UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

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

For the quarterly period ended March 31, 2019

☐ **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: 001-35405

MELINTA THERAPEUTICS, INC.

(Exact name of registrant specified in its charter)

Delaware	2834	45-4440364
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

44 Whippany Road, Suite 280
Morristown, NJ 07960
(Address of Principal Executive Offices)

(908) 617-1309
(Telephone Number, Including Area Code)

Securities Registered Pursuant to Section 12(b) of the Exchange Act:

Title of Each Class	Trading Symbol	Name of Exchange on which Registered
Common Stock, $0.001 Par Value	MLNT	Nasdaq Global Market

Securities Registered Pursuant to Section 12(g) of the Act: None

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, if any, every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

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

Large accelerated filer	☐	Accelerated filer	☒
Non-accelerated filer	☐ (Do not check if a smaller reporting company)	Smaller reporting company	☒
Emerging growth company	☐		

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

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

As of April 26, 2019, there were 11,779,897 shares of the registrant's common stock, $0.001 par value, outstanding.

MELINTA THERAPEUTICS, INC.

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PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

MELINTA THERAPEUTICS, INC.
Condensed Consolidated Balance Sheets
(In thousands, except share and per share data)
(Unaudited)

	March 31, 2019	December 31, 2018
Assets		
Current assets		
Cash and equivalents	$ 116,901	$ 81,808
Receivables (See Note 3)	14,892	22,485
Inventory	44,451	41,341
Prepaid expenses and other current assets	5,512	3,848
Total current assets	181,756	149,482
Property and equipment, net	1,465	1,586
Intangible assets, net	225,073	229,196
Other assets (See Note 3)	62,155	61,326
Total assets	$ 470,449	$ 441,590
Liabilities		
Current liabilities		
Accounts payable	$ 8,321	$ 16,765
Accrued expenses	22,625	33,924
Deferred purchase price and other liabilities (See Notes 3 and 4)	82,316	78,394
Accrued interest on notes payable	4,440	4,485
Warrant liability	23	38
Conversion liability (See Note 4)	12,236	—
Total current liabilities	129,961	133,606
Long-term liabilities		
Notes payable, net of debt discount and costs (See Note 4)	91,397	110,476
Convertible notes payable to related parties, net of debt discount and costs (See note 4)	62,350	—
Other long-term liabilities	10,225	7,444
Total long-term liabilities	163,972	117,920
Total liabilities	293,933	251,526
Commitments and contingencies		
Shareholders' Equity		
Preferred stock; $.001 par value; 5,000,000 shares authorized; no shares issued or outstanding at March 31, 2019, and December 31, 2018, respectively	—	—
Common stock; $.001 par value; 80,000,000 shares authorized; 11,779,897 and 11,204,050 issued and outstanding at March 31, 2019, and December 31, 2018, respectively	12	11
Additional paid-in capital	924,821	909,896
Accumulated deficit	(748,317)	(719,843)
Total shareholders' equity	176,516	190,064
Total liabilities and shareholders' equity	$ 470,449	$ 441,590

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

MELINTA THERAPEUTICS, INC.
Condensed Consolidated Statements of Operations
(In thousands, except share and per share data)
(Unaudited)

	Three Months Ended March 31,	
	2019	**2018**
Revenue		
Product sales, net	$ 11,775	$ 11,846
Contract research	1,409	2,995
License	900	—
Total revenue	14,084	14,841
Operating expenses:		
Cost of goods sold	7,365	7,686
Research and development	5,364	16,129
Selling, general and administrative	25,941	34,624
Total operating expenses	38,670	58,439
Loss from operations	(24,586)	(43,598)
Other income (expense):		
Interest income	187	210
Interest expense	(7,103)	(10,196)
Interest expense (related party, see Note 4)	(564)	—
Change in fair value of warrant & conversion liabilities	6,015	24,085
Loss on extinguishment of debt	(346)	(2,595)
Other income (expense)	(73)	4
Grant income (expense)	(62)	2,658
Other income (expense), net	(1,946)	14,166
Net loss	$ (26,532)	$ (29,432)
Basic and diluted net loss per share	$ (2.34)	$ (4.76)
Basic and diluted weighted average shares outstanding	11,330,019	6,183,540

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

MELINTA THERAPEUTICS, INC.
Condensed Consolidated Statements of Shareholders' Equity
(In thousands, except share data)

	Three Months Ended March 31, 2019				
	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Shareholders' Equity
	Shares	Amount			
Balance as of January 1, 2019	11,204,049	$ 11	$ 909,896	$ (719,843)	$ 190,064
Share-based compensation	—	—	909	—	909
Issuance of common shares	1,705	—	8	—	8
Vesting of restricted stock grants	24,143	—	—	—	—
Issuance of common shares upon conversion of convertible notes	550,000	1	2,766	—	2,767
Discount on issuance of convertible notes (deemed shareholder contribution) (Note 4)	—	—	11,242	—	11,242
Cumulative adjustment upon adoption of lease accounting standard (Note 6)	—	—	—	(1,942)	(1,942)
Net loss	—	—	—	(26,532)	(26,532)
Balance as of March 31, 2019	11,779,897	$ 12	$ 924,821	$ (748,317)	$ 176,516

	Three Months Ended March 31, 2018				
	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Shareholders' Equity
	Shares	Amount			
Balance as of January 1, 2018	4,399,788	$ 4	$ 644,991	$ (572,659)	$ 72,336
Adoption of revenue accounting standard	—	—	—	10,008	10,008
Share-based compensation	—	—	955	—	955
Issuance of common shares	40	—	3	—	3
Vesting of restricted stock grants	5,521	—	—	—	—
Issuance of common shares in connection with IDB Transaction	1,865,301	2	145,961	—	145,963
Net loss	—	—	—	(29,432)	(29,432)
Balance as of March 31, 2018	6,270,650	$ 6	$ 791,910	$ (592,083)	$ 199,833

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

MELINTA THERAPEUTICS, INC.
Condensed Consolidated Statements of Cash Flows
(In thousands)
(Unaudited)

	Three Months Ended March 31,	
	2019	**2018**
Operating activities		
Net loss	$ (26,532)	$ (29,432)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	4,474	4,805
Non-cash interest expense	3,230	5,954
Share-based compensation	892	955
Change in fair value of warrant & conversion liabilities	(6,015)	(24,085)
Loss on extinguishment of debt	346	2,595
Gain on extinguishment of lease liabilities	(792)	—
Changes in operating assets and liabilities		
Receivables	7,593	(5,868)
Inventory	(3,093)	(2,002)
Prepaid expenses and other current assets	(1,551)	(1,293)
Accounts payable	(8,372)	3,983
Accrued expenses	(9,711)	(4,817)
Accrued interest on notes payable	(46)	(284)
Other non-current assets and liabilities	2,256	(1,930)
Net cash used in operating activities	(37,321)	(51,419)
Investing activities		
IDB acquisition	—	(166,383)
Purchases of intangible assets	(1,209)	—
Purchases of property and equipment	(12)	(504)
Net cash used in investing activities	(1,221)	(166,887)
Financing activities		
Proceeds from the issuance of notes payable	—	111,421
Proceeds from the issuance of convertible notes payable	75,000	—
Costs associated with the issuance of notes payable	(1,301)	(6,455)
Proceeds from the issuance of warrants	—	33,264
Proceeds from the issuance of royalty agreement	—	1,472
Purchase of notes payable disbursement option	—	(7,609)
Proceeds from issuance of common stock, net, to lender	—	51,452
Proceeds from issuance of common stock, net	8	40,000
Debt extinguishment	—	(2,150)
IDB acquisition deferred payments	(72)	—
Proceeds from the exercise of stock options, net of cancellations	—	3
Principal payments on notes payable	—	(40,000)
Net cash provided by financing activities	73,635	181,398
Net change in cash and equivalents	35,093	(36,908)
Cash, cash equivalents and restricted cash at beginning of the period	82,008	128,587
Cash, cash equivalents and restricted cash at end of the period	$ 117,101	$ 91,679
Supplemental cash flow information:		
Cash paid for interest	$ 4,486	$ 4,480
Supplemental disclosure of non-cash financing and investing activities:		
Accrued purchases of fixed assets	$ 12	$ 327

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

NOTE 1 – FINANCIAL STATEMENTS

The accompanying condensed consolidated financial statements have been prepared assuming Melinta Therapeutics, Inc. (the "Company," "we," "us," "our," or "Melinta") will continue as a going concern. We are not currently generating revenue from operations that is sufficient to cover our operating expenses and do not anticipate generating revenue sufficient to offset operating costs in the short-term. We have incurred losses from operations since our inception and had an accumulated deficit of $748,317 as of March 31, 2019, and we expect to incur substantial expenses and further losses in the short term for the development and commercialization of our product candidates and approved products. In addition, we have substantial commitments in connection with our acquisition of the infectious disease business of The Medicines Company ("Medicines") that we completed in January 2018, including payments related to deferred purchase price consideration, assumed contingent liabilities and the purchase of inventory. And, there are certain financial-related covenants under our Deerfield Facility, as amended in January 2019, including requirements that we (i) file an Annual Report on Form 10-K for the year ending December 31, 2019, with an audit opinion without a going concern qualification, (ii) maintain a minimum cash balance of $40,000 through March 2020, and thereafter, a balance of $25,000, and (iii) achieve net revenue from product sales of at least $63,750 for the year ending December 31, 2019. (See Note 4 to the consolidated financial statements for further details on the Deerfield Facility.)

Our future cash flows are dependent on key variables such as our ability to access additional capital under our Vatera and Deerfield credit facilities, our ability to secure a working capital revolver, which is allowed under the Deerfield Facility and required under the Vatera facility, and most importantly, the level of sales achievement of our four marketed products. Our current operating plans include assumptions about our projected levels of product sales growth in the next 12 months in relation to our planned operating expenses. Revenue projections are inherently uncertain but have a higher degree of uncertainty in an early-stage commercial launch, which we have in Baxdela and Vabomere, where there is not yet a robust sales history. While we have a plan to achieve the current expected sales levels of our products, we are unable to conclude based on applying the requirements of FASB Accounting Standards Codification ("ASC") 205-40, Presentation of Financial Statements - Going Concern ("ASC 205") that such revenue is "probable" (as defined under this accounting standard). In addition, given our forecasted product sales are not deemed probable, our ability to draw the additional $50,000 of capacity under the Deerfield Facility, which is conditional based on meeting certain sales-based milestones before the end of 2019, is also not considered to be probable. And further, given the softness of our product sales to date, we believe that there is risk in meeting the minimum sales covenant for 2019 under the terms of the Deerfield Credit Facility. As such, we are not able to conclude under ASC 205 that the actions discussed below will be effectively implemented and, therefore, our current operating plans, existing cash and cash collections from existing revenue arrangements and product sales may not be sufficient to fund our operations for the next 12 months. As such, we believe there is substantial doubt about our ability 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.

In the fourth quarter of 2018, the Company took actions to reduce its operating spend, including a reduction to the workforce of approximately 20% and a decision to begin to wind down its research and discovery function. To provide additional operating capital, in December 2018, the Company entered into a Senior Subordinated Convertible Loan Agreement (the "Loan Agreement") with Vatera Healthcare Partners LLC and Vatera Investment Partners LLC (together, "Vatera") pursuant to which Vatera committed to provide $135,000 over a period of five months, subject to the satisfaction of certain conditions (see Note 4). We drew $75,000 under this facility in February 2019, and while the remaining $60,000 is available through early July 2019, subject to certain closing conditions, it is not certain that all of these conditions will be met. Among these conditions, before each draw, management must certify to Vatera that it does not foresee breaching any covenants under the Deerfield Credit Facility, and the Company must establish a working capital revolver of at least $10,000 in order to draw the final $35,000 tranche under the Loan Agreement in July 2019.

As of March 31, 2019, the Company had $116,901 in cash and cash equivalents. In addition to pursuing the additional $60,000 available under the Vatera Facility and a working capital revolver for up to $20,000, we are also exploring options to modify the terms of certain liabilities to increase our liquidity over the next 12 to 18 months. If our cash collections from revenue arrangements, including product sales, and other financing sources are not sufficient, we plan to control spending and would take further actions to adjust the spending level for operations if required. However, there is no guarantee that we will be successful in executing any or all of these initiatives.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation and Basis of Presentation—The accompanying unaudited condensed consolidated financial statements include the accounts and results of operations of Melinta and its wholly-owned subsidiaries. The condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The information reflects all adjustments (consisting of only normal, recurring adjustments) necessary for a fair presentation of the information. All intercompany balances and transactions have been eliminated in consolidation.

Use of Estimates—The preparation of these unaudited condensed consolidated financial statements in conformity with U.S. GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Concentration of Credit Risk—Concentration of credit risk exists with respect to cash and cash equivalents and receivables. We maintain our cash and cash equivalents with federally insured financial institutions, and at times, the amounts may exceed the federally insured deposit limits. To date, we have not experienced any losses on our deposits of cash and cash equivalents. We believe that we are not exposed to significant credit risk due to the financial position of the depository institutions in which deposits are held.

A significant portion of our trade receivables is due from three large wholesaler customers for our products, which constitute 36%, 29% and 26%, respectively, of our trade receivable balance at March 31, 2019.

Fair Value of Financial Instruments—The carrying amounts of our financial instruments, which include cash and cash equivalents, trade and other receivables, accounts payable, accrued expenses, and notes payable approximated their fair values at March 31, 2019, and December 31, 2018.

Intangible Assets—Intangible assets consist of capitalized milestone payments for the licenses we use to make our products and the fair value of identifiable intangible assets acquired. Given the uncertainty of forecasts of future revenue for our products, we amortize the cost of intangible assets on a straight-line basis over the estimated economic life of each asset, generally the exclusivity period of each associated product. Amortization of intangible assets was $4,124 and $4,675 for the three months ended March 31, 2019 and 2018, respectively. Based on the intangible asset balances as of March 31, 2019, amortization expense is expected to be approximately $12,371 for the remaining nine months of 2019 and $16,495 in each of the years 2020 through 2023.

Revenue Recognition—We recognize revenue from sales of our commercial products and under our licensing arrangements in accordance with Accounting Standards Codification 606, Revenue from Contracts with Customers ("ASC 606").

Product Sales

We recognize revenue from product sales upon the transfer of control, which depends on the delivery terms set forth in customer contracts and is generally upon delivery. Payment terms between Melinta and our customers vary by customer, but are generally between 30 and 60 days from the invoice date.

Management exercises judgment in estimating variable consideration. Provisions for prompt-pay discounts, chargebacks, rebates, wholesalers fees-for-services, group purchasing organization administration fees, voluntary patient assist programs, returns and other adjustments are recorded in the period the related sales are recognized. We provide discounts to certain hospitals and private entities, and we provide rebates to government agencies, group purchasing organizations and other private entities.

Chargebacks, rebates administration fees and discounts offered under our patient assistance programs are generally based upon the contractual discounts or the volume of purchases for our products. In the case of discounted pricing, we typically provide a credit to our wholesale customers (i.e., chargeback), representing the difference between the customer's acquisition list price and the discounted price offered to certain hospitals. For the other certain discounts, we pay rebates based on the program that is ultimately utilized by the hospital or, in the retail setting, the patient under our patient assistance program. Factors used in these calculations include the identification of which products have been sold subject to a discount, rebate or administration fee, which customer, government agency, or group purchasing organization price terms apply, and the estimated lag time between the sale of the product and when the discount, rebate or administration fee is reported to us. Using historical trends, adjusted for current changes, we estimate the amount of these discounts, rebates and administration fees that will be paid, and record them as a reduction to gross sales when we recognize revenue for the sale of our products. Settlement of discounts, rebates and administration fees generally occurs from between one and six months after the initial sale to the wholesaler. We regularly analyze historical trends and make adjustments to reserves for changes in trends and terms of rebate programs. Historically, adjustments to prior periods' rebate accruals have not been material to net product sales.

For product returns, generally, our customers have the right to return any unopened product during the 18-month period beginning six months prior to the labeled expiration date and ending 12 months after the labeled expiration date. Where historical rates of return exist, we use history as a basis to establish a returns reserve for product shipped to wholesalers. For our newly launched products, for which we currently do not have history of product returns, we estimate returns based on third-party industry data for comparable products in the market. As we distribute our products and establish historical sales over a longer period of time (i.e., two years), we will be able to place more reliance on historical purchasing and return patterns of our customers when evaluating our reserves for product return. At the end of each reporting period for any of our products, we may decide to constrain revenue for product returns based on information from various sources, including channel inventory levels and dating and sell-through data, the expiration dates of product currently being shipped, price changes of competitive products and introductions of generic products.

Adjustments to gross sales related to prompt-pay discounts and fees-for-services require less judgment as they are based on contractual percentages and the amounts invoiced to the wholesalers.

At the end of each reporting period, we adjust our product sales allowances when we believe actual experience may differ from current estimates. The following table provides a summary of activity with respect to our sales allowances and accruals during the first three months of 2019:

	Cash Discounts	Product Returns	Chargebacks	Fees-for-Service	MelintAssist	Government Rebates	Commercial Rebates	Admin Fees
Balance as of January 1, 2019	$ 245	$ 2,970	$ 762	$ 818	$ 412	$ 693	$ 599	$ 138
Allowances for sales	292	398	1,127	793	264	215	306	142
Payments & credits issued	(392)	(206)	(1,299)	(686)	(278)	(73)	(330)	(127)
Balance as of March 31, 2019	**$ 145**	**$ 3,162**	**$ 590**	**$ 925**	**$ 398**	**$ 835**	**$ 575**	**$ 153**

The allowances for cash discounts and chargebacks are recorded as contra-assets in trade receivables; the other balances are recorded in other accrued expenses.

Licensing Arrangements

We enter into license and collaboration agreements for the research and development and/or commercialization of therapeutic products. The terms of these agreements may include nonrefundable licensing fees, funding for research and development and manufacturing, milestone payments and royalties on any product sales derived from the collaborations in exchange for the delivery of licenses and rights to sell our products within specified territories outside the United States.

In the determination of whether our license and collaboration agreements are accounted for under ASC 606 or ASC 808, *Contract Accounting*, we first assess whether or not the partner in the arrangement is a customer. If the partner in the arrangement is deemed a customer as it relates to some or all of our performance obligations, then the consideration associated with those performance obligations is accounted for as revenue under ASC 606.

Our license agreements may include contingent or variable consideration based upon the achievement of regulatory- and sales-based milestones and future royalties based on a percentage of the partner's net product sales. Performance obligations to deliver distinct licenses are recognized at a point in time. Milestone payments from licensees that are contingent and/or variable upon future regulatory events and product sales are not considered probable of being achieved until the milestones are earned and, therefore, the contingent revenue is subject to significant risk of reversal. As such, we constrain this variable consideration and do not include it in the transaction price (or recognize the revenue related to these milestones) until such time that the contingencies are resolved and generally recognized at a point in time. In addition, under the sales- or usage- based royalty exception in ASC 606, we do not estimate, at the onset of the arrangement, the variable consideration from future royalties or sales-based milestones. Instead, we wait to recognize royalty revenue until the future sales occur.

As of March 31, 2019, we do not have any contract assets or liabilities and our contracts do not have any significant financing components. And, we have not capitalized contract origination costs.

Comprehensive Loss—Comprehensive loss is equal to net loss as presented in the accompanying statements of operations.

Advertising Expense—We record advertising expenses when they are incurred. We recognized $176 and $410, respectively, of advertising expense in the three months ended March 31, 2019 and 2018, respectively.

Leases—On January 1, 2019, we adopted Topic 842, *Leases* ("Topic 842") which requires lessees to recognize assets and liabilities for most leases at the lease inception. All of the Company's leases are operating leases, which are included in other long-term assets as operating right of use ("ROU") assets and other liabilities as operating lease liabilities in our consolidated balance sheets.

ROU assets represent our right to use an underlying asset for the lease term and lease liabilities represent our obligation to make lease payments arising from the lease. ROU assets and lease liabilities are recognized at the lease commencement date based on the present value of lease payments over the lease term. As our leases do not provide an implicit rate, the Company uses its incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments. We will use the implicit rate when readily determinable. The operating lease ROU asset also includes any lease payments made and excludes lease incentives. Our lease terms may include options to extend or terminate the lease when it is reasonably certain that we will exercise that option. Lease expense for lease payments is recognized on a straight-line basis over the lease term. Our has lease agreements with lease and non-lease components, which are accounted for separately.

