marketing approval in one jurisdiction could negatively affect our ability to obtain marketing approval in other jurisdictions. The FDA or any foreign regulatory body can delay, limit or deny approval of our product candidates or require us to conduct additional non-clinical or clinical testing or abandon a program for many reasons, including:

- the FDA or the applicable foreign regulatory agency's disagreement with the design or implementation of our clinical trials, although we conducted our Phase 3 clinical trials pursuant to SPA agreements and met with the FDA at a pre-NDA meeting;
- negative or ambiguous results from our clinical trials or results that may not meet the level of statistical significance required by the FDA or comparable foreign regulatory agencies for approval;
- serious and unexpected drug-related side effects experienced by participants in our clinical trials or by individuals using drugs similar to our product candidates;
- our inability to demonstrate to the satisfaction of the FDA or the applicable foreign regulatory body that our product candidates are safe and effective for the proposed indication(s);
- the FDA's or the applicable foreign regulatory agency's disagreement with the interpretation of data from non-clinical studies or clinical trials;
- our inability to demonstrate the clinical and other benefits of our product candidates outweigh any safety or other perceived risks;
- the FDA's or the applicable foreign regulatory agency's requirement for additional non-clinical studies or clinical trials;
- the FDA's or the applicable foreign regulatory agency's disagreement regarding the formulation, labeling and/or the specifications for our product candidates; or
- the potential for approval policies or regulations of the FDA or the applicable foreign regulatory agencies to significantly change in a manner rendering our clinical data insufficient for approval.

Of the large number of drugs in development, only a small percentage complete the FDA or foreign regulatory approval processes and are successfully commercialized. The lengthy review process as well as the unpredictability of future clinical trial results may result in our failing to obtain regulatory approval, which would significantly harm our business, financial condition, results of operations and growth prospects.

Even if we eventually receive approval of an NDA or foreign marketing application for our product candidates, the FDA or the applicable foreign regulatory agency may grant approval contingent on the performance of costly additional clinical trials, often referred to as Phase 4 clinical trials, and the FDA may require the implementation of a REMS, which may be required to ensure safe use of the drug after approval. The FDA or the applicable regulatory agency also may approve a product candidate for a more limited indication or patient population than we originally requested, and the FDA or applicable foreign regulatory agency may not approve the labeling that we believe is necessary or desirable for the successful commercialization of a product candidate. Any delay in

obtaining, or inability to obtain, applicable regulatory approval would delay or prevent commercialization of that product candidate and would materially adversely impact our business and prospects.

***Future legislation and/or regulations and policies adopted by the FDA, the EMA or similar regulatory authorities may increase the time and cost required for us to conduct and complete clinical trials of oral sulopenem, sulopenem and other potential product candidates.***

The FDA has established regulations to govern the drug development and approval process, as have foreign regulatory authorities. The policies of the FDA and other regulatory authorities may change and additional laws may be enacted or government regulations may be promulgated that could prevent, limit, delay, or alternatively accelerate regulatory review of our product candidates.

***If we are unable to obtain marketing approval in jurisdictions outside the United States, we will not be able to market our product candidates outside of the United States.***

In order to market and sell oral sulopenem, sulopenem or our other future product candidates in the European Union and many other jurisdictions, we must obtain separate marketing approvals and comply with numerous and varying regulatory requirements. Approval by the FDA does not ensure approval by regulatory authorities in other countries or jurisdictions, and approval by one regulatory authority outside the United States does not ensure approval by regulatory authorities in other countries or jurisdictions or by the FDA. The approval procedure varies among countries and can involve additional testing. In addition, clinical trials conducted in one country may not be accepted by regulatory authorities in other countries. The time required to obtain approval may differ substantially from that required to obtain FDA approval. The regulatory approval process outside the United States generally includes all of the risks associated with obtaining FDA approval. In addition, in many countries outside the United States, it is required that the product be approved for reimbursement before the product can be approved for sale in that country. We may not obtain approvals from regulatory authorities outside the United States on a timely basis or at all.

We are currently evaluating our commercialization strategy in the United States and other territories. We believe that in addition to the United States, Europe represents a significant market opportunity because of rising rates of extended spectrum  $\beta$ -lactamases (ESBL) resistance.

On June 23, 2016, the electorate in the United Kingdom voted in favor of leaving the European Union, commonly referred to as Brexit. Following protracted negotiations, the United Kingdom left the European Union on January 31, 2020. Under the withdrawal agreement, there is a transitional period until December 31, 2020 (extendable up to two years). Discussions between the United Kingdom and the European Union have so far mainly focused on finalizing withdrawal issues and transition agreements but have been extremely difficult to date. To date, only an outline of a trade agreement has been reached. Much remains open but the Prime Minister has indicated that the United Kingdom will not seek to extend the transitional period beyond the end of 2020. If no trade agreement has been reached before the end of the transitional period, there may be significant market and economic disruption.

Since the regulatory framework for pharmaceutical products in the United Kingdom covering the quality, safety, and efficacy of pharmaceutical products, clinical trials, marketing authorization, commercial sales, and distribution of pharmaceutical products is derived from European Union directives and regulations, Brexit could materially impact the future regulatory regime that applies to products and the approval of product candidates in the United Kingdom. Any delay in obtaining, or an inability to obtain, any marketing approvals, as a result of Brexit or otherwise, may force us to restrict or delay efforts to seek regulatory approval in the United Kingdom for our product candidates, which could significantly and materially harm our business.

***Non-U.S. regulatory authorities may require us to conduct additional clinical trials or non-clinical studies to accommodate submission for the cUTI indication.***

We obtained scientific advice from the EMA for each of the Phase 3 clinical trials in the uUTI, cUTI and cIAI indications, as well as to gain alignment on non-clinical supportive information required for EMA submission. We are not in alignment with regard to the comparator agent selected for the cUTI clinical trial and are considering other options to accommodate a European filing for this indication. The EMA may request that we conduct one or more additional clinical trials or non-clinical studies to support potential approval for oral sulopenem and sulopenem for the cUTI indication. We cannot predict how the EMA will interpret the data and results from our Phase 3 clinical trial and other elements of our development program, or whether oral sulopenem or sulopenem will receive any regulatory approvals in the European Union.

***If we receive regulatory approval for any product candidate, we will be subject to ongoing obligations and continuing regulatory review, which may result in significant additional expense. Our product candidates, including oral sulopenem and sulopenem, if***

***approved, could be subject to restrictions or withdrawal from the market, and we may be subject to penalties if we fail to comply with regulatory requirements or if we experience unanticipated problems with our product candidates, when and if approved.***

Any product candidate, including oral sulopenem and sulopenem, for which we obtain marketing approval will also be subject to ongoing regulatory requirements for labeling, packaging, storage, distribution, advertising, promotion, record-keeping and submission of safety and other post marketing information. For example, approved products, manufacturers and manufacturers' facilities are required to comply with extensive FDA requirements, including ensuring that quality control and manufacturing procedures conform to cGMPs. As such, we and our contract manufacturers will be subject to continual review and periodic inspections to assess compliance with cGMPs. Accordingly, we and others with whom we work must continue to expend time, money and effort in all areas of regulatory compliance, including manufacturing, production and quality control. We will also be required to report certain adverse reactions and production problems, if any, to the FDA and to comply with requirements concerning advertising and promotion for our products.

In addition, even if marketing approval of a product candidate is granted, the approval may be subject to limitations on the indicated uses for which the product may be marketed, may be subject to significant conditions of approval or may impose requirements for costly post-marketing testing and surveillance to monitor the safety or efficacy of the product. The FDA may also require a REMS as a condition of approval of our product candidates, which could include requirements for a medication guide, physician communication plans or additional elements to ensure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. The FDA closely regulates the post-approval marketing and promotion of drugs to ensure that drugs are marketed only for the approved indications and in accordance with the provisions of the approved labelling and regulatory requirements. The FDA also imposes stringent restrictions on manufacturers' communications regarding off-label use and if we do not restrict the marketing of our products only to their approved indications, we may be subject to enforcement action for off-label marketing.

If a regulatory agency discovers previously unknown problems with a product, such as adverse events of unanticipated severity or frequency, or problems with the facility where the product is manufactured, or disagrees with the promotion, marketing or labeling of a product, it may impose restrictions on that product or us. In addition, if any product fails to comply with applicable regulatory requirements, a regulatory agency may:

- issue fines, warning letters, untitled letters or impose holds on clinical trials if any are still ongoing;
- mandate modifications to promotional materials or require provision of corrective information to healthcare practitioners;
- impose restrictions on the product or its manufacturers or manufacturing processes;
- impose restrictions on the labeling or marketing of the product;
- impose restrictions on product distribution or use;
- require post-marketing clinical trials;
- require withdrawal of the product from the market;
- refuse to approve pending applications or supplements to approved applications that we submit;
- require recall of the product;
- require entry into a consent decree, which can include imposition of various fines (including restitution or disgorgement of profits or revenue), reimbursements for inspection costs, required due dates for specific actions and penalties for non-compliance;
- suspend or withdraw marketing approvals;
- refuse to permit the import or export of the product;
- seize or detain supplies of the product; or
- issue injunctions or impose civil or criminal penalties.

***If we fail to comply with federal and state healthcare laws, including fraud and abuse and health information privacy and security laws, we could face substantial penalties and our business, results of operations, financial condition and prospects could be adversely affected.***

As a pharmaceutical company, even though we do not provide healthcare services or receive payments directly from or bill directly to Medicare, Medicaid or other third-party payors for our products, certain federal and state healthcare laws and regulations

pertaining to fraud and abuse, patients' rights and other healthcare laws and regulations, are applicable to our business. We are subject to healthcare laws and regulations by both the federal government and the states in which we conduct our business. The laws that may affect our ability to operate include:

- the federal Anti-Kickback Statute which prohibits, among other things, any person or entity, from knowingly and willfully soliciting, receiving, offering or paying any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind, to induce, or in return for either the referral of an individual, or the purchase, lease, furnishing, prescribing, ordering or recommendation of an item, good, facility or service reimbursable by a federally funded healthcare program, such as the Medicare or Medicaid program. This statute has been interpreted to apply to arrangements between pharmaceutical manufacturers on the one hand, and prescribers, purchasers and formulary managers on the other hand. The term "remuneration" has been interpreted broadly and may constrain our marketing practices, educational programs, pricing policies and relationships with healthcare providers or other entities, among other activities;
- the federal civil and criminal false claims laws, including the federal False Claims Act, and false statement laws and civil monetary penalty laws, which prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, claims for payment or approval from Medicare, Medicaid or other government payors that are false or fraudulent or making any materially false statement in connection with the delivery or payment for healthcare benefits, items or services. Pharmaceutical manufacturers can be held liable under the federal False Claims Act even when they do not submit claims directly to government payors if they are deemed to "cause" the submission of false or fraudulent claims;
- the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which, among other things, imposes criminal liability for executing or attempting to execute a scheme to defraud any healthcare benefit program, including private third-party payors, knowingly and willfully embezzling or stealing from a healthcare benefit program, willfully obstructing a criminal investigation of a healthcare offense, and creates federal criminal laws that prohibit knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statements or representations, or making or using any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry in connection with the delivery of, or payment for, benefits, items or services;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH) and their respective implementing regulations, including the final omnibus rule published on January 25, 2013, mandates, among other things, the adoption of uniform standards for the electronic exchange of information in common healthcare transactions, as well as standards relating to the privacy, security, transmission and breach reporting of individually identifiable health information, upon certain health plans, healthcare clearinghouses and healthcare providers and their respective business associates that perform services for them involving individually identifiable health information, which require the adoption of administrative, physical and technical safeguards to protect such information. Among other things, HITECH also created new tiers of civil monetary penalties, amended HIPAA to make civil and criminal penalties directly applicable to business associates, and gave state attorneys general new authority to file civil actions for damages or injunctions in U.S. federal courts to enforce the federal HIPAA laws and seek attorneys' fees and costs associated with pursuing federal civil actions;
- the federal physician payment transparency requirements, sometimes referred to as the "Physician Payments Sunshine Act," and its implementing regulations, which imposes annual disclosure requirements to the CMS on certain manufacturers of drugs, biologics, devices and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program (with certain exceptions), of certain payments or other transfers of value made to physicians and teaching hospitals, as well as ownership or investment interests held by physicians and their immediate family members;
- state and foreign law equivalents of each of the above federal laws, such as anti-kickback and false claims laws, which may apply to items or services reimbursed by any third-party payor, including commercial insurers, which may impose similar or more prohibitive restrictions;
- state and foreign laws governing the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts;
- state, local and foreign laws that require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government, obtain pharmaceutical agent licensure, and/or otherwise restrict payments that may be made to healthcare providers and entities;
- state and local laws that require the registration of pharmaceutical sales representatives; and



- state, local and foreign laws that require drug manufacturers to report information related to payments and other transfers of value to other healthcare providers or entities or marketing expenditures.

Because of the breadth of these laws and the narrowness of the statutory exceptions and safe harbors available, it is possible that some of our business activities could be subject to challenge under one or more of such laws. The scope and enforcement of each of these laws is uncertain and subject to rapid change in the current environment of healthcare reform, especially in light of the lack of applicable precedent and regulations. Federal and state enforcement bodies have recently increased their scrutiny of interactions between healthcare companies and healthcare providers, which has led to a number of investigations, prosecutions, convictions and settlements in the healthcare industry. Additionally, the Patient Protection and Affordable Care Act (as amended by the Health Care and Education Reconciliation Act), enacted in 2010 (ACA), among other things, amended the intent requirement of the federal Anti-Kickback Statute and criminal health care fraud statutes, so that a person or entity no longer needs to have actual knowledge of the statute or specific intent to violate it. In addition, the ACA provides that the government may assert that a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitute a false or fraudulent claim for purposes of the False Claims Act.

Recently, several pharmaceutical and other healthcare companies have been prosecuted under the federal false claims laws for allegedly inflating drug prices they report to pricing services, which in turn are used by the government to set Medicare and Medicaid reimbursement rates, and for allegedly providing free product to customers with the expectation that the customers would bill federal programs for the product. In addition, certain marketing practices, including off-label promotion, may also violate false claims laws. To the extent that any product we make is sold in a country outside of the United States, we may be subject to similar laws and regulations.

The risks of complying with these laws cannot be entirely eliminated. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. Moreover, achieving and sustaining compliance with applicable federal and state privacy, security, fraud and transparency laws is time consuming and costly. If our past or present operations, or those of our distributors are found to be in violation of any of the laws described above or any other governmental regulations that apply to us, we may be subject to sanctions, including civil, criminal and administrative penalties, fines, damages, disgorgement, exclusion from participation in U.S. federal or state health care programs, individual imprisonment, additional reporting obligations and oversight if subject to a corporate integrity agreement or other agreement to resolve allegations of non-compliance with these laws, reputational harm, diminished profits and future earnings, and the curtailment or restructuring of our operations, any of which could materially adversely affect our ability to operate our business and our financial results. Similarly, if healthcare providers, distributors or other entities with whom we do business are found to be out of compliance with applicable laws and regulations, they may be subject to sanctions, which could also have a negative impact on us.

***Healthcare legislative reform measures may have a material adverse effect on our business and results of operations.***

In the United States, there have been and continue to be a number of legislative and regulatory changes, and proposed changes, that could affect the future results of our business and operations. In particular, there have been and continue to be a number of initiatives at the federal and states levels that seek to reduce healthcare costs. For example, in March 2010 the ACA was enacted, which has substantially changed the way health care is financed by both governmental and private insurers, and significantly impacted the U.S. pharmaceutical industry. Among the provisions of the ACA, of greatest importance to the pharmaceutical and biotechnology industry are the following:

- an annual, nondeductible fee on any entity that manufactures or imports certain specified branded prescription drugs and biologic agents apportioned among these entities according to their market share in some government healthcare programs;
- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program to 23.1% and 13% of the average manufacturer price for most branded and generic drugs, respectively, and capped the total rebate amount for innovator drugs at 100% of the Average Manufacturer Price (AMP);
- a new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for certain drugs and biologics that are inhaled, infused, instilled, implanted or injected;
- extension of manufacturers' Medicaid rebate liability to covered drugs dispensed to individuals who are enrolled in Medicaid managed care organizations;
- expansion of eligibility criteria for Medicaid programs by, among other things, allowing states to offer Medicaid coverage to additional individuals and by adding new mandatory eligibility categories for individuals with income at or below 133% of the federal poverty level, thereby potentially increasing manufacturers' Medicaid rebate liability;

- a new Medicare Part D coverage gap discount program, in which manufacturers must agree to offer point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs to be covered under Medicare Part D;
- expansion of the entities eligible for discounts under the Public Health program;
- a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research;
- establishment of a Center for Medicare Innovation at CMS to test innovative payment and service delivery models to lower Medicare and Medicaid spending; and
- implementation of the federal physician payment transparency requirements, sometimes referred to as the "Physician Payments Sunshine Act."

In addition, other legislative changes have been proposed and adopted since the ACA was enacted. In August 2011, the Budget Control Act of 2011, among other things, created measures for spending reductions by Congress. A Joint Select Committee on Deficit Reduction, tasked with recommending a targeted deficit reduction of at least \$1.2 trillion for the years 2013 through 2021, was unable to reach required goals, thereby triggering the legislation's automatic reduction to several government programs. These changes included aggregate reductions to Medicare payments to providers of up to 2% per fiscal year, which went into effect in April 2013 and will remain in effect through 2029 unless additional congressional action is taken. The Coronavirus Aid, Relief, and Economic Security (CARES) Act suspended the 2% Medicare sequester from May 1, 2020 through December 31, 2020, and extended the sequester by one year, through 2030. The American Taxpayer Relief Act of 2012, among other things, reduced Medicare payments to several providers and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. These new laws may result in additional reductions in Medicare and other healthcare funding and otherwise affect the prices we may obtain for any of our product candidates for which we may obtain regulatory approval or the frequency with which any such product candidate is prescribed or used.

Since enactment of the ACA, there have been, and continue to be, numerous legal challenges and Congressional actions to repeal and replace provisions of the law. For example, with enactment of the Tax Cuts and Jobs Act of 2017, which was signed by President Trump on December 22, 2017, Congress repealed the "individual mandate." The repeal of this provision, which requires most Americans to carry a minimal level of health insurance, became effective in 2019. Additionally, the 2020 federal spending package permanently eliminated, effective January 1, 2020, the ACA-mandated "Cadillac" tax on high-cost employer-sponsored health coverage and medical device tax and, effective January 1, 2021, also eliminates the health insurer tax. Further, the Bipartisan Budget Act of 2018, among other things, amended the ACA, effective January 1, 2019, to increase from 50 percent to 70 percent the point-of-sale discount that is owed by pharmaceutical manufacturers who participate in Medicare Part D and to close the coverage gap in most Medicare drug plans, commonly referred to as the "donut hole." Congress may consider other legislation to replace elements of the ACA during the next Congressional session.

