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): October 18, 2022

Ayala Pharmaceuticals, Inc.
(Exact Name of Registrant as Specified in Its Charter)

Delaware	001-39279	82-3578375
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)

Oppenheimer 4
Rehovot, Israel 7670104
(Address of Principal Executive Offices) (Zip Code)

Registrant's Telephone Number, Including Area Code: (857) 444-0553

(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:

☒ 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, $0.01 par value per share	**AYLA**	**The Nasdaq Global 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.

Agreement and Plan of Merger

On October 18, 2022, Ayala Pharmaceuticals, Inc. ("Ayala"), entered into an Agreement and Plan of Merger (the "Merger Agreement") with Advaxis, Inc., a Delaware corporation ("Advaxis"), and Doe Merger Sub, Inc., a Delaware corporation and a wholly-owned subsidiary of Advaxis ("Merger Sub"), pursuant to which Merger Sub will merge with and into Ayala, with Ayala as the surviving corporation and a wholly-owned subsidiary of Advaxis (the "Merger" and, collectively with the other transactions contemplated by the Merger Agreement, the "Transactions"). As a result of the Merger, Advaxis will be renamed "Ayala Pharmaceuticals, Inc."

The Merger Agreement provides, among other things, that on the terms and subject to the conditions set forth therein: (i) each share of the common stock, par value $0.01 per share, of Ayala (the "Ayala Common Stock") issued and outstanding immediately prior to the Merger shall be automatically converted into the right to receive 0.1874 shares (as such amount may be adjusted as provided in the Merger Agreement, the "Exchange Ratio") of the common stock, par value $0.001 per share, of Advaxis (the "Advaxis Common Stock"), (iii) each outstanding option to purchase shares of the Ayala Common Stock (each, an "Ayala Option") will be substituted and converted automatically into an option (each, an "Advaxis Replacement Option") to purchase the number of shares of Advaxis Common Stock equal to the product obtained by multiplying (a) the number of shares of Ayala Common Stock subject such Ayala Option immediately prior to the effective time of the Merger, by (b) the Exchange Ratio, with any fractional shares rounded down to the nearest whole share, with each such Advaxis Replacement Option to have an exercise price per share of Advaxis Common Stock equal to (x) the per share exercise price for the shares of Ayala Common Stock subject to the corresponding Ayala Option immediately prior to the effective time of the Merger, divided by (y) the Exchange Ratio, rounded up to the nearest whole cent, and (iv) each restricted stock unit of Ayala (each, an "Ayala RSU") outstanding immediately prior to the effective time of the Merger, whether or not vested or issuable, will be substituted and converted automatically into a restricted stock unit award of Advaxis with respect to a number of shares of Advaxis Common Stock equal to the product obtained by multiplying (i) the total number of shares of Ayala Common Stock subject to such Ayala RSU immediately prior to the effective time of the Merger by (ii) the Exchange Ratio, with any fractional shares rounded down to the nearest whole share.

Upon completion of the Merger, Ayala stockholders will own approximately 62.5 % of the combined company's outstanding common stock and Advaxis stockholders will own approximately 37.5%, subject to the terms of the Merger Agreement. No fractional shares will be issued in connection with the Merger and Advaxis will pay cash in lieu of any such fractional shares. The Merger is intended to qualify for U.S. federal income tax purposes as a tax-free reorganization under the provisions of Section 368(a) of the Internal Revenue Code of 1986, as amended.

Consummation of the Merger is subject to certain closing conditions, including, among other things, (i) approval of the Merger Agreement and the Transactions by the stockholders of Ayala (the "Ayala Stockholder Approval"); (ii) the effectiveness of a registration statement on Form S-4 filed by Advaxis registering the shares of Advaxis Common Stock to be issued in connection with the Merger; (iii) receipt of all required state securities or "blue sky" authorizations for the issuance of such shares of Advaxis Common Stock, except for such authorizations the lack of receipt of which would not reasonably be expected to have a material adverse impact on any of the parties to the Merger Agreement or their respective affiliates; (iv) the absence of any law or judgment of a governmental entity of competent jurisdiction that is in effect and restrains, enjoins, or otherwise prohibits consummation of the Merger; (v) the absence of a material adverse effect on the business, financial condition or results of operations of, respectively, (a) Ayala and its subsidiaries, taken as a whole or (b) Advaxis and its subsidiaries, taken as a whole; (vi) the accuracy of Ayala's and Advaxis's representations and warranties, subject to specified materiality qualifications; (vii) compliance by Ayala and Advaxis with its respective covenants in the Merger Agreement in all material respects; and (viii) delivery of customary closing documents, including a customary officer certificate from Ayala and Advaxis.

The Merger Agreement and the consummation of the Transactions have been unanimously approved by the Ayala board of directors, and the Ayala board of directors has resolved to recommend the adoption of the Merger Agreement and the Transactions by the stockholders of Ayala. Ayala and Advaxis have each agreed not to solicit alternative transactions, subject to customary exceptions, including among others, the Ayala board of directors could change its

recommendation to the stockholders of Ayala regarding the Merger if they determine that an unsolicited acquisition proposal from a third party constitutes a Company Superior Proposal (as defined in the Merger Agreement). Ayala and Advaxis have each agreed, among other things, subject to certain exceptions, not to, directly or indirectly, (1) solicit, initiate, induce, encourage, or facilitate, any inquiries or the making of any alternative proposal or offer for specified alternative transactions, (2) participate in any discussions or negotiations or cooperate in any way regarding such an alternative proposal or offer, (3) provide any non-public information or data concerning itself or any of its subsidiaries in connection with such an alternative proposal or offer or for the purpose of soliciting, initiating, inducing, encouraging or facilitating such an alternative proposal or offer, (4) enter into any binding or nonbinding agreement with respect to such an alternative proposal or offer, (5) adopt, approve or recommend such an alternative proposal or offer, or take any action or exempt any person from the restriction on business combinations or any similar provision contained in applicable takeover laws or its organizational or other governing documents, or (6) resolve, publicly propose or agree to do any of the foregoing.

The Merger Agreement contains representations, warranties and covenants by Ayala and Advaxis that are customary for a transaction of this nature, including among others, the covenant regarding the conduct of their respective businesses during the pendency of the Transactions, public disclosures and the use of reasonable best efforts to make all filings required by governmental entities following the execution of the Merger Agreement. In addition, certain covenants require each of the parties to use, subject to the terms and conditions of the Merger Agreement, their reasonable best efforts to cause the Merger to be consummated as promptly as practicable. Subject to certain exceptions, the Merger Agreement also requires Ayala to call and hold a stockholders' meeting and requires the board of directors of Ayala to recommend approval of the Merger.

The Merger Agreement contains customary termination rights for both Ayala and Advaxis, including the right of Ayala or Advaxis to terminate the Merger Agreement (i) if the Merger has not been consummated by 11:59 p.m. (Eastern Standard Time) on April 18, 2023, or (ii) to accept a Company Superior Proposal or a Parent Superior Proposal (as defined in the Merger Agreement), as applicable, after complying with certain requirements.

The Merger Agreement provides that the payment of a $600,000 termination fee will be payable:

(i) by Ayala to Advaxis if (a) prior to Ayala's shareholders adopting the Merger Agreement, Advaxis terminates the Merger Agreement due to (I) the board of directors of Ayala changing its recommendation to the stockholders regarding the Merger, (II) Ayala's failure to include the recommendation of the Ayala board of directors in the proxy/prospectus to be prepared in connection with the Merger, (III) Ayala's entry into a competing acquisition proposal or (IV) Ayala's material breach or failure to perform in any material respect its obligations with respect to its non-solicitation covenant; (b) prior to Ayala's shareholders adopting the Merger Agreement, Ayala terminates the Merger Agreement due to the board of directors of Ayala's authorization, to the extent permitted by its non-solicitation covenant, of Ayala's entry into a Company Superior Proposal and, concurrently with Ayala's termination of the Merger Agreement, Ayala enters into such Company Superior Proposal; or (c) after the date of the Merger Agreement, (I) a competing acquisition proposal is made to Ayala and becomes publicly known prior to the meeting of Ayala shareholders to adopt the Merger Agreement and such proposal is not withdrawn at the time of such meeting, (II) the Merger Agreement is terminated by Ayala or Advaxis due to a failure to obtain the consent of the shareholders of Ayala to adopt the Merger Agreement or by Advaxis due to Ayala's failure to satisfy the condition to the Merger regarding the accuracy of Ayala's representations and warranties or compliance with its covenants and (III) within 12 months after such termination, Ayala enters into an acquisition agreement pursuant to a competing acquisition offer or consummates a competing acquisition offer; or

(ii) by Advaxis to Ayala if (a) prior to Ayala's shareholders adopting the Merger Agreement, Ayala terminates the Merger Agreement due to (I) Advaxis's entry into a competing acquisition proposal or (II) Advaxis's material breach or failure to perform in any material respect its obligations with respect to its non-solicitation covenant; or (b) prior to Ayala's shareholders adopting the Merger Agreement, Advaxis terminates the Merger Agreement due to the board of directors of Advaxis's authorization, to the extent permitted by its non-solicitation covenant, of Advaxis's entry into a Parent Superior Proposal and, concurrently with Advaxis's termination of the Merger Agreement, Advaxis enters into such Parent Superior Proposal.

Immediately after the effective time of the Merger, the board of directors of the combined company is expected to consist of seven members, with two such members designated by Advaxis, such Advaxis designees being Roni A. Appel and Samir N. Khleif, M.D., and five such members designated by Ayala, such Ayala designees being Kenneth A. Berlin, Vered Bisker-Leib, Ph.D., Murray A. Goldberg, David Sidransky, M.D. and Robert Spiegel, M.D., and the executive officers of the combined company will be Kenneth A. Berlin, Chief Executive Officer, Andres A. Gutierrez, M.D., Ph.D., Chief Medical Officer, and Igor Gitelman, Chief Financial Officer.

Closing of the Merger is expected to occur during the first quarter of 2023. The representations, warranties, agreements and covenants of the parties set forth in the Merger Agreement will terminate at the Closing.

The Merger Agreement has been included to provide investors and security holders with information regarding its terms. It is not intended to provide any other factual information about Ayala, Advaxis or any of their respective subsidiaries or affiliates. The representations, warranties and covenants contained in the Merger Agreement were made by the parties thereto only for purposes of the Merger Agreement and as of specific dates as set forth therein; were made solely for the benefit of the parties to the Merger Agreement; may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures exchanged between the parties in connection with the execution of the Merger Agreement; may have been made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts; and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of Ayala, Advaxis or Merger Sub or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in Ayala's or Advaxis's public disclosures.

The foregoing summary of the Merger Agreement does not purport to be complete and is qualified in its entirety be reference to the full copy of the Merger Agreement, which is attached as Exhibit 2.1 to this Current Report on Form 8-K (the "Form 8-K") and incorporated into this Item 1.01 by reference.

Voting and Support Agreements

On October 18, 2022, concurrently with the execution of the Merger Agreement, Advaxis entered into voting and support agreements (each a "Voting Agreement" and together the "Voting Agreements") with each of Israel Biotech Fund I, L.P. and aMoon Growth Fund Limited Partnership (each in its capacity as a stockholder of Ayala), pursuant to which, among other things and subject to the terms and conditions therein, each such stockholder agreed to vote all shares of capital stock of Ayala that it beneficially owns, representing approximately 22.4 % and 20.3 %, respectively, of the total current outstanding voting power of Ayala, in favor of, among other things, the approval and adoption of the Merger Agreement and the Transactions, including the Merger. The Voting Agreements provide that, in the event of a Company Change in Recommendation (as defined in the Merger Agreement), the number of shares of capital stock of Ayala subject to the Voting Agreements shall only be 30% of the total current outstanding voting power of Ayala, and the number of shares of capital stock of Ayala of each of Israel Biotech Fund I, L.P. and aMoon Growth Fund Limited Partnership subject to the Voting Agreements shall be reduced proportionately based on the number of shares of capital stock of Ayala subject thereto.

The foregoing summary of the Voting Agreements does not purport to be complete and is qualified in its entirety by reference to the Voting Agreements, copies of which are attached as Exhibits 10.1 and 10.2 to this Form 8-K and incorporated into this Item 1.01 by reference.

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

In connection with the closing of the Merger, each of Roni Mamluk, Ph.D., Chief Executive Officer and principal executive officer of Ayala, and Yossi Maimon, Chief Financial Officer, principal financial officer and principal accounting officer of Ayala, will resign from Ayala, effective as of the closing of the Merger.

Kenneth A. Berlin will be appointed to serve as Chief Executive Officer and principal executive officer of Ayala and Igor Gitelman will be appointed to serve as Chief Financial Officer, principal financial officer and principal accounting officer of Ayala, in each case upon the effectiveness of each of Dr. Mamluk's and Mr. Maimon's resignation from Ayala, respectively.

On October 18, 2022, Ayala-Oncology Israel Ltd. ("Ayala-Oncology") entered into a letter agreement with each of Dr. Mamluk and Mr. Maimon, and Ayala entered into a letter agreement with Gary Gordon, Chief Medical Officer of Ayala (collectively, the "Letter Agreements"). The Letter Agreements provide that Dr. Mamluk and Mr. Maimon will terminate employment with Ayala-Oncology as of immediately following the closing of the Merger. The Letter Agreement with Dr. Gordon addresses any termination of his employment by Ayala without "cause" or by Dr. Gordon for "justified reason", as each term is defined in Dr. Gordon's employment agreement, within the 12-month period following the Merger and provides that no demotion in position or reduction in duties or authority in connection with the Merger that is agreed to by Dr. Gordon will provide a basis for a Justified Reason resignation.

Pursuant to the Letter Agreements and consistent with their respective employment agreements with Ayala or Ayala-Oncology, as applicable, following their termination of employment, each of Dr. Mamluk, Mr. Maimon and Dr. Gordon will receive a cash severance payment in the amount of the sum of their respective annual base salary and target annual bonus amount, which shall be paid in equal installment payments in accordance with Ayala's normal payroll practices over a 12-month period, and accelerated vesting of all unvested equity awards they hold. Receipt of the severance benefits is conditioned upon the recipient's execution and non-revocation of a waiver and release in favor of Ayala and its affiliates.

Each of Dr. Mamluk, Mr. Maimon and Dr. Gordon has further agreed, during a 12-month period following the closing of the Merger, not to transfer any shares of Ayala or Advaxis Common Stock received in connection with their accelerated unvested equity awards, other than for the payment of any taxes or exercise price associated with the exercise, vesting or settlement of the accelerated awards.

The foregoing description of the Letter Agreements does not purport to be complete and is qualified in its entirety by reference to the Letter Agreements, copies of which are attached as Exhibits 10.3, 10.4 and 10.5 to this Form 8-K and incorporated into this Item 5.02 by reference.

Item 7.01. Regulation FD Disclosure.

On October 19, 2022, Ayala issued a joint press release with Advaxis announcing the Merger Agreement. The full text of the joint press release is filed as Exhibit 99.1 to this Form 8-K and is incorporated herein by reference.

On October 19, 2022, Ayala and Advaxis held a conference call to discuss the proposed transaction (the "Joint Conference Call"). A copy of the script of the Joint Conference Call is attached hereto as Exhibit 99.2.

In accordance with General Instruction B.2 of Form 8-K, the foregoing information, including Exhibits 99.1 and 99.2, shall not be deemed "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section, nor shall such information, including Exhibits 99.1 and 99.2, be deemed incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing

Important Information about the Merger and Where to Find It

This communication relates to a proposed transaction between Ayala Pharmaceuticals, Inc. ("Ayala") and Advaxis, Inc. ("Advaxis"). In connection with the proposed transaction, Advaxis intends to file with the Securities and Exchange Commission ("SEC") a registration statement on Form S-4 that will include a proxy statement of Ayala and that will constitute a prospectus with respect to shares of Advaxis's common stock to be issued in the proposed transaction ("Proxy Statement/Prospectus"). Each of Ayala and Advaxis may also file other documents with the SEC regarding the proposed transaction. This document is not a substitute for the Proxy Statement/Prospectus or any other document which Ayala or Advaxis may file with the SEC. INVESTORS, AYALA STOCKHOLDERS AND ADVAXIS STOCKHOLDERS ARE URGED TO READ THE PROXY STATEMENT/PROSPECTUS AND ANY OTHER RELEVANT DOCUMENTS THAT ARE OR WILL BE FILED WITH THE SEC, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO THESE DOCUMENTS, CAREFULLY AND IN THEIR ENTIRETY

BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION AND RELATED MATTERS. Investors, Ayala stockholders and Advaxis stockholders will also be able to obtain free copies of the Proxy Statement/Prospectus (when available) and other documents containing important information about Ayala, Advaxis and the proposed transaction that are or will be filed with the SEC by Ayala or Advaxis through the website maintained by the SEC at www.sec.gov. Copies of the documents filed with the SEC by Advaxis will also be available free of charge on Advaxis's website at https://www.advaxis.com/financial-information/sec-filings or by contacting Advaxis's investor relations department by email at ir@advaxis.com. Copies of the documents filed with the SEC by Ayala will also be available free of charge at https://ir.ayalapharma.com/financial-information/sec-filings or by contacting Ayala's investor relations department by email at jallaire@lifesciadvisors.com.

Participants in the Solicitation

Ayala and Advaxis and certain of their respective directors and executive officers may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction. Information regarding Ayala's directors and executive officers, including a description of their direct or indirect interests, by security holdings or otherwise, is contained in Ayala's proxy statement for its 2022 annual meeting of stockholders which was filed with the SEC on April 27, 2022. Information regarding Advaxis's directors and executive officers, including a description of their direct or indirect interests, by security holdings or otherwise, is contained in Advaxis's proxy statement for its 2022 annual meeting of stockholders which was filed with the SEC on February 28, 2022. Additional information regarding the direct and indirect interests of the participants in the solicitation of proxies in connection with the proposed transaction, including the interests of Ayala and Advaxis directors and executive officers in the transaction, which may be different than those of Ayala and Advaxis stockholders generally, will be contained in the Proxy Statement/Prospectus and any other relevant documents that are or will be filed with the SEC relating to the transaction. You may obtain free copies of these documents using the sources indicated above.

No Offer or Solicitation

This communication is not intended to and shall not constitute an offer to sell or the solicitation of an offer to buy or sell any securities or a solicitation of any vote or approval, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

Cautionary Statement Regarding Forward-Looking Statements

Certain statements contained in this filing may be considered forward-looking statements within the meaning of the U.S. Private Securities Litigation Reform Act of 1995, including statements regarding the proposed transaction involving Ayala and Advaxis and related transactions, their ability to consummate the proposed transaction, and the timing for closing of the proposed transaction. Forward-looking statements generally include statements that are predictive in nature and depend upon or refer to future events or conditions, and include words such as "may," "will," "should," "would," "expect," "anticipate," "plan," "likely," "believe," "estimate," "project," "intend," and other similar expressions among others. Statements that are not historical facts are forward-looking statements. Forward-looking statements are based on current beliefs and assumptions that are subject to risks and uncertainties and are not guarantees of future performance. Actual results could differ materially from those contained in any forward-looking statement as a result of various factors, including, without limitation: (i) the risk that the conditions to the closing of the proposed transaction are not satisfied, including the failure to timely or at all obtain stockholder approval for the proposed transaction or the failure to timely or at all obtain any required regulatory clearances; (ii) uncertainties as to the timing of the consummation of the proposed transaction and the ability of each of Ayala and Advaxis to consummate the proposed transaction; (iii) the ability of Ayala and Advaxis to integrate their businesses successfully and to achieve anticipated synergies; (iv) the possibility that other anticipated benefits of the proposed transaction will not be realized, including without limitation, anticipated revenues, expenses, earnings and other financial results, and growth and expansion of the combined company's operations, and the anticipated tax treatment of the combination; (v) potential litigation relating to the proposed transaction that could be instituted against Ayala, Advaxis or their respective directors; (vi) possible disruptions from the proposed transaction that could harm Ayala's and/or Advaxis's respective businesses; (vii) the ability of Ayala and Advaxis to retain, attract and hire key personnel; (viii) potential

adverse reactions or changes to relationships with customers, employees, suppliers or other parties resulting from the announcement or completion of the proposed transaction; (ix) potential business uncertainty, including changes to existing business relationships, during the pendency of the proposed transaction that could affect Ayala's or Advaxis's financial performance; (x) certain restrictions during the pendency of the proposed transaction that may impact Ayala's or Advaxis's ability to pursue certain business opportunities or strategic transactions; (xi) legislative, regulatory and economic developments; (xii) unpredictability and severity of catastrophic events, including, but not limited to, acts of terrorism or outbreak of war or hostilities, as well as management's response to any of the aforementioned factors; and (xiii) such other factors as are set forth in Ayala's periodic public filings with the SEC, including but not limited to those described under the heading "Risk Factors" in Ayala's Form 10-K for the fiscal year ended December 31, 2021, and Advaxis's periodic public filings with the SEC, including but not limited to those described under the heading "Risk Factors" in Advaxis's Form 10-K for the fiscal year ended October 31, 2021. Ayala can give no assurance that the conditions to the proposed transaction will be satisfied. Except as required by applicable law, Ayala undertakes no obligation to revise or update any forward-looking statement, or to make any other forward-looking statements, whether as a result of new information, future events or otherwise.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
2.1	Agreement and Plan of Merger, dated as of October 18, 2022, by and among Advaxis, Inc., Doe Merger Sub, Inc., and Ayala Pharmaceuticals, Inc.*
10.1	Voting and Support Agreement, dated as of October 18, 2022, by and between Advaxis, Inc. and Israel Biotech Fund I, L.P.
10.2	Voting and Support Agreement, dated as of October 18, 2022, by and between Advaxis, Inc. and aMoon Growth Fund Limited Partnership
10.3	Letter Agreement, dated as of October 18, 2022, by and between Ayala-Oncology Israel Ltd. and Roni Mamluk
10.4	Letter Agreement, dated as of October 18, 2022, by and between Ayala-Oncology Israel Ltd. and Yossi Maimon
10.5	Letter Agreement, dated as of October 18, 2022, by and between Ayala Pharmaceuticals, Inc. and Gary Gordon
99.1	Joint Press Release of Ayala Pharmaceuticals, Inc. and Advaxis, Inc. dated October 19, 2022
99.2	Transcript of Joint Conference Call of Ayala Pharmaceuticals, Inc. and Advaxis, Inc. dated October 19, 2022
104	Cover Page Interactive Data File (the Cover Page XBRL tags are embedded within the Inline XBRL document)

* The schedules to the Agreement and Plan of Merger have been omitted from this filing pursuant to Item 601(b)(2) of Regulation S-K. Ayala will furnish copies of any such schedules to the SEC upon request.

SIGNATURES

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

Ayala Pharmaceuticals, Inc.

Date: October 19, 2022

By: /s/ Roni Mamluk
Roni Mamluk, Ph.D.
Chief Executive Officer and President

Exhibit 2.1

Execution Version

AGREEMENT AND PLAN OF MERGER

among

ADVAXIS, INC.,

AYALA PHARMACEUTICALS, INC.

and

DOE MERGER SUB, INC.

Dated as of October 18, 2022

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS

DEFINED TERMS INDEX

Defined Term	Section
Company Product	Section 3.16(d)
Company Real Estate Leases	Section 3.17(b)
Company Registered IP	Section 3.15(a)
Company SEC Documents	Section 3.6(a)
Company Stockholder Approval	Section 3.4(b)
Company Stockholders Meeting	Section 5.5(a)
Company Superior Proposal	Section 5.2(d)
Company Voting Agreement	Recitals
Company Warrant	Section 2.3(d)
DGCL	Recitals
Effective Time	Section 1.3
Exchange Agent	Section 2.2(a)
Exchange Fund	Section 2.2(a)
Excluded Share	Section 2.1(a)(i)
Excluded Shares	Section 2.1(a)(i)
FDA Ethics Policy	Section 3.16(f)
Indemnified Persons	Section 5.11(a)
IRB	Section 3.16(i)
Proxy Statement/Prospectus	Section 5.4
Merger	Recitals
Merger Consideration	Section 2.1(a)(i)
Merger Sub	Preamble
Parent	Preamble
Parent Balance Sheet	Section 4.7
Parent Board	Recitals
Parent Certifications	Section 4.6(a)
Parent Common Stock	Section 4.3(a)
Parent Disclosure Schedule	Article IV
Parent SEC Documents	Section 4.6(a)
Parent Share Issuance	Section 4.4(a)
Parties	Preamble
Party	Preamble
Payor	Section 7.8(a)
Pre-Closing Period	Section 5.1(a)
Recipient	Section 7.8(a)
Registration Statement	Section 5.4
Reports	Section 3.16(e)
Representatives	Section 5.2(a)
Sensitive Data	Section 3.15.(g)
Shares	Recitals
Surviving Company	Section 1.1
Termination Date	Section 7.2(a)
Uncertificated Shares	Section 2.1(a)(ii)
Willful Breach	Section 7.7

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (hereinafter referred to as this "**Agreement**"), dated as of October 18, 2022, among Ayala Pharmaceuticals, Inc., a Delaware corporation (the "**Company**"), Advaxis, Inc., a Delaware corporation ("**Parent**"), and Doe Merger Sub, Inc., a Delaware corporation and a wholly owned Subsidiary of Parent ("**Merger Sub**"). Parent, Merger Sub and the Company are each sometimes referred to herein as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. The Parties wish to effect a business combination through the merger of Merger Sub with and into the Company, with the Company being the surviving corporation (the "**Merger**").

B. In connection with the Merger, each outstanding share of common stock, par value $0.01 per share, of the Company ("**Shares**") issued and outstanding immediately prior to the Effective Time shall be cancelled and each holder of Shares shall have the right to receive the Merger Consideration upon the terms and subject to the conditions set forth in this Agreement and in accordance with the General Corporation Law of the State of Delaware (the "**DGCL**") (other than Shares to be cancelled in accordance with Section 2.1(a)(iii)).

C. The board of directors of the Company (the "**Company Board**") has (i) determined that the Contemplated Transactions, including the Merger, are advisable and in the best interests of the Company and its stockholders, (ii) approved and declared advisable this Agreement and the Contemplated Transactions and (iii) resolved to recommend the adoption of this Agreement by the Company's stockholders (the "**Company Board Recommendation**").

D. The board of directors of Parent (the "**Parent Board**") has (i) determined that the Contemplated Transactions, including the Merger and the Parent Share Issuance, are advisable and in the best interests of Parent and its stockholders and (ii) approved and declared advisable this Agreement and the Contemplated Transactions.

E. The board of directors of Merger Sub, by resolutions duly adopted, has (i) determined that the Contemplated Transactions, including the Merger, are advisable and in the best interests of Merger Sub and its sole stockholder and (ii) approved and declared advisable this Agreement and the Contemplated Transactions.

F. Concurrently with the execution and delivery of this Agreement, and as a condition and inducement to Parent's willingness to enter into this Agreement, certain stockholders of the Company have entered into an agreement with Parent (the "**Company Voting Agreement**") pursuant to which each such stockholder has agreed, among other things, to vote the Shares it holds in favor of this Agreement, the Merger and the other Contemplated Transactions.

G. For U.S. federal income Tax purposes, it is intended that (i) the Merger will qualify as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "**Code**") (such treatment, the "**Intended Tax Treatment**") and (ii) this Agreement be, and it is hereby adopted as a "plan of reorganization" within the meaning of Treasury Regulations Section 1.368-2(g).

NOW, THEREFORE, in consideration of the premises, and of the representations, warranties, covenants and agreements contained herein, the Parties hereby agree as follows:

ARTICLE I
THE MERGER; CLOSING; SURVIVING COMPANY

1.1. The Merger. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, Merger Sub shall be merged with and into the Company and the separate corporate existence of Merger Sub shall thereupon cease. The Company shall be the surviving company in the Merger (sometimes hereinafter referred to as the "**Surviving Company**"), and the separate corporate existence of the Company with all its rights, privileges, immunities, powers and franchises shall continue unaffected by the Merger, except as set forth in Article II. The Merger shall have the effects specified in this Agreement and the DGCL.

1.2. Closing. The closing of the Merger (the "**Closing**") shall take place (a) via electronic exchange of required Closing documentation, as soon as reasonably practicable, and in no event later than three Business Days following the day on which the last to be satisfied or waived of each of the conditions set forth in Article VI (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions) shall have been satisfied or waived in accordance with this Agreement or (b) at such other place and time and/or on such other date as the Company and Parent may otherwise agree in writing (the date on which the Closing occurs, the "**Closing Date**").

1.3. Effective Time. Upon the Closing, the Company and Parent will cause the certificate of merger with respect to the Merger in the form attached hereto as Exhibit A (the "**Certificate of Merger**") to be executed, acknowledged and filed with the Secretary of State of the State of Delaware as provided in the DGCL. The Merger shall become effective at the time when the Certificate of Merger has been duly filed with the Secretary of State of the State of Delaware, or at such later time as may be agreed upon by the Parties in writing and set forth in the Certificate of Merger in accordance with the DGCL (the "**Effective Time**").

1.4. The Certificate of Incorporation. At the Effective Time, the certificate of incorporation of the Company shall be amended and restated in its entirety as set forth in Exhibit B hereto and as so amended and restated shall be the Certificate of Incorporation of the Surviving Company (the "**Certificate of Incorporation**"), until thereafter amended as provided therein or by applicable Law.

1.5. The Bylaws. At the Effective Time, the bylaws of the Company shall be amended and restated to conform to the bylaws of Merger Sub (except that references to the name of Merger Sub shall be replaced with the name of the Company) (the "**Bylaws**"), and as so amended and restated shall be the Bylaws of the Surviving Company until thereafter amended as provided therein or by applicable Law.

1.6. Directors of Parent. The Parties shall take all actions necessary so that the directors and officers of Parent, each to hold office in accordance with Parent's Organizational Documents, shall be as set forth in Section 5.14 after giving effect to the provisions of Section 5.14, or such other Persons as shall be mutually agreed upon by Parent and the Company until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Certificate of Incorporation and the Bylaws.

1.7. Directors and Officers of the Surviving Company. The Parties shall take all actions necessary so that immediately after the Effective Time, the directors and officers of the Surviving Company shall be as set forth on Exhibit C under the heading "Directors and Officers – Surviving Company" until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Certificate of Incorporation and the Bylaws.

ARTICLE II
EFFECT OF THE MERGER ON SECURITIES; EXCHANGE

2.1. Effect on Capital Stock.

(a) At the Effective Time, as a result of the Merger and without any action on the part of the holder of any capital stock of the Company, Parent or Merger Sub:

(i) Merger Consideration. Each Share issued and outstanding immediately prior to the Effective Time (other than Shares held in treasury, if any (each such Share, an "**Excluded Share**" and, collectively, "**Excluded Shares**")) shall be automatically converted into the right to receive a number of shares of Parent Common Stock equal to the Exchange Ratio (the aggregate shares of Parent Common Stock issued by applying the Exchange Ratio in accordance with this Section 2.1, the "**Merger Consideration**").

(ii) At the Effective Time, all of the Shares (other than Excluded Shares) shall cease to be outstanding, shall be cancelled and shall cease to exist, and (A) each certificate (a "**Certificate**") formerly representing any of the Shares (other than Excluded Shares) and (B) each book-entry account formerly representing any uncertificated Shares ("**Uncertificated Shares**") (other than Excluded Shares) shall thereafter represent only the right to receive the Merger Consideration, any distributions or dividends payable pursuant to Section 2.2(c) and cash in lieu of any fractional shares of Parent Common Stock payable pursuant to Section 2.2(e), without interest, in each case to be issued or paid in consideration therefor upon surrender of such Certificate in accordance with Section 2.2, in the case of certificated Shares, and upon receipt by the Exchange Agent of an "agent's message" in customary form in accordance with Section 2.2(h) in the case of Uncertificated Shares.

(iii) Cancellation of Excluded Shares. Each Excluded Share shall, by virtue of the Merger and without any action on the part of the Company, Parent, Merger Sub or the holder thereof, cease to be outstanding, shall be cancelled without payment of any consideration therefor and shall cease to exist.

(b) Merger Sub. Each share of common stock, par value $0.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and become one validly issued, fully paid and nonassessable share of common stock, $0.01 par value per share, of the Surviving Company, and such converted shares shall constitute the only outstanding shares of capital stock of the Surviving Company.

(c) Adjustments to Exchange Ratio. If, between the time of calculating the Exchange Ratio and the Effective Time, the outstanding shares of Company Capital Stock or Parent Common Stock shall have been changed into, or exchanged for, a different number of shares or a different class, by reason of any stock dividend, subdivision, reclassification, recapitalization, split, combination or exchange of shares or other like change, the Exchange Ratio shall, to the extent necessary, be equitably adjusted to reflect such change to the extent necessary to provide the holders of Company Capital Stock, Parent Common Stock, Company Options, Company RSUs and Company Warrants with the same economic effect as contemplated by this Agreement prior to such stock dividend, subdivision, reclassification, recapitalization, split, combination or exchange of shares or other like change; provided, however, that nothing herein will be construed to permit the Company or Parent to take any action with respect to Company Capital Stock or Parent Common Stock, respectively, that is prohibited or not expressly permitted by the terms of this Agreement.