Segment and Geographic Information—Operating segments are defined as components of an enterprise engaging in business activities for which discrete financial information is available and regularly reviewed by the chief operating decision maker in deciding how to allocate resources and in assessing performance. We operate and manage our business as one operating segment. Although substantially all of our license and contract research revenue is generated from agreements with companies that are domiciled outside of the U.S., we do not operate outside of the U.S., nor do we have any significant assets in any foreign country. See this Note 2 for further discussion of the license and contract research revenue.

Recently Issued and Adopted Accounting Pronouncements:

We adopted Topic 842 codified as ASC 842 on January 1, 2019 ("Effective Date"). ASC 842 requires lessees to recognize assets and liabilities on the balance sheet for most leases but recognize expense on the income statement in a manner similar to previous accounting. The standard requires a modified retrospective approach for leases that exist or are entered into after the beginning of the earliest comparative period in the financial statements or an optional transition method, whereby an entity can elect to apply the standard at the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption without restatement of comparative prior periods. We adopted this guidance on the Effective Date, electing the optional transition method. Consequently, we did not recast the comparative periods presented in this Quarterly Report on Form 10-Q. In addition, as permitted under ASC 842, we elected several practical expedients and therefore did not reassess at the Effective Date (1) whether any existing contract is or contains a lease, (2) the classification of existing leases, (3) whether previously capitalized costs continue to qualify as initial indirect costs. We also elected not to record on the balance sheet a lease whose term is 12 months or less and does not include a purchase option that the lessee is reasonably certain to exercise. We did not elect the practical expedient to not separate lease and non-lease components.

Upon adoption of ASC 842 on the Effective Date, we recorded ROU assets of $4,768, net of historical deferred rent liabilities and aggregate charges of $1,942 to retained earnings in connection with ROU asset impairments on the Effective Date. In addition, we recorded lease liabilities of $7,411 related to facility and vehicle leases. See Note 6 for further details. The transition to ASC 842, did not result in a cumulative-effect adjustment to the opening balance of retained earnings.

Recently Issued Accounting Pronouncements Not Yet Adopted

In August 2018, the FASB issued ASU 2018-13, *Disclosure Framework-Changes to the Disclosure Requirements for Fair Value Measurement*, which modifies or removes certain disclosure requirements in Topic 820, *Fair Value Measurements*. The update is effective for all entities for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. We are currently evaluating the impact of the adoption of this ASU on our financial statements.

In August 2018, the FASB issued ASU 2018-15, *Internal-Use Software (Subtopic 350-40): Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*, which provides guidance on implementation costs incurred in a cloud computing arrangement that is a service contract. The ASU amends Topic 350, *Intangibles—Goodwill and Other*, to include these implementation costs in its scope and clarifies that a customer should apply ASC 350-40 to determine which implementation costs should be capitalized. The update is effective for public entities for fiscal years beginning after December 15, 2019. we are currently evaluating the impact the adoption of this ASU will have on our financial statements.

In November 2018, the FASB issued ASU 2018-18, *Clarifying the Interaction between Topic 808 and Topic 606*, which amends ASC 808 to clarify when transactions between participants in a collaborative arrangement under ASC 808 are within the scope of ASC 606, *Revenue from Contracts with Customers*. The ASU provides clarity in both ASC 606 and 808 regarding when transactions between collaborative arrangement participants should be accounted for as revenue under ASC 606. The update is effective for public entities for fiscal years beginning after December 15, 2019. we are currently evaluating the impact the adoption of this ASU will have on our financial statements.

NOTE 3 – BALANCE SHEET COMPONENTS

Cash, Cash Equivalents and Restricted Cash—Cash, cash equivalents and restricted cash, as presented on the Condensed Consolidated Statements of Cash Flows, consisted of the following:

	March 31, 2019	December 31, 2018
Cash and cash equivalents	$ 116,901	$ 81,808
Restricted cash (included in Other Assets)	200	200
Total cash, cash equivalents and restricted cash shown in the Condensed Consolidated Statements of Cash Flows	$ 117,101	$ 82,008

Accounts Receivable—Accounts receivable consisted of the following:

	March 31, 2019	December 31, 2018
Trade receivables	$ 7,460	$ 11,509
Contracted services	6,958	10,293
Other receivables	474	683
Total receivables	$ 14,892	$ 22,485

Inventory—Inventory consisted of the following:

	March 31, 2019	December 31, 2018
Raw materials	$ 28,841	$ 24,507
Work in process	9,977	11,700
Finished goods	11,685	12,204
Gross value of inventory	50,503	48,411
Less: valuation reserves	(6,052)	(7,070)
Total inventory	$ 44,451	$ 41,341

Other Assets—Other assets consisted of the following:

	March 31, 2019	December 31, 2018
Deerfield disbursement option (see Note 4)	$ 7,609	$ 7,608
Long-term inventory deposits	48,044	51,127
Other assets	1,400	2,391
Right-of-use assets	4,902	—
Restricted cash	200	200
Total other assets	$ 62,155	$ 61,326

Long-term inventory deposits consist of advances made to contract manufacturers for production of drug products, principally API for Vabomere. These Vabomere advances were related to contractual commitments assumed under long-term contract manufacturing agreements in connection with a previously acquired entity. As deliveries are made, we transfer appropriate amounts from inventory deposits to inventory.

Accrued Expenses—Accrued expenses consisted of the following:

	March 31, 2019	December 31, 2018
Accrued contracted services	$ 1,318	$ 2,909
Payroll related expenses	10,026	15,585
Professional fees	173	3,598
Accrued royalty payments	2,885	2,052
Accrued sales allowances	6,047	5,630
Accrued other	2,176	4,150
Total accrued expenses	$ 22,625	$ 33,924

Accrued contracted services are primarily comprised of amounts owed to third-party clinical research organizations for research and development work and contract manufacturers for research and commercial drug product manufacturing performed on behalf of Melinta, and amounts owed to third-party marketing organizations for work performed to support the commercialization and sale of our products.

Accrued payroll related expenses are primarily comprised of accrued employee termination benefits, bonus and vacation.

Deferred Purchase Price and Other Liabilities—Other liabilities consisted of the following:

	March 31, 2019	December 31, 2018
Deferred purchase price	$ 49,758	$ 48,394
Milestone liability	30,000	30,000
Lease liabilities, current	2,558	—
Total deferred purchase price and other liabilities	$ 82,316	$ 78,394

Other Long-Term Liabilities—Other liabilities consisted of the following:

	March 31, 2019	December 31, 2018
Lease liabilities, net of current	$ 4,086	$ —
Long-term accrual royalties	1,215	2,230
Long-term deferred purchase price	4,853	4,708
Other long-term liabilities	71	506
Total other long-term liabilities	$ 10,225	$ 7,444

NOTE 4 – FINANCING ARRANGEMENTS

2017 Loan Agreement

On May 2, 2017, we entered into a Loan and Security Agreement with a new lender (the "2017 Loan Agreement"). Under the 2017 Loan Agreement, the lender made available to us up to $80,000 in debt financing and up to $10,000 in equity financing.

In January 2018, we retired the 2017 Loan Agreement with the execution of the Facility Agreement (discussed below), in connection with which we recognized a debt extinguishment loss of $2,595 comprised of prepayment penalties and exit fees totaling $2,150 and unamortized debt issuance costs of $445.

Facility Agreement

On January 5, 2018 (the "Agreement Date"), we entered into the Facility Agreement (the "Facility Agreement") with affiliates of Deerfield Management Company, L.P. (collectively, "Deerfield"). Pursuant to the terms of the Facility Agreement, (i) we issued 625,569 shares of our common stock to Deerfield at a price of $67.50 on January 5, 2018, for total proceeds of $42,226, pursuant to a Securities Purchase Agreement, and (ii) Deerfield loaned us $147,774 as an initial disbursement (the "Term Loan"), for total proceeds of $190,000. We used the proceeds from the Facility Agreement to retire the 2017 Loan Agreement (discussed above) and to fund the Infectious Disease Business acquisition on the Agreement Date.

Under the terms of the Facility Agreement, we have the right to draw from Deerfield additional disbursements up to $50,000 (the "Disbursement Option"), which may be made available upon the satisfaction of certain conditions, such as our having achieved annualized net sales of at least $75,000 during the applicable period. The Term Loan bears interest at a rate of 11.75%, while funds distributed pursuant to the Disbursement Option will bear interest at a rate of 14.75%.

On January 14, 2019, in conjunction with the Vatera Loan Agreement (discussed below),we entered into an amendment to the Facility Agreement (the "Deerfield Facility Amendment"). The Deerfield Facility Amendment was a condition (among other conditions) to the funding of the Vatera Loan Agreement, and became effective upon the funding of the initial $75,000 disbursement under the Vatera Loan Agreement in February 2019.

The Deerfield Facility Amendment (i) modified the definition of "change of control" under the Deerfield Facility to permit Vatera and their respective affiliates to own 50% or more of the equity interests in Melinta on a fully diluted basis; (ii) modified the definition of "Indebtedness" under the Deerfield Facility to exclude certain specific payments under (a) the Agreement and Plan of Merger, dated as of December 3, 2013, among the Medicines Company, Rempex Pharmaceuticals, Inc. and the other parties thereto and (b) the Purchase and Sale Agreement, dated as of November 28, 2017, between The Medicines Company and Melinta Therapeutics, Inc.; (iii) modified the definition of "Permitted Indebtedness" under the Deerfield Facility to permit the payment of a certain amount of the interest on the Vatera Loan Agreement (described below) in cash; (iv) eliminated the requirement that the Company's audited financial statements for the fiscal year ending December 31, 2018, be delivered without an explanatory paragraph expressing doubt as to the Company's status as a going concern; (v) reduced the net sales covenant set forth in the Facility Agreement for all periods after December 31, 2018, by 15% (we must now achieve net product sales of at least $63,750 during 2019 and at least $85,000 during 2020); (vi) requires the Company to hold a minimum cash balance of $40,000 through March 31, 2020, and thereafter $25,000; (vii) increased the exit fee under the Deerfield Facility from 2% to 4%; and (viii) made certain other technical modifications, including to accommodate the Vatera Loan Agreement.

The Deerfield Facility Amendment also provided for the conversion of up to $74,000 in principal ("Convertible Notional Amount") amount of the Term Loan into shares of the Company's common stock at Deerfield's option at any time and evidenced by a convertible note (the "Deerfield Convertible Note"), subject to the 4.985% Ownership Cap as described below. The conversion price for this option is the greater of (i) $5.15, which is the minimum initial conversion price, subject to adjustment for stock splits (including a reverse split), stock combinations or similar transactions, and (ii) 95.0% of the lesser of (A) the closing price of the Company's common stock on the trading day immediately preceding the conversion date and (B) the arithmetic average of the volume weighted average price of the Company's common stock on each of the three trading days immediately preceding the conversion date. Deerfield's conversion rights are subject to a 4.985% beneficial ownership cap based on the total number of shares of the Company's common stock outstanding. However, this will not prevent Deerfield from periodically converting up to the 4.985% ownership cap and then selling the shares such that up to $74,000 of the loan is converted over time.

The Deerfield Facility Amendment also provided for $5,000 of convertible loans that were deemed funded by Deerfield upon the initial funding under the Vatera Loan Agreement, with terms identical to the Vatera Loan Agreement (the "Deerfield Portion" of the Loan Agreement (see *Vatera Loan Agreement* discussion below).

In addition, the Company is required to reserve and keep available a sufficient number of shares of common stock for the purpose of enabling the Company to issue all of the underlying shares of common stock issuable pursuant to the Deerfield's conversion rights under the Facility Agreement, as amended, and under the Loan Agreement.

We concluded that the amendment represented a debt modification and not a new debt arrangement that extinguished the former arrangement. As such, the fair value of any new instruments or features and any fees paid to Deerfield in connection with the amendment are added to the discount balance of the Term Loan immediately prior to the amendment and amortized to interest expense over the remaining term.

Based on an analysis of the provisions and features contained in the Deerfield Facility Amendment, we concluded that arrangement contained a share-settled redemption feature that is required to be bifurcated and recorded at fair value (the "Conversion Right") as a derivative liability. Therefore, the Company performed a valuation, in accordance with ASC 820, Fair Value Measurements ("ASC 820"), to determine the fair value of the Conversion Right, which will reduce the carrying amount of the Term Loan and the value of which, will be amortized over the remaining term of the Term Loan utilizing the effective interest method. The terms of these instruments and the methodology and assumptions used to value each of them are discussed below.

Conversion Right

The initial fair value of the Conversion Right was determined to be $18,962 using a "with and with-out" discounted cash flow ("DCF") model. The with and with-out DCF model compares the fair value of the amended Term Loan with the Conversion Right, which assumes the full Convertible Notional Amount is converted based on market conditions and other factors at the amendment date, with the fair value of the Term Loan assuming no Conversion Right, which is based on a DCF analysis of the contractual terms of the Convertible Notional Amount.

The significant assumptions used in the with and with-out DCF model used to estimate the fair value of the Convertible Notional Amount were: the price of our common stock on the amendment date, an expected volatility of 80%, and an estimated

yield of 20.6%. Due to the inherent uncertainty of determining the fair value of the Convertible Notional Amount using Level 3 inputs, the fair value may differ significantly from the values that would have been used had a ready market or observable inputs existed. The fair value of the Conversion Right liability was $12,236 as of March 31, 2019. The decrease during the three months ended March 31, 2019 was $6,726, of which $6,000 was included in other income as a fair value gain and $726 was included as an offset to loss on extinguishment of debt (because of the conversion discussed below) on the consolidated statements of operations. We will remeasure this Conversion Right liability at fair value at each quarterly reporting period.

During the three months ended March 31, 2019, Deerfield converted principal of $2,833 under the Term Loan at a rate of $5.15 per share, resulting in the issuance of 550,000 shares of common stock. We recognized a loss on extinguishment of debt of $346, related primarily to the write off of unamortized debt issuance costs associated with the converted principal amount, partially offset by the gain discussed in the previous paragraph.

Term Loan

The Deerfield Facility Amendment increased the exit fee from 2.0% to 4.0%. Therefore, total required future cash payments are $153,685 (Term Loan principal of $147,774 plus exit fee of $5,911). The exit fee cost is being accreted as additional interest expense over the life of the loan. After adjusting for the Conversion Right, the effective interest rate is 30.0%. The total cost of all items (cash-based interest payments, upfront fees and costs, and the 4% exit fee) is being expensed as interest expense using the effective interest rate of 30.0%. During the three months ended March 31, 2019 and 2018, we recorded cash interest expense of $4,229 and $4,196, respectively, and term loan accretion expense of $1,962 and $1,124, respectively. All amounts were recorded as interest expense in our statement of operations.

The $2,833 of principal converted to common shares during the three months ended March 31, 2019, was carried on the books at the discounted value of $1,694 on the day of conversion. After deducting the $2,833 of principal converted to common shares (and the avoidance of paying the 4.0% exit fee on the amount converted), the new remaining amount of required future cash payments was reduced to $150,739 (remaining term loan principal of $144,941 plus exit fee of $5,798).

Under the Facility Agreement, as amended, the accretion of the principal of the term loan, conversion redemptions, and the future payments, including the 4.0% exit fee due at the end of the term, but excluding the 11.75% rate applied to the $147,774 note per the form of the Facility Agreement, are as follows:

	Beginning Balance	Record Conversion Right and Issuance Costs		Accretion Expense(2)	Principal Payments and Exit Fee(2)	Conversion	Ending Balance
January 5 - December 31, 2018	$ 104,966			$ 5,510	—	$ —	$ 110,476
January 1 - March 31, 2019	110,476	(23,621)	(1)	1,962	—	(1,694)	87,123
April 1 - December 31, 2019	87,123			7,734	—	—	94,857
Year Ending December 31, 2020	94,857			13,284	—	—	108,141
Year Ending December 31, 2021	108,141			18,044	—	—	126,185
Year Ending December 31, 2022	126,185			17,459	(69,089)	—	74,555
Year Ending December 31, 2023	74,555			7,079	(75,370)	—	6,264
Year Ending December 31, 2024	6,264			16	(6,280)	—	—
Total		$ (23,621)		$ 71,088	$ (150,739)	$ (1,694)	

(1.) Consists of $18,962, representing the day-one fair value of the conversion right, and $4,659, which is comprised of (a) additional issuance costs of $408, and (b) the initial fair value of the Deerfield Portion of the Vatera Loan Agreement of $4,251; as we did not receive cash from Deerfield but, rather, issued the Deerfield Portion in consideration for amending the Credit Facility, the $4,251 is treated as debt issuance costs. The total of $23,621 will be accreted over the remaining life of the loan.

(2.) Accretion expense, principal payments and the exit fee will be reduced each time Deerfield exercises their conversion right.

As of March 31, 2019, as reflected in the table above, the carrying value of the Credit Facility was $87,123; this amount, combined with $4,274, the carrying value of the amount payable for the Deerfield Portion of the Vatera Loan Agreement, including interest and accretion expense, equals the amount of the notes payable to Deerfield on our consolidated balance sheet of $91,397.

Vatera Loan Agreement

On December 31, 2018, we entered into a Senior Subordinated Convertible Loan Agreement (the “Loan Agreement”) with Vatera, a related party, for $135,000 ("Vatera Portion"), and on January 14, 2019, we amended the Loan Agreement pursuant to which, among other things, Deerfield was deemed to have funded an additional $5,000 ("Deerfield Portion") of senior subordinated convertible loans (the "Convertible Loans") under the Vatera Loan Agreement as consideration for entering into the Deerfield Facility Amendment. No amount was drawn under the Loan Agreement as of December 31, 2018, as its

effectiveness was contingent upon the satisfaction of several conditions, including the execution of the Deerfield Facility Amendment.

The proceeds of the Convertible Loans will be used for working capital and other general corporate purposes. The Convertible Loans are senior unsecured obligations of the Company and are contractually subordinated to the obligations under the Deerfield Facility. Interest on the Convertible Loans is 5% per year and will be paid in arrears at the end of each fiscal quarter, with 50% of such interest paid in cash and the remaining 50% of such interest paid in kind by increasing the principal balance of the outstanding Convertible Loans in an amount equal thereto (which increase will bear interest once added to such principal balance). The maturity date of the Convertible Loans is January 6, 2025.

The Convertible Loans are convertible at Vatera's option into shares of convertible preferred stock of the Company at a conversion rate of 1.25 shares of preferred Stock per one thousand dollars. The preferred stock is further convertible at Vatera's option into shares of common stock of the Company at a rate of 100 shares of common stock per one share of preferred stock (the “Common Stock Conversion Rate”). At Vatera's option, the Convertible Loans are also directly convertible into common stock at an initial conversion rate equal to the Loan Conversion Rate multiplied by the Common Stock Conversion Rate. The conversion rate for common stock is $8.00 per share. The preferred stock is non-participating, convertible preferred stock, with no preferred dividend rights or voting rights. However, the preferred stock may participate in common stock dividends on the Company’s common stock on an as-converted basis and is senior to the common stock upon liquidation, with a liquidation preference equal to the Conversion Amount for the converted loans, as it may thereafter be adjusted pursuant to the Certificate of Designations (plus, if applicable, the amount of any declared but unpaid dividends on such shares of preferred stock).

An exit fee (the “Interim Exit Fee”) of 1% of the aggregate amount of Convertible Loans funded under the Loan Facility is payable upon repayment or conversion of such funded amount (payable in preferred stock in the case of conversion). In addition, an exit fee (the “Final Exit Fee” and, together with the Interim Exit Fee, the “Exit Fee”) of 3% on the portion of the aggregate committed amount of Convertible Loans not drawn by the Company under the Loan Facility is payable on any repayment in full or conversion in full of the Convertible Loans (payable in preferred stock in the case of conversion).

Subject to the satisfaction (or waiver) of the conditions precedent set forth in the Loan Agreement, as amended, $75,000 of Convertible Loans may be drawn in a single draw on or prior to February 25, 2019, up to $25,000 of additional Convertible Loans may be drawn in a single draw after March 31, 2019, but on or prior to June 30, 2019, and up to $35,000 of additional Convertible Loans may be drawn in a single draw after June 30, 2019, but on or prior to July 10, 2019.