The Trump administration has also taken executive actions to undermine or delay implementation of the ACA. Since January 2017, President Trump has signed two Executive Orders designed to delay the implementation of certain provisions of the ACA or otherwise circumvent some of the requirements for health insurance mandated by the ACA. One Executive Order directs federal agencies with authorities and responsibilities under the ACA to waive, defer, grant exemptions from, or delay the implementation of any provision of the ACA that would impose a fiscal or regulatory burden on states, individuals, healthcare providers, health insurers, or manufacturers of pharmaceuticals or medical devices. The second Executive Order terminates the cost-sharing subsidies that reimburse insurers under the ACA. Several state Attorneys General filed suit to stop the administration from terminating the subsidies, but their request for a restraining order was denied by a federal judge in California on October 25, 2017. In addition, CMS has recently proposed regulations that would give states greater flexibility in setting benchmarks for insurers in the individual and small group marketplaces, which may have the effect of relaxing the essential health benefits required under the ACA for plans sold through such marketplaces. Further, on June 14, 2018, U.S. Court of Appeals for the Federal Circuit ruled that the federal government was not required to pay more than \$12 billion in ACA risk corridor payments to third-party payors who argued were owed to them. On April 27, 2020, however, that decision was reversed by the U.S. Supreme Court.

In addition, the CMS has proposed regulations that would give states greater flexibility in setting benchmarks for insurers in the individual and small group marketplaces, which may have the effect of relaxing the essential health benefits required under the ACA for plans sold through such marketplaces. On November 30, 2018, CMS announced a proposed rule that would amend the Medicare Advantage and Medicare Part D prescription drug benefit regulations to reduce out of pocket costs for plan enrollees and allow Medicare plans to negotiate lower rates for certain drugs. Among other things, the proposed rule changes would allow Medicare Advantage plans to use pre authorization (PA) and step therapy (ST) for six protected classes of drugs, with certain exceptions, permit plans to implement PA and ST in Medicare Part B drugs; and change the definition of "negotiated prices" while adding a definition of

“price concession” in the regulations. It is unclear whether these proposed changes will be accepted, and if so, what effect such changes will have on our business. Litigation and legislation over the ACA are likely to continue, with unpredictable and uncertain results.

Further, on December 14, 2018, a U.S. District Court judge in the Northern District of Texas ruled that the individual mandate portion of the ACA is an essential and inseparable feature of the ACA, and therefore because the mandate was repealed as part of the Tax Cuts and Jobs Act, the remaining provisions of the ACA are invalid as well. The Trump administration and CMS have both stated that the ruling will have no immediate effect, and on December 30, 2018 the same judge issued an order staying the judgment pending appeal. The Trump Administration recently represented to the Court of Appeals considering this judgment that it does not oppose the lower court’s ruling. On July 10, 2019, the Court of Appeals for the Fifth Circuit heard oral argument in this case. On December 18, 2019, that court affirmed the lower court’s ruling that the individual mandate portion of the ACA is unconstitutional and it remanded the case to the district court for reconsideration of the severability question and additional analysis of the provisions of the ACA. On January 21, 2020, the U.S. Supreme Court declined to review this decision on an expedited basis. On March 3, 2020, however, that Court did agree to hear this case. On June 25, 2020, the Trump Administration and a coalition of 18 states asked the court to strike down the entirety of the ACA. Oral argument in the case took place on November 10, 2020. Litigation and legislation over the ACA are likely to continue, with unpredictable and uncertain results.

The costs of prescription pharmaceuticals has also been the subject of considerable discussion in the United States, and members of Congress and the Administration have stated that they will address such costs through new legislative and administrative measures. To date, there have been several recent U.S. congressional inquiries and proposed and enacted state and federal legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, reduce the costs of drugs under Medicare and reform government program reimbursement methodologies for drug products. While any proposed measures will require authorization through additional legislation to become effective, Congress and the Trump administration have each indicated that it will continue to seek new legislative and/or administrative measures to control drug costs. At the state level, legislatures are increasingly passing legislation and implementing regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing.

Further, there has been heightened governmental scrutiny in the United States of the manner in which manufacturers set prices for their marketed products in light of the rising cost of prescription drugs and biologics. Such scrutiny has resulted in several recent Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drug products. These new laws and initiatives may result in additional reductions in Medicare and other healthcare funding, as well as limit the amounts that federal and state governments will pay for healthcare products and services, which could result in reduced demand for our product candidates or additional pricing pressures, all of which could have a material adverse effect on our future customers and accordingly, our financial operations.

Specifically, there have been several recent U.S. congressional inquiries and proposed federal and proposed and enacted state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, reduce the costs of drugs under Medicare and reform government program reimbursement methodologies for drug products. At the federal level, Congress and the Trump administration have each indicated that it will continue to seek new legislative and/or administrative measures to control drug costs. For example, on May 11, 2018, the Trump administration issued a plan to lower drug prices. Under this blueprint for action, the Trump administration indicated that HHS will: take steps to end the gaming of regulatory and patent processes by drug makers to unfairly protect monopolies; advance biosimilars and generics to boost price competition; evaluate the inclusion of prices in drug makers’ ads to enhance price competition; speed access to and lower the cost of new drugs by clarifying policies for sharing information between insurers and drug makers; avoid excessive pricing by relying more on value-based pricing by expanding outcome-based payments in Medicare and Medicaid; work to give Part D plan sponsors more negotiation power with drug makers; examine which Medicare Part B drugs could be negotiated for a lower price by Part D plans, and improving the design of the Part B Competitive Acquisition Program; update Medicare’s drug-pricing dashboard to increase transparency; prohibit Part D contracts that include “gag rules” that prevent pharmacists from informing patients when they could pay less out-of-pocket by not using insurance; and require that Part D plan members be provided with an annual statement of plan payments, out-of-pocket spending, and drug price increases. Finally, the current presidential administration’s budget proposal for fiscal year 2021 includes a \$135 billion allowance to support legislative proposals seeking to reduce drug prices, increase competition, lower out-of-pocket drug costs for patients, and increase patient access to lower-cost generic and biosimilar drugs.

In addition, President Trump issued five executive orders that are intended to lower the costs of prescription drug products, although the status of these actions remains unclear following the election and with the Biden Administration. The first order would require all federally qualified health centers (FQHCs) to pass on to patients the discounts the health centers receive on insulin and

epinephrine through Medicare's 340B Drug Discount Program. The second order would establish an international pricing index that would set the price Medicare Part B pays for the costliest medications covered under the program to the lowest price in other economically advanced countries.

The third order is intended to reduce the costs of drugs by supporting the safe importation of prescription drugs. Specifically, the order calls upon the Department of Health and Human Services (HHS) to facilitate grants to individuals of waivers of the prohibition of importation of prescription drugs that would allow patients to import FDA approved drug products from abroad, so long as doing so would result in lower costs. In addition, the order would allow wholesalers and pharmacies to re-import both biological drugs and insulin that were originally manufactured in the United States and then exported for international sale. This action preceded the finalization of a rulemaking on September 24, 2020 that allows states or certain other non-federal government entities to submit importation program proposals to the FDA for review and approval. Applicants would be required to demonstrate that their importation plans pose no additional risk to public health and safety and will result in significant cost savings for consumers. At the same time, the FDA issued draft guidance that would allow manufacturers to import their own FDA-approved drugs that are authorized for sale in other countries (multi-market approved products).

The fourth executive order would end drug rebates used by health plan sponsors, pharmacies or pharmacy benefit managers (PBMs) in operating the Medicare Part D program. Specifically, the order directs HHS to exclude from safe harbor protections under the federal anti-kickback statute retroactive price reductions that are not applied at the point-of-sale. Instead, the order requires HHS to establish new safe harbors that would allow health plan sponsors, pharmacies, and PBMs to pass on those discounts to consumers at point-of-sale in order to lower the patient's out-of-pocket costs and permit the use of certain bona fide PBM service fees. Each of these orders directs the federal government to implement the initiatives outlined in the orders, meaning they will not have immediate effects.

Finally, the fifth order instructs the federal government to develop a list of "essential" medicines and then buy them and other medical supplies from U.S. manufacturers instead of from companies around the world, including especially China. The order is meant reduce regulatory barriers to domestic pharmaceutical manufacturing and catalyze manufacturing technologies needed to keep drug prices low and the production of drug products in the United States.

At the state level, individual states are increasingly aggressive in passing legislation and implementing regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. In addition, regional health care authorities and individual hospitals are increasingly using bidding procedures to determine what pharmaceutical products and which suppliers will be included in their prescription drug and other health care programs. These measures could reduce the ultimate demand for our products, once approved, or put pressure on our product pricing. We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that federal and state governments will pay for healthcare products and services, which could result in reduced demand for our product candidates or additional pricing pressures.

Finally, in the European Union, similar political, economic and regulatory developments may affect our ability to profitably commercialize our product candidates, if approved. In addition to continuing pressure on prices and cost containment measures, legislative developments at the European Union or member state level may result in significant additional requirements or obstacles that may increase our operating costs. The delivery of healthcare in the European Union, including the establishment and operation of health services and the pricing and reimbursement of medicines, is almost exclusively a matter for national, rather than European Union, law and policy. National governments and health service providers have different priorities and approaches to the delivery of healthcare and the pricing and reimbursement of products in that context. In general, however, the healthcare budgetary constraints in most European Union member states have resulted in restrictions on the pricing and reimbursement of medicines by relevant health service providers. Coupled with ever-increasing European Union and national regulatory burdens on those wishing to develop and market products, this could prevent or delay marketing approval of our product candidates, restrict or regulate post-approval activities and affect our ability to commercialize our product candidates, if approved.

In markets outside of the United States and the European Union, reimbursement and healthcare payment systems vary significantly by country, and many countries have instituted price ceilings on specific products and therapies. We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative action in the United States, the European Union or any other jurisdiction. If we or any third parties we may engage are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we or such third parties are not able to maintain regulatory compliance, our product candidates may lose any regulatory approval that may have been obtained and we may not achieve or sustain profitability.

***We are subject to anti-corruption laws, as well as export control laws, customs laws, sanctions laws and other laws governing our operations. If we fail to comply with these laws, we could be subject to civil or criminal penalties, other remedial measures and legal expenses, which could adversely affect our business, results of operations and financial condition.***

Our operations are subject to anti-corruption laws, including the U.S. Foreign Corrupt Practices Act (FCPA) the Irish Criminal Justice (Corruption Offenses) Act 2018, and other anti-corruption laws that apply in countries where we do business and may do business in the future. The FCPA and these other laws generally prohibit us, our officers, and our employees and intermediaries from bribing, being bribed or making other prohibited payments to government officials or other persons to obtain or retain business or gain some other business advantage. We may in the future operate in jurisdictions that pose a high risk of potential FCPA violations, and we may participate in collaborations and relationships with third parties whose actions could potentially subject us to liability under the FCPA or local anti-corruption laws. In addition, we cannot predict the nature, scope or effect of future regulatory requirements to which our international operations might be subject or the manner in that existing laws might be administered or interpreted.

Compliance with the FCPA is expensive and difficult, particularly in countries in which corruption is a recognized problem. In addition, the FCPA presents particular challenges in the pharmaceutical industry, because, in many countries, hospitals are operated by the government, and doctors and other hospital employees are considered foreign officials. Certain payments to hospitals in connection with clinical trials and other work have been deemed to be improper payments to government officials and have led to FCPA enforcement actions.

We are also subject to other laws and regulations governing our international operations, including regulations administered by the governments of the United States, and authorities in the European Union, including applicable export control regulations, economic sanctions on countries and persons, customs requirements and currency exchange regulations, collectively referred to as the trade control laws.

There is no assurance that we will be effective in ensuring our compliance with all applicable anti-corruption laws, including the FCPA or other legal requirements, including trade control laws. If we are not in compliance with the FCPA and other anti-corruption laws or trade control laws, we may be subject to criminal and civil penalties, disgorgement and other sanctions and remedial measures, and legal expenses, which could have an adverse impact on our business, financial condition, results of operations and liquidity. Likewise, any investigation of any potential violations of the FCPA, other anti-corruption laws or trade control laws by U.S. or other authorities could also have an adverse impact on our reputation, our business, results of operations and financial condition.

***We are subject to various laws protecting the confidentiality of certain patient health information, and our failure to comply could result in penalties and reputational damage. Compliance with global privacy and data security requirements could result in additional costs and liabilities to us or inhibit our ability to collect and process data globally, and the failure to comply with such requirements could subject us to significant fines and penalties, which may have a material adverse effect on our business, financial condition or results of operations.***

The regulatory framework for the collection, use, safeguarding, sharing, transfer and other processing of information worldwide is rapidly evolving and is likely to remain uncertain for the foreseeable future. Globally, virtually every jurisdiction in which we operate has established its own data security and privacy frameworks with which we must comply. For example, the collection, use, disclosure, transfer, or other processing of personal data regarding individuals in the European Union, including personal health data, is subject to the EU General Data Protection Regulation (GDPR), which took effect across all member states of the European Economic Area (EEA), in May 2018. The GDPR is wide-ranging in scope and imposes numerous requirements on companies that process personal data (including health and other sensitive data), including the following: to provide information to individuals regarding data processing activities; to implement safeguards to protect the security and confidentiality of personal data; to make a mandatory breach notification in certain circumstances; and to take certain measures when engaging third-party processors. The GDPR increases our obligations with respect to clinical trials conducted in the EEA by expanding the definition of personal data to include coded data and requiring changes to informed consent practices and more detailed notices for clinical trial subjects and investigators. In addition, the GDPR also imposes strict rules on the transfer of personal data to countries outside the European Union, including the United States and, as a result, increases the scrutiny that clinical trial sites located in the EEA should apply to transfers of personal data from such sites to countries that are considered to lack an adequate level of data protection, such as the United States. The GDPR also permits data protection authorities to require destruction of improperly gathered or used personal information and/or impose substantial fines for violations of the GDPR, which can be up to four percent of global revenues or 20 million Euros, whichever is greater. The GDPR also confers a private right of action on data subjects to lodge complaints with supervisory authorities, seek judicial remedies, and obtain compensation for damages resulting from violations of the GDPR. In addition, the GDPR provides that EU member states may make their own further laws and regulations limiting the processing of personal data, including genetic, biometric or health data adding to the complexity of processing personal data in the European Union.

Similar actions are either in place or under way in the United States. There are a broad variety of data protection laws that are

applicable to our activities, and a wide range of enforcement agencies at both the state and federal levels that can review companies for privacy and data security concerns based on general consumer protection laws. The Federal Trade Commission and state Attorneys General all are aggressive in reviewing privacy and data security protections for consumers. New laws also are being considered at both the state and federal levels. For example, the California Consumer Privacy Act—which went into effect on January 1, 2020—is creating similar risks and obligations as those created by GDPR, though the Act does exempt certain information collected as part of a clinical trial subject to the Federal Policy for the Protection of Human Subjects (the Common Rule). Many other states are considering similar legislation. A broad range of legislative measures also have been introduced at the federal level. Accordingly, failure to comply with federal and state laws (both those currently in effect and future legislation) regarding privacy and security of personal information could expose us to fines and penalties under such laws. There also is the threat of consumer class actions related to these laws and the overall protection of personal data. Even if we are not determined to have violated these laws, government investigations into these issues typically require the expenditure of significant resources and generate negative publicity, which could harm our reputation and our business.

Given the breadth and depth of changes in data protection obligations, complying with the GDPR's requirements is rigorous and time intensive and requires significant resources and a review of our technologies, systems and practices, as well as those of any third-party collaborators, service providers, contractors or consultants that process or transfer personal data collected in the European Union. The GDPR and other changes in laws or regulations associated with the enhanced protection of certain types of sensitive data, such as healthcare data or other personal information from our clinical trials, could require us to change our business practices and put in place additional compliance mechanisms, may interrupt or delay our development, regulatory and commercialization activities, and could lead to government enforcement actions, private litigation and significant fines and penalties against us, all of which could increase our cost of doing business and have a material adverse effect on our business, financial condition or results of operations. Similarly, failure to comply with federal and state laws regarding privacy and security of personal information could expose us to fines and penalties under such laws. Even if we are not determined to have violated these laws, government investigations into these issues typically require the expenditure of significant resources and generate negative publicity, which could harm our reputation and our business.

Further, we cannot assure you that our third-party service providers with access to our or our customers', suppliers', trial patients' and employees' personally identifiable and other sensitive or confidential information in relation to which we are responsible will not breach contractual obligations imposed by us, or that they will not experience data security breaches or attempts thereof, which could have a corresponding effect on our business, including putting us in breach of our obligations under privacy laws and regulations and/or which could in turn adversely affect our business, results of operations and financial condition. We cannot assure you that our contractual measures and our own privacy and security-related safeguards will protect us from the risks associated with the third-party processing, storage and transmission of such information.

***Our employees, independent contractors, principal investigators, CROs, consultants or vendors may engage in misconduct or other improper activities, including non-compliance with regulatory standards and requirements.***

We are exposed to the risk that our employees, independent contractors, principal investigators, CROs, consultants or vendors may engage in fraudulent or other illegal activity. Misconduct by these parties could include intentional, reckless and/or negligent conduct or disclosure of unauthorized activities to us that violates: FDA regulations, including those laws requiring the reporting of true, complete and accurate information to the FDA; manufacturing standards; federal and state healthcare fraud and abuse laws and regulations; or laws that require the true, complete and accurate reporting of financial information or data. Specifically, sales, marketing and business arrangements in the healthcare industry are subject to extensive laws and regulations intended to prevent fraud, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements. Activities subject to these laws also involve the improper use or misrepresentation of information obtained in the course of clinical trials or creating fraudulent data in our preclinical studies or clinical trials, which could result in regulatory sanctions and serious harm to our reputation. It is not always possible to identify and deter misconduct by our employees and other third parties, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. Additionally, we are subject to the risk that a person could allege such fraud or other misconduct, even if none occurred. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of civil, criminal and administrative penalties, damages, monetary fines, disgorgement, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, individual imprisonment, additional reporting obligations and oversight if subject to a corporate integrity agreement or other agreement to resolve allegations of non-compliance with these laws, curtailment of our operations, contractual damages, reputational harm, and diminished potential profits and future earnings, any of which could adversely affect our business, financial condition, results of operations or growth prospects.

## **Risks Related to Employee Matters and Managing Growth**

***Our future success depends on our ability to retain our Chief Executive Officer and other key executives and to attract, retain and motivate qualified personnel.***

Our industry has experienced a high rate of turnover of management personnel in recent years. We are highly dependent on the development, regulatory, commercialization and business development expertise of Corey N. Fishman, our Chief Executive Officer, and Michael W. Dunne, M.D., our Chief Scientific Officer, as well as the other principal members of our management, scientific and clinical team. Although we have formal employment agreements with our executive officers, these agreements do not prevent them from terminating their employment with us at any time. We do not maintain “key man” insurance with respect to any of our executive officers or key employees.

If we lose one or more of our executive officers or key employees, our ability to implement our business strategy successfully could be seriously harmed. Furthermore, replacing executive officers and key employees may be difficult and may take an extended period of time because of the limited number of individuals in our industry with the breadth of skills and experience required to develop, gain regulatory approval of and commercialize product candidates successfully. Competition to hire from this limited pool is intense, and we may be unable to hire, train, retain or motivate these additional key personnel on acceptable terms given the competition among numerous pharmaceutical and biotechnology companies for similar personnel. We also experience competition for the hiring of scientific and clinical personnel from universities and research institutions. In addition, we have in the past, and may continue to do so in the future, relied on consultants and advisors, including scientific and clinical advisors, to assist us in formulating our research and development and commercialization strategy. Our consultants and advisors may be engaged by entities other than us and may have commitments under consulting or advisory contracts with other entities that may limit their availability to us. If we are unable to continue to attract and retain high quality personnel, particularly with the impact of the COVID-19 pandemic on the global workforce, our ability to develop and commercialize product candidates will be limited.