2.2. Exchange of Certificates.

(a) Exchange Agent and Exchange Fund. Prior to the Effective Time, Parent shall designate a bank or trust company reasonably acceptable to the Company as the exchange agent in connection with the Merger (the "**Exchange Agent**"). The Exchange Agent shall also act as the agent for the Company's stockholders for the purpose of receiving and holding their Certificates and Uncertificated Shares and shall obtain no rights or interests in the shares represented thereby. At the Closing, Parent shall issue and cause to be deposited with the Exchange Agent: (i) evidence of book-entry shares representing non-certificated shares of Parent Common Stock issuable pursuant to Section 2.1(a); and (ii) cash sufficient to make payments in lieu of fractional shares in accordance with Section 2.2(e). The shares of Parent Common Stock and cash amounts so deposited with the Exchange Agent, together with any dividends or distributions received by the Exchange Agent with respect to such shares of Parent Common Stock, are referred to collectively as the "**Exchange Fund**."

(b) Exchange Procedures. Promptly after the Effective Time (and in any event within five Business Days thereafter), the Exchange Agent shall mail to each holder of record of Shares represented by a Certificate (other than holders of Excluded Shares) or Uncertificated Shares (i) a letter of transmittal in customary form specifying that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates (or affidavits of loss in lieu of the Certificates as provided in Section 2.2(g)) or Uncertificated Shares to the Exchange Agent, such letter of transmittal to be in such form and have such other provisions as Parent and the Company may reasonably agree, and (ii) instructions for surrendering the Certificates (or affidavits of loss in lieu of the Certificates as provided in Section 2.2(g)) or Uncertificated Shares (including instructions for sending an "agent's message" in customary form (or such other evidence, if any, as the Exchange Agent may reasonably request)) to the Exchange Agent. Upon surrender of a Certificate (or affidavit of loss in lieu of the Certificate as provided in Section 2.2(g)) to the Exchange Agent in accordance with the terms of such letter of transmittal or with respect to Uncertificated Shares receipt of an "agent's message" in customary form (or such other evidence, if any, as the Exchange Agent may reasonably request) by the Exchange Agent, the holder of such Certificate or Uncertificated Share shall be entitled to receive in exchange therefor non-certificated shares of Parent Common Stock in book-entry form and cash in lieu of any fractional share of Parent Common Stock pursuant to Section 2.2(e) and any dividends or other distributions pursuant to Section 2.2(c), less any required Tax withholdings as provided in Section 2.4. The Certificate or Uncertificated Share so surrendered shall forthwith be cancelled. Until due surrender of the Certificates or Uncertificated Shares, each Certificate and Uncertificated Share shall be deemed, from and after the Effective Time, to represent only the right to receive shares of Parent Common Stock (and cash in lieu of any fractional share of Parent Common Stock pursuant to Section 2.2(e)). In the event of a transfer of ownership of Shares that is not registered in the transfer records of the Company, the applicable portion of Merger Consideration to be exchanged upon due surrender of the Certificate or Uncertificated Share pursuant to Section 2.1(a) may be issued and paid to such transferee if the Certificate formerly representing such Shares is presented to the Exchange Agent, accompanied by all documents required to evidence and effect such transfer and to evidence that any applicable stock transfer Taxes have been paid or are not applicable.

(c) Distributions with Respect to Unexchanged Shares. All shares of Parent Common Stock to be issued pursuant to the Merger shall be deemed issued and outstanding as of the Effective Time and whenever a dividend or other distribution is declared by Parent in respect of the Parent Common Stock, the record date for which is after the Effective Time, that declaration shall include dividends or other distributions in respect of all shares of Parent Common Stock issuable in the Merger. No dividends or other distributions in respect of the Parent Common Stock issued pursuant to the Merger shall be paid to any holder of any un-surrendered Certificate or Uncertificated Share until such Certificate (or affidavit of loss in lieu thereof as provided in Section 2.2(g)) or Uncertificated Share is surrendered for exchange in accordance with this Article II. Subject to the effect of applicable Laws, following surrender of any such

Certificate (or affidavit of loss in lieu thereof as provided in Section 2.2(g)) or Uncertificated Share, there shall be issued and/or paid to the holder of the whole shares of Parent Common Stock issued in exchange therefor, without interest thereon, (A) at the time of such surrender, the dividends or other distributions with a record date after the Effective Time theretofore payable with respect to such whole shares of Parent Common Stock and not paid and (B) at the appropriate payment date, the dividends or other distributions payable with respect to such whole shares of Parent Common Stock with a record date after the Effective Time, but with a payment date subsequent to surrender.

(d) Transfers. From and after the Effective Time, there shall be no transfers on the stock transfer books of the Company of the Shares that were outstanding immediately prior to the Effective Time.

(e) Fractional Shares. No certificate or scrip representing fractional shares of Parent Common Stock shall be issued upon the surrender for exchange of Certificates or Uncertificated Shares, and such fractional share interests shall not entitle the owner thereof to vote or to any other rights of a stockholder of Parent. The Exchange Agent, acting as agent for the holders of Shares otherwise entitled to receive fractional shares of Parent Common Stock, will aggregate all fractional shares of Parent Common Stock that would otherwise have been required to be distributed and cause them to be sold in the open market for the accounts of such holders. Notwithstanding any other provision of this Agreement, each holder of Shares who would otherwise have been entitled to receive a fraction of a share of Parent Common Stock shall receive, in lieu thereof, cash, rounded to the nearest whole cent and without interest, in an amount equal to the proceeds from such sale by the Exchange Agent, if any, less any brokerage commissions or other fees, transfer Taxes or other out-of-pocket transaction costs, as well as any expenses of the Exchange Agent incurred from the sale of such fractional shares of Parent Common Stock in accordance with such holder's fractional interest in the aggregate number of shares of Parent Common Stock sold.

(f) Termination of Exchange Fund. Any portion of the Exchange Fund (including the proceeds of any investments of the Exchange Fund) that remains unclaimed by the holders of Shares for 180 days after the Effective Time shall be delivered, at Parent's option, to Parent. Any holder of Shares (other than Excluded Shares) who has not theretofore complied with Section 2.2(b) shall thereafter look only to Parent for delivery of any shares of Parent Common Stock, payment of cash in lieu of fractional shares and any dividends and other distributions in respect of the Parent Common Stock to be issued or paid pursuant to the provisions of this Article II (after giving effect to any required Tax withholdings as provided in Section 2.4) upon due surrender of its Certificates (or affidavits of loss in lieu of the Certificates as provided in Section 2.2(g)) or Uncertificated Shares, without any interest thereon. Notwithstanding the foregoing, none of the Surviving Company, Parent, Exchange Agent or any other Person shall be liable to any former holder of Shares for any amount properly delivered to a public official pursuant to applicable abandoned property, escheat or similar Laws. To the fullest extent permitted by Law, immediately prior to the date any Merger Consideration would otherwise escheat to or become the property of any Governmental Entity, such Merger Consideration shall become the property of the Surviving Company, free and clear of all claims or interest of any Person previously entitled thereto.

(g) Lost, Stolen or Destroyed Certificates. In the event any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed, and, if required by Parent or the Exchange Agent, the posting by such Person of a bond in such reasonable amount as Parent or the Exchange Agent, as applicable, may direct as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent will issue in exchange for such lost, stolen or destroyed Certificate, the cash in lieu of fractional shares, shares of Parent Common Stock and any dividends and other distributions in respect of the Parent Common Stock that would have been issuable or payable pursuant to the provisions of this Article II (after giving effect to any required Tax withholdings as provided in Section 2.4) had such lost, stolen or destroyed Certificate been surrendered.

(h) Uncertificated Shares. Any holder of Uncertificated Shares shall not be required to deliver a Certificate or an executed letter of transmittal to the Exchange Agent to receive the Merger Consideration, any dividends or other distributions payable pursuant to Section 2.2(c) and cash in lieu of any fractional shares of Parent Common Stock payable pursuant to Section 2.2(e) that such holder is entitled to receive pursuant to this Article II in respect of such Uncertificated Shares. In lieu thereof, each registered holder of one or more Uncertificated Shares whose Shares were converted into the right to receive the Merger Consideration, any distributions or dividends payable pursuant to Section 2.2(c) and cash in lieu of any fractional shares of Parent Common Stock payable pursuant to Section 2.2(e), shall, upon receipt by the Exchange Agent of an "agent's message" in customary form (or such other evidence, if any, as the Exchange Agent may reasonably request), be entitled to receive, and the Surviving Company shall cause the Exchange Agent to pay and deliver as soon as reasonably practicable after the Effective Time, the Merger Consideration, any dividends or other distributions payable pursuant to Section 2.2(c) and cash in lieu of any fractional shares of Parent Common Stock payable pursuant to Section 2.2(e) for each Uncertificated Share, and the Uncertificated Shares of such holder shall forthwith be cancelled. No interest will be paid or accrued on any amount payable to a holder of Uncertificated Shares.

2.3. Treatment of Equity Awards and Warrants.

(a) At the Effective Time, each Company Option that is outstanding and unexercised immediately prior to the Effective Time shall, without any action on the part of Parent, the Company or the holder thereof, cease to represent a right to acquire Shares and shall be substituted and converted automatically into a Parent option award to purchase the number of shares of Parent Common Stock (each, an "**Adjusted Option**") equal to the product obtained by *multiplying* (i) the number of Shares subject to the Company Option immediately prior to the Effective Time, by (ii) the Exchange Ratio, with any fractional shares rounded down to the nearest whole share. Each Adjusted Option shall have an exercise price per share of Parent Common Stock equal to (x) the per share exercise price for Shares subject to the corresponding Company Option immediately prior to the Effective Time, *divided by* (y) the Exchange Ratio, rounded up to the nearest whole cent. Each Adjusted Option shall otherwise be subject to the same terms and conditions applicable to the corresponding Company Option under the applicable Company Stock Incentive Plan and the agreements evidencing grants thereunder, including vesting terms and provisions.

(b) At the Effective Time, each Company RSU that is outstanding immediately prior to the Effective Time, whether or not vested or issuable, shall, as of the Effective Time, automatically and without any action on the part of the holder thereof, be substituted and converted automatically into a Parent restricted stock unit award with respect to a number of shares of Parent Common Stock (each, an "**Adjusted RSU**") equal to the product obtained by multiplying (i) the total number of Shares subject to such Company RSU immediately prior to the Effective Time by (ii) the Exchange Ratio, with any fractional shares rounded down to the nearest whole share. Each Adjusted RSU shall otherwise be subject to the same terms and conditions applicable to the corresponding Company RSU under the applicable Company Stock Incentive Plan and the agreements evidencing grants thereunder, including vesting terms.

(c) Further Action. At or prior to the Effective Time, the Company and the Company Board shall adopt any resolutions and take any actions which are reasonably necessary to effectuate the treatment of the Company RSUs and Company Options (collectively, the "**Company Equity Awards**") set forth in this Section 2.3. At the Effective Time, Parent (i) shall assume the Company Equity Awards in accordance with the terms of this Section 2.3 and (ii) may, in its sole discretion, assume sponsorship of the Company Stock Incentive Plan, provided that references to the Company in the Company Stock Incentive Plan and award agreements for the Company Equity Awards shall thereupon be deemed reference to Parent and references to Shares therein shall be deemed references to Parent Common Stock with appropriate equitable adjustments in accordance with the terms of the Company Stock Incentive Plan to reflect the Contemplated Transactions.

(d) At the Effective Time, each warrant that is outstanding and unexercised immediately prior to the Effective Time (a "**Company Warrant**") shall be treated in accordance with its terms.

(e) Notwithstanding anything to the contrary in the foregoing, in all cases, the exercise price of, and the number of Parent Common Stock subject to, each Adjusted Option shall be determined as necessary to comply with Sections 424 and 409A of the Code.

2.4. Withholding Rights. Each of Parent, the Merger Sub, the Company, Surviving Company and the Exchange Agent shall be entitled to deduct and withhold from the consideration otherwise payable to Persons pursuant to this Agreement any amounts it is required to deduct and withhold with respect to the making of such payment under the Code or any other applicable state, local or foreign Tax Law. To the extent that amounts are so withheld and timely remitted by Parent, the Merger Sub, the Company, the Surviving Company or the Exchange Agent, as the case may be, to the applicable Governmental Entity, such amounts shall be treated for all purposes of this Agreement as having been paid to such Person in respect of which such deduction and withholding was made. The Parties shall cooperate in good faith to eliminate or reduce any such deduction or withholding (including through the request and provision of any statements, forms or other documents to reduce or eliminate any such deduction or withholding) to the extent permitted by applicable Law.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Parent as set forth in the statements contained in this Article III except as set forth in the Company SEC Documents filed with, or furnished to, the SEC prior to the date hereof and publicly available on the SEC's Electronic Data Gathering Analysis and Retrieval system (but (i) without giving effect to any amendment thereof filed with, or furnished to, the SEC on or after the date hereof and (ii) excluding any disclosures contained under the heading "Risk Factors" and any disclosure of risks included in any "forward-looking statements" disclaimer or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature) or in the disclosure letter delivered by the Company to Parent at or before the execution and delivery of this Agreement (the "**Company Disclosure Schedule**"). The Company Disclosure Schedule shall be arranged in numbered and lettered sections corresponding to the numbered and lettered sections contained in this Article III, and the disclosure in any section of the Company Disclosure Schedule shall be deemed to qualify other sections in this Article III to the extent that it is reasonably apparent on the face of such disclosure that such disclosure also qualifies or applies to such other sections.

3.1. Organizational Documents. The Company has made available to Parent accurate and complete copies of the Organizational Documents of the Company and each of its Subsidiaries in effect as of the date of this Agreement. Neither the Company nor any of its Subsidiaries is in material breach or violation of its respective Organizational Documents.

3.2. Due Organization; Subsidiaries.

(a) The Company is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Delaware, and has all necessary corporate power and authority: (i) to conduct its business in the manner in which its business is currently being conducted; (ii) to own or lease and use its property and assets in the manner in which its property and assets are currently owned or leased and used; and (iii) to perform its obligations under all Contracts by which it is bound, except where the failure to have such power or authority would not reasonably be expected to prevent or materially delay the ability of the Company to consummate the Contemplated Transactions.

(b) The Company is duly licensed and qualified to do business, and is in good standing (to the extent applicable in such jurisdiction), under the Laws of all jurisdictions where the nature of its business requires such licensing or qualification other than in jurisdictions where the failure to be so qualified individually or in the aggregate would not be reasonably expected to have a Company Material Adverse Effect.

(c) The Company has no Subsidiaries, except for the entities identified in Section 3.2(c) of the Company Disclosure Schedule; and neither the Company nor any of the entities identified in Section 3.2(c) of the Company Disclosure Schedule owns any capital stock of, or any equity, ownership or profit sharing interest of any nature in, or controls directly or indirectly, any other entity other than the entities identified in Section 3.2(c) of the Company Disclosure Schedule. Each of the Company's Subsidiaries is a corporation or other legal entity duly organized, validly existing and, if applicable, in good standing under the Laws of the jurisdiction of its organization and has all necessary corporate or other power and authority to conduct its business in the manner in which its business is currently being conducted and to own or lease and use its property and assets in the manner in which its property and assets are currently owned or leased and used, except where the failure to have such power or authority would not be reasonably expected to have a Company Material Adverse Effect.

(d) Neither the Company nor any of its Subsidiaries is or has otherwise been, directly or indirectly, a party to, member of or participant in any partnership, joint venture or similar business entity. Neither the Company nor any of its Subsidiaries has agreed or is obligated to make or is bound by any Contract under which it may become obligated to make, any future investment in or capital contribution to any other entity. Neither the Company nor any of its Subsidiaries has, at any time, been a general partner of, or has otherwise been liable for any of the debts or other obligations of, any general partnership, limited partnership or other entity.

3.3. Capitalization.

(a) The authorized capital stock of the Company as of the date of this Agreement consists of 200,000,000 shares of common stock, par value $0.01 per share ("**Company Common Stock**"), of which 14,833,327 shares have been issued and are outstanding as of the close of business on the Reference Date, and 10,000,000 shares of preferred stock, par value $0.01 per share ("**Company Preferred Stock**"), of which no shares have been issued and are outstanding as of the date of this Agreement. The Company does not hold any shares of its capital stock in its treasury.

(b) Section 3.3(b) of the Company Disclosure Schedule lists, as of the Reference Date, (A) each holder of issued and outstanding Company Warrants, (B) the number and type of shares subject to each Company Warrant, (C) the exercise price of each Company Warrant and (D) the termination date of each Company Warrant.

(c) All of the outstanding shares of Company Common Stock have been duly authorized and validly issued and are fully paid and nonassessable. None of the outstanding shares of Company Common Stock is entitled or subject to any preemptive right, right of participation, right of maintenance or any similar right and none of the outstanding shares of Company Common Stock is subject to any right of first refusal in favor of the Company. Except as contemplated herein and as set forth in Section 3.3(c)(i) of the Company Disclosure Schedule, there is no Company Contract relating to the voting

or registration of, or restricting any Person from purchasing, selling, pledging or otherwise disposing of (or granting any option or similar right with respect to), any shares of Company Common Stock. Except as set forth in Section 3.3(c)(ii) of the Company Disclosure Schedule, the Company is not under any obligation, nor is it bound by any Contract pursuant to which it may become obligated, to repurchase, redeem or otherwise acquire any outstanding shares of Company Common Stock or other securities.

(d) Except for the Company Stock Incentive Plan, the Company does not have any stock option plan or any other plan, program, agreement or arrangement providing for any equity-based compensation for any Person. As of the close of business on the Reference Date, the Company has (i) reserved 2,404,255 shares of Company Common Stock for issuance under the Company Stock Incentive Plan, of which 132,450 shares have been issued and are currently outstanding, of which no shares are subject to the Company's right of repurchase, 1,141,927 shares have been reserved for issuance upon exercise of Company Options previously granted and currently outstanding under the Company Stock Incentive Plan and 470,257 shares remain available for future issuance pursuant to the Company Stock Incentive Plan.

(e) Except for the Company Warrants and the Company Options, and as otherwise set forth in Section 3.3(e) of the Company Disclosure Schedule, there is no: (i) outstanding subscription, option, call, warrant or right (whether or not currently exercisable) to acquire any shares of the capital stock or other securities of the Company or any of its Subsidiaries; (ii) outstanding security, instrument or obligation that is or may become convertible into or exchangeable for any shares of the capital stock or other securities of the Company or any of its Subsidiaries; or (iii) condition or circumstance that could be reasonably likely to give rise to or provide a basis for the assertion of a claim by any Person to the effect that such Person is entitled to acquire or receive any shares of capital stock or other securities of the Company or any of its Subsidiaries. There are no outstanding or authorized stock appreciation, phantom stock, profit participation or other similar rights with respect to the Company or any of its Subsidiaries.

(f) All outstanding shares of Company Common Stock, Company Options, Company Warrants and other securities of the Company have been issued and granted in material compliance with (i) all applicable securities Laws and other applicable Laws, and (ii) all requirements set forth in applicable Contracts.

3.4. Authority; Binding Nature of Agreement.

(a) The Company has all requisite corporate power and authority to execute and deliver this Agreement and, subject to receipt of the Company Stockholder Approval, to perform its obligations hereunder and to consummate the Contemplated Transactions. The Company Board (at a meeting duly called and held or by written consent in lieu of a meeting) has: (i) determined that the Contemplated Transactions, including the Merger, are advisable and in the best interests of the Company and its stockholders, (ii) approved and declared advisable this Agreement and the Contemplated Transactions, and (iii) subject to Section 5.2, resolved to recommend the adoption of this Agreement by the Company's stockholders at the Company Stockholders Meeting. This Agreement has been duly executed and delivered by the Company and, assuming the due authorization, execution and delivery by Parent, constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except, in each case, as enforcement may be limited by bankruptcy, insolvency, reorganization or similar Laws affecting creditors' rights generally and by general principles of equity (the "**Bankruptcy and Equity Exception**"). Prior to the execution of the Company Voting Agreements, the Company Board approved the Company Voting Agreement and the transactions contemplated thereby.

(b) Except for the adoption of this Agreement by the affirmative vote of the holders of a majority of the outstanding Shares present in person or by proxy and entitled to vote thereon at the Company Stockholders Meeting (such approval, the "**Company Stockholder Approval**"), no other corporate proceedings on the part of the Company are necessary to authorize, adopt or approve, as applicable, this Agreement or to consummate the Contemplated Transactions (except for the filing of the appropriate merger documents as required by the DGCL). The Company has duly executed and delivered this Agreement and, assuming the due authorization, execution and delivery by Parent and Merger Sub, this Agreement constitutes its legal, valid and binding obligation, enforceable against the Company in accordance with its terms, except, in each case, as enforcement may be limited by the Bankruptcy and Equity Exception.

3.5. Non-Contravention; Consents. Subject to (i) obtaining the Company Stockholder Approval, (ii) the filing of the Certificate of Merger required by the DGCL, (iii) (A) the filing with the SEC of the Proxy Statement/Prospectus in definitive form, (B) the filing with the SEC, and declaration of effectiveness under the Securities Act of the Registration Statement, and (C) the filing with the SEC of such reports and other filings under, and such other compliance with, the Exchange Act and the Securities Act, and the rules and regulations thereunder, as may be required in connection with this Agreement and the Contemplated Transactions and (iv) such Consents, registrations, declarations, notices or filings as are required to be made or obtained under the securities or "blue sky" laws of various states in connection with the issuance of the shares of Parent Common Stock to be issued as the Merger Consideration, neither (x) the execution, delivery or performance of this Agreement by the Company, nor (y) the consummation of the Contemplated Transactions, will directly or indirectly (with or without notice or lapse of time):

(a) contravene, conflict with or result in a violation of any of the provisions of the Organizational Documents of the Company or any of its Subsidiaries;

(b) contravene, conflict with or result in a violation of, or give any Governmental Entity the right to challenge the Contemplated Transactions or to exercise any remedy or obtain any relief under, any Law or any order, writ, injunction, judgment or decree to which the Company or any of its Subsidiaries, or any of the assets owned or used by the Company or any of its Subsidiaries, is subject, except as would not reasonably be expected to be material to the Company or its business;

(c) contravene, conflict with or result in a violation of any of the terms or requirements of, or give any Governmental Entity the right to revoke, withdraw, suspend, cancel, terminate or modify, any Governmental Authorization that is held by the Company or its Subsidiaries, except as would not reasonably be expected to be material to the Company or its business;

(d) contravene, conflict with or result in a violation or breach of, or result in a default under, any provision of any Company Material Contract, or give any Person the right to: (i) declare a default or exercise any remedy under any Company Material Contract; (ii) any material payment, rebate, chargeback, penalty or change in delivery schedule under any Company Material Contract; (iii) accelerate the maturity or performance of any Company Material Contract; or (iv) cancel, terminate or modify any term of any Company Material Contract, except in the case of any non-material breach, default, penalty or modification; or

(e) result in the imposition or creation of any Lien upon or with respect to any asset owned or used by the Company or any of its Subsidiaries (except for Permitted Liens).

(f) Except for (i) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware pursuant to the DGCL, (ii) (A) the filing with the SEC of the Proxy Statement/Prospectus in definitive form, (B) the filing with the SEC, and declaration of effectiveness under the Securities Act of the Registration Statement, and (C) the filing with the SEC of such reports and other filings under, and such other compliance with, the Exchange Act and the Securities Act, and the rules and regulations thereunder, as may be required in connection with this Agreement, and the Contemplated

Transactions and (iii) such consents, waivers, approvals, orders, authorizations, registrations, declarations and filings as may be required under applicable federal and state securities Laws, neither the Company nor any of its Subsidiaries is or will be required to make any filing with or give any notice to, or to obtain any Consent from, any Governmental Entity in connection with (x) the execution, delivery or performance of this Agreement, or (y) the consummation of the Contemplated Transactions, which if individually or in the aggregate were not given or obtained, would reasonably be expected to prevent or materially delay the ability of the Company to consummate the Contemplated Transactions. Assuming the accuracy of the representation set forth in Section 4.5(f), the Company Board has taken and will take all actions necessary to ensure that the restrictions applicable to business combinations contained in Section 203 of the DGCL are, and will be, inapplicable to the execution, delivery and performance of this Agreement, the Company Voting Agreements and to the consummation of the Contemplated Transactions. No other state takeover statute or similar Law applies or purports to apply to the Merger, this Agreement, the Company Voting Agreements or any of the Contemplated Transactions.

3.6. SEC Documents; Financial Statements.

(a) Other than such documents that can be obtained on the SEC's website at www.sec.gov, the Company has delivered or made available to Parent accurate and complete copies of all registration statements, proxy statements, Company Certifications (as defined below) and other statements, reports, schedules, forms and other documents filed by the Company with the SEC since May 12, 2020 (the "**Company SEC Documents**"). Since the date of the Company Balance Sheet, all material statements, reports, schedules, forms and other documents required to have been filed by the Company or its officers with the SEC have been so filed on a timely basis. As of the time it was filed with the SEC (or, if amended or superseded by a filing prior to the date of this Agreement, then on the date of such filing), each of the Company SEC Documents complied in all material respects with the applicable requirements of the Securities Act or the Exchange Act (as the case may be) and, as of the time they were filed, none of the Company SEC Documents contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading (or, in the case of a Company SEC Document that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the Securities Act, as of the date such registration statement or amendment became effective, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements made therein not misleading); provided, however, that no representation is made as to the accuracy of any financial projections or forward-looking statements or the completeness of any information furnished by the Company to the SEC solely for the purposes of complying with Regulation FD promulgated under the Exchange Act. The certifications and statements required by (i) Rule 13a-14 under the Exchange Act and (ii) 18 U.S.C. §1350 (Section 906 of the Sarbanes-Oxley Act) relating to the Company SEC Documents (collectively, the "**Company Certifications**") are accurate and complete and comply as to form and content with all applicable Laws. As used in this Section 3.6, the term "file" and variations thereof shall be broadly construed to include any manner in which a document or information is furnished, supplied or otherwise made available to the SEC.

(b) The financial statements (including any related notes) contained or incorporated by reference in the Company SEC Documents: (i) complied as to form in all material respects with the published rules and regulations of the SEC applicable thereto; (ii) were prepared in accordance with GAAP (except as may be indicated in the notes to such financial statements or, in the case of unaudited financial statements, except as permitted by the SEC on Form 10-Q under the Exchange Act, and except that the unaudited financial statements may not contain footnotes and are subject to normal and recurring year-end adjustments) applied on a consistent basis unless otherwise noted therein throughout the periods indicated; and (iii) fairly present, in all material respects, the financial position of the Company and its consolidated Subsidiaries as of the respective dates thereof and the results of operations and cash flows of the Company and its consolidated Subsidiaries for the periods covered thereby. Other than as expressly disclosed in the Company SEC Documents filed prior to the date hereof, there has been no material change in the Company's accounting methods or principles that would be required to be disclosed in the Company's financial statements in accordance with GAAP.

(c) As of the date of this Agreement, the Company is in compliance in all material respects with the applicable current listing and governance rules and regulations of Nasdaq.

(d) The Company maintains a system of internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act) that is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP and to provide reasonable assurance (i) that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, (ii) that receipts and expenditures are made only in accordance with authorizations of management and the Company Board and (iii) regarding prevention or timely detection of the unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the Company's financial statements. The Company has evaluated the effectiveness of the Company's system of internal control over financial reporting as of December 31, 2021, and, to the extent required by applicable Law, presented in any applicable the Company SEC Document that is a report on Form 10-K or Form 10-Q (or any amendment thereto) its conclusions about the effectiveness of the internal control over financial reporting as of the end of the period covered by such report or amendment based on such evaluation. The Company has disclosed, based on its most recent evaluation of internal control over financial reporting, to the Company's auditors and audit committee (and made available to Parent a summary of the significant aspects of such disclosure) (A) all significant deficiencies, if any, in the design or operation of internal control over financial reporting that are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (B) any known fraud that involves management or other employees who have a significant role in the Company's internal control over financial reporting. The Company has not identified, based on its most recent evaluation of internal control over financial reporting, any material weaknesses in the design or operation of the Company's internal control over financial reporting.

(e) The Company maintains "disclosure controls and procedures" (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) that are reasonably designed to ensure that information required to be disclosed by the Company in the periodic reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the required time periods, and that all such information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure and to make the Company Certifications.

3.7. Absence of Changes. Except as set forth in Section 3.7 of the Company Disclosure Schedule and reasonable and good faith actions or omissions taken to comply with applicable Law or guidance by Governmental Entity in connection with the COVID-19 pandemic, between the date of the Company latest consolidated unaudited balance sheet (the "**Company Balance Sheet**") and the date of this Agreement, the Company has conducted its business in the Ordinary Course of Business in all material respects (except for the execution and performance of this Agreement and the discussions, negotiations and transactions related thereto, including the Contemplated Transactions) and there has not been any (a) Company Material Adverse Effect or (b) action, event or occurrence that would have required the consent of Parent pursuant to Section 5.1(a) had such action, event or occurrence taken place after the execution and delivery of this Agreement.

3.8. Absence of Undisclosed Liabilities. As of the date of this Agreement, neither the Company nor any of its Subsidiaries has any liability, debt or obligation individually or in the aggregate, of a type required to be recorded or reflected on the Company's balance sheet or disclosed in the footnotes thereto under GAAP except for liabilities, debts or obligations: (a) disclosed, reflected or reserved against in the Company Balance Sheet or disclosed in the notes thereto included in the Company SEC Documents; (b) that have been incurred by the Company or any of its Subsidiaries since the date of the Company Balance Sheet in the Ordinary Course of Business; (c) for performance of obligations of the Company or any of its Subsidiaries under the Company Material Contracts which have not resulted from a breach of such Company Material Contracts, breach of warranty, tort, infringement or violation of Law; (d) incurred in connection with the Contemplated Transactions; (e) which would not, individually or in the aggregate, reasonably be expected to be material to the Company; and (f) described in Section 3.8 of the Company Disclosure Schedule.

3.9. Title to Assets. The Company and each of its Subsidiaries owns, and has good and valid title to, or, in the case of leased properties and assets, valid leasehold interests in, all tangible properties or tangible assets and equipment used or held for use in its business or operations or purported to be owned by it, including: (a) all tangible assets reflected on the Company Balance Sheet; and (b) all other tangible assets reflected in the books and records of the Company or any of its Subsidiaries as being owned by the Company or such Subsidiary. All of such assets are owned or, in the case of leased assets, leased by the Company or its applicable Subsidiary free and clear of any Liens, other than Permitted Liens.

3.10. Legal Proceedings; Orders.

(a) As of the date of this Agreement, except as set forth in Section 3.10(a) of the Company Disclosure Schedule, to the Company's Knowledge there is no pending Legal Proceeding and no Person has threatened in writing to commence any Legal Proceeding: (i) that involves (A) the Company, (B) any of its Subsidiaries, (C) any Company Associate (in his or her capacity as such) or (D) any of the material assets owned or used by the Company or its Subsidiaries; or (ii) that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, the Contemplated Transactions.

(b) Except as set forth in Section 3.10(b) of the Company Disclosure Schedule, since January 1, 2020, no Legal Proceeding has been pending against the Company or any of its Subsidiaries that resulted in material liability to the Company or any of its Subsidiaries.

(c) There is no order, writ, injunction, judgment or decree to which the Company or any of its Subsidiaries, or any of the material assets owned or used by the Company or any of its Subsidiaries, is subject. To the Company's Knowledge, no officer or employee of the Company or any of its Subsidiaries is subject to any unsatisfied order, writ, injunction, judgment or decree that prohibits such officer or employee from engaging in or continuing any conduct, activity or practice relating to the business of the Company or any of its Subsidiaries or to any material assets owned or used by the Company or any of its Subsidiaries.

3.11. Contracts.

(a) Section 3.11(a) of the Company Disclosure Schedule lists the following the Company Contracts in effect as of the date of this Agreement (other than any Company Benefit Plan) (each, a "**Company Material Contract**"):

(i) a material contract as defined in Item 601(b)(10) of Regulation S-K as promulgated under the Securities Act;

(ii) each Contract that is material to the business or operations of the Company and its Subsidiaries, taken as a whole, containing (A) any covenant limiting the freedom of the Company or any of its Subsidiaries to engage in any line of business or compete with any Person, (B) any "most-favored nations" pricing provisions or marketing or distribution rights related to any products or territory, (C) any exclusivity provision, (D) any agreement to purchase minimum quantity of goods or services, or (E) any material non-solicitation provisions applicable to the Company or any of its Subsidiaries;

(iii) each Contract relating to capital expenditures and requiring payments after the date of this Agreement in excess of $50,000 pursuant to its express terms and not cancelable without penalty;

(iv) each Contract relating to the disposition or acquisition of material assets or any ownership interest in any entity;

(v) each Contract relating to any mortgages, indentures, loans, notes or credit agreements, security agreements or other agreements or instruments relating to material Indebtedness of the Company or any of its Subsidiaries or creating any material Liens with respect to any assets of the Company or any of its Subsidiaries;

(vi) each Contract requiring payment by or to the Company or any of its Subsidiaries after the date of this Agreement in excess of $100,000 pursuant to its express terms relating to: (A) any distribution agreement (identifying any that contain exclusivity provisions); (B) any agreement involving provision of services or products with respect to any pre-clinical or clinical development activities of the Company or any of its Subsidiaries; (C) any dealer, distributor, joint marketing, alliance, joint venture, cooperation, development or other agreement currently in force under which the Company or any of its Subsidiaries has continuing obligations to develop or market any product, technology or service, or any agreement pursuant to which the Company or any of its Subsidiaries has continuing obligations to develop any Intellectual Property Rights that will not be owned, in whole or in part, by the Company or any of its Subsidiaries; or (D) any Contract to license any third party to manufacture or produce any product, service or technology of the Company or any of its Subsidiaries or any Contract to sell, distribute or commercialize any products or service of the Company or any of its Subsidiaries, in each case, except for Contracts entered into in the Ordinary Course of Business;

(vii) each Company Real Estate Lease;

(viii) each Contract with any Governmental Entity;

(ix) each Company Out-bound License and Company In-bound License;

(x) each Contract that is material to the business or operations of the Company and its Subsidiaries, taken as a whole, containing any royalty, dividend or similar arrangement based on the revenues or profits of the Company or any of its Subsidiaries; or

(xi) any other Contract that is not terminable at will (with no penalty or payment) by the Company or its Subsidiaries, as applicable, and (A) which involves payment or receipt by the Company or its Subsidiaries after the date of this Agreement under any such Contract of more than $100,000 in the aggregate, or obligations after the date of this Agreement in excess of $200,000 in the aggregate, or (B) that is material to the business or operations of the Company and its Subsidiaries, taken as a whole.