Among the conditions precedent, the Loan Agreement required the approval of the shareholders of Melinta to ensure the number of authorized shares of common stock was sufficient to accommodate the potential conversion of the Convertible Loans and approval of the issuance of the Convertible Loans, in accordance with Nasdaq rules. On February 19, 2019, at a Special Meeting of the shareholders, the shareholders approved both a reverse stock split and an increase of the authorized shares, as well as the issuance of the Convertible Notes. In addition, before each draw, management must certify to Vatera that it does not foresee breaching any covenants under the Deerfield Credit Facility, and the Company must establish a working capital revolver of at least $10,000 in order to draw the final $35,000 tranche under the Loan Agreement in July 2019. Melinta drew the first tranche ("Initial Draw") of $75,000 on February 22, 2019 ("Initial Draw Date"), at which time we deemed issuance of the $5,000 Deerfield Portion, for a total of $80,000 outstanding.

Based on an analysis of the provisions and features contained in the Loan Agreement, including the embedded conversion option, we recognized the Convertible Loans as a liability in its entirety. Since Vatera is a related party as Melinta's largest shareholder, and the Convertible Notes contained below-market terms, we determined that the par value did not represent the fair value of the Convertible Notes. Therefore, the Company performed a valuation, in accordance with ASC 820, to determine the appropriate discount to apply to the principal amount of the Convertible Notes, which was deemed a capital contribution from a related party.

We used a convertible bond lattice model to estimate the fair value of the Convertible Notes (Level 3 inputs), which resulted in an estimated fair value of the Vatera Portion of $63,758 on the Initial Draw Date. The related discount and capital contribution of $11,242 ("Valuation Discount") was recorded as a reduction in the carrying amount of the Convertible Notes with an offsetting amount recorded to additional paid-in-capital. The estimated fair value of the Deerfield Portion of the Convertible Loans, for which Melinta did not receive cash but was, rather, consideration for amending the Deerfield Credit Facility, was $4,251, which was recorded as additional debt issuance costs on the Deerfield Term Loan. The discount of $749 was recorded as a discount to the Deerfield Portion of the Convertible Loans. We concluded that there was no beneficial conversion feature present given the conversion price is not "in the money" and that we are not required to revalue the Convertible Notes at the end of each reporting period.

The significant assumptions used in the convertible bond lattice model used to estimate the fair value of the Convertible Notes were: the price of our common stock on the Initial Draw Date, an expected volatility of 76%, and an estimated yield of 29.8%. Due to the inherent uncertainty of determining the fair value of the Convertible Notes using Level 3

inputs, the fair value may differ significantly from the values that would have been used had a ready market or observable inputs existed.

In connection with the Initial Draw, the Company incurred debt issue costs of $1,775, which is being amortized as additional interest expense over the term of the Convertible Loans. In addition, we will accrete the Interim Exit Fee as additional interest expense over the term of the Convertible Loans, which will ultimately total $928. The total cost of all items (cash and PIK interest expense as well as amortization/accretion of the debt issuance costs, the Interim Exit Fee, and the Valuation Discount) is being recognized as interest expense using an effective interest rate of approximately 8.6%.

The following table summarizes the fair value of the Convertible Notes on the Initial Draw Date:

Principal amount of Convertible Loans	$	80,000
Discount and related capital contribution associated with below market terms of Convertible Loans		(11,242)
Discount on Deerfield portion of Convertible Loans		(749)
Debt issue costs		(1,775)
Carrying value at the Initial Draw Date	$	66,234

Of the $66,234, $4,251 was the initial carrying value of the Deerfield Portion, and $61,983 (net of $1,775 of debt issuance costs) was the initial carrying value of the Vatera Portion.

The accretion of the principal of the Loan Agreement, paid-in kind interest, and the future payments, including the exit fees due at the end of the term, for the $80,000 outstanding under the arrangement (including the $5,000 "Deerfield Portion"), are as follows:

	Beginning Balance	Paid-in Kind Interest	Accretion Expense	Principal Payments and Exit Fee	Ending Balance
February 25 - March 31, 2019	$ 66,234	$ 211	$ 179	$ —	$ 66,624
April 1 - December 31, 2019	66,624	1,542	1,370	—	69,536
Year Ending December 31, 2020	69,536	2,098	2,037	—	73,671
Year Ending December 31, 2021	73,671	2,146	2,296	—	78,113
Year Ending December 31, 2022	78,113	2,200	2,586	—	82,899
Year Ending December 31, 2023	82,899	2,257	2,905	—	88,061
Year Ending December 31, 2024	88,061	2,321	3,264	—	93,646
Year Ending December 31, 2025	93,646	38	57	(93,741)	—
Total		$ 12,813	$ 14,694	$ (93,741)	

Of the $66,624 carrying value of the Convertible Notes as of March 31, 2019, as reflected in the table above, $62,350 related to the Vatera Portion and $4,274 related to the Deerfield Portion.

NOTE 5 – FAIR VALUE MEASUREMENTS

The following table lists our assets and liabilities that are measured at fair value and the level of the lowest significant inputs used to measure their fair value at March 31, 2019, and December 31, 2018. The money market fund is included in cash & cash equivalents on the balance sheet; the other items are in the captioned line of the balance sheet.

	As of March 31, 2019			
	Level 1	Level 2	Level 3	Total
Assets:				
Money market fund	$ 33,068	$ —	$ —	$ 33,068
Total assets at fair value	$ 33,068	$ —	$ —	$ 33,068
Liabilities:				
Royalty liability in deferred purchase price	$ —	$ —	$ (1,102)	$ (1,102)
Royalty liability in contingent consideration	—	—	(4,854)	(4,854)
Warrant liability	—	—	(23)	(23)
Conversion liability (see Note 4)	—	—	(12,236)	(12,236)
Total liabilities at fair value	$ —	$ —	$ (18,215)	$ (18,215)

	As of December 31, 2018			
	Level 1	Level 2	Level 3	Total
Assets:				
Money market fund	$ 32,883	$ —	$ —	$ 32,883
Total assets at fair value	$ 32,883	$ —	$ —	$ 32,883
Liabilities:				
Current royalty contingent consideration from IDB acquisition	$ —	$ —	$ (1,006)	$ (1,006)
Long-term royalty contingent consideration from IDB acquisition	—	—	(4,708)	(4,708)
Warrant liability	—	—	(38)	(38)
Total liabilities at fair value	$ —	$ —	$ (5,752)	$ (5,752)

The common stock warrants were valued using a Black-Scholes option-pricing model (Level 3 inputs). The significant inputs include the risk-free interest rate, remaining contractual term, and expected volatility. Significant increases or decreases in any of these inputs in isolation would result in a significantly different fair value measurement. An increase in the risk-free interest rate, and/or an increase in the remaining contractual term or expected volatility, would result in an increase in the fair value of the warrants.

The following table summarizes the changes in fair value of our Level 3 assets and liabilities for the three months ended March 31, 2019 (there were no transfers into or out of Level 3 assets or liabilities during the period):

Level 3 Liabilities	Fair Value at December 31, 2018	Accretion Recorded in Interest Expense	Change in Unrealized Gains (Losses)	(Issuances) Settlements, Net	Net Transfer Between Liabilities	Fair Value at March 31, 2019
Current royalty contingent consideration from IDB acquisition	$ (1,006)	$ (176)	$ —	$ 382	$ (302)	$ (1,102)
Long-term royalty contingent consideration from IDB acquisition	(4,708)	(448)	—	—	302	(4,854)
Warrant liability	(38)	—	15	—	—	(23)
Conversion liability (see Note 4)	—	—	6,000	(18,236)	—	(12,236)
Total liabilities at fair value	$ (5,752)	$ (624)	$ 6,015	$ (17,854)	$ —	$ (18,215)

NOTE 6 – LEASES

As of March 31, 2019, we were a lessee under three operating lease agreements for office facilities and an operating lease for vehicles for our field-based employees, principally sales representatives.

As more fully described in Note 2, we adopted ASC 842 on January 1, 2019 ("Effective Date"), which requires lessees to recognize assets and liabilities on the balance sheet for most leases recognize expense on the income statement in a manner similar to previous accounting. We elected the optional transition method, whereby an entity can elect to apply the standard at the Effective Date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption without restatement of comparative prior periods. Consequently, the prior comparative period's financials will remain the same as those previously presented. In addition, the transition to ASC 842, did not result in a cumulative-effect adjustment to the opening balance of retained earnings.

The company has not elected the practical expedient under which the lease components would not be separated from the nonlease components. Therefore, the Company allocates the total transaction price to the lease component and nonlease components on a relative stand-alone price basis obtained from the lessor. Our facility leases include one or more options to renew, with renewal terms that can extend the lease term from three to five years. As of March 31, 2019, the renewal options were not reasonably certain; therefore, the payments associated with renewal were excluded from the measurement of the lease liability and ROU asset at March 31, 2019. The Company determined that there was no discount rate implicit in its leases. Thus, the Company used its incremental borrowing rate of 15% to discount the lease payments in determination of its ROU assets and lease liabilities for all leases.

Upon adoption of ASU 2016-02, the Company determined its ROU assets related to the operating leases for its principal research facility in New Haven, Connecticut, and its office facilities in Chapel Hill, North Carolina were impaired and therefore reduced to a fair value of zero with a corresponding charge to retained opening earnings of $1,942. See Note 2 for further details. As of March 31, 2019, the lease liability associated with these leases was $462 and $521, respectively.

In March 2019, the Company terminated its operating lease for its principal research facility in New Haven, Connecticut. In connection with the termination, the Company agreed to pay the lessor a $462 early termination fee. As a result, the Company reduced the lease liability equal to the termination fee and recorded a gain of $792, which was recorded in other income.

Lease cost recognized under ASC 842 was $474 for the three months ended March 31, 2019. Lease cost for the three months ended March 31, 2018 was $333, recognized under ASC 840, the lease accounting standard in effect prior to 2019.

As of March 31, 2019, the Company's ROU assets and lease liabilities were as follows:

	Classification	March 31, 2019
Assets		
Total operating lease assets	Other assets	$ 4,902
Liabilities		
Current	Deferred purchase price and other liabilities	$ 2,558
Noncurrent	Other long-term liabilities	4,086
Total operating lease liabilities		$ 6,644

As of March 31, 2019, the maturities of the Company's lease liabilities were as follows:

Maturity of Lease Liabilities	Amount
Remainder of 2019	$ 2,136
2020	2,248
2021	1,962
2022	1,235
2023	626
After 2023	260
Total operating lease payments	$ 8,467
Less: Interest	(1,823)
Present value of operating lease liabilities	$ 6,644

As previously disclosed in our 2018 Annual Report on Form 10-K and under the previous lease accounting standard, ASC 840, the total commitment for our non-cancelable operating lease was $8,568 as of December 31, 2018:

Maturity of Lease Liabilities	Amount
2019	$ 2,348
2020	2,269
2021	1,827
2022	1,238
2023	624
2024 and thereafter	262
Total operating lease payments	$ 8,568

As of March 31, 2019, the weighted average remaining lease term was 3.7 years, calculated on the basis of the remaining lease term and the lease liability balance of each lease as of March 31, 2019.

The following table sets forth supplemental cash flow information for the three months ended March 31, 2019:

	Three Months Ended March 31, 2019
Cash paid for amounts included in the measurement of operating lease liabilities	$ 621
Right of use assets obtained in exchange for lease obligations	$ 378

NOTE 7 – STOCK-BASED COMPENSATION

In the first three months of 2019, we granted 64,400 stock options and 440,000 restricted stock units under our incentive stock plans. At March 31, 2019, approximately 1,502,400 shares were reserved for future grants. As of March 31, 2019, there were 450,000 restricted stock unit awards outstanding, and details regarding the number of options outstanding and exercisable as of March 31, 2019, is as follows:

	Outstanding	Exercisable
Number of shares	658,532	147,281
Weighted-average remaining life	8.4	5.3
Weighted-average exercise price	$ 52.74	$ 132.35
Intrinsic value	$ —	$ —

The total unrecognized share-based compensation expense at March 31, 2019, was approximately $8,969, which is expected to be recognized over the next 3 years.

Stock-based compensation expense recognized in the three months ended March 31, 2019, was as follows:

	Three Months Ended March 31,	
	2019	2018
Cost of goods sold	$ —	$ 125
Research and development	79	131
Selling, general and administrative	813	699
Total	$ 892	$ 955

No related tax benefits associated with stock-based compensation expense have been recognized and no related tax benefits have been realized from the exercise of stock options due to our net losses.

NOTE 8 – INCOME TAXES

At the end of each interim period, the Company makes its best estimate of the effective tax rate expected to be applicable for the full calendar year and uses that rate to provide for income taxes on a current year-to-date basis before discrete items. If a reliable estimate cannot be made, the Company may make a reasonable estimate of the annual effective tax rate, including use of the actual effective rate for the year-to-date. The impact of the discrete items is recorded in the quarter in which they occur.

The Company utilizes the liability method of accounting for income taxes and deferred taxes which are determined based on the differences between the financial statements and tax basis of assets and liabilities given the provisions of the enacted tax laws. In assessing the realizability of the deferred tax assets, the Company considered whether it is more likely than not that some portion or all of the deferred tax assets will not be realized through the generation of future taxable income. In making this determination, the Company assessed all of the evidence available at the time including recent earnings, forecasted income projections, and historical financial performance. The Company has fully reserved deferred tax assets as a result of this assessment.

Based on the Company's full valuation allowance against the net deferred tax assets, the Company's effective tax rate for the calendar year is zero, and zero income tax expense was recorded in the three and nine months ended March 31, 2019 and 2018.

NOTE 9 –NET LOSS PER SHARE

Basic net loss attributable to common shareholders per share is computed by dividing the net loss attributable to common shareholders by the weighted-average number of common shares outstanding for the period. We compute diluted loss per common share after giving consideration to the dilutive effect of stock options and warrants that are outstanding during the period, except where such nonparticipating securities would be antidilutive. Because we have reported net losses for the three months ended March 31, 2019 and 2018, diluted net loss per common share is the same as basic net loss per common share for those periods. The weighted-average shares outstanding, reported loss per share and potential dilutive common share

equivalents for the three months ended March 31, 2019 and March 31, 2018, have been retroactively adjusted to reflect the 1-for-5 reverse stock split which was effective February 22, 2019.

The following potentially dilutive securities (in common stock equivalent shares) have been excluded from the computation of diluted weighted-average shares outstanding because such securities have an antidilutive impact due to losses reported:

	Three Months Ended March 31,	
	2019	2018
Warrants outstanding	766,680	770,486
Stock options outstanding	658,532	397,429
Restricted stock units outstanding	450,000	56,092
	1,875,212	1,224,007

NOTE 10 – COMMITMENTS AND CONTINGENCIES

As discussed in Note 11, on November 3, 2017, Melinta merged with Cempra, Inc. in a business combination. Prior to the merger, on November 4, 2016, a securities class action lawsuit was commenced in the United States District Court, Middle District of North Carolina, Durham Division, naming Cempra, Inc. (now known as Melinta Therapeutics, Inc.) (for purposes of this Contingencies section, "Cempra") and certain of Cempra's officers as defendants. Two substantially similar lawsuits were filed in the United States District Court, Middle District of North Carolina on November 22, 2016, and December 30, 2016, respectively. Pursuant to the Private Securities Litigation Reform Act, on July 6, 2017, the court consolidated the three lawsuits into a single action and appointed a lead plaintiff and co-lead counsel in the consolidated case. On August 16, 2017, the plaintiff filed a consolidated amended complaint. The plaintiff alleged violations of the Securities Exchange Act of 1934 (the "Exchange Act") in connection with allegedly false and misleading statements made by the defendants between July 7, 2015, and November 4, 2016 (the "Class Period"). The plaintiff sought to represent a class comprised of purchasers of Cempra's common stock during the Class Period and sought damages, costs and expenses and such other relief as determined by the court. On September 29, 2017, the defendants filed a motion to dismiss the consolidated amended complaint. After the motion to dismiss was fully briefed, the court heard oral arguments on July 24, 2018. On October 26, 2018, the court granted the defendants' motion to dismiss and dismissed the plaintiff's consolidated amended complaint in its entirety. On November 21, 2018, the plaintiff filed its notice of appeal, and on December 20, 2018, the Fourth Circuit entered its briefing schedule. The appellant filed its brief on January 28, 2019; the appellee filed its response brief on February 27, 2019; and the appellant filed its reply brief on March 20, 2019. The court has not yet ruled on the appeal. We believe that we have meritorious defenses and intend to defend the lawsuit vigorously. It is possible that similar lawsuits may yet be filed in the same or other courts that name the same or additional defendants.

On December 21, 2016, a shareholder derivative lawsuit was commenced in the North Carolina Durham County Superior Court, naming certain of Cempra's former and current officers and directors as defendants and Cempra as a nominal defendant, and asserting claims for breach of fiduciary duty, unjust enrichment, abuse of control, gross mismanagement, and corporate waste (the "December 2016 Action"). A substantially similar lawsuit was filed in the North Carolina Durham County Superior Court on February 16, 2017 (the "February 2017 Action"). The complaints are based on similar allegations as asserted in the securities lawsuits described above and seek unspecified damages and attorneys' fees. Both cases were served and transferred to the North Carolina Business Court as mandatory complex business cases. The Business Court consolidated the February 2017 Action into the December 2016 Action and appointed counsel for the plaintiff in the December 2016 Action as lead counsel. On July 6, 2017, the court stayed the action pending resolution of the putative securities class action. That stay was then lifted. The plaintiff filed an amended complaint on December 29, 2017, and was required to file a further amended complaint by February 6, 2018. On February 6, 2018, the plaintiff filed his second amended complaint. On March 8, 2018, the defendants filed their motion to dismiss or, in the alternative, stay the plaintiff's second amended complaint. On April 9, 2018, the plaintiff filed his opposition to the defendants' motion. The defendants filed their reply on April 26, 2018. On June 27, 2018, the parties filed a joint stipulation and consent order to stay the case until (1) 30 days after a final order dismissing the putative securities class action with prejudice is entered; or (2) the parties file a joint stipulation to terminate the stay in the event that a plaintiff in a subsequently filed derivative action makes similar allegations and does not agree to stay the proceedings on substantially the same terms. On June 29, 2018, the court entered an order staying the case pursuant to the joint stipulation, which expired by its term following entry of the court's dismissal order in the above putative securities class action. On November 29, 2018, the parties filed a second joint stipulation to continue the stay until (1) 30 days after the putative securities class action appeal and any appeals therefrom have been resolved; or (2) the parties file a joint stipulation to terminate the stay in the event that a plaintiff in a subsequently filed derivative action makes similar allegations and does not agree to a stay of proceedings on substantially the same terms. On November 30, 2018, the court entered an order staying the case pursuant to the second joint stipulation. We believe that we have meritorious defenses and we intend to defend the lawsuit

vigorously. It is possible that similar lawsuits may yet be filed in the same or other courts that name the same or additional defendants.

On January 3, 2018, the plaintiff who commenced the February 2017 Action, which was subsequently consolidated into the December 2016 Action, transmitted to the former Acting Chief Executive Officer of Cempra a litigation demand (the "Demand"). The Demand requested that Cempra's Board of Directors (the "Board") "commence an independent investigation into the matters raised" in the complaint filed in the February 2017 Action and the Demand, "take any and all appropriate steps for Cempra to recover, through litigation if necessary, the damages proximately caused by the directors' and officers' alleged breaches of fiduciary duty," and "implement corporate governance enhancements to prevent recurrence of the alleged wrongdoing." The Board has not yet formally responded to the Demand.