***We may encounter difficulties in managing growth, which could disrupt our operations.***

We could experience growth in the number of our employees and the scope of our operations, in the event we are successful in obtaining regulatory approval particularly in the areas of manufacturing, regulatory affairs, sales, marketing and health resources. Our management may need to divert a disproportionate amount of its attention away from our day-to-day activities to devote time to managing these growth activities. To manage these growth activities, we must continue to implement and improve our managerial, operational and financial systems, expand our facilities and continue to recruit and train additional qualified personnel. Due to our limited financial resources and the limited experience of our management team in managing a company with such anticipated growth, we may not be able to effectively manage the expansion of our operations or recruit and train additional qualified personnel. Our inability to effectively manage any expansion of our operations may result in weaknesses in our infrastructure, give rise to operational mistakes, loss of business opportunities, loss of employees and reduced productivity among remaining employees. Any growth experienced could require significant capital expenditures and may divert financial resources from other projects, such as the development of additional product candidates. If our management is unable to effectively manage such growth, our expenses may increase more than expected, our potential ability to generate revenue could be reduced and we may not be able to implement our business strategy.

In addition, we have and may continue to need to adjust the size of our workforce as a result of changes to our expectations for our business, which can result in diversion of management attention, disruptions to our business, and related expenses.

***If approvals are obtained outside of the United States, we will be subject to additional risks in conducting business in those markets.***

Even if we are able to obtain approval for commercialization of a product candidate in a country outside of the United States, we will be subject to additional risks related to international business operations, including:

- potentially reduced protection for intellectual property rights;
- the potential for so-called parallel importing, which is what happens when a local seller, faced with high or higher local prices, opts to import goods from a market outside of the United States (with low or lower prices) rather than buying them locally;
- unexpected changes in tariffs, trade barriers and regulatory requirements;
- economic weakness, including inflation, or political instability in particular economies and markets;
- workforce uncertainty in countries where labor unrest is more common than in the United States;

- production shortages resulting from any events affecting a product candidate and/or finished drug product supply or manufacturing capabilities abroad;
- business interruptions resulting from geo-political actions, including war and terrorism, natural disasters, including earthquakes, hurricanes, typhoons, floods and fires, public health crises, or pandemics, like COVID-19; and
- failure to comply with Office of Foreign Asset Control rules and regulations and the FCPA.

These and other risks may materially adversely affect our ability to attain or sustain revenue from markets outside of the United States.

***Our business, results of operations, financial condition, cash flows and share price can be adversely affected by pandemics, epidemics or other public health emergencies, such as the COVID-19 pandemic, which could delay our ability to complete our clinical trials, delay the initiation of our planned clinical trials and which may delay the initiation of future clinical trials, disrupt regulatory activities or have other adverse effects on our business and operations. In addition, the COVID-19 pandemic has caused substantial disruption in the financial markets and may adversely impact economies worldwide, both of which could result in adverse effects on our business and operations.***

Our business, results of operations, financial condition, cash flows and share price may be adversely affected by pandemics, epidemics or other public health emergencies, such as the recent outbreak of COVID-19 which has spread from China to many other countries, including the United States and Ireland. In March 2020, the World Health Organization characterized COVID-19 as a pandemic, and the President of the United States declared the COVID-19 outbreak a national emergency. The outbreak has resulted in governments around the world implementing increasingly stringent measures to help control the spread of the virus, including quarantines, “shelter in place” and “stay at home” orders, travel restrictions, business curtailments, school closures, and other measures. These responsive measures have had a significant impact, both direct and indirect, on business and commerce worldwide, as worker shortages have occurred, supply chains have been disrupted, and facilities and production have been suspended.

The COVID-19 pandemic may negatively affect our business and operations in a number of ways, and its long-term effects are uncertain. The spread of COVID-19 and the responsive measures taken to date have limited our access to our facilities and caused the majority of our employees to work from home. Responsive measures to COVID-19 have resulted in restrictions on operations at clinical trial sites which could impact the initiation of patient enrolment for our planned Phase 1 clinical trials related to paediatric indications. Additionally, the COVID-19 pandemic may negatively impact our ability to initiate or complete future clinical trials, disrupt our regulatory and commercialization activities, and result in other adverse effects on our business and operations. For example, current and future restrictions on in-person interactions may impact how we commercialize our product candidates, if approved, and we may need to apply non-traditional marketing methods, which may ultimately not be efficient or successful.

In addition, our suppliers and manufacturers located in countries that have been affected by COVID-19 may also be disrupted, which may affect our ability to procure items that are essential for our research and development activities or commercialization in the event any of our product candidates is approved, and may cause disruptions in our current or future trials or commercialization activities. The response to the COVID-19 pandemic may redirect resources with respect to regulatory matters in a way that would adversely impact our ability to progress regulatory approval. We may also face impediments to regulatory meetings and approvals due to measures intended to limit in-person interactions. Additionally, we may also choose to redirect our own resources in a way that may adversely impact or delay certain of our programs.

We cannot foresee if and when the outbreak of COVID-19 will be effectively contained, nor can we predict the severity and duration of its impact. If the COVID-19 pandemic is not effectively and timely controlled, we may experience prolonged disruption of our clinical trials, suppliers or contract manufacturers, extended closures of facilities, such as clinical trial sites, suppliers, manufacturers and distributors, including single source suppliers, and further delays with respect to regulatory approvals or the commercialization of any of our products candidates, if approved. Such events may materially and adversely affect our business operations and financial condition. Additionally, the COVID-19 pandemic has already caused significant disruptions in the financial markets, and may continue to cause such disruptions, which could impact our ability to raise additional funds and has also impacted, and may continue to impact, the volatility of our stock price and trading in our stock. Moreover, it is possible the COVID-19 pandemic will significantly impact economies worldwide, which could result in adverse effects on our business and operations. We cannot be certain what the overall impact of the COVID-19 pandemic will be on our business and it has the potential to materially adversely affect our business, financial condition, results of operations, and prospects.



***We may engage in acquisitions that could disrupt our business, cause dilution to our shareholders or reduce our financial resources.***

In the future, we may enter into transactions to acquire other businesses, products or technologies. Any such proposed acquisitions may be subject to the consent of certain holders of the Securities in accordance with the terms and conditions of the EN Indenture and RLN Indenture as well as the prior written consent of SVB pursuant to the terms of the Loan and Security Agreement. If we do identify suitable candidates for acquisition, we may not be able to make such acquisitions on favorable terms, or at all, and we may not be able to obtain approval of or consent to such acquisitions from holders of the Securities or SVB. Any acquisitions we make may not strengthen our competitive position, and these transactions may be viewed negatively by customers or investors. We may decide to incur debt in connection with an acquisition or issue our ordinary shares or other equity securities to the shareholders of the acquired company, which would reduce the percentage ownership of our then current shareholders. We could incur losses resulting from undiscovered liabilities of the acquired business that are not covered by the indemnification we may obtain from the seller. In addition, we may not be able to successfully integrate the acquired personnel, technologies and operations into our existing business in an effective, timely and nondisruptive manner. Acquisitions may also divert management attention from day-to-day responsibilities, increase our expenses and reduce our cash available for operations and other uses. We cannot predict the number, timing or size of future acquisitions or the effect that any such transactions might have on our operating results.

#### **Risks Related to Taxation**

***We have been a passive foreign investment company for U.S. federal income tax purposes in the past and we could be a passive foreign investment company in the future, which could subject U.S. Holders to adverse U.S. federal income tax consequences.***

We were a passive foreign investment company (PFIC) for U.S. federal income tax purposes for our taxable year ended December 31, 2017. Based on our gross income and average value of our gross assets, we do not believe we (or our wholly owned non-U.S. subsidiaries) were a PFIC for the taxable year ended December 31, 2018 or for any subsequent completed taxable year. We do not expect to be a PFIC for the taxable year ending December 31, 2020; however, our status, and the status of our non-U.S. subsidiaries, in any taxable year will depend on our assets and activities as determined throughout that taxable year. As this is a factual determination made annually after the end of each taxable year, there can be no assurances as to our PFIC status for the current taxable year or any future taxable year.

We will be a PFIC in any taxable year if at least (i) 75% of our gross income is “passive income” or (ii) 50% of the average gross value of our assets, determined on a quarterly basis, is attributable to assets that produce, or are held for the production of, passive income. We refer to the passive income test as the “PFIC Income Test” and the asset test as the “PFIC Asset Test”.

As used in this section, *Risks Related to Taxation*, the term “U.S. Holder” means a beneficial owner of our ordinary shares (other than a partnership or other pass-through entity) that is, for U.S. federal income tax purposes, (1) an individual who is a citizen or resident of the United States, (2) a corporation (or entity treated as a corporation) created or organized in or under the laws of the United States, any state thereof, or the District of Columbia, or otherwise treated as a “domestic corporation” for such purposes, (3) an estate the income of which is subject to U.S. federal income tax regardless of its source or (4) a trust (x) with respect to which a court within the United States is able to exercise primary supervision over its administration and one or more United States persons have the authority to control all of its substantial decisions or (y) that has elected under applicable U.S. Treasury regulations to be treated as a domestic trust. If a partnership or other pass-through entity holds our ordinary shares, the U.S. federal income tax treatment of a partner in that partnership or entity generally will depend upon the status of that partner and the activities of that partnership or entity.

If we are a PFIC in any taxable year in which a U.S. Holder holds the shares of our stock, subject to the next sentence, we always will be a PFIC with respect to those shares, regardless of the results of the PFIC Income Test or the PFIC Asset Test as applied to us in subsequent taxable years. However, under applicable Treasury regulations, if the preceding sentence applies to a U.S. Holder we will cease to be treated as a PFIC with respect to that U.S. Holder if, in the manner and at the time required by those regulations, the U.S. Holder elects to recognize (and pay tax on, in the manner described in the next paragraph) any unrealized gain in the shares of our stock owned by that U.S. Holder.

If we are a PFIC and a U.S. Holder does not make a mark-to-market election (discussed below) with respect to our ordinary shares, under the so-called “excess distribution” regime that U.S. Holder may be subject to adverse tax consequences, including deferred tax and interest charges, with respect to certain distributions on our ordinary shares, any gain realized on a disposition of our ordinary shares and certain other events. The effect of these tax consequences could be materially adverse to the shareholder. If, in any taxable year during which a U.S. Holder holds our ordinary shares and any of our non-U.S. subsidiaries is a PFIC (i.e., a lower-tier PFIC), such U.S. Holder would be treated as owning a proportionate amount (by value) of the shares of the lower-tier PFIC and would be taxed under the excess distribution regime on distributions by the lower-tier PFIC and on gain from the disposition of shares of the lower-tier PFIC even though such U.S. Holder would not receive the proceeds of those distributions or dispositions.

If a U.S. Holder makes a valid and timely mark-to-market election with respect to our ordinary shares, that U.S. Holder will recognize as ordinary income or loss in each taxable year that we meet the PFIC Income Test or PFIC Asset Test an amount equal to the difference between that U.S. Holder's adjusted basis in our ordinary shares and the fair market value of the ordinary shares, thus also possibly giving rise to phantom income and a potential out-of-pocket tax liability. Ordinary loss generally is recognized only to the extent of net mark-to-market gains previously included in income. The mark-to-market election generally will not be available with respect to any of our subsidiaries that is a PFIC and gain recognized on the sale of our ordinary shares that is attributable to a subsidiary that is a PFIC may result in such gain being subject to deferred tax and interest charges.

In certain circumstances a U.S. Holder may make a qualified electing fund, or "QEF election," under the U.S. federal income tax laws with respect to that holder's interest in a PFIC. Such an election may mitigate some of the adverse U.S. federal income tax consequences that could otherwise apply to a U.S. Holder under the excess distribution regime. However, we do not expect to provide U.S. Holders with the information necessary to make a valid QEF election, and U.S. Holders should therefore assume that a QEF election will not be available.

***If the IRS determines that we are not a PFIC, and a U.S. Holder previously paid taxes pursuant to a mark-to-market election, that holder may have paid more taxes than the holder legally owed.***

If the U.S. Internal Revenue Service (IRS) makes a determination that we were not a PFIC in a prior taxable year and a U.S. Holder previously paid taxes pursuant to a mark-to-market election, that U.S. Holder may have paid more taxes than were legally owed due to such election. If such U.S. Holder does not, or is not able to, file a refund claim before the expiration of the applicable statute of limitations, that U.S. Holder will not be able to claim a refund for those taxes.

***Changes to U.S. federal income tax laws could have material consequences for us and U.S. Holders of our ordinary shares.***

Future U.S. legislation, U.S. Treasury regulations, judicial decisions and IRS rulings could affect the U.S. federal income tax treatment of us and U.S. Holders of our ordinary shares, possibly with retroactive effect.

***A future transfer of a shareholder's ordinary shares, other than one effected by means of the transfer of book entry interests in DTC, may be subject to Irish stamp duty.***

Transfers of our ordinary shares effected by means of the transfer of book entry interests in the Depository Trust Company (DTC) should not be subject to Irish stamp duty. Where the ordinary shares are traded through DTC through brokers who hold such ordinary shares on behalf of customers an exemption should be available because our ordinary shares are traded on a recognized stock exchange in the U.S. However, if a shareholder holds their ordinary shares directly rather than beneficially through DTC through a broker, any transfer of their ordinary shares could be subject to Irish stamp duty (currently at the rate of 1% of the higher of the price paid or the market value of the shares acquired). Payment of Irish stamp duty is generally a legal obligation of the transferee. The potential for stamp duty to arise could adversely affect the price of our ordinary shares.

***Dividends paid by us may be subject to Irish dividend withholding tax.***

We have never declared or paid cash dividends on our ordinary shares and we do not expect to pay dividends for the foreseeable future. To the extent that we do make dividend payments (or other returns to shareholders that are treated as "distributions" for Irish tax purposes), it should be noted that, in certain limited circumstances, dividend withholding tax (currently at a rate of 25%) may arise in respect of dividends paid on our ordinary shares. A number of exemptions from dividend withholding tax exist, such that shareholders resident in EU member states (other than Ireland) or other countries with which Ireland has signed a double tax treaty, which includes the United States, should generally be entitled to exemptions from dividend withholding tax provided that the appropriate documentation is in place. The ability of a U.S. Holder to credit any Irish dividend withholding tax against that U.S. Holder's tentative U.S. federal tax liability may be subject to limitations.

***Dividends received by Irish residents and certain other shareholders may be subject to Irish income tax.***

We have never declared or paid cash dividends on our ordinary shares and we do not expect to pay dividends for the foreseeable future. To the extent that we do make dividend payments (or other returns to shareholders that are treated as "distributions" for Irish tax purposes), it should be noted that shareholders who are entitled to an exemption from Irish dividend withholding tax on dividends received from us will not be subject to Irish income tax in respect of those dividends, unless they have some connection with Ireland other than their shareholding in Iterum Therapeutics plc (for example, they are resident in Ireland) or they hold their ordinary shares through a branch or agency in Ireland which carries out a trade of their behalf. Shareholders who are not resident nor ordinarily resident in Ireland, but who are not entitled to an exemption from Irish dividend withholding tax, will generally have no further liability to Irish income tax on those dividends which suffer dividend withholding tax.

***Our ordinary shares received by means of a gift or inheritance could be subject to Irish capital acquisitions tax.***

Irish capital acquisitions tax (CAT) could apply to a gift or inheritance of our ordinary shares irrespective of the place of residence, ordinary residence or domicile of the parties. This is because our ordinary shares will be regarded as property situated in Ireland. The person who receives the gift or inheritance has primary liability for CAT.

**Risks Related to Our Ordinary Shares**

***An active trading market for our ordinary shares may not be sustained.***

Our ordinary shares began trading on the Nasdaq Global Market on May 25, 2018. Given the limited trading history of our ordinary shares, there is a risk that an active trading market for our shares may not be sustained, which could put downward pressure on the market price of our ordinary shares and thereby affect the ability of shareholders to sell their shares. An inactive trading market for our ordinary shares may also impair our ability to raise capital to continue to fund our operations by issuing shares and may impair our ability to acquire other companies or technologies by using our shares as consideration.

***The price of our ordinary shares has been volatile and could be subject to volatility related or unrelated to our operations and our shareholders' investment in us could suffer a decline in value.***

Our share price has been and may continue to be volatile. The stock market in general and the market for biopharmaceutical companies in particular have experienced extreme volatility that has often been unrelated to the operating performance of particular companies. As a result of this volatility, investors may not be able to sell their ordinary shares at or above the price paid for the shares. The trading price of our ordinary shares could be subject to wide fluctuations in response to various factors, some of which are beyond our control. The market price for our ordinary shares may be influenced by those factors discussed elsewhere in this "Risk Factors" section of this document and others, such as:

- results from, and any delays in clinical trials;
- announcements of regulatory approval or disapproval of oral sulopenem, sulopenem or future product candidates;
- announcements with respect to the outcome, impact, effects or results of our evaluation of corporate, organizational, strategic, financial and financing alternatives, including the terms, timing, structure, value, benefits and costs of any corporate, organizational, strategic, financial or financing alternative and our ability to complete one at all;
- delays in the commercialization of oral sulopenem, sulopenem or any future product candidates;
- manufacturing and supply issues related to our development programs and commercialization of oral sulopenem, sulopenem or any of our future product candidates;
- quarterly variations in our results of operations or those of our competitors;
- changes in our earnings estimates or recommendations by securities analysts;
- announcements by us or our competitors of new product candidates, significant contracts, commercial relationships, acquisitions or capital commitments;
- announcements relating to future development or license agreements including termination of such agreements;
- adverse developments with respect to our intellectual property rights or those of our principal collaborators;
- commencement of litigation involving us or our competitors;
- changes in our board of directors or management;
- new legislation in the United States relating to the prescription, sale, distribution or pricing of drugs;
- product liability claims, other litigation or public concern about the safety of oral sulopenem, sulopenem or future products;
- failure to comply or regain compliance with the Nasdaq Global Market continued listing requirements;
- market conditions in the healthcare market in general, or in the antibiotics segment in particular, including performance of our competitors; and
- general economic conditions in the United States and abroad, including resulting from geo-political actions, including war and terrorism, natural disasters, including earthquakes, hurricanes, typhoons, floods and fires, public health crises, or pandemics, like COVID-19.

In addition, the stock market in general, or the market for equity securities in our industry, may experience extreme volatility unrelated to our operating performance. These broad market fluctuations may adversely affect the trading price or liquidity of our ordinary shares. Any sudden decline in the market price of our ordinary shares could trigger securities class-action lawsuits against us. If any of our shareholders were to bring such a lawsuit against us, we could incur substantial costs defending the lawsuit and the time and attention of our management would be diverted from our business and operations. We also could be subject to damages claims if we are found to be at fault in connection with a decline in our share price.