(b) The Company has delivered or made available to Parent accurate and complete copies of all Company Material Contracts, including all material amendments thereto, but excluding any purchase orders issued under a Company Material Contract in the Ordinary Course of Business. There are no Company Material Contracts that are not in written form. As of the date of this Agreement, none of the Company, any of its Subsidiaries or, to the Company's Knowledge, any other party to a Company Material Contract, has breached, violated or defaulted under, or received notice that it breached, violated or defaulted under, any of the terms or conditions of, or Laws applicable to, any Company Material Contract in such manner as would permit any other party to cancel or terminate any such Company Material Contract, or would permit any other party to seek damages or pursue other legal remedies which would reasonably be expected to be material to the Company or its business or operations. As to the Company and its Subsidiaries, as of the date of this Agreement, each Company Material Contract is valid, binding, enforceable and in full force and effect, subject to the Bankruptcy and Equity Exception. Since the date of the Company Balance Sheet, no counterparty to a Company Material Contract has notified the Company in writing (or, to the Knowledge of the Company, otherwise) that it intends to terminate or not renew a Company Material Contract.

3.12. Employee and Labor Matters; Benefits Plans.

(a) Section 3.12(a) of the Company Disclosure Schedule is a list of all material Company Benefit Plans, including, without limitation, each such Company Benefit Plan that provides for retirement, change in control, stay or retention deferred compensation, incentive compensation, severance or retiree medical or life insurance benefits.

(b) As applicable with respect to each material Company Benefit Plan, the Company has made available to Parent, true and complete copies of (i) each material Company Benefit Plan, including all amendments thereto, and in the case of an unwritten material Company Benefit Plan, a written description thereof, (ii) all current trust documents, investment management contracts, custodial agreements, administrative services agreements and insurance and annuity contracts relating thereto, (iii) the current summary plan description and each summary of material modifications thereto, (iv) the most recently filed annual reports with any Governmental Entity (*e.g.*, Form 5500 and all schedules thereto), (v) the most recent IRS determination, opinion or advisory letter, (vi) the most recent summary annual reports, nondiscrimination testing reports, actuarial reports, financial statements and trustee reports, and (vii) all notices and filings concerning IRS or United States Department of Labor or other Governmental Entity audits or investigations, including with respect to "prohibited transactions" within the meaning of Section 406 of ERISA or Section 4975 of the Code, since January 1, 2020.

(c) Each Company Benefit Plan has been maintained, operated and administered in compliance in all material respects with its terms and any related documents or agreements and the applicable provisions of ERISA, the Code and all other applicable Laws.

(d) The Company Benefit Plans which are "employee pension benefit plans" within the meaning of Section 3(2) of ERISA and which are intended to meet the qualification requirements of Section 401(a) of the Code have received determination or opinion letters from the IRS on which they may currently rely to the effect that such plans are qualified under Section 401(a) of the Code and the related trusts are exempt from federal income Taxes under Section 501(a) of the Code, respectively, and, to the Company's Knowledge, nothing has occurred that would reasonably be expected to materially adversely affect the qualification of such Company Benefit Plan or the tax exempt status of the related trust.

(e) None of the Company, any of its Subsidiaries or any Company ERISA Affiliate maintains, contributes to, is required to contribute to, or has any actual or contingent liability with respect to, (i) any "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) that is subject to Title IV or Section 302 of ERISA or Section 412 of the Code, (ii) any "multiemployer plan" (within the meaning of Section 3(37) of ERISA), (iii) any "multiple employer plan" (within the meaning of Section 413 of the Code) or (iv) any "multiple employer welfare arrangement" (within the meaning of Section 3(40) of ERISA).

(f) There are no pending audits or investigations by any Governmental Entity involving any Company Benefit Plan, and no pending or, to the Company's Knowledge, threatened claims (except for individual claims for benefits payable in the normal operation of the Company Benefit Plans), suits or proceedings involving any Company Benefit Plan, any fiduciary thereof or service provider thereto. All material contributions and premium payments required to have been made under any of the Company Benefit Plans or by applicable Law (without regard to any waivers granted under Section 412 of the Code), have been made and neither the Company nor any Company ERISA Affiliate has any liability for any such unpaid contributions with respect to any Company Benefit Plan.

(g) None of the Company, any of its Subsidiaries or any Company ERISA Affiliates, nor, to the Company's Knowledge, any fiduciary, trustee or administrator of any Company Benefit Plan, has since January 1, 2020 engaged in, or in connection with the Contemplated Transactions will engage in, any transaction with respect to any Company Benefit Plan which would subject any such Company Benefit Plan, the Company, any of its Subsidiaries or the Company ERISA Affiliates to a material Tax, penalty or liability for a "prohibited transaction" under Section 406 of ERISA or Section 4975 of the Code.

(h) No Company Benefit Plan provides death, medical, dental, vision, life insurance or other welfare benefits beyond termination of service or retirement, other than coverage mandated by Law and none of the Company, any of its Subsidiaries or any Company ERISA Affiliates has made a written or oral representation promising the same.

(i) Neither the execution of this Agreement, nor the consummation of the Contemplated Transactions will either alone or in connection with any other event(s) (i) result in any payment becoming due to any current or former employee, director, officer, independent contractor or other service provider of the Company or any of its Subsidiaries, (ii) increase any amount of compensation or benefits otherwise payable to any current or former employee, director, officer, independent contractor or other service provider of the Company or any of its Subsidiaries, (iii) result in the acceleration of the time of payment, funding or vesting of any benefits under any Company Benefit Plan, (iv) require any contribution or payment to fund any obligation under any Company Benefit Plan or (v) limit the right to merge, amend or terminate any Company Benefit Plan.

(j) Neither the execution of this Agreement, nor the consummation of the Contemplated Transactions (either alone or when combined with the occurrence of any other event, including without limitation, a termination of employment) will result in the receipt or retention by any person who is a "disqualified individual" (within the meaning of Section 280G of the Code) with respect to the Company and its Subsidiaries of any payment or benefit that is characterized as a "parachute payment" (within the meaning of Section 280G of the Code), determined without regard to the application of Section 280G(b)(5) of the Code.

(k) Each Company Benefit Plan providing for deferred compensation that constitutes a "nonqualified deferred compensation plan" (as defined in Section 409A(d)(1) of the Code and the regulations promulgated thereunder) is, and has been, established, administered and maintained in material compliance with the requirements of Section 409A of the Code and the regulations promulgated thereunder.

(l) No Person has any "gross up" agreements with the Company or any of its Subsidiaries or other assurance of reimbursement by the Company or any of its Subsidiaries for any Taxes imposed under Section 409A or Section 4999 of the Code.

(m) Neither the Company nor any of its Subsidiaries is a party to or bound by, or has a duty to bargain under, any collective bargaining agreement or other Contract with a labor union or labor organization representing any of its employees, and there is no labor union or labor organization representing or, to the Company's Knowledge, purporting to represent or seeking to represent any employees of the Company or its Subsidiaries, including through the filing of a petition for representation election.

(n) The Company and each of its Subsidiaries is, and since January 1, 2020 has been, in material compliance with all applicable Laws respecting labor, employment, employment practices, and terms and conditions of employment, including, without limitation, worker classification, discrimination, wrongful termination, harassment and retaliation, equal employment opportunities, fair employment practices, meal and rest periods, immigration, employee safety and health, wages (including overtime wages), unemployment and workers' compensation, leaves of absence, and hours of work. Except as would not be reasonably likely to result in a material liability to the Company or any of its Subsidiaries, with respect to employees of the Company or any of its Subsidiaries, each of the Company and its Subsidiaries, since January 1, 2020: (i) has withheld and reported all amounts required by Law or by agreement to be withheld and reported with respect to wages, salaries and other payments, benefits, or compensation to employees, (ii) is not liable for any arrears of wages (including overtime wages), severance pay or any Taxes or any penalty for failure to comply with any of the foregoing, and (iii) is not liable for any payment to any trust or other fund governed by or maintained by or on behalf of any Governmental Entity, with respect to unemployment compensation benefits, disability, social security or other benefits or obligations for employees (other than routine payments to be made in the Ordinary Course of Business). There are no actions, suits, claims, charges, demands, lawsuits, investigations, audits or administrative matters pending or, to the Company's Knowledge, threatened or reasonably anticipated against the Company or any of its Subsidiaries relating to any current or former employee, applicant for employment, consultant, employment agreement or Company Benefit Plan (other than routine claims for benefits). All U.S. based employees of the Company and its Subsidiaries are employed "at-will" and their employment can be terminated without advance notice or payment of severance in excess of sixty (60) days.

(o) Except as would not be reasonably likely to result in a material liability to the Company or any of its Subsidiaries, with respect to each individual who currently renders services to the Company or any of its Subsidiaries, the Company and each of its Subsidiaries has accurately classified each such individual as an employee, independent contractor, or otherwise under all applicable Laws and, for each individual classified as an employee, the Company has accurately classified him or her as overtime eligible or overtime ineligible under all applicable Laws. Neither the Company nor any of its Subsidiaries has any material liability with respect to any misclassification of: (a) any Person as an independent contractor rather than as an employee, (b) any employee leased from another employer, or (c) any employee currently or formerly classified as exempt from overtime wages.

(p) There is not and has not been since January 1, 2020, nor, to the Company's Knowledge, is there or has there been since January 1, 2020 any threat of, any strike, slowdown, work stoppage, lockout, union election petition, demand for recognition, or any similar activity or dispute, or, to the Company's Knowledge, any union organizing activity, against the Company or any of its Subsidiaries. No event has occurred, and, to the Company's Knowledge, no condition or circumstance exists, that would reasonably be expected directly or indirectly to give rise to or provide a basis for the commencement of any such strike, slowdown, work stoppage, lockout, union election petition, demand for recognition, or any similar activity or dispute.

3.13. Environmental Matters. The Company and each of its Subsidiaries are in compliance, and, to the Company's Knowledge, since January 1, 2020 have complied with all applicable Environmental Laws, which compliance includes the possession by the Company and its Subsidiaries of all permits and other Governmental Authorizations required under applicable Environmental Laws and compliance with the terms and conditions thereof, except for any failure to be in such compliance that, either individually or in the aggregate, would not reasonably be expected to be material to the Company or its business. Neither the Company nor any of its Subsidiaries has received since January 1, 2020 (or prior to that time, which is pending and unresolved), any written notice or other communication (in writing or otherwise), whether from a Governmental Entity or other Person, that alleges that the Company or any of its Subsidiaries is not in compliance with or has liability pursuant to any Environmental Law and, to the Company's Knowledge, there are no circumstances that would reasonably be expected to prevent or interfere with the Company's or any of its Subsidiaries' compliance in any material respects with any Environmental Law, except where such failure to comply would not reasonably be expected to be material to the Company or its business. No current or (during the time a prior property was leased or controlled by the Company or any of its Subsidiaries) prior property leased or controlled by the Company or any of its Subsidiaries has had a release of or exposure to Hazardous Materials in material violation of or as would reasonably be expected to result in any material liability of the Company or any of its Subsidiaries pursuant to Environmental Law. No consent, approval or Governmental Authorization of or registration or filing with any Governmental Entity is required by Environmental Laws in connection with the execution and delivery of this Agreement or the consummation of the Contemplated Transactions.

3.14. Taxes. Except as set forth on Section 3.14 of the Company Disclosure Schedule:

(a) The Company and each of its Subsidiaries have timely filed all income Tax Returns and other material Tax Returns that they were required to file under applicable Law. All such Tax Returns are correct and complete in all material respects and have been prepared in compliance with all applicable Law. No written claim has ever been made by any Governmental Entity in any jurisdiction where the Company or any of its Subsidiaries does not file a particular Tax Return or pay a particular Tax that the Company or such Subsidiary is subject to taxation by that jurisdiction.

(b) All income and other material Taxes due and owing by the Company or any of its Subsidiaries on or before the date hereof (whether or not shown on any Tax Return) have been fully paid. The unpaid Taxes of the Company and its Subsidiaries did not, as of the date of the Company Balance Sheet, materially exceed the reserve for Tax liability (excluding any reserve for deferred Taxes established to reflect timing differences between book and Tax items) set forth on the face of the Company Balance Sheet.

(c) All Taxes that the Company or any of its Subsidiaries are or were required by Law to withhold or collect have been duly and timely withheld or collected in all material respects on behalf of its respective employees, independent contractors, stockholders, lenders, customers or other third parties and, have been timely paid to the proper Governmental Entity or other Person or properly set aside in accounts for this purpose.

(d) There are no Liens for material Taxes (other than Taxes not yet due and payable) upon any of the assets of the Company or any of its Subsidiaries.

(e) No deficiencies for income or other material Taxes with respect to the Company or any of its Subsidiaries have been claimed, proposed or assessed by any Governmental Entity in writing. There are no pending or ongoing, and, to the Company's Knowledge, threatened audits, assessments or other actions for or relating to any liability in respect of a material amount of Taxes of the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries (or any of their predecessors) has waived any statute of limitations in respect of any income or other material Taxes or agreed to any extension of time with respect to any income or other material Tax assessment or deficiency.

(f) Neither the Company nor any of its Subsidiaries has been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

(g) Neither the Company nor any of its Subsidiaries is a party to any material Tax allocation agreement, Tax sharing agreement, Tax indemnity agreement, or similar agreement or arrangement, other than customary commercial contracts entered into in the Ordinary Course of Business the principal subject matter of which is not Taxes.

(h) Neither the Company nor any of its Subsidiaries will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any Tax period (or portion thereof) ending after the Closing Date as a result of any: (i) change in method of accounting for Tax purposes made on or prior to the Closing Date; (ii) use of an improper method of accounting for a Tax period ending on or prior to the Closing Date; (iii) "closing agreement" as described in Section 7121 of the Code (or any similar provision of state, local or foreign Law) executed on or prior to the Closing Date; (iv) installment sale or open transaction disposition made on or prior to the Closing Date; (v) prepaid amount received or deferred revenue accrued on or prior to the Closing Date; or (vi) application of Section 367(d) of the Code to any transfer of intangible property on or prior to the Closing Date. The Company has not made any election under Section 965(h) of the Code.

(i) Neither the Company nor any of its Subsidiaries has ever been (i) a member of a consolidated, combined or unitary Tax group (other than such a group the common parent of which is the Company) or (ii) a party to any joint venture, partnership, or other arrangement that is treated as a partnership for U.S. federal income Tax purposes. Neither the Company nor any of its Subsidiaries has any liability for any material Taxes of any Person (other than the Company and any of its Subsidiaries) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local, or foreign Law), or as a transferee or successor.

(j) Neither the Company nor any of its Subsidiaries (i) is a "passive foreign investment company" within the meaning of Section 1297 of the Code; or (ii) has ever had a permanent establishment (within the meaning of an applicable Tax treaty) or otherwise had an office or fixed place of business in a country other than the country in which it is organized.

(k) Neither the Company nor any of its Subsidiaries has participated in or been a party to a transaction that, as of the date of this Agreement, constitutes a "listed transaction" that is required to be reported to the IRS pursuant to Section 6011 of the Code and applicable Treasury Regulations thereunder.

(l) Neither the Company nor any of its Subsidiaries has taken any action or knows of any fact that would reasonably be expected to prevent the Merger from qualifying for the Intended Tax Treatment.

(m) Neither the Company nor any of its Subsidiaries has availed itself of any Tax relief pursuant to any pandemic response laws that could reasonably be expected to materially impact the Tax payment and/or Tax reporting obligations of the Company and its Affiliates (including Parent and its Subsidiaries) after the Closing Date.

(n) For purposes of this Section 3.14, each reference to the Company or any of its Subsidiaries shall be deemed to include any Person that was liquidated into, merged with, or is otherwise a predecessor to, the Company of any of its Subsidiaries.

3.15. Intellectual Property.

(a) Section 3.15(a) of the Company Disclosure Schedule identifies (i) the name of the applicant/registrant, (ii) the jurisdiction of application/registration, (iii) the application or registration number and (iv) any other co-owners, for each item of Registered IP owned in whole or in part or licensed by the Company or its Subsidiaries (the "**Company Registered IP**"). Each of the patents and patent applications included in the Company Registered IP properly identifies by name each and every inventor of the inventions claimed therein as determined in accordance with applicable Laws of the United States. As of the date of this Agreement, no interference, opposition, reissue, reexamination or other proceeding of any nature (other than initial examination proceedings) is pending or threatened in writing, in which the scope, validity, enforceability or ownership of any Company Registered IP is being or has been contested or challenged, except as would not reasonably be expected to, individually or in the aggregate, have a Company Material Adverse Effect. To the Company's Knowledge, all Company Registered IP is in effect, valid, subsisting and enforceable. To the Company's Knowledge, all prior art publications relevant to the patentability of the claims in any issued or applied for Company Registered IP, is cited in the respective issued patents, or applications, and there is no other material prior art with respect thereto.

(b) The Company or its Subsidiaries solely owns or has rights to all right, title and interest in and to all material Company IP (other than as disclosed in Section 3.15(b) of the Company Disclosure Schedule), free and clear of all Liens other than Permitted Liens. Each Company Associate involved in the creation or development of any material Company IP, pursuant to such Company Associate's activities on behalf of the Company or its Subsidiaries, has signed a valid, enforceable written agreement containing a present assignment of all such Company Associate's rights in such material Company IP to the Company or its Subsidiaries (without further payment being owed to any such Company Associate and without any restrictions or obligations on the Company's or its Subsidiaries' ownership or use thereof) and confidentiality provisions protecting the Company IP, which, to the Company's Knowledge, has not been materially breached by such Company Associate.

(c) No funding, facilities or personnel of any Governmental Entity or any university, college, research institute or other educational or academic institution has been used, in whole or in part, to create any Company IP, except for any such funding or use of facilities or personnel that does not result in such Governmental Entity or institution obtaining ownership or other rights (including any "march in" rights or a right to direct the location of manufacturing of products) to such Company IP or the right to receive royalties or other consideration for the practice of such Company IP, except as would not reasonably be expected to, individually or in the aggregate, have a Company Material Adverse Effect.

(d) Section 3.15(d) of the Company Disclosure Schedule sets forth each license agreement pursuant to which the Company or any of its Subsidiaries (i) is granted a license under any material Intellectual Property Right owned by any third party that is used by the Company or any of its Subsidiaries in its business as currently conducted (each a "**Company In-bound License**") or (ii) grants to any third party a license under any material Company IP or any material Intellectual Property Right licensed to the Company or any of its Subsidiaries under a Company In-bound License (each a "**Company Out-bound License**") (provided, that, the Company In-bound Licenses shall not include clinical trial agreements, services agreements, non-disclosure agreements, commercially available software-as-a-service offerings, off-the-shelf software licenses or generally available patent license agreements entered into in the Ordinary Course of Business on a non-exclusive basis and that do not grant any commercial rights to any products or services of the Company or any of its Subsidiaries; and the Company Out-bound Licenses shall not include clinical trial agreements, services agreements, non-disclosure agreements, or non-exclusive outbound licenses entered into in the Ordinary Course of Business on a non-exclusive basis and that do not grant any commercial rights to any products or services of the Company or any of its Subsidiaries).

(e) To the Company's Knowledge, the products of the Company and its Subsidiaries as currently conducted does not infringe any valid and enforceable patent of an Intellectual Property Right of any other Person, that is not a Company In-bound License, or misappropriate or otherwise violate any other Intellectual Property Right owned by any other Person, and no other Person is infringing, misappropriating or otherwise violating any Company IP or any material Intellectual Property Rights exclusively licensed to the Company or any of its Subsidiaries ("**Company In-Licensed IP**"), except as would not reasonably be expected to, individually or in the aggregate, have a Company Material Adverse Effect. As of the date of this Agreement, no Legal Proceeding is pending (or is threatened in writing) (A) against the Company or any of its Subsidiaries alleging that the operation of the businesses of the Company or its Subsidiaries infringes or constitutes the misappropriation or other violation of any Intellectual Property Rights of another Person or (B) by the Company or any of its Subsidiaries alleging that another Person has infringed, misappropriated or otherwise violated any of the Company IP or any Company In-Licensed IP. Since January 1, 2020, neither the Company nor any of its Subsidiaries has received any written notice or other written communication alleging that the operation of the businesses of the Company or any of its Subsidiaries infringes or constitutes the misappropriation or other violation of any Intellectual Property Right of another Person, except as would not reasonably be expected to, individually or in the aggregate, have a Company Material Adverse Effect.

(f) None of the Company IP or, to the Company's Knowledge, any Company In-Licensed IP is subject to any pending or outstanding injunction, directive, order, judgment or other disposition of dispute that adversely and materially restricts the use, transfer, registration or licensing by the Company or any of its Subsidiaries of any such Company IP or Company In-Licensed IP.

(g) The operation of the Company's and its Subsidiaries' business are in substantial compliance with all applicable Laws pertaining to data privacy and data security of any personally identifiable information and sensitive business information (collectively, "**Sensitive Data**"), except to the extent that such noncompliance has not and would not reasonably be expected to have a Company Material Adverse Effect. Since January 1, 2020, there have been (i) no material losses or thefts of data or security breaches relating to Sensitive Data used in the business of the Company or its Subsidiaries, (ii) no violations of any security policy of the Company or its Subsidiaries regarding any such Sensitive Data, (iii) no unauthorized access or unauthorized use of any Sensitive Data used in the business of the Company or its Subsidiaries and (iv) no unintended or improper disclosure of any personally identifiable information in the possession, custody or control of the Company or its Subsidiaries or a contractor or agent acting on behalf of the Company or its Subsidiaries, in each case of (i) through (iv), except as would not reasonably be expected to, individually or in the aggregate, have a Company Material Adverse Effect.

(h) None of the Company or its Subsidiaries is now or has ever been a member or promoter of, or a contributor to, any industry standards body or any similar organization that would reasonably be expected to require or obligate the Company or any of its Subsidiaries to grant or offer to any other Person any license or right to any Company IP.

3.16. Regulatory Matters.

(a) The Company and each of its Subsidiaries are, and since January 1, 2020 have been, in compliance in all respects with all applicable Laws, including the FDCA and any other similar Laws administered or promulgated by the FDA or other comparable Governmental Entity, except for any noncompliance, either individually or in the aggregate, which would not be material to the Company. To the Company's Knowledge, no investigation, inspection, claim, suit, proceeding, audit or other action by any Governmental Entity is pending or threatened against the Company or any of its Subsidiaries.

(b) There is no agreement, judgment, injunction, order or decree binding upon the Company or any of its Subsidiaries which (i) has or would reasonably be expected to have the effect of prohibiting or materially impairing any business practice of the Company or any of its Subsidiaries, any acquisition of material property by the Company or any of its Subsidiaries or the conduct of business by the Company or any of its Subsidiaries as currently conducted, (ii) is reasonably likely to have an adverse effect on the Company's ability to comply with or perform any covenant or obligation under this Agreement, or (iii) is reasonably likely to have the effect of preventing, delaying, making illegal or otherwise interfering with the Contemplated Transactions.

(c) The Company and its Subsidiaries have at all times since January 1, 2020 held and have operated in compliance with all Governmental Authorizations that are necessary for the conduct of business of the Company and its Subsidiaries as currently being conducted (the "**Company Permits**"), except where such failures to hold or remain so in compliance would not, either individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. All such Company Permits are valid and are in full force and effect, and will continue to be so upon consummation of the Contemplated Transactions, except as would not, either individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. No notice, filing, or other Consent is required as a result of the Contemplated Transactions under any material Company Permit. Section 3.16(c) of the Company Disclosure Schedule identifies each Company Permit. The Company and its Subsidiaries hold all right, title and interest in and to all the Company Permits free and clear of any Lien. All fees and charges with respect to such Company Permits, as of the date hereof, have been paid in full and all filing, reporting and maintenance obligations have been completely and timely satisfied, except as would not, either individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. The Company and each of its Subsidiaries are in material compliance with the terms of the Company Permits. To the Company's Knowledge, no Legal Proceeding is pending or threatened, which seeks to revoke, limit, suspend, or materially modify any Company Permit.

(d) To the Company's Knowledge, there are no proceedings pending or threatened with respect to an alleged material violation by the Company or any of its Subsidiaries of the FDCA or any other similar Law administered or promulgated by any comparable Governmental Entity. Neither the Company, any of its Subsidiaries nor to the Company's Knowledge, any Person providing services to the Company or any of its Subsidiaries with respect to the Company's current products or product candidates (the "**Company Products**") has received any written notice, including any warning letter, untitled letter, FDA Form-483, written notice of other adverse finding, or notice of deficiency or violation, or similar written communication from the FDA or any other Governmental Entity alleging that the Company or its Subsidiaries, their respective operations, or the Company Products are in material violation of any applicable Law or Company Permit.

(e) As required under applicable Law or pursuant to a Governmental Authorization, the Company and its Subsidiaries have maintained, filed, or furnished to the applicable Governmental Entities or Person all filings, documents, claims, reports, notices, and other submissions (the "**Reports**"), required to be maintained, filed, or furnished on a timely basis, and, at the time of maintenance, filing, or furnishing all such Reports were complete and accurate when submitted, or were subsequently updated, changed, corrected, or modified, except where the failures to so maintain, file, furnish, update, change, correct or modify would not, either individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(f) Neither the Company, its Subsidiaries, nor to the Company's Knowledge, any Person providing services to the Company or its Subsidiaries has made an untrue statement of a material fact or fraudulent statement to the FDA or a Governmental Entity, failed to disclose a material fact required to be disclosed to the FDA or a Governmental Entity, or made a statement, or failed to make a statement that, would reasonably be expected to provide a basis for the FDA to invoke its policy respecting "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities" Final Policy set forth in 56 Fed. Reg. 46191 (September 10, 1991) and any amendments thereto (the "**FDA Ethics Policy**"). Neither the Company, its Subsidiaries, nor to the Company's Knowledge, any Person providing services to the Company or its Subsidiaries has ever been investigated by the FDA or other Governmental Entity for data or healthcare program fraud. Neither the Company, its Subsidiaries, nor to the Company's Knowledge, any Person providing services to the Company or its Subsidiaries is the subject of any pending or, to the Company's Knowledge, threatened investigation pursuant to the FDA Ethics Policy, or resulting from any other untrue or false statement or omission.

(g) Neither the Company, its Subsidiaries, nor, to the Company's Knowledge, any Person providing services to the Company or its Subsidiaries, nor their respective officers, directors, partners, employees, or agents have been:

(i) debarred or suspended pursuant to 21 U.S.C. § 335a;

(ii) excluded under 42 U.S.C. § 1320a-7 or any similar law, rule or regulation of any Governmental Entity;

(iii) excluded, debarred, suspended or deemed ineligible to participate in federal procurement and non-procurement programs, including those produced by the U.S. General Services Administration;

(iv) charged, named in a complaint, convicted, or otherwise found liable in any Legal Proceeding that falls within the ambit of 21 U.S.C. § 331, 21 U.S.C. § 333, 21 U.S.C. § 334, 21 U.S.C. § 335a, 21 U.S.C. § 335b, 42 U.S.C. § 1320a—7, 31 U.S.C. §§ 3729 – 3733, 42 U.S.C. § 1320a-7a, or any other applicable Law;

(v) disqualified or deemed ineligible pursuant to 21 C.F.R. Parts 312, 511, or 812, or otherwise restricted, in whole or in part, or subject to an assurance; or

(vi) had a pending Legal Proceeding, or otherwise received any written notice from any Governmental Entity or any Person threatening, investigating, or pursuing (i)-(v) above.

(h) All clinical, pre-clinical and other studies and tests conducted by or on behalf of, or sponsored by, the Company or any of its Subsidiaries, or in which the Company or any of its Subsidiaries or the Company Products have participated were and, if still pending, are being conducted in compliance in all material respects with all applicable Laws and regulations enforced by the FDA or any comparable Governmental Entity, including without limitation, 21 C.F.R. Parts 50, 54, 56, 58 and 312. To the Company's Knowledge, there are no other studies, the results of which are inconsistent with, or otherwise call into question, the results of any such studies or tests conducted by or on behalf of, or sponsored by, the Company or any of its Subsidiaries, or in which the Company or any of its Subsidiaries or the Company Products. The Company has not received written notice of any complaints, information, or adverse drug experience reports related to a Company Product that would reasonably be expected to have a Company Material Adverse Effect.

(i) Neither the Company, its Subsidiaries, nor to Parent's Knowledge, any Person providing services to the Company or its Subsidiaries has received any written notice, correspondence, or other written communications from the FDA, any other Governmental Entity, any Institutional Review Board ("**IRB**"), or other Person or board responsible for the oversight or conduct of any study conducted by or on behalf of, or sponsored by, the Company or any of its Subsidiaries, or in which the Company or any of the Company Products are participating, requiring or threatening the termination, hold, material adverse modification or suspension of any clinical study that is being or is proposed to be conducted. All clinical studies conducted or sponsored by or on behalf of the Company were and, if still pending, are being conducted in all material respects in accordance with all applicable Laws, the protocols, procedures and controls designed and approved for such studies, and in accordance with any requirement of an IRB or other Person or board responsible for review of such studies.

3.17. Insurance; Real Estate.

(a) The Company has delivered or made available to Parent accurate and complete copies of all material insurance policies and all material self-insurance programs and arrangements relating to the business, assets, liabilities and operations of the Company and each of its Subsidiaries. Each of such insurance policies is in full force and effect and the Company and each of its Subsidiaries are in compliance in all material respects with the terms thereof. Other than customary end of policy notifications from insurance carriers, since January 1, 2020, neither the Company nor any of its Subsidiaries has received any notice or other communication regarding any actual or possible: (i) cancellation or invalidation of any insurance policy; or (ii) refusal or denial of any coverage, reservation of rights or rejection of any material claim under any insurance policy. The Company and each of its Subsidiaries have provided timely written notice to the appropriate insurance carrier(s) of each Legal Proceeding that is currently pending against the Company or any of its Subsidiaries for which the Company or such Subsidiary has insurance coverage, and no such carrier has issued a denial of coverage or a reservation of rights with respect to any such Legal Proceeding or informed the Company or any of its Subsidiaries of its intent to do so.

(b) Neither the Company nor any of its Subsidiaries owns any real property. The Company has made available to Parent (a) an accurate and complete list of all real properties with respect to which the Company directly or indirectly holds a valid leasehold interest as well as any other real estate that is in the possession of or leased by the Company or any of its Subsidiaries, and (b) copies of all leases under which any such real property is possessed (the "**Company Real Estate Leases**"), each of which is in full force and effect, with no existing material default thereunder. The Company's or its applicable Subsidiary's use and operation of each such leased property conforms to all applicable Laws in all material respects, and the Company or its applicable Subsidiary has exclusive possession of each such leased property and has not granted any occupancy rights to tenants or licensees with respect to such leased property. In addition, each such leased property is free and clear of all Liens other than Permitted Liens.

3.18. Proxy Statement/Prospectus. None of the information supplied or to be supplied by the Company for inclusion or incorporation by reference in (a) the Registration Statement will, at the time the Registration Statement or any amendment or supplement thereto is declared effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading or (b) the Proxy Statement/Prospectus will, at the date it is first mailed to each of the Company's stockholders or at the time of the Company Stockholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Proxy Statement/Prospectus will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations thereunder, except that no representation is made by the Company with respect to statements made or incorporated by reference therein based on information supplied by Parent for inclusion or incorporation by reference therein.

3.19. Transactions with Affiliates. Except as set forth in the Company SEC Documents filed prior to the date of this Agreement, since the date of Company's proxy statement filed in 2022 with the SEC, no event has occurred that would be required to be reported by the Company pursuant to Item 404 of Regulation S-K as promulgated under the Securities Act.

3.20. Brokers and Finders. Except for Torreya Capital LLC, no broker, finder or investment banker is entitled to any brokerage fee, finder's fee, opinion fee, success fee, transaction fee or other fee or commission in connection with the Contemplated Transactions based upon arrangements made by or on behalf of the Company or any of its Subsidiaries.