On July 31, 2017, a shareholder derivative lawsuit was commenced in the Court of Chancery of the State of Delaware, naming certain of Cempra's former and current officers and directors as defendants and Cempra as nominal defendant, and asserting claims for breach of fiduciary duty, unjust enrichment, and corporate waste. The complaint is based on similar allegations as asserted in the putative securities class action described above and seeks unspecified damages and attorneys' fees. On October 23, 2017, the defendants filed a motion to dismiss or, in the alternative, stay, the complaint, which was supported by an opening brief filed on November 9, 2017. On January 8, 2018, the plaintiff filed his answering brief in opposition to the defendants' motion. The defendants filed their reply in support of their motion on February 7, 2018. On June 18, 2018, the parties filed a joint letter (1) indicating they have agreed to stay the case until the pending motion to dismiss in the November 4, 2016, consolidated federal securities action pending in the United States District Court, Middle District of North Carolina, Durham Division is decided; and (2) requesting that the June 22, 2018, oral argument scheduled for the defendants' motion to dismiss be canceled. On June 27, 2018, the parties filed a stipulation and proposed order to stay the case until (1) 30 days after a final order dismissing the November 4, 2016, consolidated federal securities action pending in the United States District Court, Middle District of North Carolina, Durham Division with prejudice is entered; or (2) the parties file a joint stipulation to terminate the stay in the event that a plaintiff in a subsequently filed derivative action makes similar allegations and does not agree to stay the proceedings on substantially the same terms. On June 28, 2018, the court granted the proposed order and stayed the case on such terms, with that stay expiring by its term following entry of the court's dismissal order in the above putative securities class action. On November 28, 2018, the parties filed a joint stipulation agreeing to stay the case, including all discovery, until (1) 30 days after the appeal for the November 4, 2016, consolidated federal securities action pending in the United States District Court, Middle District of North Carolina, Durham Division, and any appeals therefrom, was resolved or (2) the parties file a joint stipulation to terminate the stay in the event that a plaintiff in a subsequently filed derivative action makes similar allegations and does not agree to a stay of proceedings on substantially the same terms. On November 30, 2018, the court stayed the case pursuant to the joint stipulation. We believe that we have meritorious defenses and we intend to defend the lawsuit vigorously. It is possible that similar lawsuits may yet be filed in the same or other courts that name the same or additional defendants.

On September 15, 2017, a shareholder derivative lawsuit was commenced in the United States District Court for the Middle District of North Carolina, Durham Division, naming certain of Cempra's former and current officers and directors as defendants and Cempra as nominal defendant, and asserting claims for breach of fiduciary duty, unjust enrichment, abuse of control, gross mismanagement, corporate waste, and violation of Section 14(a) of the Exchange Act. The complaint is based on similar allegations as asserted in the putative securities class action described above and seeks unspecified damages and attorneys' fees. On December 1, 2017, the parties filed a joint motion seeking to stay the shareholder derivative lawsuit pending resolution of the putative securities class action, which stipulation was ordered by the court on December 11, 2017. On December 11, 2018, the parties filed a joint status report indicating that they believe the action remains stayed pending the outcome of the putative securities class action. We believe that we have meritorious defenses and we intend to defend the lawsuit vigorously. It is possible that similar lawsuits may yet be filed in the same or other courts that name the same or additional defendants.

On October 22, 2018, the Company received a litigation demand on behalf of putative Cempra shareholder Dr. Alan Cauldwell (the "Demand"), purporting to reinstate Dr. Cauldwell's previous demand, dated as of January 3, 2018, held in abeyance after further discussion and negotiation with the Company. The Demand appears premised on the same factual allegations as the shareholder derivative lawsuits previously filed against the Company, as detailed above, and requests, in part, that Cempra's board of directors commence an investigation of the misconduct alleged therein. We believe that we have meritorious defenses to Dr. Cauldwell's claims, and we intend to defend any litigation relating to the Demand vigorously.

On December 3, 2018, James Naples, a purported Company shareholder, filed a putative class action suit against the Company and its Board of Directors in the Court of Chancery of the State of Delaware, alleging that the Board had breached its fiduciary duties related to a proposed, and subsequently abandoned, $75,000 common stock financing that was contemplated with affiliates of Vatera Holdings LLC. The suit alleged that the Board of Directors breached its fiduciary duties by, among other things, failing to disclose all material information to Company shareholders. The suit sought, among other things, to enjoin the shareholder vote on the financing proposal until additional disclosures were issued. On February 27, 2019, the suit

was voluntarily dismissed with prejudice as moot, though the court has retained jurisdiction solely for the purpose of adjudicating a claim by the plaintiff for attorneys' fees and expenses, which the Company anticipates will be submitted.

On December 18, 2018, we filed a complaint in the Court of Chancery of the State of Delaware against Medicines for breach of contract claim and fraud arising from the Purchase and Sale Agreement ("Purchase Agreement"), dated November 28, 2017, pursuant to which we acquired the Infectious Disease Businesses from Medicines (the "Medicines Action"). In the complaint, we alleged claims for damages of at least $68,300. On December 28, 2018, we received a letter from Medicines demanding the payment of Milestone No. 4 under the Agreement and Plan of Merger, dated as of December 3, 2013, among Medicines, Rempex Pharmaceuticals, Inc. and the other parties thereto ("Merger Agreement"), in the amount of $30,000 (a milestone which the Company had assumed as an "Assumed Liability" under the Purchase Agreement). On January 7, 2019, we notified Medicines that we would not be making the Milestone No. 4 payment in the amount of $30,000, or the First Deferred Payment in the amount of $25,000 under the Purchase Agreement, because the Company had asserted claims in the litigation in excess of these amounts. On January 9, 2019, Medicines filed a motion to dismiss our claims, and on March 15, 2019, Medicines filed its Opening Brief in Support of Its Motion to Dismiss. On April 23, 2019, we filed an Amended Complaint alleging claims for damages of at least $80,000. On May 3, 2019, Medicines filed a motion to dismiss our claims in the Amended Complaint.

On March 28, 2019, Fortis Advisors LLC, in its capacity as the authorized legal representative of the former shareholders of Rempex Pharmaceuticals, Inc. ("Former Rempex Shareholders"), filed a complaint in the Court of Chancery of the State of Delaware against Medicines and us (the "Fortis Action"). The Former Rempex Shareholders' complaint alleges breach of contract claims against Medicines arising out of the Merger Agreement and alleges a third-party beneficiary claim against us for breach of the Purchase Agreement. The Former Rempex Shareholders' complaint seeks to hold us and Medicines jointly and severally liable for alleged damages of at least $30,000, as well as pre- and post-judgment interest, fees, costs, expenses, and disbursements. On April 18, 2019, we filed a motion to dismiss the Former Rempex Shareholders' claim against us. Also on April 18, 2019, Medicines filed its answer to the Former Rempex Shareholders' complaint, as well as a crossclaim against us. Medicines' crossclaim asserts a breach of contract claim against us arising out of the Purchase Agreement. Medicines seeks an order requiring us to comply with all obligations under the Purchase Agreement, damages in an amount to be determined at trial, as well as pre- and post-judgment interest, fees, costs, expenses, and disbursements. On May 8, 2019, we filed an answer to Medicines' crossclaim, as well as a motion to consolidate the Fortis Action and the Medicines Action. We believe that we have meritorious defenses and we intend to defend the lawsuit and crossclaim vigorously.

Other than as described above, we are not a party to any legal proceedings and we are not aware of any claims or actions pending or threatened against us. In the future, we might from time to time become involved in litigation relating to claims arising from our ordinary course of business.

NOTE 11 – SEVERANCE AND EXIT COSTS

A summary of merger and non-merger activity in our severance accrual (included in accrued expenses or long-term liabilities on the condensed consolidated balance sheets) is below.

Balance - December 31, 2018	$	9,767
Additional severance accruals (recorded in SG&A)		974
Severance payments		(5,550)
Balance - March 31, 2019	$	5,191

On March 31, 2019, $5,120 was included in accrued expenses and $71 was included in long-term liabilities. We also recognized $0 and $75 of additional stock-based compensation expense related to the acceleration of equity awards for terminated employees under ASC 718 as severance expense during the three months ended March 31, 2019 and 2018, respectively.

In March 2019, the Company terminated its operating lease for its principal research facility in New Haven, Connecticut. In connection with the termination, the Company agreed to pay the lessor a $462 early termination fee.

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

The unaudited interim financial statements and this Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with the audited financial statements and notes thereto for the year ended December 31, 2018, and the related Management's Discussion and Analysis of Financial Condition and Results of Operations, both of which are contained in our Annual Report on Form 10-K for the year ended December 31, 2018. In addition to historical information, this discussion and analysis contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These forward-looking statements are subject to risks and uncertainties, including those set forth under "Part I. Item 1. Business - Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2018, and elsewhere in this report, that could cause actual results to differ materially from historical results or anticipated results.

Overview

We are a commercial-stage pharmaceutical company focused on developing and commercializing differentiated anti-infectives for the hospital and select non-hospital, or community, settings that address the need for effective treatments for infections due to resistant gram-negative and gram-positive bacteria. We currently market four antibiotics to treat a variety of infections caused by these resistant bacteria.

We are not currently generating revenue from operations that is sufficient to cover our operating expenses and do not anticipate generating revenue sufficient to offset operating costs in the short-term. We have incurred losses from operations since our inception and had an accumulated deficit of $748.3 million as of March 31, 2019, and we expect to incur substantial expenses and further losses in the short term for the development and commercialization of our product candidates and approved products. In addition, we have substantial commitments in connection with our acquisition of the infectious disease business of The Medicines Company that we completed in January 2018, including payments related to deferred purchase price consideration, assumed contingent liabilities and the purchase of inventory. And, there are certain financial-related covenants under our Deerfield Facility, as amended in January 2019, including requirements that we (i) file an Annual Report on Form 10-K for the year ending December 31, 2019, with an audit opinion without a going concern qualification, (ii) maintain a minimum cash balance of $40.0 million through March 2020, and thereafter, a balance of $25.0 million, and (iii) achieve net revenue from product sales of at least $63.75 million for the year ending December 31, 2019. (See Note 4 to the condensed consolidated financial statements for further details.)

Our future cash flows are dependent on key variables such as our ability to access additional capital under our Vatera and Deerfield credit facilities, our ability to secure a working capital revolver, which is allowed under the Deerfield Facility and required under the Vatera facility, and most importantly, the level of sales achievement of our four marketed products. Our current operating plans include assumptions about our projected levels of product sales growth in the next 12 months in relation to our planned operating expenses. Revenue projections are inherently uncertain but have a higher degree of uncertainty in an early-stage commercial launch, which we have in Baxdela and Vabomere, where there is not yet a robust sales history. While we have a plan to achieve the current expected sales levels of our products, we are unable to conclude based on applying the requirements of FASB Accounting Standards Codification 205-40, Presentation of Financial Statements - Going Concern ("ASC 205") that such revenue is "probable" as defined under this accounting standard. In addition, given our forecasted product sales are not deemed probable, our ability to draw the additional $50.0 million of capacity under the Deerfield Facility, which is conditional based on meeting certain sales-based milestones before the end of 2019, is also not considered to be probable. And further, given the softness of our product sales to date, we believe that there is risk in meeting the minimum sales covenant for 2019 under the terms of the Deerfield Credit Facility. As such, we are not able to conclude under ASC 205 that the actions discussed below will be effectively implemented and, therefore, our current operating plans, existing cash and cash collections from existing revenue arrangements and product sales may not be sufficient to fund our operations for the next 12 months. As such, we believe there is substantial doubt about our ability 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.

In the fourth quarter of 2018, the Company took actions to reduce its operating spend, including a reduction to the workforce of approximately 20.0% and a decision to begin to wind down its research and discovery function. To provide additional operating capital, in December 2018, the Company entered into a Senior Subordinated Convertible Loan Agreement (the "Loan Agreement") with Vatera Healthcare Partners LLC and Vatera Investment Partners LLC (together, "Vatera") pursuant to which Vatera committed to provide $135.0 million over a period of five months, subject to the satisfaction of certain conditions (see Note 4 to the consolidated financial statements). We drew $75.0 million under this facility in February 2019, and while the remaining $60.0 million is available through early July 2019, subject to certain closing conditions, it is not certain that all of these conditions will be met. Among these conditions, before each draw, management must certify to Vatera that it does not foresee breaching any covenants under the Deerfield Credit Facility, and the Company must establish a working capital revolver of at least $10.0 million in order to draw the final $35.0 million tranche under the Loan Agreement in July 2019.

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As of March 31, 2019, the Company had $116.9 million in cash and cash equivalents. In addition to pursuing the additional $60.0 million available under the Vatera Facility and a working capital revolver for up to $20.0 million, we are also exploring options to modify the terms of certain liabilities to increase our liquidity over the next 12 to 18 months. If our cash collections from revenue arrangements, including product sales, and other financing sources are not sufficient, we plan to control spending and would take further actions to adjust the spending level for operations if required. However, there is no guarantee that we will be successful in executing any or all of these initiatives.

Recent Developments

On December 31, 2018, we entered into a Senior Subordinated Convertible Loan Agreement (the "Loan Agreement") with Vatera Healthcare Partners LLC, Vatera Investment Partners LLC (together, "Vatera") and Deerfield pursuant to which Vatera committed to provide $135.0 million over a period of five months, subject to the satisfaction of certain conditions (see Note 4 to the consolidated financial statements). In addition, the Loan Agreement provides that $5.0 million was deemed to have been loaned by Deerfield to us under the same terms and conditions. This agreement was approved by shareholders at a Special Meeting held on February 19, 2019. We drew $75.0 million under this facility in February 2019.

On January 14, 2019, Melinta and Deerfield entered into an amendment to the Deerfield Facility (the "Deerfield Facility Amendment"). The amendments set forth in the Deerfield Facility Amendment adjust certain covenants and provides for the redemption of up to $74.0 million into shares of the Company's common stock at Deerfield's option, at any time, subject to a 4.985% ownership cap. See Note 4 to the condensed consolidated financial statements for further details.

In March 2019, we designed a clinical study for a new formulation of Orbactiv, which will reduce the infusion time from the current three hours to one hour. We expect the study to be conducted in the second half of 2019 and to include approximately 100 patients. With the approval of a formulation with an infusion time of one hour, we expect to more aggressively compete in the hospital and non-hospital out-patient infusion settings for the treatment of patients with serious skin infections.

In April 2019, we filed an sNDA for Baxdela for the treatment of community-acquired bacterial pneumonia ("CABP"). We await the formal FDA acceptance of the filing as well as confirmation of the PDUFA date (or approval date). The approval of Baxdela for CABP would expand the market potential for Baxdela beyond ABSSSI with our target audience in the hospital and non-hospital setting.

Results of Operations for the Three Months Ended March 31, 2019 and 2018

Revenue

We recorded product sales, net of adjustments for returns and other allowances, of $11.8 million for both the three months ended March 31, 2019 and three months ended March 31, 2018. On a year-over-year basis, growth in sales of Vabomere and Minocin were offset with lower Baxdela and Orbactiv sales.

For the three months ended March 31, 2019, contract research revenue decreased $1.6 million compared to the three months ended March 31, 2018, due primarily to lower reimbursable expenses incurred in connection with the Baxdela CABP study, which is reimbursed 50% by Menarini. This decrease was partially offset by increases in reimbursement related to expenses incurred for other licensed products. We completed the enrollment for the Baxdela CABP study in July 2018, we filed the sNDA in April 2019, and we expect a decision on FDA approval for Baxdela for the CABP indication in the fourth quarter of 2019. As such, contract research revenue will continue to decrease over the next quarter of 2019.

For the three months ended March 31, 2019, license revenue was $0.9 million compared to $0 for the three months ended March 31, 2018. The license revenue in the current period relates to rights licensed to a partner to commercialize Baxdela in the Middle East/North Africa territories.

Cost of goods sold

Cost of goods sold for the three months ended March 31, 2019 and the three months ended March 31, 2018 was $7.4 million and $7.7 million, respectively. Cost of goods sold includes the direct manufacturing cost of products sold and allocated manufacturing overhead, including royalties for intellectual property supporting our products. Cost of goods sold in the three months ended March 31, 2019 and March 31, 2018, also includes $4.1 million and $4.7 million, respectively, of amortization of product rights (intangible assets) resulting from the purchase accounting for the IDB acquisition.

Research and Development Expense

For the three months ended March 31, 2019, our research and development expense decreased $10.8 million compared to the three months ended March 31, 2018, driven primarily by:

- $6.6 million for development activities, principally clinical studies, supporting Baxdela, Vabomere, Orbactiv and Minocin, as well as development of solithromycin, which we wound down last year;
- $2.0 million resulting from winding down our early stage research programs;
- $0.7 million due to lower quality and regulatory activities, due to integration of the IDB products;
- $0.4 million due to lower personnel-related and travel expenses; and
- $0.9 million due to other costs.

We completed the CABP study in 2018, and we filed an sNDA with the FDA for Baxdela for the treatment of adult patients with CABP in April 2019. In addition, we terminated our agreement with BARDA for the development of solithromycin in 2018, and we wound down our early stage research programs in the first quarter of 2019. Accordingly, the company's research and development expenses will decrease significantly in 2019 compared to 2018.

Selling, General and Administrative Expense

For the three months ended March 31, 2019, selling, general and administrative expense decreased $8.7 million compared to the three months ended March 31, 2018, driven primarily by lower costs in connection with the integration of the Melinta, Cempra and IDB businesses in late 2018:

- lower legal, consulting and other professional fees of $4.0 million;
- lower commercial support and expenses of $2.4 million;
- lower medical education of $1.1 million;
- lower severance costs of $0.5 million; and
- $0.8 million of gain from extinguishing lease liabilities.

Other Income (Expense), Net

Other expense, net, increased by $16.1 million for the three months ended March 31, 2019, compared to the three months ended March 31, 2018, due principally to the recognition in 2018 of a $24.1 million gain on the remeasurement of our warrant liability and $2.7 million in grant income recognized under contracts that were terminated in 2018. Partially offsetting these decreases year-over-year was a gain of $6.0 million on the remeasurement of our conversion liability, lower non-cash interest expense related to the accretion of certain liabilities assumed in the IDB Transaction that were fully accreted or nearly fully accreted by the end of 2018, as well as a loss on the extinguishment of debt in 2018 (where there was no such extinguishment activity in the first quarter of 2019).

Critical Accounting Policies and Estimates

Our significant accounting policies are more fully described in our 2018 Annual Report on Form 10-K and Note 2, “Summary of Significant Accounting Policies,” in the Notes to the Consolidated Financial Statements, which includes further information about recently issued accounting pronouncements. There were no material changes in our critical accounting policies since the filing of our 2018 Annual Report on Form 10-K other than discussed below.

Liquidity and Capital Resources

We have incurred significant losses and negative cash flows from operating activities since our inception. As of March 31, 2019, we had an accumulated deficit of $748.3 million, and we expect to continue to incur significant losses in the short term. In addition, we have substantial commitments in connection with our acquisition of the infectious disease business of The Medicines Company that we completed in January 2018, including payments related to deferred purchase price consideration, assumed contingent liabilities and the purchase of inventory. And, there are certain financial-related covenants under our Deerfield Facility, as amended in January 2019, including requirements that we (i) file an Annual Report on Form 10-K for the year ending December 31, 2019, with an audit opinion without a going concern qualification, (ii) maintain a minimum cash balance of $40.0 million through March 2020, and thereafter, a balance of $25.0 million, and (iii) achieve net revenue from product sales of at least $63.8 million for the year ending December 31, 2019. (See Note 4 to the consolidated financial statements for the accounting treatment of the Deerfield Facility.). In November 2018, the Company took actions to reduce its operating spend, including a reduction to the workforce of approximately 20.0% and a decision to begin to wind down its research and discovery function. To provide additional operating capital, in December 2018, the Company entered into a Senior Subordinated Convertible Loan Agreement (the “Loan Agreement”) with Vatera Healthcare Partners LLC and Vatera Investment Partners LLC (together, “Vatera”) pursuant to which Vatera committed to provide $135.0 million over a period of five months, subject to the satisfaction of certain conditions (see Note 4). Upon the effectiveness and under the terms of the Loan Agreement, we provided a deemed issuance of these notes to Deerfield in the amount of $5.0 million. We drew $75.0 million under this facility in February 2019, and while the remaining $60,000 is available through early July 2019, subject to certain closing conditions, it is not certain that all of these conditions will be met.