***If we fail to comply or regain compliance with the requirements of continued listing on the Nasdaq Global Market, we may be delisted and the price of our ordinary shares, our ability to access the capital markets and our financial condition could be negatively impacted and the delisting of our ordinary shares would result in an event of default and/or fundamental change under our debt instruments.***

Our ordinary shares are currently listed for quotation on the Nasdaq Global Market. To maintain the listing of our ordinary shares on the Nasdaq Global Market, we are required to meet certain listing requirements, including, among others, a minimum closing bid price of \$1.00 per share, a market value of publicly held shares (excluding shares held by our officers, directors and 10% or more shareholders) of at least \$15.0 million and a total market value of listed securities of at least \$50.0 million.

On September 24, 2020, we received a letter from the Listing Qualifications Department of The Nasdaq Stock Market, LLC, (Nasdaq) indicating that, based on the closing bid price for the previous 30 consecutive business days, the listing of our ordinary shares was not in compliance with Nasdaq Listing Rule 5450(a)(1) to maintain a minimum bid price of \$1.00 per share (the Bid Price Rule). Under Nasdaq Listing Rule 5810(c)(3)(A), we have a period of 180 calendar days, or until March 23, 2021, to regain compliance with the Bid Price Rule. To regain compliance during this 180-day compliance period, the closing bid price of our ordinary shares must be at least \$1.00 for a minimum of 10 consecutive business days. In the event that we do not regain compliance with the Bid Price Rule prior to the expiration of the 180-day compliance period, we will receive written notification from Nasdaq that our securities are subject to delisting. At that time, we may appeal the delisting determination to a hearings panel pursuant to the procedures set forth in the applicable Nasdaq Listing Rules. However, there can be no assurance that, if we do appeal the delisting determination by Nasdaq to the panel, that such appeal would be successful. If we do not regain compliance within the 180-day compliance period, we may also transfer the listing of our ordinary shares to the Nasdaq Capital Market, provided that we then meet the applicable requirements for continued listing on the Nasdaq Capital Market. If we do not regain compliance with the Bid Price Rule within the 180-day compliance period, we may be eligible for an additional 180 calendar day compliance period. To qualify, we would need to transfer the listing of our ordinary shares to the Nasdaq Capital Market, provided we then meet the continued listing requirement on the Nasdaq Capital Market for the market value of publicly held shares and all other initial listing standards of the Nasdaq Capital Market, with the exception of its bid price requirement. To effect such a transfer, we would need to submit an online transfer application, pay an application fee to Nasdaq and provide written notice to Nasdaq of our intention to cure the deficiency during the additional compliance period by effecting a reverse share split if necessary, subject to the conditions set forth in Nasdaq Listing Rule 5810.

On September 24, 2020 we received a separate letter from the Listing Qualifications Department of Nasdaq indicating that, based on the market value of publicly held shares for the previous 30 consecutive business days, the listing of our ordinary shares was not in compliance with Nasdaq Listing Rule 5450(b)(2)(C) to maintain a minimum market value of publicly held shares of \$15,000,000 (the MVPHS Rule). Under Nasdaq Listing Rule 5810(c)(3)(D), we have a period of 180 calendar days, or until March 23, 2021, to regain compliance with the MVPHS Rule. To regain compliance during this 180-day compliance period, the minimum market value of publicly held shares must close at \$15,000,000 or more for a minimum of 10 consecutive business days. In the event that we do not regain compliance with the MVPHS Rule prior to the expiration of the 180-day compliance period, we will receive written notification from Nasdaq that our securities are subject to delisting. At that time, we may appeal the delisting determination to a hearings panel pursuant to the procedures set forth in the applicable Nasdaq Listing Rules. However, there can be no assurance that, if we do appeal the delisting determination by Nasdaq to the panel, that such appeal would be successful. If we do not regain compliance within the 180-day compliance period, we may also transfer the listing of our ordinary shares to the Nasdaq Capital Market, provided that we then meet the applicable requirements for continued listing on the Nasdaq Capital Market. To effect such a transfer, we would need to submit an online transfer application and pay an application fee to Nasdaq.

On July 15, 2020, we received a letter from the Listing Qualifications Department of Nasdaq notifying us that the listing of our ordinary shares was not in compliance with Nasdaq Listing Rule 5450(b)(2)(A) (MVLS Rule) for continued listing on the Nasdaq Global Market, as the market value of our listed securities was less than \$50.0 million for the previous 30 consecutive business days. Under Nasdaq Listing Rule 5810(c)(3)(C), we have a period of 180 calendar days, or until January 11, 2021, to regain compliance with the MVLS Rule. To regain compliance, during this 180-day compliance period, the market value of our listed securities must be at least \$50.0 million or more (measured based on closing prices) for a minimum of 10 consecutive business days. In the event that we do not regain compliance with the MVLS Rule prior to the expiration of the 180-day compliance period, we will receive written notification from Nasdaq that our securities are subject to delisting. At that time, we may appeal the delisting determination to a

hearings panel pursuant to the procedures set forth in the applicable Nasdaq Listing Rules. However, there can be no assurance that, if we do appeal the delisting determination by Nasdaq to the panel, that such appeal would be successful. If we do not regain compliance within the 180-day compliance period, we may also transfer the listing of our ordinary shares to the Nasdaq Capital Market, provided that we then meet the applicable requirements for continued listing on the Nasdaq Capital Market. To effect such a transfer, we would need to submit an online transfer application and pay an application fee to Nasdaq.

On March 4, 2020, we received a letter from the Listing Qualifications Department of Nasdaq notifying us that the listing of our ordinary shares was not in compliance with the MVLS Rule for continued listing on the Nasdaq Global Market, as the market value of our listed securities was less than \$50.0 million for the previous 30 consecutive business days. Under Nasdaq Listing Rule 5810(c)(3)(C), we had a period of 180 calendar days, or until August 31, 2020, to regain compliance with the MVLS Rule. To regain compliance, the market value of our listed securities needed to be at least \$50.0 million or more (measured based on closing prices) for a minimum of 10 consecutive business days. On May 13, 2020, we received notification from the Listing Qualifications Department of Nasdaq that, for 10 consecutive business days from April 29, 2020 to May 12, 2020, the market value of our listed securities had been greater than \$50.0 million, confirming that we had regained compliance with the MVLS Rule.

Although we have been able to regain compliance with the listing requirements within the manner and time periods prescribed by Nasdaq in the past, there can be no assurance that we will be able to regain compliance with respect to the current deficiencies or that we will be able to maintain compliance with the Nasdaq Global Market continued listing requirements in the future or regain compliance with respect to any future deficiencies, or, if transferred, that we will be successful in maintaining the listing of our ordinary shares on the Nasdaq Capital Market. This could impair the liquidity and market price of our ordinary shares. In addition, the delisting of our ordinary shares from a national exchange could have a material adverse effect on our access to capital markets, and any limitation on market liquidity or reduction in the price of our ordinary shares as a result of that delisting could adversely affect our ability to raise capital on terms acceptable to us, or at all. The delisting of our ordinary shares from the Nasdaq Global Market could also negatively impact our financial condition as it would constitute (i) an event of default under the Loan and Security Agreement, which could lead to an acceleration of amounts due under the Loan and Security Agreement and foreclosure upon and/or sale or other liquidation of all of our and our subsidiaries' assets, including intellectual property; and (ii) a fundamental change under the EN Indenture, which could trigger an obligation for us to repurchase the Exchangeable Notes at a repurchase price of 300% of the principal amount of the outstanding Exchangeable Notes. We intend to actively monitor the closing bid price of our listed ordinary shares and the market value of our ordinary shares and, as appropriate, will consider available options to resolve the deficiencies and regain compliance with the Nasdaq Listing Rules, including applying to transfer to the Nasdaq Capital Market and, in the case of the Bid Price Rule, potentially seeking to effect a reverse share split.

***Through the RLNs, we transferred to the holders thereof rights to receive certain payments in connection with commercial sales of sulopenem, which may reduce our ability to realize potential future revenue from such sales.***

As part of the Private Placement and the Rights Offering, Iterum Bermuda issued RLNs which entitle the holders thereof to certain payments in connection with commercial sales of sulopenem. Holders of RLNs are entitled to payments based solely on a percentage of our net revenues from U.S. sales of specified sulopenem products (Specified Net Revenues). Payments will be due within 75 days of the end of each six-month payment measuring period (each, a Payment Measuring Period), beginning with the Payment Measuring Period ending June 30, 2020 until (i) the Maximum Return (as defined below) has been paid in respect of the RLNs, or (ii) December 31, 2045 (the End Date), or (iii) December 31, 2025, in the event that we have not yet received FDA approval with respect to one or more specified sulopenem products by such date. The aggregate amount of payments in respect of all RLNs during each Payment Measuring Period will be equal to the product of total Specified Net Revenues earned during such period and the applicable payment rate (Payment Rate), determined based on which of the specified sulopenem products have received FDA approval. The Payment Rate will be based on the maximum aggregate principal amount of RLNs and will equal (i) up to 15% if we or one of our affiliates has received FDA approval for the use of specified sulopenem products for the treatment of uUTIs and (ii) up to 20% if we or one of our affiliates has received FDA approval for the use of specified sulopenem products for the treatment of cUTIs but has not received FDA approval for treatment of uUTIs.

Prior to the End Date, Iterum Bermuda will be obligated to make payments on the RLNs from Specified Net Revenues until each RLN has received payments equal to \$160.00 (or 4,000 times the principal amount of such RLN) (the Maximum Return). The principal amount of the RLNs, equal to \$0.04 per RLN, is the last portion of the Maximum Return amount to which payments from Specified Net Revenue are applied. If any portion of the principal amount of the outstanding RLNs has not been paid as of the End Date, Iterum Bermuda must pay the unpaid portion of the principal amount. If Iterum Bermuda fails to pay any amounts on the RLNs that are due and payable, such defaulted amounts will accrue default interest at a rate per annum equal to the prime rate plus three

percent (3.00%). Default interest will also accrue on the Principal Amount Multiple (as defined in the RLN Indenture) as a result of certain other defaults under the RLN Indenture at a rate per annum equal to four percent (4.00%).

Iterum Bermuda may at any time redeem for cash all, but not less than all, of the RLNs, at its option. The redemption price per RLN will be equal to the Maximum Return for each RLN, less payments made through and including the redemption date, plus certain accrued but unpaid default interest (if any). Upon a change of control of our company, we will require the ultimate beneficial owner or owners controlling the acquiring person or persons to guarantee the obligations of Iterum Bermuda under the RLN Indenture. In the event that a change of control occurs before we receive FDA approval with respect to one or more specified sulopenem products, the redemption price per RLN will be reduced to 50% of the Maximum Return for each RLN, less payments made through and including the redemption date, plus certain accrued but unpaid default interest (if any).

The payment obligations under the RLNs may reduce the revenue we are able to derive from commercial sales of sulopenem and a redemption of the RLNs would require us to use our cash resources, which could adversely affect the value of our company and the prices that investors are willing to pay for our ordinary shares and could adversely affect our business, financial condition and results of operations.

***If securities or industry analysts do not publish research or reports about our company, or if they issue adverse or misleading opinions regarding us or our ordinary shares, our share price and trading volume could decline.***

The trading market for our ordinary shares relies, in part, on the research and reports that industry or financial analysts publish about our company. If no, or only a few, analysts publish research or reports about our company, the market price for our ordinary shares may be adversely affected. Our share price also may decline if any analyst who covers us issues an adverse or misleading opinion regarding us, our business model, our intellectual property or our share performance, or if our pivotal safety and efficacy studies and operating results fail to meet analysts' expectations. If one or more analysts cease coverage of us or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our share price or trading volume to decline and possibly adversely affect our ability to engage in future financings.

***Our principal shareholders and management own a significant percentage of our ordinary shares and will be able to exert significant control over matters subject to shareholder approval.***

Based on shares outstanding as of October 31, 2020, our executive officers, directors, holders of 5% or more of our ordinary shares and their respective affiliates beneficially own in the aggregate approximately 14.1% of our outstanding ordinary shares, not including any ordinary shares issuable upon exchange of any of the Exchangeable Notes, any additional ordinary shares issuable to satisfy accrued and unpaid interest due upon exchange of any Exchangeable Notes, any ordinary shares that are issuable upon exercise, conversion or exchange of outstanding options or other securities or reserved under any equity plan maintained by us, or the exercise of any outstanding warrants and/or pre-funded warrants. Following the exchange of any of these Exchangeable Notes for ordinary shares or the exercise of outstanding warrants and/or pre-funded warrants, this ownership percentage could increase. As a result of their share ownership, these holders may have the ability to influence our management and policies and will be able to significantly affect the outcome of matters requiring shareholder approval such as elections of directors, amendments of our organizational documents or approvals of any merger, sale of assets or other major corporate transaction. This may prevent or discourage unsolicited acquisition proposals or offers for our ordinary shares that our other shareholders may feel are in their best interest.

If these holders, along with the holders of Exchangeable Notes, including Sarissa, were to exchange their Exchangeable Notes for ordinary shares, based on shares outstanding as of October 31, 2020 such holders would beneficially own in the aggregate approximately 32.6% of our outstanding ordinary shares not including any additional ordinary shares issuable to satisfy accrued and unpaid interest due upon exchange of any Exchangeable Notes, any ordinary shares that are issuable upon exercise, conversion or exchange of outstanding options or other securities or reserved under any equity plan maintained by us, or the exercise of any outstanding warrants and/or pre-funded warrants.

In addition to the ability to participate generally in shareholder votes to the extent of their ownership of our ordinary shares, pursuant to the 2020 Investor Rights Agreement, for so long as Sarissa and its affiliates own at least 12.5% of our outstanding ordinary shares on a fully diluted basis (assuming the conversion, exchange or exercise of all securities or other instruments or rights convertible into or exercisable or exchangeable for ordinary shares), Sarissa will have the right to designate two directors to our board of directors and, for so long as Sarissa and its affiliates own at least 5% but less than 12.5%, Sarissa will have the right to designate one director to our board of directors. Also, some of the other holders of Exchangeable Notes are affiliates of current members of our board of directors. As a result, Sarissa and shareholders affiliated with our directors have significant influence over the election of directors to our board or directors and other matters.

In addition, pursuant to the terms of the 2020 Investor Rights Agreement, for so long as Sarissa owns 10% of our outstanding ordinary shares on a fully diluted basis (assuming the conversion, exchange or exercise of all securities or other instruments or rights convertible into or exercisable or exchangeable for ordinary shares), Sarissa will have a right of first offer with respect to our future proposed equity financings up to that portion of such new securities which equals Sarissa's percentage ownership of our outstanding ordinary shares on a fully diluted basis, subject to specified exceptions for certain exempt issuances and pursuant to specified procedures. Moreover, Sarissa and other shareholders affiliated with our directors have certain veto rights with respect to negative covenants in the EN Indenture and the RLN Indenture.

As a result of the voting power and board designation rights of these holders, the ability of other shareholders to influence our management and policies could be limited.

***The issuance of additional ordinary shares may dilute our existing shareholders' level of ownership in our Company or require us to relinquish rights.***

Any issuance of securities we may undertake, whether in the future to raise additional capital or upon exchange or exercise of outstanding convertible securities, could cause the price of our ordinary shares to decline, or require us to issue shares at a price that is lower than that paid by holders of our ordinary shares in the past, which would result in those newly issued shares being dilutive.

In addition, the Exchangeable Notes are exchangeable for ordinary shares, cash or a combination of ordinary shares and cash, at our election, upon the terms and conditions specified therein. If we elect for physical settlement, the issuance of ordinary shares for the Exchangeable Notes may dilute the ownership percentage or voting power of our shareholders. The warrants that we issued the purchasers and the designees of the placement agent in connection with the June 3 Offering, the June 30 Offering and the October Offering are exercisable at any time until a specified expiration date, and any exercise of such warrants will increase the number of shares outstanding, which may dilute the ownership percentage or voting power of our shareholders. Further, the pre-funded warrants that we issued to certain purchasers in connection with the October Offering are exercisable at any time without a specified expiration date. Additionally, the exercise of outstanding options and restricted share units under our equity incentive plans or exercise of outstanding warrants, including warrants issued to SVB and Life Sciences Fund II LLC, for ordinary shares may also dilute the ownership percentage or voting power of our shareholders.

Further, if we obtain funds through the sale of equity or a debt financing or through the issuance of convertible debt or preference securities, these securities would likely have rights senior to the rights of our ordinary shareholder, which could impair the value of our ordinary shares. Any debt financing we enter into may include covenants that limit our flexibility in conducting our business. We also could be required to seek funds through arrangements with collaborators or others, which might require us to relinquish valuable rights to our intellectual property or product candidates that we would have otherwise retained.

***Sales of a substantial number of our ordinary shares in the public market, or the perception that these sales could occur, could cause our share price to fall.***

A substantial portion of our outstanding ordinary shares can be traded without restriction at any time. If our current shareholders sell, or indicate an intention to sell, substantial amounts of our ordinary shares in the public market, the trading price of our ordinary shares could decline.

A portion of our outstanding ordinary shares is currently restricted as a result of federal securities laws but can be sold at any time subject to applicable volume limitations.

In addition, the Exchangeable Notes are exchangeable for our ordinary shares upon the terms and conditions specified therein. Pursuant to the 2020 Investor Rights Agreement, we have filed a registration statement covering the ordinary shares issuable in connection with the exchange of the Exchangeable Notes issued as part of the Private Placement, among other securities, and the ordinary shares issuable in connection with the exchange of the Exchangeable Notes issued in connection with the Rights Offering are also covered by a registration statement. Also, in connection with our June 3 Offering and June 30 Offering, we filed a registration statement providing for the resale by the purchasers in such offerings of ordinary shares issued and issuable upon exercise of the warrants purchased in such offerings, and the ordinary shares and ordinary shares underlying the warrants and pre-funded warrants issued in the October Offering are covered by a registration statement. As a result, the shares issuable upon exchange of such notes and upon exercise of such warrants are able to be sold by the holders thereof without restrictions, subject to compliance with securities laws.

Furthermore, ordinary shares that are issuable upon exercise of outstanding options or reserved for future issuance under our equity incentive plans or are issuable upon exercise of our other outstanding warrants will become eligible for sale in the public market to the extent permitted by the provisions of various vesting schedules or performance criteria, and applicable securities laws. If any of these additional ordinary shares are sold, or if it is perceived that they will be sold, in the public market, the trading price of our ordinary shares could decline.

***The number of ordinary shares underlying our outstanding warrants, pre-funded warrants and convertible securities is significant in relation to our currently outstanding ordinary shares, which could have a negative effect on the market price of our ordinary shares and make it more difficult for us to raise funds through future equity offerings.***

In connection with the initial \$15 million draw under the Loan and Security Agreement with SVB, we issued SVB and Life Sciences Fund II LLC warrants to purchase an aggregate of 312,500 Series B convertible preferred shares (which converted into warrants to purchase 19,890 ordinary shares upon our IPO) at an exercise price of \$18.85 per share (as adjusted). If the second term loan had been drawn down, each of SVB and LSF would have been automatically entitled to purchase additional ordinary shares in an aggregate amount equal to 2.50% of the second term loan divided by the applicable exercise price.

As part of the June 3 Offering, we issued warrants to the June 3 Purchasers exercisable for an aggregate of up to 1,485,885 ordinary shares at an exercise price of \$1.62 per share with an expiry date of December 5, 2025. We also issued warrants to designees of the placement agent exercisable for up to 208,023 ordinary shares at an exercise price of \$2.1031 per share with an expiry date of June 3, 2025.

