UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 8-K

CURRENT REPORT

Pursuant to Section 13 OR 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 6, 2020 (November 5, 2020)

Ocuphire Pharma, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**001-34079**	**11-3516358**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)
37000 Grand River Avenue, Suite 120 Farmington Hills, MI		**48335**
(Address of principal executive offices)		(Zip Code)

Registrant's telephone number, including area code: **(248) 681-9815**

Rexahn Pharmaceuticals, Inc.
15245 Shady Grove Road, Suite 455
Rockville, MD 20850
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

☐Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0001 par value	OCUP	Nasdaq Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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. ☐

Item 1.01. Entry into a Material Definitive Agreement.

On November 5, 2020, Ocuphire Pharma, Inc., formerly known as Rexahn Pharmaceuticals, Inc. (the "***Company***"), completed its business combination with the private entity formerly known as Ocuphire Pharma, Inc. ("***Ocuphire***"), in accordance with the terms of the Agreement and Plan of Merger and Reorganization, dated as of June 17, 2020, as amended on June 29, 2020 (the "***Merger Agreement***"), by and among the Company, Ocuphire and Razor Merger Sub, Inc., a Delaware corporation and a wholly owned subsidiary of the Company ("***Merger Sub***"), pursuant to which, among other matters, Merger Sub merged with and into Ocuphire, with Ocuphire continuing as a wholly owned subsidiary of the Company and the surviving corporation of the merger (the "***Merger***").

Immediately after the Merger, there were approximately 7,091,878 shares of the Company's common stock, par value $0.0001 per share (the "***Common Stock***"), outstanding (not including 3,749,992 Converted Additional Shares (as defined in Item 8.01 of this report) being held in escrow). The former stockholders and optionholders of Ocuphire (including the Investors, as defined in Item 8.01 of this report) owned, or held rights to acquire, in the aggregate approximately 86.6% of the fully-diluted Common Stock, which for these purposes is defined as the outstanding Common Stock, plus outstanding options of the Company, and not including any Converted Additional Shares (the "***Fully-Diluted Common Stock***"), with the Company's stockholders immediately prior to the Merger owning approximately 13.4% of the Fully-Diluted Common Stock. Pursuant to the Merger Agreement, the number of shares of Common Stock issued to Ocuphire's stockholders for each share of Ocuphire's common stock outstanding immediately prior to the Merger was calculated using an exchange ratio (the "***Exchange Ratio***") of approximately 1.0565 shares of Common Stock for each share of Ocuphire common stock. For a description of the Exchange Ratio formula, please refer to "The Merger—Merger Consideration and the Exchange Ratio" in the Company's prospectus/definitive proxy statement filed with the U.S. Securities and Exchange Commission (the "***SEC***") on October 2, 2020 (the "***Proxy Statement***"), which description is incorporated herein by reference.

Contingent Value Rights Agreement

On November 5, 2020, in connection with the Merger, the Company, Shareholder Representatives Services LLC, as representative of the Company's stockholders prior to the Merger, and Olde Monmouth Stock Transfer Co., Inc., as the rights agent, entered into a Contingent Value Rights Agreement (the "***CVR Agreement***"). For a description of the terms and conditions of the CVR Agreement, please refer to "Agreements Related to the Merger—Contingent Value Rights Agreement" in the Proxy Statement.

The description of the CVR Agreement is subject to and qualified in its entirety by reference to such agreement, a copy of which is attached as Exhibit 10.4 hereto and is incorporated herein by reference.

Financing Lock-Up Agreements

On November 5, 2020, in connection with the Pre-Merger Financing (as defined in Item 8.01 of this report), the Company and Ocuphire entered into additional lock-up agreements (the ***"Financing Lock-Up Agreements***") with each officer, director or other person that will be subject to Section 16 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), with respect to the Company immediately following the effectiveness of the Merger. For a description of the terms and conditions of the Financing Lock-Up Agreements, please refer to "Agreements Related to the Merger—Pre-Merger Financing—Financing Lock-Up Agreements" in the Proxy Statement, which description is incorporated herein by reference.

The description of the Financing Lock-Up Agreements is subject to and qualified in its entirety by reference to the Form of Financing Lock-Up Agreement, which is attached as Exhibit 10.2 hereto and is incorporated herein by reference.

Leak-Out Agreements

On November 5, 2020, in connection with the Pre-Merger Financing, each Investor entered into a leak-out agreement with the Company (collectively, the "Leak-Out Agreements"). For a description of the terms and conditions of the Leak-Out Agreements, please refer to "Agreements Related to the Merger—Pre-Merger Financing—Leak-Out Agreements" in the Proxy Statement, which description is incorporated herein by reference.

The description of the Leak-Out Agreements is subject to and qualified in its entirety by reference to the Form of Leak-Out Agreement, which is attached as Exhibit 10.3 hereto and is incorporated herein by reference.

On November 5, 2020, the Company issued a press release announcing the completion of the Merger, the Pre-Merger Financing, the Reverse Stock Split (as defined below) and the Name Change Amendment (as defined below). A copy of the press release is attached as Exhibit 99.1 to this Current Report on Form 8-K.

Item 2.01. Completion of Acquisition or Disposition of Assets.

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.01.

Reverse Stock Split

On November 5, 2020, prior to completion of the Merger, the Company effected a 1-for-4 reverse stock split of its common stock (the "***Reverse Stock Split***") and, also on November 5, 2020, following completion of the Merger, changed its name to "Ocuphire Pharma, Inc." Following the completion of the Merger, the business conducted by the Company became primarily the business conducted by Ocuphire, which is a clinical-stage ophthalmic biopharmaceutical company focused on developing and commercializing therapies for the treatment of several eye disorders, as further described in the Proxy Statement under the section titled "Ocuphire Business".

Unless otherwise noted, all references to share and per share amounts in this Current Report on Form 8-K reflect the Reverse Stock Split.

Prior to the merger all of Ocuphire's outstanding convertible notes were converted into Ocuphire common stock. Immediately prior to, and in connection with, the completion of the Merger, each share of Ocuphire common stock was converted into the right to receive shares of common stock of the Company equal to the Exchange Ratio (as defined below). Under the terms of the Merger Agreement, at the effective time of the Merger, the Company issued shares of its common stock to Ocuphire stockholders, based on a common stock exchange ratio of 1.0565 shares of Common Stock for each share of Ocuphire common stock (the "***Exchange Ratio***") outstanding immediately prior to the Merger. The Exchange Ratio was determined through arm's-length negotiations between the Company and Ocuphire. The Company also assumed all of the stock options to purchase Ocuphire common stock outstanding immediately prior to the Merger, with such stock options now representing the right to purchase a number of shares of Common Stock underlying such options. The exercise prices of such options were also appropriately adjusted to reflect the Exchange Ratio and the Reverse Stock Split. The assumed options will be governed by the terms of the Ocuphire Pharma, Inc. 2020 Equity Incentive Plan (the "***Ocuphire 2020 Plan***").

Immediately prior to, and in connection with, the completion of the Merger, each outstanding and unexercised option to purchase Common Stock granted pursuant to the Rexahn Pharmaceuticals, Inc. 2013 Stock Option Plan (as amended and restated, the "***Rexahn 2013 Plan***") was accelerated in full. At the closing of the Merger, each option having an exercise price per share less than the Rexahn Closing Price (as defined in the Merger Agreement) was automatically exercised in full, and the optionholder is entitled to receive a number of shares of Common Stock calculated in accordance with the Merger Agreement. Following the closing of the Merger, each outstanding, unexercised and unvested option to purchase Common Stock granted under the Rexahn Pharmaceuticals Stock Option Plan, as amended (the ***"Rexahn 2003 Plan"***, and together with the Rexahn 2013 Plan, the ***"Prior Plans"***), remains outstanding in accordance with its terms, except for those options which were out-of-the-money as of the date of the Merger, which were terminated.

Following the closing of the Merger, each outstanding warrant to purchase shares of Common Stock remains outstanding according to its terms, and certain warrants are exchangeable at the option of the holder for cash in an amount equal to the Black-Scholes value of such warrant within thirty (30) days of the closing of the Merger, calculated in accordance with its terms. The number of shares of Common Stock underlying the warrants and the exercise prices for such warrants were appropriately adjusted to reflect the Reverse Stock Split.

Immediately following the Merger, there were approximately 7,091,878 shares of Common Stock outstanding (not including 3,749,992 Converted Additional Shares being held in escrow), options to purchase 1,242,373 shares of Common Stock outstanding and warrants to purchase 231,433 shares of Common Stock outstanding, in each case, subject to the rounding down of fractional shares as a result of the Reverse Stock Split or the application of the Exchange Ratio.

The shares of Common Stock issued to the former stockholders of Ocuphire were registered with the SEC on the Company's Registration Statement on Form S-4, as amended (File No. 333-239702), which was declared effective by the SEC on October 2, 2020.

The shares of Common Stock listed on The Nasdaq Capital Market, previously trading through the close of market on Thursday, November 5, 2020 under the ticker symbol "REXN," commenced trading on The Nasdaq Capital Market, on a post-Reverse Stock Split adjusted basis, under the ticker symbol "OCUP," on Friday, November 6, 2020. The Common Stock is represented by a new CUSIP number, 67577R 102.

The foregoing description of the Merger Agreement and the amendment thereto is qualified in its entirety by reference to the Merger Agreement and the amendment thereto, which are attached hereto as Exhibit 2.1 and Exhibit 2.2, respectively, and are incorporated herein by reference.

Item 3.03. Material Modification to Rights of Security Holders.

As previously disclosed in the Company's Current Report on Form 8-K filed with the SEC on Tuesday, November 3, 2020, at the special meeting of the Company's stockholders held on November 2, 2020 (the "***Special Meeting***"), the Company's stockholders approved (i) an amendment to the Company's amended and restated certificate of incorporation (the "***Certificate of Incorporation***") to effect the Reverse Stock Split (the "***Stock Split Amendment***"), and (ii) an amendment to the Certificate of Incorporation to change the Company's name from "Rexahn Pharmaceuticals, Inc." to "Ocuphire Pharma, Inc." (the "***Name Change Amendment***").

On November 4, 2020, the Board approved the 1-for-4 reverse stock split ratio reflected in the Stock Split Amendment. On November 5, 2020, the Company filed the Stock Split Amendment with the Secretary of State of the State of Delaware to effect the Reverse Stock Split, effective as of 4:01 p.m. Eastern Time on November 5, 2020. On November 5, 2020, the Company filed the Name Change Amendment with the Secretary of State of the State of Delaware, effective as of 4:03 p.m. November 5, 2020.

As a result of the Reverse Stock Split, the number of issued and outstanding shares of Common Stock immediately prior to the Reverse Stock Split was reduced to a smaller number of shares, such that every four (4) shares of Common Stock held by a stockholder immediately prior to the Reverse Stock Split were combined and reclassified into one (1) share of Common Stock.

No fractional shares were issued in connection with the Reverse Stock Split. Any fractional shares resulting from the Reverse Stock Split were rounded down to the nearest whole number, and each stockholder who would otherwise be entitled to a fraction of a share of common stock upon the Reverse Stock Split (after aggregating all fractions of a share to which such stockholder would otherwise be entitled) is, in lieu thereof, entitled to receive a cash payment in an amount determined by multiplying the fraction to which the holder would otherwise be entitled by the closing price of the Common Stock on the Nasdaq Capital Market on November 5, 2020 (as adjusted to give effect to the Reverse Stock Split), rounded up to the nearest whole cent.

In accordance with the Stock Split Amendment, no corresponding adjustment was made with respect to the Company's authorized common stock. The Reverse Stock Split has no effect on the par value of the Common Stock or authorized shares of Common Stock. Immediately after the Reverse Stock Split, each stockholder's percentage ownership interest in the Company and proportional voting power will remain unchanged, other than as a result of the rounding to eliminate fractional shares, as described in the preceding paragraph. The rights and privileges of the holders of shares of common stock will be unaffected by the Reverse Stock Split.

The foregoing descriptions of the Stock Split Amendment and the Name Change Amendment are subject to and qualified in their entirety by reference to the Stock Split Amendment and the Name Change Amendment, copies of which are attached hereto as Exhibit 3.1 and Exhibit 3.2, respectively, and are incorporated herein by reference.

Item 4.01. Change in Registrant's Certifying Accountant.

For accounting purposes, the Merger is treated as a reverse acquisition and, as such, the historical financial statements of the accounting acquirer, Ocuphire, which have been audited by Ernst & Young, LLP ("***E&Y***"), will become the historical financial statements of the Company. In a reverse acquisition, a change of accountants is presumed to have occurred unless the same accountant audited the pre-transaction financial statements of both the legal acquirer and the accounting acquirer, and such change is generally presumed to occur on the date the reverse acquisition is completed.

The Company expects the Audit Committee of Board to approve the dismissal of Baker Tilly US, LLP ("***Baker Tilly***") as the Company's independent registered public accounting firm and to engage E&Y as the independent registered public accounting firm to audit the Company's financial statements for the fiscal year ending December 31, 2020, which will reflect Ocuphire as the accounting acquirer.

The reports of Baker Tilly on the Company's financial statements for each of the two fiscal years ended December 31, 2019 and December 31, 2018 did not contain an adverse opinion or a disclaimer of opinion, nor were they qualified or modified as to uncertainty, audit scope or accounting principles.

In connection with the audits of the Company's financial statements for each of the two fiscal years ended December 31, 2019 and December 31, 2018 and the interim period between December 31, 2019 and the date of this report, there were no "disagreements" (as that term is defined in Item 304(a)(1)(iv) of Regulation S-K and related instructions) between the Company and Baker Tilly on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure which, if not resolved to the satisfaction of Baker Tilly, would have caused Baker Tilly to make reference to the subject matter of the disagreement in its reports.

In connection with the audits of the Company's financial statements for each of the two fiscal years ended December 31, 2019 and December 31, 2018 and the interim period between December 31, 2019 and the date of this report, there were no "reportable events" (as that term is defined in Item 304(a)(1)(v) of Regulation S-K and related instructions).

The Company delivered a copy of this Current Report on Form 8-K to Baker Tilly on November 5, 2020 and requested a letter addressed to the SEC stating whether or not it agrees with the statements made in response to this Item and, if not, stating the respects in which it does not agree. A copy of Baker Tilly's letter dated November 5, 2020 is attached as Exhibit 16.1 hereto.

Item 5.01. Changes in Control of Registrant.

The information set forth in Item 2.01 of this Current Report on Form 8-K regarding the Merger and the information set forth in Item 5.02 of this Current Report on Form 8-K regarding the Board and executive officers following the Merger are incorporated by reference into this Item 5.01.

Pursuant to the Merger Agreement, all of the directors of the Company prior to the Merger other than Mr. Richard J. Rodgers (Douglas Swirsky, Peter Brandt, Charles Beever, Kwang Soo Cheong, Gil Price and Lara Sullivan), resigned from the Company's board of directors (the "***Board***") and any respective committees to which they belonged, immediately prior to the effective time of the Merger. The Board then appointed, effective as of the effective time of the Merger, six designees selected by Ocuphire.

Effective as of the effective time of the Merger, the Board appointed Mina Sooch, Sean Ainsworth, James S. Manuso, Cam Gallagher, Alan R. Meyer and Susan K. Benton to the Board. Richard J. Rodgers remained on the Board as Rexahn Pharmaceuticals, Inc.'s designee pursuant to the Merger Agreement.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Directors

In accordance with the Merger Agreement, on November 5, 2020, in connection with the closing of the Merger, Douglas Swirsky, Peter Brandt, Charles Beever, Kwang Soo Cheong, Gil Price and Lara Sullivan resigned from the Board and any committees of the Board on which they respectively served, which resignations were not the result of any disagreements with the Company relating to the Company's operations, policies or practices.

Mr. Gallagher was appointed Chair of the Board, Ms. Sooch was appointed as Vice Chair of the Board and Mr. Ainsworth was appointed as Lead Independent Director. Dr. Manuso and Messrs. Ainsworth and Rodgers were appointed to the Company's Audit Committee (with Mr. Rodgers serving as chair of the committee and audit committee financial expert); Messrs. Ainsworth, Gallagher and Rodgers were appointed to the Company's Compensation Committee (with Mr. Ainsworth serving as chair of the committee); and Messrs. Manuso and Gallagher and Ms. Benton were appointed to the Company's Nominating and Corporate Governance Committee (with Mr. Manuso serving as chair of the committee). Each of the directors will also enter into an indemnity agreement with the Company. For additional information regarding the indemnity agreements between the Company and each of its directors, please refer to the form of indemnity agreement filed herewith as Exhibit 10.8.

Biographical information for the newly appointed directors and disclosure regarding related party transactions involving Ocuphire and the newly appointed directors are included in the Proxy Statement and incorporated herein by reference.

Director Compensation

In connection with the Merger, the Board approved a new director compensation policy (the "***Compensation Policy***") for its non-employee directors. Other than reimbursement for reasonable expenses incurred in connection with attending Board and committee meetings, the Compensation Policy provides for the following cash compensation:

- each non-employee director is entitled to receive an annual fee from us of $40,000;
- the chair of the Board will receive an additional annual fee of $35,000;
- the chair of our audit committee will receive an annual fee from us of $15,000;
- the chair of our compensation committee will receive an annual fee from us of $10,000;
- the chair of our nominating and corporate governance committee will receive an annual fee from the Company of $8,000; and
- each non-chairperson member of the audit committee, the compensation committee and the nominating and corporate governance committee will receive annual fees from us of $7,500, $5,000 and $4,000, respectively.

Each non-employee director that joins the Board receives an initial option grant to purchase 40,000 shares of Company common stock, which shall vest in a series of three successive equal annual installments over the three-year period measured from the date of grant. Each non-employee director also receives an annual option grant to purchase 20,000 shares of Company common stock, which shall vest 100% upon the earlier of the one-year anniversary of the grant date or the next annual stockholder meeting. Upon a change in control, as defined in the Company's equity incentive plan, 100% of the shares underlying these options shall become vested and exercisable immediately prior to such change in control.

The description of the Compensation Policy is subject to and qualified in its entirety by reference to the Compensation Policy, a copy of which is attached as Exhibit 10.9 hereto and incorporated herein by reference.

Executive Officers

In accordance with the Merger Agreement, on November 5, 2020, the employment of the Company's Chief Executive Officer and President, Mr. Douglas Swirsky terminated immediately following the effectiveness of the Merger. Following the termination of his employment and execution of a general release of claims, pursuant to his employment agreement, Mr. Swirsky received a lump sum cash payment in an amount equal to $1,180,398.

The Board has appointed Mina Sooch as the Company's President, Chief Executive Officer and Treasurer, and Bernhard Hoffmann as the Company's Vice President of Corporate Development and Finance and Secretary, in each case, effective November 6, 2020. Each of Ms. Sooch and Mr. Hoffmann will enter into an indemnity agreement with the Company, a form of which is attached hereto as Exhibit 10.8. There are no family relationships among any of the Company's directors and executive officers. Ms. Sooch will serve as the Company's principal executive officer and Mr. Hoffmann will serve as the Company's principal financial and accounting officer.

Biographical information for the newly appointed directors and disclosure regarding related party transactions involving Ocuphire and the newly appointed directors are included in the Proxy Statement and incorporated herein by reference.

Ms. Mina Sooch. In June 2020, Ocuphire and Ms. Sooch entered into a new employment agreement (the "***Sooch Employment Agreement***") to be effective upon the closing of the Merger. The Sooch Employment Agreement provides for the employment of Ms. Sooch as the Company's President and Chief Executive Officer. Ms. Sooch will also be eligible to receive a stock option grant at the conclusion of each fiscal year based upon performance criteria as determined by the Company's Compensation Committee at the beginning of each fiscal year and to participate in the Company's employee benefit plans in effect for similarly situated employees.

Mr. Bernhard Hoffmann. In June 2020, Ocuphire and Mr. Hoffmann entered into a new employment agreement (the "***Hoffmann Employment Agreement***") to be effective upon the closing of the Merger. The Hoffmann Employment Agreement provides for the employment of Mr. Hoffmann as the Company's Vice President of Corporate Development and Finance. Mr. Hoffmann will also be eligible to receive a stock option grant at the conclusion of each fiscal year based upon performance criteria as determined by the Company's Compensation Committee at the beginning of each fiscal year and to participate in the Company's employee benefit plans in effect for similarly situated employees.

The foregoing description is not complete and is qualified in its entirety by reference to the Sooch Employment and the Hoffmann Employment Agreement, copies of which are attached hereto as Exhibit 10.6 and Exhibit 10.7, respectively.

Ocuphire 2020 Plan

At the Special Meeting, the stockholders of the Company approved the Ocuphire 2020 Plan. The Ocuphire 2020 Plan had previously been approved by the Board, subject to stockholder approval. The Ocuphire 2020 Plan became effective on November 5, 2020. Under the Ocuphire 2020 Plan, (i) 1,000,000 new shares of Common Stock are reserved for issuance and (ii) up to 1,063,246 additional shares of Common Stock may be issued, consisting of (A) shares that remain available for the issuance of awards under the Prior Plans and (B) shares of common stock subject to outstanding stock options or other awards covered by the Prior Plans that have been cancelled or expire on or after the date that the Ocuphire 2020 Plan becomes effective.

For a description of the Ocuphire 2020 Plan, please refer to"Proposal No. 4: Approval of the Adoption of the Ocuphire 2020 Plan" in the Proxy Statement, which information is incorporated herein by reference. The description of the Ocuphire 2020 Plan is subject to and qualified in its entirety by reference to the Ocuphire 2020 Plan, which is attached as Exhibit 10.5 hereto and incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On November 5, 2020, the Board adopted the Second Amended and Restated Bylaws (the "***A&R Bylaws***") substantially in the form attached hereto as Exhibit 3.3. The A&R Bylaws were adopted in order to implement provisions deemed by the Board to be in the best interests of the Company and its stockholders. The A&R Bylaws clarify certain corporate procedures and make certain other enhancements and technical changes with respect to procedures relating to annual and special stockholders meetings, other stockholder actions and Board actions.

The changes effected by the A&R Bylaws include, without limitation, the following:

- updating the advance notice provisions for director nominations and stockholder proposals at stockholder meetings;
- clarifying the procedures for filling Board vacancies;
- eliminating the ability of the Company's stockholders to act by written consent; and
- adding a provision describing the role of the lead independent director.

The foregoing description of the Bylaws is subject to and qualified in its entirety by reference to the Bylaws, a copy of which is attached hereto as Exhibit 3.3, and incorporated herein by reference.

Item 5.05 Amendments to Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics.

On November 5, 2020, in connection with the consummation of the Merger, the Board adopted a new Code of Business Conduct and Ethics (the "***Code of Conduct***") which applies to all of the Company's directors, officers and employees, including its principal executive officer, principal financial officer, principal accounting officer and persons performing similar functions. The Code of Conduct, among other things, enhances the description of the policies and regulations pertaining to conflicts of interest, insider trading, confidentiality, honest and ethical conduct and fair dealing, gifts and gratuities, accuracy of books and records and public reports and concerns regarding accounting and auditing matters. The Code of Conduct also describes the procedures for waivers of the Code of Conduct and for reporting suspected violations of the Code.

The foregoing description of the Code of Conduct is subject to and qualified in its entirety by reference to the Code of Conduct, a copy of which is attached hereto as Exhibit 14.1, and incorporated herein by reference.

Item 7.01 Regulation FD Disclosure.

On November 6, 2020, the Company posted an updated corporate presentation to its website at https://ir.ocuphire.com/presentations, which the Company may use from time to time in communications or conferences. A copy of the corporate presentation is attached as Exhibit 99.2 to this Current Report on Form 8-K.

The information set forth in this Item 7.01 and in the investor presentation attached hereto as Exhibit 99.2, is deemed to be "furnished" and shall not be deemed to be "filed" for purposes of Section 18 of the Exchange Act, or otherwise subject to the liabilities of that Section. The information set forth in this Item 7.01, including Exhibit 99.2, shall not be deemed incorporated by reference into any filing under the Exchange Act or the Securities Act of 1933, as amended, except to the extent that the Company specifically incorporates it by reference.

Item 8.01 Other Events.

Pre-Merger Financing

On November 5, 2020, the Company and Ocuphire completed a previously announced private placement transaction with certain accredited investors (the "***Investors***") for an aggregate purchase price of approximately $21,150,000 (the "***Pre-Merger Financing***"), whereby immediately prior to the closing of the Merger, among other things, the Company issued to the Investors shares of Ocuphire common stock to be exchanged for shares of Common Stock following the closing of the Merger, pursuant to the Amended and Restated Securities Purchase Agreement, dated June 29, 2020, among the Company, Ocuphire and the Investors (the ***"Securities Purchase Agreement"***).

At the closing of the Pre-Merger Financing, (i) Ocuphire issued to the Investors shares of Ocuphire common stock (the "***Initial Shares***" and, as converted pursuant to the Exchange Ratio in the Merger into the right to receive approximately 1,249,996 shares of common stock, the "***Converted Initial Shares***") and (ii) Ocuphire deposited into an escrow account three times the number of Initial Shares of Ocuphire common stock (the "***Additional Shares***", and, as converted pursuant to the Exchange Ratio in the Merger into the right to receive approximately 3,749,992 shares of Common Stock, the "***Converted Additional Shares***") for the benefit of the Investors if 85% of the average of the five lowest volume-weighted average trading prices of a share of Common Stock as quoted on the Nasdaq Capital Market during the first ten trading days (or such shorter period elected by an Investor) immediately following the closing date of the Pre-Merger Financing is lower than the effective price per share paid by the Investors for the Converted Initial Shares.

In addition, under the Securities Purchase Agreement, the Company has agreed to issue on the tenth trading day following the consummation of the Merger (i) Series A Warrants to purchase Common Stock (the "***Series A Warrants***") and (ii) Series B Warrants to purchase Common Stock (the "***Series B Warrants***" and, together with the Series A Warrants, the "***Investor Warrants***").

For a description of the terms and conditions of the Pre-Merger Financing, including the Investor Warrants, please refer to "Agreements Related to the Merger—Pre-Merger Financing" in the Proxy Statement, which description is incorporated herein by reference. The description of the Investor Warrants is subject to and qualified in its entirety by reference to the form of Investor Warrants, a copy of which is attached as Exhibit 4.1 hereto and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(a) Financial Statements of Businesses Acquired.

Reference is made to the Proxy Statement, which included the audited financial statements of Ocuphire as of and for the years ended December 31, 2019 and 2018, which are incorporated herein by reference in satisfaction of the Item 9.01(a) requirements for such information pursuant to General Instruction B.3 of Form 8-K.

The unaudited interim financial statements of Ocuphire, including Ocuphire's unaudited condensed consolidated balance sheet as of September 30, 2020, Ocuphire's condensed consolidated balance sheet derived from audited financial statements as of December 31, 2019, unaudited condensed consolidated statements of operations for the nine months ended September 30, 2020 and 2030, unaudited condensed consolidated statements of cash flows for the nine months ended September 30, 2020 and 2019 and the notes related thereto will be filed by amendment not later than 71 calendar days after the date this report is required to be filed.

(b) Pro Forma Financial Information.

The unaudited pro forma condensed combined financial information of the Company, including the unaudited pro forma condensed combined balance sheet as of September 30, 2020, the unaudited pro forma condensed combined statement of operations for the nine months ended September 30, 2020, the unaudited pro forma condensed combined statement of operations for the year ended December 31, 2019 and the notes related thereto will be filed by amendment not later than 71 calendar days after the date this report is required to be filed.

(d) Exhibits.

Exhibit No.	Description
2.1*	Agreement and Plan of Merger, dated as of June 17, 2020, by and among Rexahn, Merger Sub and Ocuphire (incorporated by reference from Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the SEC on June 19, 2020).
2.2	First Amendment to Agreement and Plan of Merger and Reorganization, dated as of June 29, 2020, by and among Rexahn, Merger Sub and Ocuphire (incorporated by reference from Exhibit 2.1 to the Company's Current Report on Form 8-K, as filed with the SEC on July 1, 2020).
3.1	Certificate of Amendment (Reverse Stock Split) to the Certificate of Incorporation of the Company.
3.2	Certificate of Amendment (Name Change) to the Certificate of Incorporation of the Company.
3.3	Second Amended and Restated Bylaws of the Company.
4.1	Form of Series A/B Warrants (incorporated by reference from Exhibit 4.1 to the Company's Current Report on Form 8-K, as filed with the SEC on July 1, 20 20).
10.1*	Amended and Restated Securities Purchase Agreement, dated as of June 29, 2020, by and among the Company, Ocuphire and the investors party thereto (incorporated by reference from Exhibit 4.1 to the Company's Current Report on Form 8-K, as filed with the SEC on July 1, 2020).
10.2	Form of Financing Lock-Up Agreement, by and among Rexahn, Ocuphire, and the investors party thereto (incorporated by reference from Exhibit 10.2 to the Company's Current Report on Form 8-K, as filed with the SEC on July 1, 2020).