As of March 31, 2019, we held cash and cash equivalents of $116.9 million to fund operations. We are focused on several initiatives to fund the future operations of the Company and reduce our risk of default under the Deerfield Facility with respect to minimum cash requirements. In addition to pursuing the additional $60.0 million available under the Vatera Facility

and a working capital revolver in place for up to $20.0 million, we are also exploring options to modify the terms of certain liabilities to increase our liquidity over the next 12 to 18 months. If our cash collections from revenue arrangements, including product sales, and other financing sources are not sufficient, we plan to control spending and would take further actions to adjust the spending level for operations if required. However, there is no guarantee that we will be successful in executing any or all of these initiatives.

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 the Company, the Company's business, result of operations, liquidity and financial condition would be materially and negatively affected, and we would be unable to continue as a going concern. Additionally, there can be no assurance that we will achieve sufficient revenue or profitable operations 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.

As an early commercial-stage company, we have not yet demonstrated the ability to successfully commercialize and launch a product candidate or market and sell products, and our marketed products have very limited sales history, with Baxdela and Vabomere launching within the last 18 months, and Orbactiv and Minocin for injection launching in 2014 and 2015, respectively. As such, even if we obtain sufficient capital to support our operating plan, it is possible that we may fail to appropriately estimate the timing and amount of our funding requirements and we may need to seek additional funding sooner, and in larger amounts, than we currently anticipate.

The following table provides a summary of our cash position as of each of the period-end dates and the cash flows for each of the periods presented below (in thousands):

	Three Months Ended March 31,	
	2019	2018
	(In thousands)	
Net cash provided by (used in):		
Operating activities	$ (37,321)	$ (51,419)
Investing activities	(1,221)	(166,887)
Financing activities	73,635	181,398
Net change in cash and equivalents	$ 35,093	$ (36,908)

Operating Activities. Net cash used in operating activities for the three months ended March 31, 2019 and 2018, was $37.3 million and $51.4 million, respectively. In 2018, the primary use of cash was related to supporting our commercial activities, in addition to development and discovery research activities for our product candidates and support for our general and administrative functions. We used $14.1 million less in operations during 2019 due primarily to lower operating expenses, excluding non-cash and debt extinguishment expenses, of $14.8 million, due primarily to a reduction in R&D expenses because of the conclusion of our CAPB study and the wind-down of our early-stage research activities, which was substantially completed by March 31, 2019. The cash used in operations year-over-year was driven slightly higher by changes in working capital accounts totaling $0.7 million.

Investing Activities. Net cash used in investing activities for the three months ended March 31, 2019, of $1.2 million was related principally to a $1.2 million licensing payment related to one of our commercial products. Net cash used in investing activities for the three months ended March 31, 2018, related to the purchase of IDB and the purchases of equipment.

Financing Activities. Net cash provided by financing activities of $73.6 million for the three months ended March 31, 2019, consisted primarily of $73.7 million provided by the issuance of convertible notes (net of $1.3 million of debt issuance costs).

Net cash provided by financing activities of $181.4 million for the three months ended March 31, 2018, consisted primarily of:

- $190.0 million provided by the facility agreement;
- $40.0 million provided by additional equity funding;
- $6.5 million used for debt issuance costs; and
- $40.0 million used for payment of notes payable, as well as $2.2 million for debt extinguishment.

Funding Sources and Requirements

Our principal operating source of funds is product sales, although we also generate significant amounts of funds through licensing our products in markets outside the U.S. and thorough grants which reimburse a portion of our research and development activities.

In connection with the IDB Transaction in January 2018, we entered into the Deerfield Facility. The Deerfield Facility, as amended in January 2019, provides up to $240.0 million in debt and equity financing, with a term of six years. We have approximately $145 million principal outstanding under the Deerfield Facility as of March 31, 2019 (see Liquidity and Capital Resources above for further details.)

To provide additional operating capital, in December 2018, the Company entered into a Senior Subordinated Convertible Loan Agreement (the "Loan Agreement") with Vatera Healthcare Partners LLC and Vatera Investment Partners LLC (together, "Vatera") pursuant to which Vatera committed to provide $135.0 million over a period of five months, subject to the satisfaction of certain conditions, but it is not certain that all of these conditions will be met (see Notes 1 and 4).

We expect to continue to incur significant losses into 2020, as we continue the development of, and seek regulatory approvals for, our product candidates, and commercialize our approved products. We are also subject to the risks associated with the development of new therapeutic products, and we may encounter unforeseen expenses, difficulties, complications, delays and other unknown factors that may adversely affect our business operations. Additionally, we expect to incur additional costs associated with operating as a public company and may need substantial additional funding in connection with our continuing operations, commercial and product development activities.

As discussed above, we expect our operating expenses to continue to increase for the foreseeable future and, as a result, we will need additional capital to support the working capital requirements of commercialized products and to fund further development of Melinta's other product candidates.

We intend to use our cash and cash equivalents as follows:

- to fund the activities supporting the commercialization efforts for our marketed products;
- pursue additional indications and regional approvals, leveraging our robust product portfolio and minimum 10-year market exclusivity period in the United States, including Baxdela for the treatment of CABP and a reformulation for Orbactiv; and
- the remainder for working capital, selling, general and administrative expenses, and other general corporate purposes.

Until we can generate a sufficient amount of revenue from our products and licensing agreements, to finance our future cash needs, we are pursuing the $60.0 million of capital available under the Vatera Loan Agreement and a working capital revolver of up to $20.0 million, and we are also exploring options to modify the terms of certain liabilities to increase our liquidity over the next 12 to 18 months. If our cash collections from revenue arrangements, including product sales, and other financing sources are not sufficient, we plan to control spending and would take further actions to adjust the spending level for operations if required. However, there is no guarantee that we will be successful in executing any or all of these initiatives.

Contractual Obligations and Commitments

There have been no significant changes in our contractual obligations and commitments since the filing of and as disclosed in our 2018 Annual Report on Form 10-K.

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 under SEC rules.

Recent Accounting Pronouncements

See Note 2 to the Condensed Consolidated Financial Statements for discussion of recent accounting pronouncements.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

There have not been any material changes to our exposure to market risk during the quarter ended March 31, 2019. For additional information regarding market risk, refer to "Item 7A. Quantitative and Qualitative Disclosure About Market Risk" of our 2018 Annual Report on Form 10-K.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures (as defined in Rule 13a-15(e) promulgated under the Exchange Act) are designed only to provide reasonable assurance that information to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. As of the end of the period covered by this report, management, including our Chief Executive Officer (our principal executive officer) and Chief Financial Officer (our principal financial officer), carried out an evaluation of the effectiveness of our disclosure controls and procedures pursuant to Exchange Act Rule 13a-15(b). Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer

have concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report to provide the reasonable assurance discussed above.

Changes in Internal Control over Financial Reporting

No change to our internal control over financial reporting occurred during the last fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II—OTHER INFORMATION

Item 1A. Risk Factors

There have been no material changes to the risk factors previously disclosed in our 2018 Annual Report on Form 10-K.

Item 6. Exhibits

Exhibit Number	Description of Document	Registrant's Form	Filed	Exhibit Number	Filed Herewith
10.1	Separation and Release agreement with Erin Duffy, Ph.D. dated April 9, 2019.				X
10.2	Melinta Amended and Restated 2018 Stock Incentive Plan dated February 19, 2019. *				X
31.1	Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				X
31.2	Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				X
32.1	Certification of Chief Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				X
32.2	Certification of Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				X
101	Financials in XBRL format.				X

+ The exhibit contains a management contract, compensatory plan or arrangement which is required to be identified in this report.

* The Company has requested confidential treatment with respect to portions of this exhibit. Those portions have been omitted and filed separately with the Securities and Exchange Commission pursuant to a confidential treatment request.

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.

MELINTA THERAPEUTICS, INC.

Dated:	By:	/s/ John H. Johnson
May 10, 2019		John H. Johnson
		Interim Chief Executive Officer and Director
Dated:	By:	/s/ Peter J. Milligan
May 10, 2019		Peter J. Milligan
		Chief Financial Officer

MELINTA THERAPEUTICS, INC.
AMENDED AND RESTATED 2018 STOCK INCENTIVE PLAN

This AMENDED AND RESTATED 2018 STOCK INCENTIVE PLAN, originally established and adopted on June 12, 2018, by Melinta Therapeutics, Inc., a Delaware corporation, is hereby amended and restated effective February 19, 2019 (the "Restatement Date").

1. **Purpose.**

The purpose of the Plan is to assist the Company in attracting, retaining, motivating, and rewarding certain employees, officers, directors, and consultants of the Company and its Affiliates and promoting the creation of long-term value for stockholders of the Company by closely aligning the interests of such individuals with those of such stockholders. The Plan authorizes the award of Stock-based and cash-based incentives to Eligible Persons to encourage such Eligible Persons to expend maximum effort in the creation of stockholder value.

2. **Definitions.**

For purposes of the Plan, the following terms shall be defined as set forth below:

(a) "Affiliate" means, with respect to a Person, any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.

(b) "Award" means any Option, award of Restricted Stock, Restricted Stock Unit, Stock Appreciation Right, Performance Award, or other Stock-based award granted under the Plan.

(c) "Award Agreement" means an Option Agreement, a Restricted Stock Agreement, an RSU Agreement, a SAR Agreement, a Performance Award Agreement, or an agreement governing the grant of any other Stock-based Award granted under the Plan.

(d) "Board" means the Board of Directors of the Company.

(e) "Cause" means, with respect to a Participant and in the absence of an Award Agreement or Participant Agreement otherwise defining Cause, (1) the Participant's plea of *nolo contendere* to, conviction of or indictment for, any crime (whether or not involving the Company or its Affiliates) (i) constituting a felony or (ii) that has, or could reasonably be expected to result in, an adverse impact on the performance of the Participant's duties to the Service Recipient, or otherwise has, or could reasonably be expected to result in, an adverse impact on the business or reputation of the Company or its Affiliates, (2) conduct of the Participant, in connection with his or her employment or service, that has resulted, or could reasonably be expected to result, in material injury to the business or reputation of the Company or its Affiliates, (3) any material violation of the policies of the Service Recipient, including, but not limited to, those relating to sexual harassment or the disclosure or misuse of confidential information, or those set forth in the manuals or statements of policy of the Service Recipient; (4) the Participant's act(s) of gross negligence or willful misconduct in the course of his or her employment or service with the Service Recipient; (5) misappropriation by the Participant of any assets or business opportunities of the Company or its Affiliates; (6) embezzlement or fraud committed by the Participant, at the Participant's direction, or with the Participant's prior actual knowledge; (7) willful neglect in the performance of the Participant's duties for the Service Recipient or willful or repeated failure or refusal to perform such duties; (8) a Participant's insubordination, dishonesty, failure to cooperate in any investigation or inquiry involving the Company, incompetence, moral turpitude, misconduct, refusal to perform his or her duties or responsibilities for any reason other than illness or incapacity or materially unsatisfactory performance of his or her duties for the Company or an Affiliate as determined by the Committee in its sole discretion; or (9) with respect to a non-employee director, an act or failure to act that constitutes cause for removal of a director under applicable Delaware law. If, subsequent to the Termination of a Participant for any reason other than by the Service Recipient for Cause, it is discovered that the Participant's employment or service could have been terminated for Cause, such Participant's employment or service shall, at the discretion of the Committee, be deemed to have been terminated by the Service Recipient for Cause for all purposes under the Plan, and the Participant shall be required to repay to the Company all amounts received by him or her in respect of any Award following such Termination that would have been forfeited under the Plan had such Termination been by the Service Recipient for Cause. In the event that there is an Award Agreement or Participant Agreement defining Cause, "Cause" shall have the meaning provided in such agreement, and a Termination by the Service Recipient for Cause hereunder shall not be deemed to have occurred unless all applicable notice and cure periods in such Award Agreement or Participant Agreement are complied with.

(f) "Change in Control" means:

(1) a change in ownership or control of the Company effected through a transaction or series of transactions (other than an offering of Stock to the general public through a registration statement filed with the U.S. Securities and Exchange Commission or similar non-U.S. regulatory agency or pursuant to a Non-Control Transaction) whereby any "person" (as defined in Section 3(a)(9) of the Exchange Act) or any two or more persons deemed to be one "person" (as used in Sections 13(d)(3) and 14(d)(2) of the Exchange Act), other than the Company or any of its Affiliates, an employee benefit plan sponsored or maintained by the Company or any of its Affiliates (or its related trust), or any underwriter temporarily holding securities pursuant to an offering of such securities, directly or indirectly acquire "beneficial ownership" (within the meaning of Rule 13d-3 under the Exchange Act) of securities of the Company possessing more than fifty percent (50%) of the total combined voting power of the Company's securities eligible to vote in the election of the Board (the "Company Voting Securities");

(2) the date, within any consecutive twenty-four (24) month period commencing on or after the Effective Date, upon which individuals who constitute the Board as of the Effective Date (the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; *provided, however*, that any individual who becomes a director subsequent to the Effective Date whose election or nomination for election by the Company's stockholders was approved by a vote of at least a majority of the directors then constituting the Incumbent Board (either by a specific vote or by approval of the proxy statement of the Company in which such individual is named as a nominee for director, without objection to such nomination) shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest (including, but not limited to, a consent solicitation) with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the Board; or

(3) the consummation of a merger, consolidation, share exchange, or similar form of corporate transaction involving the Company or any of its Affiliates that requires the approval of the Company's stockholders (whether for such transaction, the issuance of securities in the transaction or otherwise) (a "Reorganization"), unless immediately following such Reorganization (i) more than fifty percent (50%) of the total voting power of (A) the corporation resulting from such Reorganization (the "Surviving Company") or (B) if applicable, the ultimate parent corporation that has, directly or indirectly, beneficial ownership of one hundred percent (100%) of the voting securities of the Surviving Company (the "Parent Company"), is represented by Company Voting Securities that were outstanding immediately prior to such Reorganization (or, if applicable, is represented by shares into which such Company Voting Securities were converted pursuant to such Reorganization), and such voting power among the holders thereof is in substantially the same proportion as the voting power of such Company Voting Securities among holders thereof immediately prior to such Reorganization, (ii) no person, other than an employee benefit plan sponsored or maintained by the Surviving Company or the Parent Company (or its related trust), is or becomes the beneficial owner, directly or indirectly, of fifty percent (50%) or more of the total voting power of the outstanding voting securities eligible to elect directors of the Parent Company, or if there is no Parent Company, the Surviving Company, and (iii) at least a majority of the members of the board of directors of the Parent Company, or if there is no Parent Company, the Surviving Company, following the consummation of such Reorganization are members of the Incumbent Board at the time of the Board's approval of the execution of the initial agreement providing for such Reorganization (any Reorganization which satisfies all of the criteria specified in clauses (i), (ii), and (iii) above shall be a "Non-Control Transaction"); or

(4) the sale or disposition, in one or a series of related transactions, of all or substantially all of the assets of the Company to any "person" (as defined in Section 3(a)(9) of the Exchange Act) or to any two or more persons deemed to be one "person" (as used in Sections 13(d)(3) and 14(d)(2) of the Exchange Act) other than the Company's Affiliates.

Notwithstanding the foregoing, (x) a Change in Control shall not be deemed to occur solely because any person acquires beneficial ownership of fifty percent (50%) or more of the Company Voting Securities as a result of an acquisition of Company Voting Securities by the Company that reduces the number of Company Voting Securities outstanding; *provided* that if after such acquisition by the Company such person becomes the beneficial owner of additional Company Voting Securities that increases the percentage of outstanding Company Voting Securities beneficially owned by such person, a Change in Control shall then be deemed to occur, (y) with respect to the payment of any amount that constitutes a deferral of compensation subject to Section 409A of the Code payable upon a Change in Control, a Change in Control shall not be deemed to have occurred, unless the Change in Control constitutes a change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company under Section 409A(a)(2)(A)(v) of the Code, and (z) in no event shall stockholder approval of a transaction which, if consummated, would constitute a Change in Control, constitute a Change in Control.

(g) "Code" means the U.S. Internal Revenue Code of 1986, as amended from time to time, including the rules and regulations thereunder and any successor provisions, rules and regulations thereto.

(h) "Committee" means the Compensation Committee of the Board or such other committee consisting of two or more individuals appointed by the Board to administer the Plan and each other individual or committee of individuals designated to exercise

authority under the Plan.

(i) "Company" means Melinta Therapeutics, Inc., a Delaware corporation, and its successors by operation of law.

(j) "Corporate Event" has the meaning set forth in Section 11(b) hereof.

(k) "Data" has the meaning set forth in Section 21(g) hereof.

(l) "Disability" means, in the absence of an Award Agreement or Participant Agreement otherwise defining Disability, the permanent and total disability of such Participant within the meaning of Section 22(e)(3) of the Code. In the event that there is an Award Agreement or Participant Agreement defining Disability, " Disability" shall have the meaning provided in such Award Agreement or Participant Agreement.

(m) "Disqualifying Disposition" means any disposition (including any sale) of Stock acquired upon the exercise of an Incentive Stock Option made within the period that ends either (1) two years after the date on which the Participant was granted the Incentive Stock Option or (2) one year after the date upon which the Participant acquired the Stock.

(n) "Effective Date" means April 20, 2018, which is the date on which the Plan was approved by the Committee.

(o) "Eligible Person" means (1) each employee and officer of the Company or any of its Affiliates, (2) each non-employee director of the Company or any of its Affiliates; (3) each other natural Person who provides substantial services to the Company or any of its Affiliates as a consultant or advisor (or a wholly owned alter ego entity of the natural Person providing such services of which such Person is an employee, stockholder or partner) and who is designated as eligible by the Committee, and (4) each natural Person who has been offered employment by the Company or any of its Affiliates; *provided* that such prospective employee may not receive any payment or exercise any right relating to an Award until such Person has commenced employment or service with the Company or its Affiliates; *provided further, however*, that (i) with respect to any Award that is intended to qualify as a "stock right" that does not provide for a "deferral of compensation" within the meaning of Section 409A of the Code, the term "Affiliate" as used in this Section 2(o) shall include only those corporations or other entities in the unbroken chain of corporations or other entities beginning with the Company where each of the corporations or other entities in the unbroken chain other than the last corporation or other entity owns stock possessing at least fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations or other entities in the chain, and (ii) with respect to any Award that is intended to be an Incentive Stock Option, the term "Affiliate" as used in this Section 2(o) shall include only those entities that qualify as a "subsidiary corporation" with respect to the Company within the meaning of Section 424(f) of the Code. An employee on an approved leave of absence shall be considered as still in the employ of the Company or any of its Affiliates for purposes of eligibility for participation in the Plan.

(p) "Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended from time to time, including the rules and regulations thereunder and any successor provisions, rules and regulations thereto.

(q) "Expiration Date" means, with respect to an Option or Stock Appreciation Right, the date on which the term of such Option or Stock Appreciation Right expires, as determined under Section 5(b) or 8(b) hereof, as applicable.

(r) "Fair Market Value" means, as of any date when the Stock is listed on one or more national securities exchanges, the closing price reported on the principal national securities exchange on which such Stock is listed and traded on the date of determination or, if the closing price is not reported on such date of determination, the closing price reported on the most recent date prior to the date of determination. If the Stock is not listed on a national securities exchange, "Fair Market Value" shall mean the amount determined by the Board in good faith, and in a manner consistent with Section 409A of the Code, to be the fair market value per share of Stock.

(s) "GAAP" has the meaning set forth in Section 9(f)(3) hereof.

(t) "Incentive Stock Option" means an Option intended to qualify as an "incentive stock option" within the meaning of Section 422 of the Code.

(u) "Nonqualified Stock Option" means an Option not intended to qualify as an Incentive Stock Option.

(v) "Option" means a conditional right, granted to a Participant under Section 5 hereof, to purchase Stock at a specified price during a specified time period.

(w) "Option Agreement" means a written agreement between the Company and a Participant evidencing the terms and conditions of an individual Option Award.

(x) "Participant" means an Eligible Person who has been granted an Award under the Plan or, if applicable, such other Person who holds an Award.

(y) "Participant Agreement" means an employment or other services agreement between a Participant and the Service Recipient that describes the terms and conditions of such Participant's employment or service with the Service Recipient and is effective as of the date of determination.

(z) "Performance Award" means an Award granted to a Participant under Section 9 hereof, which Award is subject to the achievement of Performance Objectives during a Performance Period. A Performance Award shall be designated as a Performance Share, or a Performance Unit at the time of grant.