As part of the June 30 Offering, we issued warrants to the June 30 Purchasers exercisable for an aggregate of up to 1,686,343 ordinary shares at an exercise price of \$1.42 per share with an expiry date of January 2, 2026. We also issued warrants to designees of the placement agent exercisable for up to 236,088 ordinary shares at an exercise price of \$1.8531 per share with an expiry date of June 30, 2025.

As part of the October Offering, we issued pre-funded warrants exercisable for an aggregate of 11,411,539 ordinary shares and warrants exercisable for an aggregate of 20,192,307 ordinary shares. We also issued warrants to designees of the placement agent exercisable for 1,884,615 ordinary shares.

In addition, the Exchangeable Notes are exchangeable for our ordinary shares, cash or a combination of ordinary shares and cash, at an exchange rate of 1,286.1845 shares per \$1,000 of principal and interest on the Exchangeable Notes (equivalent to an exchange price of \$0.7775 per ordinary share), subject to future adjustment, at any time on or after January 21, 2021.

As of October 31, 2020, all of these warrants, pre-funded warrants to purchase 5,126,924 ordinary shares and \$51.8 million principal amount of Exchangeable Notes remained outstanding and, upon exercise in full of these warrants and pre-funded warrants and physical settlement of the Exchangeable Notes, the shares issuable upon exercise and/or physical settlement, as applicable, would represent a significant portion of our outstanding ordinary shares (assuming exercise of all the warrants and remaining pre-funded warrants and a full exchange of all outstanding Exchangeable Notes and excluding any additional ordinary shares that issuable to satisfy accrued and unpaid interest due upon exchange of any Exchangeable Notes, any ordinary shares that are issuable upon exercise, conversion or exchange of outstanding options or other securities or reserved under any equity plan maintained by us). The warrants and pre-funded warrants issued as part of the June 3 Offering, the June 30 Offering and the October Offering became exercisable on the closing of each such offering.

In connection with our June 3 Offering and July 30 Offering of ordinary shares and warrants, we have filed a registration statement providing for the resale by the purchasers in such offerings of ordinary shares issued and issuable upon exercise of the warrants purchased in such offerings. The ordinary shares issuable upon exercise of the warrants and pre-funded warrants issued as part of the October Offering are also covered by a registration statement. Pursuant to the 2020 Investor Rights Agreement, we have filed a registration statement covering the ordinary shares issuable in connection with the exchange of the Exchangeable Notes issued as part of the Private Placement, among other securities, and the ordinary shares issuable in connection with the exchange of the Exchangeable Notes issued in connection with the Rights Offering are also covered by a registration statement. As a result, the shares issuable upon exercise of such warrants and pre-funded warrants and upon physical settlement of the Exchangeable Notes are able to be sold by the holder thereof without restrictions, subject to compliance with securities laws.

Sales of these shares could cause the market price of our ordinary shares to decline significantly. Furthermore, if our share price rises, the holders of these warrants and pre-funded warrants may be more likely to exercise their warrants and pre-funded warrants and sell a large number of shares, which could negatively impact the market price of our ordinary shares and reduce or eliminate any appreciation in our share price that might otherwise occur.

We may also find it more difficult to raise additional equity capital while these warrants, pre-funded warrants and Exchangeable Notes are outstanding. At any time during which these warrants are likely to be exercised, we may be unable to obtain additional equity capital on more favorable terms from other sources. In addition, the exercise of these warrants and pre-funded warrants and physical settlement of the Exchangeable Notes would result in a significant increase in the number of our outstanding ordinary shares, which could have the effect of significantly diluting the interest of our current shareholders, and following such exercise the former holders of such warrants and pre-funded warrants could have significant influence over our company as a result of the ordinary shares they acquire upon such exercise.

***Irish law differs from the laws in effect in the United States and may afford less protection to holders of our securities.***



Shareholders may have difficulties enforcing, in actions brought in courts in jurisdictions located outside the United States, judgments obtained in the U.S. courts under the U.S. securities laws. In particular, if a shareholder sought to bring proceedings in Ireland based on U.S. securities laws, the Irish court might consider:

- that it did not have jurisdiction;
- that it was not the appropriate forum for such proceedings;
- that, applying Irish conflict of law rules, U.S. law (including U.S. securities laws) did not apply to the relationship between the shareholder and us or our directors and officers; or
- that the U.S. securities laws were of a penal nature and violated Irish public policy and should not be enforced by the Irish court.

It may not be possible to enforce court judgments obtained in the United States against us in Ireland based on the civil liability provisions of the U.S. federal or state securities laws. In addition, there is some uncertainty as to whether the courts of Ireland would recognize or enforce judgments of U.S. courts obtained against us or our directors or officers based on the civil liabilities provisions of the U.S. federal or state securities laws. We have been advised that the United States currently does not have a treaty with Ireland providing for the reciprocal recognition and enforcement of judgments in civil and commercial matters. Therefore, a final judgment for the payment of money rendered by any U.S. federal or state court based on civil liability, whether or not based solely on U.S. federal or state securities laws, would not automatically be enforceable in Ireland.

A judgment obtained against us will be enforced by the courts of Ireland only if the following general requirements are met:

- U.S. courts must have had jurisdiction in relation to the particular defendant according to Irish conflict of law rules (the submission to jurisdiction by the defendant would satisfy this rule); and
- the judgment must be final and conclusive and the decree must be final and unalterable in the court which pronounces it.

A judgment can be final and conclusive even if it is subject to appeal or even if an appeal is pending. But where the effect of lodging an appeal under the applicable law is to stay execution of the judgment, it is possible that in the meantime the judgment may not be actionable in Ireland. It remains to be determined whether final judgment given in default of appearance is final and conclusive. Irish courts may also refuse to enforce a judgment of the U.S. courts which meets the above requirements for one of the following reasons:

- the judgment is not for a definite sum of money;
- the judgment was obtained by fraud;
- the enforcement of the judgment in Ireland would be contrary to natural or constitutional justice;
- the judgment is contrary to Irish public policy or involves certain U.S. laws which will not be enforced in Ireland; or
- jurisdiction cannot be obtained by the Irish courts over the judgment debtors in the enforcement proceedings by personal service in Ireland or outside Ireland under Order 11 of the Irish Superior Courts Rules.

As an Irish company, we are governed by the Irish Companies Act 2014 (the Irish Companies Act), which differs in some material respects from laws generally applicable to U.S. corporations and shareholders, including, among others, differences relating to interested director and officer transactions and shareholder lawsuits. Likewise, the duties of directors and officers of an Irish company generally are owed to the company only. Shareholders of Irish companies generally do not have a personal right of action against directors or officers of the company and may exercise such rights of action on behalf of the company only in limited circumstances. Accordingly, holders of our securities may have more difficulty protecting their interests than would holders of securities of a corporation incorporated in a jurisdiction of the United States.

Our shareholders should also be aware that Irish law does not allow for any form of legal proceedings directly equivalent to the class action available in the United States.

***We have incurred and will continue to incur increased costs as a result of operating as a public company, and our management is required to devote substantial time and attention to our public reporting obligations.***

As a publicly-traded company, we have incurred and will continue to incur significant additional legal, accounting and other expenses compared to historical levels. In addition, new and changing laws, regulations and standards relating to corporate governance and public disclosure, including the Dodd-Frank Wall Street Reform and Consumer Protection Act and the rules and regulations

promulgated and to be promulgated thereunder, as well as under the Sarbanes-Oxley Act of 2002 (the Sarbanes-Oxley Act), the Jumpstart Our Business Startups Act of 2012 (the JOBS Act) and the rules and regulations of the SEC, and the Nasdaq Global Market, have created uncertainty for public companies and increased our costs and time that our board of directors and management must devote to complying with these rules and regulations. We expect these rules and regulations to increase our legal and financial compliance costs substantially and lead to diversion of management time and attention from revenue-generating activities.

***We are an “emerging growth company,” and the reduced disclosure requirements applicable to “emerging growth companies” may make our ordinary shares less attractive to investors.***

We are an “emerging growth company” as defined in the JOBS Act, and, therefore, we may take advantage of reduced disclosure and regulatory requirements that are otherwise generally applicable to public companies, including not being required to have our internal control over financial reporting audited by our independent registered public accounting firm pursuant to Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and any golden parachute payments. We may take advantage of these reduced disclosure and regulatory requirements until we are no longer an “emerging growth company.” We may remain an “emerging growth company” until as late as December 31, 2023 (the fiscal year-end following the fifth anniversary of our IPO), although we may cease to be an “emerging growth company” earlier under certain circumstances, including if the market value of our ordinary shares that is held by non-affiliates exceeds \$700 million as of any June 30, in which case we would cease to be an “emerging growth company” as of the following December 31, or if our gross revenue exceeds \$1.07 billion in any fiscal year. In addition, the JOBS Act provides that an emerging growth company can delay adopting new or revised accounting standards until those standards apply to private companies. We have irrevocably elected not to avail ourselves of this delayed adoption of new or revised accounting standards and, therefore, we are subject to the same new or revised accounting standards as public companies that are not emerging growth companies.

The exact implications of the JOBS Act are still subject to interpretations and guidance by the SEC and other regulatory agencies, and we may not be able to take advantage of all of the benefits of the JOBS Act. In addition, investors may find our ordinary shares less attractive if we rely on the exemptions and relief granted by the JOBS Act. If some investors find our ordinary shares less attractive as a result, there may be a less active trading market for our ordinary shares and our share price may decline or become more volatile.

***If we fail to maintain an effective system of disclosure controls and internal control over financial reporting, our ability to produce timely and accurate financial statements or comply with applicable regulations could be impaired.***

As a public company, we are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act, the Sarbanes-Oxley Act, and the rules and regulations of the applicable listing standards of the Nasdaq Global Market. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. Our current controls and any new controls that we develop may become inadequate because of changes in conditions in our business. Further, weaknesses in our disclosure controls and internal control over financial reporting may be discovered in the future. Any failure to develop or maintain effective controls or any difficulties encountered in their implementation or improvement could harm our results of operations or cause us to fail to meet our reporting obligations and may result in a restatement of our consolidated financial statements for prior periods. Any failure to implement and maintain effective internal control over financial reporting could also adversely affect the results of periodic management evaluations and annual independent registered public accounting firm attestation reports regarding the effectiveness of our internal control over financial reporting that we will eventually be required to include in our periodic reports that will be filed with the SEC. Ineffective disclosure controls and procedures and internal control over financial reporting could also cause investors to lose confidence in our reported financial and other information, which would likely have a negative effect on the trading price of our ordinary shares. In addition, if we are unable to continue to meet these requirements, we may not be able to remain listed on the Nasdaq Global Market.

Pursuant to Section 404 of the Sarbanes-Oxley Act, we are required to furnish a report by our management on our internal control over financial reporting. However, while we remain an emerging growth company, we will not be required to include an attestation report on internal control over financial reporting issued by our independent registered public accounting firm. To achieve compliance with Section 404, we engaged and continue to engage in a process to document and evaluate our internal control over financial reporting, which is both costly and challenging. In this regard, we need to continue to dedicate internal resources, potentially engage outside consultants and adopt a detailed work plan to assess and document the adequacy of internal control over financial reporting, continue steps to improve control processes as appropriate, validate through testing that controls are functioning as documented and implement a continuous reporting and improvement process for internal control over financial reporting. Despite our efforts, there is a risk that we will not be able to conclude, within the prescribed timeframe or at all, that our internal control over financial reporting is effective as required by Section 404. If we identify one or more material weaknesses, it could result in an adverse reaction in the financial markets due to a loss of confidence in the reliability of our financial statements. Additionally, we will be unable to issue securities in the public markets through the use of a shelf registration if we are not in compliance with Section 404.

Any failure to maintain effective disclosure controls and internal control over financial reporting could have a material and adverse effect on our business, results of operations and financial condition and could cause a decline in the trading price of our ordinary shares.

***We have never paid cash dividends, do not anticipate paying any cash dividends and our ability to pay dividends, or repurchase or redeem our ordinary shares, is limited by law.***

We have never declared or paid cash dividends on our ordinary shares and do not anticipate paying any dividends on our ordinary shares in the foreseeable future. Any determination to pay dividends in the future will be at the sole discretion of our board of directors after considering our financial condition, results of operations, capital requirements, contractual restrictions, general business conditions and other factors our board of directors deems relevant, and subject to compliance with applicable laws, including the Irish Companies Act which requires Irish companies to have distributable reserves available for distribution equal to or greater than the amount of the proposed dividend. Distributable reserves are the accumulated realized profits of the company that have not previously been utilized in a distribution or capitalization less accumulated realized losses that have not previously been written off in a reduction or reorganization of capital. Unless the company creates sufficient distributable reserves from its business activities, the creation of such distributable reserves would involve a reduction of the company's share premium account, which would require the approval of (i) 75% of our shareholders present and voting at a shareholder meeting, and (ii) the Irish High Court. In the event that we do not undertake a reduction of capital to create distributable reserves, no distributions by way of dividends, share repurchases or otherwise will be permitted under Irish law until such time as the company has created sufficient distributable reserves from its business activities. In addition, our ability to pay cash dividends is currently prohibited by the terms of our secured credit facility with SVB.

Accordingly, the only opportunity for a shareholder to achieve a return on their investment in our company is expected to be if the market price of our ordinary shares appreciates and they sell their ordinary shares at a profit.

***Anti-takeover provisions in our Articles of Association and under Irish law could make an acquisition of us more difficult, limit attempts by our shareholders to replace or remove our current directors and management team, and limit the market price of our ordinary shares.***

Our Articles of Association contain provisions that may delay or prevent a change of control, discourage bids at a premium over the market price of our ordinary shares, and adversely affect the market price of our ordinary shares and the voting and other rights of the holders of our ordinary shares. These provisions include:

- dividing our board of directors into three classes, with each class serving a staggered three-year term;
- permitting our board of directors to adopt a shareholder rights plan upon such terms and conditions as it deems expedient and in our best interests;
- permitting our board of directors to issue preference shares, with such rights, preferences and privileges as they may designate;
- establishing an advance notice procedure for shareholder proposals to be brought before an annual meeting, including proposed nominations of persons for election to our board of directors; and
- imposing particular approval and other requirements in relation to certain business combinations.

These provisions would apply even if the offer may be considered beneficial by some shareholders. In addition, these provisions may frustrate or prevent any attempts by our shareholders to replace or remove our current management team by making it more difficult for shareholders to replace members of our board of directors, which is responsible for appointing the members of our management.

***Provisions in the EN Indenture and RLN Indenture may deter or prevent a business combination that may be favorable to the holders of our ordinary shares.***

If a fundamental change occurs prior to the interest record date of the Exchangeable Notes, holders of the Exchangeable Notes will have the right, at their option, to require us to repurchase for cash all or a portion of their Exchangeable Notes. The negative covenants in the EN Indenture also prohibit us from undergoing a change of control transaction, other than a transaction in which each Exchangeable Note holder receives cash consideration of at least 300% of the outstanding principal amount of its notes. Furthermore, the EN Indenture prohibits us from engaging in certain mergers or acquisitions unless, among other things, the surviving entity assumes our obligations under the Exchangeable Notes, the EN Indenture and the guarantees. In addition, the RLN Indenture prohibits us from engaging in certain mergers or acquisitions unless, among other things, the surviving entity assumes our obligations under the RLNs, the RLN Indenture and the guarantees and the RLN Indenture prohibits us from selling, transferring or assigning certain assets and prohibits Iterum Bermuda, the Guarantors or any of our significant subsidiaries from undergoing a change of control, other than in connection with a change of control of us. These and other provisions in the EN Indenture and the RLN

indenture could deter or prevent a third party from acquiring us even when the acquisition may be favorable to the holders of our ordinary shares.

***Irish law differs from the laws in effect in the United States with respect to defending unwanted takeover proposals and may give our board of directors less ability to control negotiations with hostile offerors.***

Following the authorization for trading of our ordinary shares on the Nasdaq Global Market, we became subject to the Irish Takeover Panel Act, 1997, Irish Takeover Rules 2013 (Irish Takeover Rules). Under the Irish Takeover Rules, our board of directors is not permitted to take any action that might frustrate an offer for our ordinary shares once our board of directors has received an approach that may lead to an offer or has reason to believe that such an offer is or may be imminent, subject to certain exceptions. Potentially frustrating actions such as (i) the issue of shares, options, restricted share units or convertible securities, (ii) material acquisitions or disposals, (iii) entering into contracts other than in the ordinary course of business or (iv) any action, other than seeking alternative offers, which may result in frustration of an offer, are prohibited during the course of an offer or at any earlier time during which our board of directors has reason to believe an offer is or may be imminent. These provisions may give our board of directors less ability to control negotiations with hostile offerors than would be the case for a corporation incorporated in a jurisdiction of the United States.

***The operation of the Irish Takeover Rules may affect the ability of certain parties to acquire our ordinary shares.***

Under the Irish Takeover Rules, if an acquisition of ordinary shares were to increase the aggregate holding of the acquirer and its concert parties to ordinary shares that represent 30% or more of the voting rights of the company, then the acquirer and/or, in certain circumstances, its concert parties would be required (except with the consent of the Irish Takeover Panel) to make an offer for all of the outstanding ordinary shares at a price not less than the highest price paid for the ordinary shares by the acquirer or its concert parties during the previous 12 months (known as a mandatory cash offer). This requirement would also be triggered by an acquisition of ordinary shares by a person holding (together with its concert parties) ordinary shares that represent between 30% and 50% of the voting rights in the company, if the effect of such acquisition was to increase that person's percentage of the voting rights by 0.05% within any 12 month period. The EN Indenture provides that if a holder of Exchangeable Notes notifies us that they would be subject to this mandatory offer requirement, we will only issue to such holder such number of ordinary shares that can be issued without triggering a mandatory cash offer on an exchange with the remaining ordinary shares to be delivered as promptly as practicable after the holder notifies us that they would no longer be subject to a mandatory cash offer request.

Under the Irish Takeover Rules, certain separate concert parties are presumed to be acting in concert. Our board of directors and their relevant family members, related trusts and "controlled companies" are presumed to be acting in concert with any corporate shareholder who holds 20% or more of our shares. The application of these presumptions may result in restrictions upon the ability of any such concert parties and/or members of our board of directors and the other holders of the Exchangeable Notes to acquire more of our securities, including under the terms of the Exchangeable Notes and any executive incentive arrangements. We, or any such holders, may consult with the Irish Takeover Panel from time to time with respect to the application of this presumption and the restrictions on the ability to acquire further securities, although we are unable to provide any assurance as to whether the Irish Takeover Panel would overrule this presumption. Accordingly, the application of the Irish Takeover Rules may restrict the ability of certain of our shareholders and directors to acquire our ordinary shares.