10.3	Form of Leak-Out Agreement, by and between Rexahn and the investors party thereto (incorporated by reference from Exhibit 10.3 to the Company's Current Report on Form 8-K, as filed with the SEC on July 1, 2020).
10.4*	Contingent Value Rights Agreement, dated as of November 5, 2020, by and among the Company, Shareholder Representative Services LLC and the Olde Monmouth Stock Transfer Co., Inc.
10.5+	Ocuphire Pharma, Inc. 2020 Omnibus Equity Incentive Plan (incorporated by reference from Annex D to the Company's proxy statement/prospectus/information statement filed with the SEC on September 30, 2020).
10.6+	Amended and Restated Employment Agreement by and between Ocuphire Pharma, Inc. and Mina Sooch, to be effective as of the Closing (incorporated by reference from Exhibit 10.27 to the Company's proxy statement/prospectus/information statement filed with the SEC on September 30, 2020).
10.7+	Amended and Restated Employment Agreement by and between Ocuphire Pharma, Inc. and Bernhard Hoffmann, to be effective as of the Closing (incorporated by reference from Exhibit 10.29 to the Company's proxy statement/prospectus/information statement filed with the SEC on September 30, 2020).
10.8+	Form of Indemnity Agreement between the Company and each of its directors and executive officers.
10.9+	Non-Employee Director Compensation Policy of the Company.
14.1	Code of Business Conduct and Ethics of the Company.
16.1	Letter from Baker Tilly.
99.1	Press Release dated November 5, 2020.
99.2	Ocuphire Corporate Presentation.

* Certain schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished to the SEC upon request.

\+ Management contract or compensatory plans or arrangements.

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 hereunto duly authorized.

OCUPHIRE PHARMA, INC.

Date: November 6, 2020

By: /s/ Mina Sooch
Mina Sooch
President and Chief Executive Officer

Exhibit 3.1

CERTIFICATE OF AMENDMENT
OF
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
REXAHN PHARMACEUTICALS, INC.

Rexahn Pharmaceuticals, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The name of the Corporation is Rexahn Pharmaceuticals, Inc.

2. Article Fourth of the Amended and Restated Certificate of Incorporation of the Corporation, as amended to date, is hereby amended by replacing the second paragraph thereof with the following:

"Upon the filing and effectiveness (the "Effective Time") of this amendment to the Corporation's Amended and Restated Certificate of Incorporation, as amended, pursuant to the Delaware General Corporation Law, each 4 shares of Common Stock issued and outstanding immediately prior to the Effective Time (the "Old Common Stock") shall be reclassified and combined into one validly issued, fully paid and non-assessable share of the Corporation's common stock, $0.0001 par value per share (the "New Common Stock"), without any action by the holder thereof (the "Reverse Stock Split") and without increasing or decreasing the authorized number of shares of Common Stock or the Corporation's preferred stock, par value $0.0001 per share. No fractional shares of New Common Stock shall be issued as a result of the Reverse Stock Split and, in lieu thereof, upon surrender after the Effective Time of a certificate or book entry position which formerly represented shares of Old Common Stock that were issued and outstanding immediately prior to the Effective Time, any person who would otherwise be entitled to a fractional share of New Common Stock as a result of the Reverse Stock Split, following the Effective Time, shall be entitled to receive a cash payment equal to the fraction of a share of New Common Stock to which such holder would otherwise be entitled multiplied by the closing price per share of the New Common Stock on the Nasdaq Capital Market at the close of business on the date of the Effective Time, rounded up to the nearest whole cent. Each certificate that, immediately prior to the Effective Time, represented shares of Old Common Stock that were issued and outstanding immediately prior to the Effective Time, shall thereafter represent that number of whole shares of New Common Stock after the Effective Time into which the shares of Old Common Stock formerly represented by such certificate shall have been reclassified and combined (as well as the right to receive cash in lieu of fractional shares of New Common Stock after the Effective Time); provided, that each person holding of record a stock certificate or certificates that represented shares of Old Common Stock that were issued and outstanding immediately prior to the Effective Time shall receive, upon surrender of such certificate or certificates, a new certificate or certificates evidencing and representing the number of whole shares of New Common Stock after the Effective Time into which the shares of Old Common Stock formerly represented by such certificate shall have been reclassified and combined."

3. This Certificate of Amendment has been duly adopted by the Board of Directors and stockholders of the Corporation in accordance with Section 242 of the General Corporation Law of the State of Delaware.

4. This Certificate of Amendment shall become effective as of 4:01, Eastern Time on November 5, 2020.

[Signature page follows]

IN WITNESS WHEREOF, the Corporation has caused its duly authorized officer to execute this Certificate of Amendment on this 5th day of November, 2020.

REXAHN PHARMACEUTICALS, INC.

By: /s Douglas J. Swirsky
Name: Douglas J. Swirsky
Title: President and Chief Executive Officer

Exhibit 3.2

CERTIFICATE OF AMENDMENT
OF
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
REXAHN PHARMACEUTICALS, INC.

Rexahn Pharmaceuticals, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The name of the Corporation is Rexahn Pharmaceuticals, Inc.

2. Article First of the Amended and Restated Certificate of Incorporation of the Corporation, as amended to date, is hereby amended and restated in its entirety as follows:

"The name of the Corporation is Ocuphire Pharma, Inc."

3. This Certificate of Amendment has been duly adopted by the Board of Directors and stockholders of the Corporation in accordance with Section 242 of the General Corporation Law of the State of Delaware.

4. This Certificate of Amendment shall become effective as of 4:03, Eastern Time on November 5, 2020.

[Signature page follows]

IN WITNESS WHEREOF, the Corporation has caused its duly authorized officer to execute this Certificate of Amendment on this 5th day of November, 2020.

REXAHN PHARMACEUTICALS, INC.

By: /s/ Douglas J. Swirsky
Name: Douglas J. Swirsky
Title: President and Chief Executive Officer

Exhibit 3.3

SECOND AMENDED AND RESTATED BYLAWS

OF

OCUPHIRE PHARMA, INC.
(A DELAWARE CORPORATION)

November 5, 2020

Table of Contents

SECOND AMENDED AND RESTATED BYLAWS

OF

OCUPHIRE PHARMA, INC.
(A DELAWARE CORPORATION)

November 5, 2020

ARTICLE I
OFFICES

Section 1. Registered Office . The registered office of Ocuphire Pharma, Inc., a Delaware corporation (the ***"Corporation"***) in the State of Delaware shall be in the City of Wilmington, County of New Castle.

Section 2. Other Offices. The Corporation shall also have and maintain an office or principal place of business at such place as may be fixed by the board of directors of the Corporation (the ***"Board of Directors"***), and may also have offices at such other places, both within and without the State of Delaware, as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II
CORPORATE SEAL

Section 3. Corporate Seal. The Board of Directors may adopt a corporate seal. If adopted, the corporate seal shall consist of a die bearing the name of the Corporation and the inscription, "Corporate Seal-Delaware." Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE III
STOCKHOLDERS' MEETINGS

Section 4. Place of Meetings. Meetings of the stockholders of the Corporation may be held at such place, either within or without the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the Delaware General Corporation Law (the ***"DGCL"***).

Section 5. Annual Meetings.

(a) The annual meeting of the stockholders of the Corporation, for the purpose of election of directors and for such other business as may properly come before it, shall be held on such date and at such time as may be designated from time to time by the Board of Directors. Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders: (i) pursuant to the Corporation's notice of meeting of stockholders (with respect to business other than nominations); (ii) brought specifically by or at the direction of the Board of Directors; or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of giving the stockholder's notice provided for in Section 5(b) below, who is entitled to vote at the meeting and who complied with the notice procedures set forth in Section 5. For the avoidance of doubt, clause (iii) above shall be the exclusive means for a stockholder to make nominations and submit other business (other than matters properly included in the Corporation's notice of meeting of stockholders and proxy statement under Rule 14a-8 under the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the ***"1934 Act"***)) before an annual meeting of stockholders.

(b) At an annual meeting of the stockholders, only such business shall be conducted as is a proper matter for stockholder action under Delaware law and as shall have been properly brought before the meeting.

(i) For nominations for the election to the Board of Directors to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a) of these Second Amended and Restated Bylaws (these ***"Bylaws"***), the stockholder must deliver written notice to the Secretary of the Corporation at the principal executive offices of the Corporation on a timely basis as set forth in Section 5(b)(iii) and must update and supplement such written notice on a timely basis as set forth in Section 5(c). Such stockholder's notice shall set forth: (A) as to each nominee such stockholder proposes to nominate at the meeting: (1) the name, age, business address and residence address of such nominee; (2) the principal occupation or employment of such nominee; (3) the class and number of shares of each class of capital stock of the Corporation which are owned of record and beneficially by such nominee; (4) the date or dates on which such shares were acquired and the investment intent of such acquisition; (5) a statement whether such nominee, if elected, intends to tender, promptly following such person's failure to receive the required vote for election or re-election at the next meeting at which such person would face election or re-election, an irrevocable resignation effective upon acceptance of such resignation by the Board of Directors; and (6) such other information concerning such nominee as would be required to be disclosed in a proxy statement soliciting proxies for the election of such nominee as a director in an election contest (even if an election contest is not involved), or that is otherwise required to be disclosed pursuant to Section 14 of the 1934 Act and the rules and regulations promulgated thereunder (including such person's written consent to being named as a nominee and to serving as a director if elected); and (B) the information required by Section 5(b)(iv). The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such proposed nominee.

(ii) Other than proposals sought to be included in the Corporation's proxy materials pursuant to Rule 14a-8 under the 1934 Act, for business other than nominations for the election to the Board of Directors to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a) of these Bylaws, the stockholder must deliver written notice to the Secretary of the Corporation at the principal executive offices of the Corporation on a timely basis as set forth in Section 5(b)(iii), and must update and supplement such written notice on a timely basis as set forth in Section 5(c). Such stockholder's notice shall set forth: (A) as to each matter such stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting, and any material interest (including any anticipated benefit of such business to any Proponent (as defined below) other than solely as a result of its ownership of the Corporation's capital stock, that is material to any Proponent individually, or to the Proponents in the aggregate) in such business of any Proponent; and (B) the information required by Section 5(b)(iv).

(iii) To be timely, the written notice required by Section 5(b)(i) or 5(b)(ii) must be received by the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90^{th}) day nor earlier than the close of business on the one hundred twentieth (120^{th}) day prior to the first anniversary of the preceding year's annual meeting; *provided, however,* that, subject to the last sentence of this Section 5(b)(iii), in the event that no annual meeting was held during the preceding year or the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so received not earlier than the close of business on the one hundred twentieth (120^{th}) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90^{th}) day prior to such annual meeting or the closing of business on the tenth (10^{th}) day following the day on which public announcement of the date of such meeting is first made. In no event shall an adjournment or a postponement of an annual meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(iv) The written notice required by Section 5(b)(i) or 5(b)(ii) shall also set forth, as of the date of the notice and as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (each, a ***"Proponent"*** and collectively, the ***"Proponents"***): (A) the name and address of each Proponent, as they appear on the Corporation's books; (B) the class, series and number of shares of the Corporation that are owned beneficially and of record by each Proponent; (C) a description of any agreement, arrangement or understanding (whether oral or in writing) with respect to such nomination or proposal between or among any Proponent and any of its affiliates or associates, and any others (including their names) acting in concert, or otherwise under the agreement, arrangement or understanding, with any of the foregoing; (D) a representation that the Proponents are holders of record or beneficial owners, as the case may be, of shares of the Corporation entitled to vote at the meeting and intend to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice (with respect to a notice under Section 5(b)(i)) or to propose the business that is specified in the notice (with respect to a notice under Section 5(b)(ii)); (E) a representation as to whether the Proponents intend to deliver a proxy statement and form of proxy to holders of a sufficient number of holders of the Corporation's voting shares to elect such nominee or nominees (with respect to a notice under Section 5(b)(i)) or to carry such proposal (with respect to a notice under Section 5(b)(ii)); (F) to the extent known by any Proponent, the name and address of any other stockholder supporting the proposal on the date of such stockholder's notice; and (G) a description of all Derivative Transactions (as defined below) by each Proponent during the previous twelve (12) month period, including the date of the transactions and the class, series and number of securities involved in, and the material economic terms of, such Derivative Transactions.

(c) A stockholder providing written notice required by Section 5(b)(i) or (ii) shall update and supplement such notice in writing, if necessary, so that the information provided or required to be provided in such notice is true and correct in all material respects as of (i) the record date for the meeting and (ii) the date that is five (5) business days prior to the meeting and, in the event of any adjournment or postponement thereof, five (5) business days prior to such adjourned or postponed meeting. In the case of an update and supplement pursuant to clause (i) of this Section 5(c), such update and supplement shall be received by the Secretary of the Corporation at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting. In the case of an update and supplement pursuant to clause (ii) of this Section 5(c), such update and supplement shall be received by the Secretary of the Corporation at the principal executive offices of the Corporation not later than two (2) business days prior to the date for the meeting, and, in the event of any adjournment or postponement thereof, two (2) business days prior to such adjourned or postponed meeting.

(d) Notwithstanding anything in Section 5(b)(iii) to the contrary, in the event that the number of directors of the Board of Directors of the Corporation is increased and there is no public announcement of the appointment of a director, or, if no appointment was made, of the vacancy, made by the corporation at least 10 days before the last day a stockholder may deliver a notice of nomination in accordance with Section 5(b)(iii), a stockholder's notice required by this Section 5 and which complies with the requirements in Section 5(b)(i), other than the timing requirements in Section 5(b)(iii), shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be received by the Secretary at the principal executive offices of the corporation not later than the close of business on the tenth (10^{th}) day following the day on which such public announcement is first made by the Corporation.

(e) A person shall not be eligible for election or re-election as a director unless the person is nominated either in accordance with clause (ii) of Section 5(a), or in accordance with clause (iii) of Section 5(a). Except as otherwise required by law, the chairperson of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, or the Proponent does not act in accordance with the representations in Sections 5(b)(iv)(D) and 5(b)(iv)(E), to declare that such proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded, notwithstanding that proxies in respect of such nominations or such business may have been solicited or received.

(f) Notwithstanding the foregoing provisions of this Section 5, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders' meeting, a stockholder must also comply with all applicable requirements of the 1934 Act and the rules and regulations thereunder. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the 1934 Act; *provided, however,* that any references in these Bylaws to the 1934 Act or the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to proposals and/or nominations to be considered pursuant to Section 5(a)(iii) of these Bylaws.

(g) For purposes of Sections 5 and 6,

(i) ***"affiliates"*** and ***"associates"*** shall have the meanings set forth in Rule 405 under the Securities Act of 1933, as amended (the ***"1933 Act"***).

(ii) ***"Derivative Transaction"*** means any agreement, arrangement, interest or understanding entered into by, or on behalf or for the benefit of, any Proponent or any of its affiliates or associates, whether record or beneficial:

(w) the value of which is derived in whole or in part from the value of any class or series of shares or other securities of the Corporation,

(x) which otherwise provides any direct or indirect opportunity to gain or share in any gain derived from a change in the value of securities of the Corporation,

(y) the effect or intent of which is to mitigate loss, manage risk or benefit of security value or price changes, or

(z) which provides the right to vote or increase or decrease the voting power of, such Proponent, or any of its affiliates or associates, with respect to any securities of the Corporation,

which agreement, arrangement, interest or understanding may include, without limitation, any option, warrant, debt position, note, bond, convertible security, swap, stock appreciation right, short position, profit interest, hedge, right to dividends, voting agreement, performance-related fee or arrangement to borrow or lend shares (whether or not subject to payment, settlement, exercise or conversion in any such class or series), and any proportionate interest of such Proponent in the securities of the Corporation held by any general or limited partnership, or any limited liability company, of which such Proponent is, directly or indirectly, a general partner or managing member.

(iii) ***"public announcement"*** shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press, Business Wire, GlobeNewswire or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the 1934 Act; and

Section 6. Special Meetings.

(a) Special meetings of the stockholders of the Corporation may be called, for any purpose as is a proper matter for stockholder action under Delaware law, by (i) the Chairperson of the Board of Directors, (ii) the Chief Executive Officer or the President if the Chairperson of the Board of Directors is unavailable, or (iii) the Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors (whether or not there exist any vacancies in previously authorized directorships at the time any such resolution is presented to the Board of Directors for adoption).

(b) The Board of Directors shall determine the time and place, if any, of such special meeting. Upon determination of the time and place, if any, of the meeting, the Secretary of the Corporation shall cause a notice of meeting to be given to the stockholders entitled to vote, in accordance with the provisions of Section 7 of these Bylaws. No business may be transacted at such special meeting other than specified in the notice of meeting.

(c) Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected (i) by or at the direction of the Board of Directors or (ii) by any stockholder of the Corporation who is a stockholder of record at the time of giving notice provided for in this paragraph, who shall be entitled to vote at the meeting and who delivers written notice to the Secretary of the Corporation setting forth the information required by Section 5(b)(i). In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder of record may nominate a person or persons (as the case may be), for election to such position(s) as specified in the Corporation's notice of meeting, if written notice setting forth the information required by Section 5(b)(i) of these Bylaws shall be received by the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the later of the ninetieth (90^{th}) day prior to such meeting or the tenth (10^{th}) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. The stockholder shall also update and supplement such information as required under Section 5(c). In no event shall an adjournment or a postponement of a special meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period for the giving of a stockholder's notice as described above.

(d) Notwithstanding the foregoing provisions of this Section 6, a stockholder must also comply with all applicable requirements of the 1934 Act and the rules and regulations thereunder with respect to matters set forth in this Section 6. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the 1934 Act; *provided, however,* that any references in these Bylaws to the 1934 Act or the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to nominations for the election to the Board of Directors to be considered pursuant to Section 6(c) of these Bylaws.

Section 7. Notice of Meetings. Except as otherwise provided by law, notice, given in writing or by electronic transmission, of each meeting of stockholders shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, if any, date and hour, in the case of special meetings, the purpose or purposes of the meeting, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at any such meeting. If mailed, notice is deemed given when deposited in the U.S. mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. If sent via electronic transmission, notice is given as of the sending time recorded at the time of transmission. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived in writing, signed by the person entitled to notice thereof, or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by his, her or its attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

Section 8. Quorum. At all meetings of stockholders, except where otherwise provided by statute or by the Amended and Restated Certificate of Incorporation, or by these Bylaws, the presence, in person, by remote communication, if applicable, or by proxy duly authorized, of the holders of a majority of the voting power of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairperson of the meeting or by vote of the holders of a majority of the voting power of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Except as otherwise provided by statute or by applicable stock exchange rules, or by the Amended and Restated Certificate of Incorporation or these Bylaws, in all matters other than the election of directors, the affirmative vote of the majority of voting power of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote generally on the subject matter shall be the act of the stockholders. Except as otherwise provided by statute or by applicable stock exchange rules, the Amended and Restated Certificate of Incorporation or these Bylaws, directors shall be elected by a plurality of the votes of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote generally on the election of directors. Where a separate vote by a class or classes or series is required, except where otherwise provided by the statute, or by applicable stock exchange rules, or by the Amended and Restated Certificate of Incorporation or these Bylaws, a majority of the voting power of the outstanding shares of such class or classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. Except where otherwise provided by statute or by applicable stock exchange rules or by the Amended and Restated Certificate of Incorporation or these Bylaws, the affirmative vote of the majority (plurality, in the case of the election of directors) of shares of such class or classes or series present in person, by remote communication, if applicable, or represented by proxy at the meeting shall be the act of such class or classes or series.

Section 9. Adjournment and Notice of Adjourned Meetings. Any meeting of stockholders, whether annual or special, may be adjourned from time to time either by the chairperson of the meeting or by the vote of the holders of a majority of the voting power of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting. When a meeting is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 10. Voting Rights. For the purpose of determining those stockholders entitled to vote at any meeting of the stockholders, except as otherwise provided by law, only persons in whose names shares stand on the stock records of the Corporation on the record date, as provided in Section 12 of these Bylaws, shall be entitled to vote at any meeting of stockholders. Every person entitled to vote shall have the right to do so either in person, by remote communication, if applicable, or by an agent or agents authorized by a proxy granted in accordance with Delaware law. An agent so appointed need not be a stockholder. No proxy shall be voted after three (3) years from its date of creation unless the proxy provides for a longer period.

Section 11. Joint Owners of Stock. If shares or other securities having voting power stand of record in the names of two (2) or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety, or otherwise, or if two (2) or more persons have the same fiduciary relationship respecting the same shares, unless the Secretary of the Corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect: (a) if only one (1) votes, his or her act binds all; (b) if more than one (1) votes, the act of the majority so voting binds all; (c) if more than one (1) votes, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or may apply to the Delaware Court of Chancery for relief as provided in the DGCL, Section 217(b). If the instrument filed with the Secretary of the Corporation shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of subsection (c) of this Section 11 shall be a majority or even-split in interest.

Section 12. List of Stockholders. The Secretary of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of each stockholder and the number and class of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. The list shall be open to examination of any stockholder during the time of the meeting as provided by law.

Section 13. Action Without Meeting. No action shall be taken by the stockholders except at an annual or special meeting of stockholders called in accordance with these Bylaws, and no action shall be taken by the stockholders by written consent or by electronic transmission.

Section 14. Organization.

(a) At every meeting of stockholders, the Chairperson of the Board of Directors, or, if a Chairperson has not been appointed or is absent, the Chief Executive Officer, or if no Chief Executive Officer is then serving or is absent, the President, or, if the President is absent, a chairperson of the meeting chosen by a majority in interest of the stockholders entitled to vote, present in person or by proxy, shall act as chairperson. The Chairperson of the Board may appoint the Chief Executive Officer as chairperson of the meeting. The Secretary of the Corporation, or, in his or her absence, an Assistant Secretary of the Corporation or other officer or other person directed to do so by the chairperson of the meeting, shall act as secretary of the meeting.

(b) The Board of Directors of the Corporation shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairperson of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairperson, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in such meeting to stockholders of record of the Corporation and their duly authorized and constituted proxies and such other persons as the chairperson shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting on matters which are to be voted on by ballot. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting. Unless and to the extent determined by the Board of Directors or the chairperson of the meeting, meetings of stockholders shall not be required to be held in accordance with rules of parliamentary procedure.

ARTICLE IV
DIRECTORS

Section 15. Number and Term of Office. The authorized number of directors of the Corporation shall be fixed in accordance with the Amended and Restated Certificate of Incorporation. Directors need not be stockholders unless so required by the Amended and Restated Certificate of Incorporation. If for any cause, the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient at a special meeting of the stockholders called for that purpose in the manner provided in these Bylaws.

Section 16. Powers. The powers of the Corporation shall be exercised, its business conducted and its property controlled by the Board of Directors, except as may be otherwise provided by statute or by the Amended and Restated Certificate of Incorporation.

Section 17. Board of Directors. Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, directors shall be elected at each annual meeting of stockholders to serve until the next annual meeting of stockholders. Each director shall serve until his or her successor is duly elected and qualified or until his or her earlier death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director. Notwithstanding the foregoing provisions of this Section 17, each director shall serve until his or her successor is duly elected and qualified or until his or her earlier death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Section 18. Vacancies. Unless otherwise provided in the Amended and Restated Certificate of Incorporation, and subject to the rights of the holders of any series of Preferred Stock or as otherwise provided by applicable law, any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other causes and any newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director, and not by the stockholders, *provided, however*, that whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Amended and Restated Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected, and not by the stockholders. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director's successor shall have been elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under this Bylaw in the case of the death, removal or resignation of any director.

Section 19. Resignation. Any director may resign at any time by delivering his or her notice in writing or by electronic transmission to the Secretary of the Corporation, such resignation to specify whether it will be effective at a particular time. If no such specification is made, the resignation shall be deemed effective at the time of delivery of the resignation to the Secretary of the Corporation. When one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office for the unexpired portion of the term of the director whose place shall be vacated and until his or her successor shall have been duly elected and qualified.

Section 20. Removal. Subject to any limitation imposed by law, any individual director or directors may be removed with cause by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 2/3%) of the voting power of all then outstanding shares of capital stock of the Corporation entitled to vote generally at an election of directors, voting together as a single class.

Section 21. Meetings.

(a) Regular Meetings. Unless otherwise restricted by the Amended and Restated Certificate of Incorporation, regular meetings of the Board of Directors may be held at any time or date and at any place within or without the State of Delaware which has been designated by the Board of Directors and publicized among all directors, either orally or in writing, by telephone, including a voice-messaging system or other system designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means. No further notice shall be required for regular meetings of the Board of Directors.

(b) Special Meetings. Unless otherwise restricted by the Amended and Restated Certificate of Incorporation, special meetings of the Board of Directors may be held at any time and place within or without the State of Delaware whenever called by the Chairperson of the Board, the Chief Executive Officer or a majority of the total number of authorized directors.

(c) Meetings by Electronic Communications Equipment. Any member of the Board of Directors, or of any committee thereof, may participate in a meeting by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

(d) Notice of Special Meetings. Notice of the time and place of all special meetings of the Board of Directors shall be orally or in writing, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means, during normal business hours, at least twenty-four (24) hours before the date and time of the meeting. If notice is sent by U.S. mail, it shall be sent by first class mail, charges prepaid, at least three (3) days before the date of the meeting. Notice of any meeting may be waived in writing, or by electronic transmission, at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

(e) Waiver of Notice. The transaction of all business at any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though it had been transacted at a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the directors not present who did not receive notice shall sign a written waiver of notice or shall waive notice by electronic transmission. All such waivers shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 22. Quorum and Voting.

(a) Unless the Amended and Restated Certificate of Incorporation requires a greater number, and except with respect to questions related to indemnification arising under Section 44 for which a quorum shall be one-third of the exact number of directors fixed from time to time, a quorum of the Board of Directors shall consist of a majority of the exact number of directors fixed from time to time by the Board of Directors in accordance with the Amended and Restated Certificate of Incorporation; *provided, however,* that at any meeting whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the Board of Directors, without notice other than by announcement at the meeting.

(b) At each meeting of the Board of Directors at which a quorum is present, all questions and business shall be determined by the affirmative vote of a majority of the directors present, unless a different vote be required by law, the Amended and Restated Certificate of Incorporation or these Bylaws.

Section 23. Action Without Meeting. Unless otherwise restricted by the Amended and Restated Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 24. Fees and Compensation. Directors shall be entitled to such compensation for their services as may be approved by the Board of Directors, including, if so approved, by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board of Directors and at any meeting of a committee of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor.

Section 25. Committees.

(a) Executive Committee. The Board of Directors may designate an Executive Committee to consist of one (1) or more members of the Board of Directors. The Executive Committee, to the extent permitted by law and provided in the resolution of the Board of Directors shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to (i) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopting, amending or repealing any Bylaw of the Corporation.