(aa) "Performance Award Agreement" means a written agreement between the Company and a Participant evidencing the terms and conditions of an individual Performance Award.

(bb) "Performance Objectives" means the performance objectives established by the Committee pursuant to the Plan for Participants who have received Performance Awards.

(cc) "Performance Period" means the period of time designated by the Committee over which the achievement of one or more Performance Objectives will be measured for the purpose of determining a Participant's right to and the payment of an Award. Performance Periods may be of varying and overlapping duration, at the sole discretion of the Committee.

(dd) "Performance Share" means a Performance Award denominated in shares of Stock which may be earned in whole or in part based upon the achievement of Performance Objectives during a Performance Period.

(ee) "Performance Unit" means a Performance Award denominated as a notional unit representing the right to receive one share of Stock (or the cash value of one share of Stock, if so determined by the Committee) on a specified settlement date which may be earned in whole or in part based upon the achievement of Performance Objectives during a Performance Period.

(ff) "Person" means any individual, corporation, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, or other entity.

(gg) "Plan" means this Melinta Therapeutics, Inc. 2018 Stock Incentive Plan, as amended from time to time.

(hh) "Prior Plan" means the Melinta Therapeutics, Inc. 2011 Equity Incentive Plan, as amended and restated.

(ii) "Qualified Member" means a member of the Committee who is a "Non-Employee Director" within the meaning of Rule 16b-3 under the Exchange Act and an "independent director" as defined under, as applicable, the NASDAQ Listing Rules, the NYSE Listed Company Manual or other applicable stock exchange rules.

(jj) "Qualifying Committee" has the meaning set forth in Section 3(b) hereof.

(kk) "Restricted Stock" means Stock granted to a Participant under Section 6 hereof that is subject to certain restrictions and to a risk of forfeiture.

(ll) "Restricted Stock Agreement" means a written agreement between the Company and a Participant evidencing the terms and conditions of an individual Restricted Stock Award.

(mm) "Restricted Stock Unit" means a notional unit, granted to a Participant under Section 7 hereof, representing the right to receive one share of Stock (or the cash value of one share of Stock, if so determined by the Committee) on a specified settlement date.

(nn) "Reverse Stock Split" means the one-for-five reverse stock split of the Stock which became effective on February 22, 2019.

(oo) "RSU Agreement" means a written agreement between the Company and a Participant evidencing the terms and conditions of an individual Restricted Stock Unit Award.

(pp) "SAR Agreement" means a written agreement between the Company and a Participant evidencing the terms and conditions of an individual Stock Appreciation Right Award.

(qq) "Securities Act" means the U.S. Securities Act of 1933, as amended from time to time, including the rules and

regulations thereunder and any successor provisions, rules and regulations thereto.

(rr) "Service Recipient" means, with respect to a Participant holding an Award, either the Company or an Affiliate of the Company by which the original recipient of such Award is, or following a Termination was most recently, principally employed or to which such original recipient provides, or following a Termination was most recently providing, services, as applicable.

(ss) "Stock" means the common stock, par value $0.001 per share, of the Company, and such other securities as may be substituted for such stock pursuant to Section 11 hereof.

(tt) "Stock Appreciation Right" means a conditional right, granted to a Participant under Section 8 hereof, to receive an amount equal to the value of the appreciation in the Stock over a specified period. Except in the event of extraordinary circumstances, as determined in the sole discretion of the Committee, or pursuant to Section 11(b) hereof, Stock Appreciation Rights shall be settled in Stock.

(uu) "Substitute Award" has the meaning set forth in Section 4(a) hereof.

(vv) "Termination" means the termination of a Participant's employment or service, as applicable, with the Service Recipient; *provided, however*, that, if so determined by the Committee at the time of any change in status in relation to the Service Recipient (*e.g.*, a Participant ceases to be an employee and begins providing services as a consultant, or vice versa), such change in status will not be deemed a Termination hereunder. Unless otherwise determined by the Committee, in the event that the Service Recipient ceases to be an Affiliate of the Company (by reason of sale, divestiture, spin-off, or other similar transaction), unless a Participant's employment or service is transferred to another entity that would constitute the Service Recipient immediately following such transaction, such Participant shall be deemed to have suffered a Termination hereunder as of the date of the consummation of such transaction. Notwithstanding anything herein to the contrary, a Participant's change in status in relation to the Service Recipient (for example, a change from employee to consultant) shall not be deemed a Termination hereunder with respect to any Awards constituting "nonqualified deferred compensation" subject to Section 409A of the Code that are payable upon a Termination unless such change in status constitutes a "separation from service" within the meaning of Section 409A of the Code. Any payments in respect of an Award constituting nonqualified deferred compensation subject to Section 409A of the Code that are payable upon a Termination shall be delayed for such period as may be necessary to meet the requirements of Section 409A(a)(2)(B)(i) of the Code. On the first business day following the expiration of such period, the Participant shall be paid, in a single lump sum without interest, an amount equal to the aggregate amount of all payments delayed pursuant to the preceding sentence, and any remaining payments not so delayed shall continue to be paid pursuant to the payment schedule applicable to such Award.

3. **Administration.**

(a) Authority of the Committee. Except as otherwise provided below, the Plan shall be administered by the Committee. The Committee shall have full and final authority, in each case subject to and consistent with the provisions of the Plan, to (1) select Eligible Persons to become Participants, (2) grant Awards, (3) determine the type, number of shares of Stock subject to, other terms and conditions of, and all other matters relating to, Awards, (4) prescribe Award Agreements (which need not be identical for each Participant) and rules and regulations for the administration of the Plan, (5) construe and interpret the Plan and Award Agreements and correct defects, supply omissions, and reconcile inconsistencies therein, (6) suspend the right to exercise Awards during any period that the Committee deems appropriate to comply with applicable securities laws, and thereafter extend the exercise period of an Award by an equivalent period of time or such shorter period required by, or necessary to comply with, applicable law, and (7) make all other decisions and determinations as the Committee may deem necessary or advisable for the administration of the Plan. Any action of the Committee shall be final, conclusive, and binding on all Persons, including, without limitation, the Company, its stockholders and Affiliates, Eligible Persons, Participants, and beneficiaries of Participants. Notwithstanding anything in the Plan to the contrary, the Committee shall have the ability to accelerate the vesting of any outstanding Award at any time and for any reason, including upon a Corporate Event, subject to Section 11(d), or in the event of a Participant's Termination by the Service Recipient other than for Cause, or due to the Participant's death, Disability or retirement (as such term may be defined in an applicable Award Agreement or Participant Agreement, or, if no such definition exists, in accordance with the Company's then-current employment policies and guidelines). For the avoidance of doubt, the Board shall have the authority to take all actions under the Plan that the Committee is permitted to take.

(b) Manner of Exercise of Committee Authority. At any time that a member of the Committee is not a Qualified Member, any action of the Committee relating to an Award granted or to be granted to a Participant who is then subject to Section 16 of the Exchange Act in respect of the Company, must be taken by the remaining members of the Committee or a subcommittee, designated by the Committee or the Board, composed solely of two or more Qualified Members (a "Qualifying Committee"). Any action authorized by such a Qualifying Committee shall be deemed the action of the Committee for purposes of the Plan. The express grant of any specific power to a Qualifying Committee, and the taking of any action by such a Qualifying Committee, shall not be construed as limiting any power or authority of the Committee.

(c) Delegation. To the extent permitted by applicable law, the Committee may delegate to officers or employees of the Company or any of its Affiliates, or committees thereof, the authority, subject to such terms as the Committee shall determine, to perform such functions under the Plan, including, but not limited to, administrative functions, as the Committee may determine appropriate. The Committee may appoint agents to assist it in administering the Plan. Any actions taken by an officer or employee delegated authority pursuant to this Section 3(c) within the scope of such delegation shall, for all purposes under the Plan, be deemed to be an action taken by the Committee. Notwithstanding the foregoing or any other provision of the Plan to the contrary, any Award granted under the Plan to any Eligible Person who is not an employee of the Company or any of its Affiliates (including any non-employee director of the Company or any Affiliate) or to any Eligible Person who is subject to Section 16 of the Exchange Act must be expressly approved by the Committee or Qualifying Committee in accordance with subsection (b) above.

(d) Section 409A. The Committee shall take into account compliance with Section 409A of the Code in connection with any grant of an Award under the Plan, to the extent applicable. While the Awards granted hereunder are intended to be structured in a manner to avoid the imposition of any penalty taxes under Section 409A of the Code, in no event whatsoever shall the Company or any of its Affiliates be liable for any additional tax, interest, or penalties that may be imposed on a Participant as a result of Section 409A of the Code or any damages for failing to comply with Section 409A of the Code or any similar state or local laws (other than for withholding obligations or other obligations applicable to employers, if any, under Section 409A of the Code).

4. **Shares Available Under the Plan; Other Limitations.**

(a) Number of Shares Available for Delivery. Subject to adjustment as provided in Section 11 hereof, the total number of shares of Stock reserved and available for delivery in connection with Awards under the Plan shall equal the sum of (1) 2,073,051, as adjusted to reflect the Reverse Stock Split, and (2) to the extent an award outstanding under the Prior Plan as of the Restatement Date expires or is canceled, forfeited, settled in cash, or otherwise terminated without delivery to the grantee of the full number of shares to which the award related, the number of shares that are undelivered; which includes 400,000 shares specifically for the issuance to the individual serving as Chief Executive Officer of the Company as of February 22, 2019 (the "CEO Shares"). If any of the CEO Shares are not issued to, or are otherwise forfeited by, the Chief Executive Officer of the Company, such unissued or forfeited CEO Shares shall no longer be reserved and available for issuance under the Plan, and the total number of shares of Stock reserved and available for issuance for delivery in connection with the Awards under the Plan shall be reduced accordingly. The total number of shares of Stock reserved and available for delivery in connection with Awards under the Plan will be increased on the first day of the first three fiscal years following the Company's fiscal year in which the Effective Date occurs, in an amount equal to the lesser of (i) four percent (4%) of the outstanding shares of Stock on the last day of the immediately preceding fiscal year or (ii) such number of shares of Stock determined by the Committee. Notwithstanding the foregoing, the Committee may act prior to the first day of a given fiscal year to provide that there will be no such increase in the shares of Stock reserved and available for delivery in connection with Awards under the Plan for such year or that the increase for such year will be a lesser number of shares of Stock than would otherwise occur pursuant to the preceding sentence. Shares of Stock delivered under the Plan shall consist of authorized and unissued shares or previously issued shares of Stock reacquired by the Company on the open market or by private purchase. Notwithstanding the foregoing, (i) except as may be required by reason of Section 422 of the Code, the number of shares of Stock available for issuance hereunder shall not be reduced by shares issued pursuant to Awards issued or assumed in connection with a merger or acquisition as contemplated by, as applicable, NYSE Listed Company Manual Section 303A.08, NASDAQ Listing Rule 5635(c) and IM-5635-1, AMEX Company Guide Section 711, or other applicable stock exchange rules, and their respective successor rules and listing exchange promulgations (each such Award, a "Substitute Award"); and (ii) shares of Stock shall not be deemed to have been issued pursuant to the Plan with respect to any portion of an Award that is settled in cash.

(b) Share Counting Rules. The Committee may adopt reasonable counting procedures to ensure appropriate counting, avoid double-counting (as, for example, in the case of tandem awards or Substitute Awards) and make adjustments if the number of shares of Stock actually delivered differs from the number of shares previously counted in connection with an Award. Other than with respect to a Substitute Award, to the extent that an Award expires or is canceled, forfeited, settled in cash, or otherwise terminated without delivery to the Participant of the full number of shares of Stock to which the Award related, the undelivered shares of Stock will again be available for grant. Shares of Stock withheld in payment of the exercise price or taxes relating to an Award and shares of Stock equal to the number surrendered in payment of any exercise price or taxes relating to an Award shall be deemed to constitute shares delivered to the Participant and shall not be deemed to again be available for delivery under the Plan.

(c) Incentive Stock Options. No more than 400,000 shares of Stock, as adjusted to reflect the Reverse Stock Split (subject to adjustment as provided in Section 11 hereof), reserved for issuance hereunder may be issued or transferred upon exercise or settlement of Incentive Stock Options.

(d) Shares Available Under Acquired Plans. To the extent permitted by NYSE Listed Company Manual Section 303A.08, NASDAQ Listing Rule 5635(c) or other applicable stock exchange rules, subject to applicable law, in the event that a company acquired by the Company or with which the Company combines has shares available under a pre-existing plan approved

by stockholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio of formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the number of shares of Stock reserved and available for delivery in connection with Awards under the Plan; *provided* that Awards using such available shares shall not be made after the date awards could have been made under the terms of such pre-existing plan, absent the acquisition or combination, and shall only be made to individuals who were not employed by the Company or any subsidiary of the Company immediately prior to such acquisition or combination.

(e) Limitation on Awards to Non-Employee Directors. Notwithstanding anything herein to the contrary, the maximum value of any Awards granted to a non-employee director of the Company in any one calendar year, taken together with any cash fees paid to such non-employee director during such calendar year in respect of the non-employee director's services as a member of the Board during such year, shall not exceed $650,000 (calculating the value of any such Awards based on the grant date fair value of such Awards for financial reporting purposes and excluding, for this purpose, the value of any dividend equivalent payments paid pursuant to any Award granted in a previous year); *provided*, that the Committee may make exceptions to this limit for a non-executive chair of the Board or, in extraordinary circumstances, for other individual non-employee directors, as the Committee may determine in its discretion, provided that the non-employee director receiving such additional compensation may not participate in the decision to award such compensation.

5. **Options.**

(a) General. Certain Options granted under the Plan may be intended to be Incentive Stock Options; however, no Incentive Stock Options may be granted hereunder following the tenth (10^{th}) anniversary of the earlier of (i) the date the Plan is adopted by the Board and (ii) the date the stockholders of the Company approve the Plan. Options may be granted to Eligible Persons in such form and having such terms and conditions as the Committee shall deem appropriate; *provided, however*, that Incentive Stock Options may be granted only to Eligible Persons who are employees of the Company or an Affiliate (as such definition is limited pursuant to Section 2(o) hereof) of the Company. The provisions of separate Options shall be set forth in separate Option Agreements, which agreements need not be identical.

(b) Term. The term of each Option shall be set by the Committee at the time of grant; *provided, however*, that no Option granted hereunder shall be exercisable after, and each Option shall expire, ten (10) years from the date it was granted.

(c) Exercise Price. The exercise price per share of Stock for each Option shall be set by the Committee at the time of grant and shall not be less than the Fair Market Value on the date of grant, subject to Section 5(g) hereof in the case of any Incentive Stock Option. Notwithstanding the foregoing, in the case of an Option that is a Substitute Award, the exercise price per share of Stock for such Option may be less than the Fair Market Value on the date of grant; *provided*, that such exercise price is determined in a manner consistent with the provisions of Section 409A of the Code and, if applicable, Section 424(a) of the Code.

(d) Payment for Stock. Payment for shares of Stock acquired pursuant to an Option granted hereunder shall be made in full upon exercise of the Option in a manner approved by the Committee, which may include any of the following payment methods: (1) in immediately available funds in U.S. dollars, or by certified or bank cashier's check, (2) by delivery of shares of Stock having a value equal to the exercise price, (3) by a broker-assisted cashless exercise in accordance with procedures approved by the Committee, whereby payment of the Option exercise price or tax withholding obligations may be satisfied, in whole or in part, with shares of Stock subject to the Option by delivery of an irrevocable direction to a securities broker (on a form prescribed by the Committee) to sell shares of Stock and to deliver all or part of the sale proceeds to the Company in payment of the aggregate exercise price and, if applicable, the amount necessary to satisfy the Company's withholding obligations, or (4) by any other means approved by the Committee (including, by delivery of a notice of "net exercise" to the Company, pursuant to which the Participant shall receive the number of shares of Stock underlying the Option so exercised reduced by the number of shares of Stock equal to the aggregate exercise price of the Option divided by the Fair Market Value on the date of exercise). Notwithstanding anything herein to the contrary, if the Committee determines that any form of payment available hereunder would be in violation of Section 402 of the Sarbanes-Oxley Act of 2002, such form of payment shall not be available.

(e) Vesting. Options shall vest and become exercisable in such manner, on such date or dates, or upon the achievement of performance or other conditions, in each case as may be determined by the Committee and set forth in an Option Agreement; *provided*, *however*, that notwithstanding any such vesting dates, the Committee may in its sole discretion accelerate the vesting of any Option at any time and for any reason. Unless otherwise specifically determined by the Committee, the vesting of an Option shall occur only while the Participant is employed by or rendering services to the Service Recipient, and all vesting shall cease upon a Participant's Termination for any reason. To the extent permitted by applicable law and unless otherwise determined by the Committee, vesting shall not be suspended during the period of any approved leave of absence by a Participant. If an Option is exercisable in installments, such installments or portions thereof that become exercisable shall remain exercisable until the Option

expires, is canceled or otherwise terminates.

(f) Termination of Employment or Service. Except as provided by the Committee in an Option Agreement, Participant Agreement or otherwise:

(1) In the event of a Participant's Termination prior to the applicable Expiration Date for any reason other than (i) by the Service Recipient for Cause, or (ii) by reason of the Participant's death or Disability, (A) all vesting with respect to such Participant's Options outstanding shall cease, (B) all of such Participant's unvested Options outstanding shall terminate and be forfeited for no consideration as of the date of such Termination, and (C) all of such Participant's vested Options outstanding shall terminate and be forfeited for no consideration on the earlier of (x) the applicable Expiration Date and (y) the date that is ninety (90) days after the date of such Termination.

(2) In the event of a Participant's Termination prior to the applicable Expiration Date by reason of such Participant's death or Disability, (i) all vesting with respect to such Participant's Options outstanding shall cease, (ii) all of such Participant's unvested Options outstanding shall terminate and be forfeited for no consideration as of the date of such Termination, and (iii) all of such Participant's vested Options outstanding shall terminate and be forfeited for no consideration on the earlier of (x) the applicable Expiration Date and (y) the date that is twelve (12) months after the date of such Termination. In the event of a Participant's death, such Participant's Options shall remain exercisable by the Person or Persons to whom such Participant's rights under the Options pass by will or by the applicable laws of descent and distribution until the earlier of (x) the applicable Expiration Date and (y) the date that is twelve (12) months after the date of such Termination, but only to the extent that the Options were vested at the time of such Termination.

(3) In the event of a Participant's Termination prior to the applicable Expiration Date by the Service Recipient for Cause, all of such Participant's Options outstanding (whether or not vested) shall immediately terminate and be forfeited for no consideration as of the date of such Termination.

(g) Special Provisions Applicable to Incentive Stock Options.

(1) No Incentive Stock Option may be granted to any Eligible Person who, at the time the Option is granted, owns directly, or indirectly within the meaning of Section 424(d) of the Code, stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of any parent or subsidiary thereof, unless such Incentive Stock Option (i) has an exercise price of at least one hundred ten percent (110%) of the Fair Market Value on the date of the grant of such Option and (ii) cannot be exercised more than five (5) years after the date it is granted.

(2) To the extent that the aggregate Fair Market Value (determined as of the date of grant) of Stock for which Incentive Stock Options are exercisable for the first time by any Participant during any calendar year (under all plans of the Company and its Affiliates) exceeds $100,000, such excess Incentive Stock Options shall be treated as Nonqualified Stock Options.

(3) Each Participant who receives an Incentive Stock Option must agree to notify the Company in writing immediately after the Participant makes a Disqualifying Disposition of any Stock acquired pursuant to the exercise of an Incentive Stock Option.

6. **Restricted Stock.**

(a) General. Restricted Stock may be granted to Eligible Persons in such form and having such terms and conditions as the Committee shall deem appropriate. The provisions of separate Awards of Restricted Stock shall be set forth in separate Restricted Stock Agreements, which agreements need not be identical. Subject to the restrictions set forth in Section 6(b) hereof, and except as otherwise set forth in the applicable Restricted Stock Agreement, the Participant shall generally have the rights and privileges of a stockholder as to such Restricted Stock, including the right to vote such Restricted Stock.