In addition, as of October 31, 2020, based on the current exchange rate pursuant to the EN Indenture and assuming physical settlement, we may be required to issue to Sarissa, upon exchange of the Exchangeable Notes it purchased in the Private Placement, ordinary shares representing approximately 17.6% of our fully diluted issued share capital (assuming a full exchange of all outstanding Exchangeable Notes and excluding any additional ordinary shares issuable to satisfy accrued and unpaid interest due upon exchange of any Exchangeable Notes, any ordinary shares that are issuable upon exercise, conversion or exchange of outstanding options or other securities or reserved under any equity plan maintained by us, or the exercise of any outstanding warrants or pre-funded warrants) or approximately 31.0% of our issued share capital (if only the Exchangeable Notes held by Sarissa were exchanged and the remaining holders of Exchangeable Notes did not exchange and excluding any additional ordinary shares issuable to satisfy accrued and unpaid interest due upon exchange of any Exchangeable Notes, any ordinary shares that are issuable upon exercise, conversion or exchange of outstanding options or other securities or reserved under any equity plan maintained by us, or the exercise of any outstanding warrants or pre-funded warrants). The final number of ordinary shares issuable to Sarissa pursuant to the Exchangeable Notes will depend on the extent to which we elect physical settlement as the exchange method and on the exchange rate at the time of exchange, which may be adjusted pursuant to the terms of the EN Indenture. An exchange by Sarissa could result in our being obligated to issue to Sarissa ordinary shares representing 30% or more of our issued voting share capital. We received a waiver from the Irish Takeover Panel of any resulting obligation of Sarissa to make a general offer as a result of an exchange of these

Exchangeable Notes, and our shareholders approved a maximum potential issuance to Sarissa of up to 60% of our ordinary shares as a result of an exchange of these Exchangeable Notes without Sarissa incurring such a mandatory offer obligation.

***We are currently limited in our authorized share capital and share issuance authorities to issue additional ordinary shares to raise additional capital, and the number of ordinary shares issuable upon exercise or exchange of our convertible securities could increase.***

Under Irish law, our authorized share capital can be increased by an ordinary resolution of our shareholders and the directors may issue new ordinary or preferred shares up to a maximum amount equal to the authorized but unissued share capital, without shareholder approval, once authorized to do so by our Articles of Association or by an ordinary resolution of our shareholders. Additionally, subject to specified exceptions, Irish law grants statutory preemption rights to existing shareholders where shares are being issued for cash consideration but allows shareholders to disapply such statutory preemption rights either in our Articles of Association or by way of special resolution. Such disapplication can either be generally applicable or be in respect of a particular allotment of shares. We are currently authorized to issue up to 150,000,000 ordinary shares of \$0.01 each. In addition, Irish law requires that the board of directors must be authorized by the shareholders in order to issue shares and to dis-apply statutory pre-emption rights. The authorization of the directors to issue shares and the disapplication of statutory preemption rights must both be renewed by the shareholders at least every five years. Our board of directors is currently authorized to issue up to the amount of our authorized share capital, and to dis-apply the statutory pre-emption right for such issuances.

We are limited in the number of ordinary shares we can issue in order to raise capital for general corporate purposes. In addition, based on the current exchange rate of the Exchangeable Notes, as adjusted following the October Offering, and assuming physical settlement, our outstanding Exchangeable Notes would exchange into an aggregate of 66,634,649 ordinary shares (excluding ordinary shares issuable upon accrued but unpaid interest). In addition, the EN Indenture requires us to increase the exchange rate upon certain events, which would increase the number of ordinary shares deliverable on an exchange, and the exercise price and the number of shares issuable under our outstanding warrants are subject to adjustment pursuant to the terms of the applicable warrant.

We will likely seek an increase of our authorized shares in the near future (and the related authorities to allot and issue such additional shares and to disapply statutory pre-emption rights on such an issuance) and may be required to seek additional increases (and related authorities) in the future even if such increase in our authorized shares is approved. If such approval is not obtained, we could be limited in our ability to issue ordinary shares on exchange of our Exchangeable Notes and could be required to settle any exchanges with cash to the extent we have limited authorized shares available. If we elect to settle any exchanges in cash, or we do not have authorized and available ordinary shares needed to satisfy physical exchange of the Exchangeable Notes, our liquidity could be adversely affected and/or we may not have sufficient cash available at that time to satisfy such cash settlement. In addition, in the event we elect to settle exchanges of Exchangeable Notes with ordinary shares, we would be limited in our ability to issue equity for other purposes which could adversely affect our shareholders and our ability to raise additional capital. We cannot provide any assurance that these authorizations will always be approved, which could limit our ability to issue equity and thereby adversely affect the holders of our securities.

***We could be subject to securities class action litigation.***

In the past, securities class action litigation has often been brought against a company following a decline in the market price of its securities. This risk is especially relevant for us because pharmaceutical and biotechnology companies have experienced significant share price volatility in recent years. In addition, we may be subject to securities class action litigation as a result of the financings. If we face any such litigation, we could incur substantial costs defending the lawsuit and the time and attention of our management would be diverted from our business and operations, which could harm our business. We could also be subject to damages claims if we are found to be at fault in connection with a decline in our share price.

## Item 2. Unregistered Sales of Equity Securities

### *Recent Sales of Unregistered Securities*

The following sets forth information regarding all securities issued and sold by us within the three months ended September 30, 2020 that were not registered under the Securities Act of 1933, as amended (the "Securities Act"):

- (1) On June 30, 2020, we entered into a securities purchase agreement with Intracoastal Capital, LLC, Armistice Capital Master Fund, Ltd., and Anson Investments Master Fund LP. Pursuant to the securities purchase agreement, we issued to such investors warrants to purchase up to 1,686,343 ordinary shares. The warrants have an exercise price of \$1.42 per share, are immediately exercisable and expire on January 2, 2026. H. C. Wainwright & Co., LLC ("Wainwright") acted as placement agent for the offering and received commissions of \$350,000 in connection with the offering. As partial consideration for the services provided to us by Wainwright as placement agent for the offering, we issued placement agent warrants to purchase an aggregate of 236,088 ordinary shares to designees of Wainwright. The placement agent warrants have an exercise price of \$1.8531 per share, are immediately exercisable and expire on June 30, 2025.

The offer, sale and issuance of the securities in the private placement transaction described above were exempt from registration under Section 4(a)(2) of the Securities Act (or Regulation D promulgated thereunder) in that the transactions were by an issuer not involving any public offering and appropriate legends were placed upon the securities issued in this transaction. The sale of these securities were made without any general solicitation or advertising.

**Item 6. Exhibits.**

The following is a list of exhibits filed or furnished as part of this Quarterly Report on Form 10-Q:

Exhibit No.	Description of Document	Filed with this report	Incorporated by Reference herein from Form or Schedule	Filing Date	SEC File Number
<a href="#">4.1</a>	<a href="#">Form of Ordinary Share Purchase Warrant to Subscribe for Ordinary Shares issued to purchasers in connection with the Securities Purchase Agreement dated October 22, 2020</a>		Form 8-K (Exhibit 4.1)	October 27, 2020	001-38503
<a href="#">4.2</a>	<a href="#">Form of Pre-Funded Ordinary Share Purchase Warrant to Subscribe for Ordinary Shares issued to designees of Placement Agent in connection with the offering completed on October 27, 2020</a>		Form 8-K (Exhibit 4.2)	October 27, 2020	001-38503
<a href="#">4.3</a>	<a href="#">Form of Placement Agent Ordinary Share Purchase Warrant to Subscribe for Ordinary Shares issued to designees of H.C. Wainwright &amp; Co., LLC in connection with the Placement Agent Agreement dated October 22, 2020</a>		Form 8-K (Exhibit 4.3)	October 27, 2020	001-38503
<a href="#">10.1</a>	<a href="#">Securities Purchase Agreement, dated as of October 22, 2020, by and among Iterum Therapeutics plc and the purchasers party thereto</a>	X			
<a href="#">31.1</a>	<a href="#">Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>	X			
<a href="#">31.2</a>	<a href="#">Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>	X			
<a href="#">32.1</a>	<a href="#">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</a>	X			
<a href="#">32.2</a>	<a href="#">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</a>	X			
101.INS	XBRL Instance Document	X			
101.SCH	XBRL Taxonomy Extension Schema Document	X			
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document	X			
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document	X			
101.LAB	XBRL Taxonomy Extension Label Linkbase Document	X			
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document	X			

**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.

ITERUM THERAPEUTICS PLC

Date: November 16, 2020

By: \_\_\_\_\_  
/s/ Corey Fishman  
**Corey Fishman**  
President and Chief Executive Officer

Date: November 16, 2020

By: \_\_\_\_\_  
/s/ Judith Matthews  
**Judith Matthews**  
Chief Financial Officer



## SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this “Agreement”) is dated as of October 22, 2020, between Iterum Therapeutics plc, an Irish incorporated public limited company (the “Company”), and each purchaser identified on the signature pages hereto (each, including its successors and assigns, a “Purchaser” and collectively the “Purchasers”).

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an effective registration statement under the Securities Act of 1933, as amended (the “Securities Act”), the Company desires to issue and sell to each Purchaser, and each Purchaser, severally and not jointly, desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and each Purchaser agree as follows:

ARTICLE I.  
DEFINITIONS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1.1:

“Acquiring Person” shall have the meaning ascribed to such term in Section 4.5.

“Action” shall have the meaning ascribed to such term in Section 3.1(j).

“Additional Subscription Amount” means, as to each Purchaser, the aggregate amount equal to the product of (i) the number of Ordinary Shares underlying the Ordinary Share Warrants purchased by a Purchaser multiplied by (ii) \$0.01 in connection with the Ordinary Share Warrants, which Additional Subscription Amount shall be paid in United States dollars and in immediately available funds by the Purchaser at Closing.

“Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

“Board of Directors” means the board of directors of the Company.

“Business Day” means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to “stay at home”, “shelter-in-place”, “non-essential employee” or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York generally are open for use by customers on such day.

“Closing” means the closing of the purchase and sale of the Securities pursuant to Section 2.1.

“Closing Date” means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchasers’ obligations to pay the Subscription Amount and (ii) the Company’s obligations to deliver the Securities, in each case, have been satisfied or waived, but in no event later than the second (2<sup>nd</sup>) Trading Day following the date hereof, unless otherwise agreed in writing by the Company and a Purchaser with respect to the payment of such Purchaser’s Subscription Amount and/or the delivery of such Purchaser’s Shares.

“Commission” means the United States Securities and Exchange Commission.

“Company Irish Counsel” means A&L Goodbody, with offices located at International Financial Services Centre, North Wall Quay, Dublin 1, D01H104, Ireland.

“Company U.S. Counsel” means Wilmer Cutler Pickering Hale and Dorr LLP, with offices located at 7 World Trade Center, 250 Greenwich Street, New York, NY 10007.

“Disclosure Schedules” means the Disclosure Schedules of the Company delivered concurrently herewith.

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“Disclosure Time” means, (i) if this Agreement is signed on a day that is not a Trading Day or after 9:00 a.m. (New York City time) and before midnight (New York City time) on any Trading Day, 9:01 a.m. (New York City time) on the Trading Day immediately following the date hereof, unless otherwise instructed as to an earlier time by the Placement Agent and the Company, and (ii) if this Agreement is signed between midnight (New York City time) and 9:00 a.m. (New York City time) on any Trading Day, no later than 9:01 a.m. (New York City time) on the date hereof, unless otherwise instructed as to an earlier time by the Placement Agent and the Company.

“Evaluation Date” shall have the meaning ascribed to such term in Section 3.1(s).

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

“Exempt Issuance” means the issuance of (a) Ordinary Shares or options or restricted share units or other equity awards to employees, officers or directors of the Company pursuant to any share or option plan duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company, (b) securities upon the exercise or exchange of or conversion of any Securities issued hereunder and/or other securities exercisable or exchangeable for or convertible into Ordinary Shares issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in accordance with their terms) or to extend the term of such securities, (c) securities issued pursuant to Section 6 of the Investor Rights Agreement, dated as of January 21, 2020, by and among Iterum Therapeutics Bermuda Limited, the Company, Iterum Therapeutics International Limited, Iterum Therapeutics US Limited, Iterum Therapeutics US Holding Limited and the Purchasers (collectively, the “Parties”) named in that certain Securities Purchase Agreement by and among the Parties dated as of January 16, 2020 (the “Investor Rights Agreement”), (d) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, provided that such securities are issued as “restricted securities” (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement in connection therewith during the prohibition period in Section 4.12 herein, and provided that any such issuance shall only be to a Person (or to the equityholders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities and (e) up to \$10,499,999.25 of Securities, including Shares, Ordinary Share Warrants, and Pre-Funded Warrants issued to other purchasers pursuant to the Prospectus concurrently with the Closing at the Per Share Purchase Price or the Pre-Funded Warrant Purchase Price.

“FCPA” means the Foreign Corrupt Practices Act of 1977, as amended.

“FDA” shall have the meaning ascribed to such term in Section 3.1(hh).

“FDCA” shall have the meaning ascribed to such term in Section 3.1(hh).

“GAAP” shall have the meaning ascribed to such term in Section 3.1(h).

“Indebtedness” shall have the meaning ascribed to such term in Section 3.1(aa).

“Intellectual Property Rights” shall have the meaning ascribed to such term in Section 3.1(p).

“Liens” means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

“Material Adverse Effect” shall have the meaning assigned to such term in Section 3.1(b).

“Material Permits” shall have the meaning ascribed to such term in Section 3.1(n).

“Ordinary Share” means the ordinary shares of the Company, nominal value \$0.01 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

“Ordinary Share Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Ordinary Shares, including, without limitation, any debt, preferred share, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Ordinary Shares.

“Ordinary Share Warrants” means, collectively, the Ordinary Share purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Ordinary Share Warrants shall be exercisable immediately and have a term of exercise equal to five years, in the form of Exhibit A-1 attached hereto.

“Per Share Purchase Price” equals \$0.65, subject to adjustment for reverse and forward share splits, share dividends, share combinations and other similar transactions of the Ordinary Shares that occur after the date of this Agreement and prior to the Closing Date.

“Per Pre-Funded Warrant Purchase Price” equals \$0.64, subject to adjustment for reverse and forward share splits, share dividends, share combinations and other similar transactions of the Ordinary Shares that occur after the date of this Agreement and prior to the Closing Date.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint share company, government (or an agency or subdivision thereof) or other entity of any kind.

“Pharmaceutical Product” shall have the meaning ascribed to such term in Section 3.1(hh).

“Placement Agent” means H.C. Wainwright & Co., LLC.

“Proceeding” means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

“Pre-Funded Warrants” means, collectively, the Pre-Funded Ordinary Share purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Pre-Funded Warrants shall be exercisable immediately and shall expire when exercised in full, in the form of Exhibit A-2 attached hereto.

“Preliminary Prospectus” means any preliminary prospectus included in the Registration Statement, as originally filed or as part of any amendment thereto.

“Pricing Prospectus” means (i) the Preliminary Prospectus relating to the Securities that was included in the Registration Statement immediately prior to 11:55 p.m. (New York City time) on the date hereof and (ii) any free writing prospectus (as defined in the Securities Act) identified on Schedule A hereto, taken together.

“Prospectus” means the final prospectus filed for the Registration Statement.

“Purchaser Party” shall have the meaning ascribed to such term in Section 4.8.

“Registration Statement” means the effective registration statement on Form S-1 (File No. 333-249432), which registers the sale of the Shares, the Warrants and the Warrant Shares to the Purchasers.

“Required Approvals” shall have the meaning ascribed to such term in Section 3.1(e).

“Rule 144” means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“Rule 424” means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“Rule 462(b) Registration Statement” means any registration statement prepared by the Company registering additional Securities, which was filed with the Commission on or prior to the date hereof and became automatically effective pursuant to Rule 462(b) promulgated by the Commission pursuant to the Securities Act.

“SEC Reports” shall have the meaning ascribed to such term in Section 3.1(h).

“Securities” means the Shares, the Warrants and the Warrant Shares.

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

“Shares” means the Ordinary Shares issued or issuable to each Purchaser pursuant to this Agreement.

“Short Sales” means all “short sales” as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include locating and/or borrowing Ordinary Shares).

“Subscription Amount” means, as to each Purchaser, the aggregate amount to be paid for Shares and Warrants purchased hereunder as specified below such Purchaser’s name on the signature page of this Agreement and next to the heading “Subscription Amount,” in United States dollars and in immediately available funds.

“Subsidiary” means any subsidiary of the Company as set forth in the SEC Reports and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

“Trading Day” means a day on which the principal Trading Market is open for trading.

“Trading Market” means any of the following markets or exchanges on which the Ordinary Shares are listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange (or any successors to any of the foregoing).

“Transaction Documents” means this Agreement, the Warrants, all exhibits and schedules thereto and hereto and any other documents or agreements executed with the Purchasers in connection with the transactions contemplated hereunder.

“Transfer Agent” means Computershare Trust Company, N.A., the current transfer agent of the Company, and any successor transfer agent of the Company.

“Variable Rate Transaction” shall have the meaning ascribed to such term in Section 4.12(b).

“Warrants” means, collectively, the Ordinary Share Warrants and the Pre-Funded Warrants.

“Warrant Shares” means the Ordinary Shares issuable upon exercise of the Warrants.

## ARTICLE II. PURCHASE AND SALE

2.1 Closing. On the Closing Date, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to issue and sell, and the Purchasers, severally and not jointly, agree to purchase, up to an aggregate of \$7,000,000.15 of Shares and Ordinary Share Warrants; provided, however, that, to the extent that a Purchaser determines, in its sole discretion, that such Purchaser (together with such Purchaser’s Affiliates, and any Person acting as a group together with such purchaser or any of such Holder’s Affiliates) would beneficially own in excess of the Beneficial Ownership Limitation, or as such Purchaser may otherwise choose, in lieu of purchasing Shares and Ordinary Share Warrants such Purchaser may elect to purchase Pre-Funded Warrants and Ordinary Share Warrants in lieu of Shares and Ordinary Share Warrants in such manner to result in the same aggregate purchase price less the aggregate exercise price of such Pre-Funded Warrants being paid by such Purchaser to the Company. The “Beneficial Ownership Limitation” shall be 4.99% (or, at the election of the Purchaser at Closing, 9.99%) of the number of shares of the Ordinary Shares outstanding immediately after giving effect to the issuance of the Securities on the Closing Date. Each Purchaser’s Subscription Amount as set forth on the signature page hereto executed by such Purchaser shall be made available for “Delivery Versus Payment” settlement with the Company or its designee. The Company shall deliver to each Purchaser its respective Shares or Pre-Funded Warrants (as applicable to such Purchaser) and Ordinary Share Warrants as determined pursuant to Section 2.2(a) and the Company and each Purchaser shall deliver the other items set forth in Section 2.2 deliverable at the Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Closing shall occur at the offices of the Placement Agent or such other location as the parties shall mutually agree. Each Purchaser acknowledges that, concurrently with the Closing and pursuant to the Prospectus, the Company may sell up to \$10,499,999.25 of additional Shares and Ordinary Share Warrants or Pre-Funded Warrants and Ordinary Share Warrants to purchasers not party to this Agreement, less the aggregate Subscription Amount pursuant to this Agreement, and will issue to such purchasers such Shares and Ordinary Share Warrants or Pre-Funded Warrants and Ordinary Share Warrants in the same form and at the same Per Share Purchase Price or Per Pre-Funded Warrant Purchase Price. Unless otherwise directed by the Placement Agent, settlement of the Shares shall occur via “Delivery Versus Payment” (“DVP”) (i.e., on the Closing Date, the Company shall issue the Shares registered in the Purchasers’ names and addresses and released by the Transfer Agent directly to the account(s) at the Placement Agent identified by each Purchaser; upon receipt of such Shares, the Placement Agent shall promptly electronically deliver such Shares to the applicable Purchaser, and payment therefor shall be made by the Placement Agent (or its clearing firm) by wire transfer to the Company). Notwithstanding the foregoing, with respect to any Notice(s) of Exercise (as defined in the Ordinary Share Warrants and Pre-Funded Warrants, as applicable) delivered on or prior to 12:00 p.m. (New York City time) on the Closing Date, which may be delivered at any time after the time of execution of this Agreement, the Company agrees to deliver the Warrant Shares subject to such notice(s) by 4:00 p.m. (New York City time) on the Closing Date against payment therefor and the Closing Date shall be the Warrant Share Delivery Date (as defined in the Ordinary Share Warrants and Pre-Funded Warrants, as applicable) for purposes hereunder.