(b) Other Committees. The Board of Directors may, from time to time, designate such other committees as may be permitted by law. Such other committees designated by the Board of Directors shall consist of one (1) or more members of the Board of Directors and shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

(c) Term. The Board of Directors, subject to any requirements of any outstanding series of Preferred Stock and the provisions of subsections (a) or (b) of this Section 25, may at any time increase or decrease the number of members of a committee or terminate the existence of a committee. The membership of a committee member shall terminate on the date of his or her death or voluntary resignation from the committee or from the Board of Directors. The Board of Directors may at any time for any reason remove any individual committee member and the Board of Directors may fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee, and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

(d) Meetings. Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section 25 shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter. Special meetings of any such committee may be held at any place which has been determined from time to time by such committee, and may be called by any director who is a member of such committee, upon notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing or by electronic transmission at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends such special meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Unless otherwise provided by the Board of Directors in the resolutions authorizing the creation of the committee, a majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

Section 26. Lead Independent Director. The Chairperson of the Board of Directors, or if the Chairperson is not an independent director, one of the independent directors, may be designated by the Board of Directors as lead independent director to serve until replaced by the Board of Directors ("***Lead Independent Director***"). The Lead Independent Director will: (1) with the Chairperson of the Board of Directors, establish the agenda for regular Board meetings and serve as chairperson of Board of Directors meetings in the absence of the Chairperson of the Board of Directors; (2) establish the agenda for and preside over meetings of the independent directors; (3) coordinate with the committee chairs regarding meeting agendas and informational requirements; (4) preside over any portions of meetings of the Board of Directors at which the evaluation or compensation of the Chief Executive Officer is presented or discussed; (5) preside over any portions of meetings of the Board of Directors at which the independence of the directors or performance of the Board of Directors is presented or discussed; (6) serve as a liaison between the Chief Executive Officer or non-independent Chairperson and the independent directors; and (7) perform such other duties as may be established or delegated by the Chairperson of the Board of Directors.

Section 27. Organization. At every meeting of the directors, the Chairperson of the Board of Directors, or, if a Chairperson has not been appointed or is absent, the Lead Independent Director, or if the Lead Independent Director has not been appointed or is absent, the Chief Executive Officer (if a director), or, if a Chief Executive Officer is absent, the President (if a director), or if the President is absent, the most senior Vice President (if a director), or, in the absence of any such person, a chairperson of the meeting chosen by a majority of the directors present, shall preside over the meeting. The Secretary of the Corporation, or in his or her absence, any Assistant Secretary of the Corporation or other officer, director or other person directed to do so by the person presiding over the meeting, shall act as secretary of the meeting. The Chairperson of the Board of Directors shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time.

ARTICLE V
OFFICERS

Section 28. Officers Designated. The officers of the Corporation shall include, if and when designated by the Board of Directors, the Chairperson of the Board of Directors (provided that notwithstanding anything to the contrary contained in these Bylaws, the Chairperson of the Board of Directors shall not be deemed an officer of the Corporation unless so designated by the Board of Directors), the Chief Executive Officer, the President, one or more Vice Presidents, the Secretary, the Chief Financial Officer and the Treasurer. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers and such other officers and agents with such powers and duties as it shall deem necessary. The Board of Directors may assign such additional titles to one or more of the officers as it shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the Corporation shall be fixed by or in the manner designated by the Board of Directors.

Section 29. Tenure and Duties of Officers.

(a) General. All officers shall hold office at the pleasure of the Board of Directors and until their successors shall have been duly elected and qualified, unless sooner removed. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

(b) Duties of Chief Executive Officer. The Chief Executive Officer shall preside at all meetings of the stockholders and at all meetings of the Board of Directors (if a director), unless the Chairperson of the Board of Directors or the Lead Independent Director has been appointed and is present. Unless an officer has been appointed Chief Executive Officer of the Corporation, the President shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the Corporation. To the extent that a Chief Executive Officer has been appointed and no President has been appointed, all references in these Bylaws to the President shall be deemed references to the Chief Executive Officer. The Chief Executive Officer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time.

(c) Duties of President. The President shall preside at all meetings of the stockholders and at all meetings of the Board of Directors (if a director), unless the Chairperson of the Board of Directors, the Lead Independent Director or the Chief Executive Officer has been appointed and is present. Unless another officer has been appointed Chief Executive Officer of the Corporation, the President shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the Corporation. The President shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time.

(d) Duties of Vice Presidents. The Vice Presidents may assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. The Vice Presidents shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer, or, if the Chief Executive Officer has not been appointed or is absent, the President shall designate from time to time.

(a) Duties of Secretary. The Secretary shall attend all meetings of the stockholders and of the Board of Directors and shall record all acts and proceedings thereof in the minute book of the Corporation. The Secretary shall give notice in conformity with these Bylaws of all meetings of the stockholders and of all meetings of the Board of Directors and any committee thereof requiring notice. The Secretary shall perform all other duties provided for in these Bylaws and other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time. The President may direct any Assistant Secretary or other officer to assume and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(b) Duties of Chief Financial Officer. The Chief Financial Officer shall keep or cause to be kept the books of account of the Corporation in a thorough and proper manner and shall render statements of the financial affairs of the Corporation in such form and as often as required by the Board of Directors or the President. The Chief Financial Officer, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the Corporation. The Chief Financial Officer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time. To the extent that a Chief Financial Officer has been appointed and no Treasurer has been appointed, all references in these Bylaws to the Treasurer shall be deemed references to the Chief Financial Officer. The President may direct the Treasurer, if any, or any Assistant Treasurer, or the Controller or any Assistant Controller to assume and perform the duties of the Chief Financial Officer in the absence or disability of the Chief Financial Officer, and each Treasurer and Assistant Treasurer and each Controller and Assistant Controller shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(e) Duties of Treasurer. Unless another officer has been appointed Chief Financial Officer of the Corporation, the Treasurer shall be the chief financial officer of the corporation and shall keep or cause to be kept the books of account of the Corporation in a thorough and proper manner and shall render statements of the financial affairs of the Corporation in such form and as often as required by the Board of Directors or the President, and, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Treasurer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

Section 30. Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

Section 31. Resignations. Any officer may resign at any time by giving notice in writing or by electronic transmission to the Board of Directors or to the Chief Executive Officer, or if no Chief Executive Officer is then serving, the President or to the Secretary of the Corporation. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the Corporation under any contract with the resigning officer.

Section 32. Removal. Any officer may be removed from office at any time, either with or without cause, by the affirmative vote of a majority of the directors in office at the time, or by the unanimous written consent of the directors in office at the time, or by any committee or by the Chief Executive Officer or other superior officers upon whom such power of removal may have been conferred by the Board of Directors.

ARTICLE VI
EXECUTION OF CORPORATE INSTRUMENTS AND VOTING OF SECURITIES OWNED BY THE CORPORATION

Section 33. Execution of Corporate Instruments . The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute on behalf of the Corporation any corporate instrument or document, or to sign on behalf of the Corporation the corporate name without limitation, or to enter into contracts on behalf of the Corporation, except where otherwise provided by law or these Bylaws, and such execution or signature shall be binding upon the Corporation.

All checks and drafts drawn on banks or other depositaries on funds to the credit of the Corporation or in special accounts of the Corporation shall be signed by such person or persons as the Board of Directors shall authorize so to do.

Unless authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 34. Voting of Securities Owned By the Corporation. All stock and other securities of other Corporations owned or held by the Corporation for itself, or for other parties in any capacity, shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors, or, in the absence of such authorization, by the Chairperson of the Board of Directors, the Chief Executive Officer, the President, or any Vice President.

ARTICLE VII
SHARES OF STOCK

Section 35. Form and Execution of Certificates. The shares of the Corporation shall be represented by certificates, or shall be uncertificated if so provided by resolution or resolutions of the Board of Directors. Certificates for the shares of stock, if any, shall be in such form as is consistent with the Amended and Restated Certificate of Incorporation and applicable law. Every holder of stock in the Corporation represented by certificate shall be entitled to have a certificate signed by or in the name of the Corporation by any two authorized officers of the Corporation, including but not limited to, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary, certifying the number of shares owned by him in the Corporation. Any or all of the signatures on the certificate may be facsimiles. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he were such officer, transfer agent, or registrar at the date of issue.

Section 36. Lost Certificates. A new certificate or certificates shall be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen, or destroyed. The Corporation may require, as a condition precedent to the issuance of a new certificate or certificates, the owner of such lost, stolen, or destroyed certificate or certificates, or the owner's legal representative, to agree to indemnify the Corporation in such manner as it shall require or to give the Corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen, or destroyed.

Section 37. Transfers.

(a) Transfers of record of shares of stock of the Corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, and, in the case of stock represented by certificate, upon the surrender of a properly endorsed certificate or certificates for a like number of shares.

(b) The Corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the Corporation to restrict the transfer of shares of stock of the Corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

Section 38. Fixing Record Dates.

(a) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, subject to applicable law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however,* that the Board of Directors may fix a new record date for the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 39. Registered Stockholders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE VIII
OTHER SECURITIES OF THE CORPORATION

Section 40. Execution of Other Securities. All bonds, debentures and other corporate securities of the Corporation, other than stock certificates (covered in Section 35), may be signed by the Chief Executive Officer, the President or any Vice President, or such other person as may be authorized by the Board of Directors, and if such securities require it, the corporate seal may be impressed thereon or a facsimile of such seal may be imprinted thereon and attested by the signature of the Secretary of the Corporation or an Assistant Secretary of the Corporation, or the Chief Financial Officer or Treasurer or an Assistant Treasurer; *provided, however,* that where any such bond, debenture or other corporate security shall be authenticated by the manual signature, or where permissible facsimile signature, of a trustee under an indenture pursuant to which such bond, debenture or other corporate security shall be issued, the signatures of the persons signing and attesting the corporate seal on such bond, debenture or other corporate security may be the imprinted facsimile of the signatures of such persons. Interest coupons appertaining to any such bond, debenture or other corporate security, authenticated by a trustee as aforesaid, shall be signed by the Treasurer or an Assistant Treasurer of the Corporation or such other person as may be authorized by the Board of Directors, or bear imprinted thereon the facsimile signature of such person. In case any officer who shall have signed or attested any bond, debenture or other corporate security, or whose facsimile signature shall appear thereon or on any such interest coupon, shall have ceased to be such officer before the bond, debenture or other corporate security so signed or attested shall have been delivered, such bond, debenture or other corporate security nevertheless may be adopted by the Corporation and issued and delivered as though the person who signed the same or whose facsimile signature shall have been used thereon had not ceased to be such officer of the Corporation.

ARTICLE VIII
DIVIDENDS

Section 41. Declaration of Dividends. Dividends upon the capital stock of the Corporation, subject to the provisions of the Amended and Restated Certificate of Incorporation and applicable law, if any, may be declared by the Board of Directors pursuant to law at any regular or special meeting. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Amended and Restated Certificate of Incorporation and applicable law.

Section 42. Dividend Reserve. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purpose as the Board of Directors shall think conducive to the interests of the Corporation, and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

ARTICLE IX
FISCAL YEAR

Section 43. **Fiscal Year** . The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

ARTICLE X
INDEMNIFICATION

Section 44. **Indemnification of Directors, Executive Officers, Other Officers, Employees and Other Agents.**

(a) **Directors and Executive Officers.** The Corporation shall indemnify its directors and executive officers (for the purposes of this Article X, ***"executive officers"*** shall have the meaning defined in Rule 3b-7 promulgated under the 1934 Act) to the extent not prohibited by the DGCL or any other applicable law; *provided, however,* that the Corporation may modify the extent of such indemnification by individual contracts with its directors and executive officers; and *provided, further,* that the Corporation shall not be required to indemnify any director or executive officer in connection with any proceeding (or part thereof) initiated by such person unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors of the Corporation, (iii) such indemnification is provided by the Corporation, in its sole discretion, pursuant to the powers vested in the Corporation under the DGCL or any other applicable law or (iv) such indemnification is required to be made under subsection (d).

(b) **Other Officers, Employees and Other Agents.** The Corporation shall have power to indemnify its other officers, employees and other agents as set forth in the DGCL or any other applicable law. The Board of Directors shall have the power to delegate the determination of whether indemnification shall be given to any such person except executive officers to such officers or other persons as the Board of Directors shall determine.

(c) **Expenses.** The Corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director or executive officer, of the Corporation, or is or was serving at the request of the Corporation as a director or executive officer of another Corporation, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses incurred by any director or executive officer in connection with such proceeding provided, however, that if the DGCL requires, an advancement of expenses incurred by a director or executive officer in his or her capacity as a director or executive officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an ***"undertaking"***), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a ***"final adjudication"***) that such indemnitee is not entitled to be indemnified for such expenses under this Section or otherwise.

Notwithstanding the foregoing, unless otherwise determined pursuant to paragraph (e) of this Section, no advance shall be made by the Corporation to an executive officer of the Corporation (except by reason of the fact that such executive officer is or was a director of the Corporation in which event this paragraph shall not apply) in any action, suit or proceeding, whether civil, criminal, administrative or investigative, if a determination is reasonably and promptly made (i) by a majority vote of directors who were not parties to the proceeding, even if not a quorum, or (ii) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum, or (iii) if there are no such directors, or such directors so direct, by independent legal counsel in a written opinion, that the facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Corporation.

(d) Enforcement. Without the necessity of entering into an express contract, all rights to indemnification and advances to directors and executive officers under this Bylaw shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the Corporation and the director or executive officer. Any right to indemnification or advances granted by this Section to a director or executive officer shall be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within ninety (90) days of request therefor. To the extent permitted by law, the claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim for indemnification, the Corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the DGCL or any other applicable law for the Corporation to indemnify the claimant for the amount claimed. In connection with any claim by an executive officer of the Corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such executive officer is or was a director of the Corporation) for advances, the Corporation shall be entitled to raise a defense as to any such action clear and convincing evidence that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Corporation, or with respect to any criminal action or proceeding that such person acted without reasonable cause to believe that his or her conduct was lawful. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in the DGCL or any other applicable law, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct. In any suit brought by a director or executive officer to enforce a right to indemnification or to an advancement of expenses hereunder, the burden of proving that the director or executive officer is not entitled to be indemnified, or to such advancement of expenses, under this Section or otherwise shall be on the Corporation.

(e) Non-Exclusivity of Rights. The rights conferred on any person by this Bylaw shall not be exclusive of any other right which such person may have or hereafter acquire under any applicable statute, provision of the Amended and Restated Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding office. The Corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL, or by any other applicable law.

(f) Survival of Rights. The rights conferred on any person by this Bylaw shall continue as to a person who has ceased to be a director, officer, employee or other agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) Insurance. To the fullest extent permitted by the DGCL or any other applicable law, the Corporation, upon approval by the Board of Directors, may purchase insurance on behalf of any person required or permitted to be indemnified pursuant to this Section.

(h) Amendments. Any repeal or modification of this Section shall only be prospective and shall not affect the rights under this Bylaw in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding against any agent of the Corporation.

(i) Saving Clause. If this Bylaw or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each director and executive officer to the full extent not prohibited by any applicable portion of this Section that shall not have been invalidated, or by any other applicable law. If this Section shall be invalid due to the application of the indemnification provisions of another jurisdiction, then the Corporation shall indemnify each director and executive officer to the full extent under any other applicable law.

(j) Certain Definitions. For the purposes of this Bylaw, the following definitions shall apply:

(i) The term ***"proceeding"*** shall be broadly construed and shall include, without limitation, the investigation, preparation, prosecution, defense, settlement, arbitration and appeal of, and the giving of testimony in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

(ii) The term ***"expenses"*** shall be broadly construed and shall include, without limitation, court costs, attorneys' fees, witness fees, fines, amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any proceeding.

(iii) The term the ***"Corporation"*** shall include, in addition to the resulting Corporation, any constituent Corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent Corporation, or is or was serving at the request of such constituent Corporation as a director, officer, employee or agent of another Corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section with respect to the resulting or surviving Corporation as he would have with respect to such constituent Corporation if its separate existence had continued.

(iv) References to a ***"director," "executive officer," "officer," "employee,"*** or ***"agent"*** of the Corporation shall include, without limitation, situations where such person is serving at the request of the Corporation as, respectively, a director, executive officer, officer, employee, trustee or agent of another Corporation, partnership, joint venture, trust or other enterprise.

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

ARTICLE XI
NOTICES

Section 45. Notices.

(a) Notice to Stockholders. Written notice to stockholders of stockholder meetings shall be given as provided in Section 7 herein. Without limiting the manner by which notice may otherwise be given effectively to stockholders under any agreement or contract with such stockholder, and except as otherwise required by law, written notice to stockholders for purposes other than stockholder meetings may be sent by U.S. mail or nationally recognized overnight courier, or by facsimile, telegraph or telex or by electronic mail or other electronic means.

(b) Notice to Directors. Any notice required to be given to any director may be given by the method stated in subsection (a), as otherwise provided in these Bylaws, or by overnight delivery service, facsimile, telex or telegram, except that such notice other than one which is delivered personally shall be sent to such address as such director shall have filed in writing with the Secretary, or, in the absence of such filing, to the last known post office address of such director.

(c) Affidavit of Mailing. An affidavit of mailing, executed by a duly authorized and competent employee of the Corporation or its transfer agent appointed with respect to the class of stock affected, or other agent, specifying the name and address or the names and addresses of the stockholder or stockholders, or director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall in the absence of fraud, be prima facie evidence of the facts therein contained.

(d) Methods of Notice. It shall not be necessary that the same method of giving notice be employed in respect of all recipients of notice, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others.

(e) Notice to Person With Whom Communication is Unlawful. Whenever notice is required to be given, under any provision of law or of the Amended and Restated Certificate of Incorporation or Bylaws of the Corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Corporation is such as to require the filing of a certificate under any provision of the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

(f) Notice to Stockholders Sharing an Address. Except as otherwise prohibited under DGCL, any notice given under the provisions of DGCL, the Amended and Restated Certificate of Incorporation or these Bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Such consent shall have been deemed to have been given if such stockholder fails to object in writing to the Corporation within sixty (60) days of having been given notice by the Corporation of its intention to send the single notice. Any consent shall be revocable by the stockholder by written notice to the Corporation.

ARTICLE XII
AMENDMENTS

Section 46. Amendments. Subject to the limitations set forth in Section 44(h) of these Bylaws or the provisions of the Amended and Restated Certificate of Incorporation, the Board of Directors is expressly empowered to adopt, amend or repeal these Bylaws of the Corporation. Any adoption, amendment or repeal of these Bylaws of the Corporation by the Board of Directors shall require the approval of a majority of the authorized number of directors. The stockholders also shall have power to adopt, amend or repeal these Bylaws of the Corporation; *provided, however,* that, in addition to any vote of the holders of any class or series of stock of the Corporation required by law or by the Amended and Restated Certificate of Incorporation, such action by stockholders shall require the affirmative vote of the holders of at least sixty-six and two-thirds percent (66-2/3%) of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

ARTICLE XIII
LOANS TO OFFICERS

Section 47. Loans to Officers. Except as otherwise prohibited by applicable law, the Corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or of its subsidiaries, including any officer or employee who is a director of the Corporation or its subsidiaries, whenever, in the judgment of the Board of Directors, such loan, guarantee or assistance may reasonably be expected to benefit the Corporation. The loan, guarantee or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the Corporation. Nothing in these Bylaws shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

ARTICLE XIV
FORUM FOR ADJUDICATION OF DISPUTES

Section 48. Forum for Adjudication of Disputes. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if and only if the Court of Chancery of the State of Delaware lacks subject matter jurisdiction, any state court located within the State of Delaware or, if and only if all such state courts lack subject matter jurisdiction, the federal district court for the District of Delaware) shall be the sole and exclusive forum for the following types of actions or proceedings under Delaware statutory or common law: (a) any derivative action or proceeding brought on behalf of the corporation, (b) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the corporation to the corporation or the corporation's stockholders, (c) any action asserting a claim arising pursuant to any provision of the DGCL, the Certificate of Incorporation or these Bylaws or (d) any action asserting a claim governed by the internal affairs doctrine, in all cases to the fullest extent permitted by law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants.

This Section 48 shall not apply to actions brought to enforce a duty or liability created by the 1934 Act or the Securities Act of 1933, as amended, or any claim for which the federal courts have exclusive jurisdiction.

Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the corporation shall be deemed to have notice of and consented to the provisions of this Section 48.

Exhibit 10.4

Execution Version

CONTINGENT VALUE RIGHTS AGREEMENT

THIS CONTINGENT VALUE RIGHTS AGREEMENT, dated as of November 5, 2020 (this "***Agreement***"), is entered into by and among Rexahn Pharmaceuticals, Inc., a Delaware corporation ("***Parent***"), Shareholder Representative Services LLC, a Colorado limited liability company, solely in its capacity as representative of the Holders (the "***CVR Representative***"), and Olde Monmouth Stock Transfer Co., Inc., as Rights Agent.

RECITALS

WHEREAS, Parent, Razor Merger Sub, Inc., a Delaware corporation ("***Merger Sub***"), and Ocuphire Pharma, Inc., a Delaware corporation (the "***Company***"), have entered into an Agreement and Plan of Merger and Reorganization, dated as of June 17, 2020 and amended on June 29, 2020 (as it may be further amended or supplemented from time to time pursuant to the terms thereof, the "***Merger Agreement***"), pursuant to which Merger Sub will merge with and into the Company, with the Company surviving the Merger as a subsidiary of Parent; and

WHEREAS, pursuant to the Merger Agreement, Parent has agreed to provide to the holders of record of Parent's common stock, par value $0.0001 per share ("***Parent Common Stock***"), immediately prior to the Effective Time, the right to receive certain contingent cash payments, on the terms and subject to the conditions hereinafter described.

NOW, THEREFORE, in consideration of the foregoing and the consummation of the transactions referred to above, Parent, the CVR Representative and Rights Agent agree, for the proportionate benefit of all Holders (as hereinafter defined), as follows:

1. DEFINITIONS; CERTAIN RULES OF CONSTRUCTION

1.1 Definitions. Capitalized terms used but not otherwise defined herein will have the meanings ascribed to them in the Merger Agreement, unless expressly set forth otherwise herein. As used in this Agreement, the following terms will have the following meanings:

"***Acquiror***" has the meaning set forth in Section 7.3(a).

"***Acquisition***" has the meaning set forth in Section 7.3(a).

"***Affiliate***" means, with respect to any 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. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of more than fifty percent (50%) of the voting securities entitled to vote for directors (or similar officials) of a Person or the possession, by contract or otherwise, of the authority to direct the management and policies of a Person.

"***Agreement***" has the meaning set forth in the Preamble.

"***Aggregate CVR Payment Amount***" means, for each CVR Payment Period, an amount equal to the sum of the BioSense Payment Amount, the HaiChang Payment Amount, and the Parent IP Payment Amount.

"***Assignee***" has the meaning set forth in Section 7.3(a).

"***BioSense***" means BioSense Global LLC or its successor or any of their respective Affiliates.

"***BioSense Agreement***" means that certain License and Assignment Agreement, dated as of February 25, 2019, by and between BioSense and Parent, as amended by Amendment No. 1, dated August 24, 2019, and as further amended by Amendment No. 2, dated March 10, 2020.

"***BioSense Payment Amount***" means, for each CVR Payment Period, an amount equal to ninety percent (90%) of all payments received, without duplication, by Parent or one or more of Parent's Affiliates during such CVR Payment Period from or on behalf of BioSense pursuant to Article 6 of the BioSense Agreement, or otherwise on account of the fees, payments or royalties payable by BioSense under such Article 6 of the BioSense Agreement minus the amount of any fees, costs or expenses paid by Parent and its Affiliates during such CVR Payment Period related to the performance of Parent's obligations under the BioSense Agreement or incurred by Parent and its Affiliates in connection with enforcing Parent's rights under the BioSense Agreement, including, without limitation, Parent's compliance with Section 4.3 below.

"***Board of Directors***" means the board of directors of Parent.

"***Board Resolution***" means a copy of a resolution certified by the secretary or an assistant secretary of Parent to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Rights Agent.

"***Business Day***" means any day other than a Saturday, Sunday or other day on which banks in New York, New York are authorized or obligated by Law to be closed.

"***Company***" has the meaning set forth in the Recitals.

"***CVR Payment***" has the meaning set forth in Section 2.4(c).

"***CVR Payment Amount***" means, with respect to each CVR Payment Period and each Holder, an amount equal to the Aggregate CVR Payment Amount divided by the total number of CVRs and then multiplied by the total number of CVRs held by such Holder as reflected on the CVR Register (rounded down to the nearest whole cent).

"***CVR Payment Period***" means each calendar quarter during the CVR Term, with the first CVR Payment Period commencing on the date hereof and ending on December 31, 2020.

"***CVR Payment Statement***" means, for a given CVR Payment Period, a written statement of Parent, setting forth in reasonable detail, (a) the Aggregate CVR Payment Amount for such CVR Payment Period, (b) a description of the total amounts received during such CVR Payment Period from each of the BioSense Agreement, the HaiChang Agreement and a Parent IP Deal, as applicable, (c) a delineation and calculation of the Permitted Parent IP Deductions applicable to a Parent IP Deal during such CVR Payment Period, and (d) to the extent that any Aggregate CVR Payment Amount or Permitted Parent IP Deduction is recorded in any currency other than United States dollars during such CVR Payment Period, the exchange rates used for conversion of such currency into United States dollars.

"***CVR Register***" has the meaning set forth in Section 2.3(b).

"***CVR Representative***" means the CVR Representative named in the Preamble or any direct or indirect successor CVR Representative designated in accordance with Section 6.3.

"***CVR Shortfall***" has the meaning set forth in Section 4.5(b).

"***CVR Term***" means the period beginning on the date hereof and ending fifteen (15) years thereafter.

"***CVRs***" means the rights of Holders to receive contingent cash payments pursuant to the Merger Agreement and this Agreement.

"***DTC***" means The Depository Trust Company or any successor thereto.

"***Funds***" has the meaning set forth in Section 7.9.

"***Governmental Entity***" means any foreign or domestic arbitrator, court, nation, government, any state or other political subdivision thereof and an entity exercising executive, legislative, judicial regulatory or administrative functions of, or pertaining to, government.

"***HaiChang***" means Zhejiang HaiChang Biotechnology Co., Ltd. or its successor or any of their respective Affiliates.

"***HaiChang Agreement***" means that certain Exclusive License Agreement, dated as of February 8, 2020, by and between HaiChang and Parent.

"***HaiChang Payment Amount***" means, for each CVR Payment Period, an amount equal to ninety percent (90%) of all payments received, without duplication, by Parent or one or more of Parent's Affiliates during such CVR Payment Period from or on behalf of HaiChang pursuant to Article 4 of the HaiChang Agreement, or otherwise on account of the fees, payments or royalties payable by HaiChang under such Article 4 of the HaiChang Agreement minus the amount of any fees, costs or expenses paid by Parent and its Affiliates during such CVR Payment Period related to the performance of Parent's obligations under the HaiChang Agreement or incurred by Parent and its Affiliates in connection with enforcing Parent's rights under the HaiChang Agreement, without limitation, Parent's compliance with Section 4.3 below.

"***Holder***" means a Person in whose name a CVR is registered in the CVR Register at the applicable time.

"***Independent Accountant***" means an independent certified public accounting firm of nationally recognized standing designated either (a) jointly by the CVR Representative and Parent, or (b) if the CVR Representative and Parent fail to make a designation, jointly by an independent public accounting firm selected by Parent and an independent public accounting firm selected by the CVR Representative.

"***License Agreements***" means the BioSense Agreement and the HaiChang Agreement.

"***Merger Agreement***" has the meaning set forth in the Recitals.

"***Merger Sub***" has the meaning set forth in the Recitals.

"***Officer's Certificate***" means a certificate signed by the chief executive officer, president, chief financial officer, any vice president, the controller, the treasurer or the secretary, in each case of Parent, in his or her capacity as such an officer, and delivered to the Rights Agent.

"***Parent***" has the meaning set forth in the Preamble.

"***Parent Common Stock***" has the meaning set forth in the Recitals.

"***Parent IP***" means any and all Parent IP listed on Schedule A hereto.

"***Parent IP Deal***" means any transaction (a) that is entered into during the period beginning on the date hereof and ending ten (10) years thereafter and (b) pursuant to which Parent or its Affiliate grants, sells or otherwise transfers to a Third Party any rights to the Parent IP or any rights to research, develop or commercialize the Parent IP, including a license, option, or sale of assets with respect to the Parent IP. For clarity, the sale of all or substantially all of Parent's or an Affiliate's stock or assets (to the extent such asset sale includes assets unrelated to the Parent IP), or a merger, acquisition or similar transaction shall not be deemed a Parent IP Deal.