3.21. Opinion of Financial Advisor. As of the date of this Agreement, the Company Board has received the opinion of the Torreya Capital LLC, as of the date of such opinion and based upon and subject to the various qualifications, assumptions, limitations and other matters set forth therein, the Exchange Ratio provided for in the Merger is fair, from a financial point of view, to holders of Shares. The Company shall, promptly following the execution of this Agreement by all Parties, furnish a copy of each such written opinion to Parent solely for informational purposes (it being agreed that none of the Parent or Merger Sub, nor any of their respective Affiliates or Representatives, shall have the right to rely on such opinion).

3.22. Anti-Bribery. None of the Company, any of its Subsidiaries or any of their respective directors, officers, employees or, to the Company's Knowledge, agents or any other Person acting on their behalf has directly or indirectly made any bribes, rebates, payoffs, influence payments, kickbacks, illegal payments, illegal political contributions, or other payments, in the form of cash, gifts, or otherwise, or taken any other action or made or failed to make any other statement, in violation of Anti-Bribery Laws except, in each case, as would not be material to the Company's business or operations. Neither the Company nor any of its Subsidiaries nor any of their respective officers, employees or agents is or has been the subject of any pending or threatened debarment or exclusionary claims, actions, proceedings, investigation or inquiry by any Governmental Entity with respect to potential violations of Anti-Bribery Laws except, in each case, as would not be material to the Company's business or operations. None of the Company, any of its Subsidiaries or any of their respective officers, employees or, to the Company's Knowledge, agents has been convicted of any crime or engaged in any conduct that could result in a debarment or exclusion (i) under 21 U.S.C. Section 335a or (ii) any similar applicable Law.

3.23. Ownership of Parent Common Stock. In the past three (3) years, neither the Company nor any of its Subsidiaries has "owned" (as such term is defined in Section 203(c) of the DGCL), directly or indirectly, any shares of Parent Common Stock or other securities convertible into, exchangeable into or exercisable for shares of Parent Common Stock (other than pursuant to any employee benefit plan of the Company). There are no voting trusts or other agreements or understandings to which the Company or any its Subsidiaries is a party with respect to the voting of the capital stock or other equity interest of Parent or any of its Subsidiaries.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Parent represents and warrants to the Company as set forth in the statements contained in this Article IV except as set forth in the Parent SEC Documents filed with, or furnished to, the SEC prior to the date hereof and publicly available on the SEC's Electronic Data Gathering Analysis and Retrieval system (but (i) without giving effect to any amendment thereof filed with, or furnished to, the SEC on or after the date hereof and (ii) excluding any disclosures contained under the heading "Risk Factors" and any

disclosure of risks included in any "forward-looking statements" disclaimer or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature) or in the disclosure letter delivered by Parent to the Company at or before the execution and delivery by Parent of this Agreement (the "**Parent Disclosure Schedule**"). The Parent Disclosure Schedule shall be arranged in numbered and lettered sections corresponding to the numbered and lettered sections contained in this Article IV, and the disclosure in any section of the Parent Disclosure Schedule shall be deemed to qualify other sections in this Article IV to the extent that it is reasonably apparent on the face of such disclosure that such disclosure also qualifies or applies to such other sections.

4.1. Organizational Documents. Parent has made available to the Company accurate and complete copies of the Organizational Documents of Parent, Merger Sub and each of Parent's other Subsidiaries in effect as of the date of this Agreement. Neither Parent, nor Merger Sub nor any of Parent's other Subsidiaries is in material breach or violation of its respective Organizational Documents.

4.2. Due Organization; Subsidiaries.

(a) Each of Parent and Merger Sub is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Delaware, and has all necessary corporate power and authority: (i) to conduct its business in the manner in which its business is currently being conducted; (ii) to own or lease and use its property and assets in the manner in which its property and assets are currently owned or leased and used; and (iii) to perform its obligations under all Contracts by which it is bound, except where the failure to have such power or authority would not reasonably be expected to prevent or materially delay the ability of Parent and Merger Sub to consummate the Contemplated Transactions.

(b) Parent is duly licensed and qualified to do business, and is in good standing (to the extent applicable in such jurisdiction), under the Laws of all jurisdictions where the nature of its business requires such licensing or qualification other than in jurisdictions where the failure to be so qualified individually or in the aggregate would not be reasonably expected to have a Parent Material Adverse Effect.

(c) Parent has no Subsidiaries, except for the entities identified in Section 4.2(c) of the Parent Disclosure Schedule; and neither Parent nor any of the entities identified in Section 4.2(c) of the Parent Disclosure Schedule owns any capital stock of, or any equity, ownership or profit sharing interest of any nature in, or controls directly or indirectly, any other entity other than the entities identified in Section 4.2(c) of the Parent Disclosure Schedule. Each of Parent's Subsidiaries is a corporation or other legal entity duly organized, validly existing and, if applicable, in good standing under the Laws of the jurisdiction of its organization and has all necessary corporate or other power and authority to conduct its business in the manner in which its business is currently being conducted and to own or lease and use its property and assets in the manner in which its property and assets are currently owned or leased and used, except where the failure to have such power or authority would not be reasonably expected to have a Parent Material Adverse Effect.

(d) Neither Parent nor any of its Subsidiaries is or has otherwise been, directly or indirectly, a party to, member of or participant in any partnership, joint venture or similar business entity. Neither Parent nor any of its Subsidiaries has agreed or is obligated to make, or is bound by any Contract under which it may become obligated to make, any future investment in or capital contribution to any other entity. Neither Parent nor any of its Subsidiaries has, at any time, been a general partner of, or has otherwise been liable for any of the debts or other obligations of, any general partnership, limited partnership or other entity.

4.3. Capitalization.

(a) The authorized capital stock of Parent as of the date of this Agreement consists of (i) 170,000,000 shares of common stock, par value $0.001 per share (the "**Parent Common Stock**"), of which 1,815,951 shares have been issued and are outstanding as of the close of business on the Reference Date and (ii) 5,000,000 shares of preferred stock of Parent, par value $0.001 per share, of which no shares have been issued and are outstanding as of the date of this Agreement. Parent has authorized a sufficient number of shares of Parent Common Stock to issue the Merger Consideration. Parent does not hold any shares of its capital stock in its treasury.

(b) Section 4.3(b) of the Parent Disclosure Schedule lists, as of the Reference Date, (A) the number and type of shares subject to each Parent Warrant, (B) the exercise price of each Parent Warrant and (C) the termination date of each Parent Warrant.

(c) All of the outstanding shares of Parent Common Stock have been duly authorized and validly issued and are fully paid and nonassessable. None of the outstanding shares of Parent Common Stock is entitled or subject to any preemptive right, right of participation, right of maintenance or any similar right and none of the outstanding shares of Parent Common Stock is subject to any right of first refusal in favor of Parent. The shares of Parent Common Stock issuable as Merger Consideration will be, when issued, duly authorized and validly issued and fully paid and nonassessable and all of the Adjusted Options and Adjusted RSUs to be issued pursuant to Section 2.3 will be duly authorized and validly issued, and, in each case, not subject to, or issued in violation of, any preemptive right, right of participation, right of maintenance, right of first refusal or any similar right. Except as contemplated herein and as set forth in Section 4.3(c)(i) of the Parent Disclosure Schedule, there is no Parent Contract relating to the voting or registration of, or restricting any Person from purchasing, selling, pledging or otherwise disposing of (or granting any option or similar right with respect to), any shares of Parent Common Stock. Except as set forth in Section 4.3(c)(ii) of the Parent Disclosure Schedule, Parent is not under any obligation, nor is it bound by any Contract pursuant to which it may become obligated, to repurchase, redeem or otherwise acquire any outstanding shares of Parent Common Stock or other securities.

(d) Except for the Parent Stock Plans, Parent does not have any stock option plan or any other plan, program, agreement or arrangement providing for any equity-based compensation for any Person. As of the close of business on the Reference Date, Parent has reserved 79,165 shares of the Parent Common Stock for issuance under the Parent Stock Plans, of which 0 shares have been issued and are currently outstanding, of which 0 shares are subject to Parent's right of repurchase and 11,118 shares have been reserved for issuance upon exercise of Parent Options previously granted and currently outstanding under the Parent Stock Plans. Parent has authorized and reserved a sufficient number of shares of Parent Common Stock to assume the Company Equity Awards at the Closing.

(e) Except for the Parent Warrants, and the Parent Options, and as otherwise set forth in Section 4.3(e) of the Parent Disclosure Schedule, there is no: (i) outstanding subscription, option, call, warrant or right (whether or not currently exercisable) to acquire any shares of the capital stock or other securities of Parent or any of its Subsidiaries; (ii) outstanding security, instrument or obligation that is or may become convertible into or exchangeable for any shares of the capital stock or other securities of Parent or any of its Subsidiaries; or (iii) condition or circumstance that could be reasonably likely to give rise to or provide a basis for the assertion of a claim by any Person to the effect that such Person is entitled to acquire or receive any shares of capital stock or other securities of Parent or any of its Subsidiaries. There are no outstanding or authorized stock appreciation, phantom stock, profit participation or other similar rights with respect to Parent or any of its Subsidiaries.

(f) All outstanding shares of Parent Common Stock, the Parent Options, the Parent Warrants and other securities of Parent have been issued and granted in material compliance with (i) all applicable securities Laws and other applicable Laws, and (ii) all requirements set forth in applicable Contracts.

4.4. Authority; Binding Nature of Agreement.

(a) Each of Parent and Merger Sub has all requisite corporate power and authority to execute and deliver this Agreement and, with respect to Merger Sub, the adoption of this Agreement by Parent in its capacity as sole stockholder of Merger Sub, to perform its obligations hereunder and to consummate the Contemplated Transactions. The Parent Board has adopted resolutions, by vote at a meeting duly called, (i) determining that the Contemplated Transactions, including the Merger and the issuance of shares of Parent Common Stock pursuant to this Agreement (the "**Parent Share Issuance**"), are advisable and in the best interests of Parent and its stockholders and (ii) approving and declaring advisable this Agreement and the Contemplated Transactions. As of the date of this Agreement, such resolutions have not been amended or withdrawn. This Agreement has been duly executed and delivered by Parent and Merger Sub and, assuming the due authorization, execution and delivery by the Company, constitutes the legal, valid and binding obligation of Parent and Merger Sub, enforceable against each of Parent and Merger Sub in accordance with its terms, except, in each case, as enforcement may be limited by the Bankruptcy and Equity Exception.

(b) No other corporate proceedings on the part of Parent are necessary to authorize, adopt, or approve, as applicable, this Agreement or to consummate the Contemplated Transactions (except for the filing of the appropriate merger documents as required by the DGCL). Parent and Merger Sub have duly executed and delivered this Agreement and, assuming the due authorization, execution and delivery by the Company, this Agreement constitutes its legal, valid and binding obligation, enforceable against Parent, in accordance with its terms except, in each case, as enforcement may be limited by the Bankruptcy and Equity Exception.

4.5. Non-Contravention; Consents. Subject to (i) the filing of the Certificate of Merger required by the DGCL, (ii) (A) the filing with the SEC of the Proxy Statement/Prospectus in definitive form, (B) the filing with the SEC, and declaration of effectiveness under the Securities Act of the Registration Statement, and (C) the filing with the SEC of such reports and other filings under, and such other compliance with, the Exchange Act and the Securities Act, and the rules and regulations thereunder, as may be required in connection with this Agreement, and the Contemplated Transactions, (iii) such Consents, registrations, declarations, notices or filings as are required to be made or obtained under the securities or "blue sky" laws of various states in connection with the issuance of the shares of Parent Common Stock to be issued as the Merger Consideration, neither (x) the execution, delivery or performance of this Agreement by the Company nor (y) the consummation of the Contemplated Transactions, will directly or indirectly (with or without notice or lapse of time):

(a) contravene, conflict with or result in a violation of any of the provisions of the Organizational Documents of Parent or any of its Subsidiaries;

(b) contravene, conflict with or result in a violation of, or give any Governmental Entity the right to challenge the Contemplated Transactions or to exercise any remedy or obtain any relief under, any Law or any order, writ, injunction, judgment or decree to which Parent or any of its Subsidiaries, or any of the assets owned or used by Parent or any of its Subsidiaries, is subject, except as would not reasonably be expected to be material to Parent or its business.;

(c) contravene, conflict with or result in a violation of any of the terms or requirements of, or give any Governmental Entity the right to revoke, withdraw, suspend, cancel, terminate or modify, any Governmental Authorization that is held by Parent or its Subsidiaries, except as would not reasonably be expected to be material to Parent or its business;

(d) contravene, conflict with or result in a violation or breach of, or result in a default under, any provision of any Parent Material Contract, or give any Person the right to: (i) declare a default or exercise any remedy under any Parent Material Contract; (ii) any material payment, rebate, chargeback, penalty or change in delivery schedule under any Parent Material Contract; (iii) accelerate the maturity or performance of any Parent Material Contract; or (iv) cancel, terminate or modify any term of any Parent Material Contract, except in the case of any non-material breach, default, penalty or modification; or

(e) result in the imposition or creation of any Lien upon or with respect to any asset owned or used by Parent or any of its Subsidiaries (except for Permitted Liens).

(f) Except for (i) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware pursuant to the DGCL, (ii) (A) the filing with the SEC of the Proxy Statement/Prospectus in definitive form, (B) the filing with the SEC, and declaration of effectiveness under the Securities Act of the Registration Statement, and (C) the filing with the SEC of such reports and other filings under, and such other compliance with, the Exchange Act and the Securities Act, and the rules and regulations thereunder, as may be required in connection with this Agreement, and the Contemplated Transactions and (iii) such consents, waivers, approvals, orders, authorizations, registrations, declarations and filings as may be required under applicable federal and state securities Laws, neither Parent nor any of its Subsidiaries is or will be required to make any filing with or give any notice to, or to obtain any Consent from, any Governmental Entity in connection with (x) the execution, delivery or performance of this Agreement, or (y) the consummation of the Contemplated Transactions, which if individually or in the aggregate were not given or obtained, would reasonably be expected to prevent or materially delay the ability of Parent to consummate the Contemplated Transactions. The Parent Board has taken and will take all actions necessary to ensure that the restrictions applicable to business combinations contained in Section 203 of the DGCL are, and will be, inapplicable to the execution, delivery and performance of this Agreement and to the consummation of the Contemplated Transactions. No other state takeover statute or similar Law applies or purports to apply to the Merger, this Agreement or any of the Contemplated Transactions.

4.6. SEC Filings; Financial Statements.

(a) Other than such documents that can be obtained on the SEC's website at www.sec.gov, Parent has delivered or made available to the Company accurate and complete copies of all registration statements, proxy statements, Parent Certifications (as defined below) and other statements, reports, schedules, forms and other documents filed by Parent with the SEC since May 12, 2020 (the "**Parent SEC Documents**"). Since the date of the Company Balance Sheet, all material statements, reports, schedules, forms and other documents required to have been filed by Parent or its officers with the SEC have been so filed on a timely basis. As of the time it was filed with the SEC (or, if amended or superseded by a filing prior to the date of this Agreement, then on the date of such filing), each of the Parent SEC Documents complied in all material respects with the applicable requirements of the Securities Act or the Exchange Act (as the case may be) and, as of the time they were filed, none of the Parent SEC Documents contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading (or, in the case of a Parent SEC Document that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the Securities Act, as of the date such registration statement or amendment became effective, contained any untrue statement of a material fact or omitted to

state any material fact required to be stated therein or necessary to make the statements made therein not misleading); provided, however, that no representation is made as to the accuracy of any financial projections or forward-looking statements or the completeness of any information furnished by Parent to the SEC solely for the purposes of complying with Regulation FD promulgated under the Exchange Act. The certifications and statements required by (i) Rule 13a-14 under the Exchange Act and (ii) 18 U.S.C. §1350 (Section 906 of the Sarbanes-Oxley Act) relating to the Parent SEC Documents (collectively, the "**Parent Certifications**") are accurate and complete and comply as to form and content with all applicable Laws. As used in this Section 4.6, the term "file" and variations thereof shall be broadly construed to include any manner in which a document or information is furnished, supplied or otherwise made available to the SEC.

(b) The financial statements (including any related notes) contained or incorporated by reference in the Parent SEC Documents: (i) complied as to form in all material respects with the published rules and regulations of the SEC applicable thereto; (ii) were prepared in accordance with GAAP (except as may be indicated in the notes to such financial statements or, in the case of unaudited financial statements, except as permitted by the SEC on Form 10-Q under the Exchange Act, and except that the unaudited financial statements may not contain footnotes and are subject to normal and recurring year-end adjustments) applied on a consistent basis unless otherwise noted therein throughout the periods indicated; and (iii) fairly present, in all material respects, the financial position of Parent and its consolidated Subsidiaries as of the respective dates thereof and the results of operations and cash flows of Parent and its consolidated Subsidiaries for the periods covered thereby. Other than as expressly disclosed in the Parent SEC Documents filed prior to the date hereof, there has been no material change in Parent's accounting methods or principles that would be required to be disclosed in Parent's financial statements in accordance with GAAP.

(c) Parent maintains a system of internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act) that is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP and to provide reasonable assurance (i) that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, (ii) that receipts and expenditures are made only in accordance with authorizations of management and the Parent Board and (iii) regarding prevention or timely detection of the unauthorized acquisition, use or disposition of Parent's assets that could have a material effect on Parent's financial statements. Parent has evaluated the effectiveness of Parent's system of internal control over financial reporting as of December 31, 2021, and, to the extent required by applicable Law, presented in any applicable Parent SEC Document that is a report on Form 10-K or Form 10-Q (or any amendment thereto) its conclusions about the effectiveness of the internal control over financial reporting as of the end of the period covered by such report or amendment based on such evaluation. Parent has disclosed, based on its most recent evaluation of internal control over financial reporting, to Parent's auditors and audit committee (and made available to the Company a summary of the significant aspects of such disclosure) (A) all significant deficiencies, if any, in the design or operation of internal control over financial reporting that are reasonably likely to adversely affect Parent's ability to record, process, summarize and report financial information and (B) any known fraud that involves management or other employees who have a significant role in Parent's internal control over financial reporting. Parent has not identified, based on its most recent evaluation of internal control over financial reporting, any material weaknesses in the design or operation of Parent's internal control over financial reporting.

(d) Parent maintains "disclosure controls and procedures" (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) that are reasonably designed to ensure that information required to be disclosed by Parent in the periodic reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the required time periods, and that all such information is accumulated and communicated to Parent's management as appropriate to allow timely decisions regarding required disclosure and to make the Parent Certifications.

4.7. Absence of Changes. Except as set forth in Section 4.7 of the Parent Disclosure Schedule and reasonable and good faith actions or omissions taken to comply with applicable Law or guidance by Governmental Entity in connection with the COVID-19 pandemic, between the date of Parent's latest consolidated unaudited balance sheet (the "**Parent Balance Sheet**") and the date of this Agreement, Parent has conducted its business in the Ordinary Course of Business in all material respects (except for the execution and performance of this Agreement and the discussions, negotiations and transactions related thereto, including the Contemplated Transactions) and there has not been any (a) Parent Material Adverse Effect or (b) action, event or occurrence that would have required the consent of the Company pursuant to Section 5.1(b) had such action, event or occurrence taken place after the execution and delivery of this Agreement.

4.8. Absence of Undisclosed Liabilities. As of the date of this Agreement, neither Parent nor any of its Subsidiaries has any liability, debt or obligation individually or in the aggregate, of a type required to be recorded or reflected on Parent's balance sheet or disclosed in the footnotes thereto under GAAP except for liabilities, debts or obligations: (a) disclosed, reflected or reserved against in the Parent Balance Sheet or disclosed in the notes thereto included in the Parent SEC Documents; (b) that have been incurred by Parent or any of its Subsidiaries since the date of the Parent Balance Sheet in the Ordinary Course of Business; (c) for performance of obligations of Parent or any of its Subsidiaries under Parent's material Contracts which have not resulted from a breach of such Contracts, breach of warranty, tort, infringement or violation of Law; (d) incurred in connection with the Contemplated Transactions; (e) which would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect; and (f) described in Section 4.8 of the Parent Disclosure Schedule.

4.9. Legal Proceedings; Orders.

(a) As of the date of this Agreement, except as set forth in Section 4.9(a) of the Parent Disclosure Schedule, to Parent's Knowledge there is no pending Legal Proceeding and no Person has threatened in writing to commence any Legal Proceeding: (i) that involves (A) Parent, (B) any of its Subsidiaries, (C) any Parent Associate (in his or her capacity as such) or (D) any of the material assets owned or used by Parent or its Subsidiaries; or (ii) that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, the Contemplated Transactions.

(b) Except as set forth in Section 4.9(b) of the Parent Disclosure Schedule, since January 1, 2020, no Legal Proceeding has been pending against Parent or any of its Subsidiaries that resulted in material liability to Parent or any of its Subsidiaries.

(c) There is no order, writ, injunction, judgment or decree to which Parent or any of its Subsidiaries, or any of the material assets owned or used by Parent or any of its Subsidiaries, is subject. To Parent's Knowledge, no officer or employee of Parent or any of its Subsidiaries is subject to any order, writ, injunction, judgment or decree that prohibits such officer or employee from engaging in or continuing any conduct, activity or practice relating to the business of Parent or any of its Subsidiaries or to any material assets owned or used by Parent or any of its Subsidiaries.

4.10. Contracts.

(a) Section 4.10(a) of the Parent Disclosure Schedule lists the following Parent Contracts in effect as of the date of this Agreement (other than any Parent Benefit Plan) (each, a "**Parent Material Contract**"):

(i) a material contract as defined in Item 601(b)(10) of Regulation S-K as promulgated under the Securities Act;

(ii) each Contract that is material to the business or operations of Parent and its Subsidiaries, taken as a whole, containing (A) any covenant limiting the freedom of Parent or any of its Subsidiaries to engage in any line of business or compete with any Person, (B) any "most-favored nations" pricing provisions or marketing or distribution rights related to any products or territory, (C) any exclusivity provision, (D) any agreement to purchase minimum quantity of goods or services, or (E) any material non-solicitation provisions applicable to Parent or any of its Subsidiaries;

(iii) each Contract relating to capital expenditures and requiring payments after the date of this Agreement in excess of $50,000 pursuant to its express terms and not cancelable without penalty;

(iv) each Contract relating to the disposition or acquisition of material assets or any ownership interest in any entity;

(v) each Contract relating to any mortgages, indentures, loans, notes or credit agreements, security agreements or other agreements or instruments relating to material Indebtedness of Parent or any of its Subsidiaries or creating any material Liens with respect to any assets of Parent or any of its Subsidiaries;

(vi) each Contract requiring payment by or to Parent or any of its Subsidiaries after the date of this Agreement in excess of $100,000 pursuant to its express terms relating to: (A) any distribution agreement (identifying any that contain exclusivity provisions); (B) any agreement involving provision of services or products with respect to any pre-clinical or clinical development activities of Parent or any of its Subsidiaries; (C) any dealer, distributor, joint marketing, alliance, joint venture, cooperation, development or other agreement currently in force under which Parent or any of its Subsidiaries has continuing obligations to develop or market any product, technology or service, or any agreement pursuant to which Parent or any of its Subsidiaries has continuing obligations to develop any Intellectual Property Rights that will not be owned, in whole or in part, by Parent or any of its Subsidiaries; or (D) any Contract to license any third party to manufacture or produce any product, service or technology of Parent or any of its Subsidiaries or any Contract to sell, distribute or commercialize any products or service of the Company or any of its Subsidiaries, in each case, except for Contracts entered into in the Ordinary Course of Business;

(vii) each Contract with any Governmental Entity;

(viii) each Contract that is material to the business or operations of Parent and its Subsidiaries, taken as a whole, containing any royalty, dividend or similar arrangement based on the revenues or profits of Parent or any of its Subsidiaries; or

(ix) any other Contract that is not terminable at will (with no penalty or payment) by Parent or its Subsidiaries, as applicable, and (A) which involves payment or receipt by Parent or its Subsidiaries after the date of this Agreement under any such Contract of more than $100,000 in the aggregate, or obligations after the date of this Agreement in excess of $200,000 in the aggregate, or (B) that is material to the business or operations of the Company and its Subsidiaries, taken as a whole.

(b) Parent has delivered or made available to the Company accurate and complete copies of all Parent Material Contracts, including all material amendments thereto, but excluding any purchase orders issued under a Parent Material Contract in the Ordinary Course of Business. There are no Parent Material Contracts that are not in written form. As of the date of this Agreement, none of Parent,

any of its Subsidiaries or, to Parent's Knowledge, any other party to a Parent Material Contract, has breached, violated or defaulted under, or received notice that it breached, violated or defaulted under, any of the terms or conditions of, or Laws applicable to, any Parent Material Contract in such manner as would permit any other party to cancel or terminate any such Parent Material Contract, or would permit any other party to seek damages or pursue other legal remedies which would reasonably be expected to be material to Parent or its business or operations. As to Parent and its Subsidiaries, as of the date of this Agreement, each Parent Material Contract is valid, binding, enforceable and in full force and effect, subject to the Bankruptcy and Equity Exception. Since the date of the Parent Balance Sheet, no counterparty to a Parent Material Contract has notified Parent in writing (or, to the Knowledge of Parent, otherwise) that it intends to terminate or not renew a Parent Material Contract.

4.11. Employee and Labor Matters; Benefits Plans.

(a) Section 4.11(a) of Parent Disclosure Schedule is a list of all material Parent Benefit Plans, including, without limitation, each such Parent Benefit Plan that provides for retirement, change in control, stay or retention deferred compensation, incentive compensation, severance or retiree medical or life insurance benefits.

(b) As applicable with respect to each material Parent Benefit Plan, Parent has made available to the Company, true and complete copies of (i) each material Parent Benefit Plan, including all amendments thereto, and in the case of an unwritten material Parent Benefit Plan, a written description thereof, (ii) all current trust documents, investment management contracts, custodial agreements, administrative services agreements and insurance and annuity contracts relating thereto, (iii) the current summary plan description and each summary of material modifications thereto, (iv) the most recently filed annual reports with any Governmental Entity (e.g., Form 5500 and all schedules thereto), (v) the most recent IRS determination, opinion or advisory letter, (vi) the most recent summary annual reports, nondiscrimination testing reports, actuarial reports, financial statements and trustee reports, and (vii) all notices and filings concerning IRS or United States Department of Labor or other Governmental Entity audits or investigations, including with respect to "prohibited transactions" within the meaning of Section 406 of ERISA or Section 4975 of the Code, since January 1, 2020.

(c) Each Parent Benefit Plan has been maintained, operated and administered in compliance in all material respects with its terms and any related documents or agreements and the applicable provisions of ERISA, the Code and all other applicable Laws.

(d) The Parent Benefit Plans which are "employee pension benefit plans" within the meaning of Section 3(2) of ERISA and which are intended to meet the qualification requirements of Section 401(a) of the Code have received determination or opinion letters from the IRS on which they may currently rely to the effect that such plans are qualified under Section 401(a) of the Code and the related trusts are exempt from federal income Taxes under Section 501(a) of the Code, respectively, and, to Parent's Knowledge, nothing has occurred that would reasonably be expected to materially adversely affect the qualification of such Parent Benefit Plan or the tax exempt status of the related trust.

(e) None of Parent, any of its Subsidiaries or any Parent ERISA Affiliate maintains, contributes to, is required to contribute to, or has any actual or contingent liability with respect to, (i) any "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) that is subject to Title IV or Section 302 of ERISA or Section 412 of the Code, (ii) any "multiemployer plan" (within the meaning of Section 3(37) of ERISA), (iii) any "multiple employer plan" (within the meaning of Section 413 of the Code) or (iv) any "multiple employer welfare arrangement" (within the meaning of Section 3(40) of ERISA).

(f) There are no pending audits or investigations by any Governmental Entity involving any Parent Benefit Plan, and no pending or, to Parent's Knowledge, threatened claims (except for individual claims for benefits payable in the normal operation of the Parent Benefit Plans), suits or proceedings involving any Parent Benefit Plan, any fiduciary thereof or service provider thereto. All material contributions and premium payments required to have been made under any of the Parent Benefit Plans or by applicable Law (without regard to any waivers granted under Section 412 of the Code), have been made and neither Parent nor any Parent ERISA Affiliate has any liability for any such unpaid contributions with respect to any Parent Benefit Plan.

(g) None of Parent, any of its Subsidiaries or any Parent ERISA Affiliates, nor, to Parent's Knowledge, any fiduciary, trustee or administrator of any Parent Benefit Plan, has since January 1, 2020 engaged in, or in connection with the Contemplated Transactions will engage in, any transaction with respect to any Parent Benefit Plan which would subject any such Parent Benefit Plan, Parent, any of its Subsidiaries or Parent ERISA Affiliates to a material Tax, penalty or liability for a "prohibited transaction" under Section 406 of ERISA or Section 4975 of the Code.

(h) No Parent Benefit Plan provides death, medical, dental, vision, life insurance or other welfare benefits beyond termination of service or retirement, other than coverage mandated by Law and none of Parent, any of its Subsidiaries or any Parent ERISA Affiliates has made a written or oral representation promising the same.

(i) Neither the execution of this Agreement, nor the consummation of the Contemplated Transactions will either alone or in connection with any other event(s) (i) result in any payment becoming due to any current or former employee, director, officer, independent contractor or other service provider of Parent or any of its Subsidiaries, (ii) increase any amount of compensation or benefits otherwise payable to any current or former employee, director, officer, independent contractor or other service provider of Parent or any of its Subsidiaries, (iii) result in the acceleration of the time of payment, funding or vesting of any benefits under any Parent Benefit Plan, (iv) require any contribution or payment to fund any obligation under any Parent Benefit Plan or (v) limit the right to merge, amend or terminate any Parent Benefit Plan.

(j) Neither the execution of this Agreement, nor the consummation of the Contemplated Transactions (either alone or when combined with the occurrence of any other event, including without limitation, a termination of employment) will result in the receipt or retention by any person who is a "disqualified individual" (within the meaning of Section 280G of the Code) with respect to Parent and its Subsidiaries of any payment or benefit that is characterized as a "parachute payment" (within the meaning of Section 280G of the Code), determined without regard to the application of Section 280G(b)(5) of the Code.

(k) Each Parent Benefit Plan providing for deferred compensation that constitutes a "nonqualified deferred compensation plan" (as defined in Section 409A(d)(1) of the Code and the regulations promulgated thereunder) is, and has been, established, administered and maintained in material compliance with the requirements of Section 409A of the Code and the regulations promulgated thereunder.

(l) No Person has any "gross up" agreements with Parent or any of its Subsidiaries or other assurance of reimbursement by Parent or any of its Subsidiaries for any Taxes imposed under Section 409A or Section 4999 of the Code.

(m) Neither Parent nor any of its Subsidiaries is a party to or bound by, or has a duty to bargain under, any collective bargaining agreement or other Contract with a labor union or labor organization representing any of its employees, and there is no labor union or labor organization representing or, to Parent's Knowledge, purporting to represent or seeking to represent any employees of Parent or its Subsidiaries, including through the filing of a petition for representation election.

(n) Parent and each of its Subsidiaries is, and since January 1, 2020 has been, in material compliance with all applicable Laws respecting labor, employment, employment practices, and terms and conditions of employment, including, without limitation, worker classification, discrimination, wrongful termination, harassment and retaliation, equal employment opportunities, fair employment practices, meal and rest periods, immigration, employee safety and health, wages (including overtime wages), unemployment and workers' compensation, leaves of absence, and hours of work. Except as would not be reasonably likely to result in a material liability to Parent or any of its Subsidiaries, with respect to employees of Parent or any of its Subsidiaries, each of Parent and its Subsidiaries, since January 1, 2020: (i) has withheld and reported all amounts required by Law or by agreement to be withheld and reported with respect to wages, salaries and other payments, benefits, or compensation to employees, (ii) is not liable for any arrears of wages (including overtime wages), severance pay or any Taxes or any penalty for failure to comply with any of the foregoing, and (iii) is not liable for any payment to any trust or other fund governed by or maintained by or on behalf of any Governmental Entity, with respect to unemployment compensation benefits, disability, social security or other benefits or obligations for employees (other than routine payments to be made in the Ordinary Course of Business). There are no actions, suits, claims, charges, demands, lawsuits, investigations, audits or administrative matters pending or, to Parent's Knowledge, threatened or reasonably anticipated against Parent or any of its Subsidiaries relating to any current or former employee, applicant for employment, consultant, employment agreement or Parent Benefit Plan (other than routine claims for benefits). All U.S. based employees of Parent and its Subsidiaries are employed "at-will" and their employment can be terminated without advance notice or payment of severance in excess of sixty (60) days.

(o) Except as would not be reasonably likely to result in a material liability to Parent or any of its Subsidiaries, with respect to each individual who currently renders services to Parent or any of its Subsidiaries, Parent and each of its Subsidiaries has accurately classified each such individual as an employee, independent contractor, or otherwise under all applicable Laws and, for each individual classified as an employee, Parent has accurately classified him or her as overtime eligible or overtime ineligible under all applicable Laws. Neither Parent nor any of its Subsidiaries has any material liability with respect to any misclassification of: (a) any Person as an independent contractor rather than as an employee, (b) any employee leased from another employer, or (c) any employee currently or formerly classified as exempt from overtime wages.