### 2.2 Deliveries.

(a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to each Purchaser the following:

- (i) this Agreement duly executed by the Company;
- (ii) a legal opinion of Company U.S. Counsel, in substantially the form set forth on Exhibit B hereto;
- (iii) a legal opinion of Company Irish Counsel, in substantially the form set forth on Exhibit C hereto;
- (iv) the Company shall have provided each Purchaser with the Company’s wire instructions, on Company letterhead and executed by the Chief Executive Officer or Chief Financial Officer;

(v) subject to the penultimate sentence of Section 2.1, a copy of the irrevocable instructions to the Transfer Agent instructing the Transfer Agent to deliver on an expedited basis via The Depository Trust Company Deposit or Withdrawal at Custodian system (“DWAC”) Shares equal to the portion of such Purchaser’s Subscription Amount applicable to the Shares divided by the Per Share Purchase Price (rounded down to the nearest whole Share), registered in the name of such Purchaser;

(i) for each Purchaser of Pre-Funded Warrants pursuant to Section 2.1, a Pre-Funded Warrant registered in the name of such Purchaser to purchase up to a number of shares of Ordinary Shares equal to the portion of such Purchaser’s Subscription Amount applicable to Pre-Funded Warrants divided by the Per Pre-Funded Warrant Purchase Price, with an exercise price equal to \$0.01, subject to adjustment therein;

(vi) an Ordinary Share Warrant registered in the name of such Purchaser to purchase up to a number of Ordinary Shares equal to 75% of such Purchaser’s Shares, with an exercise price equal to \$0.65, subject to adjustment therein; and

(vii) the Prospectus (which may be delivered in accordance with Rule 172 under the Securities Act).

(b) On or prior to the Closing Date, each Purchaser shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by such Purchaser;

(ii) such Purchaser’s Subscription Amount with regard to the Shares and Ordinary Share Warrants purchased by such Purchaser, which shall be made available for “Delivery Versus Payment” settlement with the Company or its designee, and such Purchaser’s Additional Subscription Amount, which shall be included in such Purchaser’s Subscription Amount to be made available for “Delivery Versus Payment” settlement with the Company or shall be separately delivered to the Company pursuant to the Company’s wire instructions as provided pursuant to Section 2.2(a)(iv) herein; and

(iii) such Purchaser’s Subscription Amount with regard to the Pre-Funded Warrants and Ordinary Share Warrants purchased by such Purchaser, if any, minus an amount of \$0.01 per Pre-Funded Warrant purchased by such Purchaser, by wire transfer to the account specified by the Company in Section 2.2(a)(iv) above, or as otherwise agreed by the Company and the Placement Agent.

### 2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Purchasers contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of each Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by each Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchasers hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement;

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof; and

(v) from the date hereof to the Closing Date, trading in the Ordinary Shares shall not have been suspended by the Commission or the Company’s principal Trading Market, and, at any time prior to the Closing Date, trading in securities generally on any nationally recognized securities exchange as reported by Bloomberg L.P. shall not have been suspended or limited, or minimum prices shall not have been established on securities whose trades are reported by such service, or on any Trading Market, nor shall a banking moratorium have been declared either by the United States or New York State authorities nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity of such magnitude in its effect on, or any material adverse change in, any financial market which, in each case, in the reasonable judgment of such Purchaser, makes it impracticable or inadvisable to purchase the Securities at the Closing.

**ARTICLE III.**  
**REPRESENTATIONS AND WARRANTIES**

3.1 Representations and Warranties of the Company. Except as set forth in the Disclosure Schedules, which Disclosure Schedules shall be deemed a part hereof and shall qualify any representation or otherwise made herein to the extent of the disclosure contained in the corresponding section of the Disclosure Schedules, the Company hereby makes the following representations and warranties to each Purchaser:

(a) Subsidiaries. All of the direct and indirect subsidiaries of the Company are set forth in the SEC Reports. Except as disclosed in the SEC Reports, (i) the Company owns, directly or indirectly, all of the share capital or other equity interests of each Subsidiary free and clear of any Liens and (ii) all of the issued and outstanding share capital of each Subsidiary are validly issued and are fully paid and are not subject to any calls for additional payments (non-assessable) and free of preemptive and similar rights to subscribe for or purchase securities.

(b) Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization (or such equivalent concept to the extent such equivalent concept exists under the law of such jurisdiction), with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing (or such equivalent concept to the extent such equivalent concept exists under the law of such jurisdiction) as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, would not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform its obligations under the Transaction Documents (any of (i), (ii) or (iii), a "Material Adverse Effect"), provided that changes in the trading price of the Ordinary Shares shall not, in and of itself, constitute a Material Adverse Effect, and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's shareholders in connection herewith or therewith other than in connection with the Required Approvals. This Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. Except as disclosed in the Prospectus, the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of association or incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, anti-dilution or similar adjustments, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as would not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction

Documents, other than: (i) the filings required pursuant to Section 4.4 of this Agreement, (ii) the filing with the Commission of the Prospectus, (iii) application(s) to each applicable Trading Market for the listing of the Shares and Warrant Shares for trading thereon in the time and manner required thereby, and (iv) such filings as are required to be made under applicable state securities laws, or the laws of Ireland, or the rules of the Financial Industry Regulatory Authority, Inc. (“FINRA”) (collectively, the “Required Approvals”).

(f) Issuance of the Securities; Registration. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and not subject to any calls for additional capital (nonassessable), free and clear of all Liens imposed by the Company. The Warrant Shares, when issued in accordance with the terms of the Warrants, will be validly issued, fully paid and not subject to any calls for additional capital (nonassessable), free and clear of all Liens imposed by the Company. The Company will reserve from its duly authorized share capital the maximum number of Ordinary Shares issuable pursuant to this Agreement and the Warrants at the current Exercise Price. The Company has prepared and filed the Registration Statement in conformity with the requirements of the Securities Act, which originally became effective on October 22, 2020 (the “Effective Date”), including the Prospectus, and such amendments and supplements thereto as may have been required to the date of this Agreement. The Registration Statement is effective under the Securities Act and no stop order preventing or suspending the effectiveness of the Registration Statement or suspending or preventing the use of the Preliminary Prospectus or the Prospectus has been issued by the Commission and no proceedings for that purpose have been instituted or, to the knowledge of the Company, are threatened by the Commission. The Company, if required by the rules and regulations of the Commission, shall file the Prospectus with the Commission pursuant to Rule 424(b). At the time the Registration Statement and any amendments thereto became effective, at the date of this Agreement and at the Closing Date, the Registration Statement and any amendments thereto conformed and will conform in all material respects to the requirements of the Securities Act and did not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; and the Pricing Prospectus and the Prospectus and any amendments or supplements thereto, at the time the Pricing Prospectus or the Prospectus, as applicable, or any amendment or supplement thereto was issued and at the Closing Date, conformed and will conform in all material respects to the requirements of the Securities Act and did not and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(g) Capitalization. The authorized capitalization of the Company is set forth in the SEC Reports. Except as disclosed in the Prospectus, the Company has not issued any share capital since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of share options or the vesting of restricted share awards under the Company’s equity plans by employees, directors or other service providers, the issuance of Ordinary Shares to employees, directors or other service providers pursuant to the Company’s equity plans and pursuant to the conversion and/or exercise of Ordinary Share Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. Except as disclosed in Schedule 3.1(g), no Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except for the Securities to be issued and sold hereunder or as disclosed in the SEC Reports or Schedule 3.1(g), there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any Ordinary Shares or the share capital of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional Ordinary Shares or Ordinary Share Equivalents or share capital of any Subsidiary. Except as disclosed in Schedule 3.1(g), the issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue Ordinary Shares or other securities to any Person (other than the Purchasers). Except as disclosed in the SEC Reports and the Prospectus, there are no outstanding securities or instruments of the Company or any Subsidiary with any provision that adjusts the exercise, conversion, exchange or reset price of such security or instrument upon an issuance of securities by the Company or any Subsidiary. Except as disclosed in the SEC Reports, there are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. Except as disclosed in the SEC Reports, the Company does not have any share appreciation rights or “phantom share” plans or agreements or any similar plan or agreement other than as disclosed in the SEC Reports. All of the outstanding share capital of the Company is duly authorized, validly issued, fully paid and not subject to any calls for additional payments (nonassessable), has been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any shareholder, the Board of Directors or others is required for the issuance and sale of the Securities. Except as disclosed in the SEC Reports, there are no shareholders agreements, voting agreements or other similar agreements with respect to the Company’s share capital to which the Company is a party or, to the knowledge of the Company, between or among any of the Company’s shareholders.

(h) SEC Reports; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the two years preceding the date hereof (or such shorter period as the Company was required

by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, together with the Pricing Prospectus and the Prospectus, being collectively referred to herein as the “SEC Reports”) on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved (“GAAP”), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the most recent unaudited financial statements included within the SEC Reports, except as set forth in the SEC Reports, (i) there has been no event, occurrence or development that has had or that would reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) payables and other accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company’s financial statements pursuant to GAAP or disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its shareholders or purchased, redeemed or made any agreements to purchase or redeem any of its share capital and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity plans. The Company does not have pending before the Commission any request for confidential treatment of information. Except for the issuance of the Securities contemplated by this Agreement or as set forth in the SEC Reports, no material event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed prior to the time of execution of this Agreement.

(j) Litigation. Except as disclosed in Schedule 3.1(j), there is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an “Action”) which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Securities or (ii) would, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Except as disclosed in the SEC Reports, neither the Company nor any Subsidiary, nor any director or officer (in his or her capacity as such) thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company (in his or her capacity as such). The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which would reasonably be expected to result in a Material Adverse Effect. The Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(l) Compliance. Neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws



relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except, in the case of each of clauses (i), (ii) and (iii) as disclosed in the SEC Reports or as would not have or reasonably be expected to result in a Material Adverse Effect.

(m) Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each of clause (i), (ii) and (iii), the failure to so comply would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(n) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits would not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

(o) Title to Assets. Except as disclosed in the SEC Reports, the Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries, and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP, and the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance in all material respects.

(p) Intellectual Property. To the knowledge of the Company, the Company and the Subsidiaries have, or have rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, inventions, copyrights, licenses and other intellectual property rights and similar rights necessary or required for use in connection with their respective businesses as described in the SEC Reports and which the failure to so have would have a Material Adverse Effect (collectively, the "Intellectual Property Rights"). None of, and neither the Company nor any Subsidiary has received a written notice that any of, the material Intellectual Property Rights has expired, terminated or been abandoned, or is expected to expire or terminate or be abandoned, within two (2) years from the date of this Agreement, other than in accordance with the terms of the Intellectual Property Rights. Neither the Company nor any Subsidiary has received, since the date of the most recent unaudited financial statements included within the SEC Reports, a written notice of a claim or otherwise has any knowledge that the Intellectual Property Rights violate or infringe upon the rights of any Person, except as would not have or reasonably be expected to not have a Material Adverse Effect. To the knowledge of the Company, all such Intellectual Property Rights are enforceable and there is no existing infringement by another Person of any of the Intellectual Property Rights, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company and its Subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of all of their intellectual properties, except where failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has no knowledge of any facts that would preclude it from having valid license rights or clear title to the Intellectual Property Rights, except as would not have or reasonably be expected to not have a Material Adverse Effect. The Company has no knowledge that it lacks or will be unable to obtain any rights or licenses to use all Intellectual Property Rights that are necessary to conduct its business, except as would not have or reasonably be expected to not have a Material Adverse Effect.

(q) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged, including, but not limited to, directors and officers insurance coverage. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

(r) Transactions With Affiliates and Employees. Except as set forth in the SEC Reports, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by,

providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, shareholder, member or partner, in each case in excess of \$120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including share option agreements under any equity plan of the Company.

(s) Sarbanes-Oxley: Internal Accounting Controls. The Company and the Subsidiaries are in compliance in all material respects with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the Commission thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company and the Subsidiaries have established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and the Subsidiaries and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or are reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(t) Certain Fees. Except as set forth in the Pricing Prospectus or the Prospectus, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by the Transaction Documents.

(u) Investment Company. The Company is not, and immediately after receipt of payment for the Securities will not be, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(v) Registration Rights. Except as disclosed in the SEC Reports, no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

(w) Listing and Maintenance Requirements. The Ordinary Shares are registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Ordinary Shares under the Exchange Act nor has the Company received any notification that the Commission is contemplating terminating such registration. Except as disclosed in the SEC Reports, the Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Ordinary Shares are or have been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of any Trading Market on which the Ordinary Shares are listed or quoted. The Ordinary Shares are currently eligible for electronic transfer through the Depository Trust Company or another established clearing corporation and the Company is current in payment of the fees to the Depository Trust Company (or such other established clearing corporation) in connection with such electronic transfer.

(x) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's articles of association (or similar charter documents) or the laws of its jurisdiction of incorporation that is or would become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

(y) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that it believes constitutes or might constitute material, non-public

information which is not otherwise disclosed in the Pricing Prospectus or the Prospectus. The Company understands and confirms that the Purchasers will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchasers regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading (it being understood that such disclosure furnished by or on behalf of the Company to the Purchasers includes the SEC Reports). The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(z) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any of its controlled Affiliates, nor any Person acting on its or their behalf (other than the Placement Agent), has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated in a manner that would require shareholder approval for the issuance of the Securities.

(aa) Solvency. The Company has no current intention of filing for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction. The SEC Reports set forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of \$50,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of \$50,000 due under leases required to be capitalized in accordance with GAAP. Neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(bb) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations, except for such taxes, if any, as are being contested in good faith and as to which adequate reserves have been established by the Company and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company or of any Subsidiary know of no basis for any such claim.

(cc) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated in any material respect any provision of FCPA.

(dd) Accountants. The Company's independent registered public accounting firm is KPMG. To the knowledge and belief of the Company, such accounting firm (i) is a registered public accounting firm as required by the Exchange Act and (ii) shall express its opinion with respect to the financial statements to be included in the Company's Annual Report for the fiscal year ending December 31, 2020.

(ee) Acknowledgment Regarding Purchasers' Purchase of Securities. The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers' purchase of the Securities. The Company further represents to each Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(ff) Acknowledgment Regarding Purchaser's Trading Activity. Anything in this Agreement or elsewhere herein to the contrary notwithstanding (except for Sections 3.2(f) and 4.14 hereof), it is understood and acknowledged by the Company that:

(i) none of the Purchasers has been asked by the Company to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or “derivative” securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or “derivative” transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company’s publicly traded securities; (iii) any Purchaser, and counter-parties in “derivative” transactions to which any such Purchaser is a party, directly or indirectly, presently may have a “short” position in the Ordinary Shares, and (iv) each Purchaser shall not be deemed to have any affiliation with or control over any arm’s length counter-party in any “derivative” transaction. The Company further understands and acknowledges that (y) one or more Purchasers may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Warrant Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing shareholders’ equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(gg) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company, other than, in the case of clauses (ii) and (iii), compensation paid to the Company’s placement agent in connection with the placement of the Securities.

(hh) FDA. As to each product subject to the jurisdiction of the U.S. Food and Drug Administration (“FDA”) under the Federal Food, Drug and Cosmetic Act, as amended, and the regulations thereunder (“FDCA”) that is manufactured, packaged, labeled, tested, distributed, sold, and/or marketed by the Company or any of its Subsidiaries (each such product, a “Pharmaceutical Product”), such Pharmaceutical Product is being manufactured, packaged, labeled, tested, distributed, sold and/or marketed by the Company in compliance with all applicable requirements under FDCA and similar laws, rules and regulations relating to registration, investigational use, premarket clearance, licensure, or application approval, good manufacturing practices, good laboratory practices, good clinical practices, product listing, quotas, labeling, advertising, record keeping and filing of reports, except where the failure to be in compliance would not have a Material Adverse Effect. There is no pending, completed or, to the Company’s knowledge, threatened, action (including any lawsuit, arbitration, or legal or administrative or regulatory proceeding, charge, complaint, or investigation) against the Company or any of its Subsidiaries, and none of the Company or any of its Subsidiaries has received any notice, warning letter or other communication from the FDA or any other governmental entity, which (i) contests the premarket clearance, licensure, registration, or approval of, the uses of, the distribution of, the manufacturing or packaging of, the testing of, the sale of, or the labeling and promotion of any Pharmaceutical Product, (ii) withdraws its approval of, requests the recall, suspension, or seizure of, or withdraws or orders the withdrawal of advertising or sales promotional materials relating to, any Pharmaceutical Product, (iii) imposes a clinical hold on any clinical investigation by the Company or any of its Subsidiaries, (iv) enjoins production at any facility of the Company or any of its Subsidiaries, (v) enters or proposes to enter into a consent decree of permanent injunction with the Company or any of its Subsidiaries, or (vi) otherwise alleges any violation of any laws, rules or regulations by the Company or any of its Subsidiaries, and which in the case of each of the foregoing clauses (i) through (vi), either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect. The properties, business and operations of the Company have been and are being conducted in all material respects in accordance with all applicable laws, rules and regulations of the FDA. Except as disclosed in the SEC Reports, the Company has not been informed by the FDA that the FDA will prohibit the marketing, sale, license or use in the United States of any product proposed to be developed, produced or marketed by the Company nor has the FDA expressed any concern as to approving or clearing for marketing any product being developed or proposed to be developed by the Company.

(ii) Equity Plans. Each option granted by the Company under the Company’s equity plan was granted (i) in accordance with the terms of the Company’s equity plan and (ii) with an exercise price at least equal to the fair market value of the Ordinary Shares on the date such option would be considered granted under GAAP and applicable law. No option granted under the Company’s equity plan has been backdated. The Company has not knowingly granted, and there is no and has been no Company policy or practice to knowingly grant, options prior to, or otherwise knowingly coordinate the grant of options with, the release or other public announcement of material information regarding the Company or its Subsidiaries or their financial results or prospects.

(jj) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company’s knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”).

(kk) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended.

(ll) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any of its Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any of its Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent (25%) or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any of its Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(mm) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

3.2 Representations and Warranties of the Purchasers. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein, in which case they shall be accurate as of such date):

(a) Organization: Authority. Such Purchaser is an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of the Transaction Documents and performance by such Purchaser of the transactions contemplated by the Transaction Documents have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of such Purchaser. Each Transaction Document to which it is a party has been duly executed by such Purchaser, and when delivered by such Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Understandings or Arrangements. Such Purchaser is acquiring the Securities as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities (this representation and warranty not limiting such Purchaser's right to sell the Securities pursuant to the Registration Statement or otherwise in compliance with applicable federal and state securities laws). Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business.