"***Parent IP Payment Amount***" means, for each CVR Payment Period, an amount equal to seventy five percent (75%) of the following amounts: (a) all cash consideration paid by a Third Party to Parent or its Affiliates during the applicable CVR Payment Period in connection with any Parent IP Deal, plus (b) with respect to any non-cash consideration received by Parent or its Affiliates from a Third Party during the applicable CVR Payment Period in connection with any Parent IP Deal, all amounts received by Parent and its Affiliates for such non-cash consideration at the time such non-cash consideration is monetized by the Parent or its Affiliates (which amounts will be subject to payment to the Rights Agent when such non-cash consideration is monetized and such amounts are received by Parent or any of its Affiliates), minus any Permitted Parent IP Deductions during such CVR Payment Period. If a Parent IP Deal also involves assets that are not related to Parent IP but are related to other proprietary technology, products or assets of Parent or its Affiliates, then the total consideration will be allocated between all such technology, products and assets, and only that consideration allocated to the Parent IP will be included in the Parent IP Payment Amount.

"***Permitted Parent IP Deductions***" means, with respect to each CVR Payment Period, and without duplication, the sum of: (a) all fees, milestones, royalties and other payments paid by Parent and its Affiliates during such CVR Payment Period to any Third Party licensor in consideration for a license to such Third Party's patents that would be infringed, absent such license, by the practice of such Parent IP, plus (b) all patent prosecution and maintenance costs, and drug product storage costs, paid by Parent and its Affiliates during such CVR Payment Period with respect to the Parent IP that are not otherwise reimbursed or reimbursable, plus (c) all out-of-pocket transaction costs incurred by Parent and its Affiliates to Third Parties during such CVR Payment Period for the negotiation, entry into and closing of a Parent IP Deal, including any broker fees, finder's fees, advisory fees, accountant or attorney's fees.

"***Permitted Transfer***" means a transfer of CVRs (a) on death of a Holder by will or intestacy; (b) by instrument to an inter vivos or testamentary trust in which the CVRs are to be passed to beneficiaries upon the death of the trustee; (c) pursuant to a court order; (d) made by operation of law (including a consolidation or merger) or without consideration in connection with the dissolution, liquidation or termination of any corporation, limited liability company, partnership or other entity; (e) in the case of CVRs held in book-entry or other similar nominee form, from a nominee to a beneficial owner (through an intermediary if applicable) or from a nominee to another nominee for the same beneficial owner, to the extent allowable by the Rights Agent; (f) or a transfer from a participant's account in a tax-qualified employee benefit plan to the participant or to such participant's account in a different tax-qualified employee benefit plan or to a tax-qualified individual retirement account for the benefit of such participant; or (g) to Parent for any or no consideration.

"***Person***" means any natural person, corporation, limited liability company, trust, unincorporated association, partnership, joint venture or other entity.

"***Record Time***" has the meaning set forth in Section 2.3(e).

"***Rights Agent***" means the Rights Agent named in the Preamble, until a successor Rights Agent will have become such pursuant to the applicable provisions of this Agreement, and thereafter "Rights Agent" will mean such successor Rights Agent.

"***Third Party***" means any Person other than Parent, Rights Agent or their respective Affiliates.

1.2 Rules of Construction. Except as otherwise explicitly specified to the contrary, (a) references to a Section means a Section of this Agreement unless another agreement is specified, (b) the word "including" (in its various forms) means "including without limitation," (c) references to a particular statute or regulation include all rules and regulations thereunder and any predecessor or successor statute, rules or regulation, in each case as amended or otherwise modified from time to time, (d) words in the singular or plural form include the plural and singular form, respectively, (e) references to a particular Person include such Person's successors and assigns to the extent not prohibited by this Agreement and (f) all references to dollars or "$" refer to United States dollars. For clarity, the parties agree that the phrase "materially adverse" when used in this Agreement with respect to the Holders includes any amendment or other action, as applicable, that does or would be reasonably expected to reduce, eliminate, or materially delay (y) any payment to the Holders under this Agreement, or (z) any payment to Parent or its successor or their Affiliates under the BioSense Agreement or HaiChang Agreement that would otherwise be included in the Aggregate CVR Payment Amount.

2. CONTINGENT VALUE RIGHTS

2.1 CVRs; Appointment of Rights Agent.

(a) Each Holder is entitled to one CVR for each share of Parent Common Stock held by such Holder as of the Record Time. The CVRs represent the rights of Holders to receive contingent cash payments pursuant to the Merger Agreement and this Agreement. The initial Holders will be the holders of Parent Common Stock as of immediately prior to the Effective Time.

(b) Parent hereby appoints the Rights Agent to act as rights agent for Parent as contemplated hereby in accordance with the express terms and conditions set forth in this Agreement (and no implied terms or conditions), and the Rights Agent hereby accepts such appointment.

2.2 Nontransferable. The CVRs shall not be sold, assigned, transferred, pledged, encumbered or in any other manner transferred or disposed of, in whole or in part, other than through a Permitted Transfer.

2.3 No Certificate; Registration; Registration of Transfer; Change of Address.

(a) The CVRs will not be evidenced by a certificate or other instrument.

(b) The Rights Agent will create and keep a register (the "***CVR Register***") for the purpose of registering CVRs and transfers of CVRs as permitted herein. The CVR Register will be created, and CVRs will be distributed, pursuant to written instructions to the Rights Agent from Parent. The CVR Register will initially show one position for Cede & Co. representing all the shares of Parent Common Stock held by DTC on behalf of the street name holders of the shares of Parent Common Stock held by such holders as of immediately prior to the Effective Time. The Rights Agent will have no responsibility whatsoever directly to the street name holders with respect to transfers of CVRs unless and until such CVRs are transferred into the name of such street name holders in accordance with Section 2.2 of this Agreement. With respect to any payments to be made under Section 2.4(c) below, the Rights Agent will accomplish the payment to any former street name holders of shares of Parent Common Stock by sending one lump payment to DTC. The Rights Agent will have no responsibilities whatsoever with regard to the distribution of payments by DTC to such street name holders.

(c) Subject to the restrictions on transferability set forth inSection 2.2, every request made to transfer a CVR must be in writing and accompanied by a written instrument of transfer in form reasonably satisfactory to the Rights Agent, duly executed by the Holder thereof or the Holder's attorney duly authorized in writing, personal representative or survivor and setting forth in reasonable detail the circumstances relating to the transfer. Upon receipt of such written notice, the Rights Agent will, subject to its reasonable determination that the transfer instrument is in proper form and the transfer otherwise complies with the other terms and conditions of this Agreement (including the provisions of Section 2.2), register the transfer of the CVRs in the CVR Register. No service charge shall be made for any registration of transfer of a CVR, but Parent and Rights Agent may require payment of a sum sufficient to cover any stamp or other tax or governmental charge that is imposed in connection with any such registration of transfer. The Rights Agent shall have no duty or obligation to take any action under any section of this Agreement that requires the payment by a Holder of applicable taxes or charges unless and until the Rights Agent is satisfied that all such taxes or charges have been paid or will be paid. All duly transferred CVRs registered in the CVR Register will be the valid obligations of Parent and will entitle the transferee to the same benefits and rights under this Agreement as those held immediately prior to the transfer by the transferor. No transfer of a CVR will be valid until registered in the CVR Register.

(d) A Holder may make a written request to the Rights Agent to change such Holder's address of record in the CVR Register. The written request must be duly executed by the Holder. Upon receipt of such written notice, the Rights Agent will promptly record the change of address in the CVR Register.

(e) Parent will provide written instructions to the Rights Agent for the distribution of CVRs to holders of Parent Common Stock as of immediately prior to the Effective Time (the "***Record Time***"). Subject to the terms and conditions of this Agreement and Parent's prompt confirmation of the Effective Time, the Rights Agent shall effect the distribution of the CVRs, less any applicable tax withholding, to each holder of Parent Common Stock as of the Record Time by the mailing of a statement of holding reflecting such CVRs.

2.4 Payment Procedures.

(a) Within thirty (30) days after the end of each CVR Payment Period during the CVR Term, Parent shall deliver to the CVR Representative and Rights Agent a CVR Payment Statement for such CVR Payment Period. Concurrent with the delivery of each CVR Payment Statement, Parent shall provide the CVR Representative with reasonable documentation to support its calculation of the Aggregate CVR Payment Amount (including any allocations applied when calculating the Parent IP Payment Amount component thereof and including its determination of the applicable fair market value(s)) and pay the Rights Agent in U.S. dollars an amount equal to the Aggregate CVR Payment Amount (if any) with respect to the applicable CVR Payment Period. For clarity, to the extent that any non-cash consideration in the Parent IP Payment Amount is monetized after the end of the CVR Term, Parent will include a description of such non-cash consideration in the CVR Payment Statement for the CVR Payment Period in which it is received, and will make the applicable payment to the Rights Agent upon monetization of such non-cash consideration (regardless of whether such monetization occurs after the end of the CVR Term). The CVR Payment Statements shall reflect any Representative Losses payable to the CVR Representative, and the CVR Payment Statement for the first CVR Payment Period shall include the payment of $60,000 to the CVR Representative, in any case, deducted from the CVR Payment payable to the Holders on a pro rata basis.

(b) All payments by Parent to the Rights Agent under this Agreement shall be made in U.S. dollars. The rate of exchange to be used in computing the amount of currency equivalent in U.S. dollars shall be made at the average of the closing exchange rates reported in The Wall Street Journal (U.S., Eastern Edition) for the ten (10) Business Days preceding the date of the CVR Payment Statement.

(c) The Rights Agent will promptly, and in any event within ten (10) Business Days after receipt of a CVR Payment Statement under Section 2.4(a), send each Holder at its address set forth on the CVR Register a copy of such statement. If the Rights Agent also receives any payment under Section 2.4(a) (each, a "***CVR Payment***"), then within ten (10) Business Days after the receipt of each CVR Payment, the Rights Agent will also pay to each Holder, by check mailed to the address of each Holder as reflected in the CVR Register as of the close of business on the date of the receipt of the CVR Payment Statement, such Holder's CVR Payment Amount, and to the extent applicable, pay any Representative Losses to the CVR Representative. Upon the first CVR Payment to be made hereunder, the Rights Agent is hereby authorized and directed to pay $60,000 to the CVR Representative.

(d) Parent and the Rights Agent shall be entitled to deduct and withhold from any CVR Payment Amount otherwise payable or otherwise deliverable pursuant to this Agreement, in each case directly or through an authorized payroll agent, such amounts as are reasonably determined to be required to be deducted or withheld therefrom under the Code or any other provision of any applicable federal, state, local or non-U.S. Tax Law. To the extent such amounts are so deducted or withheld and paid over or deposited with the relevant Tax authority, such amounts shall be treated for all purposes under this Agreement as having been paid to the Holder(s) to whom such amounts would otherwise have been paid or delivered. Prior to making any such Tax withholdings or causing any such Tax withholdings to be made with respect to any Holder, the Rights Agent shall, to the extent practicable, provide notice to the Holder of such potential withholding and a reasonable opportunity for the Holder to provide any necessary Tax forms (including an IRS Form W-9 or an applicable IRS Form W-8) in order to avoid or reduce such withholding amounts; provided that the time period for payment of a CVR Payment Amount by the Rights Agent set forth in Sections 2.4(c) shall be extended by a period equal to any delay caused by the Holder providing such forms; provided, further, that in no event shall such period be extended for more than ten (10) Business Days, unless otherwise requested by the Holder for the purpose of delivering such forms and agreed to by the Rights Agent.

(e) Any portion of any CVR Payment that remains undistributed to the Holders six months after the CVR Payment is received by the Rights Agent from the Parent, provided that the Rights Agent has fully complied with Section 2.4(c), will be delivered by the Rights Agent to Parent, upon demand, and any Holder will thereafter look only to Parent for payment of its share of such returned CVR Payment, without interest.

(f) Neither Parent nor the Rights Agent will be liable to any person in respect of any CVR Payment Amount delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law. If, despite Parent's and/or the Rights Agent's reasonable best efforts to deliver a CVR Payment Amount to the applicable Holder, such CVR Payment Amount has not been paid immediately prior to the date on which such CVR Payment Amount would otherwise escheat to or become the property of any Governmental Entity, any such CVR Payment Amount will, to the extent permitted by applicable Law, become the property of Parent, free and clear of all claims or interest of any person previously entitled thereto. In addition to and not in limitation of any other indemnity obligation herein, Parent agrees to indemnify and hold harmless Rights Agent with respect to any liability, penalty, cost or expense Rights Agent may incur or be subject to in connection with transferring such property to Parent.

2.5 No Voting, Dividends or Interest; No Equity or Ownership Interest in Parent

(a) The CVRs will not have any voting or dividend rights, and interest will not accrue on any amounts payable on the CVRs to any Holder.

(b) The CVRs will not represent any equity or ownership interest in Parent or in any constituent company to the Merger.

(c) Each Holder acknowledges and agrees to the appointment and authority of the CVR Representative to act as the exclusive representative, agent and attorney-in-fact of such Holder and all Holders as set forth in this Agreement. Each Holder agrees that such Holder will not challenge or contest any action, inaction, determination or decision of the CVR Representative or the authority or power of the CVR Representative and will not threaten, bring, commence, institute, maintain, prosecute or voluntarily aid any action, which challenges the validity of or seeks to enjoin the operation of any provision of this Agreement, including, without limitation, the provisions related to the authority of the CVR Representative to act on behalf of such Holder and all Holders as set forth in this Agreement.

2.6 Ability to Abandon CVR. A Holder may at any time, at such Holder's option, abandon all of such Holder's remaining rights in a CVR by transferring such CVR to Parent without consideration therefor. Nothing in this Agreement is intended to prohibit Parent from offering to acquire CVRs for consideration in its sole discretion.

3. THE RIGHTS AGENT

3.1 Certain Duties and Responsibilities. The Rights Agent will not have any liability for any actions taken or not taken in connection with this Agreement, except to the extent of its willful misconduct, bad faith or gross negligence.

3.2 Certain Rights of Rights Agent. The Rights Agent undertakes to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations will be read into this Agreement against the Rights Agent. In addition:

(a) the Rights Agent may rely and will be protected by Parent in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;

(b) whenever the Rights Agent will deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Rights Agent may, in the absence of bad faith, gross negligence or willful misconduct on its part, request and rely upon an Officer's Certificate with respect to such matter;

(c) the Rights Agent may engage and consult with counsel of its selection and the written advice of such counsel or any opinion of counsel will be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(d) the permissive rights of the Rights Agent to do things enumerated in this Agreement will not be construed as a duty;

(e) the Rights Agent will not be required to give any note or surety in respect of the execution of such powers or otherwise in respect of the premises;

(f) Parent agrees to indemnify Rights Agent for, and hold Rights Agent harmless against, any loss, liability, claim, demands, suits or expense arising out of or in connection with Rights Agent's duties under this Agreement, including the costs and expenses of defending Rights Agent against any claims, charges, demands, suits or loss, unless such loss has been determined by a court of competent jurisdiction to be a result of Rights Agent's gross negligence, bad faith or willful or intentional misconduct; and

(g) Parent agrees (i) to pay the fees and expenses of the Rights Agent in connection with this Agreement as agreed upon in writing by Rights Agent and Parent on or prior to the date hereof, and (ii) to reimburse the Rights Agent for all taxes and governmental charges, reasonable expenses and other charges of any kind and nature incurred by the Rights Agent in the execution of this Agreement (other than taxes imposed on or measured by the Rights Agent's net income and franchise or similar taxes imposed on it (in lieu of net income taxes)). The Rights Agent will also be entitled to reimbursement from Parent for all reasonable and necessary out-of-pocket expenses paid or incurred by it in connection with the administration by the Rights Agent of its duties hereunder.

3.3 Resignation and Removal; Appointment of Successor.

(a) The Rights Agent may resign at any time by giving written notice thereof to Parent and the CVR Representative specifying a date when such resignation will take effect, which notice will be sent at least sixty (60) days prior to the date so specified. Parent has the right to remove the Rights Agent at any time by a Board Resolution specifying a date when such removal will take effect. Notice of such removal will be given by Parent to the Rights Agent, which notice will be sent at least sixty (60) days prior to the date so specified.

(b) If the Rights Agent provides notice of its intent to resign, is removed or becomes incapable of acting, Parent, by a Board Resolution, will as soon as is reasonably possible appoint a qualified successor Rights Agent who, unless otherwise consented to in writing by the CVR Representative, shall be a stock transfer agent or national reputation or the corporate trust department of a commercial bank. The successor Rights Agent so appointed will, forthwith upon its acceptance of such appointment in accordance with Section 3.4, become the successor Rights Agent.

(c) Parent will give notice to each Holder of each resignation and each removal of a Rights Agent and each appointment of a successor Rights Agent by mailing written notice of such event by first-class mail to the Holders as their names and addresses appear in the CVR Register. Each notice will include the name and address of the successor Rights Agent. If Parent fails to send such notice within ten (10) Business Days after acceptance of appointment by a successor Rights Agent, the successor Rights Agent will cause the notice to be mailed at the expense of Parent.

3.4 Acceptance of Appointment by Successor. Every successor Rights Agent appointed hereunder will execute, acknowledge and deliver to Parent and to the retiring Rights Agent an instrument accepting such appointment and a counterpart of this Agreement, and thereupon such successor Rights Agent, without any further act, deed or conveyance, will become vested with all the rights, powers, trusts and duties of the retiring Rights Agent. On request of Parent or the successor Rights Agent, the retiring Rights Agent will execute and deliver an instrument transferring to the successor Rights Agent all the rights (except such rights of the predecessor Rights Agent which survive pursuant to Section 3.3 of this Agreement), powers and trusts of the retiring Rights Agent.

4. COVENANTS

4.1 List of Holders. Parent will furnish or cause to be furnished to the Rights Agent in such form as Parent receives from Parent's transfer agent (or other agent performing similar services for Parent), the names and addresses of the Holders within ten (10) Business Days of the Effective Time.

4.2 Payment of CVR Payment Amounts. If any CVR Payment is due under Section 2.4(a), Parent will deposit the CVR Payment with the Rights Agent for payment to the Holders in accordance with Section 2.4(c).

4.3 License Agreements. Without the prior written consent of Holders of not less than a majority of the then-outstanding CVRs, neither Parent nor any of its Affiliates shall (i) amend, restate, supplement, terminate or otherwise modify either of the License Agreements in a manner materially adversely affecting the Holders' rights under this Agreement, (ii) take any action or fail to take any action, including by waiving any right or failing to enforce any right under either of the License Agreements, in a manner materially adversely affecting the Holders' rights under this Agreement or (iii) permit or agree to any of the foregoing. Without limiting the foregoing, Parent and its Affiliates shall pursue their rights under each of the License Agreements in good faith, and not take any action intended to avoid, reduce, or materially delay any payment to the Holders hereunder. Notwithstanding the foregoing, nothing in this Agreement shall require Parent or any of its Affiliates to take any action outside of the terms and conditions set forth in the License Agreements, including, without limitation, the prosecution or maintenance of any intellectual property rights that may revert back to Parent or its Affiliates under the terms of the License Agreements.

4.4 Records. Parent shall, and shall cause its Affiliates to, keep true, complete and accurate records in sufficient detail to enable the Holders and their consultants or professional advisors to confirm (a) whether any payments related to either License Agreement giving rise to any CVR Payment Amounts have been received by Parent or its successors or Affiliates and (b) the applicable CVR Payment Amount payable to each Holder hereunder in accordance with the terms specified in this Agreement.

4.5 Audit Rights.

(a) Upon the written request of the CVR Representative provided to Parent not less than forty-five (45) days in advance (such request not to be made more than four times in any twelve (12) month period), Parent shall permit, and shall cause its Affiliates to permit, the Independent Accountant to have access during normal business hours to such of the records of Parent or its Affiliates as may be reasonably necessary to determine the accuracy of the Aggregate CVR Payment Amount reported by Parent. Parent shall, and shall cause its Affiliates to, furnish to the Independent Accountant such access, work papers and other documents and information reasonably necessary for the Independent Accountant to calculate and verify the Aggregate CVR Payment Amount; provided that Parent may, and may cause its Affiliates to, redact documents and information not relevant for such calculation pursuant to this Section 4.5. The Independent Accountant shall disclose to Parent and the CVR Representative any matters directly related to its findings to the extent reasonably necessary to verify the Aggregate CVR Payment Amount.

(b) If the Independent Accountant concludes that a CVR Payment that was properly due was not paid to the Rights Agent, or that any CVR Payment made was in an amount less than the amount due, Parent shall pay the CVR Payment or underpayment thereof to the Rights Agent for further distribution to the Holders (such amount being the "***CVR Shortfall***"). The CVR Shortfall shall be paid within ten (10) Business Days after the date the Independent Accountant delivers to Parent and the CVR Representative the Independent Accountant's written report. The decision of the Independent Accountant shall be final, conclusive and binding on Parent and the Holders, shall be non-appealable and shall not be subject to further review. The fees charged by the Independent Accountant shall be paid by Parent.

(c) Each Person seeking to receive information from Parent in connection with a review pursuant to this Section 4.5 shall enter into, and shall cause its accounting firm to enter into, a reasonable and mutually satisfactory confidentiality agreement with Parent or any controlled Affiliate obligating such party to retain all such information disclosed to such party in confidence pursuant to such confidentiality agreement.

5. AMENDMENTS

5.1 Amendments without Consent of Holders.

(a) Without the consent of any Holders or the CVR Representative, Parent, when authorized by a Board Resolution, at any time and from time to time, and the Rights Agent may enter into one or more amendments hereto, solely to evidence any successor to or permitted assignee of Parent and the assumption by any such successor or permitted assignee of the covenants of Parent herein as provided in Section 7.3.

(b) Without the consent of any Holders, Parent, when authorized by a Board Resolution, and the Rights Agent, in the Rights Agent's sole and absolute discretion, at any time and from time to time, may enter into one or more amendments hereto, solely for any of the following purposes:

(i) to evidence the succession of another Person as a successor Rights Agent in accordance with Section 3 and the assumption by any successor of the covenants and obligations of the Rights Agent herein;

(ii) to add to the covenants of Parent such further covenants, restrictions, conditions or provisions as Parent and the Rights Agent consider to be for the protection of the Holders; provided that, in each case, such provisions do not adversely affect the interests of the Holders;

(iii) to cure any ambiguity, to correct or supplement any provision herein that may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement; provided that, in each case, such provisions do not adversely affect the interests of the Holders;

(iv) as may be necessary or appropriate to ensure that the CVRs are not subject to registration under the Securities Act or the Exchange Act; provided that, in each case, such provisions do not adversely affect the interests of the Holders; or

(v) any other amendments hereto for the purpose of adding, eliminating or changing any provisions of this Agreement, unless such addition, elimination or change is adverse to the interests of the Holders or the CVR Representative.

(c) Promptly after the execution by Parent and the Rights Agent of any amendment pursuant to the provisions of this Section 5.1, Parent will mail (or cause the Rights Agent to mail) a notice thereof by first class mail to the Holders at their addresses as they appear on the CVR Register, setting forth in general terms the substance of such amendment.

5.2 Amendments with Consent of Holders.

(a) Subject to Section 5.1 (which amendments pursuant to Section 5.1 may be made without the consent of the Holders), with the consent of Holders of not less than a majority of the then-outstanding CVRs, whether evidenced in writing or taken at a meeting of the Holders, CVR Representative, Parent, when authorized by a Board Resolution, and the Rights Agent may enter into one or more amendments hereto for the purpose of adding, eliminating or changing any provisions of this Agreement, even if such addition, elimination or change is materially adverse to the interest of the Holders. Parent and the Rights Agent agree to fully cooperate with the CVR Representative in soliciting and obtaining the consent of the Holders of not less than a majority of the then-outstanding CVRs as required hereunder.

(b) Promptly after the execution by Parent, the CVR Representative and the Rights Agent of any amendment pursuant to the provisions of this Section 5.2, Parent will mail (or cause the Rights Agent to mail) a notice thereof by first class mail to the Holders at their addresses as they appear on the CVR Register, setting forth in general terms the substance of such amendment.

5.3 Execution of Amendments. In executing any amendment permitted by this Section 5, the Rights Agent will be entitled to receive, and will be fully protected in relying upon, an opinion of counsel selected by Parent stating that the execution of such amendment is authorized or permitted by this Agreement. The Rights Agent may, but is not obligated to, enter into any such amendment that affects the Rights Agent's own rights, privileges, covenants or duties under this Agreement or otherwise. No supplement or amendment to this Agreement shall be effective unless duly executed by the Rights Agent.

5.4 Effect of Amendments. Upon the execution of any amendment under this Section 5, this Agreement will be modified in accordance therewith, such amendment will form a part of this Agreement for all purposes and every Holder will be bound thereby.

6. CVR REPRESENTATIVE

6.1 Appointment of CVR Representative. To the extent valid and binding under applicable Law, the CVR Representative is hereby appointed, authorized and empowered to be the exclusive representative, agent and attorney-in-fact of each Holder, with full power of substitution, to make all decisions and determinations and to act (or not act) and execute, deliver and receive all agreements, documents, instruments and consents on behalf of and as agent for each Holder at any time in connection with, and that may be necessary or appropriate to accomplish the intent and implement the provisions of this Agreement and to facilitate the consummation of the transactions contemplated hereby, including without limitation for purposes of (i) negotiating and settling, on behalf of the Holders, any dispute that arises under this Agreement after the Effective Time, (ii) confirming the satisfaction of Parent's obligations under this Agreement and (iii) negotiating and settling matters with respect to the amounts to be paid to the Holders pursuant to this Agreement.

6.2 Authority. To the extent valid and binding under applicable Law, the appointment of the CVR Representative by the Holders upon the Effective Time is coupled with an interest and may not be revoked in whole or in part (including, without limitation, upon the death or incapacity of any stockholder). Subject to the prior qualifications, such appointment shall be binding upon the heirs, executors, administrators, estates, personal representatives, officers, directors, security holders, successors and assigns of each Holder. To the extent valid and binding under applicable Law, all decisions of the CVR Representative shall be final and binding on all Holders. Parent and the Rights Agent shall be entitled to rely upon, without independent investigation, any act, notice, instruction or communication from the CVR Representative and any document executed by the CVR Representative on behalf of any Holder and shall be fully protected in connection with any action or inaction taken or omitted to be taken in reliance thereon, absent willful misconduct by Parent or the Rights Agent (as such willful misconduct is determined by a final, non-appealable judgment of a court of competent jurisdiction). The CVR Representative shall not be responsible for any loss suffered by, or liability of any kind to, the Holders arising out of any act done or omitted by the CVR Representative in connection with the acceptance or administration of the CVR Representative's duties hereunder, unless such act or omission directly resulted from the CVR Representative's gross negligence or willful misconduct. In the event of any losses, liabilities, damages, claims, penalties, fines, forfeitures, actions, fees, costs and expenses (including the fees and expenses of counsel and experts and their staffs and all expense of document location, duplication and shipment) incurred by the CVR Representative (collectively, "***Representative Losses***") arising out of or in connection with the CVR Representative's execution and performance of this Agreement and any agreements ancillary hereto, the CVR Representative will provide Parent and the Rights Agent with a written notice of such Representative Loss, which will be deducted from the next CVR Payment and paid by the Rights Agent to the CVR Representative; provided, that in the event that any such Representative Loss is finally adjudicated to have been directly caused by the gross negligence or willful misconduct of the CVR Representative, the CVR Representative will pay the amount of such indemnified Representative Loss to the extent attributable to such gross negligence or willful misconduct to the Rights Agent for further distribution to the Holders. In no event will the CVR Representative be required to advance its own funds on behalf of the Holders or otherwise. Parent, the Company and the Rights Agent acknowledge and agree that the CVR Representative has entered into this Agreement solely in such capacity, and the CVR Representative shall not be responsible for any loss suffered by, or liability of any kind to, Parent, the Company, the Rights Agent or any other person except for losses or liabilities arising out of or in connection with this Agreement and directly caused by the CVR Representative's actions. The exculpation of the CVR Representative set forth in this Section 6.2 shall survive the termination of this Agreement and the resignation or removal of the CVR Representative.