(p) There is not and has not been since January 1, 2020, nor, to Parent's Knowledge, is there or has there been since January 1, 2020 any threat of, any strike, slowdown, work stoppage, lockout, union election petition, demand for recognition, or any similar activity or dispute, or, to Parent's Knowledge, any union organizing activity, against Parent or any of its Subsidiaries. No event has occurred, and, to Parent's Knowledge, no condition or circumstance exists, that would reasonably be expected directly or indirectly to give rise to or provide a basis for the commencement of any such strike, slowdown, work stoppage, lockout, union election petition, demand for recognition, or any similar activity or dispute.

4.12. Registration Statement and Proxy Statement/Prospectus. None of the information supplied or to be supplied by Parent for inclusion or incorporation by reference in (a) the Registration Statement will, at the time the Registration Statement or any amendment or supplement thereto is declared effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading or (b) the Proxy Statement/Prospectus will, at the date it is first mailed to each of the Company's stockholders, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Proxy Statement/Prospectus will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations thereunder, except that no representation is made by Parent with respect to statements made or incorporated by reference therein based on information supplied by the Company for inclusion or incorporation by reference therein.

4.13. Transactions with Affiliates. Except as set forth in the Parent SEC Documents filed prior to the date of this Agreement, since the date of Parent's proxy statement filed in 2022 with the SEC, as of the date hereof, no event has occurred that would be required to be reported by Parent pursuant to Item 404 of Regulation S-K as promulgated under the Securities Act.

4.14. Brokers and Finders. Except as set forth in Section 4.14 of the Parent Disclosure Schedule, no broker, finder or investment banker is entitled to any brokerage fee, finder's fee, opinion fee, success fee, transaction fee or other fee or commission in connection with the Contemplated Transactions based upon arrangements made by or on behalf of Parent or any of its Subsidiaries, including Merger Sub.

4.15. Opinion of Financial Advisor. As of the date of this Agreement, the Parent Board has received the opinion of Cantor Fitzgerald & Co. that, as of the date of such opinion and based upon and subject to the various qualifications, assumptions, limitations and other matters set forth therein, the Exchange Ratio is fair, from a financial point of view, to Parent. Parent shall, promptly following the execution of this Agreement by all Parties, furnish a copy of each such written opinion to the Company solely for informational purposes (it being agreed that none of the Company, nor any of its Affiliates or Representatives, shall have the right to rely on such opinion).

4.16. Taxes. Except as set forth on Section 4.16 of the Parent Disclosure Schedule:

(a) Parent and each of its Subsidiaries have timely filed all income Tax Returns and other material Tax Returns that they were required to file under applicable Law. All such Tax Returns are correct and complete in all material respects and have been prepared in compliance with all applicable Law. No written claim has ever been made by any Governmental Entity in any jurisdiction where Parent or any of its Subsidiaries does not file a particular Tax Return or pay a particular Tax that Parent or such Subsidiary is subject to taxation by that jurisdiction.

(b) All income and other material Taxes due and owing by Parent or any of its Subsidiaries on or before the date hereof (whether or not shown on any Tax Return) have been fully paid. The unpaid Taxes of Parent and its Subsidiaries did not, as of the date of the Parent Balance Sheet, materially exceed the reserve for Tax liability (excluding any reserve for deferred Taxes established to reflect timing differences between book and Tax items) set forth on the face of the Parent Balance Sheet.

(c) All Taxes that Parent or any of its Subsidiaries are or were required by Law to withhold or collect have been duly and timely withheld or collected in all material respects on behalf of its respective employees, independent contractors, stockholders, lenders, customers or other third parties and, have been timely paid to the proper Governmental Entity or other Person or properly set aside in accounts for this purpose.

(d) There are no Liens for material Taxes (other than Taxes not yet due and payable) upon any of the assets of Parent or any of its Subsidiaries.

(e) No deficiencies for income or other material Taxes with respect to Parent or any of its Subsidiaries have been claimed, proposed or assessed by any Governmental Entity in writing. There are no pending or ongoing, and, to Parent's Knowledge, threatened audits, assessments or other actions for or relating to any liability in respect of a material amount of Taxes of Parent or any of its Subsidiaries. Neither Parent nor any of its Subsidiaries (or any of their predecessors) has waived any statute of limitations in respect of any income or other material Taxes or agreed to any extension of time with respect to any income or other material Tax assessment or deficiency.

(f) Neither Parent nor any of its Subsidiaries has been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

(g) Neither Parent nor any of its Subsidiaries is a party to any material Tax allocation agreement, Tax sharing agreement, Tax indemnity agreement, or similar agreement or arrangement, other than customary commercial contracts entered into in the Ordinary Course of Business the principal subject matter of which is not Taxes.

(h) Neither Parent nor any of its Subsidiaries will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any Tax period (or portion thereof) ending after the Closing Date as a result of any: (i) change in method of accounting for Tax purposes made on or prior to the Closing Date; (ii) use of an improper method of accounting for a Tax period ending on or prior to the Closing Date; (iii) "closing agreement" as described in Section 7121 of the Code (or any similar provision of state, local or foreign Law) executed on or prior to the Closing Date; (iv) installment sale or open transaction disposition made on or prior to the Closing Date; (v) prepaid amount received or deferred revenue accrued on or prior to the Closing Date; or (vi) application of Section 367(d) of the Code to any transfer of intangible property on or prior to the Closing Date. Parent has not made any election under Section 965(h) of the Code.

(i) Neither Parent nor any of its Subsidiaries has ever been (i) a member of a consolidated, combined or unitary Tax group (other than such a group the common parent of which is Parent) or (ii) a party to any joint venture, partnership, or other arrangement that is treated as a partnership for U.S. federal income Tax purposes. Neither Parent nor any of its Subsidiaries has any liability for any material Taxes of any Person (other than Parent and any of its Subsidiaries) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local, or foreign Law), or as a transferee or successor.

(j) Neither Parent nor any of its Subsidiaries (i) is a "controlled foreign corporation" as defined in Section 957 of the Code; (ii) is a "passive foreign investment company" within the meaning of Section 1297 of the Code; or (iii) has ever had a permanent establishment (within the meaning of an applicable Tax treaty) or otherwise had an office or fixed place of business in a country other than the country in which it is organized.

(k) Neither Parent nor any of its Subsidiaries has participated in or been a party to a transaction that, as of the date of this Agreement, constitutes a "listed transaction" that is required to be reported to the IRS pursuant to Section 6011 of the Code and applicable Treasury Regulations thereunder.

(l) Neither Parent nor any of its Subsidiaries has taken or agreed to take any action or has Knowledge of the existence of any fact that could reasonably be expected to prevent or impede the Merger from qualifying for the Intended Tax Treatment.

(m) Neither Parent nor any of its Subsidiaries has availed itself of any Tax relief pursuant to any pandemic response laws that could reasonably be expected to materially impact the Tax payment and/or Tax reporting obligations of Parent and its Affiliates (including the Company and its Subsidiaries) after the Closing Date.

For purposes of this Section 4.16, each reference to Parent or any of its Subsidiaries shall be deemed to include any Person that was liquidated into, merged with, or is otherwise a predecessor to, Parent of any of its Subsidiaries.

4.17. Ownership and Operations of Merger Sub. Parent, directly or indirectly, owns beneficially all of the outstanding shares of common stock of Merger Sub. Merger Sub was formed solely for the purpose of engaging in the Merger, has engaged in no other business activities, and has incurred no liabilities or obligations other than as contemplated hereby or as otherwise required or incidental to negotiate, execute, deliver and effect the Contemplated Transactions. The authorized shares of common stock of Merger Sub consist of 1,000 shares, all of which are validly issued and outstanding. All of the issued and outstanding shares of Merger Sub are directly owned by Parent, free and clear of any Liens other than Liens imposed under any federal or state securities Laws.

4.18. Ownership of Company Common Stock. Since May 12, 2020, neither Parent nor any of its Subsidiaries has "owned" (as such term is defined in Section 203(c) of the DGCL), directly or indirectly, any shares of Company Common Stock or other securities convertible into, exchangeable into or exercisable for shares of Company Common Stock (other than pursuant to any employee benefit plan of Parent). There are no voting trusts or other agreements or understandings to which Parent or any its Subsidiaries is a party with respect to the voting of the capital stock or other equity interest of the Company or any of its Subsidiaries.

4.19. Regulatory Matters.

(a) Parent and each of its Subsidiaries are, and since January 1, 2020 have been, in compliance in all respects with all applicable Laws, including the FDCA and any other similar Laws administered or promulgated by the FDA or other comparable Governmental Entity, except for any noncompliance, either individually or in the aggregate, which would not be material to Parent. To Parent's Knowledge, no investigation, inspection, claim, suit, proceeding, audit or other action by any Governmental Entity is pending or threatened against the Parent or any of its Subsidiaries.

(b) There is no agreement, judgment, injunction, order or decree binding upon Parent or any of its Subsidiaries which (i) has or would reasonably be expected to have the effect of prohibiting or materially impairing any business practice of Parent or any of its Subsidiaries, any acquisition of material property by Parent or any of its Subsidiaries or the conduct of business by Parent or any of its Subsidiaries as currently conducted, (ii) is reasonably likely to have an adverse effect on Parent's ability to comply with or perform any covenant or obligation under this Agreement, or (iii) is reasonably likely to have the effect of preventing, delaying, making illegal or otherwise interfering with the Contemplated Transactions.

(c) Parent and its Subsidiaries have at all times since January 1, 2020 held and have operated in compliance with all Governmental Authorizations that are necessary for the conduct of business of Parent and its Subsidiaries as currently being conducted (the "**Parent Permits**"), except where such failures to hold or remain so in compliance with such Parent Permits would not, either individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. All such Parent Permits are valid and are in full force and effect, and will continue to be so upon consummation of the Contemplated Transaction, except as would not, either individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. No notice, filing, or other Consent is required as a result of the Contemplated Transactions under any material Parent Permit. Section 4.19(c) of the Parent Disclosure Schedule identifies each Parent Permit. Parent and its Subsidiaries hold all right, title and interest in and to all the Parent Permits free and clear of any Lien. All fees and charges with respect to such Parent Permits, as of the date hereof, have been paid in full and all filing, reporting and maintenance obligations have been completely and timely satisfied, except as would not, either individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. Parent and each of its Subsidiaries are in material compliance with the terms of the Parent Permits. To Parent's Knowledge, no Legal Proceeding is pending or threatened, which seeks to revoke, limit, suspend, or materially modify any Parent Permit.

(d) To Parent's Knowledge, there are no proceedings pending or threatened with respect to an alleged material violation by Parent or any of its Subsidiaries of the FDCA or any other similar Law administered or promulgated by any comparable Governmental Entity. Neither Parent, any of its Subsidiaries nor to Parent's Knowledge, any Person providing services to Parent or any of its Subsidiaries with respect to Parent's products or product candidates (the "**Parent Products**") has received any written notice, including any warning letter, untitled letter FDA Form-483, written notice of other adverse finding, or notice of deficiency or violation, or similar written communication from the FDA or any other Governmental Entity alleging that Parent or its Subsidiaries, their respective operations, or the Parent Products are in material violation of any applicable Law or Parent Permits.

(e) As required under applicable Law or pursuant to a Governmental Authorization, Parent and its Subsidiaries have maintained, filed, or furnished to the applicable Governmental Entities or Person all filings, documents, claims, reports, notices, and other submissions (the "**Parent Reports**"), required to be maintained, filed, or furnished on a timely basis, and, at the time of maintenance, filing, or furnishing all such Parent Reports were complete and accurate when submitted, or were subsequently updated, changed, corrected, or modified, except where the failures to so maintain, file, furnish, update, change, correct or modify the same would not, either individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect.

(f) Neither Parent, its Subsidiaries, nor to Parent's Knowledge, any Person providing services to Parent or its Subsidiaries has made an untrue statement of a material fact or fraudulent statement to the FDA or a Governmental Entity, failed to disclose a material fact required to be disclosed to the FDA or a Governmental Entity, or made a statement, or failed to make a statement that, would reasonably be expected to provide a basis for the FDA to invoke the FDA Ethics Policy. Neither Parent, its Subsidiaries, nor to Parent's Knowledge, any Person providing services to Parent or its Subsidiaries has ever been investigated by the FDA or other Governmental Entity for data or healthcare program fraud. Neither Parent, its Subsidiaries, nor to Parent's Knowledge, any Person providing services to Parent or its Subsidiaries is the subject of any pending or, to Parent's Knowledge, threatened investigation pursuant to the FDA Ethics Policy, or resulting from any other untrue or false statement or omission.

(g) Neither Parent, its Subsidiaries, nor to Parent's Knowledge any Person providing services to Parent or its Subsidiaries, nor their respective officers, directors, partners, employees, or agents have been:

(i) debarred or suspended pursuant to 21 U.S.C. § 335a;

(ii) excluded under 42 U.S.C. § 1320a-7 or any similar law, rule or regulation of any Governmental Entity;

(iii) excluded, debarred, suspended or deemed ineligible to participate in federal procurement and non-procurement programs, including those produced by the U.S. General Services Administration;

(iv) charged, named in a complaint, convicted, or otherwise found liable in any Legal Proceeding that falls within the ambit of 21 U.S.C. § 331, 21 U.S.C. § 333, 21 U.S.C. § 334, 21 U.S.C. § 335a, 21 U.S.C. § 335b, 42 U.S.C. § 1320a—7, 31 U.S.C. §§ 3729 – 3733, 42 U.S.C. § 1320a-7a, or any other applicable Law;

(v) disqualified or deemed ineligible pursuant to 21 C.F.R. Parts 312, 511, or 812, or otherwise restricted, in whole or in part, or subject to an assurance; or

(vi) had a pending Legal Proceeding, or otherwise received any written notice from any Governmental Entity or any Person threatening, investigating, or pursuing (i)-(v) above.

(h) All clinical, pre-clinical and other studies and tests conducted by or on behalf of, or sponsored by, Parent or any of its Subsidiaries, or in which Parent or any of its Subsidiaries or the Parent Products have participated, were and, if still pending, are being conducted in compliance in all material respects with all applicable Laws and regulations enforced by the FDA or any comparable Governmental Entity, including without limitation, 21 C.F.R. Parts 50, 54, 56, 58 and 312. To the Parent's Knowledge, there are no other studies, the results of which are inconsistent with, or otherwise call into question, the results of any such studies or tests conducted by or on behalf of, or sponsored by, Parent or any of its Subsidiaries, or in which Parent or any of its Subsidiaries or the Parent Products have participated. Parent has not received written notice of any complaints, information, or adverse drug experience reports related to a Parent Product that would reasonably be expected to have a Parent Material Adverse Effect.

(i) Neither Parent, its Subsidiaries, nor, to Parent's Knowledge, any Person providing services to Parent or its Subsidiaries has received any written notice, correspondence, or other written communications from the FDA, any other Governmental Entity, any IRB or other Person or board responsible for the oversight or conduct of any study conducted by or on behalf of, or sponsored by, Parent or any of its Subsidiaries, or in which Parent or any of the Parent Products are participating, requiring or threatening the termination, hold, material adverse modification or suspension of any clinical study that is being or is proposed to be conducted. All clinical studies conducted or sponsored by or on behalf of Parent or its Subsidiaries were and, if still pending, are being conducted in all material respects in accordance with all applicable Laws, the protocols, procedures and controls designed and approved for such studies, and in accordance with any requirement of an IRB or other Person or board responsible for review of such studies.

ARTICLE V
COVENANTS

5.1. Interim Operations.

(a) Conduct of Business by the Company. Except for (i) matters set forth in Section 5.1(a) of the Company Disclosure Schedule, (ii) as expressly permitted by or required in accordance this Agreement, (iii) as required by applicable Law, (iv) in connection with the COVID-19 pandemic, to the extent reasonably necessary, (A) to protect the health and safety of the Company's or any of its Subsidiaries' employees, (B) to respond to third party supply or service disruptions caused by the COVID-19 pandemic or (C) as required by any applicable Law, directive or guideline from any Governmental Entity arising out of, or otherwise related to, the COVID-19 pandemic (including any response to COVID-19), or (v) as may be consented to in writing by Parent (which consent shall not be unreasonably withheld, delayed or conditioned), from the date of this Agreement to the Effective Time, or, if earlier, the termination of this Agreement in accordance with its terms (such time, the "**Pre-Closing Period**"), the Company shall, and shall cause each of its Subsidiaries to, use commercially reasonable efforts to conduct its business in the Ordinary Course of Business. In addition, and without limiting the generality of the foregoing, except for matters set forth in the Company Disclosure Schedule or otherwise expressly permitted or expressly contemplated by this Agreement or required by applicable Law or with the prior written consent of Parent (which shall not be unreasonably withheld, conditioned or delayed), during the Pre-Closing Period, the Company shall not, and shall not permit any of its Subsidiaries to, do any of the following (provided that no such consent of Parent may be required to the extent the Company reasonably believes, based on its outside counsel's advice, that obtaining such consent may violate any Laws):

(i) declare, accrue, set aside or pay any dividend or make any other distribution in respect of any shares of its capital stock or repurchase, redeem or otherwise reacquire any shares of its capital stock or other securities (except repurchases from terminated employees, directors or consultants of the Company or in connection with the payment of the exercise price and/or withholding Taxes incurred upon the exercise, settlement or vesting of any award or purchase rights granted under the Company Stock Incentive Plan in accordance with the terms of such award in effect on the date of this Agreement);

(ii) sell, issue, grant, pledge or otherwise dispose of or encumber or authorize any of the foregoing with respect to: (A) any capital stock or other security of the Company or any of its Subsidiaries (except for shares of Company Common Stock issued upon the valid exercise or conversion of outstanding Company Options or Company Warrants or settlement of Company RSUs); (B) any option, warrant or right to acquire any capital stock or any other security, other than stock options granted to employees and service providers in the Ordinary Course of Business which are included in the calculation of the Exchange Ratio; or (C) any instrument convertible into or exchangeable for any capital stock or other security of the Company or any of its Subsidiaries;

(iii) except as required to give effect to anything in contemplation of the Closing, amend any of the Company's or its Subsidiaries' Organizational Documents, or effect or be a party to any merger, consolidation, share exchange, business combination, recapitalization, reclassification of shares, stock split, reverse stock split or similar transaction except for the Contemplated Transactions;

(iv) form any Subsidiary or acquire any equity interest or other interest in any other entity or enter into a joint venture with any other entity;

(v) (A) lend money to any Person (except for the advancement of expenses to employees, directors and consultants in the Ordinary Course of Business), (B) incur or guarantee any indebtedness for borrowed money, (C) guarantee any debt securities of others, or (D) other than the incurrence or payment of Transaction Expenses, make any capital expenditure in excess of one hundred ten percent (110%) of the budgeted capital expenditure amounts set forth in the Company's operating budget delivered to Parent concurrently with the execution of this Agreement (the "**Company Budget**") or as provided in Section 5.1(a)(xiii);

(vi) other than as set forth on Section 5.1(a)(vi) of the Company Disclosure Schedule, required by applicable Law or the terms of any Company Benefit Plan as in effect on the date of this Agreement: (A) adopt, terminate, establish or enter into any Company Benefit Plan, other than in the Ordinary Course of Business; (B) cause or permit any Company Benefit Plan to be amended in any material respect, other than in the Ordinary Course of Business; (C) increase the amount of the wages, salary, commissions, or bonus compensation payable to any of its directors, officers or employees, other than increases in base salary and annual cash bonus opportunities and payments made in the Ordinary Course of Business or (D) hire any (x) officer or (y) employee whose annual base salary is or is expected to be more than $150,000 per year (other than ordinary course replacement of departed employees or officers during the Pre-Closing Period);

(vii) recognize any labor union or labor organization, except as otherwise required by applicable Law or after prior written consent of Parent (which consent shall not be unreasonably withheld, delayed or conditioned);

(viii) enter into any material transaction other than in the Ordinary Course of Business;

(ix) acquire any material asset or sell, lease or otherwise irrevocably dispose of any of its material assets or properties, or grant any Lien with respect to such assets or properties, except in the Ordinary Course of Business;

(x) sell, assign, transfer, license, sublicense or otherwise dispose of any material Company IP (other than pursuant to non-exclusive licenses in the Ordinary Course of Business);

(xi) make, change or revoke any material Tax election, fail to pay any income or other material Tax as such Tax becomes due and payable, file any amendment making any material change to any Tax Return, settle or compromise any income or other material Tax liability or submit any voluntary disclosure application, enter into any Tax allocation, sharing, indemnification or other similar agreement or arrangement (other than customary commercial contracts entered into in the Ordinary Course of Business the principal subject matter of which is not Taxes), request or consent to any extension or waiver of any limitation period with respect to any claim or assessment for any income or other material Taxes (other than pursuant to an extension of time to file any Tax Return granted in the Ordinary Course of Business of not more than seven months), or adopt or change any material accounting method in respect of Taxes;

(xii) other than amendments to Contracts related to the Company's desmoid programs to the extent necessary to comply with the Company Budget, enter into, materially amend or terminate any Company Material Contract;

(xiii) except as otherwise set forth in the Company Budget and for the incurrence or payment of any Transaction Expenses, other than in the Ordinary Course of Business, make any expenditures, incur any liabilities or discharge or satisfy any liabilities, in each case, in amounts that exceed the aggregate amount of the Company Budget by $150,000;

(xiv) other than as required by Law or GAAP, take any action to change accounting policies or procedures;

(xv) initiate or settle any Legal Proceeding;

(xvi) enter into or amend a Contract that would reasonably be expected to prevent or materially impede, interfere with, hinder or delay the consummation of the Contemplated Transactions; or

(xvii) agree, resolve or commit to do any of the foregoing.

(b) Conduct of Business by Parent. Except (i) for matters set forth in Section 5.1(b) of the Parent Disclosure Schedule, (ii) as expressly permitted by or required in accordance this Agreement, (iii) as required by applicable Law, (iv) in connection with the COVID-19 pandemic, to the extent reasonably necessary, (A) to protect the health and safety of Parent's or any of its Subsidiaries' employees, (B) to respond to third party supply or service disruptions caused by the COVID-19 pandemic or (C) as required by any applicable Law, directive or guideline from any Governmental Entity arising out of, or otherwise related to, the COVID-19 pandemic (including any response to COVID-19), or (v) as may be consented to in writing by the Company (which consent shall not be unreasonably withheld, delayed or conditioned), during the Pre-Closing Period, Parent shall, and shall cause each of its Subsidiaries to, use commercially reasonable efforts to conduct its business in the Ordinary Course of Business. In addition, and without limiting the generality of the foregoing, except for matters set forth in the Parent Disclosure Schedule or otherwise expressly permitted or expressly contemplated by this Agreement or required by applicable Law or with the prior written consent of the Company (which shall not be unreasonably withheld, conditioned or delayed), during the Pre-Closing Period, Parent shall not, and shall not permit any of its Subsidiaries to, do any of the following (provided that no such consent of the Company may be required to the extent Parent reasonably believes, based on its outside counsel's advice, that obtaining such consent may violate any Laws):

(i) declare, accrue, set aside or pay any dividend or make any other distribution in respect of any shares of its capital stock or repurchase, redeem or otherwise reacquire any shares of its capital stock or other securities (except repurchases from terminated employees, directors or consultants of Parent or in connection with the payment of the exercise price and/or withholding Taxes incurred upon the exercise, settlement or vesting of any award or purchase rights granted under the Parent Stock Plans in accordance with the terms of such award in effect on the date of this Agreement);

(ii) sell, issue, grant, pledge or otherwise dispose of or encumber or authorize any of the foregoing with respect to: (A) any capital stock or other security of Parent or Merger Sub (except for shares of Parent Common Stock issued upon the valid exercise or conversion of outstanding Parent Options or Parent Warrants); (B) any option, warrant or right to acquire any capital stock or any other security, other than stock options granted to employees and service providers in the Ordinary Course of Business which are included in the calculation of the Exchange Ratio; or (C) any instrument convertible into or exchangeable for any capital stock or other security of Parent or Merger Sub;

(iii) except as required to give effect to anything in contemplation of the Closing, amend any of Parent's or its Subsidiaries' Organizational Documents, or effect or be a party to any merger, consolidation, share exchange, business combination, recapitalization, reclassification of shares, stock split, reverse stock split or similar transaction except for the Contemplated Transactions;

(iv) other than Merger Sub, form any Subsidiary or acquire any equity interest or other interest in any other entity or enter into a joint venture with any other entity;

(v) (A) lend money to any Person (except for the advancement of expenses to employees, directors and consultants in the Ordinary Course of Business), (B) incur or guarantee any indebtedness for borrowed money, (C) guarantee any debt securities of others, or (D) other than the incurrence or payment of Transaction Expenses, make any capital expenditure in excess of one hundred ten percent (110%) of the budgeted capital expenditure amounts set forth in Parent's operating budget delivered to the Company concurrently with the execution of this Agreement (the "**Parent Budget**");

(vi) Other than as required by applicable Law or the terms of any Parent Benefit Plan as in effect on the date of this Agreement: (A) adopt, terminate, establish or enter into any Parent Benefit Plan, other than in the Ordinary Course of Business; (B) cause or permit any Parent Benefit Plan to be amended in any material respect; (C) increase the amount of the wages, salary, commissions, or bonus compensation payable to any of its directors, officers or employees or (D) hire any (x) officer or (y) employee whose annual base salary is or is expected to be more than $150,000 per year (other than ordinary course replacement of departed employees or officers during the Pre-Closing Period);

(vii) recognize any labor union or labor organization, except as otherwise required by applicable Law;

(viii) enter into any material transaction;

(ix) acquire any material asset or sell, lease or otherwise irrevocably dispose of any of its material assets or properties, or grant any Lien with respect to such assets or properties;

(x) sell, assign, transfer, license, sublicense or otherwise dispose of any material Intellectual Property Rights that are owned or purported to be owned by Parent or its Subsidiaries, or exclusively licensed or purported to be exclusively licensed to Parent or its Subsidiaries;

(xi) make, change or revoke any material Tax election, fail to pay any income or other material Tax as such Tax becomes due and payable, file any amendment making any material change to any Tax Return, settle or compromise any income or other material Tax liability or submit any voluntary disclosure application, enter into any Tax allocation, sharing, indemnification or other similar agreement or arrangement (other than customary commercial contracts entered into in the Ordinary Course of Business the principal subject matter of which is not Taxes), request or consent to any extension or waiver of any limitation period with respect to any claim or assessment for any income or other material Taxes (other than pursuant to an extension of time to file any Tax Return granted in the Ordinary Course of Business of not more than seven months), or adopt or change any material accounting method in respect of Taxes;

(xii) enter into, materially amend or terminate any Parent Material Contract;

(xiii) except as set forth in the Parent Budget and for the incurrence or payment of any Transaction Expenses, make any expenditures, incur any liabilities or discharge or satisfy any liabilities, in each case, in amounts that exceed the aggregate amount of the Parent Budget by $150,000;

(xiv) other than as required by Law or GAAP, take any action to change accounting policies or procedures;

(xv) initiate or settle any Legal Proceeding;

(xvi) enter into or amend a Contract that would reasonably be expected to prevent or materially impede, interfere with, hinder or delay the consummation of the Contemplated Transactions; or

(xvii) agree, resolve or commit to do any of the foregoing.

(c) Notice of Material Events. During the Pre-Closing Period, each Party shall promptly notify the other Party in writing of any event, condition, fact or circumstance that would reasonably be expected to make the timely satisfaction of any of the conditions set forth in Article VI impossible or unlikely or (in the case of the Company) that has had or could reasonably be expected to have or result in a Company Material Adverse Effect. Without limiting the generality of the foregoing, a Party shall promptly advise the other Party in writing of (i) any claim asserted or Legal Proceeding commenced, or, to the Party's knowledge, either: (A) with respect to a Governmental Entity, overtly threatened; or (B) with respect to any other Person, threatened in writing, in each case against, relating to, involving or otherwise affecting any of the Contemplated Transactions; (ii) any knowledge of any notice from any Person alleging that the consent of such Person is or may be required in connection with the Merger or any of the other Contemplated Transactions; and (iii) any other material Legal Proceeding or material claim threatened, commenced or asserted against or with respect to any Party or its respective Subsidiaries. No notification given pursuant to this Section 5.1(c) shall limit or otherwise affect any of the representations, warranties, covenants or obligations of such Party contained in this Agreement.

(d) All notices, requests, instructions, communications or other documents to be given in connection with any consultation or approval required pursuant to this Section 5.1 shall be in writing and shall be deemed given as provided for in Section 8.7, and, in each case, shall be addressed to such individuals as the Parties shall designate in writing from time to time.

5.2. Company Acquisition Proposals; Company Change in Recommendation.

(a) No Solicitation or Negotiation. During the Pre-Closing Period, except as expressly permitted by this Section 5.2, the Company shall not, and the Company shall cause its and its Subsidiaries' directors, officers and employees not to, and shall cause its and their respective investment bankers, attorneys, accountants and other advisors, agents or representatives (collectively, along with such directors, officers and employees, "**Representatives**") to not, directly or indirectly:

(i) solicit, initiate, induce, encourage or facilitate (including by way of granting a waiver under Section 203 of the DGCL), any inquiries or the making of any proposal or offer that constitutes, or could reasonably be expected to lead to, a Company Acquisition Proposal;

(ii) participate in any discussions or negotiations or cooperate in any way with any Person regarding any proposal or offer the consummation of which would constitute a Company Acquisition Proposal;

(iii) provide any non-public information or data concerning the Company or any of its Subsidiaries to any Person in connection with any proposal the consummation of which would constitute a Company Acquisition Proposal or for the purpose of soliciting, initiating, inducing, encouraging or facilitating a Company Acquisition Proposal;

(iv) enter into any binding or nonbinding letter of intent, term sheet, memorandum of understanding, merger agreement, acquisition agreement, agreement in principle, option agreement, joint venture agreement, partnership agreement, lease agreement or other similar agreement with respect to a Company Acquisition Proposal or any proposal or offer that could reasonably be expected to lead to a Company Acquisition Proposal;

(v) adopt, approve or recommend or make any public statement approving or recommending any inquiry, proposal or offer that constitutes, or could reasonably be expected to lead to, a Company Acquisition Proposal (including by approving any transaction, or approving any Person becoming an "interested stockholder," for purposes of Section 203 of the DGCL); take any action or exempt any Person (other than Parent and its Subsidiaries) from the restriction on "business combinations" or any similar provision contained in applicable takeover laws or the Company's organizational or other governing documents; or

(vi) resolve, publicly propose or agree to do any of the foregoing.

The Company shall, and shall cause its Subsidiaries and Representatives to, immediately cease and cause to be terminated any solicitation, encouragement, discussions and negotiations with any Person conducted heretofore with respect to any Company Acquisition Proposal, or proposal that could reasonably be expected to lead to a Company Acquisition Proposal, and shall promptly terminate access by any such Person to any physical or electronic data rooms relating to any such Company Acquisition Proposal. As soon as reasonably practicable after the date of this Agreement, the Company shall deliver a written notice to each Person that entered into a confidentiality agreement in anticipation of potentially making a Company Acquisition Proposal within the last 12 months, to the effect that the Company is ending all discussions and negotiations with such Person with respect to any Company Acquisition Proposal, effective on the date hereof and requesting the prompt return or destruction of all confidential information previously furnished to such Person. The Company shall take all actions necessary to enforce its rights under the provisions of any "standstill" agreement between the Company and any Person (other than Parent), and shall not grant any waiver of, or agree to any amendment or modification to, any such agreement, to permit such Person to submit a Company Acquisition Proposal.

(b) Fiduciary Exception to No Solicitation Provision. Notwithstanding anything to the contrary in Section 5.2(a), prior to the time, but not after, the Company Stockholder Approval is obtained, the Company may, in response to an unsolicited, bona fide written Company Acquisition Proposal (which Company Acquisition Proposal was made after the date of this Agreement and has not been withdrawn) which did not result from a breach, in any respect, of this Section 5.2 and so long as it has provided prior written notice to Parent of the identity of such Person and its intention to engage or participate in any discussions or negotiations with any such Person, (i) provide access to non-public information regarding the Company or any of its Subsidiaries to the Person who made such Company Acquisition Proposal; *provided that* such information has previously been made available to Parent or is provided to Parent substantially concurrently with the making of such information available to such Person and that, prior to furnishing any such non-public information, the Company receives from the Person making such Company Acquisition Proposal an executed confidentiality agreement with terms at least as restrictive in all material respects on such Person as the Confidentiality Agreement's terms are on Parent (it being understood that such confidentiality agreement need not prohibit the making or amending of a Company Acquisition Proposal), and (ii) engage or participate in any discussions or negotiations with any such Person regarding such Company Acquisition Proposal if, and only if, prior to taking any action described in clause (i) or (ii) above, the Company Board determines in good faith after consultation with outside financial advisors and outside legal counsel that (x) such Company Acquisition Proposal either constitutes a Company Superior Proposal or would reasonably be expected to result in a Company Superior Proposal and (y) the failure to take such action would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable Law.