(b) Vesting and Restrictions on Transfer. Restricted Stock shall vest in such manner, on such date or dates, or upon the achievement of performance or other conditions, in each case as may be determined by the Committee and set forth in a Restricted Stock Agreement; *provided, however*, that notwithstanding any such vesting dates, the Committee may in its sole discretion accelerate the vesting of any Award of Restricted Stock at any time and for any reason. Unless otherwise specifically determined by the Committee, the vesting of an Award of Restricted Stock shall occur only while the Participant is employed by or rendering services to the Service Recipient, and all vesting shall cease upon a Participant's Termination for any reason. To the extent permitted by applicable law and unless otherwise determined by the Committee, vesting shall not be suspended during the period of any approved leave of absence by a Participant. In addition to any other restrictions set forth in a Participant's Restricted Stock Agreement, the Participant shall not be permitted to sell, transfer, pledge, or otherwise encumber the Restricted Stock prior to the time the Restricted Stock has

vested pursuant to the terms of the Restricted Stock Agreement.

(c) Termination of Employment or Service. Except as provided by the Committee in a Restricted Stock Agreement, Participant Agreement or otherwise, in the event of a Participant's Termination for any reason prior to the time that such Participant's Restricted Stock has vested, (1) all vesting with respect to such Participant's Restricted Stock outstanding shall cease, and (2) as soon as practicable following such Termination, the Company shall repurchase from the Participant, and the Participant shall sell, all of such Participant's unvested shares of Restricted Stock at a purchase price equal to the original purchase price paid for the Restricted Stock; *provided* that, if the original purchase price paid for the Restricted Stock is equal to zero dollars ($0), such unvested shares of Restricted Stock shall be forfeited to the Company by the Participant for no consideration as of the date of such Termination.

7. **Restricted Stock Units.**

(a) General. Restricted Stock Units may be granted to Eligible Persons in such form and having such terms and conditions as the Committee shall deem appropriate. The provisions of separate Restricted Stock Units shall be set forth in separate RSU Agreements, which agreements need not be identical.

(b) Vesting. Restricted Stock Units shall vest in such manner, on such date or dates, or upon the achievement of performance or other conditions, in each case as may be determined by the Committee and set forth in an RSU Agreement; *provided*, *however*, that notwithstanding any such vesting dates, the Committee may in its sole discretion accelerate the vesting of any Restricted Stock Unit at any time and for any reason. Unless otherwise specifically determined by the Committee, the vesting of a Restricted Stock Unit shall occur only while the Participant is employed by or rendering services to the Service Recipient, and all vesting shall cease upon a Participant's Termination for any reason. To the extent permitted by applicable law and unless otherwise determined by the Committee, vesting shall not be suspended during the period of any approved leave of absence by a Participant.

(c) Settlement. Restricted Stock Units shall be settled in Stock, cash, or property, as determined by the Committee, in its sole discretion, on the date or dates determined by the Committee and set forth in an RSU Agreement.

(d) Termination of Employment or Service. Except as provided by the Committee in an RSU Agreement, Participant Agreement or otherwise, in the event of a Participant's Termination for any reason prior to the time that such Participant's Restricted Stock Units have been settled, (1) all vesting with respect to such Participant's Restricted Stock Units outstanding shall cease, (2) all of such Participant's unvested Restricted Stock Units outstanding shall be forfeited for no consideration as of the date of such Termination, and (3) any shares remaining undelivered with respect to vested Restricted Stock Units then held by such Participant shall be delivered on the delivery date or dates specified in the RSU Agreement.

8. **Stock Appreciation Rights.**

(a) General. Stock Appreciation Rights may be granted to Eligible Persons in such form and having such terms and conditions as the Committee shall deem appropriate. The provisions of separate Stock Appreciation Rights shall be set forth in separate SAR Agreements, which agreements need not be identical.

(b) Term. The term of each Stock Appreciation Right shall be set by the Committee at the time of grant; *provided, however*, that no Stock Appreciation Right granted hereunder shall be exercisable after, and each Stock Appreciation Right shall expire, ten (10) years from the date it was granted.

(c) Base Price. The base price per share of Stock for each Stock Appreciation Right shall be set by the Committee at the time of grant and shall not be less than the Fair Market Value on the date of grant. Notwithstanding the foregoing, in the case of a Stock Appreciation Right that is a Substitute Award, the base price per share of Stock for such Stock Appreciation Right may be less than the Fair Market Value on the date of grant; *provided*, that such base price is determined in a manner consistent with the provisions of Section 409A of the Code.

(d) Vesting. Stock Appreciation Rights shall vest and become exercisable in such manner, on such date or dates, or upon the achievement of performance or other conditions, in each case as may be determined by the Committee and set forth in a SAR Agreement; *provided*, *however*, that notwithstanding any such vesting dates, the Committee may in its sole discretion accelerate the vesting of any Stock Appreciation Right at any time and for any reason. Unless otherwise specifically determined by the Committee, the vesting of a Stock Appreciation Right shall occur only while the Participant is employed by or rendering services to the Service Recipient, and all vesting shall cease upon a Participant's Termination for any reason. To the extent permitted by applicable law and unless otherwise determined by the Committee, vesting shall not be suspended during the period of any approved leave of absence by a Participant. If a Stock Appreciation Right is exercisable in installments, such installments or portions thereof that become exercisable shall remain exercisable until the Stock Appreciation Right expires, is canceled or otherwise terminates.

(e) Payment upon Exercise. Payment upon exercise of a Stock Appreciation Right may be made in cash, Stock, or

property as specified in the SAR Agreement or determined by the Committee, in each case having a value in respect of each share of Stock underlying the portion of the Stock Appreciation Right so exercised, equal to the difference between the base price of such Stock Appreciation Right and the Fair Market Value of one (1) share of Stock on the exercise date. For purposes of clarity, each share of Stock to be issued in settlement of a Stock Appreciation Right is deemed to have a value equal to the Fair Market Value of one (1) share of Stock on the exercise date. In no event shall fractional shares be issuable upon the exercise of a Stock Appreciation Right, and in the event that fractional shares would otherwise be issuable, the number of shares issuable will be rounded down to the next lower whole number of shares, and the Participant will be entitled to receive a cash payment equal to the value of such fractional share.

(f) Termination of Employment or Service. Except as provided by the Committee in a SAR Agreement, Participant Agreement or otherwise:

(1) In the event of a Participant's Termination prior to the applicable Expiration Date for any reason other than (i) by the Service Recipient for Cause, or (ii) by reason of the Participant's death or Disability, (A) all vesting with respect to such Participant's Stock Appreciation Rights outstanding shall cease, (B) all of such Participant's unvested Stock Appreciation Rights outstanding shall terminate and be forfeited for no consideration as of the date of such Termination, and (C) all of such Participant's vested Stock Appreciation Rights outstanding shall terminate and be forfeited for no consideration on the earlier of (x) the applicable Expiration Date and (y) the date that is ninety (90) days after the date of such Termination.

(2) In the event of a Participant's Termination prior to the applicable Expiration Date by reason of such Participant's death or Disability, (i) all vesting with respect to such Participant's Stock Appreciation Rights outstanding shall cease, (ii) all of such Participant's unvested Stock Appreciation Rights outstanding shall terminate and be forfeited for no consideration as of the date of such Termination, and (iii) all of such Participant's vested Stock Appreciation Rights outstanding shall terminate and be forfeited for no consideration on the earlier of (x) the applicable Expiration Date and (y) the date that is twelve (12) months after the date of such Termination. In the event of a Participant's death, such Participant's Stock Appreciation Rights shall remain exercisable by the Person or Persons to whom such Participant's rights under the Stock Appreciation Rights pass by will or by the applicable laws of descent and distribution until the earlier of (x) the applicable Expiration Date and (y) the date that is twelve (12) months after the date of such Termination, but only to the extent that the Stock Appreciation Rights were vested at the time of such Termination.

(3) In the event of a Participant's Termination prior to the applicable Expiration Date by the Service Recipient for Cause, all of such Participant's Stock Appreciation Rights outstanding (whether or not vested) shall immediately terminate and be forfeited for no consideration as of the date of such Termination.

9. **Performance Awards.**

(a) General. Performance Awards may be granted to Eligible Persons in such form and having such terms and conditions as the Committee shall deem appropriate. The provisions of separate Performance Awards, including the determination of the Committee with respect to the form of payout of Performance Awards, shall be set forth in separate Performance Award Agreements, which agreements need not be identical.

(b) Value of Performance Awards. Each Performance Unit shall have an initial value that is established by the Committee at the time of grant. Each Performance Share shall have an initial value equal to the Fair Market Value of the Stock on the date of grant. In addition to any other non-performance terms included in the Performance Award Agreement, the Committee shall set the applicable Performance Objectives in its discretion, which objectives, depending on the extent to which they are met, will determine the value and number of Performance Units or Performance Shares, as the case may be, that will be paid out to the Participant.

(c) Earning of Performance Awards. Upon the expiration of the applicable Performance Period or other non-performance-based vesting period, if longer, the holder of a Performance Award shall be entitled to receive, in respect of Performance Units or Performance Shares, payout on the value and number of the applicable Performance Units or Performance Shares earned by the Participant over the Performance Period, in any case, to be determined as a function of the extent to which the corresponding Performance Objectives have been achieved and any other non-performance-based terms met. The Committee may specify a target, threshold or maximum amount payable and may set a formula for determining the amount of Performance Awards earned if performance is at or above the threshold level but falls short of the maximum achievement of the specified Performance Objectives.

(d) Form and Timing of Payment of Performance Awards. Payment of earned Performance Awards shall be as determined by the Committee and as evidenced in the Performance Award Agreement. Subject to the terms of the Plan, the Committee, in its sole discretion, may pay earned Performance Units and Performance Shares in the form of cash, Stock, or other Awards (or in any combination thereof) equal to the value of the earned Performance Units or Performance Shares, as the case may be, at the close of the applicable Performance Period, or as soon as practicable after the end of the Performance Period. Any cash, Stock,

or other Awards issued in connection with a Performance Award may be issued subject to any restrictions deemed appropriate by the Committee.

(e) Termination of Employment or Service. Unless otherwise specifically determined by the Committee, a Participant shall be eligible to earn a Performance Award only while the Participant is employed by or rendering services to the Service Recipient. To the extent permitted by applicable law and unless otherwise determined by the Committee, vesting shall not be suspended during the period of any approved leave of absence by a Participant. Except as provided by the Committee in a Performance Award Agreement, Participant Agreement or otherwise, if, prior to the end of an applicable Performance Period, a Participant undergoes a Termination for any reason, all of such Participant's Performance Awards shall be forfeited by the Participant to the Company for no consideration as of the date of such Termination.

(f) Performance Objectives.

(1) Each Performance Award shall specify the Performance Objectives that must be achieved before such Performance Award shall become earned. The Company may also specify a minimum acceptable level of achievement below which no payment will be made and may set forth a formula for determining the amount of any payment to be made if performance is at or above such minimum acceptable level but falls short of the maximum achievement of the specified Performance Objectives.

(2) Performance Objectives may be established on a Company-wide basis, project or geographical basis or, as the context permits, with respect to one or more business units, divisions, lines of business or business segments, subsidiaries, products, or other operational units or administrative departments of the Company (or in combination thereof) or may be related to the performance of an individual Participant and may be expressed in absolute terms, or relative or comparative to (A) current internal targets or budgets, (B) the past performance of the Company (including the performance of one or more subsidiaries, divisions, or operating units), (C) the performance of one or more similarly situated companies, (D) the performance of an index covering multiple companies, or (E) other external measures of the selected performance criteria.

(3) Unless specified otherwise by the Committee (i) in the Performance Award Agreement at the time the Performance Award is granted or (ii) in such other document setting forth the Performance Objectives at the time the Performance Objectives are established, the Committee, in its sole discretion, will appropriately make adjustments in the method of calculating the attainment of Performance Objectives for a Performance Period to provide for objectively determinable adjustments, modifications or amendments, as determined in accordance with Generally Accepted Accounting Principles ("GAAP"), including, without limitation, for one or more of the following items of gain, loss, profit or expense: (A) determined to be items of an unusual nature or of infrequency of occurrence or non-recurring in nature; (B) related to changes in accounting principles under GAAP or tax laws; (C) related to currency fluctuations; (D) related to financing activities (*e.g.*, effect on earnings per share of issuing convertible debt securities); (E) related to restructuring, divestitures, productivity initiatives or new business initiatives; (F) related to discontinued operations that do not qualify as a segment of business under GAAP; (G) attributable to the business operations of any entity acquired by the Company during the fiscal year; (H) non-operating items; and (I) acquisition or divestiture expenses.

10. **Other Stock-Based Awards.**

The Committee is authorized, subject to limitations under applicable law, to grant to Participants such other Awards that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based upon or related to Stock, as deemed by the Committee to be consistent with the purposes of the Plan. The Committee may also grant Stock as a bonus (whether or not subject to any vesting requirements or other restrictions on transfer), and may grant other Awards in lieu of obligations of the Company or an Affiliate to pay cash or deliver other property under the Plan or under other plans or compensatory arrangements, subject to such terms as shall be determined by the Committee. The terms and conditions applicable to such Awards shall be determined by the Committee and evidenced by Award Agreements, which agreements need not be identical.

11. **Adjustment for Recapitalization, Merger, etc.**

(a) Capitalization Adjustments. The aggregate number of shares of Stock that may be delivered in connection with Awards (as set forth in Section 4 hereof), the numerical share limits in Section 4 hereof, the number of shares of Stock covered by each outstanding Award, the price per share of Stock underlying each such Award, and, if applicable, the Performance Objectives that must be achieved before such Award shall become earned, shall be equitably and proportionally adjusted or substituted, as determined by the Committee, in its sole discretion, as to the number, price, or kind of a share of Stock or other consideration subject to such Awards (1) in the event of changes in the outstanding Stock or in the capital structure of the Company by reason of stock dividends, extraordinary cash dividends, stock splits, spinoffs, reverse stock splits, recapitalizations, reorganizations, mergers, amalgamations, consolidations, combinations, subdivisions, exchanges, reclassifications or other relevant changes in capitalization occurring after the

date of grant of any such Award (including any Corporate Event); (2) in connection with any extraordinary dividend declared and paid in respect of shares of Stock, whether payable in the form of cash, stock, or any other form of consideration; or (3) in the event of any change in applicable laws or circumstances that results in or could result in, in either case, as determined by the Committee in its sole discretion, any substantial dilution or enlargement of the rights intended to be granted to, or available for, Participants in the Plan. In lieu of or in addition to any adjustment pursuant to this Section 11(a), if deemed appropriate, the Committee may provide that an adjustment take the form of a cash payment to the holder of an outstanding Award with respect to all or part of an outstanding Award, which payment shall be subject to such terms and conditions (including timing of payment(s), vesting and forfeiture conditions) as the Committee may determine in its sole discretion. The Committee will make such adjustments, substitutions or payment, and its determination will be final, binding and conclusive. The Committee need not take the same action or actions with respect to all Awards or portions thereof or with respect to all Participants. The Committee may take different actions with respect to the vested and unvested portions of an Award.

(b) Corporate Events. Notwithstanding the foregoing, except as provided by the Committee in an Award Agreement, Participant Agreement or otherwise, in connection with (i) a merger, amalgamation, or consolidation involving the Company in which the Company is not the surviving corporation, (ii) a merger, amalgamation, or consolidation involving the Company in which the Company is the surviving corporation but the holders of shares of Stock receive securities of another corporation or other property or cash, (iii) a Change in Control, or (iv) the reorganization, dissolution or liquidation of the Company (each, a "Corporate Event"), the Committee may provide for any one or more of the following:

(1) The assumption or substitution of any or all Awards in connection with such Corporate Event, in which case the Awards shall be subject to the adjustment set forth in subsection (a) above, and to the extent that such Awards are Performance Awards or other Awards that vest subject to the achievement of Performance Objectives or similar performance criteria, such Performance Objectives or similar performance criteria shall be adjusted appropriately to reflect the Corporate Event;

(2) The acceleration of vesting of any or all Awards not assumed or substituted in connection with such Corporate Event, subject to the consummation of such Corporate Event; *provided* that any Performance Awards or other Awards that vest subject to the achievement of Performance Objectives or similar performance criteria will be deemed earned (i) based on actual performance through the date of the Corporate Event, or (ii) at the target level (or if no target is specified, the maximum level), in the event actual performance cannot be measured through the date of the Corporate Event, in each case, with respect to all unexpired Performance Periods or Performance Periods for which satisfaction of the Performance Objectives or other material terms for the applicable Performance Period has not been certified by the Committee prior to the date of the Corporate Event;

(3) The cancellation of any or all Awards not assumed or substituted in connection with such Corporate Event (whether vested or unvested) as of the consummation of such Corporate Event, together with the payment to the Participants holding vested Awards (including any Awards that would vest upon the Corporate Event but for such cancellation) so canceled of an amount in respect of cancellation equal to an amount based upon the per-share consideration being paid for the Stock in connection with such Corporate Event, less, in the case of Options, Stock Appreciation Rights, and other Awards subject to exercise, the applicable exercise or base price; *provided, however*, that holders of Options, Stock Appreciation Rights, and other Awards subject to exercise shall be entitled to consideration in respect of cancellation of such Awards only if the per-share consideration less the applicable exercise or base price is greater than zero dollars ($0), and to the extent that the per-share consideration is less than or equal to the applicable exercise or base price, such Awards shall be canceled for no consideration;

(4) The cancellation of any or all Options, Stock Appreciation Rights and other Awards subject to exercise not assumed or substituted in connection with such Corporate Event (whether vested or unvested) as of the consummation of such Corporate Event; *provided* that all Options, Stock Appreciation Rights and other Awards to be so canceled pursuant to this paragraph (4) shall first become exercisable for a period of at least ten (10) days prior to such Corporate Event, with any exercise during such period of any unvested Options, Stock Appreciation Rights or other Awards to be (A) contingent upon and subject to the occurrence of the Corporate Event, and (B) effectuated by such means as are approved by the Committee; and

(5) The replacement of any or all Awards (other than Awards that are intended to qualify as "stock rights" that do not provide for a "deferral of compensation" within the meaning of Section 409A of the Code) with a cash incentive program that preserves the value of the Awards so replaced (determined as of the consummation of the Corporate Event), with subsequent payment of cash incentives subject to the same vesting conditions as applicable to the Awards so replaced and payment to be made within thirty (30) days of the applicable vesting date.

Payments to holders pursuant to paragraph (3) above shall be made in cash or, in the sole discretion of the Committee, and to the extent applicable, in the form of such other consideration necessary for a Participant to receive property, cash, or securities (or a combination

thereof) as such Participant would have been entitled to receive upon the occurrence of the transaction if the Participant had been, immediately prior to such transaction, the holder of the number of shares of Stock covered by the Award at such time (less any applicable exercise or base price). In addition, in connection with any Corporate Event, prior to any payment or adjustment contemplated under this subsection (b), the Committee may require a Participant to (A) represent and warrant as to the unencumbered title to his or her Awards, (B) bear such Participant's pro-rata share of any post-closing indemnity obligations, and be subject to the same post-closing purchase price adjustments, escrow terms, offset rights, holdback terms, and similar conditions as the other holders of Stock, and (C) deliver customary transfer documentation as reasonably determined by the Committee. The Committee need not take the same action or actions with respect to all Awards or portions thereof or with respect to all Participants. The Committee may take different actions with respect to the vested and unvested portions of an Award.

(c) Fractional Shares. Any adjustment provided under this Section 11 may, in the Committee's discretion, provide for the elimination of any fractional share that might otherwise become subject to an Award. No cash settlements shall be made with respect to fractional shares so eliminated.