6.3 Successor CVR Representative. The CVR Representative may be removed for any reason or no reason by written consent of Holders of not less than a majority of the then-outstanding CVRs. The CVR Representative may resign upon twenty (20) days' written notice to Parent and the Rights Agent in the event of circumstances rendering it impracticable for the CVR Representative to continue to effectively serve, including amendments increasing the CVR Representative's responsibilities without its consent or failure to pay amounts due to the CVR Representative, and upon the effectiveness of such resignation, shall have no further obligations or liabilities hereunder. In the event that the CVR Representative becomes unable to perform its responsibilities hereunder or resigns or is removed from such position, Holders of not less than a majority of the then-outstanding CVRs shall be authorized to and shall select another representative to fill such vacancy and such substituted representative shall be deemed to be the CVR Representative for all purposes of this Agreement. The newly-appointed CVR Representative shall notify Parent, the Rights Agent and any other appropriate Person in writing of its appointment, provide evidence that the Holders of not less than a majority of the then-outstanding CVRs approved such appointment and provide appropriate contact information for purposes of this Agreement. Parent and the Rights Agent shall be entitled to rely upon, without independent investigation, the identity and validity of such newly-appointed CVR Representative as set forth in such written notice. In the event that within thirty (30) days after the CVR Representative becomes unable to perform its responsibilities hereunder or resigns or is removed from such position, no successor CVR Representative has been so selected, Parent shall cause the Rights Agent to notify the Person holding the largest quantity of the outstanding CVRs (and who is not Parent or, to the Rights Agent's actual knowledge, any Affiliate of Parent) that such Person is the successor CVR Representative, and such Person shall be the successor CVR Representative hereunder. If such Person notifies the Rights Agent in writing that such Person declines to serve, the Rights Agent shall forthwith notify the Person holding the next-largest quantity of the outstanding CVRs (and who is not Parent or, to the Rights Agent's actual knowledge, any Affiliate of Parent) that such next-largest-quantity Person is the successor CVR Representative, and such next-largest-quantity Person shall be the successor CVR Representative hereunder. (And so on, to the extent as may be necessary.) The Holders are intended third party beneficiaries of this Section 6.3. If a successor CVR Representative is not appointed pursuant to the preceding procedure within sixty (60) days after the CVR Representative becomes unable to perform its responsibilities hereunder or resigns or is removed from such position, Parent shall appoint a successor CVR Representative.

6.4 Termination of Duties and Obligations. The CVR Representative's duties and obligations under this Agreement shall survive until no CVRs remain outstanding or until this Agreement expires or is terminated pursuant to Section 7.7, whichever is earlier.

7. OTHER PROVISIONS OF GENERAL APPLICATION

7.1 Notices to Rights Agent, Parent and CVR Representative. Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed given when delivered in person, by overnight courier or by electronic mail, or two (2) Business Days after being sent by registered or certified mail (postage prepaid, return receipt requested), as follows:

If to the Rights Agent, to it at:

Olde Monmouth Stock Transfer Co., Inc.
Telephone: (732) 872-2727, Ext. 101
Email: matt@oldemonmouth.com
Attention: Matthew J. Troster, President

If to Parent, to it at:

Rexahn Pharmaceuticals, Inc.
37000 Grand River Ave, Suite 120
Farmington Hills, MI 48335
Telephone: (248) 681-9815
Email: msooch@ocuphire.com
Attention: Mina Sooch

with a copy to:

Honigman LLP
650 Trade Centre Way
Suite 200
Kalamazoo, MI 49002-0402
Attention: Phillip D. Torrence
Email: ptorrence@honigman.com

If to the CVR Representative, to it at:

Shareholder Representative Services LLC
950 17th Street, Suite 1400
Denver, CO 80202
Telephone: (303) 648-4085
Email: deals@srsacquiom.com
Attention: Managing Director

with a copy to:

Hogan Lovells US LLP
100 International Drive, Suite 2000
Baltimore, MD 21202
Attention: Asher M. Rubin; William I. Intner
Email: asher.rubin@hoganlovells.com; william.intner@hoganlovells.com

The Rights Agent, Parent or CVR Representative may specify a different address, email address by giving notice to each other in accordance with this Section 7.1 and to the Holders in accordance with Section 7.2.

7.2 Notice to Holders. Where this Agreement provides for notice to Holders, such notice will be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at the Holder's address as it appears in the CVR Register, not later than the latest date, and not earlier than the earliest date, if any, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder will affect the sufficiency of such notice with respect to other Holders.

7.3 Parent Successors and Assigns.

(a) Parent may not assign this Agreement without the prior written consent of the CVR Representative, provided that (i) Parent may assign, in its sole discretion and without the consent of any other party, any or all of its rights, interests and obligations hereunder to one or more direct or indirect wholly-owned subsidiaries of Parent for so long as they remain wholly owned subsidiaries of Parent (each, an "***Assignee***"); provided that the Assignee agrees to assume and be bound by all of the terms of this Agreement; provided, however, that in connection with any assignment to an Assignee, Parent shall, and shall agree to, remain liable for the performance by such Assignee of all obligations of Parent hereunder, with such Assignee substituted for Parent under this Agreement, and (ii) Parent may assign this Agreement in its entirety without the consent of any other party to its successor in interest in connection with the sale of all or substantially all of its assets or of its stock, or in connection with a merger, acquisition or similar transaction (such successor in interest, the "***Acquiror***", and such transaction, the "***Acquisition***"). This Agreement will be binding upon, inure to the benefit of and be enforceable by Parent's successors, acquirers and each Assignee. Each reference to "***Parent***" in this Agreement shall be deemed to include Parent's successors, acquirers and all Assignees. Each of Parent's successors, acquirers and assigns shall expressly assume by an instrument supplemental hereto, executed and delivered to the Rights Agent, the due and punctual payment of the CVR Payments and the due and punctual performance and observance of all of the covenants and obligations of this Agreement to be performed or observed by Parent.

(b) Any Person into which the Rights Agent or any successor Rights Agent may be merged or with which it may be consolidated, or any Person resulting from any merger or consolidation to which the Rights Agent or any successor Rights Agent shall be a party, or any Person succeeding to the stock transfer or other shareholder services business of the Rights Agent or any successor Rights Agent, shall be the successor to the Rights Agent under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto, provided that such Person would be eligible for appointment as a successor Rights Agent under the provisions of the Agreement. The purchase of all or substantially all of the Rights Agent's assets employed in the performance of transfer agent activities shall be deemed a merger or consolidation for purposes of this Section 7.3(b).

7.4 Benefits of Agreement. Parent and the Rights Agent hereby agree that the respective covenants and agreements set forth herein are intended to be for the benefit of, and shall be enforceable by, the CVR Representative (on behalf of itself and the Holders) and the Holders, acting by the written consent of Holders of not less than a majority of the then-outstanding CVRs, all of whom are intended third-party beneficiaries hereof. Nothing in this Agreement, express or implied, will give to any Person (other than the Rights Agent, Parent, Parent's successors and permitted assignees, and the Holders and their respective successors and permitted assignees) any benefit or any legal or equitable right, remedy or claim under this Agreement or under any covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the Rights Agent, Parent, Parent's successors and permitted assignees, and the Holders and their respective successors and permitted assignees. The rights of Holders are limited to those expressly provided in this Agreement and the Merger Agreement. Notwithstanding anything to the contrary contained herein, any Holder may agree to renounce, in whole or in part, such Holder's rights under this Agreement by written notice to the Rights Agent and Parent, which notice, if given, shall be irrevocable. In such event, such Holder's CVRs will not be included for determining the number of outstanding CVRs held by other Holders and the Aggregate CVR Payment Amount shall be distributed to the Holders based on the number of the CVRs then outstanding.

7.5 Governing Law. This Agreement, the CVRs and all claims and causes of action based upon, arising out of or in connection herewith shall be governed by, and construed in accordance with, the Laws of the State of Delaware, without regard to Laws that may be applicable under conflicts of laws principles (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware.

Each of the parties hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Court of Chancery of the State of Delaware or, if such court does not have jurisdiction, any Delaware state court, or federal court of the United States of America, sitting in Delaware, and any appellate court from any thereof, in any Legal Proceeding arising out of or relating to this Agreement or the transactions contemplated hereby or for recognition or enforcement of any judgment relating thereto, and each of the parties hereby irrevocably and unconditionally (i) agrees not to commence any such Legal Proceeding except in such courts, (ii) agrees that any claim in respect of any such Legal Proceeding may be heard and determined in such court, (iii) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such Legal Proceeding in any such court, and (iv) waives, to the fullest extent permitted by Law, the defense of an inconvenient forum to the maintenance of such Legal Proceeding in any such court. Each of the parties agrees that a final judgment in any such Legal Proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 7.1. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by Law.

7.6 Severability. If any term or other provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other terms, conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable Law and in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

7.7 Counterparts and Signature. This Agreement may be signed in any number of counterparts, including by electronic transmission, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

7.8 Termination. This Agreement will expire and be of no force or effect, the parties hereto will have no liability hereunder (other than with respect to monies due and owing by Parent to Rights Agent or any other rights of the Rights Agent which expressly survive the termination of this Agreement), and no additional payments will be required to be made, upon the later of (i) the conclusion of the CVR Term and (ii) the payment of the full amount of all CVR Payments to the Rights Agent and the payment of the full amount of all CVR Payment Amounts to the Holders by the mailing by the Rights Agent of each applicable CVR Payment Amount to each Holder at the address reflected in the CVR Register.

7.9 Funds. All funds received by the Rights Agent under this Agreement that are to be distributed or applied by the Rights Agent in the performance of services hereunder (the "***Funds***") shall be held by the Rights Agent as agent for the Parent and deposited in one or more bank accounts to be maintained by the Rights Agent in its name as agent for the Parent. Until paid pursuant to the terms of this Agreement, the Rights Agent will hold the Funds through such accounts in: deposit accounts of commercial banks with Tier 1 capital exceeding $1 billion or with an average rating above investment grade by S&P (LT Local Issuer Credit Rating), Moody's (Long Term Rating) and Fitch Ratings, Inc. (LT Issuer Default Rating) (each as reported by Bloomberg Finance L.P.). The Rights Agent shall have no responsibility or liability for any diminution of the Funds that may result from any deposit made by the Rights Agent in accordance with this paragraph, including any losses resulting from a default by any bank, financial institution or other Third Party. The Rights Agent may from time to time receive interest, dividends or other earnings in connection with such deposits. The Rights Agent shall not be obligated to pay such interest, dividends or earnings to the Parent, any Holder or any other party.

7.10 Entire Agreement. This Agreement and the Merger Agreement (including the schedules, annexes and exhibits thereto, the documents and instruments referred to therein and the documents delivered pursuant thereto) constitute the entire agreement of the parties and supersede all prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof and, except as otherwise expressly provided herein or therein, are not intended to confer upon any other Person any rights or remedies hereunder or thereunder. If and to the extent that any provision of this Agreement is inconsistent or conflicts with the Merger Agreement, this Agreement will govern and control.

7.11 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE EITHER OF SUCH WAIVERS, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS, (III) IT MAKES SUCH WAIVERS VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.11.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its duly authorized officers as of the day and year first above written.

REXAHN PHARMACEUTICALS, INC.

By: /s/ Douglas J. Swirsky
Name: Douglas J. Swirsky
Title: President and Chief Executive Officer

OLDE MONMOUTH STOCK TRANSFER CO., INC.

By: /s/ Matthew Troster
Name: Matthew Troster
Title: President

SHAREHOLDER REPRESENTATIVE SERVICES LLC, solely in its capacity as the CVR Representative

By: /s/ Kip Wallen
Name: Kip Wallen
Title: Director

SCHEDULE A

PARENT IP

OCUPHIRE PHARMA, INC.
INDEMNITY AGREEMENT

This Indemnity Agreement (this ***"Agreement"***) is made and entered into as of _____, by and between Ocuphire Pharma, Inc. a Delaware corporation (the ***"Company"***), and [Insert Name] (***"Indemnitee"***).

Recitals

Whereas, highly competent persons have become more reluctant to serve corporations as directors or officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

Whereas, although furnishing of insurance to protect persons serving a corporation and its subsidiaries from certain liabilities has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Bylaws and Certificate of Incorporation of the Company require indemnification of the executive officers and directors of the Company and permit indemnification of other officers and certain other persons. Indemnitee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware (the ***"DGCL"***). The Bylaws, Certificate of Incorporation, and the DGCL expressly provide that their respective indemnification provisions are not exclusive, and contemplate that contracts may be entered into between the Company and members of the Board, officers, and other persons with respect to indemnification;

Whereas, the uncertainties relating to such liability insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

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

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

Whereas, this Agreement is a supplement to and in furtherance of the Company's Bylaws and Certificate of Incorporation and any resolutions adopted pursuant to such indemnification, and will not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee;

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

Whereas, Indemnitee may have certain rights to indemnification and insurance provided by other entities or organizations which Indemnitee and such other entities and organizations intend to be secondary to the primary obligation of the Company to indemnify Indemnitee as provided in this Agreement, with the Company's acknowledgement and agreement to the foregoing being a material condition to Indemnitee's willingness to serve on the Board; and

Whereas, this Agreement supersedes and replaces in its entirety any previous indemnification agreement entered into between the Company and Indemnitee.

Agreement

Now, Therefore, in consideration of Indemnitee's agreement to serve as an officer or a director from and after the +date first written above, the parties agree as follows:

1. Indemnity of Indemnitee. The Company agrees to hold harmless and indemnify Indemnitee to the fullest extent permitted by law, as such may be amended from time to time in accordance with the terms of this Agreement. In furtherance of the this indemnification, and without limiting the generality of such indemnification:

(a) Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee will be entitled to the rights of indemnification provided in this Section 1(a) if, by reason of his or her Corporate Status, Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding other than a Proceeding by or in the right of the Company. Pursuant to this Section 1(a), Indemnitee will be indemnified against all Expenses, judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, in connection with such Proceeding or any claim, issue, or matter. This indemnification is provided if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal Proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful.

(b) Proceedings by or in the Right of the Company. Indemnitee will be entitled to the rights of indemnification provided in this Section 1(b) if, by reason of his or her Corporate Status, Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding brought by or in the right of the Company. Pursuant to this Section 1(b), Indemnitee will be indemnified against all Expenses actually and reasonably incurred by Indemnitee, or on Indemnitee's behalf, in connection with such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Company. Indemnification will not be provided against such Expenses if made in respect of any claim, issue, or matter in such Proceeding as to which Indemnitee will have been adjudged to be liable to the Company unless and to the extent that the Court of Chancery of the State of Delaware will determine that such indemnification may be made.

(c) Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his or her Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, he or she will be indemnified to the maximum extent permitted by law against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company will indemnify Indemnitee against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with each successfully resolved claim, issue, or matter. For purposes of this Section 1(c), the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, will be deemed to be a successful result as to such claim, issue, or matter.

2. Additional Indemnity. In addition to, and without regard to any limitations on, the indemnification provided for in Section 1, the Company agrees to indemnify and hold Indemnitee harmless against all Expenses, judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by him or her or on his or her behalf if, by reason of his or her Corporate Status, he or she is, or is threatened to be made, a party to or participant in any Proceeding (including a Proceeding by or in the right of the Company), including, without limitation, any and all liability arising out of the negligence or active or passive wrongdoing of Indemnitee. The only limitation that will exist on the Company's obligations pursuant to this Agreement will be that the Company will not be obligated to make any payment to Indemnitee that is finally determined (under the procedures, and subject to the presumptions, in Sections 6 and 7) to be unlawful.

3. Contribution.

(a) Whether or not the indemnification provided in Sections 1 and 2 is available, in respect of any threatened, pending, or completed action, suit, or proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such action, suit, or proceeding), the Company will pay, in the first instance, the entire amount of any judgment or settlement of such action, suit, or proceeding without requiring Indemnitee to contribute to such payment, and the Company waives and relinquishes any right of contribution it may have against Indemnitee. The Company will not enter into any settlement of any action, suit, or proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such action, suit, or proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee. The Company will not settle any action or claim in a manner that would impose any penalty or admission of guilt or liability on Indemnitee without Indemnitee's written consent.

(b) Without diminishing or impairing the obligations of the Company in the preceding subparagraph, if Indemnitee elects or is required to pay all or any portion of any judgment or settlement in any threatened, pending, or completed action, suit, or proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such action, suit, or proceeding), the Company will contribute to the amount of Expenses, judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by Indemnitee in proportion to the relative benefits received by the Company and all officers, directors, or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such action, suit, or proceeding), on the one hand, and Indemnitee, on the other hand, from the transaction from which such action, suit or proceeding arose. To the extent necessary to conform to law, the proportion determined on the basis of relative benefit may be further adjusted by reference to the relative fault of the Company and all officers, directors, or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnitee, on the other hand, in connection with the events that resulted in such expenses, judgments, fines, or settlement amounts, as well as any other equitable considerations which the applicable law may require to be considered. The relative fault of the Company and all officers, directors, or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnitee, on the other hand, will be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary, and the degree to which their respective conduct is active or passive.

(c) The Company agrees to fully indemnify and hold Indemnitee harmless from any claims of contribution which may be brought by the Company's officers, directors, or employees, other than Indemnitee, who may be jointly liable with Indemnitee.

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

4. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his or her Corporate Status, a witness, or is made (or asked) to respond to discovery requests, in any Proceeding to which Indemnitee is not a party, he or she will be indemnified against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection therewith.

5. Advancement of Expenses. Notwithstanding any other provision of this Agreement, the Company will advance all Expenses incurred by or on behalf of Indemnitee in connection with any Proceeding by reason of Indemnitee's Corporate Status within 30 days after the receipt by the Company of a statement from Indemnitee requesting such advance or advances, whether prior to or after final disposition of such Proceeding. Such statement will reasonably evidence the Expenses incurred by Indemnitee and will include or be preceded or accompanied by a written undertaking by or on behalf of Indemnitee to repay any Expenses advanced if it is ultimately determined that Indemnitee is not entitled to be indemnified against such Expenses. Any advances and undertakings to repay pursuant to this Section 5 will be unsecured and interest free.

6. Procedures and Presumptions for Determination of Entitlement to Indemnification. It is the intent of this Agreement to secure for Indemnitee rights of indemnity that are as favorable as may be permitted under the DGCL and public policy of the State of Delaware. Accordingly, the parties agree that the following procedures and presumptions will apply in the event of any question as to whether Indemnitee is entitled to indemnification under this Agreement:

(a) To obtain indemnification under this Agreement, Indemnitee will submit to the Company a written request with such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The Secretary of the Company will, promptly on receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification. Notwithstanding the foregoing, any failure of Indemnitee to provide such request to the Company, or to provide such a request in a timely fashion, will not relieve the Company of any liability that it may have to Indemnitee unless, and to the extent that, such failure actually and materially prejudices the interests of the Company.

(b) On written request by Indemnitee for indemnification pursuant to the first sentence of Section 6(a), Indemnitee's entitlement to indemnification will be determined in the specific case:

(1) by one of the following four methods, which will be at the election of the Board, unless a Change in Control has occurred:

(i) by a majority vote of the Disinterested Directors, even though less than a quorum;

(ii) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum;

(iii) if there are no Disinterested Directors or if the Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which will be delivered to Indemnitee; or

(iv) if so directed by the Board, by the stockholders of the Company; or

(2) if a Change in Control has occurred, by Independent Counsel in a written opinion to the Board, a copy of which will be delivered to Indemnitee

Disinterested Directors are those members of the Board who are not parties to the action, suit, or proceeding that indemnification is sought by Indemnitee.

(c) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 6(b), the Independent Counsel will be selected as provided in this Section 6(c). The Independent Counsel will be selected by the Board and notify Indemnitee by written notice. Within 10 days after such notice has been given, Indemnitee may deliver the Company a written objection to such selection. But, that objection may only be asserted on the ground that the Independent Counsel does not meet the requirements of "***Independent Counsel***" as defined in Section 13, and the objection will include with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected will act as Independent Counsel. If a written objection is made and substantiated, the Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If no Independent Counsel will have been selected and not objected to within 20 days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a), either the Company or Indemnitee may petition the Court of Chancery of the State of Delaware or other court of competent jurisdiction for resolution of any objection made by Indemnitee to the Company's selection of Independent Counsel or for the appointment of a person selected by the court or by such other person as the court designates to serve as Independent Counsel. The person with respect to whom all objections are so resolved or the person so appointed will act as Independent Counsel under Section 6(b). The Company will pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 6(b), and the Company will pay all reasonable fees and expenses incident to the procedures of this Section 6(c), regardless of the manner in which such Independent Counsel was selected or appointed. In no event will Indemnitee be liable for fees and expenses incurred by such Independent Counsel.

(d) In making a determination with respect to entitlement to indemnification under this Agreement, the person or persons or entity making such determination will presume that Indemnitee is entitled to indemnification under this Agreement. Anyone seeking to overcome this presumption will have the burden of proof and the burden of persuasion by clear and convincing evidence. Neither the failure of the Company (including by its Board or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its Board or Independent Counsel) that Indemnitee has not met such applicable standard of conduct, will be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(e) Indemnitee will be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Enterprise. In addition, the knowledge and actions, or failure to act, of any director, officer, agent, or employee of the Enterprise will not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement. Whether or not the foregoing provisions of this Section 6(e) are satisfied, it will in any event be presumed that Indemnitee has at all times acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Company. Anyone seeking to overcome this presumption will have the burden of proof and the burden of persuasion by clear and convincing evidence.

(f) If the person, persons, or entity empowered or selected under Section 6 to determine whether Indemnitee is entitled to indemnification has not have made a determination within 60 days after receipt by the Company of the request, the requisite determination of entitlement to indemnification will be deemed to have been made, and Indemnitee will be entitled to such indemnification absent (i) a misstatement by Indemnitee of a material fact or an omission of a material fact necessary to make Indemnitee's statement not materially misleading in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law. Such 60-day period may be extended for a reasonable time, not to exceed an additional 30 days, if the person, persons, or entity making such determination with respect to entitlement to indemnification in good faith requires such additional time to obtain or evaluate documentation or information relating thereto. The provisions of this Section 6(f) will not apply if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 6(b) and if (A) within 15 days after receipt by the Company of the request for such determination, the Board or the Disinterested Directors, if appropriate, resolve to submit such determination to the stockholders for their consideration at an annual meeting to be held within 75 days after such receipt, and such determination is made at that annual meeting, or (B) a special meeting of stockholders is called within 15 days after such receipt for the purpose of making such determination, such meeting is held for such purpose within 60 days after having been so called and such determination is made at that annual meeting.

(g) Indemnitee will cooperate with the person, persons, or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing such person, persons, or entity on reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Independent Counsel, member of the Board, or stockholder of the Company will act reasonably and in good faith in making a determination regarding Indemnitee's entitlement to indemnification under this Agreement. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons, or entity making such determination will be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification), and the Company indemnifies and agrees to hold Indemnitee harmless therefrom.

(h) The Company acknowledges that a settlement or other disposition short of final judgment may be successful if it permits a party to avoid expense, delay, distraction, disruption, and uncertainty. In the event that any action, claim, or proceeding to which Indemnitee is a party is resolved in any manner other than by adverse judgment against Indemnitee (including, without limitation, settlement of such action, claim or proceeding with or without payment of money or other consideration) it will be presumed that Indemnitee has been successful on the merits or otherwise in such action, suit, or proceeding. Anyone seeking to overcome this presumption will have the burden of proof and the burden of persuasion by clear and convincing evidence.

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

7. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 6 that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 5, (iii) no determination of entitlement to indemnification is made pursuant to Section 6(b) within 90 days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to this Agreement within 10 days after receipt by the Company of a written request for such payment, or (v) payment of indemnification is not made within 10 days after a determination has been made that Indemnitee is entitled to indemnification or such determination is deemed to have been made pursuant to Section 6, Indemnitee will be entitled to an adjudication in an appropriate court of the State of Delaware, or in any other court of competent jurisdiction, of Indemnitee's entitlement to such indemnification. Indemnitee will commence such proceeding seeking an adjudication within 1 year following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 7(a). The Company will not oppose Indemnitee's right to seek any such adjudication.

(b) In the event that a determination has been made pursuant to Section 6(b) that Indemnitee is not entitled to indemnification, any judicial proceeding commenced pursuant to this Section 7 will be conducted in all respects as a de novo trial on the merits, and Indemnitee will not be prejudiced by reason of the adverse determination under Section 6(b).

(c) If a determination has been made pursuant to Section 6(b) that Indemnitee is entitled to indemnification, the Company will be bound by such determination in any judicial proceeding commenced pursuant to this Section 7, absent (i) a misstatement by Indemnitee of a material fact or an omission of a material fact necessary to make Indemnitee's misstatement not materially misleading in connection with the application for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) In the event that Indemnitee, pursuant to this Section 7, seeks a judicial adjudication of his or her rights under, or to recover damages for breach of, this Agreement, or to recover under any directors' and officers' liability insurance policies maintained by the Company, the Company will pay on his or her behalf, in advance, any and all expenses (of the types described in the definition of Expenses) actually and reasonably incurred by him or her in such judicial adjudication, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of expenses, or insurance recovery.

(e) The Company will be precluded from asserting in any judicial proceeding commenced pursuant to this Section 7 that the procedures and presumptions of this Agreement are not valid, binding, and enforceable, and will stipulate in any such court that the Company is bound by all the provisions of this Agreement. The Company will indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, will (within 10 days after receipt by the Company of a written request therefore) advance, to the extent not prohibited by law, such expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advance of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses, or insurance recovery, as the case may be.

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

8. Non-Exclusivity; Survival of Rights; Insurance; Primacy of Indemnification; Subrogation.

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

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents, or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise that such person serves at the request of the Company, the Company will procure such insurance policy or policies under which Indemnitee will be covered in accordance with its or their terms to the maximum extent of the coverage available for any director, officer, employee, agent, or fiduciary under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms of this Agreement, the Company has director and officer liability insurance in effect, the Company will give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures in the respective policies. The Company will thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(c) The Company acknowledges that Indemnitee has or may have in the future certain rights to indemnification, advancement of expenses, or insurance provided by other entities or organizations (collectively, the ***"Secondary Indemnitors"***). The Company agrees that (i) it is the indemnitor of first resort (i.e., its obligations to Indemnitee are primary and any obligation of the Secondary Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by Indemnitee are secondary), (ii) it will be required to advance the full amount of expenses incurred by Indemnitee and will be liable for the full amount of all Expenses, judgments, penalties, fines, and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement, the Company's Certificate of Incorporation or Bylaws (or any other agreement between the Company and Indemnitee), without regard to any rights Indemnitee may have against the Secondary Indemnitors, and (iii) it irrevocably waives, relinquishes, and releases the Secondary Indemnitors from any and all claims against the Secondary Indemnitors for contribution, subrogation, or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Secondary Indemnitors on behalf of Indemnitee with respect to any claim for which Indemnitee has sought indemnification from the Company will affect the foregoing and the Secondary Indemnitors will have a right of contribution and be subrogated to the extent of such advancement or payment to all of the rights of recovery of Indemnitee against the Company. The Company and Indemnitee agree that the Secondary Indemnitors are express third party beneficiaries of the terms of this Section 8(c).

(d) Except as provided in Section 8(c), in the event of any payment under this Agreement, the Company will be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee (other than against the Secondary Indemnitors), who will execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(e) Except as provided in Section 8(c), the Company will not be liable under this Agreement to make any payment of amounts otherwise indemnifiable under this Agreement if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement, or otherwise.

(f) Except as provided in Section 8(c), the Company's obligation to indemnify or advance Expenses under this Agreement to Indemnitee who is or was serving at the request of the Company as a director, officer, employee, or agent of any other corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise will be reduced by any amount Indemnitee has actually received as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise.

9. Exceptions to Right of Indemnification. Notwithstanding any provision in this Agreement, the Company will not be obligated under this Agreement to make any indemnity in connection with any claim made against Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision, provided, that the foregoing will not affect the rights of Indemnitee or the Secondary Indemnitors in Section 8(c);

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act, or similar provisions of state statutory law or common law;

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

(d) with respect to remuneration paid to Indemnitee if it is determined by final judgment or other final adjudication that such remuneration was in violation of law (and, in this respect, both the Company and Indemnitee have been advised that the Securities and Exchange Commission believes that indemnification for liabilities arising under the federal securities laws is against public policy and is, therefore, unenforceable and that claims for indemnification should be submitted to appropriate courts for adjudication, as indicated in the last paragraph of this Section 9);

(e) a final judgment or other final adjudication is made that Indemnitee's conduct was in bad faith, knowingly fraudulent or deliberately dishonest or constituted willful misconduct (but only to the extent of such specific determination);

(f) in connection with any claim for reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act, or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act), if Indemnitee is held liable therefor (including pursuant to any settlement); or

(g) on account of conduct that is established by a final judgment as constituting a breach of Indemnitee's duty of loyalty to the Company or resulting in any personal profit or advantage to which Indemnitee is not legally entitled.