(c) Notice. The Company shall promptly (and, in any event, within 24 hours) notify Parent (orally and in writing) if (i) any written or other inquiries, proposals or offers with respect to a Company Acquisition Proposal or any inquiries, proposals, offers or requests for information relating to or that could reasonably be expected to lead to a Company Acquisition Proposal are received by the Company, (ii) any non-public information is requested in connection with any Company Acquisition Proposal from the Company or (iii) any discussions or negotiations with respect to or that could reasonably be expected to lead to a Company Acquisition Proposal are sought to be initiated or continued with the Company, indicating, in connection with such notice, the name of such Person and the material terms and conditions of any proposals or offers (including, if applicable, copies of any written requests, proposals or offers, including proposed agreements and other material written communications or, if oral, a summary of the material terms and conditions of such proposal or offer), and thereafter shall keep Parent informed, on a current basis (and in any event within 24 hours), of the status and terms of any such proposals or offers (including any amendments thereto) and the status of any such discussions or negotiations, including by promptly providing copies of any additional requests, proposals or offers, including any drafts of proposed agreements and any amendments thereto and other information set forth above. The Company agrees that it and its Subsidiaries will not enter into any confidentiality agreement with any Person subsequent to the date of this Agreement which prohibits the Company from providing any information to Parent in accordance with this Section 5.2 or otherwise prohibits the Company from complying with its obligations under this Section 5.2. The Company further agrees that it will not provide information to any Person pursuant to any confidentiality agreement entered into prior to the date of this Agreement unless such Person agrees prior to receipt of such information to waive any provision that would prohibit the Company from providing any information to Parent in accordance with this Section 5.2 or otherwise prohibit the Company from complying with its obligations under this Section 5.2.

(d) Definitions. For purposes of this Agreement:

"**Company Acquisition Proposal**" means any proposal (other than a proposal or offer by Parent or any of its Affiliates) for (i) any merger, consolidation, share exchange, business combination, issuance of securities, direct or indirect acquisition of securities, recapitalization, tender offer, exchange offer or other similar transaction in which a Person or "group" (as defined in the Exchange Act and the rules promulgated thereunder) of Persons directly or indirectly acquires, or if consummated in accordance with its terms would acquire, beneficial or record ownership of securities representing more than 20% of the outstanding shares of any class of voting securities of the Company; (ii) issuance or acquisition of securities representing more than 20% of the outstanding shares of any class of voting securities of the Company; (iii) any direct or indirect sale, lease, exchange, transfer, acquisition or disposition of any assets of the Company and of the subsidiaries of the Company that constitute or account for (x) more than 20% of the consolidated net revenues of the Company, consolidated net income of the Company or consolidated book value of the Company; or (y) more than 20% of the fair market value of the consolidated assets of the Company; or (iv) any liquidation or dissolution of the Company.

"**Company Intervening Event**" means any event or development that has a material effect on the Company and its Subsidiaries taken as a whole, occurring or arising after the date of this Agreement that (i) was not known to, or reasonably foreseeable by, the Company Board prior to the execution of this Agreement, which event, occurrence, fact, condition, change, development or effect becomes known to, or reasonably foreseeable by, the Company Board prior to the receipt of the Company Stockholder Approval and (ii) does not relate to (A) a Company Acquisition Proposal or (B) (1) any changes in the market price or trading volume of the Company or Parent, (2) the Company or Parent meeting, failing to meet or exceeding published or unpublished revenue or earnings projections, in each case in and of itself, (3) any events or developments relating to Parent or any of the Parent Affiliates, (4) any event or development generally affecting the industries in which the Company or Parent operate or in the economy generally or other general business, financial or market conditions, (5) any change in any applicable Law, (6) any event, occurrence, result and/or development with respect to the product candidates AL101 or AL102 or (7) any event or development to the extent directly resulting from the announcement or pendency of, or any actions required to be taken by the Company or Parent (or refrained to be taken by the Company or Parent) pursuant to the Agreement or the consummation of the Contemplated Transactions.

"**Company Superior Proposal**" means any bona fide, binding, written Company Acquisition Proposal on terms which the Company Board determines in its good faith judgment, after consultation with outside financial advisors and outside counsel, would reasonably be expected to be consummated in accordance with its terms, taking into account all legal, financial and regulatory aspects of the proposal and the Person or group of Persons making the proposal, and, if consummated, would result in a transaction more favorable to the Company's stockholders from a financial point of view than the Merger (after taking into account any revisions to the terms of the Contemplated Transactions pursuant to Section 5.2(f) of this Agreement and the time likely to be required to consummate such Company Acquisition Proposal); provided that for purposes of the definition of "Company Superior Proposal", the references to "20%" in the definition of Company Acquisition Proposal shall be deemed to be references to "50%."

(e) No Company Change in Recommendation or Company Alternative Acquisition Agreement. Except as provided in Section 5.2(f) and Section 5.2(g), the Company Board and each committee of the Company Board shall not (i) withhold, withdraw, qualify or modify (or publicly propose or resolve to withhold, withdraw, qualify or modify), in a manner adverse to Parent, the Company Board Recommendation or approve, recommend or otherwise declare advisable (or publicly propose or resolve to approve, recommend or otherwise declare advisable) any Company Acquisition Proposal or make or authorize the making of any public statement (oral or written) that has the substantive effect of such a withdrawal, qualification or modification, or remove the Company Board Recommendation from or fail to include the Company Board Recommendation in the Proxy Statement/Prospectus (each, a "**Company Change in Recommendation**") or (ii) cause or permit the Company or any of its Subsidiaries to enter into any letter of intent, term sheet, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement, lease agreement or other similar agreement (other than a confidentiality agreement referred to in Section 5.2(b)

entered into in compliance with Section 5.2(a)) relating to or that could reasonably be expected to lead to any Company Acquisition Proposal or requiring the Company (or that would require or could reasonably be expected to require the Company) to abandon, terminate, or fail to consummate the Merger or any other transaction contemplated by this Agreement or that would otherwise materially impede, interfere with or be inconsistent with, the Contemplated Transactions (a "**Company Alternative Acquisition Agreement**").

(f) Fiduciary Exception to No Company Change in Recommendation Provision. Notwithstanding anything to the contrary set forth in Section 5.2(e), following receipt of an unsolicited, bona fide written Company Acquisition Proposal by the Company after the date of this Agreement that did not result from a breach of this Section 5.2 and with respect to which the Company has received a written, definitive form of Company Alternative Acquisition Agreement that has not been withdrawn, and the Company Board determining in good faith, after consultation with outside financial advisors and outside legal counsel, that such Company Acquisition Proposal constitutes a Company Superior Proposal, the Company Board may, at any time prior to the time the Company Stockholder Approval is obtained, make a Company Change in Recommendation and enter into a Company Alternative Acquisition Agreement with respect to such Company Superior Proposal, if all of the following conditions are met:

(i) the Company shall have complied in all material respects with the provisions of this Section 5.2 and shall have (A) provided to Parent four Business Days' prior written notice, which shall state expressly (1) that it has received a written Company Acquisition Proposal that constitutes a Company Superior Proposal, (2) the material terms and conditions of the Company Acquisition Proposal (including the consideration offered therein and the identity of the Person or group making the Company Acquisition Proposal), and shall have contemporaneously provided an unredacted copy of the Company Alternative Acquisition Agreement and all other written documents and a summary of the material terms of oral communications related to the Company Superior Proposal (it being understood and agreed that any amendment to the financial terms or any other material term or condition of such Company Superior Proposal shall require a new notice and an additional two Business Day period) and (3) that, subject to clause (ii) below, the Company Board has determined to effect a Company Change in Recommendation, and (B) prior to making such a Company Change in Recommendation, (x) engaged in good faith negotiations with Parent (to the extent Parent wishes to engage) during such notice period to consider adjustments to the terms and conditions of this Agreement which may be proposed in writing by Parent such that the Company Alternative Acquisition Agreement ceases to constitute a Company Superior Proposal, and (y) in determining whether to make a Company Change in Recommendation, the Company Board shall take into account any changes to the terms of this Agreement proposed in writing by Parent; and

(ii) the Company Board shall have determined, in good faith, after consultation with outside financial advisors and outside legal counsel, that, in light of such Company Superior Proposal and taking into account any revised terms proposed in writing by Parent, such Company Superior Proposal continues to constitute a Company Superior Proposal and, after consultation with outside legal counsel, that the failure to make such Company Change in Recommendation would be inconsistent with the directors' fiduciary duties under applicable Law.

(g) Company Change in Recommendation Due to Company Intervening Event. Notwithstanding anything to the contrary set forth in Section 5.2(e), upon the occurrence of any Company Intervening Event, the Company Board may, at any time prior to the time the Company Stockholder Approval is obtained, make a Company Change in Recommendation, if all of the following conditions are met:

(i) the Company shall have (A) provided to Parent four Business Days' prior written notice, which shall (1) set forth in reasonable detail information describing the Company Intervening Event and the rationale for the Company Change in Recommendation (it being understood and agreed that any amendment to the facts and circumstances relating to the Company Intervening Event shall require a new notice and an additional two Business Day period), and (2) state expressly that, subject to clause (ii) below, the Company Board has determined to effect a Company Change in Recommendation and (B) prior to making such a Company Change in Recommendation, engaged in good faith negotiations with Parent (to the extent Parent wishes to engage) during such four Business Day period to consider adjustments to the terms and conditions of this Agreement which may be proposed in writing by Parent in such a manner that the failure of the Company Board to make a Company Change in Recommendation in response to the Company Intervening Event in accordance with clause (ii) below would no longer be reasonably expected to be inconsistent with the directors' fiduciary duties under applicable Law; and

(ii) the Company Board shall have determined in good faith, after consultation with outside financial advisors and outside legal counsel, that in light of such Company Intervening Event and taking into account any revised terms proposed in writing by Parent, the failure to make a Company Change in Recommendation, would be inconsistent with the directors' fiduciary duties under applicable Law.

(h) Certain Permitted Disclosure. Nothing contained in this Section 5.2 shall be deemed to prohibit the Company from complying with its disclosure obligations under applicable U.S. federal or state Law with regard to a Company Acquisition Proposal; *provided* that any "stop look and listen" communication to its stockholders of the nature contemplated by Rule 14d-9 under the Exchange Act shall include an affirmative statement to the effect that the recommendation of the Company Board is affirmed or remains unchanged; *provided*, *further*, that this Section 5.2(h) shall not be deemed to permit the Company or the Company Board to effect a Company Change in Recommendation except in accordance with Sections 5.2(f) or 5.2(g). The Company shall not submit to the vote of its stockholders any Company Acquisition Proposal or Company Superior Proposal prior to the termination of this Agreement.

5.3. Parent Board Recommendation.

(a) No Solicitation or Negotiation. During the Pre-Closing Period, except as expressly permitted by this Section 5.3, Parent shall not, and Parent shall cause its and its Subsidiaries' directors, officers and employees not to, and shall cause its and their respective Representatives to not, directly or indirectly:

(i) solicit, initiate, induce, encourage or facilitate (including by way of granting a waiver under Section 203 of the DGCL), any inquiries or the making of any proposal or offer that constitutes, or could reasonably be expected to lead to, a Parent Acquisition Proposal;

(ii) participate in any discussions or negotiations or cooperate in any way with any Person regarding any proposal or offer the consummation of which would constitute a Parent Acquisition Proposal;

(iii) provide any non-public information or data concerning Parent or any of its Subsidiaries to any Person in connection with any proposal the consummation of which would constitute a Parent Acquisition Proposal or for the purpose of soliciting, initiating, inducing, encouraging or facilitating a Parent Acquisition Proposal;

(iv) enter into any binding or nonbinding letter of intent, term sheet, memorandum of understanding, merger agreement, acquisition agreement, agreement in principle, option agreement, joint venture agreement, partnership agreement, lease agreement or other similar agreement with respect to a Parent Acquisition Proposal or any proposal or offer that could reasonably be expected to lead to a Parent Acquisition Proposal;

(v) adopt, approve or recommend or make any public statement approving or recommending any inquiry, proposal or offer that constitutes, or could reasonably be expected to lead to, a Parent Acquisition Proposal (including by approving any transaction, or approving any Person becoming an "interested stockholder," for purposes of Section 203 of the DGCL); take any action or exempt any Person (other than the Company and its Subsidiaries) from the restriction on "business combinations" or any similar provision contained in applicable takeover laws or the Parent's organizational or other governing documents; or

(vi) resolve, publicly propose or agree to do any of the foregoing.

Parent shall, and shall cause its Subsidiaries and Representatives to, immediately cease and cause to be terminated any solicitation, encouragement, discussions and negotiations with any Person conducted heretofore with respect to any Parent Acquisition Proposal, or proposal that could reasonably be expected to lead to a Parent Acquisition Proposal, and shall promptly terminate access by any such Person to any physical or electronic data rooms relating to any such Parent Acquisition Proposal. As soon as reasonably practicable after the date of this Agreement, Parent shall deliver a written notice to each Person that entered into a confidentiality agreement in anticipation of potentially making a Parent Acquisition Proposal within the last 12 months, to the effect that Parent is ending all discussions and negotiations with such Person with respect to any Parent Acquisition Proposal, effective on the date hereof and requesting the prompt return or destruction of all confidential information previously furnished to such Person. Parent shall take all actions necessary to enforce its rights under the provisions of any "standstill" agreement between Parent and any Person (other than the Company), and shall not grant any waiver of, or agree to any amendment or modification to, any such agreement, to permit such Person to submit a Parent Acquisition Proposal.

(b) Fiduciary Exception to No Solicitation Provision. Notwithstanding anything to the contrary in Section 5.3(a), prior to the time, but not after, the Company Stockholder Approval is obtained, Parent may, in response to an unsolicited, bona fide written Parent Acquisition Proposal (which Parent Acquisition Proposal was made after the date of this Agreement and has not been withdrawn) which did not result from a breach, in any respect, of this Section 5.3 and so long as it has provided prior written notice to the Company of the identity of such Person and its intention to engage or participate in any discussions or negotiations with any such Person, (i) provide access to non-public information regarding Parent or any of its Subsidiaries to the Person who made such Parent Acquisition Proposal; *provided that* such information has previously been made available to the Company or is provided to the Company substantially concurrently with the making of such information available to such Person and that, prior to furnishing any such non-public information, Parent receives from the Person making such Parent Acquisition Proposal an executed confidentiality agreement with terms at least as restrictive in all material respects on such Person as the Confidentiality Agreement's terms are on the Company (it being understood that such confidentiality agreement need not prohibit the making or amending of a Parent Acquisition Proposal), and (ii) engage or participate in any discussions or negotiations with any such Person regarding such Parent Acquisition Proposal if, and only if, prior to taking any action described in clause (i) or (ii) above, the Parent Board determines in good faith after consultation with outside financial advisors and outside legal counsel that (x) such Parent Acquisition Proposal either constitutes a Parent Superior Proposal or would reasonably be expected to result in a Parent Superior Proposal and (y) the failure to take such action would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable Law.

(c) Notice. Parent shall promptly (and, in any event, within 24 hours) notify the Company (orally and in writing) if (i) any written or other inquiries, proposals or offers with respect to a Parent Acquisition Proposal or any inquiries, proposals, offers or requests for information relating to or that could reasonably be expected to lead to a Parent Acquisition Proposal are received by Parent, (ii) any non-public information is requested in connection with any Parent Acquisition Proposal from Parent or (iii) any discussions or negotiations with respect to or that could reasonably be expected to lead to a Parent Acquisition Proposal are sought to be initiated or continued with Parent, indicating, in connection with such notice, the name of such Person and the material terms and conditions of any proposals or offers (including, if applicable, copies of any written requests, proposals or offers, including proposed agreements and other material written communications or, if oral, a summary of the material terms and conditions of such proposal or offer), and thereafter shall keep the Company reasonably informed, on a current basis (and in any event within 24 hours), of the status and terms of any such proposals or offers (including any amendments thereto) and the status of any such discussions or negotiations, including by promptly providing copies of any additional requests, proposals or offers, including any drafts of proposed agreements and any amendments thereto and other information set forth above. Parent agrees that it and its Subsidiaries will not enter into any confidentiality agreement with any Person subsequent to the date of this Agreement which prohibits Parent from providing any information to the Company in accordance with this Section 5.3 or otherwise prohibits Parent from complying with its obligations under this Section 5.3. Parent further agrees that it will not provide information to any Person pursuant to any confidentiality agreement entered into prior to the date of this Agreement unless such Person agrees prior to receipt of such information to waive any provision that would prohibit Parent from providing any information to the Company in accordance with this Section 5.3 or otherwise prohibit Parent from complying with its obligations under this Section 5.3.

(d) Definitions. For purposes of this Agreement:

"**Parent Acquisition Proposal**" means any proposal (other than a proposal or offer by the Company or any of its Affiliates) for (i) any merger, consolidation, share exchange, business combination, issuance of securities, direct or indirect acquisition of securities, recapitalization, tender offer, exchange offer or other similar transaction in which a Person or "group" (as defined in the Exchange Act and the rules promulgated thereunder) of Persons directly or indirectly acquires, or if consummated in accordance with its terms would acquire, beneficial or record ownership of securities representing more than 20% of the outstanding shares of any class of voting securities of Parent; (ii) issuance or acquisition of securities representing more than 20% of the outstanding shares of any class of voting securities of Parent; (iii) any direct or indirect sale, lease, exchange, transfer, acquisition or disposition of any assets of Parent and of the subsidiaries of Parent that constitute or account for (x) more than 20% of the consolidated net revenues of Parent, consolidated net income of Parent or consolidated book value of Parent; or (y) more than 20% of the fair market value of the consolidated assets of Parent; or (iv) any liquidation or dissolution of Parent.

"**Parent Superior Proposal**" means any bona fide, binding, written Parent Acquisition Proposal on terms which the Parent Board determines in its good faith judgment, after consultation with outside financial advisors and outside counsel, would reasonably be expected to be consummated in accordance with its terms, taking into account all legal, financial and regulatory aspects of the proposal and the Person or group of Persons making the proposal, and, if consummated, would result in a transaction more favorable to Parent's stockholders from a financial point of view than the Merger (after taking into account any revisions to the terms of the Contemplated Transactions pursuant to Section 5.2(f) of this Agreement and the time likely to be required to consummate such Parent Acquisition Proposal); provided that for purposes of the definition of "Parent Superior Proposal", the references to "20%" in the definition of Parent Acquisition Proposal shall be deemed to be references to "50%."

(e) Parent Alternative Acquisition Agreement. Except as provided in Section 5.3(f), the Parent Board and each committee of the Parent Board shall not approve, recommend or otherwise declare advisable (or publicly propose or resolve to approve, recommend or otherwise declare advisable) any Parent Acquisition Proposal or cause or permit Parent or any of its Subsidiaries to enter into any letter of intent, term sheet, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement, lease agreement or other similar agreement (other than a confidentiality agreement referred to in Section 5.3(b) entered into in compliance with Section 5.3(b)) relating to or that could reasonably be expected to lead to any Parent Acquisition Proposal or requiring Parent (or that would require or could reasonably be expected to require Parent) to abandon, terminate, or fail to consummate the Merger or any other transaction contemplated by this Agreement or that would otherwise materially impede, interfere with or be inconsistent with, the Contemplated Transactions (a "**Parent Alternative Acquisition Agreement**").

(f) Fiduciary Exception to Parent Acquisition Proposal. Notwithstanding anything to the contrary set forth in Section 5.3(e), following receipt of an unsolicited, bona fide written Parent Acquisition Proposal by Parent after the date of this Agreement that did not result from a breach of this Section 5.3 and with respect to which Parent has received a written, definitive form of Parent Alternative Acquisition Agreement that has not been withdrawn, and the Parent Board determining in good faith, after consultation with outside financial advisors and outside legal counsel, that such Parent Acquisition Proposal constitutes a Parent Superior Proposal, the Parent Board may, at any time prior to the time the Company Stockholder Approval is obtained, enter into a Parent Alternative Acquisition Agreement with respect to such Parent Superior Proposal, if all of the following conditions are met:

(i) Parent shall have complied in all material respects with the provisions of this Section 5.3 and shall have (A) provided to the Company four Business Days' prior written notice, which shall state expressly (1) that it has received a written Parent Acquisition Proposal that constitutes a Parent Superior Proposal and (2) the material terms and conditions of the Parent Acquisition Proposal (including the consideration offered therein and the identity of the Person or group making the Parent Acquisition Proposal), and shall have contemporaneously provided an unredacted copy of the Parent Alternative Acquisition Agreement and all other written documents and a summary of the material terms of oral communications related to the Parent Superior Proposal (it being understood and agreed that any amendment to the financial terms or any other material term or condition of such Parent Superior Proposal shall require a new notice and an additional two Business Day period) and (B) (x) engaged in good faith negotiations with the Company (to the extent the Company wishes to engage) during such notice period to consider adjustments to the terms and conditions of this Agreement which may be proposed in writing by the Company such that the Parent Alternative Acquisition Agreement ceases to constitute a Parent Superior Proposal, and (y) the Parent Board shall take into account any changes to the terms of this Agreement proposed in writing by the Company; and

(ii) the Parent Board shall have determined, in good faith, after consultation with outside financial advisors and outside legal counsel, that, in light of such Parent Superior Proposal and taking into account any revised terms proposed in writing by the Company, such Parent Superior Proposal continues to constitute a Parent Superior Proposal.

(g) Certain Permitted Disclosure. Nothing contained in this Section 5.3 shall be deemed to prohibit Parent from complying with its disclosure obligations under applicable U.S. federal or state Law with regard to a Parent Acquisition Proposal.

5.4. Information Supplied.

(a) The Company and Parent shall jointly prepare and cause to be filed with the SEC a proxy statement (as amended or supplemented from time to time, the "**Proxy Statement/Prospectus**") with respect to the Company Stockholders Meeting. As promptly as practicable following the date of this Agreement, Parent shall prepare (with the Company's reasonable cooperation) and file with the SEC a registration statement on Form S-4 (as amended or supplemented from time to time, the "**Registration Statement**"), in which the Proxy Statement/Prospectus will be included as a prospectus, in connection with the registration under the Securities Act of the shares of Parent Common Stock to be issued in the Merger. Parent shall use its reasonable best efforts to have the Registration Statement declared effective under the Securities Act as promptly as practicable after such filing and to keep the Registration Statement effective as long as is necessary to consummate the Merger and the other Contemplated Transactions. Parent shall also take any action (other than qualifying to do business in any jurisdiction in which it is not now so qualified or filing a general consent to service of process) required to be taken under any applicable state securities or "blue sky" laws in connection with the issuance of shares of Parent Common Stock in the Merger. Each of the Company and Parent shall furnish all information concerning the Company and the holders of Shares and Parent and the holders of the capital stock of Parent, as applicable, as may be reasonably requested in connection with any such action. Each of the Company and Parent shall use reasonable best efforts to cause the Proxy Statement/Prospectus to be mailed to the Company's stockholders as promptly as practicable after the Registration Statement is declared effective under the Securities Act.

(b) No filing of, or amendment or supplement to, the Registration Statement will be made by Parent, and no filing of, or amendment or supplement to, the Proxy Statement/Prospectus will be made by the Company or Parent, in each case without providing the other Party a reasonable opportunity to review and comment thereon (other than, in each case, any filing, amendment or supplement in connection with a Company Change in Recommendation), and each Party shall consider in good faith all comments reasonably proposed by the other Party. Each of the Company and Parent shall promptly provide the other with copies of all such filings, amendments or supplements to the extent not publicly available. Each of the Company and Parent shall furnish all information concerning such Person and its Affiliates to the other and provide such other assistance as may be reasonably requested by such other Party to be included therein and shall otherwise reasonably assist and cooperate with the other in the preparation of the Registration Statement or Proxy Statement/Prospectus, as applicable, and the resolution of any comments to either received from the SEC. If at any time prior to the receipt of the Company Stockholder Approval, any information relating to the Company or Parent, or any of their respective Affiliates, directors or officers, should be discovered by the Company or Parent which is required to be set forth in an amendment or supplement to either the Registration Statement or the Proxy Statement/Prospectus, so that either such document would not include any misstatement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Party which discovers such information shall promptly notify the other Party and an appropriate amendment or supplement describing such information shall be promptly filed with the SEC and, to the extent required by applicable Law, disseminated to the stockholders of the Company or the stockholders of Parent, as applicable. The Parties shall notify each other promptly of the receipt of any comments from the SEC or the staff of the SEC and of any request by the SEC or the staff of the SEC for amendments or supplements to the Registration Statement or the Proxy Statement/Prospectus, or for additional information and shall supply each other with copies of (i) all correspondence between it or any of its Representatives, on the one hand, and the SEC or the staff of the SEC, on the other hand, with respect to the Registration Statement, Proxy Statement/Prospectus or the Merger and (ii) all orders of the SEC relating to the Registration Statement. No response to any comments from the SEC or the staff of the SEC relating to the Proxy Statement/Prospectus will be made by either Party without providing the other a reasonable opportunity to review and comment thereon unless pursuant to a telephone call initiated by the SEC, and each Party shall consider in good faith all comments reasonably proposed by the other Party. The Parties will cause the Registration Statement and Proxy Statement/Prospectus to comply as to form in all material respects with the applicable provisions of the Securities Act and the Exchange Act and the rules and regulations thereunder.

5.5. Special Stockholder Meetings.

(a) Company Stockholders Meeting. The Company will, as promptly as practicable in accordance with applicable Law and its certificate of incorporation and bylaws, establish a record date for, duly call and give notice of, and use its reasonable best efforts to convene a meeting of holders of Shares to consider and vote upon the adoption of this Agreement, which meeting shall in any event take place within 45 days after the declaration of the effectiveness of the Registration Statement (the "**Company Stockholders Meeting**"). The Company shall use its reasonable best efforts to hold the Company Stockholders Meeting as soon as practicable after the date on which the Registration Statement becomes effective. Subject to the provisions of Section 5.2, the Company Board shall include the Company Board Recommendation in the Proxy Statement/Prospectus and recommend at the Company Stockholders Meeting that the holders of Shares adopt this Agreement and shall use its reasonable best efforts to obtain and solicit such adoption. Notwithstanding the foregoing, (x) if on or before the date on which the Company Stockholders Meeting is scheduled, the Company reasonably believes that (i) it will not receive proxies representing the Company Stockholder Approval, whether or not a quorum is present or (ii) it will not have enough Shares represented to constitute a quorum necessary to conduct the business of the Company Stockholders Meeting, the Company may (and, if requested by Parent, the Company shall) postpone or adjourn, or make one or more successive postponements or adjournments of, the Company Stockholders Meeting and (y) the Company may postpone or adjourn the Company Stockholders Meeting to allow reasonable additional time for the filing or mailing of any supplemental or amended disclosure that the Company has determined, after consultation with outside legal counsel, is reasonably likely to be required under applicable Law and for such supplemental or amended disclosure to be disseminated and reviewed by stockholders of the Company prior to the Company Stockholders Meeting, as long as the date of the Company Stockholders Meeting is not postponed or adjourned more than an aggregate of 15 calendar days in connection with any such postponements or adjournments pursuant to either or both of the preceding clauses (x) and (y).

(b) Parent Stockholders Meeting. Parent may, in accordance with applicable Law and its certificate of incorporation and bylaws, establish a record date for, duly call and give notice of, and convene and hold a meeting of holders of capital stock of Parent to consider and vote upon an amendment to Parent's certificate of incorporation and the Parent Stock Plans to implement a "reverse stock split" and amend the name of Parent to "Ayala Pharmaceuticals, Inc."

5.6. Regulatory Approvals and Related Matters.

(a) Each Party shall cooperate with each other Party and shall use reasonable best efforts to file, as soon as practicable after the date of this Agreement, all notices, reports and other documents required to be filed by such party with any Governmental Entity, with respect to the Merger and the Contemplated Transactions, and to submit promptly any information reasonably requested by any Governmental Entity. Each of the Company and Parent shall give the other Party prompt notice of the commencement or known threat of commencement of any Legal Proceeding by or before any Governmental Entity with respect to the Merger or any of the Contemplated Transactions, keep the other party reasonably informed as to the status of any such Legal Proceeding or threat, and in connection with any such Legal Proceeding, each of the Company or Parent will permit authorized representatives of the other party to be present at each meeting or conference relating to any such Legal Proceeding and to have access to and be consulted in connection with any document, opinion or proposal made or submitted to any Governmental Entity in connection with any such Legal Proceeding.

(b) Subject to the immediately following sentence, Parent and the Company shall use reasonable best efforts to take, or cause to be taken, all actions necessary to consummate the Merger and make effective the other Contemplated Transactions. Without limiting the generality of the foregoing, each Party to this Agreement: (i) shall make all filings (if any) and give all notices (if any) required to be made and given by such party in connection with the Merger and the other Contemplated Transactions; (ii) shall use reasonable best efforts to obtain each Consent (if any) required to be obtained (pursuant to any applicable Law or Contract, or otherwise) by such party in connection with the Merger or any of the other Contemplated Transactions; and (iii) shall use reasonable best efforts to lift any restraint, injunction or other legal bar to the Merger.

(c) The Company and Parent each shall, upon request by the other, promptly furnish the other with all information concerning itself, its Subsidiaries, directors, officers and shareholders and such other matters as may be reasonably necessary or advisable in connection with the Registration Statement, Proxy Statement/Prospectus and any other statement, filing, notice or application made by or on behalf of Parent, the Company or any of their respective Subsidiaries to any third party and/or any Governmental Entity in connection with the Contemplated Transactions.

(d) The Company and Parent each shall promptly furnish the other with copies of notices or other communications received by the Company or Parent, as the case may be, or any of their respective Subsidiaries from any third party and/or any Governmental Entity with respect to the Contemplated Transactions, other than immaterial communications.

5.7. Access; Consultation.

(a) Upon reasonable notice, and except as may otherwise be required by applicable Law, each of the Company and Parent shall, and shall cause each of its Subsidiaries to, afford the other Party's Representatives reasonable access (at the requesting Party's cost) under the supervision of appropriate personnel of the other Party, during normal business hours during the period prior to the Effective Time, to the other Party's, and each of its Subsidiaries' employees, properties, assets, books, records and contracts and, during such period, each of the Company and Parent shall, and shall cause each of its Subsidiaries to, furnish promptly to the other all information concerning its or any of its Subsidiaries' capital stock, business and personnel as may reasonably be requested by the other; provided that no investigation pursuant to this Section 5.7 shall affect or be deemed to modify any representation or warranty made by the Company or Parent; and provided, further that the foregoing shall require neither the Company nor Parent to permit any invasive sampling or testing or to disclose any information pursuant to this Section 5.7 to the extent that (i) in the reasonable good faith judgment of such Party, any applicable Law requires such Party or its Subsidiaries to restrict or prohibit access to any such properties or information, (ii) in the reasonable good faith judgment of such Party, the information is subject to confidentiality obligations to a third party or (iii) disclosure of any such information or document would result in the loss of attorney-client privilege; provided, further that with respect to clauses (i) through (iii) of this Section 5.7(a), Parent or the Company, as applicable, shall use its commercially reasonable efforts to (1) obtain the required consent of any such third party to provide such inspection or disclosure, (2) develop an alternative to providing such information so as to address such matters that is reasonably acceptable to Parent and the Company and (3) in the case of clauses (i) and (iii), implement appropriate and mutually agreeable measures to permit the disclosure of such information in a manner to remove the basis for the objection, including by arrangement of appropriate clean room procedures, redaction or entry into a customary joint defense agreement with respect to any information to be so provided, if the Parties determine that doing so would reasonably permit the disclosure of such information without violating applicable Law or jeopardizing such privilege. Any investigation pursuant to this Section 5.7 shall be conducted in such a manner as not to interfere unreasonably with the conduct of the business of the other Party. All requests for information made pursuant to this Section 5.7 shall be directed in writing to an executive officer of the Company or Parent, as applicable, or such Person as may be designated by any such executive officer.

5.8. Stock Exchange De-listing and De-registration. The Company shall take all actions necessary to permit the Shares and any other security issued by the Company or one of its Subsidiaries and listed on The Nasdaq Global Market to be de-listed and de-registered under the Exchange Act as soon as possible following the Effective Time.

5.9. Publicity. The initial press release with respect to the Merger and the other Contemplated Transactions shall be a joint press release and thereafter the Company and Parent shall consult with each other prior to issuing or making, and provide each other the reasonable opportunity to review and comment on, any press releases or other public announcements with respect to the Contemplated Transactions and any filings with any Governmental Entity (including any national securities exchange) with respect thereto, except (a) as may be required by applicable Law or by obligations pursuant to any listing agreement with or rules of any national securities exchange, (b) any consultation that would not be reasonably practicable as a result of requirements of applicable Law, (c) any press release or public statement that in the good faith judgment of the applicable Party is consistent with prior press releases issued or public statements made in compliance with this Section 5.9, (d) any internal announcements to employees regarding the Merger so long as such statements are consistent with previous press releases, public disclosures or public statements made jointly by the Parties (or individually, if approved by the other Party) or (e) with respect to any Company Change in Recommendation made in accordance with this Agreement or Parent's response thereto.

5.10. Expenses. Except as otherwise provided in Sections 7.5 and 7.6, whether or not the Merger is consummated, all costs and expenses incurred in connection with this Agreement and the Contemplated Transactions shall be paid by the Party incurring such expense.