(c) Purchaser Status. At the time such Purchaser was offered the Securities, it was, and as of the date hereof it is, and on each date on which it exercises any Warrants it will be, either: (i) an "accredited investor" as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7) or (a)(8) under the Securities Act or (ii) a "qualified institutional buyer" as defined in Rule 144A(a) under the Securities Act.

(d) Experience of Such Purchaser. Such Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(e) Access to Information. Such Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the SEC Reports and has been afforded, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. Such Purchaser acknowledges and agrees that neither the Placement Agent nor any Affiliate of the Placement Agent has provided such Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired. Neither the Placement Agent nor any Affiliate has made or makes any representation as to the Company or the quality of the Securities and the Placement Agent and any Affiliate may have acquired non-public information with respect to the Company which such Purchaser agrees need not be provided to it. In connection with the issuance of the

Securities to such Purchaser, neither the Placement Agent nor any of its Affiliates has acted as a financial advisor or fiduciary to such Purchaser.

(f) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, such Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with such Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that such Purchaser first received notice of the transaction contemplated hereunder (written or oral) from the Company or any other Person representing the Company and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to such Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, such Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction).

(g) Purchaser Independence. Such Purchaser acknowledges that such Purchaser is acting independently of any other Purchaser (other than with respect to an Affiliate of such Purchaser that is also a Purchaser hereunder) in connection with the purchase of the Securities hereunder and is not acting in concert with any other Purchaser (other than with respect to an Affiliate of such Purchaser that is also a Purchaser hereunder) for the purposes of the Irish Takeover Panel Act 1997, Takeover Rules, 2013, and that no individual Purchaser or group of Purchasers acting in concert will own 30% or more of the Company's issued share capital on the Closing Date.

The Company acknowledges and agrees that the representations contained in this Section 3.2 shall not modify, amend or affect such Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transactions contemplated hereby. Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to locating or borrowing shares in order to effect Short Sales or similar transactions in the future.

#### ARTICLE IV. OTHER AGREEMENTS OF THE PARTIES

4.1 Warrant Shares. If all or any portion of a Warrant is exercised at a time when there is an effective registration statement to cover the issuance of the Warrant Shares or if the Warrant is exercised via cashless exercise, the Warrant Shares issued pursuant to any such exercise shall be issued free of all legends. If at any time following the date hereof the Registration Statement (or any subsequent registration statement registering the sale of the Warrant Shares) is not effective or is not otherwise available for the sale of the Warrant Shares, the Company shall immediately notify the holders of the Warrants in writing that such registration statement is not then effective and thereafter shall promptly notify such holders when the registration statement is effective again and available for the sale of the Warrant Shares (it being understood and agreed that the foregoing shall not limit the ability of the Company to issue, or any Purchaser to sell, any of the Warrant Shares in compliance with applicable federal and state securities laws). The Company shall use commercially reasonable best efforts to keep a registration statement (including the Registration Statement) registering the issuance of the Warrant Shares effective during the term of the Warrants.

4.2 Furnishing of Information. Until the earliest of the time that (i) no Purchaser owns Securities or (ii) the Warrants have expired, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

4.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

4.4 Securities Laws Disclosure: Publicity. The Company shall (a) by the Disclosure Time, issue a press release disclosing the material terms of the transactions contemplated hereby, and (b) file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the Commission within the time required by the Exchange Act; provided, that the Company shall not be required to file the Transaction Documents on Form 8-K if the Transaction Documents were previously filed as exhibits to the Registration statement on a pre-effective or post-effective amendment to the Registration Statement. From and after the issuance of such press release, the Company represents to the Purchasers that it shall have publicly disclosed all material, non-public information

delivered to any of the Purchasers by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees or agents in connection with the transactions contemplated by the Transaction Documents. In addition, effective upon the issuance of such press release, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates on the one hand, and any of the Purchasers or any of their Affiliates on the other hand, shall terminate. Notwithstanding the foregoing, the Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except (a) as required by federal securities law in connection with the filing of final Transaction Documents with the Commission and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall, to the extent permitted by law, provide the Purchasers with prior notice of such disclosure permitted under this clause (b).

4.5 Shareholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an “Acquiring Person” under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchasers.

4.6 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.4, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide any Purchaser or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto such Purchaser shall have consented to the receipt of such information and agreed with the Company to keep such information confidential. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company, any of its Subsidiaries, or any of their respective officers, directors, agents, employees or Affiliates, in any case acting on behalf of the Company or any of its Subsidiaries, delivers any material, non-public information to a Purchaser without such Purchaser’s consent, the Company hereby covenants and agrees that such Purchaser shall not have any duty of confidentiality to the Company, any of its Subsidiaries, or any of their respective officers, directors, agents, employees or Affiliates, or a duty to the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates not to trade on the basis of, such material, non-public information, provided that the Purchaser shall remain subject to applicable law. Unless otherwise agreed by the applicable parties, to the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such material non-public information with the Commission pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

4.7 Use of Proceeds. Except as set forth in the Pricing Prospectus and the Prospectus, the Company shall use the net proceeds from the issuance and sale of the Securities hereunder for general corporate purposes and shall not use such proceeds: (a) for the acquisition of any Ordinary Shares or Ordinary Share Equivalents, (b) for the settlement of any outstanding litigation or (c) in violation of FCPA or OFAC regulations.

4.8 Indemnification of Purchasers. Subject to the provisions of this Section 4.8, the Company will indemnify and hold each Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls such Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a “Purchaser Party”) harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys’ fees and costs of investigation that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any shareholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a material breach of such Purchaser Party’s representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such shareholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which is finally judicially determined to constitute fraud, gross negligence or willful misconduct). If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel. The Company will not be liable to any Purchaser

Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The indemnification required by this Section 4.8 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.9 Reservation of Ordinary Shares; Aggregate Nominal Amount of Warrant Shares. As of the date hereof, the Company has reserved and the Company shall continue to reserve and keep available at all times, subject to obtaining any requisite shareholder approvals under applicable law with respect to the reservation of additional Ordinary Shares after the date hereof in connection with an adjustment to the Exercise Price, free of preemptive rights, a sufficient number of Ordinary Shares for the purpose of enabling the Company to issue Shares pursuant to this Agreement and Warrant Shares pursuant to any exercise of the Warrants at the then applicable Exercise Price. The Company acknowledges that each Purchaser shall have paid the aggregate nominal amount of the Ordinary Shares issuable upon exercise of such Purchaser's Ordinary Share Warrants and the Company shall hold such aggregate nominal amount in trust and shall apply it as applicable in connection with exercises of the Ordinary Share Warrants pursuant to Section 2(c) therein by such Purchaser or any assignee of the Ordinary Share Warrants. Upon the exercise of the Ordinary Share Warrants other than pursuant to Section 2(c) therein by such Purchaser or any assignee of the Ordinary Share Warrants or upon the termination of the Ordinary Share Warrants prior to exercise of all or any portion of such Ordinary Share Warrants, the Company shall return to the Purchaser the applicable portion of the aggregate nominal amount of the Ordinary Shares in connection with such Ordinary Share Warrants that have been exercised other than pursuant to Section 2(c) therein on a periodic six (6) month basis or promptly upon request by the Purchaser and, upon termination of the Ordinary Share Warrants prior to exercise of all or any portion of such Ordinary Share Warrants, the Company shall promptly return to the Purchaser in full the remaining amount of the aggregate nominal amount of the Ordinary Shares in connection with such Ordinary Share Warrants. Notwithstanding the foregoing, each Purchaser shall have the right, upon three (3) Trading Days notice to the Company, to require the Company to return the remaining amount of the aggregate nominal amount of the Ordinary Shares issuable upon exercise of such Purchaser's Ordinary Share Warrants that was paid by such Purchaser, provided that any future exercise of the Ordinary Share Warrants pursuant to Section 2(c) therein by such Purchaser shall require delivery of such aggregate nominal amount of the Ordinary Shares before the Ordinary Shares underlying such Ordinary Share Warrants are issued.

4.10 Listing of Ordinary Shares. The Company hereby agrees to use commercially reasonable best efforts to maintain the listing or quotation of the Ordinary Shares on the Trading Market on which the Ordinary Shares are currently listed, and concurrently with the Closing, the Company shall apply to list or quote all of the Shares and Warrant Shares on such Trading Market and promptly secure the listing of all of the Shares and Warrant Shares on such Trading Market. The Company further agrees, if the Company applies to have the Ordinary Shares traded on any other Trading Market, it will then include in such application all of the Shares and Warrant Shares, and will take such other action as is necessary to cause all of the Shares and Warrant Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all action reasonably necessary to continue the listing and trading of its Ordinary Shares on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Ordinary Shares for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

4.11 Reserved.

4.12 Subsequent Equity Sales.

(a) From the date hereof until forty five (45) days after the Closing Date, neither the Company nor any Subsidiary shall issue, enter into any agreement to issue or announce the issuance or proposed issuance of any shares of Ordinary Shares or Ordinary Share Equivalents.

(b) From the date hereof until the one (1) year anniversary of the Closing Date, the Company shall be prohibited from effecting or entering into an agreement to effect any issuance by the Company or any of its Subsidiaries of Ordinary Shares or Ordinary Share Equivalents (or a combination of units thereof) involving a Variable Rate Transaction. "Variable Rate Transaction" means a transaction in which the Company (i) issues or sells any debt or equity securities that are convertible into, exchangeable or exercisable for, or include the right to receive additional shares of Ordinary Shares either (A) at a conversion price, exercise price or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for the shares of Ordinary Shares at any time after the initial issuance of such debt or equity securities, or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Ordinary Shares or (ii) enters into, or effects a transaction under, any agreement, including, but not limited to, an equity line of credit, whereby the Company may issue securities at a future determined price; provided, however, that an "at the market" offering pursuant to an "at the market" equity distribution or sales agreement with the Placement Agent shall not



constitute a “Variable Rate Transaction.” Any Purchaser shall be entitled to obtain injunctive relief against the Company to preclude any such issuance, which remedy shall be in addition to any right to collect damages.

(c) Notwithstanding the foregoing, this Section 4.12 shall not apply in respect of an Exempt Issuance, except that no Variable Rate Transaction shall be an Exempt Issuance.

4.13 Equal Treatment of Purchasers. No consideration (including any modification of any Transaction Document) shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of the Transaction Documents unless the same consideration is also offered to all of the parties to the Transaction Documents. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of Securities or otherwise.

4.14 Certain Transactions and Confidentiality. Each Purchaser, severally and not jointly with the other Purchasers, covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company’s securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4. Each Purchaser, severally and not jointly with the other Purchasers, covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.4, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing, and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4 and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release as described in Section 4.4. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser’s assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser’s assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

4.15 Exercise Procedures. The form of Notice of Exercise included in the Warrants set forth the totality of the procedures required of the Purchasers in order to exercise the Warrants. No additional legal opinion, other information or instructions shall be required of the Purchasers to exercise their Warrants. Without limiting the preceding sentences, no ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise form be required in order to exercise the Warrants. The Company shall honor exercises of the Warrants and shall deliver Warrant Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

#### ARTICLE V. MISCELLANEOUS

5.1 Termination. This Agreement may be terminated by any Purchaser, as to such Purchaser’s obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, by written notice to the other parties, if the Closing has not been consummated on or before the fifth (5<sup>th</sup>) Trading Day following the date hereof; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

5.2 Fees and Expenses. Except as expressly set forth in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay, or procure payment of, all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser) in connection with the delivery of any Securities to the Purchasers pursuant to this Agreement. The Company shall use its best efforts to pay, or procure payment of stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchasers pursuant to this Agreement (“Relevant Taxes”). Each Purchaser agrees to cooperate with the Company and provide all necessary information and documentation to the Company in a timely manner (and in any event within 15 Business Days of request) to enable the Company to procure payment of any Relevant Taxes and facilitate the making of any necessary filings in respect of Relevant Taxes required to be made within applicable time limits. The Company shall not be liable for any Relevant Taxes or any penalty, fine, surcharge, interest, charge, cost or other similar imposition arising in respect of Relevant Taxes to the extent that such amount arises or is increased as a result of any failure by a Purchaser to timely provide the Company with any information or documentation requested pursuant to this Section 5.2.

5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, the Pricing Prospectus and the Prospectus, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the time of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the time of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2<sup>nd</sup>) Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto. Unless otherwise agreed by the applicable parties, to the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such material non-public information with the Commission pursuant to a Current Report on Form 8-K.

5.5 Amendments; Waivers. No provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and Purchasers which purchased pursuant to this Agreement at least 50.1% in interest of the Shares and Pre-Funded Warrants based on the initial Subscription Amounts hereunder or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought, provided that if any amendment, modification or waiver disproportionately and adversely impacts a Purchaser (or group of Purchasers), the consent of such disproportionately impacted Purchaser (or group of Purchasers) shall also be required. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any proposed amendment or waiver that disproportionately, materially and adversely affects the rights and obligations of any Purchaser relative to the comparable rights and obligations of the other Purchasers shall require the prior written consent of such adversely affected Purchaser. Any amendment effected in accordance with this Section 5.5 shall be binding upon each Purchaser and holder of Securities and the Company.

5.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Purchasers", provided that, in connection with any such assignment of any rights under this Agreement prior to the Closing Date (other than any assignment to an Affiliate of such Purchaser, for which no consent shall be required), such assignment shall require the prior written consent of the Company, which consent shall not be unreasonably withheld.

5.8 No Third-Party Beneficiaries. The Placement Agent shall be the third party beneficiary of the representations and warranties of the Company in Section 3.1 and the representations and warranties of the Purchasers in Section 3.2. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.8 and this Section 5.8.

5.9 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce

any provisions of the Transaction Documents, then, in addition to the obligations of the Company under Section 4.8, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

5.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities for two (2) years following the Closing Date.

5.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

5.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then such Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that, in the case of a rescission of an exercise of a Warrant, the applicable Purchaser shall be required to return any Ordinary Shares subject to any such rescinded exercise notice concurrently with the return to such Purchaser of the aggregate exercise price paid to the Company for such shares and the restoration of such Purchaser's right to acquire such shares pursuant to such Purchaser's Warrant (including, issuance of a replacement warrant certificate evidencing such restored right).

5.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction. The applicant for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement Securities.

5.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. For reasons of administrative convenience only, each Purchaser and its respective counsel have chosen to communicate with the Company through the legal counsel of the Placement

Agent. The legal counsel of the Placement Agent does not represent any of the Purchasers and only represents the Placement Agent. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

5.18 Liquidated Damages. The Company's obligations to pay any liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such liquidated damages or other amounts are due and payable shall have been canceled.

5.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

5.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and Ordinary Shares in any Transaction Document shall be subject to adjustment for reverse and forward share splits, share dividends, share combinations and other similar transactions of the Ordinary Shares that occur after the date of this Agreement.

**5.21 WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVES FOREVER TRIAL BY JURY.**

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**Iterum Therapeutics plc**

Address for Notice:

By: \_\_\_\_\_ /s/ Corey N. Fishman  
Name: Corey N. Fishman  
Title: Chief Executive Officer

Fax:  
E-mail:

With a copy to (which shall not constitute notice):

Wilmer Cutler Pickering Hale and Dorr LLP  
7 World Trade Center  
250 Greenwich Street  
New York, New York 10007  
Attn: Brian A. Johnson, Esq.  
E-mail: [\*\*]  
Facsimile: +1-212-230-8800

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE FOR PURCHASER FOLLOWS]

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: Sabby Volatility Warrant Master Fund, Ltd.

Signature of Authorized Signatory of Purchaser: /s/ Robert Grundstein

Name of Authorized Signatory: Robert Grundstein

Title of Authorized Signatory: COO of Purchaser's Investment Manager

Email Address of Authorized Signatory: [\*\*]

Address for Notice to Purchaser: [\*\*]

Address for Delivery of Securities to Purchaser (if not same as address for notice): [\*\*]

Subscription Amount: \$ 4,999,999.55

Shares: 1,100,000

Pre-Funded Warrants: 6,592,307 Beneficial Ownership Blocker  4.99% or  9.99%

Ordinary Share Warrants: 5,769,230 Beneficial Ownership Blocker  4.99% or  9.99%

EIN Number: [\*\*]

[SIGNATURE PAGES CONTINUE]

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: Intracoastal Capital LLC

Signature of Authorized Signatory of Purchaser: /s/ Keith Goodman

Name of Authorized Signatory: Keith Goodman

Title of Authorized Signatory: Authorized Signatory

Email Address of Authorized Signatory: [\*\*]

Facsimile Number of Authorized Signatory: [\*\*]

Address for Notice to Purchaser:

Email address for Notice to Purchaser: [\*\*]

Address for Delivery of Securities to Purchaser (if not same as address for notice): [\*\*]

Subscription Amount: \$ 2,000,000.60

Shares: 2,350,000

Pre-Funded Warrants: 726,924 Beneficial Ownership Blocker  4.99% or  9.99%

Ordinary Share Warrants: 2,307,693 Beneficial Ownership Blocker  4.99% or  9.99%

EIN Number: [\*\*]

Notwithstanding anything contained in this Agreement to the contrary, by checking this box (i) the obligations of the above-signed to purchase the securities set forth in this Agreement to be purchased from the Company by the above-signed, and the obligations of the Company to issue and sell such securities to the above-signed, shall be unconditional and all conditions to Closing shall be disregarded, (ii) the Closing shall occur on the second (2nd) Trading Day following the date of this Agreement and (iii) any condition to Closing contemplated by this Agreement (but prior to being disregarded by clause (i) above) that required delivery by the Company or the above-signed of any agreement, instrument, certificate or the like or purchase price (as applicable) shall no longer be a condition and shall instead be an unconditional obligation of the Company or the above-signed (as applicable) to deliver such agreement, instrument, certificate or the like or purchase price (as applicable) to such other party on the Closing Date.





**CERTIFICATION PURSUANT TO  
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Corey Fishman, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Iterum Therapeutics plc;
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: November 16, 2020

By: \_\_\_\_\_  
/s/ Corey Fishman  
**Corey Fishman**  
**President and Chief Executive Officer**  
**(Principal Executive Officer)**

**CERTIFICATION PURSUANT TO  
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Judith Matthews, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Iterum Therapeutics plc;
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: November 16, 2020

By: \_\_\_\_\_ /s/ Judith Matthews

**Judith Matthews**  
**Chief Financial Officer**  
**(Principal Financial and Accounting Officer)**

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

In connection with the Quarterly Report on Form 10-Q of Iterum Therapeutics plc (the "Company") for the period ended September 30, 2020, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Corey Fishman, President and Chief Executive Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to his knowledge on the date hereof:

- (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: November 16, 2020

By: \_\_\_\_\_ /s/ Corey Fishman  
**Corey Fishman**  
**President and Chief Executive Officer**  
**(Principal Executive Officer)**

This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Iterum Therapeutics plc under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-Q), irrespective of any general incorporation language contained in such filing.

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

In connection with the Quarterly Report on Form 10-Q of Iterum Therapeutics plc (the "Company") for the period ended September 30, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Judith Matthews, Chief Financial Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to her knowledge on the date hereof:

- (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: November 16, 2020

By: \_\_\_\_\_  
/s/ Judith Matthews  
**Judith Matthews**  
**Chief Financial Officer**  
**(Principal Financial and Accounting Officer)**

This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Iterum Therapeutics plc under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-Q), irrespective of any general incorporation language contained in such filing.