For purposes of this Section 9, a final judgment or other adjudication may be reached in either the underlying proceeding or action in connection with which indemnification is sought or a separate proceeding or action to establish rights and liabilities under this Agreement.

Any provision herein to the contrary notwithstanding, the Company will not be obligated pursuant to the terms of this Agreement to indemnify Indemnitee or otherwise act in violation of any undertaking appearing in and required by the rules and regulations promulgated under the Securities Act, or in any registration statement filed with the SEC under the Securities Act. Indemnitee acknowledges that paragraph (h) of Item 512 of Regulation S-K promulgated under the Securities Act currently generally requires the Company to undertake, in connection with any registration statement filed under the Securities Act, to submit the issue of the enforceability of Indemnitee's rights under this Agreement in connection with any liability under the Securities Act on public policy grounds to a court of appropriate jurisdiction and to be governed by any final adjudication of such issue. Indemnitee specifically agrees that any such undertaking will supersede the provisions of this Agreement and to be bound by any such undertaking.

10. Duration of Agreement. All agreements and obligations of the Company contained herein will continue during the period Indemnitee is an officer or director of the Company (or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise) and will continue thereafter so long as Indemnitee will be subject to any Proceeding (or any proceeding commenced under Section 7) by reason of his or her Corporate Status, whether or not he or she is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement. This Agreement will be binding on and inure to the benefit of and be enforceable by the parties of this Agreement and their respective successors (including any direct or indirect successor by purchase, merger, consolidation, or otherwise to all or substantially all of the business or assets of the Company), assigns, spouses, heirs, executors, and personal and legal representatives.

11. Security. To the extent requested by Indemnitee and approved by the Board, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations under this Agreement through an irrevocable bank line of credit, funded trust, or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of Indemnitee.

12. Enforcement.

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

(b) Other than as provided in this Agreement, this Agreement constitutes the entire agreement between the parties with respect to this subject matter and supersedes all prior agreements and understandings, oral, written and implied, between the parties with respect to this subject matter.

13. Definitions. For purposes of this Agreement:

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

(b) ***"Board"*** means the Board of Directors of the Company.

(c) ***"Change in Control"*** means the earliest to occur after the date of this Agreement of any of the following events:

(1) Acquisition of Stock by Third Party. Any Person is or becomes the Beneficial Owner (as defined above), directly or indirectly, of securities of the Company representing twenty five percent (25%) or more of the combined voting power of the Company's then outstanding securities ;

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

(3) Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 51% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the Board or other governing body of such surviving entity;

(4) Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

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

(d) ***"Corporate Status"*** describes the status of a person who is or was a director, officer, employee, agent or fiduciary of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving at the express written request of the Company.

(e) ***"Disinterested Director"*** means a non-executive director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(f) ***"Enterprise"*** means the Company and any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that Indemnitee is or was serving at the express written request of the Company as a director, officer, employee, agent or fiduciary.

(g) ***"Exchange Act"*** means the Securities Exchange Act of 1934, as amended.

(h) ***"Expenses"*** includes all documented and reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, participating, or being or preparing to be a witness in a Proceeding, or responding to, or objecting to, a request to provide discovery in any Proceeding. Expenses also will include Expenses incurred in connection with any appeal resulting from any Proceeding and any federal, state, local, or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, including without limitation the premium, security for, and other costs relating to any cost bond, supersede as bond, or other appeal bond or its equivalent. Expenses will not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

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

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

(k) ***"Proceeding"*** includes any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative or investigative, in which Indemnitee was, is or will be involved as a party or otherwise, by reason of the fact that Indemnitee is or was an officer or director of the Company, by reason of any action taken by him or her or of any inaction on his or her part while acting as an officer or director of the Company, or by reason of the fact that he or she is or was serving at the request of the Company as a director, officer, employee, agent or fiduciary of another corporation, partnership, joint venture, trust or other Enterprise; in each case whether or not he or she is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement; including one pending on or before the date of this Agreement, but excluding one initiated by an Indemnitee pursuant to Section 7 of this Agreement to enforce his or her rights under this Agreement.

(l) ***"Sarbanes-Oxley Act"*** will mean the Sarbanes-Oxley Act of 2002, as amended.

(m) ***"SEC"*** will mean the Securities and Exchange Commission.

(n) ***"Securities Act"*** will mean the Securities Act of 1933, as amended.

14. Severability. The invalidity or unenforceability of any provision hereof will in no way affect the validity or enforceability of any other provision. Without limiting the generality of the foregoing, this Agreement is intended to confer upon Indemnitee indemnification rights to the fullest extent permitted by applicable laws. In the event any provision hereof conflicts with any applicable law, such provision will be deemed modified, consistent with the aforementioned intent, to the extent necessary to resolve such conflict.

15. Modification and Waiver. No supplement, modification, termination or amendment of this Agreement will be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement will be deemed or will constitute a waiver of any other provisions hereof (whether or not similar) nor will such waiver constitute a continuing waiver.

16. Notice By Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with or otherwise receiving any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification covered under this Agreement. The failure to so notify the Company will not relieve the Company of any obligation which it may have to Indemnitee under this Agreement or otherwise unless and only to the extent that such failure or delay materially prejudices the Company.

17. Notices. All notices and other communications given or made pursuant to this Agreement will be in writing and will be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) 5 days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications will be sent:

(a) To Indemnitee at the address on the books and records of the Company.

(b) To the Company at:

Ocuphire Pharma, Inc.
37000 Grand River Ave, Suite 120
Farmington Hills, Michigan 48335
Attention: Chief Executive Officer

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

18. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same Agreement. This Agreement may also be executed and delivered by facsimile signature, electronic mail (including .pdf or any electronic signature complying with the U.S. Federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument and be deemed to have been duly and validly delivered and be valid and effective for all purposes.

19. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and will not be deemed to constitute part of this Agreement or to affect the construction thereof.

20. Governing Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties will be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. The Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement will be brought only in the Chancery Court of the State of Delaware (the ***"Delaware Court"***), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, irrevocably The Corporation Trust Company as its agent in the State of Delaware for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

Signatures on the Following Page

In Witness Whereof, the parties have executed this Agreement on and as of the day and year first above written.

Indemnitee:

[Insert Name]

The Company:

Ocuphire Pharma, Inc.

By:
Name:
Title:

Exhibit 10.9

OCUPHIRE PHARMA, INC.

NON-EMPLOYEE DIRECTOR COMPENSATION POLICY

November 5, 2020

Each member of the Board of Directors (the ***"Board"***) of Ocuphire Pharma, Inc. (the ***"Company"***) who is a non-employee director of the Company (each such member, a ***"Non-Employee Director"***) will receive the compensation described in this Non-Employee Director Compensation Policy for his or her Board service following the closing of the merger of a wholly-owned subsidiary of Rexahn Pharmaceuticals, Inc., a Delaware corporation (***"Parent"***) with and into Ocuphire Pharma, Inc. (***"Private Ocuphire"***), with Private Ocuphire continuing as the surviving corporation and as a wholly-owned subsidiary of Parent (the***"Merger"***). This Non-Employee Director Compensation Policy will be effective upon the closing of the Merger (the ***"Effective Date"***). This policy may be amended at any time in the sole discretion of the Board or the Compensation Committee of the Board. A Non-Employee Director may decline all or any portion of his or her compensation by giving notice to the Company prior to the date cash is to be paid or equity awards are to be granted, as the case may be.

ANNUAL CASH COMPENSATION

Commencing on the Effective Date, each Non-Employee Director will receive the cash compensation set forth below for service on the Board. The annual cash compensation amounts will be payable in equal quarterly installments, in arrears no later than 30 days following the end of each quarter in which the service occurred, prorated for the quarter in which the Effective Date occurs, and for any other any partial quarter of service. All annual cash fees are vested upon payment. Non-Employee Directors may elect to receive vested shares of the Company's common stock in lieu of the following retainers on the date on which such retainers would otherwise have been paid in cash in accordance with the terms and conditions of the Plan (as defined below).

1. Annual Board Service Retainer:

(a) All Eligible Directors: $40,000
(b) Chair of the Board (as applicable): $35,000 (in addition to above)
(c) Lead Independent Director (as applicable): $20,000 (in addition to above)

2. Annual Committee Member Service Retainer:

(a) Member of the Audit Committee: $7,500
(b) Member of the Compensation Committee: $5,000
(c) Member of the Nominating and Corporate Governance Committee: $4,000

3. Annual Committee Chair Service Retainer (in lieu of Committee Member Service Retainer):

(a) Chair of the Audit Committee: $15,000
(b) Chair of the Compensation Committee: $10,000
(c) Chair of the Nominating and Corporate Governance Committee: $8,000

EQUITY COMPENSATION

Equity awards will be granted under the Company's 2020 Equity Incentive Plan, as amended from time to time, or any successor equity incentive plan (the ***"Plan"***). All stock options granted under the Director Compensation Policy will be Nonstatutory Stock Options (as defined in the Plan), with a term of ten years from the date of grant (subject to earlier termination upon a termination of the Non-Employee Director's Continuous Service (as defined in the Plan)) and an exercise price per share equal to 100% of the Fair Market Value (as defined in the Plan) of a share of the Company's common stock on the date of grant.

1. Automatic Equity Grants.

(a) Initial Grant for New Directors. Without any further action of the Board, each person who, after the Effective Date, is elected or appointed for the first time to be a Non-Employee Director will automatically, upon the date of his or her initial election or appointment to be a Non-Employee Director, be granted a Nonstatutory Stock Option to purchase 40,000 shares of common stock (the ***"Initial Grant"***). Each Initial Grant will vest in a series of three successive equal annual installments over the three-year period measured from the date of grant, subject to the Non-Employee Director's Continuous Service through each applicable vesting date.

(b) Annual Grant. Without any further action of the Board, at the close of business on the date of each annual meeting of the Company's stockholders (each, an ***"Annual Meeting"***) following the Effective Date, each person who is then a Non-Employee Director will automatically be granted a Nonstatutory Stock Option to purchase 20,000 shares of Company common stock (the "*Annual Grant*"). Each Annual Grant will vest upon the earlier of the one (1) year anniversary of the grant date or the day prior to the Company's next Annual Meeting occurring after the grant date, subject to the Non-Employee Director's Continuous Service through the vesting date.

2. Change in Control. Notwithstanding the foregoing vesting schedules, for each Non-Employee Director who remains in Continuous Service with the Company until immediately prior to the closing of a Change in Control (as defined in the Plan), the shares subject to his or her then-outstanding equity awards that were granted pursuant to the Director Compensation Policy will become fully vested immediately prior to the closing of such Change in Control.

3. Remaining Terms. The remaining terms and conditions of each stock option, including transferability, will be as set forth in the Company's standard Option Agreement, in the form adopted from time to time by the Board.

EXPENSES

The Company will reimburse Non-Employee Directors for ordinary, necessary and reasonable out-of-pocket travel expenses to cover in-person attendance at and participation in Board and committee meetings; *provided*, that the Non-Employee Director timely submits to the Company appropriate documentation substantiating such expenses in accordance with the Company's travel and expense policy, as in effect from time to time.

OCUPHIRE PHARMA, INC.
CODE OF BUSINESS CONDUCT AND ETHICS

Introduction

We are committed to maintaining the highest standards of business conduct and ethics. This Code of Business Conduct and Ethics (this ***"Code"***) reflects the business practices and principles of behavior that support this commitment. We expect every employee, officer and director to read and understand this Code and its application to the performance of his or her business responsibilities. References in this Code to employees are intended to cover officers and, as applicable, directors.

Officers, managers and other supervisors are expected to develop in employees a sense of commitment to the spirit, as well as the letter, of this Code. Supervisors are also expected to ensure that all agents and contractors conform to Code standards when working for or on behalf of Ocuphire Pharma, Inc., a Delaware corporation (the ***"Company"***, ***"us"***, ***"we"*** or ***"our"***). The compliance environment within each supervisor's assigned area of responsibility will be an important factor in evaluating the quality of that individual's performance. In addition, any employee who makes an exemplary effort to implement and uphold our legal and ethical standards may be recognized for that effort in his or her performance review. Nothing in this Code alters the at-will employment policy of the Company.

This Code addresses conduct that is particularly important to proper dealings with the people and entities with whom we interact, but reflects only a part of our commitment. From time to time we may adopt additional policies and procedures with which our employees, officers and directors are expected to comply, if applicable to them. However, it is the responsibility of each employee, officer and director to apply common sense, together with his or her own highest personal ethical standards, in making business decisions where there is no stated guideline in this Code.

Action by members of your immediate family, significant others or other persons who live in your household (referred to in this Code as ***"family members"***) also may potentially result in ethical issues to the extent that they involve the Company's business. For example, acceptance of inappropriate gifts by a family member from one of our partners or suppliers could create a conflict of interest and result in a Code violation attributable to you. Consequently, in complying with this Code, you should consider not only your own conduct, but also that of your immediate family members, significant others and other persons who live in your household.

You should not hesitate to ask questions about whether any conduct may violate this Code, voice concerns or clarify gray areas. Section 16 below details the compliance resources available to you. In addition, you should be alert to possible violations of this Code by others and report suspected violations, without fear of any form of retaliation, as further described in Section 16. Violations of this Code will not be tolerated. Any employee who violates the standards in this Code may be subject to disciplinary action, which, depending on the nature of the violation and the history of the employee, may range from a warning or reprimand to and including termination of employment and, in appropriate cases, civil legal action or referral for regulatory or criminal prosecution.

After carefully reviewing this Code, you must sign the acknowledgment attached as Exhibit A hereto, indicating that you have received, read, understand and agree to comply with this Code. The acknowledgment must be returned either electronically in a manner provided for by the Company or to the person designated as the Compliance Officer (as further described in Section 16) or such Compliance Officer's designee within ten (10) business days of your receipt of this Code and on an annual basis as the Company may require.

The Company is committed to providing a work environment free of any form of unlawful harassment or discrimination. The Company is committed to maintaining a respectful, courteous work environment that respects the dignity and worth of each employee. Inappropriate workplace behavior and unlawful harassment are wholly inconsistent with this commitment. No employee, contract worker, customer, vendor or other person who does business with this organization is exempt from the prohibitions within this policy.

1. Honest and Ethical Conduct.

It is the policy of the Company to promote high standards of integrity by conducting our affairs in an honest and ethical manner. The integrity and reputation of the Company depends on the honesty, fairness and integrity brought to the job by each person associated with us. Unyielding personal integrity is the foundation of corporate integrity.

2. Legal Compliance.

Obeying the law, both in letter and in spirit, is the foundation of this Code. Our success depends upon each employee operating within legal guidelines and cooperating with local, national and international authorities (as further described in Section 4 with respect to international business laws). We expect employees to understand the legal and regulatory requirements applicable to their business units and areas of responsibility. In particular, the research and development of pharmaceutical products is subject to a number of legal and regulatory requirements, including standards related to ethical research procedures and proper scientific conduct. We expect employees to comply with all such requirements. We may hold periodic training sessions to ensure that all employees comply with the relevant laws, rules and regulations associated with their employment, including laws prohibiting insider trading (which are discussed in further detail in Section 3 below). While we do not expect you to memorize every detail of these laws, rules and regulations, we want you to be able to determine when to seek advice from others. If you do have a question in the area of legal compliance, it is important that you not hesitate to seek answers from your supervisor or the Compliance Officer (as further described in Section 16).

Disregard of the law will not be tolerated. Violation of domestic or foreign laws, rules and regulations may subject an individual, as well as the Company, to civil and/or criminal penalties. You should be aware that conduct and records, including emails, are subject to internal and external audits and to discovery by third parties in the event of a government investigation or civil litigation. It is in everyone's best interests to know and comply with our legal obligations.

3. Insider Trading.

Employees who have access to confidential (or ***"nonpublic"***) information are not permitted to use or share that information for stock trading purposes or for any other purpose except to conduct our business. All nonpublic information about the Company or about companies with which we do business is considered confidential information. To use material, nonpublic information in connection with buying or selling securities, including "tipping" others who might make an investment decision on the basis of this information, is both unethical and illegal. Employees must exercise the utmost care when handling material nonpublic information.

We have adopted a separate Insider Trading Policy with which you will be expected to comply as a condition of your employment with the Company. You should consult our Insider Trading Policy for more specific information on the definition of "inside" information and on buying and selling our securities or securities of companies with which we do business. Please refer to the Company's Insider Trading Policy for more detailed information.

While not part of this Code, the Company's other policies that apply to the Company's employees, including the Company's Anti-Corruption Policy, which may differ by business area and jurisdiction, are developed to support and reinforce the principles set forth in this Code. These various separate policies and standards can be accessed electronically through the Company's intranet site, or by request to the Compliance Officer.

4. International Business Laws.

Our employees are expected to comply with the applicable laws in all countries to which they travel, in which they operate and where we otherwise do business, including laws prohibiting bribery, corruption or the conduct of business with specified individuals, companies or countries. The fact that in some countries certain laws are not enforced or that violation of those laws is not subject to public criticism will not be accepted as an excuse for noncompliance. In addition, we expect employees to comply with U.S. laws, rules and regulations governing the conduct of business by its citizens and corporations outside the United States.

These U.S. laws, rules and regulations, which extend to all our activities outside the United States, include:

- The Foreign Corrupt Practices Act, which prohibits directly or indirectly giving anything of value to a government official to obtain or retain business or favorable treatment and requires the maintenance of accurate books of account, with all company transactions being properly recorded;

- U.S. Embargoes, which generally prohibit U.S. companies, their subsidiaries and their employees from doing business with or traveling to countries subject to sanctions imposed by the U.S. government (currently Crimea, Cuba, Iran, North Korea and Syria), as well as specific companies and individuals identified on lists published by the U.S. Treasury Department;

- U.S. Export Controls, which restrict exports from the United States and re-exports from other countries of goods, software and technology to many countries, and prohibit transfers of U.S.-origin items to denied persons and entities; and

- Anti-Boycott Regulations, which prohibit U.S. companies from taking any action that has the effect of furthering or supporting a restrictive trade practice or boycott imposed by a foreign country against a country friendly to the United States or against any U.S. person.

If you have a question as to whether an activity is restricted or prohibited, seek assistance before taking any action, including giving any verbal assurances that might be regulated by international laws. Additionally, we have adopted a separate Anti-Corruption Policy with which you will be expected to comply as a condition of your employment with the Company. You should consult our Anti-Corruption Policy for more specific information on compliance with the Foreign Corrupt Practices Act and other anti-corruption laws.

5. Antitrust.

Antitrust laws are designed to protect the competitive process. These laws are based on the premise that the public interest is best served by vigorous competition and will suffer from illegal agreements or collusion among competitors. Antitrust laws generally prohibit:

- agreements, formal or informal, with competitors that harm competition or customers, including price fixing and allocations of customers, territories or contracts;

- agreements, formal or informal, that establish or fix the price at which a customer may resell a product; and

- the acquisition or maintenance of a monopoly or attempted monopoly through anti-competitive conduct.

Certain kinds of information, such as pricing, production, inventory, business plans, strategies, budgets, projections, forecasts, financial and operating information, methods and development plans, should not be exchanged with competitors, regardless of how innocent or casual the exchange may be and regardless of the setting, whether business or social.

Antitrust laws impose severe penalties for certain types of violations, including criminal penalties and potential fines and damages of millions of dollars, which may be tripled under certain circumstances. Understanding the requirements of antitrust and unfair competition laws of the various jurisdictions where we do business can be difficult, and you are urged to seek assistance from your supervisor or the Compliance Officer whenever you have a question relating to these laws.

6. Environmental Compliance.

Federal law imposes criminal liability on any person or company that contaminates the environment with any hazardous substance that could cause injury to the community or environment. Violation of environmental laws can involve monetary fines and imprisonment. We expect employees to comply with all applicable environmental laws.

It is our policy to conduct our business in an environmentally responsible way that minimizes environmental impacts. We are committed to minimizing and, if practicable, eliminating the use of any substance or material that may cause environmental damage, reducing waste generation and disposing of all waste through safe and responsible methods, minimizing environmental risks by employing safe technologies and operating procedures, and being prepared to respond appropriately to accidents and emergencies.

7. Conflicts of Interest.

We respect the rights of our employees to manage their personal affairs and investments and do not wish to impinge on their personal lives. At the same time, employees should avoid conflicts of interest that occur when their personal interests may interfere in any way with the performance of their duties or the best interests of the Company. A conflicting personal interest could result from an expectation of personal gain now or in the future or from a need to satisfy a prior or concurrent personal obligation. We expect our employees to be free from influences that conflict with the best interests of the Company or might deprive the Company of their undivided loyalty in business dealings. Even the appearance of a conflict of interest where none actually exists can be damaging and should be avoided. Whether or not a conflict of interest exists or will exist can be unclear. Conflicts of interest are prohibited unless specifically authorized as described below.

If you have any questions about a potential conflict or if you become aware of an actual or potential conflict, and you are not an officer or director of the Company, you should discuss the matter with your supervisor or the Compliance Officer (as further described in Section 16). Supervisors may not authorize conflict of interest matters or make determinations as to whether a problematic conflict of interest exists without first seeking the approval of the Compliance Officer and providing the Compliance Officer with a written description of the activity. If the supervisor is involved in the potential or actual conflict, you should discuss the matter directly with the Compliance Officer. Officers and directors may seek authorizations and determinations from the Audit Committee (the ***"Audit Committee"***) of the Company's Board of Directors. Factors that may be considered in evaluating a potential conflict of interest are, among others:

- whether it may interfere with the employee's job performance, responsibilities or morale;
- whether the employee has access to confidential information;
- whether it may interfere with the job performance, responsibilities or morale of others within the organization;
- any potential adverse or beneficial impact on our business;
- any potential adverse or beneficial impact on our relationships with our customers, partners, or suppliers or other service providers;

- whether it would enhance or support a competitor's position;
- the extent to which it would result in financial or other benefit (direct or indirect) to the employee;
- the extent to which it would result in financial or other benefit (direct or indirect) to one of our customers, partners, suppliers or other service providers; and
- the extent to which it would appear improper to an outside observer.

Although no list can include every possible situation in which a conflict of interest could arise, the following are examples of situations that may, depending on the facts and circumstances, involve problematic conflicts of interests:

- **Employment by (including consulting for) or service on the board of a competitor, customer, collaborator, partner or supplier or other service provider**. Activity that enhances or supports the position of a competitor to the detriment of the Company is prohibited, including employment by or service on the board of a competitor. Employment by or service on the board of a customer, partner, collaborator or supplier or other service provider is generally discouraged and you must seek authorization in advance if you plan to take such a position.
- **Owning, directly or indirectly, a significant financial interest in any entity that does business, seeks to do business or competes with us**. In addition to the factors described above, persons evaluating ownership in other entities for conflicts of interest will consider the size and nature of the investment; the nature of the relationship between the other entity and the Company; the employee's access to confidential information and the employee's ability to influence Company decisions. If you would like to acquire a financial interest of that kind, you must seek approval in advance.
- **Soliciting or accepting gifts, favors, loans or preferential treatment from any person or entity that does business or seeks to do business with us**. See Section 11 for further discussion of the issues involved in this type of conflict.
- **Soliciting contributions to any charity or for any political candidate from any person or entity that does business or seeks to do business with us**.
- **Taking personal advantage of corporate opportunities**. See Section 8 for further discussion of the issues involved in this type of conflict.
- **Moonlighting without permission**.
- **Conducting our business transactions with your family member or a business in which you have a significant financial interest**. Material related-party transactions approved by the Audit Committee and involving any executive officer or director will be publicly disclosed as required by applicable laws and regulations in keeping with the Company's Related Person Transactions Policy.

- **Exercising supervisory or other authority on behalf of the Company over a co-worker who is also a family member**. The employee's supervisor and/or the Compliance Officer will consult with the Human Resources department to assess the advisability of reassignment.

Loans to, or guarantees of obligations of, employees or their family members by the Company could constitute an improper personal benefit to the recipients of these loans or guarantees, depending on the facts and circumstances. Some loans are expressly prohibited by law and applicable law requires that our Board of Directors approve all loans and guarantees to employees. As a result, all loans and guarantees by the Company must be approved in advance by the Board of Directors or the Audit Committee.

8. Corporate Opportunities.

You may not take personal advantage of opportunities for the Company that are presented to you or discovered by you as a result of your position with us or through your use of corporate property or information, unless authorized by your supervisor, the Compliance Officer or the Audit Committee, as described in Section 7 above. Even opportunities that are acquired privately by you may be questionable if they are related to our existing or proposed lines of business. Significant participation in an investment or outside business opportunity that is directly related to our lines of business must be pre-approved. You may not use your position with us or corporate property or information for improper personal gain, nor should you compete with us in any way.

9. Maintenance of Corporate Books, Records, Documents and Accounts; Financial Integrity; Public Reporting.

The integrity of our records and public disclosure depends upon the validity, accuracy and completeness of the information supporting the entries to our books of account. Therefore, our corporate and business records should be completed accurately and honestly. The making of false or misleading entries, whether they relate to financial results or otherwise, is strictly prohibited. Our records serve as a basis for managing our business and are important in meeting our obligations to customers, suppliers, partners, creditors, employees and others with whom we do business. As a result, it is important that our books, records and accounts accurately and fairly reflect, in reasonable detail, our assets, liabilities, revenues, costs and expenses, as well as all transactions and changes in assets and liabilities. We require that:

- no entry be made in our books and records that intentionally hides or disguises the nature of any transaction or of any of our liabilities or misclassifies any transactions as to accounts or accounting periods;

- transactions be supported by appropriate documentation;

- the terms of sales and other commercial transactions be reflected accurately in the documentation for those transactions and all such documentation be reflected accurately in our books and records;

- employees comply with our system of internal controls; and

- no cash or other assets be maintained for any purpose in any unrecorded or "off-the-books" fund.

Our accounting records are also relied upon to produce reports for our management, stockholders and creditors, as well as for governmental agencies. In particular, we rely upon our accounting and other business and corporate records in preparing the periodic and current reports that we file with the Securities and Exchange Commission (the ***"SEC"***). Securities laws require that these reports provide full, fair, accurate, timely and understandable disclosure and fairly present our financial condition and results of operations. Employees who collect, provide or analyze information for or otherwise contribute in any way in preparing or verifying these reports should strive to ensure that our financial disclosure is accurate and transparent and that our reports contain all of the information about the Company that would be important to enable stockholders and potential investors to assess the soundness and risks of our business and finances and the quality and integrity of our accounting and disclosures. In addition:

- no employee may take or authorize any action that would cause our financial records or financial disclosure to fail to comply with generally accepted accounting principles, the rules and regulations of the SEC or other applicable laws, rules and regulations;

- all employees must cooperate fully with our finance and accounting personnel, as well as our independent public accountants and counsel, respond to their questions with candor and provide them with complete and accurate information to help ensure that our books and records, as well as our reports filed with the SEC, are accurate and complete;

- no employee, director or person acting under their direction, may coerce, manipulate, mislead or fraudulently influence our finance and accounting personnel, our independent public accountants or counsel; and

- no employee should knowingly make (or cause or encourage any other person to make) any false or misleading statement in any of our reports filed with the SEC or knowingly omit (or cause or encourage any other person to omit) any information necessary to make the disclosure in any of our reports accurate in all material respects.

Any employee who becomes aware of any departure from these standards has a responsibility to report his or her knowledge promptly to a supervisor, the Chief Financial Officer (the ***"CFO"***), the Compliance Officer, the Audit Committee or one of the other compliance resources described in Section 16 or if applicable, in accordance with the provisions of the Company's Whistleblower Policy For Accounting and Auditing Matters, as adopted from time to time (the ***"Whistleblower Policy"***).

10. Fair Dealing.

We strive to outperform our competition fairly and honestly. Advantages over our competitors are to be obtained through superior performance of our products and services, not through unethical or illegal business practices. Acquiring proprietary information from others through improper means, possessing trade secret information that was improperly obtained, or inducing improper disclosure of confidential information from past or present employees of other companies is prohibited, even if motivated by an intention to advance our interests. If information is obtained by mistake that may constitute a trade secret or other confidential information of another business, or if you have any questions about the legality of proposed information gathering, you must consult your supervisor or the Compliance Officer, as further described in Section 16.