5.11. Indemnification; Directors' and Officers' Insurance.

(a) All rights to indemnification by the Company existing in favor of those Persons who are directors and officers of the Company as of the date of this Agreement (the "**Indemnified Persons**") for their acts and omissions as directors and officers of the Company occurring prior to the Effective Time, as provided in the Company's Certificate of Incorporation or Bylaws (as in effect as of the date of this Agreement) and as provided in any indemnification agreements between the Company and said Indemnified Persons (as in effect as of the date of this Agreement), shall survive the Merger and be observed by the Surviving Company to the fullest extent permitted by Delaware law for a period of six years from the date on which the Merger becomes effective.

(b) Prior to the Effective Time, the Company shall purchase a six year "tail policy" for the existing policy of directors' and officers' liability insurance maintained by the Company as of the date of this Agreement in the form delivered or made available by the Company to Parent prior to the date of this Agreement at a premium not to exceed 300% of the annual premiums currently paid by the Company for such insurance. The costs of such tail policy will be split evenly between the Company and Parent, and the portion paid for by Parent will be treated as a Transaction Expense of Parent hereunder.

(c) In the event Parent or the Company or any of their respective successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfers all or substantially all of its properties and assets to any Person, then, and in each such case, Parent shall ensure that the successors and assigns of Parent or the Surviving Company, as the case may be, or at Parent's option, Parent, shall assume the obligations set forth in this Section 5.11.

5.12. Takeover Statute. The Company and the Company Board and Parent and the Parent Board shall use their respective reasonable best efforts to (x) take all action reasonably appropriate to ensure that no state takeover statute or similar statute or regulation is or becomes applicable to this Agreement or the Contemplated Transactions and (y) if any state takeover statute or similar statute or regulation becomes applicable to this Agreement or the Contemplated Transactions, take all action reasonably appropriate to ensure that the Contemplated Transactions may be consummated as promptly as practicable on the terms contemplated by this Agreement.

5.13. Control of the Company's or Parent's Operations. Nothing contained in this Agreement shall give Parent or the Company, directly or indirectly, rights to control or direct the operations of the other prior to the Effective Time. Prior to the Effective Time, each of Parent and the Company shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision of its operations. The Company and the Company Board and Parent and the Parent Board shall use their respective reasonable best efforts to (x) take all action reasonably appropriate to ensure that no state takeover statute or similar statute or regulation is or becomes applicable to this Agreement or the Contemplated Transactions and (y) if any state takeover statute or similar statute or regulation becomes applicable to this Agreement or the Contemplated Transactions, take all action reasonably appropriate to ensure that the Contemplated Transactions may be consummated as promptly as practicable on the terms contemplated by this Agreement.

5.14. Directors and Officers. The Parties shall use reasonable best efforts and take all necessary action so that immediately after the Effective Time, (a) the Parent Board is comprised of seven (7) members, with two (2) such members designated by Parent and five (5) such members designated by the Company, (b) the Persons listed in Exhibit C hereto under the heading "Officers" are elected or appointed, as applicable, to the positions of officers of Parent, as set forth therein, to serve in such positions effective as of the Effective Time until successors are duly appointed and qualified in accordance with applicable Law. If any Person listed in Exhibit C is unable or unwilling to serve as an officer of Parent, as set forth therein, as of the Effective Time, the Parties shall mutually agree upon a successor. The Persons listed in Exhibit C under the heading "Board Designees – Parent" shall be Parent's designees pursuant to clause (a) of this Section 5.14 (which list may be changed by Parent at any time prior to the Closing by written notice to the Company to include different board designees who are reasonably acceptable to the Company) (the "**Parent Designees**"). The Persons listed in Exhibit C under the heading "Board Designees – Company" shall be the Company's designees pursuant to clause (a) of this Section 5.14 (which list may be changed by the Company at any time prior to the Closing by written notice to Parent to include different board designees who are reasonably acceptable to Parent).

5.15. Section 16(b). The board of directors of each of the Company and Parent (or, in each case, a duly authorized committee thereof) shall, prior to the Effective Time, take all such actions within its control as may be necessary or appropriate to cause the Contemplated Transactions and any other dispositions of equity securities of the Company and acquisitions of equity securities of Parent (including derivative securities) in connection with the Contemplated Transactions by each individual who is a director or executive officer of the Company or is or may become a director or executive officer of Parent in connection with the Contemplated Transactions to be exempt under Rule 16b-3 promulgated under the Exchange Act.

5.16. Approval by Sole Stockholder of Merger Sub. Immediately following the execution and delivery of this Agreement by the Parties, Parent, as sole stockholder of Merger Sub, shall adopt this Agreement and approve the Merger, in accordance with Delaware Law, by written consent.

5.17. Stockholder Litigation. Each Party shall notify the other Party, in writing and promptly after acquiring knowledge thereof, of any litigation related to this Agreement, the Merger or the other Contemplated Transactions that is brought against or, to the Knowledge of the Company or Parent, threatened against, either Party, either Party's Subsidiaries and/or any of their respective directors or officers and shall keep the other Party informed on a reasonably current basis with respect to the status thereof. Each Party shall provide the other Party (a) the opportunity to participate in the defense of any such Legal Proceedings and (b) the right to review and comment on all material filings or responses to be made by the Parties in connection with any such Legal Proceedings (and the Parties shall in good faith take such comments and other advice into consideration). The Parties agree to cooperate in the defense and settlement of any such litigation, and the Parties shall not settle any such litigation without the prior written consent of the other Party (not to be unreasonably withheld, conditioned or delayed), including a majority of the Parent Designees for so long as any Parent Designees are still members of the Parent Board. Without limiting in any way the Parties' obligations under Section 5.6, each of the Company and Parent shall, and shall cause their respective Subsidiaries to, cooperate in the defense or settlement of any litigation contemplated by this Section 5.17.

5.18. Tax Treatment.

(a) Each of Parent and Merger Sub shall use its respective reasonable best efforts to, and cause each of their respective Subsidiaries to, cause the Merger to qualify for the Intended Tax Treatment. Neither Parent nor Merger Sub shall take any action (or fail to take any action, including failing to use its reasonable best efforts to proscribe any of its respective Subsidiaries from taking any action) that could reasonably be expected to prevent or impede such qualification.

(b) The Company shall use its reasonable best efforts to, and cause its Subsidiaries to cause the Merger to qualify for the Intended Tax Treatment. The Company shall not take any action (or fail to take any action, including failing to use its reasonable best efforts to proscribe any of its Subsidiaries from taking any action) that could reasonably be expected to prevent or impede such qualification.

(c) Unless otherwise required pursuant to a "determination" within the meaning of Section 1313(a) of the Code, (i) each of the Parties shall report the Merger for U.S. federal income tax purposes as a "reorganization" within the meaning of Section 368(a) of the Code in all Tax Returns, and (ii) none of the Parties shall take any Tax reporting position inconsistent with the characterization of the Contemplated Transactions as a "reorganization" under Section 368(a) of the Code. The Parties to this Agreement adopt this Agreement as a "plan of reorganization" within the meaning of Treasury Regulations Section 1.368-2(g).

ARTICLE VI
CONDITIONS

6.1. Conditions to Each Party's Obligation to Effect the Merger. The respective obligation of each Party to effect the Merger is subject to the satisfaction or waiver at or prior to the Closing of each of the following conditions:

(a) Stockholder Approvals. The Company Stockholder Approval shall have been obtained in accordance with applicable Law and the Company's Organizational Documents.

(b) Law; Judgment. No Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Law or Judgment (whether temporary, preliminary or permanent) that is in effect and restrains, enjoins or otherwise prohibits consummation of the Merger.

(c) Registration Statement. The Registration Statement shall have been declared effective by the SEC under the Securities Act and no stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that purpose shall have been initiated or threatened.

(d) Blue Sky. Any necessary state securities or "blue sky" filings or notices shall have been made and any required authorizations shall have been received for the issuance of shares of Parent Common Stock in the Merger, except for such authorizations the lack of receipt of which would not reasonably be expected to have a material adverse impact on any of the Parties or their respective Affiliates.

6.2. Conditions to Obligations of Parent and Merger Sub. The obligations of Parent and Merger Sub to effect the Merger are also subject to the satisfaction or waiver by Parent at or prior to the Closing of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Company contained in this Agreement (except for the representations and warranties contained in Sections 3.1, 3.2(a), 3.3, 3.4, and 3.20) shall be true and correct (without giving effect to any limitation as to "materiality" or "Company Material Adverse Effect" set forth therein) at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such earlier date), except where the failure of such representations and warranties to be true and correct (without giving effect to any limitation as to "materiality" or "Company Material Adverse Effect" set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect; the representations and warranties of the Company contained in Sections 3.1, 3.2(a), 3.4, and 3.20 shall be true and correct in all material respects at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such earlier date); and the representations and warranties of the Company contained in Section 3.3 shall be true and correct in all respects, except for *de minimis* inaccuracies at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such earlier date).

(b) Performance of Obligations of the Company. The Company shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing.

(c) No Company Material Adverse Effect. After the date of this Agreement, there shall not have occurred any Effect that, individually or in the aggregate, has resulted in a Company Material Adverse Effect that is continuing.

(d) Company Certificate. Parent shall have received at the Closing a certificate signed on behalf of the Company by a senior executive officer of the Company to the effect that the conditions set forth in Sections 6.2(a), (b) and (c) have been satisfied.

6.3. Conditions to Obligation of the Company. The obligation of the Company to effect the Merger is also subject to the satisfaction or waiver by the Company at or prior to the Closing of the following conditions:

(a) Representations and Warranties. The representations and warranties of Parent contained in this Agreement (except for the representations and warranties contained in Sections 4.1, 4.2(a), 4.3, 4.4 and 4.14) shall be true and correct (without giving effect to any limitation as to "materiality" or "Parent Material Adverse Effect" set forth therein) at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such earlier date), except where the failure of such representations and warranties to be true and correct (without giving effect to any limitation as to "materiality" or "Parent Material Adverse Effect" set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Parent Material Adverse Effect; the representations and warranties of Parent contained in Sections

4.1, 4.2(a), 4.4 and 4.14 shall be true and correct in all material respects at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such earlier date); and the representations and warranties of parent contained in Section 4.3 shall be true and correct in all respects, except for *de minimis* inaccuracies at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such earlier date).

(b) Performance of Obligations of Parent and Merger Sub. Each of Parent and Merger Sub shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing.

(c) No Parent Material Adverse Effect. After the date of this Agreement, there shall not have occurred any Effect that, individually or in the aggregate, has resulted in a Parent Material Adverse Effect that is continuing.

(d) Parent Certificate. The Company shall have received at the Closing a certificate signed on behalf of Parent by a senior executive officer of Parent to the effect that the conditions set forth in Sections 6.3(a), (b) and (c) have been satisfied.

6.4. Frustration of Conditions. None of the Company, Parent or Merger Sub may rely, either as a basis for not consummating the Merger or the other transactions or terminating this Agreement and abandoning the Merger, on the failure of any condition set forth in Sections 6.1, 6.2 or 6.3, as the case may be, to be satisfied if such failure was caused by such Party's material breach of any provision of this Agreement.

ARTICLE VII
TERMINATION

7.1. Termination by Mutual Consent. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time, whether before or after the date of the Company Stockholder Approval referred to in Section 6.1(a), by mutual written consent of the Company and Parent.

7.2. Termination by Either Parent or the Company. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time by either Parent or the Company if:

(a) the Merger shall not have been consummated by 11:59 p.m. (Eastern Standard time) on April 18, 2023, (the "**Termination Date**"), provided, however, that the right to terminate this Agreement under this Section 7.2(a) shall not be available to any party whose material breach of any provision of this Agreement has been the cause of, or resulted in, the failure of the Merger to be consummated by the Termination Date;

(b) the Company Stockholder Approval shall not have been obtained at a meeting duly convened therefor or at any adjournment or postponement thereof at which a vote upon the adoption of this Agreement was taken; provided, however, that the right to terminate this Agreement under this Section 7.2(b) shall not be available to the Company if its material breach of any provision of this Agreement has been the cause of, or resulted in, the failure to obtain the Company Stockholder Approval; or

(c) any Law or Judgment permanently restraining, enjoining or otherwise prohibiting consummation of the Merger shall become final and non-appealable, whether before or after the date of the Company Stockholder Approval referred to in Section 6.1(a); *provided that* the right to terminate this Agreement under this Section 7.2(c) shall not be available to any Party if its material breach of any provision of this Agreement has been the cause of, or resulted in, the failure of the Merger to be consummated.

7.3. Termination by the Company. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time by the Company if:

(a) at any time prior to the Company Stockholder Approval having been obtained, Parent shall have entered into a Parent Acquisition Proposal or Parent shall have materially breached or shall have failed to perform in any material respect its obligations set forth in Section 5.3;

(b) at any time prior to the Effective Time, whether before or after the Company Stockholder Approval referred to in Section 6.1(a) is obtained, if there has been a breach of any representation, warranty, covenant or agreement made by Parent or Merger Sub in this Agreement, or any such representation and warranty shall have become untrue after the date of this Agreement, such that any condition set forth in Sections 6.3(a) or 6.3(b) would not be satisfied and such breach or failure to be true is not curable or, if curable, is not cured prior to the earlier of (i) 30 days following notice to Parent from the Company of such breach or failure and (ii) the date that is three Business Days prior to the Termination Date; *provided* that the Company shall not have the right to terminate this Agreement pursuant to this Section 7.3(b) if the Company is then in material breach of any of its representations, warranties, covenants or agreements under this Agreement; or

(c) at any time prior to the Company Stockholder Approval having been obtained, (i) the Company Board authorizes the Company, to the extent permitted by and subject to complying with the terms of Section 5.2, to enter into a Company Acquisition Proposal constituting a Company Superior Proposal, (ii) concurrently with the termination of this Agreement, the Company enters into a Company Acquisition Proposal constituting a Company Superior Proposal, and (iii) prior to or concurrently with such termination, the Company pays to Parent in immediately available funds the Termination Fee pursuant to Section 7.5.

7.4. Termination by Parent. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time by Parent if:

(a) at any time prior to the Company Stockholder Approval having been obtained, (i) the Company Board shall have made a Company Change in Recommendation, (ii) the Company shall have failed to include the Company Board Recommendation in the Proxy Statement/Prospectus, (iii) the Company shall have entered into a Company Acquisition Proposal or (iv) the Company shall have materially breached or shall have failed to perform in any material respect its obligations set forth in Section 5.2; provided that Parent's right to terminate this Agreement pursuant to this Section 7.4(a) shall expire upon receipt of the Company Stockholder Approval;

(b) at any time prior to the Effective Time, if there has been a breach of any representation, warranty, covenant or agreement made by the Company in this Agreement, or any such representation and warranty shall have become untrue after the date of this Agreement, such that any condition set forth in Sections 6.2(a) or 6.2(b) would not be satisfied and such breach or failure to be true is not curable or, if curable, is not cured prior to the earlier of (i) 30 days following notice to the Company from Parent of such breach or failure and (ii) the date that is three Business Days prior to the Termination Date; *provided that* Parent shall not have the right to terminate this Agreement pursuant to this Section 7.4(b) if Parent is then in material breach of any of its representations, warranties, covenants or agreements under this Agreement; or

(c) at any time prior to the Company Stockholder Approval having been obtained, (i) the Parent Board authorizes Parent, to the extent permitted by and subject to complying with the terms of Section 5.2, to enter into a Parent Acquisition Proposal constituting a Parent Superior Proposal, (ii) concurrently with the termination of this Agreement, Parent enters into a Parent Acquisition Proposal constituting a Parent Superior Proposal, and (iii) prior to or concurrently with such termination, Parent pays to the Company in immediately available funds the Termination Fee pursuant to Section 7.6.

7.5. Company Termination Fee. In the event that (x) (A) after the date of this Agreement, a Company Acquisition Proposal shall have been made to the Company and such Company Acquisition Proposal becomes publicly known prior to the Company Stockholders' Meeting and, in either case, such Company Acquisition Proposal shall not have been withdrawn at the time of the Company Stockholders Meeting, (B) this Agreement is terminated by the Company or Parent pursuant to Section 7.2(b), or by Parent pursuant to Section 7.4(b) and (C) within 12 months after such termination, the Company enters into a Company Alternative Acquisition Agreement with respect to a Company Acquisition Proposal or consummates a Company Acquisition Proposal (solely for purposes of this Section 7.5(x), the references to "20%" in the definition of Company Acquisition Proposal shall be deemed to be references to "50%"); or (y) if this Agreement is terminated by the Company pursuant to Section 7.3(c) or (z) this Agreement is terminated by Parent pursuant to Section 7.4(a); then the Company shall, within two Business Days after such termination in the case of clause (z) or concurrently with such termination in the case of clause (x) and clause (y), pay Parent the Termination Fee. In no event shall the Company be required to pay the Termination Fee on more than one occasion.

7.6. Parent Termination Fee. In the event that this Agreement is terminated (x) by Parent pursuant to Section 7.4(c) or (y) by the Company pursuant to Section 7.3(a), then Parent shall, within two Business Days after such termination in the case of clause (y) or concurrently with such termination in the case of clause (x), pay the Company the Termination Fee. In no event shall Parent be required to pay the Termination Fee on more than one occasion.

7.7. Effect of Termination and Abandonment. In the event of termination of this Agreement and the abandonment of the Merger pursuant to this Article VII, this Agreement (other than as set forth in this Section 7.7 and in Section 8.1) shall become void and of no effect with no liability on the part of any Party (or of any of its respective Representatives); provided that no such termination shall relieve any Party (1) from any liability for fraud or Willful Breach of this Agreement prior to such termination and (2) from any obligation to pay, if applicable, the Termination Fee pursuant to Sections 7.5 and 7.6, as applicable. For purposes of this Agreement, the term "**Willful Breach**" means a deliberate act or a deliberate failure to act, taken or not taken with the actual knowledge that such act or failure to act would, or would reasonably be expected to, result in or constitute a material breach of this Agreement, regardless of whether breaching was the object of the act or failure to act.

7.8. Remedies.

(a) Each Party acknowledges that the agreements contained in Sections 7.5 and 7.6 are an integral part of the Contemplated Transactions, and that, without these agreements, no Party would have entered into this Agreement; accordingly, if the Company fails to pay promptly the Termination Fee pursuant to Section 7.5 or Parent fails to pay promptly the Termination Fee pursuant to Section 7.6, and, in order to obtain such Termination Fee, the Party entitled to receive the Termination Fee (the "**Recipient**") commences a suit which results in a judgment against the Party obligated to pay the Termination Fee (the "**Payor**"), the Payor shall pay to the Recipient its costs and expenses (including attorneys' fees) in connection with such suit, together with interest on the Termination Fee at the prime rate in effect on the date the Termination Fee was required to be paid through the date of full payment thereof.

(b) The Parties agree that the monetary remedies set forth in this and the specific performance remedies set forth in Section 8.13 shall be the sole and exclusive remedies of (i) the Company and its Subsidiaries against Parent, Merger Sub and any of their respective former, current or future general or limited partners, shareholders, managers, members, Representatives or Affiliates for any loss suffered as a result of the failure of the Merger to be consummated except in the case of common law fraud or a Willful Breach of any covenant, agreement or obligation (in which case only Parent shall be liable for damages for such common law fraud or Willful Breach), and upon payment of such amount, none of Parent, Merger Sub or any of their respective former, current or future general or limited partners, shareholders, managers, members, Representatives or Affiliates shall have any further liability or obligation relating to or arising out of this Agreement or the Contemplated Transactions, except for the liability of Parent in the case of common law fraud or a Willful Breach of any covenant, agreement or obligation; and (ii) Parent and Merger Sub against the Company and its Subsidiaries and any of their respective former, current or future general or limited partners, shareholders, managers, members, Representatives or Affiliates for any loss suffered as a result of the failure of the Contemplated Transactions to be consummated except in the case of common law fraud or a Willful Breach of any covenant, agreement or obligation (in which case only the Company shall be liable for damages for such common law fraud or Willful Breach), and upon payment of such amount, none of the Company and its Subsidiaries or any of their respective former, current or future general or limited partners, shareholders, managers, members, Representatives or Affiliates shall have any further liability or obligation relating to or arising out of this Agreement or the Contemplated Transactions, except for the liability of the Company in the case of common law fraud or a Willful Breach of any covenant, agreement or obligation.

ARTICLE VIII
MISCELLANEOUS AND GENERAL

8.1. Survival. This Article VIII and the agreements of the Company, Parent and Merger Sub Section 5.10, Section 5.11 and Section 5.18 shall survive the consummation of the Merger. This Article VIII (other than Section 8.2, Section 8.3 and Section 8.4) and the agreements of the Company, Parent and Merger Sub contained in, Section 5.7, Section 5.10, Section 7.5, Section 7.6, Section 7.7, Section 7.8 and the Confidentiality Agreement shall survive the termination of this Agreement. All other representations, warranties, covenants and agreements in this Agreement and in any certificate or other writing delivered pursuant hereto shall not survive the consummation of the Merger or the termination of this Agreement. This Section 8.1 shall not limit any covenant or agreement of the Parties which by its terms contemplates performance after the Effective Time.

8.2. Amendment. This Agreement may be amended with the approval of the Company, Merger Sub and Parent at any time (whether before or after obtaining the Company Stockholder Approval); provided, however, that after any such approval of this Agreement by a Party's stockholders, no amendment shall be made which by Law requires further approval of such stockholders without the further approval of such stockholders. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Company, Merger Sub and Parent.

8.3. Assignability. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the Parties and their respective successors and permitted assigns; provided, however, that neither this Agreement nor any of a Party's rights or obligations hereunder may be assigned or delegated by such Party without the prior written consent of the other Party, and any attempted assignment or delegation of this Agreement or any of such rights or obligations by such Party without the other Party's prior written consent shall be void and of no effect.

8.4. Waiver.

(a) No failure on the part of any Party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any Party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

(b) No Party shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such Party and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

8.5. Entire Agreement; Counterparts; Exchanges by Electronic Transmission. This Agreement, the Company Disclosure Schedule, the Parent Disclosure Schedule and the other agreements referred to in this Agreement constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, among or between any of the Parties with respect to the subject matter hereof and thereof; provided, however, that the Confidentiality Agreement shall not be superseded and shall remain in full force and effect in accordance with its terms. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. The exchange of a fully executed Agreement (in counterparts or otherwise) by all Parties by electronic transmission in .PDF format shall be sufficient to bind the Parties to the terms and conditions of this Agreement.

8.6. Governing Law and Venue; Waiver of Jury Trial. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of Delaware, regardless of the Laws that might otherwise govern under applicable principles of conflicts of laws. In any action or proceeding between any of the Parties arising out of or relating to this Agreement or any of the Contemplated Transactions, each of the Parties: (a) irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the Court of Chancery of the State of Delaware or, to the extent such court does not have subject matter jurisdiction, the United States District Court for the District of Delaware or, to the extent that neither of the foregoing courts has jurisdiction, the Superior Court of the State of Delaware; (b) agrees that all claims in respect of such action or proceeding shall be heard and determined exclusively in accordance with clause (a) of this Section 8.6; (c) waives any objection to laying venue in any such action or proceeding in such courts; (d) waives any objection that such courts are an inconvenient forum or do not have jurisdiction over any Party; and (e) agrees that service of process upon such Party in any such action or proceeding shall be effective if notice is given in accordance with Section 8.7 of this Agreement. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY ACTION OR PROCEEDING 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 ACTION OR 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 ANY ACTION OR PROCEEDING, 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 8.6.

8.7. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly delivered and received hereunder (a) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable international overnight courier service, (b) upon delivery in the case of delivery by hand, or (c) on the date delivered in the place of delivery if sent by email (if no automated notice of delivery failure is received by the sender) prior to 5:00 p.m. New York time, otherwise on the next succeeding Business Day, in each case to the intended recipient as set forth below:

if to Parent or Merger Sub

Advaxis, Inc.
212 Carnegie Center, Suite 206
Princeton New Jersey 08540
Attention: Kenneth A. Berlin and Igor Gitelman
Email: berlin@advaxis.com; gitelman@advaxis.com

with copies to (which shall not constitute notice):

Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178
Attention: Robert W. Dickey
Email: robert.dickey@morganlewis.com

if to the Company

Ayala Pharmaceuticals, Inc.
Oppenheimer 4
Rehovot, Israel 7670104
Attention: Roni Mamluk and Yossi Maimon
Email: roni.m@ayalapharma.com; yossi.m@ayalapharma.com

with copies to (which shall not constitute notice):

Latham & Watkins LLP
200 Clarendon Street
Boston, MA 02116
Attention: Peter N. Handrinos; Joshua M. Dubofsky
Email: Peter.Handrinos@lw.com; Josh.Dubofsky@lw.com

or to such other persons or addresses as may be designated in writing by the Party to receive such notice as provided above.

8.8. No Third Party Beneficiaries. This Agreement is not intended to, and does not, confer upon any Person other than Parties any rights or remedies hereunder, other than (a) the Indemnified Persons as provided in Section 5.11, (b) the right of the Company's stockholders to receive the Merger Consideration after the Closing and (c) the right of the holders of awards under the Company Stock Incentive Plan and holders of Company Warrants to receive such consideration as provided for in Section 2.3 after the Closing.

8.9. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the Parties agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the Parties agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

8.10. No Other Representations and Warranties.

(a) Except for the representations and warranties of the Company contained in Article III, Parent and Merger Sub acknowledge that neither the Company nor any of its Subsidiaries is making and has not made, and no other Person is making or has made on behalf of the Company or any of its Subsidiaries, any express or implied representation or warranty in connection with this Agreement or the Contemplated Transactions. Neither Parent nor Merger Sub is relying and neither Parent nor Merger Sub has relied on any representations or warranties whatsoever regarding the subject matter of this Agreement, express or implied, except for the representations and warranties in Article III, including the Company Disclosure Schedule. Such representations and warranties by the Company constitute the sole and exclusive representations and warranties of the Company and its Subsidiaries in connection with the Contemplated Transactions and each of Parent and Merger Sub understands, acknowledges and agrees that all other representations and warranties of any kind or nature whether express, implied or statutory are specifically disclaimed by the Company and its Subsidiaries.

(b) Except for the representations and warranties Parent and Merger Sub contained in Article IV, the Company acknowledges that neither Parent nor Merger Sub is making or has made, and no other Person is making or has made on behalf of the Parent or Merger Sub, any express or implied representation or warranty in connection with this Agreement or the Contemplated Transactions. The Company is not relying and it has not relied on any representations or warranties whatsoever regarding the subject matter of this Agreement, express or implied, except for the representations and warranties in Article IV, including the Parent Disclosure Schedule. Such representations and warranties by Parent and Merger Sub constitute the sole and exclusive representations and warranties of Parent and Merger Sub in connection with the Contemplated Transactions and the Company understands, acknowledges and agrees that all other representations and warranties of any kind or nature whether express, implied or statutory are specifically disclaimed by Parent.

8.11. Construction

(a) References to “cash,” “dollars” or “$” are to U.S. dollars.

(b) For purposes of this Agreement, whenever the context requires: the singular number shall include the plural, and vice versa; the masculine gender shall include the feminine and neuter genders; the feminine gender shall include the masculine and neuter genders; and the neuter gender shall include masculine and feminine genders.

(c) The Parties have participated jointly in the negotiating and drafting of this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be applied in the construction or interpretation of this Agreement, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

(d) As used in this Agreement, the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words "without limitation."

(e) Except as otherwise indicated, all references in this Agreement to "Sections," "Exhibits" and "Schedules" are intended to refer to Sections of this Agreement and Exhibits and Schedules to this Agreement, respectively. Any capitalized terms used in any Exhibits or Schedules but not otherwise defined therein have the meanings ascribed to such terms as in this Agreement.

(f) Any reference to legislation or to any provision of any legislation shall include any modification, amendment, re-enactment thereof, any legislative provision substituted therefore and all rules, regulations, and statutory instruments issued or related to such legislations.

(g) The bold-faced headings and table of contents contained in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement.

(h) The Parties agree that each of the Company Disclosure Schedule and the Parent Disclosure Schedule shall be arranged in sections and subsections corresponding to the numbered and lettered sections and subsections contained in this Agreement. The disclosures in any section or subsection of the Company Disclosure Schedule or the Parent Disclosure Schedule shall qualify other sections and subsections in this Agreement to the extent it is readily apparent on its face from a reading of the disclosure that such disclosure is applicable to such other sections and subsections.

(i) Each of "delivered" or "made available" means, with respect to any documentation, that prior to 11:59 p.m. (New York time) on the date that is one calendar day prior to the date of this Agreement (i) a copy of such material has been posted to and made available by a Party to the other Party and its Representatives in the electronic data room maintained by such disclosing Party or (ii) such material is disclosed in the Company SEC Documents or the Parent SEC Documents filed with the SEC prior to the date hereof and publicly made available on the SEC's Electronic Data Gathering Analysis and Retrieval system.

(j) Whenever the last day for the exercise of any privilege or the discharge of any duty hereunder shall fall upon a Saturday, Sunday, or any date on which banks in New York, New York are authorized or obligated by Law to be closed, the Party having such privilege or duty may exercise such privilege or discharge such duty on the next succeeding day which is a regular Business Day.

8.12. Certain Definitions: For the purposes of this Agreement:

(a) An "**Affiliate**" of any Person means another Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person. For purposes of this definition, "control," when used with respect to any specified Person, means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through ownership of voting securities or by Contract or otherwise, and the terms "controlling" and "controlled by" have correlative meanings to the foregoing.

(b) "**Anti-Bribery Laws**" means the FCPA, as amended, any rules or regulations thereunder, or any other applicable United States or foreign anti-corruption or anti-bribery laws or regulations.

(c) "**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.

(d) "**Company Affiliate**" means any Person under common control with any of the Company or any of its Subsidiaries within the meaning of Section 414(b), Section 414(c), Section 414(m) or Section 414(o) of the Code, and the regulations issued thereunder.

(e) "**Company Associate**" means any current or former officer, employee, independent contractor, consultant or director, of or to the Company or any of its Subsidiaries or any controlled Company Affiliate.

(f) "**Company Benefit Plan**" means each (i) "employee benefit plan" as defined in Section 3(3) of ERISA and (ii) other pension, retirement, deferred compensation, excess benefit, profit sharing, bonus, incentive, equity or equity-based, phantom equity, employment (other than at-will employment offer letters on the Company's standard form that may be terminated without notice and with no penalty to the Company or any of its Subsidiaries and other than individual Company Options, Company restricted stock or other compensatory equity award agreements made pursuant to the Company's standard forms, in which case only representative standard forms of such agreements shall be scheduled), consulting, severance, change-of-control, retention, health, life, disability, group insurance, paid-time off, holiday, welfare and fringe benefit plan, program, agreement, contract, or arrangement (whether written or unwritten, qualified or nonqualified, funded or unfunded and including any that have been frozen or terminated), in any case, maintained, contributed to, or required to be contributed to, by the Company, any of its Subsidiaries or Company ERISA Affiliates for the benefit of any current or former employee, director, officer or independent contractor of the Company or any of its Subsidiaries or under which the Company or any of its Subsidiaries has any actual or contingent liability (including, without limitation, as to the result of it being treated as a single employer under Section 414 of the Code with any other person).

(g) "**Company Capital Stock**" means Company Common Stock, together with Company Preferred Stock.

(h) "**Company Closing Price**" means the volume weighted average closing trading price of a share of Company Common Stock for the five consecutive trading days ending five trading days immediately prior to the date upon which the Merger becomes effective.

(i) "**Company Contract**" means any Contract: (a) to which the Company or any of its Subsidiaries is a party; (b) by which the Company or any of its Subsidiaries or any Company IP or any other asset of the Company or its Subsidiaries is or may become bound or under which the Company or any of its Subsidiaries has, or may become subject to, any obligation; or (c) under which the Company or any of its Subsidiaries has or may acquire any right or interest.

(j) "**Company ERISA Affiliate**" means any corporation or trade or business (whether or not incorporated) which is (or at any relevant time was) treated with the Company or any of its Subsidiaries as a single employer within the meaning of Section 414 of the Code.

(k) "**Company IP**" means Company Owned IP and Company Licensed IP.

(l) "**Company Licensed IP**" means all Intellectual Property Rights that are exclusively licensed to the Company or any of its Subsidiaries and cover the products of the Company.

(m) "**Company Material Adverse Effect**" means any Effect that, individually or in the aggregate with all other Effects, (1) materially adversely affects or would reasonably be expected to materially adversely affect the business, financial condition or results of operations of the Company and its Subsidiaries, taken as a whole, or (2) would reasonably be expected to prevent or materially impair or delay the consummation of the Contemplated Transactions by the Company, excluding, in the case of Clause (1) any Effect to the extent that, either alone or in combination, it results from or arises out of (i) general business or economic conditions generally affecting the industry in which the Company and its Subsidiaries operate, (ii) acts of war, the outbreak or escalation of armed hostilities, acts of terrorism, earthquakes, wildfires, hurricanes or other natural disasters and health emergencies, including pandemics (including COVID-19 and any evolutions or mutations thereof), (iii) changes in financial, banking or securities markets, (iv) any change in, or any compliance with or action taken for the purpose of complying with, any Law or GAAP (or interpretations of any Law or GAAP), (v) any change in the stock price or trading volume of Company Common Stock (it being understood, however, that any Effect causing or contributing to any change in stock price or trading volume of Company Common Stock may be taken into account in determining whether a Company Material Adverse Effect has occurred, unless such Effects are otherwise excepted from this definition), (vi) the failure of the Company to meet internal or analysts' expectations or projections or the results of operations of the Company (it being understood, however, that any Effect causing or contributing to the failure of the Company to meet internal or analysts' expectations or projections or the results of operations of the Company may be taken into account in determining whether a Company Material Adverse Effect has occurred, unless such Effects are otherwise excepted from this definition) or (vii) the announcement of this Agreement or the pendency of the Contemplated Transactions; except, in each case, with respect to clauses (i) through (iv), to the extent disproportionately affecting the Company and its Subsidiaries, taken as a whole, relative to other similarly situated companies in the industries in which the Company and its Subsidiaries operate.