(d) Double-Trigger Vesting . Notwithstanding any other provisions of the Plan, an Award Agreement or Participant Agreement to the contrary, with respect to any Award that is assumed or substituted in connection with a Change in Control, the vesting, payment, purchase or distribution of such Award may not be accelerated by reason of the Change in Control for any Participant unless the Participant experiences an involuntary Termination as a result of the Change in Control. Unless otherwise provided for in an Award Agreement or Participant Agreement, all Awards held by a Participant who experiences an involuntary Termination as a result of a Change in Control shall immediately vest as of the date of such Termination. For purposes of this Section 11(d), a Participant will be deemed to experience an involuntary Termination as a result of a Change in Control if the Participant experiences a Termination by the Service Recipient other than for Cause (including the Participant's resignation for "good reason" or "constructive termination (or similar term) as defined in the applicable Award Agreement, Participant Agreement, or in a written change in control retention, severance or similar plan maintained by the Company in which the Participant participates), or otherwise experiences a Termination under circumstances which entitle the Participant to mandatory severance payment(s) pursuant to applicable law or, in the case of a non-employee director of the Company, if the non-employee director's service on the Board terminates in connection with or as a result of a Change in Control, in each case, at any time beginning on the date of the Change in Control up to and including the first (1st) anniversary of the Change in Control.

12. **Use of Proceeds.**

The proceeds received from the sale of Stock pursuant to the Plan shall be used for general corporate purposes.

13. **Rights and Privileges as a Stockholder.**

Except as otherwise specifically provided in the Plan, no Person shall be entitled to the rights and privileges of Stock ownership in respect of shares of Stock that are subject to Awards hereunder until such shares have been issued to that Person.

14. **Transferability of Awards.**

Awards may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the applicable laws of descent and distribution, and to the extent subject to exercise, Awards may not be exercised during the lifetime of the grantee other than by the grantee. Notwithstanding the foregoing, except with respect to Incentive Stock Options, Awards and a Participant's rights under the Plan shall be transferable for no value to the extent provided in an Award Agreement or otherwise determined at any time by the Committee.

15. **Employment or Service Rights.**

No individual shall have any claim or right to be granted an Award under the Plan or, having been selected for the grant of an Award, to be selected for the grant of any other Award. Neither the Plan nor any action taken hereunder shall be construed as giving any individual any right to be retained in the employ or service of the Company or an Affiliate of the Company.

16. **Compliance with Laws.**

The obligation of the Company to deliver Stock upon issuance, vesting, exercise, or settlement of any Award shall be subject to all applicable laws, rules, and regulations, and to such approvals by governmental agencies as may be required. Notwithstanding any terms or conditions of any Award to the contrary, the Company shall be under no obligation to offer to sell or to sell, and shall be prohibited from offering to sell or selling, any shares of Stock pursuant to an Award unless such shares have been properly registered for sale with the U.S. Securities and Exchange Commission pursuant to the Securities Act (or with a similar non-U.S. regulatory agency pursuant to a similar law or regulation) or unless the Company has received an opinion of counsel, satisfactory to the Company, that such shares may be offered or sold without such registration pursuant to an available exemption

therefrom and the terms and conditions of such exemption have been fully complied with. The Company shall be under no obligation to register for sale or resale under the Securities Act any of the shares of Stock to be offered or sold under the Plan or any shares of Stock to be issued upon exercise or settlement of Awards. If the shares of Stock offered for sale or sold under the Plan are offered or sold pursuant to an exemption from registration under the Securities Act, the Company may restrict the transfer of such shares and may legend the Stock certificates representing such shares in such manner as it deems advisable to ensure the availability of any such exemption.

17. **Withholding Obligations.**

As a condition to the issuance, vesting, exercise, or settlement of any Award (or upon the making of an election under Section 83(b) of the Code), the Committee may require that a Participant satisfy, through deduction or withholding from any payment of any kind otherwise due to the Participant, or through such other arrangements as are satisfactory to the Committee, the amount of all federal, state, and local income and other taxes of any kind required or permitted to be withheld in connection with such issuance, vesting, exercise, or settlement (or election). The Committee, in its discretion, may permit shares of Stock to be used to satisfy tax withholding requirements, and such shares shall be valued at their Fair Market Value as of the issuance, vesting, exercise, or settlement date of the Award, as applicable. Depending on the withholding method, the Company may withhold by considering the applicable minimum statutorily required withholding rates or other applicable withholding rates in the applicable Participant's jurisdiction, including maximum applicable rates that may be utilized without creating adverse accounting treatment under Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any successor pronouncement thereto) and is permitted under applicable withholding rules promulgated by the Internal Revenue Service or another applicable governmental entity.

18. **Amendment of the Plan or Awards.**

(a) Amendment of Plan. The Board or the Committee may amend the Plan at any time and from time to time.

(b) Amendment of Awards. The Board or the Committee may amend the terms of any one or more Awards at any time and from time to time.

(c) Stockholder Approval; No Material Impairment. Notwithstanding anything herein to the contrary, no amendment to the Plan or any Award shall be effective without stockholder approval to the extent that such approval is required pursuant to applicable law or the applicable rules of each national securities exchange on which the Stock is listed. Additionally, no amendment to the Plan or any Award shall materially impair a Participant's rights under any Award unless the Participant consents in writing (it being understood that no action taken by the Board or the Committee that is expressly permitted under the Plan, including, without limitation, any actions described in Section 11 hereof, shall constitute an amendment to the Plan or an Award for such purpose). Notwithstanding the foregoing, subject to the limitations of applicable law, if any, and without an affected Participant's consent, the Board or the Committee may amend the terms of the Plan or any one or more Awards from time to time as necessary to bring such Awards into compliance with applicable law, including, without limitation, Section 409A of the Code.

(d) No Repricing of Awards Without Stockholder Approval. Notwithstanding subsection (a) or (b) above, or any other provision of the Plan, the repricing of Awards shall not be permitted without stockholder approval. For this purpose, a "repricing" means any of the following (or any other action that has the same effect as any of the following): (1) changing the terms of an Award to lower its exercise or base price (other than on account of capital adjustments resulting from share splits, etc., as described in Section 11(a) hereof), (2) any other action that is treated as a repricing under GAAP, and (3) repurchasing for cash or canceling an Award in exchange for another Award at a time when its exercise or base price is greater than the Fair Market Value of the underlying Stock, unless the cancellation and exchange occurs in connection with an event set forth in Section 11(b) hereof.

19. **Termination or Suspension of the Plan.**

The Board or the Committee may suspend or terminate the Plan at any time. Unless sooner terminated, the Plan shall terminate on the day before the tenth (10^{th}) anniversary of the date the stockholders first approve the Plan. No Awards may be granted under the Plan while the Plan is suspended or after it is terminated; *provided, however*, that following any suspension or termination of the Plan, the Plan shall remain in effect for the purpose of governing all Awards then outstanding hereunder until such time as all Awards under the Plan have been terminated, forfeited, or otherwise canceled, or earned, exercised, settled, or otherwise paid out, in accordance with their terms.

20. **Effective Date of the Plan.**

The Plan is effective as of the Effective Date, subject to stockholder approval.

21. **Miscellaneous.**

(a) Treatment of Dividends and Dividend Equivalents on Unvested Awards. Notwithstanding any other provision of the Plan to the contrary, with respect to any Award that provides for or includes a right to dividends or dividend equivalents, if dividends are declared during the period that an equity Award is outstanding, such dividends (or dividend equivalents) shall either (i) not be paid or credited with respect to such Award or (ii) be accumulated but remain subject to vesting requirement(s) to the same extent as the applicable Award and shall only be paid at the time or times such vesting requirement(s) are satisfied. Except as otherwise determined by the Committee, no interest will accrue or be paid on the amount of any cash dividends withheld. No dividends or dividend equivalents shall be paid on Options or Stock Appreciation Rights.

(b) Certificates. Stock acquired pursuant to Awards granted under the Plan may be evidenced in such a manner as the Committee shall determine. If certificates representing Stock are registered in the name of the Participant, the Committee may require that (1) such certificates bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Stock, (2) the Company retain physical possession of the certificates, and (3) the Participant deliver a stock power to the Company, endorsed in blank, relating to the Stock. Notwithstanding the foregoing, the Committee may determine, in its sole discretion, that the Stock shall be held in book-entry form rather than delivered to the Participant pending the release of any applicable restrictions.

(c) Other Benefits. No Award granted or paid out under the Plan shall be deemed compensation for purposes of computing benefits under any retirement plan of the Company or its Affiliates nor affect any benefits under any other benefit plan now or subsequently in effect under which the availability or amount of benefits is related to the level of compensation.

(d) Corporate Action Constituting Grant of Awards. Corporate action constituting a grant by the Company of an Award to any Participant will be deemed completed as of the date of such corporate action, unless otherwise determined by the Committee, regardless of when the instrument, certificate, or letter evidencing the Award is communicated to, or actually received or accepted by, the Participant. In the event that the corporate records (*e.g.*, Committee consents, resolutions or minutes) documenting the corporate action constituting the grant contain terms (*e*.g., exercise price, vesting schedule or number of shares of Stock) that are inconsistent with those in the Award Agreement as a result of a clerical error in connection with the preparation of the Award Agreement, the corporate records will control and the Participant will have no legally binding right to the incorrect term in the Award Agreement.

(e) Clawback/Recoupment Policy. Notwithstanding anything contained herein to the contrary, all Awards granted under the Plan shall be and remain subject to any incentive compensation clawback or recoupment policy currently in effect or as may be adopted by the Board (or a committee or subcommittee of the Board) and, in each case, as may be amended from time to time. No such policy adoption or amendment shall in any event require the prior consent of any Participant. No recovery of compensation under such a clawback policy will be an event giving rise to a right to resign for "good reason" or "constructive termination" (or similar term) under any agreement with the Company or any of its Affiliates. In the event that an Award is subject to more than one such policy, the policy with the most restrictive clawback or recoupment provisions shall govern such Award, subject to applicable law.

(f) Non-Exempt Employees. If an Option is granted to an employee of the Company or any of its Affiliates in the United States who is a non-exempt employee for purposes of the Fair Labor Standards Act of 1938, as amended, the Option will not be first exercisable for any shares of Stock until at least six (6) months following the date of grant of the Option (although the Option may vest prior to such date). Consistent with the provisions of the Worker Economic Opportunity Act, (1) if such employee dies or suffers a Disability, (2) upon a Corporate Event in which such Option is not assumed, continued, or substituted, (3) upon a Change in Control, or (4) upon the Participant's retirement (as such term may be defined in the applicable Award Agreement or a Participant Agreement, or, if no such definition exists, in accordance with the Company's then current employment policies and guidelines), the vested portion of any Options held by such employee may be exercised earlier than six (6) months following the date of grant. The foregoing provision is intended to operate so that any income derived by a non-exempt employee in connection with the exercise or vesting of an Option will be exempt from his or her regular rate of pay. To the extent permitted and/or required for compliance with the Worker Economic Opportunity Act to ensure that any income derived by a non-exempt employee in connection with the exercise, vesting or issuance of any shares under any other Award will be exempt from such employee's regular rate of pay, the provisions of this Section 21(f) will apply to all Awards.

(g) Data Privacy. As a condition of receipt of any Award, each Participant explicitly and unambiguously consents to the collection, use, and transfer, in electronic or other form, of personal data as described in this Section 21(g) by and among, as applicable, the Company and its Affiliates for the exclusive purpose of implementing, administering, and managing the Plan and Awards and the Participant's participation in the Plan. In furtherance of such implementation, administration, and management, the Company and its Affiliates may hold certain personal information about a Participant, including, but not limited to, the Participant's name, home address, telephone number, date of birth, social security or insurance number or other identification number, salary, nationality, job title(s), information regarding any securities of the Company or any of its Affiliates, and details of all Awards (the "Data"). In addition to transferring the Data amongst themselves as necessary for the purpose of implementation, administration, and management of the Plan and Awards and the Participant's participation in the Plan, the Company and its Affiliates may each transfer the Data to any third parties assisting the Company in the implementation, administration, and management of the Plan and

Awards and the Participant's participation in the Plan. Recipients of the Data may be located in the Participant's country or elsewhere, and the Participant's country and any given recipient's country may have different data privacy laws and protections. By accepting an Award, each Participant authorizes such recipients to receive, possess, use, retain, and transfer the Data, in electronic or other form, for the purposes of assisting the Company in the implementation, administration, and management of the Plan and Awards and the Participant's participation in the Plan, including any requisite transfer of such Data as may be required to a broker or other third party with whom the Company or the Participant may elect to deposit any shares of Stock. The Data related to a Participant will be held only as long as is necessary to implement, administer, and manage the Plan and Awards and the Participant's participation in the Plan. A Participant may, at any time, view the Data held by the Company with respect to such Participant, request additional information about the storage and processing of the Data with respect to such Participant, recommend any necessary corrections to the Data with respect to the Participant, or refuse or withdraw the consents herein in writing, in any case without cost, by contacting his or her local human resources representative. The Company may cancel the Participant's eligibility to participate in the Plan, and in the Committee's discretion, the Participant may forfeit any outstanding Awards if the Participant refuses or withdraws the consents described herein. For more information on the consequences of refusal to consent or withdrawal of consent, Participants may contact their local human resources representative.

(h) Participants Outside of the United States. The Committee may modify the terms of any Award under the Plan made to or held by a Participant who is then a resident, or is primarily employed or providing services, outside of the United States in any manner deemed by the Committee to be necessary or appropriate in order that such Award shall conform to laws, regulations, and customs of the country in which the Participant is then a resident or primarily employed or providing services, or so that the value and other benefits of the Award to the Participant, as affected by non–U.S. tax laws and other restrictions applicable as a result of the Participant's residence, employment, or providing services abroad, shall be comparable to the value of such Award to a Participant who is a resident, or is primarily employed or providing services, in the United States. An Award may be modified under this Section 21(h) in a manner that is inconsistent with the express terms of the Plan, so long as such modifications will not contravene any applicable law or regulation or result in actual liability under Section 16(b) of the Exchange Act for the Participant whose Award is modified. Additionally, the Committee may adopt such procedures and sub-plans as are necessary or appropriate to permit participation in the Plan by Eligible Persons who are non–U.S. nationals or are primarily employed or providing services outside the United States.

(i) Change in Time Commitment. In the event a Participant's regular level of time commitment in the performance of his or her services for the Company or any of its Affiliates is reduced (for example, and without limitation, if the Participant is an employee of the Company and the employee has a change in status from a full-time employee to a part-time employee) after the date of grant of any Award to the Participant, the Committee has the right in its sole discretion to (i) make a corresponding reduction in the number of shares of Stock subject to any portion of such Award that is scheduled to vest or become payable after the date of such change in time commitment, and (ii) in lieu of or in combination with such a reduction, extend the vesting or payment schedule applicable to such Award. In the event of any such reduction, the Participant will have no right with respect to any portion of the Award that is so reduced or extended.

(j) No Liability of Committee Members. Neither any member of the Committee nor any of the Committee's permitted delegates shall be liable personally by reason of any contract or other instrument executed by such member or on his or her behalf in his or her capacity as a member of the Committee or for any mistake of judgment made in good faith, and the Company shall indemnify and hold harmless each member of the Committee and each other employee, officer, or director of the Company to whom any duty or power relating to the administration or interpretation of the Plan may be allocated or delegated, against all costs and expenses (including counsel fees) and liabilities (including sums paid in settlement of a claim) arising out of any act or omission to act in connection with the Plan, unless arising out of such Person's own fraud or willful misconduct; *provided, however*, that approval of the Board shall be required for the payment of any amount in settlement of a claim against any such Person. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such Persons may be entitled under the Company's certificate or articles of incorporation or by-laws, each as may be amended from time to time, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

(k) Payments Following Accidents or Illness. If the Committee shall find that any Person to whom any amount is payable under the Plan is unable to care for his or her affairs because of illness or accident, or is a minor, or has died, then any payment due to such Person or his or her estate (unless a prior claim therefor has been made by a duly appointed legal representative) may, if the Committee so directs the Company, be paid to his or her spouse, child, relative, an institution maintaining or having custody of such Person, or any other Person deemed by the Committee to be a proper recipient on behalf of such Person otherwise entitled to payment. Any such payment shall be a complete discharge of the liability of the Committee and the Company therefor.

(l) Governing Law. The Plan shall be governed by and construed in accordance with the laws of State of Delaware without reference to the principles of conflicts of laws thereof.

(m) Electronic Delivery. Any reference herein to a "written" agreement or document or "writing" will include any agreement or document delivered electronically or posted on the Company's intranet (or other shared electronic medium controlled or

authorized by the Company to which the Participant has access) to the extent permitted by applicable law.

(n) Arbitration. All disputes and claims of any nature that a Participant (or such Participant's transferee or estate) may have against the Company arising out of or in any way related to the Plan or any Award Agreement must be submitted solely and exclusively to binding arbitration in accordance with the then-current employment arbitration rules and procedures of the American Arbitration Association (AAA) to be held in New York, New York. All information regarding the dispute or claim and arbitration proceedings, including any settlement, shall not be disclosed by the Participant or any arbitrator to any third party without the written consent of the Company, except with respect to judicial enforcement of any arbitration award. Any arbitration claim must be brought solely in the Participant's (or such Participant's transferee's or estate's) individual capacity and not as a claimant or class member (or similar capacity) in any purported multiple-claimant, class, collective, representative or similar proceeding, and the arbitrator may not permit joinder of any multiple claimants and their claims without the express written consent of the Company. Any arbitrator selected to adjudicate the claim must be knowledgeable in the industry standards and practices, and, by signing an Award Agreement, each Participant will be deemed to agree that any claims pursuant to the Plan or an Award Agreement is inherently a matter involving interstate commerce and thus, notwithstanding the choice of law provision included herein, the Federal Arbitration Act shall govern the interpretation and enforcement of this arbitration provision. The arbitrator shall not be permitted to award any punitive or similar damages, but may award attorney's fees and expenses to the prevailing party in any arbitration. Any decision by the arbitrator shall be binding on all parties to the arbitration.

(o) Statute of Limitations. A Participant or any other person filing a claim for benefits under the Plan must file the claim within one (1) year of the date the Participant or other person knew or should have known of the facts giving rise to the claim. This one-year statute of limitations will apply in any forum where a Participant or any other person may file a claim and, unless the Company waives the time limits set forth above in its sole discretion, any claim not brought within the time periods specified shall be waived and forever barred.

(p) Funding. No provision of the Plan shall require the Company, for the purpose of satisfying any obligations under the Plan, to purchase assets or place any assets in a trust or other entity to which contributions are made or otherwise to segregate any assets, nor shall the Company be required to maintain separate bank accounts, books, records, or other evidence of the existence of a segregated or separately maintained or administered fund for such purposes. Participants shall have no rights under the Plan other than as unsecured general creditors of the Company, except that insofar as they may have become entitled to payment of additional compensation by performance of services, they shall have the same rights as other employees and service providers under general law.

(q) Reliance on Reports. Each member of the Committee and each member of the Board shall be fully justified in relying, acting, or failing to act, and shall not be liable for having so relied, acted, or failed to act in good faith, upon any report made by the independent public accountant of the Company and its Affiliates and upon any other information furnished in connection with the Plan by any Person or Persons other than such member.

(r) Titles and Headings. The titles and headings of the sections in the Plan are for convenience of reference only, and in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

Exhibit 31.1

CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, John H. Johnson, certify that:

(1) I have reviewed this quarterly report on Form 10-Q of Melinta Therapeutics, Inc.;

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

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

(4) 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 the 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.

Dated: May 9, 2019

/s/ John H. Johnson

John H. Johnson

Chief Executive Officer and Director
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF THE CHIEF FINANCIAL OFFICER PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Peter J. Milligan, certify that:

(1) I have reviewed this quarterly report on Form 10-Q of Melinta Therapeutics, Inc.;

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

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

(4) 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 the 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.

Dated: May 9, 2019

/s/ Peter J. Milligan

Peter J. Milligan

Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

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

In connection with the quarterly report on Form 10-Q of Melinta Therapeutics, Inc. (the "Company") for the period ended March 31, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John H. Johnson, Chief Executive Officer and Director (Principal Executive Officer) of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

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

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

Dated: May 9, 2019

/s/ John H. Johnson

John H. Johnson

Chief Executive Officer and Director (Principal Executive Officer)

Exhibit 32.2

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

In connection with the quarterly report on Form 10-Q of Melinta Therapeutics, Inc. (the "Company") for the period ended March 31, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Peter J. Milligan, Chief Financial Officer (Principal Financial Officer) of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

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

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

Dated: May 9, 2019

/s/ Peter J. Milligan

Peter J. Milligan

Chief Financial Officer (Principal Financial Officer)