You are expected to deal fairly with our customers, suppliers, partners, employees and anyone else with whom you have contact in the course of performing your job. Be aware that the Federal Trade Commission Act provides that "unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are declared unlawful." It is a violation of the Federal Trade Commission Act to engage in deceptive, unfair or unethical practices and to make misrepresentations in connection with sales activities.

Employees involved in procurement have a special responsibility to adhere to principles of fair competition in the purchase of products and services by selecting suppliers based exclusively on normal commercial considerations, such as quality, cost, availability, service and reputation, and not on the receipt of special favors.

11. Gifts and Entertainment.

Business gifts and entertainment are meant to create goodwill and sound working relationships and not to gain improper advantage with partners or customers or facilitate approvals from government officials. The exchange, as a normal business courtesy, of meals or entertainment (such as tickets to a game or the theatre or a round of golf) is a common and acceptable practice as long as it is reasonable in value and not extravagant. Unless express permission is received from a supervisor, the Compliance Officer or the Audit Committee, gifts and entertainment cannot be offered, provided or accepted by any employee unless consistent with customary business practices and not (a) of more than token or nominal monetary value, (b) in cash, (c) susceptible of being construed as a bribe or kickback, (d) made or received on a regular or frequent basis or (e) in violation of any laws. This principle applies to our transactions everywhere in the world, even where the practice is widely considered "a way of doing business." Employees should not accept gifts or entertainment that may reasonably be deemed to affect their judgment or actions in the performance of their duties. Our partners, customers, suppliers and the public at large should know that our employees' judgment is not for sale.

Under some statutes, such as the U.S. Foreign Corrupt Practices Act (further described inSection 4 above), giving anything of value to a government official to obtain or retain business or favorable treatment is a criminal act subject to prosecution and conviction. Discuss with your supervisor or the Compliance Officer any proposed entertainment or gifts if you are uncertain about their appropriateness.

12. Protection and Proper Use of Company Assets.

All employees are expected to protect our assets and ensure their efficient use. Theft, carelessness and waste have a direct impact on our financial condition and results of operations. Our property, such as office supplies, computer equipment, laboratory or manufacturing supplies and office, laboratory or manufacturing space, are expected to be used only for legitimate business purposes, although incidental personal use may be permitted. You may not, however, use the Company's corporate name, any brand name or trademark owned or associated with the Company or any letterhead stationery for any personal purpose.

You may not, while acting on behalf of the Company or while using our computing or communications equipment or facilities, either:

- access the internal computer system (also known as "hacking") or other resource of another entity without express written authorization from the entity responsible for operating that resource; or

- commit any unlawful or illegal act, including harassment, libel, fraud, sending of unsolicited bulk email (also known as "spam") or material of objectionable content in violation of applicable law, trafficking in contraband of any kind or any kind of espionage.

If you receive authorization to access another entity's internal computer system or other resource, you must make a permanent record of that authorization so that it may be retrieved for future reference, and you may not exceed the scope of that authorization.

Unsolicited bulk email is regulated by law in a number of jurisdictions. If you intend to send unsolicited bulk email to persons outside of the Company, either while acting on our behalf or using our computing or communications equipment or facilities, you should contact your supervisor or the Compliance Officer for prior approval.

All data residing on or transmitted through our computing and communications facilities, including email and word processing documents, is the property of the Company and subject to inspection, retention and review by the Company, with or without an employee's or third party's knowledge, consent or approval, in accordance with applicable law. Any misuse or suspected misuse of our assets must be immediately reported to your supervisor or the Compliance Officer.

13. Confidentiality.

One of our most important assets is our confidential information. As an employee of the Company, you may learn of information about the Company that is confidential and proprietary. You also may learn of information before that information is released to the general public. Employees who have received or have access to confidential information should take care to keep this information confidential. Confidential information includes any non-public information that might be of use to competitors or harmful to the Company or its licensors, vendors or partners if disclosed, such as business, marketing and service plans, financial information, product development, scientific data, manufacturing, laboratory results, designs, databases, customer lists, pricing strategies, personnel data, personally identifiable information pertaining to our employees, patients or other individuals (including, for example, names, addresses, telephone numbers and social security numbers), and similar types of information provided to us by our customers, vendors and partners. This information may be protected by patent, trademark, copyright and trade secret laws.

In addition, because we interact with other companies and organizations, there may be times when you learn confidential information about other companies before that information has been made available to the public. You must treat this information in the same manner as you are required to treat our confidential and proprietary information. There may even be times when you must treat as confidential the fact that we have an interest in, or are involved with, another company.

You are expected to keep confidential and proprietary information confidential unless and until that information is released to the public through approved channels (usually through a press release, an SEC filing or a formal communication from a member of senior management, as further described in Section 14) . Every employee has a duty to refrain from disclosing to any person confidential or proprietary information about us or any other company learned in the course of employment here, until that information is disclosed to the public through approved channels. This policy requires you to refrain from discussing confidential or proprietary information with outsiders and even with other employees of the Company, unless those fellow employees have a legitimate need to know the information in order to perform their job duties. Unauthorized use or distribution of this information could also be illegal and result in civil liability and/or criminal penalties.

You should also take care not to inadvertently disclose confidential information. Materials that contain confidential information, such as memos, notebooks, mobile devices, thumb drives or other data storage devices and laptop computers, should be stored securely. Unauthorized posting or discussion of any information concerning our business, information or prospects on the Internet is prohibited. You may not discuss our business, information or prospects in any "chat room," regardless of whether you use your own name or a pseudonym. Be cautious when discussing sensitive information in public places like elevators, airports, restaurants and "quasi-public" areas in and around our place of business. All Company emails, voicemails and other communications are presumed confidential and should not be forwarded or otherwise disseminated outside of the Company except where required for legitimate business purposes.

In addition to the above responsibilities, if you are handling information protected by any privacy policy published by us then you must handle that information in accordance with the applicable policy.

14. Media/Public Discussions.

It is our policy to disclose material information concerning the Company to the public only through specific limited channels to avoid inappropriate publicity and to ensure that all those with an interest in the company will have equal access to information. All inquiries or calls from the press and financial analysts should be referred to the Company's Chief Executive Officer (the ***"CEO"***) or the CFO. We have designated our CEO and CFO as our official spokespersons for financial, strategic, operational, regulatory, scientific, clinical, technical and other related information. Unless a specific exception has been made by our CEO or CFO, these designees are the only people who may communicate with the press on behalf of the Company. You also may not provide any information to the media about us off the record, for background, confidentially or secretly.

15. Waivers.

Any waiver of this Code for executive officers (including, where required by applicable laws, our principal executive officer, principal financial officer, principal accounting officer or controller (or persons performing similar functions)) or directors may be authorized only by our Board of Directors or, to the extent permitted by the rules of The Nasdaq Stock Market and our Corporate Governance Guidelines, a committee of the Board of Directors, and will be disclosed as required by applicable laws, rules and regulations.

16. Compliance Standards and Procedures.

Compliance Resources

To facilitate compliance with this Code, we have implemented a program of Code awareness, training and review. We have appointed Mina Sooch, our CEO, our CFO, to the position of Compliance Officer to oversee this program. In the future, we may appoint another senior officer as the Compliance Officer. The Compliance Officer may also designate additional individuals to assist him or her in carrying out all duties of the Compliance Officer. The Compliance Officer is a person to whom you can address any questions or concerns. In addition to fielding questions or concerns with respect to potential violations of this Code, the Compliance Officer is responsible for:

- investigating possible violations of this Code;
- training new employees in Code policies;
- conducting annual training sessions to refresh employees' familiarity with this Code;
- distributing copies of this Code annually via email to each employee with a reminder that each employee is responsible for reading, understanding and complying with this Code;

- updating this Code as needed and alerting employees to any updates, with appropriate approval of the Board of Directors or Audit Committee, as appropriate, to reflect changes in the law, Company operations and recognized best practices, and to reflect the Company's experience; and

- otherwise promoting an atmosphere of responsible and ethical conduct.

Your most immediate resource for any matter related to this Code is your supervisor. He or she may have the information you need or may be able to refer the question to another appropriate source. There may, however, be times when you prefer not to go to your supervisor. In these instances, you should feel free to discuss your concern with the Compliance Officer. If you are uncomfortable speaking with the Compliance Officer because he or she works in your department or is one of your supervisors, please contact the CEO or the Audit Committee. Of course, if your concern involves potential misconduct by another person and relates to questionable accounting or auditing matters under the Company's Whistleblower Policy, you may report that violation as set forth in such policy.

Clarifying Questions and Concerns; Reporting Possible Violations

If you encounter a situation or are considering a course of action and its appropriateness is unclear, discuss the matter promptly with your supervisor or the Compliance Officer; even the appearance of impropriety can be very damaging and should be avoided.

If you are aware of a suspected or actual violation of Code standards by others, you have a responsibility to report it. You are expected to promptly provide a compliance resource with a specific description of the violation that you believe has occurred, including any information you have about the persons involved and the time of the violation. Whether you choose to speak with your supervisor or the Compliance Officer, you should do so without fear of any form of retaliation. We will take prompt disciplinary action against any employee who retaliates against you, including termination of employment.

Supervisors must promptly report any complaints or observations of Code violations to the Compliance Officer. If you believe your supervisor has not taken appropriate action, you should contact the Compliance Officer directly. The Compliance Officer will investigate all reported possible Code violations promptly and with the highest degree of confidentiality that is possible under the specific circumstances. Neither you nor your supervisor may conduct any preliminary investigation, unless authorized to do so by the Compliance Officer. Your cooperation in the investigation will be expected. As needed, the Compliance Officer will consult with legal counsel, the Human Resources department and/or Audit Committee. It is our policy to employ a fair process by which to determine violations of this Code.

With respect to any complaints or observations of violations that may involve accounting, internal accounting controls and auditing concerns, under the Company's Whistleblower Policy, the Compliance Officer shall promptly inform the Audit Committee, and the Audit Committee shall be responsible for supervising and overseeing the inquiry and any investigation that is undertaken. If a potential violation is reported via the confidential hotline or email address as provided under the Whistleblower Policy, the Audit Committee will be notified automatically and directly.

If any investigation indicates that a violation of this Code has probably occurred, we will take such action as we believe to be appropriate under the circumstances. If we determine that an employee is responsible for a Code violation, he or she will be subject to disciplinary action up to, and including, termination of employment and, in appropriate cases, civil action or referral for criminal prosecution. Appropriate action may also be taken to deter any future Code violations.

17. Changes; Annual Review.

Any changes to this Code may only be made by the Audit Committee and will be recommended to the Board of Directors for approval and effective upon approval by the Board of Directors. The Audit Committee will review and reassess the adequacy of this Code at least annually, and recommend to the Board of Directors any changes the Audit Committee determines are appropriate. All changes must be promptly disclosed as required by law or regulation.

18. Website Disclosure.

This Code, as may be amended from time to time, shall be posted on the Company's website. The Company shall state in its annual proxy statement that this Code is available on the Company's website and provide the website address as required by law or regulation.

Approved: November 5, 2020
Effective: November 5, 2020

Exhibit A

OCUPHIRE PHARMA, INC.

CODE OF BUSINESS CONDUCT AND ETHICS ACKNOWLEDGMENT

I hereby acknowledge that I have received, read, understand and will comply with Ocuphire Pharma, Inc.'s Code of Business Conduct and Ethics (the ***"Code"***).

I will seek guidance from and raise concerns about possible violations of this Code with my supervisor, management and Ocuphire Pharma, Inc.'s Compliance Officer.

I understand that my agreement to comply with this Code does not constitute a contract of employment.

Please sign here:

Print Name: _____

Date: _____

This signed and completed form must be returned to Ocuphire Pharma, Inc.'s Compliance Officer within ten (10) business days of receiving this Code.

Exhibit 16.1

Baker Tilly US, LLP
1650 Market St, Ste 4500
Philadelphia, PA 19103-7341

T: +1 (215) 972 0701
F: +1 (888) 264 9617

bakertilly.com

November 5, 2020

Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Ladies and Gentlemen:

We have read Item 4.01 of Form 8-K of Ocuphire Pharma, Inc. (formerly known as Rexahn Pharmaceuticals, Inc.) ("Ocuphire") for the event that occurred on November 5, 2020 and are in agreement with the statements contained therein insofar as they relate to our Firm. We have no basis to agree or disagree with other statements of Ocuphire contained therein.

Baker Tilly US, LLP

Baker Tilly US, LLP

Exhibit 99.1

Ocuphire Pharma Completes Transactions and Begins Trading on Nasdaq as OCUP

Merger completed with Rexahn Pharmaceuticals creating a Nasdaq-listed Biopharmaceutical Company Focused on Advancing Ocuphire's Late-Stage Clinical Pipeline of Ophthalmic Drug Candidates

Trading under "OCUP" on the Nasdaq Capital Market to begin November 6, 2020

Concurrent $21.15 Million Private Placement led by Institutional Healthcare and Accredited Investors

Conference Call and Live Webcast on Friday, November 6, 2020, at 11 AM Eastern Time

Farmington Hills, Mich. – Nov. 5, 2020 (Globe Newswire) – Ocuphire Pharma, Inc., a clinical-stage ophthalmic biopharmaceutical company focused on developing and commercializing therapies for the treatment of several eye disorders, is pleased to announce the completion of its previously announced merger with Rexahn Pharmaceuticals, Inc. (NasdaqCM: REXN). The combined company will operate under the name Ocuphire Pharma. Its shares will commence trading on the Nasdaq Capital Market and will reflect a 1-for-4 reverse stock split at the open of trading on November 6, 2020, under the ticker symbol "OCUP".

In addition, the Company has announced the closing of the previously announced $21.15 million private placement, with certain institutional healthcare investors led by Altium Capital, accredited investors, and directors and officers of Ocuphire (the "Investors"). Pursuant to this transaction, Ocuphire issued to the Investors shares of Ocuphire common stock immediately prior to the merger and agreed to issue to the Investors warrants to purchase shares of common stock. At closing as a result of the transactions, Ocuphire stockholders including the Investors, own approximately 86.6% of the fully-diluted shares outstanding, with Rexahn stockholders owning approximately 13.4% of the fully-diluted shares outstanding. As of the closing of the merger, there were 7,091,878 shares of common stock outstanding. Based on the $21.15 million purchase price of the private placement, the 1,249,996 shares of the combined company owned by the Investors had an effective price per share of $16.92 per share. Additional shares are held in escrow, which may be released in whole or in part to the Investors or returned to the Company. In addition, each Rexahn stockholder is being issued one contingent value right per post-split share owned, representing the right to receive, during the 15-year period after the closing of the merger, a pro rata share of certain contingent payments, to the extent received by Ocuphire, under Rexahn's prior license agreements or relating to Rexahn's intellectual property, less certain permitted deductions. Cantor Fitzgerald & Co. and Canaccord Genuity LLC acted as co-lead placement agents and financial advisors to Ocuphire in connection with the private placement, and Honigman LLP is serving as legal counsel to Ocuphire. Oppenheimer & Co. Inc. acted as financial advisor to Rexahn for the merger transaction, and Hogan Lovells US LLP is serving as legal counsel to Rexahn.

"We are thrilled to complete this merger, which creates a publicly listed biopharmaceutical company focused on developing and commercializing therapies for the treatment of eye disorders," said Mina Sooch, President and CEO of Ocuphire. "We believe the target product profiles of our two ophthalmic candidates, Nyxol and APX3330, collectively studied in 18 clinical trials and each having market potential, create an opportunity for Ocuphire to become a leading ophthalmic company focused on improving vision and clarity. We look forward to multiple Phase 3 and Phase 2 clinical data readouts in 2021."

Ocuphire has built a pipeline of multiple product candidates with demonstrated clinical activity that targets high value markets. Its lead product candidate, Nyxol® Eye Drops ("Nyxol"), is a once-daily eye drop formulation of phentolamine mesylate designed to reduce pupil diameter and improve visual acuity. Nyxol is being developed for three distinct indications for which Nyxol could be the first approved pharmacological therapy, including dim light or night vision disturbances, pharmacologically-induced mydriasis, and presbyopia. Ocuphire's second product candidate, APX3330, is a twice-a-day oral tablet, designed to target multiple disease pathways that contribute to the pathology of diabetic retinopathy (DR) and diabetic macular edema (DME).

Ocuphire held its end of phase 2 (EOP2) meeting with the FDA in May 2020 to discuss the regulatory pathway for Nyxol in multiple chronic and acute refractive indications. Building on the guidance from the EOP2 meeting and the recent ORION-1 and MIRA-1 clinical trials, Ocuphire has designed its upcoming Phase 3 registration trials accordingly.

Overall, the company plans to initiate two Phase 3 registration trials and two Phase 2 trials across four ophthalmic indications in the fourth quarter of 2020 and the first quarter of 2021. Given the opportunity for faster, shorter ophthalmic clinical trials, data readouts are expected throughout 2021.

Ocuphire's leadership team is comprised of seasoned professionals with decades of experience in the pharmaceutical, biotech, and medical research industries. The senior management team will be comprised of Mina Sooch, President and CEO; Charlie Hoffmann, VP of Corporate Development and Operations; Amy Rabourn, VP of Finance; Konstantinos Charizanis, Senior Director of Market Strategy and R&D; Drey Coleman, Director of Clinical Operations and Vendor Management; and Daniela Oniciu, Head of CMC and Global Supply Manufacturing. Cam Gallagher serves as the Chairman of the Board, with Mina Sooch serving as Vice Chair of the Board and Sean Ainsworth, James Manuso, Alan Meyer, Susan Benton and Rick Rodgers serving as Board members. Ocuphire has also continued to build out its Medical Advisory Board with world-class refractive and retina physicians including Drs. Michael Allingham, David Boyer, Jack Holladay, Edward Holland, Gerald Horn, Peter Kaiser, Paul Karpecki, Mark Kelley, Eliot Lazar, Richard Lindstrom, Marguerite McDonald, Jay Pepose, Thomas Samuelson and Jeffrey Heier.

Conference Call and Webcast Details:

Management will host a conference call and webcast with slides at 11:00 AM Eastern Time on Friday, November 6, 2020, for investors regarding this announcement with details as follows:

Dial in (domestic):	877-407-4018
International:	201-689-8471
Conference ID:	13712275
Webcast:	http://public.viavid.com/index.php?id=142102

The archived webcast will be available on the Investors section of the Ocuphire website.

About Ocuphire Pharma

Ocuphire is a clinical-stage ophthalmic biopharmaceutical company focused on developing and commercializing therapies for the treatment of several eye disorders. Ocuphire's pipeline currently includes two small-molecule product candidates targeting front and back of the eye indications. The company's lead product candidate, Nyxol® Eye Drops, is a once-daily preservative-free eye drop formulation of phentolamine mesylate, a non-selective alpha-1 and alpha-2 adrenergic antagonist designed to reduce pupil size, and is being developed for several indications, including dim light or night vision disturbances, pharmacologically-induced mydriasis, and presbyopia. Ocuphire's second product candidate, APX3330, is a twice-a-day oral tablet, designed to inhibit angiogenesis and inflammation pathways relevant to retinal and choroidal vascular diseases, such as diabetic retinopathy and diabetic macular edema. As part of its strategy, Ocuphire will continue to explore opportunities to acquire additional ophthalmic assets and to seek strategic partners for late stage development, regulatory preparation, and commercialization of drugs in key global markets. Please visit www.clinicaltrials.gov to learn more about Ocuphire's clinical trials. For more information, please visit www.ocuphire.com.

Forward Looking Statements

Statements contained in this press release regarding matters that are not historical facts are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements include, but are not limited to, statements concerning Ocuphire's product candidates and potential. These forward-looking statements are based upon Ocuphire's current expectations and involve assumptions that may never materialize or may prove to be incorrect. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of various risks and uncertainties, including, without limitation: (i) potential adverse reactions or changes to business relationships resulting from the announcement or completion of the merger; (ii) the success and timing of regulatory submissions and pre-clinical and clinical trials; (iii) regulatory requirements or developments; (iv) changes to clinical trial designs and regulatory pathways; (v) changes in capital resource requirements; (vi) risks related to the inability of Ocuphire to obtain sufficient additional capital to continue to advance its product candidates and its preclinical programs; (vii) legislative, regulatory, political and economic developments, and (viii) the effects of COVID-19 on clinical programs and business operations. The foregoing review of important factors that could cause actual events to differ from expectations should not be construed as exhaustive and should be read in conjunction with statements that are included herein and elsewhere, including the risk factors detailed in documents that have been and may be filed by Ocuphire from time to time with the SEC (including the proxy statement/prospectus included in that certain Registration Statement on Form S-4 (File No. 333-239702) initially filed with the SEC on July 6, 2020 and declared effective by the SEC on October 2, 2020. All forward-looking statements contained in this press release speak only as of the date on which they were made. Ocuphire undertakes no obligation to update such statements to reflect events that occur or circumstances that exist after the date on which they were made.

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Exhibit 99.2

Ocuphire PHARMA

Restore Vision & Clarity

Ocuphire Corporate Presentation

November 2020

Disclosures and Forward Looking Statements

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Ocuphire PHARMA

Ocuphire - New Public Ophthalmic Drug Development Company

Nasdaq Symbol: OCUP

- Nasdaq public listing allows for capital access, investor liquidity, and strategic visibility
  - Reverse merger with Rexahn and financing transaction announced in June, closed in November
  - Ocuphire management team, expanded board and field-leading SAB
  - No Rexahn legacy operating/capital obligations (CVR for Rexahn shareholders on existing agreements with Biosense and Haichang)
  - REXN represented by Oppenheimer for the merger
- Concurrent $21+ million PIPE financing led by Altium Capital
  - Pro forma cash provides sufficient capital to fund 4 late-stage clinical trials through their respective readouts in 2021
  - Financing co-led by Cantor Fitzgerald and Canaccord Genuity
- Ocuphire focusing exclusively on ophthalmic drug development
  - Two lead assets: Nyxol Eye Drops and APX3330 oral tablets
  - Two Phase 3 trials and two Phase 2 trials expected to readout in 2021

November 6, 2020

Ocuphire Management Team

Decades of Biotech and Drug Development Experience

Mina Sooch, MBA
Chief Executive Officer

HARVARD BUSINESS SCHOOL

25 years in pharma/biotech industry as a CEO, entrepreneur, venture capitalist and strategist. Raised over 100 million dollars for 2 biotechs, then led private to public on Nasdaq, Recognized as MI Newsmaker of the Year.

Gemphire Therapeutics · Apjohn Ventures · MONITOR · ProNAi

Charlie Hoffmann, MBA
VP Corporate Development and Operations

Tuck School of Business at Dartmouth

25 years in life sciences fundraising, corporate finance, licensing and M&A transactions, and corporate development, Long time advisor to Ocularis/Nyxol.

Ocularis Pharma · Prudential · SynDevRx · Goldman Sachs

Amy Rabourn, CPA
VP Finance

MICHIGAN ROSS

18 years in finance and accounting, for private and public companies, with a focus on life sciences. Held progressive roles including Controller, Director of Finance, and acting CFO.

Gemphire Therapeutics · Pfizer · NeuroBo Pharmaceuticals · pwc

Konstantinos Charizanis, PhD, MBA
Senior Director of Market Strategy and R&D

MICHIGAN ROSS

14 years in medical research, product development, market research, and biotech business development, with a focus on financial modeling, patents and genetics.

RUBICON GENOMICS · Gemphire Therapeutics

Drey Coleman
Director Clinical Operations and Vendor Management

UCF

15 years in ophthalmic pharmaceutical research and development as sponsor and CRO with a focus on clinical operations, vendor management, pharma regulations, and successful contract negotiations.

SIRiON Therapeutics · OCULOS Integrated Insight.

Ocuphire Opportunity

A Late-Stage Clinical Ophthalmic Biotech

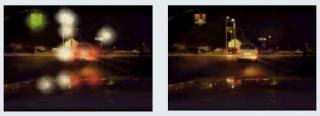
Late Clinical Stage Company Targeting Large, Unmet Ophthalmic Markets	• Nyxol targets multiple chronic and acute front of the eye indications addressing large markets: Dim Light or Night Vision Disturbances (NVD), Reversal of Mydriasis (RM), and Presbyopia (P) • APX3330 targets chronic back of the eye indications: Diabetic Retinopathy (DR) and Diabetic Macular Edema (DME), a leading cause of blindness in diabetic patients
Significant Clinical Data	• Nyxol and APX3330 achieved promising clinical data over multiple Phase 1 and 2 trials ✓ Nyxol with > 150 patients treated across 7 trials ✓ APX3330 with > 340 patients treated across 11 trials
Significant IP Portfolio and Small Molecule CMC Advantages	• US and global issued patents thru 2034 obtained for both assets • Stable, small-molecule drugs ✓ Nyxol = single-use, preservative-free eye drop ✓ APX3330 = oral pill
Multiple Near-Term Data Catalysts with Capital Efficient Plan	• 4 late stage trial readouts (2 Phase 3, 2 Phase 2) expected in 1Q through 4Q 2021 • Capital-efficient operations with a Nyxol NDA filing in one or more indications by early 2023

Ocuphire PHARMA

Large Unmet Opportunities for the Aging Eye

Developing Drugs to Treat Front & Back of the Eye Diseases

Night Vision Disturbances
U.S. Prevalence: ~16M adults

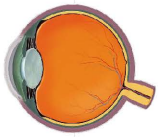


Reversal of Mydriasis
~100M pupil dilations per year in U.S.

Presbyopia
U.S. Prevalence: ~120M

$4-10B US Markets

Front | Back

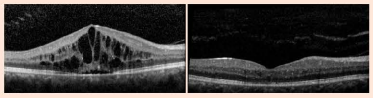


Nyxol®

APX3330

Diabetic Retinopathy
U.S. Prevalence:~ 7M

Diabetic Macular Edema
U.S. Prevalence: ~750K



$4-10B US Markets

Source: GlobalData Market Research Report, 2020

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Ocuphire Pipeline & Upcoming Milestones

Multiple Phase 3 & Phase 2 Clinical Data Catalysts Expected Throughout 2021

	Product Candidate	Indication	Development Stage				Anticipated Milestones
			Pre-clinical	Phase 1	Phase 2	Phase 3	
Ocuphire-Focused Development	0.75% Nyxol® Eye Drop	Dim Light or Night Vision Disturbances (NVD)					Initiate Phase 3 LYNX-1 trial 4Q2020; Data expected in 3Q21 (n=160)
	0.75% Nyxol® Eye Drop	Reversal of Mydriasis (RM)					Initiate Phase 3 MIRA-2 trial 4Q2020; Data expected in 1Q21 (n=168)
	0.75% Nyxol® + Low-Dose Pilocarpine Eye Drops	Presbyopia (P)					Initiate Phase 2 VEGA-1 trial 1Q2021; Data expected in 2Q21 (n=152)
	APX3330 Oral Pill	Diabetic Retinopathy (DR)/ Macular Edema (DME)					Initiate Phase 2 ZETA-1 trial 1Q2021; Data expected in 4Q21 (n=100)
Partnering-Focused Development	APX2009 Intravitreal	DME, Wet Age-Related Macular Degeneration (wAMD)					Next steps: IND enabling studies (with partner funding)
	Combo (0.75% Nyxol® + Latanoprost) Eye Drops	Glaucoma (16 to 24 mmHg)					Next steps: 2nd line add-on Phase 2 trial (with partner funding)

Note: 0.75% Nyxol (Phentalomine Ophthalmic Solution) is the same as 1% Nyxol (Phentalomine Mesylate Ophthalmic Solution)

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Extensive Development on Both Drug Candidates

Well-Controlled Phase 1 & Phase 2 Clinical Programs Set Stage for NDA Path

Nyxol

7
Phase 1 & Phase 2 Trials

> 150
Subjects Dosed

Exposure in Humans
28
Days

Patents to
2034+

Studied in ocular refractory diseases (NVD) & elderly glaucoma patients

505(b)(2) Development Pathway

APX3330

11
Phase 1 & Phase 2 Trials

>340
Subjects Dosed

Exposure in Humans
365
Days

Patents to
2034+

Studied in inflammation/hepatitis & cancer patients

NCE Development Pathway

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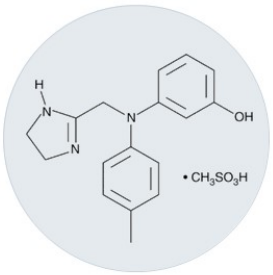
Nyxol®

- **NVD** Night Vision Disturbances
- **P** Presbyopia
- **RM** Reversal of Mydriasis



Phentolamine Mesylate

Nyxol History & MOA

Rationale for Differentiated Product Profile & 505(b)(2) Path

- Nyxol's active ingredient, phentolamine mesylate (PM), is currently approved for 2 indications
  - Pheochromocytoma (60+ years ago, Regitine®) – intravenous injection
  - Reversal of oral anesthesia (10+ years ago, OraVerse®) – intramuscular injection
- PM has been reformulated as a topical eye drop (Nyxol)
- Nyxol is a first-in-class non-selective α1 and α2 blocker product candidate
  - MOA of relaxing the iris dilator muscle (α1)
  - Redness is an on-target α1 effect on sclera vessels (transient, mild)

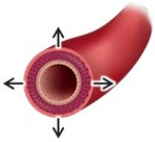
Phentolamine Mesylate

Reduces Pupil Size

α1: Iris Dilator Blockade

Dilates Blood Vessels (Vasodilation)

α1: Smooth Muscle Blockade



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Nyxol Product Candidate Profile

First-in-Class Alpha 1/2 Blocker Eye Drop for Refractory Indications

Nyxol: Phentolamine 0.75% Ophthalmic Solution
Preservative Free, EDTA Free, and Stable

Efficacy Data

Improving Vision

- ↓ Pupil Size (moderate miotic)
- ↑ Contrast Sensitivity (night)
- ↑ Near Visual Acuity (light/dark)
- ↑ Distance Visual Acuity

Safety Data

No Systemic Effects
No Changes in Blood Pressure
No Changes in Heart Rate

Tolerated Topical Effects
Mild / Transient / Reversible Eye Redness

IOP Unchanged or Decreased
↓ Intraocular Pressure (IOP) at Normal Baseline

Chronic daily dosing of Nyxol at bedtime demonstrated ***no significant daytime redness*** *and durability of effects for more than* ***24 hours***

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Night Vision Disturbances (NVD) – Chronic Opportunity

Imperfections in the Eye Affect Night Vision in Millions

The Problem

- Peripheral imperfections scatter light when pupils enlarge in dim light, causing halos, starbursts, and glare that impair vision
- The imperfections maybe caused by LASIK surgery, IOL implants, certain types of cataracts (cortical), and natural reasons (especially with age)
- Symptoms cannot be properly corrected by any type of lens (reading glasses, contact lenses) or surgical procedures

> *"I'm no longer comfortable driving at night, especially with my son in the car. I have a hard time playing beach volleyball in the evenings due to the bright lights at the courts."*
>
> *Post-LASIK, aged 42*

No Currently Approved Therapies

Moderate-to-Severe NVDs	US Patients
Night Myopia	10.8M
Cortical Cataracts	4.1M
Post-LASIK	500k
Post-IOL Implant	300k
Total	~16M

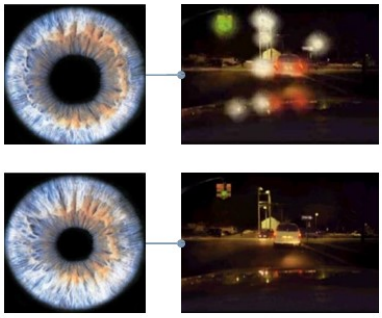
Source: GlobalData Market Research Report, 2020

Night Vision Disturbances (NVD) – Chronic Opportunity

Peripheral Optical Imperfections Allowing Pupil Modulation as a Solution

Nyxol's Potential Differentiated Solution

- **Moderate Decrease in Pupil Size** for scattered light gets blocked by the iris
- **Clinical Effect** to potentially improve low contrast night vision as seen in trials
- **Tolerable** with a minimal side effect profile
- **Convenient and Durable** with chronic once-daily evening dose



Before

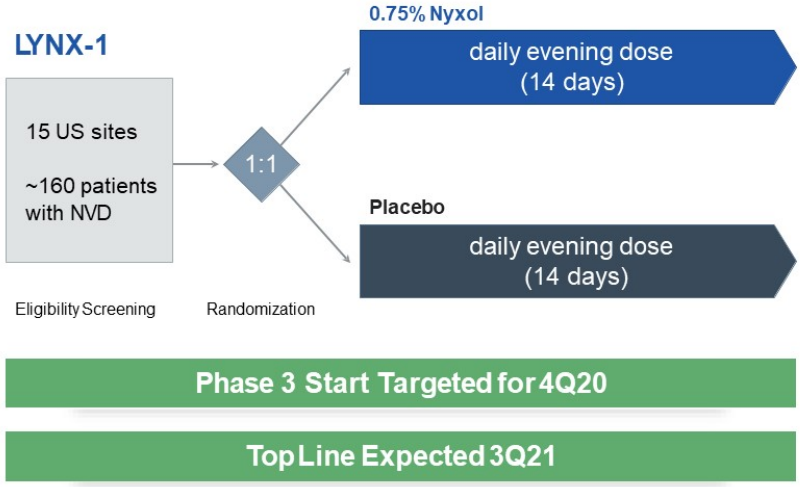
After

> *"It seems like a simple process with really no side effects."*
>
> *Cataract respondent, aged 62*

Ocuphire Pharma

NVD LYNX-1 Phase 3 Registration Design

Planned Randomized, Double-Masked, Placebo-Controlled Trial



Phase 3 Start Targeted for 4Q20

Top Line Expected 3Q21

Endpoints

Primary: % of subjects with ≥ 3 lines of improvement in mesopic low contrast best-corrected distance visual acuity (Day 8)

Secondary (Days 8 & 15):

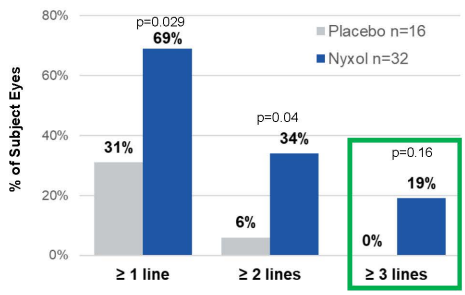
- Pupil diameter
- Visual acuity measures (distance and near)
- Safety and tolerability (redness)

Nyxol Demonstrated Clinical Effect in NVD

Key Endpoints Observed in Multiple Phase 2 Trials

NYX-SNV Phase 2 Trial

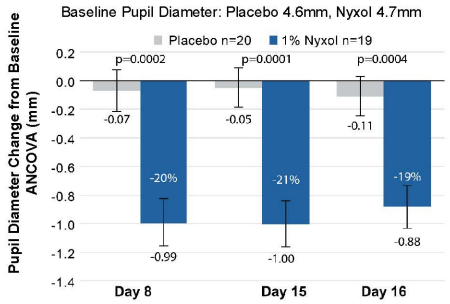
Improved Low Contrast Distance Visual Acuity*



Source NYX-SNV

ORION-1 Phase 2 Trial

Durable > 24 hour Pupil Modulation Effect



Source: NYXG-201

* NYX-SNV trial was small and not designed for a statistical 3-line improvement in low-contrast visual acuity; the 20% effect was used for powering and size of Phase 3 trial

Reversal of Mydriasis (RM) – Acute Treatment

Annual Exams and Specialty Visits Involve Dilation to Monitor Eye Health

The Problem

- At every annual eye exam and many specialty visits, patients' pupils are pharmacologically dilated, impairing vision for 6-24 hours
- Dilated eyes:
  - heightened sensitivity to light
  - inability to focus
  - reading, working, and driving are difficult

> *"I have to stay indoors. They say it only lasts a few hours, but it lasts all day, and it is very annoying."*
>
> *RM Patient, Aged 51*

No Currently Approved Therapies

~100M eye exams / year in US

Source: GlobalData Market Research Report, 2020

Reversal of Mydriasis (RM) – Acute Treatment

Single Use Indication Leveraging a Precedent Approval Pathway

Nyxol's Potential Differentiated Solution

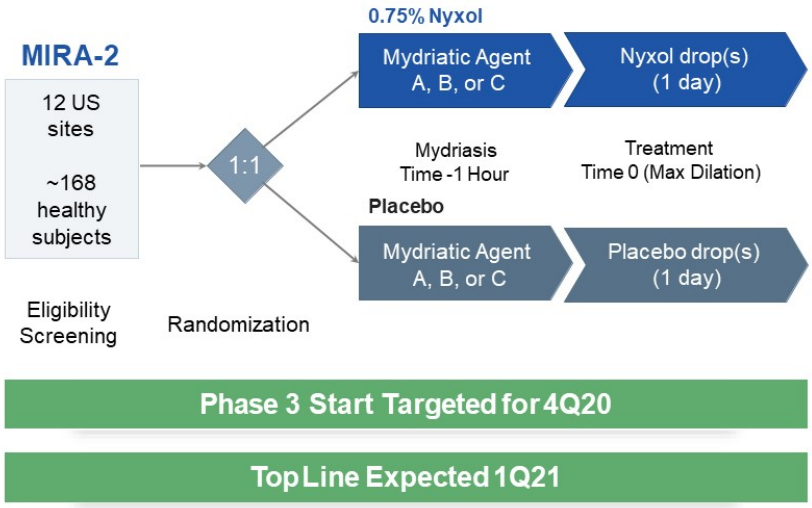
- **Regulatory Precedent** with RevEyes (an alpha 1 blocker), approved by the FDA in 1990 but shortly thereafter discontinued (not for safety or efficacy reasons)
- **Clinical Effect** to potentially reduce pupil size and reverse mydriasis by counteracting the drugs (alpha agonists and cholinergic blockers) used to dilate the pupil
- **Convenient** eye drop given at the office that may allow patients' vision to return to normal sooner
- **Tolerable** with a minimal side effect profile

Before

After

RM MIRA-2 Phase 3 Registration Design

Planned Randomized, Double-Masked, Placebo-Controlled, Parallel, One-Day Trial



Phase 3 Start Targeted for 4Q20

Top Line Expected 1Q21

Endpoints

Primary: % of subjects returning to baseline (within 0.2 mm) pupil diameter at 90 min or less

Secondary:

- % of subjects returning to baseline at 30min, 1h, 2h, 3h, 4h, 6h, 24h
- Mean change in pupil diameter from mydriatic max at all timepoints
- Accommodation (Tropicamide)
- Safety and tolerability (redness)

Mydriatic Agents: Phenylephrine, Tropicamide, Paremyd® (combination)

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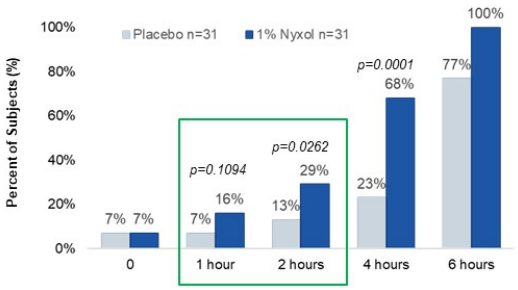
Nyxol Demonstrated Clinical Effect in RM

Key Endpoints Observed from MIRA-1 Phase 2b Trial

MIRA-1 Phase 2 Trial

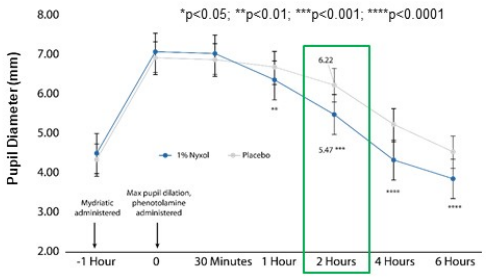
Nyxol Reduces More Subjects to Pupil Diameter (PD) Baseline

Percent of Subjects Returning to ≤ 0.2 mm of Baseline after Treatment With either Phenylephrine or Tropicamide



Nyxol Reduces PD Faster Across Phenylephrine & Tropicamide Mydriatic agents

Reduction in Pupil Diameter after Patients received either Phenylephrine 2.5% or Tropicamide 1.0% in Study Eye



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Presbyopia – Chronic Opportunity

Aging Population Drives Demand for Alternatives to Reading Glasses

The Problem

- Lens loses ability to change shape when viewing objects up close as we age
- Dependence on reading glasses for intermittent and prolonged use
- Growing need for therapies that improve, rather than hinder, quality of life

> "Effectively everyone over 40 will have the problems with reading."
>
> *Physician KOL*

No Currently Approved Therapies

Source: GlobalData Market Research Report, 2020

Ocuphire Pharma

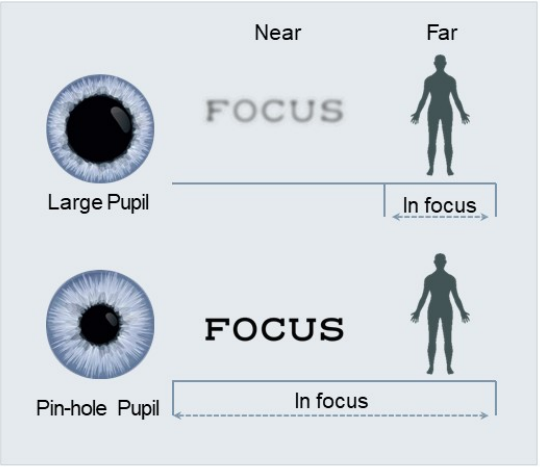
Presbyopia – Chronic Opportunity

Pupil Modulation Eye Drops May Replace Reading Glasses

Nyxol's Potential Differentiated Solution

- **"Pin-hole"** effect of Nyxol and low dose pilocarpine may improve near vision by increasing depth of focus as validated by other devices/therapies
- **More durable** combination of two miotics affecting different muscles involved in pupil size modulation
- **Tolerable** use with minimal side effects expected with chronic evening use of Nyxol

> *"This would just become part of my daily routine for my eyes to be able to see things up close. How convenient is that?"*
>
> *Presbyopic Patient, age 49*

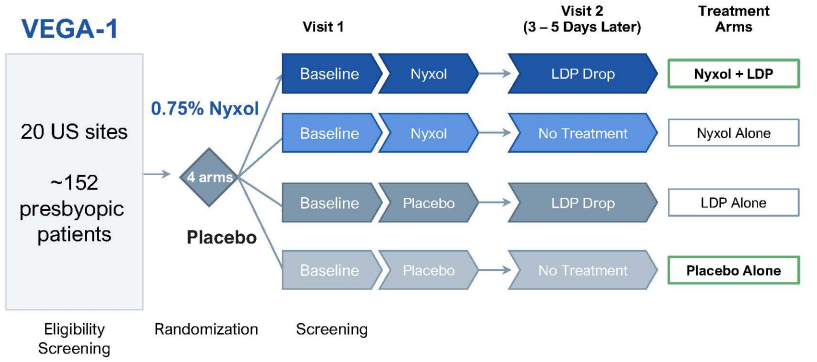


Retinaeyedoctor.com,, GlobalData Market Research Report, 2020

Ocuphire Pharma

Presbyopia VEGA-1 Phase 2 Proposed Design

Planned Randomized, Double-Masked, Placebo-Controlled Trial



Phase 2 Start Targeted for 1Q20

Top Line Expected 2Q21

Endpoints

Primary: % of subjects with ≥ 3 lines of improvement in distance-corrected near visual acuity comparing Nyxol + LDP vs placebo alone at 1 hour

Secondary:

- % of subjects with ≥ 2 and ≥ 3 lines gained at time points from 30 min to 6 hours in photopic and mesopic lighting comparing Nyxol + LDP vs placebo, Nyxol alone, and LDP alone
- No loss of distance vision
- Pupil diameter at time points
- Safety and tolerability (redness)

LDP= low-dose pilocarpine (0.4%)

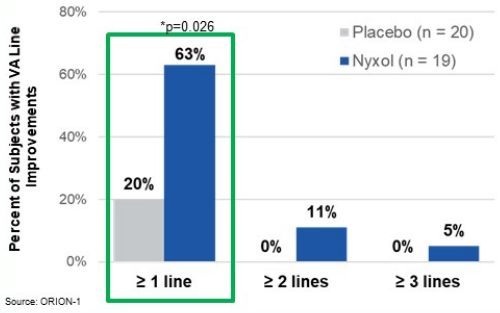
Nyxol Demonstrated Clinical Effect in Presbyopia

Key Endpoints Observed from Multiple Phase 2 Trials

ORION-1 Phase 2 Trial

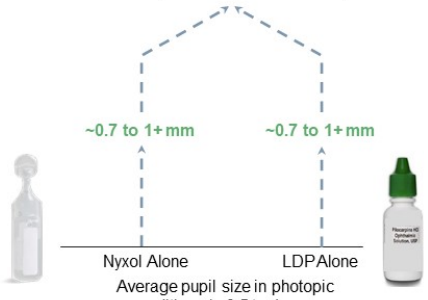
Improvements in DCNVA with Nyxol Alone With No Change in Distance Vision

Near VA Line Improvement at Day 15
(Full Analysis Set, Study Eye, Photopic)



Pinhole PD Size Illustrated with Addition of LDP to Nyxol

1.5 to 2+ mm PD reduction
Achieve the pin-hole (1.6 to 2 mm) effect



Average pupil size in photopic conditions is 3.5 to 4+ mm

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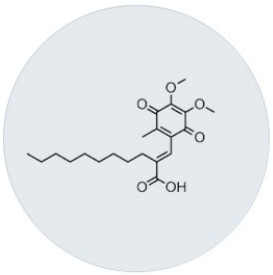
APX3330

- **DR** Diabetic Retinopathy
- **DME** Diabetic Macular Edema
- **wAMD** Wet Age-Related Macular Degeneration

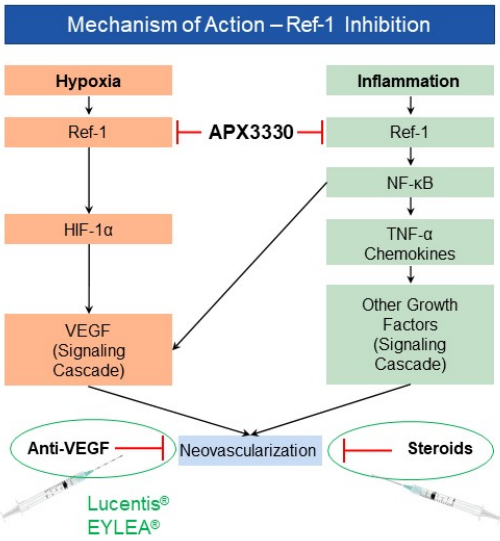


APX3330

APX3330 is a Ref-1 Inhibitor

Ref-1 Involved in Multiple Pathways that Contribute to Diabetic Retinopathy and DME

- APX3330 is a small molecule oral drug candidate and a first-in-class inhibitor of Ref-1
- Ref-1 (reduction-oxidation effector factor-1) is a novel target discovered and characterized by Dr. Mark R. Kelley at Indiana University School of Medicine
- APX3330 previously developed by Eisai for multiple hepatic inflammatory indications and later by Apexian for advanced solid tumors
  - Similar oncology origin as approved anti-VEGFs
- MOA uniquely decreases both abnormal angiogenesis and inflammation by blocking pathways downstream of Ref-1



Logsdon et al (2018), Li et al (2014).

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APX3330 Product Candidate Profile

First-in-Class Ref-1 Inhibitor Phase 2 Ready for Retina Diabetic Indications

APX3330: 600mg Oral Dose
(120mg or 300mg tablets)

Expected Efficacy Data

Improving Eye Health in Diabetics
↓ Inflammation
↓ Hypoxia Signaling
↓ Abnormal Angiogenesis

Enhance Compliance & Exposure
Oral pill may reduce the burden of frequent anti-VEGF injections

Safety Data

Few Systemic Adverse Effects
- Mild Gastrointestinal (diarrhea)
- Mild Skin Rash (Reversible)
- Lack of Significant Acute Neurologic, Cardiovascular, Liver, or Pulmonary toxicity

No Topical Effects
- No observed ocular AEs

Twice a day dosing of APX3330 anticipated to provide steady state effectiveness with a tolerable chronic safety profile

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Diabetic Retinopathy & Macular Edema

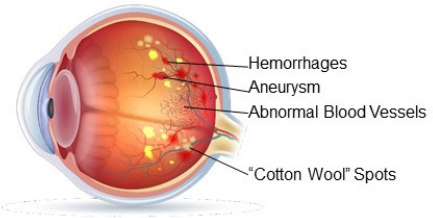
Non-Injectable Alternative Therapies are Needed For Earlier Stages of Disease

The Problem

- Diabetic retinopathy (DR) and diabetic macular edema (DME) are a leading cause of vision loss worldwide, especially in working age adults in developed countries
- Diabetes damages small blood vessels within the eye causing leakage, oxygen starvation, and abnormal vessel growth, which can obstruct vision
- Current treatment: 25% non-responders, 50% partial responders to anti-VEGF

Injectable Anti-VEGF Approved Therapies Not Commonly Used for NPDR

Diabetic Eye



Diabetic Eye Opportunity	
DR	~7.7M Patients
DME	~750K Patients

Sources: Global Market Insights Report 2019-2025, Market Watch 2019 Report, Gene.com Retinal Diseases Fact Sheet

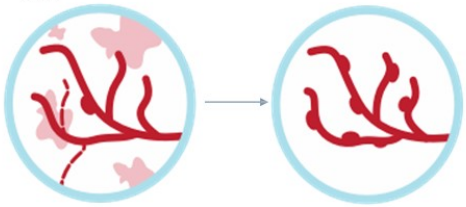
Diabetic Retinopathy & Macular Edema

APX3330 to Treat Patients Before Vision Loss Occurs

APX3330's Potential Differentiated Solution

- **Potential First Oral Therapy** to be used as an earlier intervention for the diabetic eye before vision symptoms appear or as add-on therapy to current anti-VEGF treatment
- **Proven Unique Mechanism** that may decrease both inflammation and VEGF activity
- **Convenient** option for patients to potentially alleviate the burden of injections and increase compliance
- **Tolerable** as seen in 11 completed Phase 1 and Phase 2 clinical trials

DR



DME

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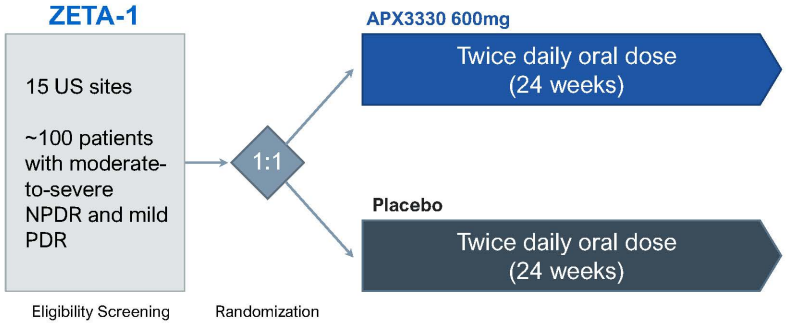
DR/DME ZETA-1 Phase 2 Proposed Design

Planned Randomized, Double-Masked, Placebo-Controlled Trial



Phase 2 Start Targeted for 1Q21

Top Line Expected 4Q21

Endpoints

Primary: % of subjects with a ≥ 2 step improvement on the DRSS (Diabetic Retinopathy Severity Scale) score at week 24

Secondary:

- Central subfield thickness (CST)
- BCDVA (ETDRS)
- Safety and tolerability

Exploratory:

- Labs / PK

NPDR = non-proliferative diabetic retinopathy (which includes non centrally involved diabetic macular edema)
PDR = proliferative diabetic retinopathy (which includes non centrally involved diabetic macular edema)

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APX3330 Generally Well Tolerated with Clinical Signals

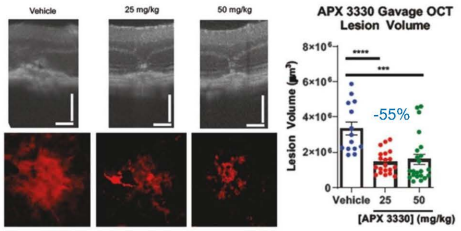
DR DME

Observations from Pre-Clinical Studies and 11 Clinical Trials of APX3330

L-CNV Mouse Retina Model

APX3330 Reduces Neovascularization Similar to Eylea in Preclinical Models

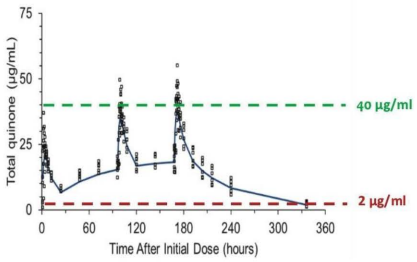
Lesion Size and Corresponding Fluorescent Stains in L-CNV Models Treated with APX3330 at 25 mg/kg



Phase 1 Clinical Trials

Human Drug Exposure Multiple Times Higher than Mouse Efficacious Levels

Human Pharmacokinetics of APX3330 at 120 mg/kg/day



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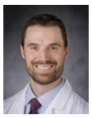

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2020 to 2022 Cadence of Milestones

Multiple Data Catalysts for Value-Building

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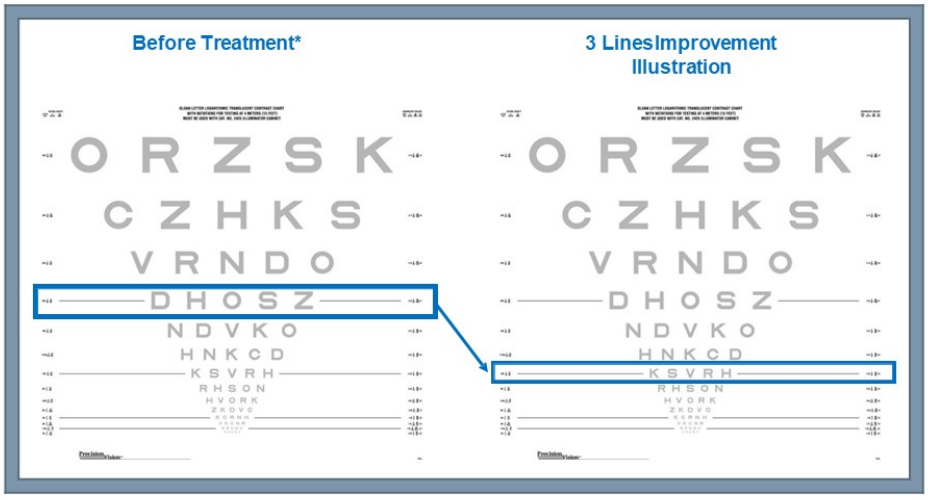
NVD Endpoint: 5% Low Contrast Visual Acuity (LCVA) Chart

FDA Accepted Endpoint for Contrast Sensitivity Assessment

Primary Endpoint of Nyxol LYNX-1 Trial

Percent of subjects with ≥ 3 lines of improvement in mesopic low contrast best-corrected distance visual acuity (7 days)



** Inclusion Criteria includes subjects with baseline mesopic LCVA of 20/100 or worse*

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DR/DME Endpoint: Diabetic Retinopathy Severity Scale (DRSS)

FDA Accepted Endpoint for DR (EYLEA® in PANORAMA Pivotal Trial)

Primary Endpoint of APX3330 ZETA-1 Trial

Percent of patients with a ≥ 2 step improvement on the DRSS score at week 24

Patients included in the ZETA-1 Trial

DRSS Score	1 (10)	2 (20)	3 (35)	4 (43)	5, 6 (47, 53)	7 – 13 (60, 61, 65, 71, 75, 85,90)
Description	DR Absent	Micro-aneurysm only	Mild NPDR	Moderate NPDR	Moderately Severe NPDR	PDR – Mild, Moderate, and Severe
Retinal Image	 Healthy blood vessels with no bulges	 Small bulges in blood vessel walls as well as other signs in the retina	 More changes in the blood vessels in the retina and small spots of blood can become more visible	 More blood vessels in larger areas of the retina show changes	 Many of the blood vessels in the retina show visible changes	 Increased growth of new, damaged blood vessels

A 13-point Scale Outlining the Various Stages of Diabetic Retinopathy

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