(n) "**Company Option**" means any option to purchase Shares (whether granted under the Company Stock Incentive Plan, assumed by the Company in connection with any merger, acquisition or similar transaction or otherwise issued or granted).

(o) "**Company Owned IP**" means all Intellectual Property Rights that are owned by the Company or any of its Subsidiaries that cover the products of the Company.

(p) "**Company RSU**" means any Company restricted stock unit that is subject to vesting conditioned upon satisfaction of a service condition (whether granted under the Company Stock Incentive Plan, assumed by the Company in connection with any merger, acquisition or similar transaction or otherwise issued or granted).

(q) "**Company Stock Incentive Plan**" means the Company's 2017 Stock Incentive Plan, as amended.

(r) "**Confidentiality Agreement**" means the confidentiality agreement entered into between Company and Parent on July 19, 2022.

(s) "**Consent**" means consent, approval, ratification, permission, authorization, clearance, waiver, permit or order.

(t) "**Contemplated Transactions**" means the Merger and the other transactions and actions contemplated by this Agreement.

(u) "**Contract**" means any written, oral or other agreement, contract, subcontract, lease, understanding, arrangement, instrument, note, option, warranty, purchase order, license, sublicense, insurance policy, benefit plan or legally binding commitment or undertaking of any nature.

(v) "**Effect**" means any fact, circumstance, effect, change, event or development.

(w) "**Environmental Laws**" means any Law concerning or relating to pollution or protection of the environment or natural resources, or protection of human health and safety as related to exposure to any harmful or deleterious substances.

(x) "**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

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

(z) "**Exchange Ratio**" means 0.1874 as of the date of this Agreement, subject to Section 2.1(c) and subject to adjustment at Closing to reflect the following ratio (rounded to four decimal places): the quotient obtained by dividing (a) (i) the Company Valuation divided by (ii) the Company Outstanding Shares by (b) (i) the Parent Valuation divided by (ii) the Parent Outstanding Shares, in which:

- "**Company Outstanding Shares**" means the total number of shares of Company Capital Stock outstanding immediately prior to the Effective Time expressed on an as-exercised basis and using the treasury stock method, but assuming, without limitation or duplication the issuance of shares of Company Capital Stock in respect of all outstanding Company Options, Company RSUs, Company Warrants and other outstanding options, restricted stock awards, warrants or rights to receive such shares, in each case, outstanding as of immediately prior to the Effective Time (assuming cashless exercise using the Company Closing Price), whether conditional or unconditional and including any outstanding options, warrants or rights triggered by or associated with the consummation of the Merger (but excluding any shares of Company Capital Stock reserved for issuance other than with respect to outstanding Company Warrants or Company Options under the Company Stock Incentive Plan as of immediately prior to the Effective Time). No out-of-the-money Company Options or Company Warrants shall be included in the total number of shares of Company Common Stock outstanding for purposes of determining the Company Outstanding Shares.
- "**Company Valuation**" means $14,859,960.
- "**Parent Outstanding Shares**" means, subject to Section 2.1(c) and the immediately following sentence, the total number of shares of Parent Common Stock outstanding immediately prior to the Effective Time expressed on an as-exercised basis and using the treasury stock method, but assuming, without limitation or duplication, the issuance of shares of Parent Common Stock in respect of all Parent Options, Parent Warrants and other outstanding options, warrants or rights to receive such shares, in each case, outstanding as of immediately prior to the Effective Time (assuming cashless exercise using the Parent Closing Price), whether conditional or unconditional and including any outstanding options, warrants or rights triggered by or associated with the consummation of the Merger, (but excluding any shares of Parent Common Stock reserved for issuance other than with respect to outstanding Parent Options and Parent Warrants as of immediately prior to the Effective Time and as set forth above). No out-of-the-money Parent Options or Parent Warrants shall be included in the total number of shares of Parent Common Stock outstanding for purposes of determining the Parent Outstanding Shares.

- "**Parent Valuation**" means $8,915,976.

(aa) "**FCPA**" means the Foreign Corrupt Practices Act of 1977, as amended.

(bb) "**FDA**" means the U.S. Food and Drug Administration or any successor Governmental Entity thereto.

(cc) "**FDCA**" means the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.), as amended, and the regulations promulgated thereunder.

(dd) "**GAAP**" means United States generally accepted accounting principles.

(ee) "**Governmental Authorization**" means any: (a) permit, license, certificate, franchise, permission, variance, exception, exemption, approval, order, clearance, registration, qualification or authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Entity or pursuant to any Law; or (b) right under any Contract with any Governmental Entity.

(ff) "**Governmental Entity**" means any (a) nation, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental division, department, agency, commission, bureau, instrumentality, official, ministry, fund, foundation, center, organization, unit, body or entity and any court or other tribunal, and for the avoidance of doubt, any taxing authority); or (d) self-regulatory organization (including The Nasdaq Global Select Market).

(gg) "**Hazardous Materials**" means any substance, material or waste that is listed, defined or otherwise characterized as "hazardous", "toxic", "radioactive" or a "pollutant", or "contaminant" or terms of similar meaning or effect under any Environmental Law, including petroleum or its by-products, asbestos and polychlorinated biphenyls.

(hh) "**Indebtedness**" means, with respect to any Person, without duplication, (i) all obligations of such Person for borrowed money, or with respect to deposits or advances of any kind to such Person, including related prepayment fees, final fees or other similar fees, (ii) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (iii) all capitalized lease obligations of such Person or obligations of such Person to pay the deferred and unpaid purchase price of property and equipment, (iv) all obligations of such Person pursuant to securitization or factoring programs or arrangements, (v) all guarantees and arrangements having the economic effect of a guarantee of such Person of any debt of any other Person (other than any guarantee by a Party with respect to debt of such Party or any wholly owned Subsidiary of such Party), (vi) net cash payment obligations of such Person under swaps, options, derivatives and other hedging agreements or arrangements that will be payable upon termination thereof (assuming they were terminated on the date of determination) or (vii) letters of credit, bank guarantees, and other similar contractual obligations entered into by or on behalf of such Person.

(ii) "**Intellectual Property Rights**" means all rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, software, databases, and mask works; (b) trademarks, service marks, trade dress, logos, trade names and other source identifiers, domain names and URLs and similar rights and any goodwill associated therewith; (c) rights associated with trade secrets, know how, inventions, invention disclosures, methods, processes, protocols, specifications, techniques and other forms of technology; (d) patents and industrial property rights; (e) other proprietary rights in intellectual property of every kind and nature; (f) rights of privacy and publicity; and (g) all registrations, renewals, extensions, statutory invention registrations, provisionals, utility applications, continuations, continuations-in-part, divisionals, or reissues of, and applications for, any of the rights referred to in clauses "(a)" through "(f)" above (whether or not in tangible form and including all tangible embodiments of any of the foregoing, such as samples, studies and summaries), along with all rights to prosecute and perfect the same through administrative prosecution, registration, recordation or other administrative proceeding, and all causes of action and rights to sue or seek other remedies arising from or relating to the foregoing.

(jj) "**Judgment**" means any judgment, order, injunction, ruling, writ award or decree of any Governmental Entity.

(kk) The "**Knowledge**" of any Person means, in the case of Parent, the actual knowledge after reasonable inquiry of any of the Persons set forth on Section 8.12(kk) of the Parent Disclosure Schedule and, in the case of the Company, the actual knowledge after reasonable inquiry of any of the Persons set forth on Section 8.12(kk) of the Company Disclosure Schedule.

(ll) "**Law**" means any federal, state, local, foreign or transnational law, statute, regulation, ordinance, common law, ruling, writ, award or decree of any Governmental Entity.

(mm) "**Legal Proceeding**" means any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, inquiry, audit, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving, any court or other Governmental Entity or any arbitrator or arbitration panel.

(nn) "**Liens**" means pledges, liens, claims, charges, mortgages, deeds of trust, rights of first offer or first refusal, options, encumbrances and security interests of any kind or nature whatsoever (collectively, with covenants, conditions, restrictions, easements, encroachments, any conditional sale or title retention agreements or other third party rights or title defect of any kind or nature whatsoever).

(oo) "**Nasdaq**" means the National Association of Securities Dealers Automatic Quotation System.

(pp) "**Ordinary Course of Business**" means, in the case of each of the Company and Parent, such actions taken in the ordinary course of its and its Subsidiaries' normal operations and consistent with its and its Subsidiaries' past practices and the Ordinary Course of Business of Parent shall also include actions required to effect the winding down of Parent's prior research and development activities (including the termination of ongoing contractual obligations relating to Parent's current products or product candidates).

(qq) "**Organizational Documents**" means, with respect to any Person (other than an individual), (a) the certificate or articles of association or incorporation or organization or limited partnership or limited liability company, and any joint venture, limited liability company, operating or partnership agreement and other similar documents adopted or filed in connection with the creation, formation or organization of such Person and (b) all bylaws, regulations and similar documents or agreements relating to the organization or governance of such Person, in each case, as amended or supplemented.

(rr) "**Parent Affiliate**" means any Person under common control with the Parent within the meaning of Section 414(b), Section 414(c), Section 414(m) or Section 414(o) of the Code, and the regulations issued thereunder.

(ss) "**Parent Associate**" means any current or former officer, employee, independent contractor, consultant or director, of or to the Parent or any of its Subsidiaries or any controlled Parent Affiliate.

(tt) "**Parent Benefit Plan**" means each (i) "employee benefit plan" as defined in Section 3(3) of ERISA and (ii) other pension, retirement, deferred compensation, excess benefit, profit sharing, bonus, incentive, equity or equity-based, phantom equity, employment (other than at-will employment offer letters on Parent's standard form that may be terminated without notice and with no penalty to Parent or any of its Subsidiaries and other than individual Parent Options or other compensatory equity award agreements made pursuant to Parent's standard forms, in which case only representative standard forms of such agreements shall be scheduled), consulting, severance, change-of-control, retention, health, life, disability, group insurance, paid-time off, holiday, welfare and fringe benefit plan, program, agreement, contract, or arrangement (whether written or unwritten, qualified or nonqualified, funded or unfunded and including any that have been frozen or terminated), in any case, maintained, contributed to, or required to be contributed to, by Parent, any of its Subsidiaries or Parent ERISA Affiliates for the benefit of any current or former employee, director, officer or independent contractor of Parent or any of its Subsidiaries or under which Parent or any of its Subsidiaries has any actual or contingent liability (including, without limitation, as to the result of it being treated as a single employer under Section 414 of the Code with any other person).

(uu) "**Parent Closing Price**" means the volume weighted average closing trading price of a share of Parent Common Stock for the five consecutive trading days ending five trading days immediately prior to the date upon which the Merger becomes effective.

(vv) "**Parent Contract**" means any Contract: (a) to which Parent or any of its Subsidiaries is a party; (b) by which Parent or any of its Subsidiaries or any intellectual property owned or licensed by Parent or any other asset of Parent or its Subsidiaries is or may become bound or under which Parent or any of its Subsidiaries has, or may become subject to, any obligation; or (c) under which Parent or any of its Subsidiaries has or may acquire any right or interest.

(ww) "**Parent ERISA Affiliate**" means any corporation or trade or business (whether or not incorporated) which is (or at any relevant time was) treated with Parent or any of its Subsidiaries as a single employer within the meaning of Section 414 of the Code.

(xx) "**Parent Material Adverse Effect**" means any Effect that, individually or in the aggregate with all other Effects, (1) materially adversely affects or would reasonably be expected to materially adversely affect the business, financial condition or results of operations of Parent and its Subsidiaries, taken as a whole, or (2) would reasonably be expected to prevent or materially impair or delay the consummation of the Contemplated Transactions by Parent, excluding, in the case of Clause (1), any Effect to the extent that, either alone or in combination, it results from or arises out of (i) general business or economic conditions generally affecting the industry in which Parent and its Subsidiaries operate, (ii) acts of war, the outbreak or escalation of armed hostilities, acts of terrorism, earthquakes, wildfires, hurricanes or other natural disasters and health emergencies, including pandemics (including COVID-19 and any evolutions or mutations thereof), (iii) changes in financial, banking or securities markets, (iv) any change in, or any compliance with or action taken for the purpose of complying with, any Law or GAAP (or interpretations of any Law or GAAP), (v) any change in the stock price or trading volume of Parent Common Stock (it being understood, however, that any Effect causing or contributing to any change in

stock price or trading volume of Parent Common Stock may be taken into account in determining whether a Parent Material Adverse Effect has occurred, unless such Effects are otherwise excepted from this definition), (vi) the failure of Parent to meet internal or analysts' expectations or projections or the results of operations of Parent (it being understood, however, that any Effect causing or contributing to the failure of Parent to meet internal or analysts' expectations or projections or the results of operations of Parent may be taken into account in determining whether a Parent Material Adverse Effect has occurred, unless such Effects are otherwise excepted from this definition), or (vii) the announcement of this Agreement or the pendency of the Contemplated Transactions; except, in each case, with respect to clauses (i) through (iv), to the extent disproportionately affecting Parent and its Subsidiaries, taken as a whole, relative to other similarly situated companies in the industries in which Parent and its Subsidiaries operate.

(yy) "**Parent Option**" means any option to purchase Parent Common Stock (whether granted under any Parent Stock Plan, assumed by the Parent in connection with any merger, acquisition or similar transaction or otherwise issued or granted).

(zz) "**Parent Stock Plans**" means Parent's Amended and Restated 2009 Stock Option Plan, 2011 Omnibus Incentive Plan and 2015 Incentive Plan, each as amended from time to time.

(aaa) "**Parent Warrants**" means the warrants to purchase capital stock of Parent listed on Section 4.3(a) of the Parent Disclosure Schedule.

(bbb) "**Permitted Liens**" means any (1) Lien (i) for Taxes or governmental assessments, charges or claims of payment (A) not yet due and payable or (B) being contested in good faith in appropriate proceedings, (ii) which is a carriers', warehousemen's, mechanics', materialmen's, repairmen's, or other similar lien arising in the ordinary course of business, (iii) with respect to zoning, planning, and other limitations and restrictions, including all rights of any Governmental Entity (but not violations thereof), (iv) in the case of any Contract, Liens that are restrictions against the transfer or assignment thereof that are included in the terms of such Contract or any license of Intellectual Property Rights, (v) with respect to this Agreement and Liens created by the execution and delivery of this Agreement, (vi) which is disclosed on the most recent consolidated balance sheet of the Company or Parent, as applicable, or notes thereto which has been previously provided to Parent or the Company, as applicable, or (vii) for which adequate reserves have been established and (2) non-exclusive licenses of Intellectual Property Rights in the ordinary course of business consistent with past practice.

(ccc) "**Person**" means any natural person, firm, corporation, partnership, company, limited liability company, trust, joint venture, association, Governmental Entity or other entity.

(ddd) "**Reference Date**" means October 14, 2022.

(eee) "**Registered IP**" means all Intellectual Property Rights that cover the products of the Company that are pending, granted, or registered with, by or under the authority of any Governmental Entity, including all patents, patent applications, registered copyrights, registered mask works and registered trademarks and all applications for any of the foregoing.

(fff) "**SEC**" means the Securities and Exchange Commission.

(ggg) "**Securities Act**" means the Securities Act of 1933, as amended.

(hhh) "**Subsidiary**" of any Person means another Person, an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its Board of Directors or other governing Person or body (or, if there are no such voting interests, 50% or more of the equity interests of which) is owned directly or indirectly by such first Person.

(iii) "**Tax Return**" means all Tax returns, declarations, statements, reports, claims for refund, schedules, forms and information returns, any amended Tax return and any other document filed or required to be filed with a taxing authority relating to Taxes.

(jjj) "**Taxes**" means all federal, state, local and foreign income, profits, franchise, gross receipts, environmental, customs duty, capital stock, severance, stamp, payroll, sales, employment, Medicare, unemployment, disability, use, property, withholding, excise, production, value added, occupancy and other taxes, duties or assessments in the nature of a tax, together with all interest, penalties and additions imposed with respect to such amounts and any interest in respect of such penalties and additions.

(kkk) "**Termination Fee**" means $600,000.

(lll) "**Transaction Expenses**" means with respect to each Party, all fees and expenses incurred by such party at or prior to the Effective Time in connection with this Agreement and the Contemplated Transactions, including (a) any fees and expenses of legal counsel and accountants, the maximum amount of fees and expenses payable to financial advisors, investment bankers, brokers, consultants, and other advisors of such party; (b) fees paid to the SEC in connection with filing the Registration Statement, the Proxy Statement/Prospectus, and any amendments and supplements thereto, with the SEC; (c) any fees and expenses in connection with the printing, mailing and distribution of the Registration Statement, including any amendments and supplements thereto; and (d) any fees associated with delisting or de-registering the Shares and any other security issued by the Company or one of its Subsidiaries from The Nasdaq Global Market under the Exchange Act.

8.13. Specific Performance. The Parties acknowledge and agree that irreparable damage would occur and that the Parties would not have any adequate remedy at law if any provision of this Agreement were not performed in accordance with its specific terms or were otherwise breached, and that monetary damages, even if available, would not be an adequate remedy therefor. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions, specific performance and other equitable relief to prevent breaches of this Agreement and to enforce specifically the performance of the terms and provisions hereof, without proof of actual damages (and each Party hereby waives any requirement for the security or posting of any bond in connection with such remedy), this being in addition to any other remedy to which they are entitled at Law or in equity. The Parties further agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to applicable Law or inequitable for any reason, and not to assert that a remedy of monetary damages would provide an adequate remedy for any such breach or that the Company or Parent otherwise have an adequate remedy at law. The Parties acknowledge that the agreements contained in this Section 8.13 are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, the Parties would not enter into this Agreement.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the Parties hereto as of the date first written above.

AYALA PHARMACEUTICALS, INC.

By: /s/ Roni Mamluk
Name: Roni Mamluk
Title: Chief Executive Officer

ADVAXIS, INC.

By: /s/ Kenneth A. Berlin
Name: Kenneth A. Berlin
Title: President and Chief Executive Officer

DOE MERGER SUB, INC.

By: /s/ Kenneth A. Berlin
Name: Kenneth A. Berlin
Title: President

EXHIBIT A

Form of Certificate of Merger

(attached)

CERTIFICATE OF MERGER

OF

DOE MERGER SUB, INC.

WITH AND INTO

AYALA PHARMACEUTICALS, INC.

[•], 2022

Pursuant to Section 251 of the Delaware General Corporation Law (the "DGCL"), the undersigned corporation hereby certifies as follows:

1. The name and state of incorporation of each constituent corporation is Ayala Pharmaceuticals, Inc., a Delaware corporation, (the "Corporation"), and Doe Merger Sub, Inc., a Delaware corporation ("Merger Sub" and together with the Corporation, the "Constituent Corporations").

2. An Agreement and Plan of Merger, dated as of [•], 2022 (the "Merger Agreement"), by and among Advaxis, Inc., a Delaware corporation, Merger Sub and the Corporation, pursuant to which Merger Sub will merge with and into the Corporation, with the Corporation as the surviving corporation (the "Merger"), has been approved, executed and acknowledged by each of the Constituent Corporations in accordance with the requirements of Section 251 of the DGCL and adopted by the stockholders of each of the Constituent Corporations in accordance with Section 211 and 228 of the DGCL.

3. The name of the surviving corporation (the "Surviving Corporation") of the Merger shall be "Ayala Pharmaceuticals, Inc."

4. The Certificate of Incorporation of the Surviving Corporation shall be amended and restated in its entirety to read as set forth in Exhibit A attached hereto upon the effective time of the Merger and, as so amended and restated, shall be the certificate of incorporation of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable legal requirements.

5. The Merger is to become effective immediately upon the filing of this Certificate of Merger with the Secretary of State of the State of Delaware.

6. The executed Merger Agreement is on file at an office of the Surviving Corporation, the address of which is Oppenheimer 4, Rehovot, Israel 7670104.

7. A copy of the Merger Agreement will be furnished by the Surviving Corporation on request, without cost, to any stockholder of either Constituent Corporation.

[*Remainder of page left intentionally left blank. Signature page follows.*]

IN WITNESS WHEREOF, this certificate has been executed by a duly authorized officer of the Surviving Corporation as of the date first written above.

AYALA PHARMACEUTICALS, INC.

By: _____
Name:
Title:

[*Signature page to Certificate of Merger*]

Exhibit A

Amended and Restated Certificate of Incorporation

AMENDED & RESTATED CERTIFICATE OF INCORPORATION

OF

AYALA PHARMACEUTICALS, INC.

ARTICLE I

The name of this corporation is Ayala Pharmaceuticals, Inc. (the "Company").

ARTICLE II

The address of the Company's registered office in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, 19801. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which the Company may be organized under the General Corporation Law of Delaware (the "DGCL").

ARTICLE IV

The total number of shares of capital stock which the Company is authorized to issue is 1,000 shares, all of which are to be designated "Common Stock" with a par value of $0.01 per share.

ARTICLE V

To the fullest extent permitted by law, a director of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director. If the DGCL or any other law of the State of Delaware is amended after approval by the stockholders of this Article to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Company shall be eliminated or limited to the fullest extent permitted by the DGCL or such other law of the State of Delaware as so amended.

Any amendment, alteration, change, modification, repeal or rescission of the foregoing provisions of this Article VI by the stockholders of the Company shall not adversely affect any right or protection of a director of the Company existing at the time of, or increase the liability of any director of the Company with respect to any acts or omissions of a director of the Company occurring prior to, such amendment, alteration, change, modification, repeal or rescission.

ARTICLE VI

Except as otherwise provided for in Article V and Article XI, the Company reserves the right at any time, and from time to time, to amend, alter, change, modify, repeal or rescind any provision contained in this Certificate of Incorporation, and other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or

hereafter prescribed by law; and all rights, preferences and privileges of whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the rights reserved in this Article VI.

ARTICLE VII

Election of directors need not be by written ballot unless the Bylaws of the Company shall so provide.

ARTICLE VIII

The number of directors which shall constitute the whole Board of Directors of the Company shall be determined in the manner set forth in the Bylaws of the Company.

ARTICLE IX

Meetings of stockholders of the Company may be held within or outside of the State of Delaware, as the Bylaws of the Company may provide. The books and records of the Company may be kept, subject to any provision contained in the statutes, within or outside of the State of Delaware at such place or places as may be designated from time to time by the Board of Directors of the Company or in the Bylaws of the Company.

ARTICLE X

Except as otherwise provided in this Certificate of Incorporation or in the Bylaws of the Company, in furtherance and not in limitation of the powers conferred by law, the Board of Directors of the Company is expressly authorized to make, adopt, amend, alter, change, modify, repeal or rescind any or all of the Bylaws of the Company.

ARTICLE XI

To the fullest extent permitted by applicable law, the Company is authorized to provide indemnification of (and advancement of expenses to) directors, officers, and agents of the Company (and any other persons to which DGCL permits the Company to provide indemnification) through Bylaw provisions, agreements with such directors, officers, agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the DGCL.

Any amendment, alteration, change, modification, repeal or rescission of the foregoing provisions of this Article XII by the stockholders of the Company shall not adversely affect any right or protection of a director, officer, agent or other person of the Company existing at the time of, or increase the liability of any such director, officer, agent or other person of the Company with respect to any acts or omissions of such director, officer, agent or other person of the Company occurring prior to such amendment, alteration, change, modification, repeal or rescission.

EXHIBIT B

Form of Certificate of Incorporation

(attached)

AMENDED & RESTATED CERTIFICATE OF INCORPORATION

OF

AYALA PHARMACEUTICALS, INC.

ARTICLE I

The name of this corporation is Ayala Pharmaceuticals, Inc. (the "Company").

ARTICLE II

The address of the Company's registered office in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, 19801. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which the Company may be organized under the General Corporation Law of Delaware (the "DGCL").

ARTICLE IV

The total number of shares of capital stock which the Company is authorized to issue is 1,000 shares, all of which are to be designated "Common Stock" with a par value of $0.01 per share.

ARTICLE V

To the fullest extent permitted by law, a director of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director. If the DGCL or any other law of the State of Delaware is amended after approval by the stockholders of this Article to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Company shall be eliminated or limited to the fullest extent permitted by the DGCL or such other law of the State of Delaware as so amended.

Any amendment, alteration, change, modification, repeal or rescission of the foregoing provisions of this Article VI by the stockholders of the Company shall not adversely affect any right or protection of a director of the Company existing at the time of, or increase the liability of any director of the Company with respect to any acts or omissions of a director of the Company occurring prior to, such amendment, alteration, change, modification, repeal or rescission.

ARTICLE VI

Except as otherwise provided for in Article V and Article XI, the Company reserves the right at any time, and from time to time, to amend, alter, change, modify, repeal or rescind any provision contained in this Certificate of Incorporation, and other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed by law; and all rights, preferences and privileges of whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the rights reserved in this Article VI.

ARTICLE VII

Election of directors need not be by written ballot unless the Bylaws of the Company shall so provide.

ARTICLE VIII

The number of directors which shall constitute the whole Board of Directors of the Company shall be determined in the manner set forth in the Bylaws of the Company.

ARTICLE IX

Meetings of stockholders of the Company may be held within or outside of the State of Delaware, as the Bylaws of the Company may provide. The books and records of the Company may be kept, subject to any provision contained in the statutes, within or outside of the State of Delaware at such place or places as may be designated from time to time by the Board of Directors of the Company or in the Bylaws of the Company.

ARTICLE X

Except as otherwise provided in this Certificate of Incorporation or in the Bylaws of the Company, in furtherance and not in limitation of the powers conferred by law, the Board of Directors of the Company is expressly authorized to make, adopt, amend, alter, change, modify, repeal or rescind any or all of the Bylaws of the Company.

ARTICLE XI

To the fullest extent permitted by applicable law, the Company is authorized to provide indemnification of (and advancement of expenses to) directors, officers, and agents of the Company (and any other persons to which DGCL permits the Company to provide indemnification) through Bylaw provisions, agreements with such directors, officers, agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the DGCL.

Any amendment, alteration, change, modification, repeal or rescission of the foregoing

provisions of this Article XII by the stockholders of the Company shall not adversely affect any right or protection of a director, officer, agent or other person of the Company existing at the time of, or increase the liability of any such director, officer, agent or other person of the Company with respect to any acts or omissions of such director, officer, agent or other person of the Company occurring prior to such amendment, alteration, change, modification, repeal or rescission.

EXHIBIT C

Directors and Officers

I. Directors and Officers - Parent

A. Board Designees – Company:

1. Dr. David Sidransky
2. Dr. Vered Bisker-Leib
3. Dr. Robert Spiegel
4. Murray A. Goldberg
5. Kenneth A. Berlin

B. Board Designees – Parent:

1. Roni A. Appel
2. Samir N. Khleif

C. Officers:

1. Kenneth A. Berlin, Chief Executive Officer
2. Dr. Andres A. Gutierrez: Chief Medical Officer
3. Igor Gitelman: Chief Financial Officer

II. Directors and Officers – Surviving Company

A. Directors:

1. Kenneth A. Berlin

B. Officers:

1. Kenneth A. Berlin, Chief Executive Officer
2. Dr. Andres A. Gutierrez: Chief Medical Officer
3. Igor Gitelman: Chief Financial Officer

[Exhibit C to Agreement and Plan of Merger]

Exhibit 10.1

Execution Version

VOTING AND SUPPORT AGREEMENT

THIS VOTING AND SUPPORT AGREEMENT (this "**Agreement**") is made and entered into as of October 18, 2022, by and among Advaxis, Inc., a Delaware corporation ("**Parent**"); and Israel Biotech Fund I, L.P., a Cayman Islands Exempted Limited Partnership ("**Stockholder**").

WHEREAS, concurrently with the execution and delivery of this Agreement, Parent, Doe Merger Sub, Inc., a Delaware corporation and a wholly owned Subsidiary of Parent ("**Merger Sub**"), and Ayala Pharmaceuticals, Inc., a Delaware corporation (the "**Company**"), are entering into an Agreement and Plan of Merger, dated as of the date hereof (the "**Merger Agreement**"), providing, among other things, for the merger of Merger Sub with and into the Company, with the Company being the surviving corporation (the "**Merger**"); and

WHEREAS, as a condition of and inducement to Parent's willingness to enter into the Merger Agreement, Parent and Merger Sub have required that Stockholder enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth in this Agreement and in the Merger Agreement, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Certain Definitions. For the purposes of this Agreement, capitalized terms used but not otherwise defined in this Agreement have the meanings ascribed to them in the Merger Agreement, and other capitalized terms used herein have the respective meanings ascribed to them in this Section 1.

"**Additional Owned Shares**" means all shares of Company Common Stock and any other equity securities of the Company which are beneficially owned by Stockholder and are acquired after the date hereof and prior to the Expiration Date.

"**Affiliate**" has the meaning set forth in the Merger Agreement; *provided, however*, that the Company shall not be deemed to be an Affiliate of Stockholder.

"**beneficial ownership**" (and related terms such as "beneficially owned" or "beneficial owner") has the meaning set forth in Rule 13d-3 under the Exchange Act, and a Person's beneficial ownership of securities shall be calculated in accordance with the provisions of such rule (in each case, irrespective of whether or not such rule is actually applicable in such circumstance).

"**Covered Shares**" means the Owned Shares and Additional Owned Shares.

"**Expiration Date**" has the meaning set forth in Section 6.

"**knowledge of Stockholder**" means, for any Stockholder that is an individual, the actual knowledge of such Stockholder and, for any Stockholder that is not an individual, the actual knowledge of any officer of Stockholder.

"**Liens**" has the meaning set forth in Section 5(a).

"**Owned Shares**" means all shares of Company Common Stock and any other equity securities of the Company which are beneficially owned by Stockholder as of the date hereof, as set forth on Schedule I.

"**Permitted Transfer**" has the meaning set forth in Section 3(a).

"**Representatives**" means, with respect to a Person, all of the officers, directors, employees, consultants, legal representatives, agents, advisors, auditors, investment bankers, and other advisors, agents or representatives of such Person.

"**Transfer**" means, with respect to a security, the transfer, pledge, hypothecation, encumbrance, assignment or other disposition (whether by sale, merger, consolidation, liquidation, dissolution, dividend, distribution or otherwise, and including the creation of any Liens) of such security or the beneficial ownership thereof, the offer to make such a transfer or other disposition, and each option, agreement, arrangement or understanding, whether or not in writing, to effect any of the foregoing. As a verb, "**Transfer**" has a correlative meaning.

2. Agreement to Vote. Prior to the Expiration Date, at the Company Stockholders Meeting, however called, or at any adjournment or postponement thereof, or in any other circumstance in which the vote, consent or other approval of the stockholders of the Company is sought, Stockholder irrevocably and unconditionally agrees that it shall, and shall cause any other holder of record of Stockholder's Covered Shares to, (a) appear at each such meeting or otherwise cause all Covered Shares to be counted as present thereat for purposes of calculating a quorum and (b) vote (or cause to be voted), or execute and deliver a written consent (or cause a written consent to be executed and delivered) covering, all Covered Shares:

(i) in favor of the adoption of the Merger Agreement and the approval of the Merger and the other transactions contemplated by the Merger Agreement, and the execution and delivery by the Company of the Merger Agreement and the approval of the terms thereof and each of the other actions contemplated by the Merger Agreement and this Agreement;

(ii) in favor of any adjournment or postponement recommended by the Company with respect to the Company Stockholders Meeting to the extent permitted or required pursuant to Section 5.5(a) of the Merger Agreement;

(iii) against any Company Acquisition Proposal, except as expressly permitted by Section 5.2 of the Merger Agreement;

(iv) against any merger agreement or merger (other than the Merger Agreement and the Merger), consolidation, combination, sale of substantial assets, reorganization, recapitalization, dissolution, liquidation or winding up of or by the Company, in each case except as expressly permitted by Section 5.2 of the Merger Agreement; and

(v) against any proposal, action or agreement that would reasonably be expected to (A) materially delay or postpone, prevent or otherwise impair the Merger or the other transactions contemplated by the Merger Agreement, (B) result in a breach in any respect of any covenant, representation, warranty or any other obligation or agreement of the Company under the Merger Agreement, (C) result in a breach in any respect of any covenant, representation, warranty or any other obligation or agreement of Stockholder under this Agreement, (D) result in any of the conditions set forth in Section 6 of the Merger Agreement not being fulfilled or (E) except as expressly contemplated by the Merger Agreement, change in any manner the dividend policy or capitalization of, including the voting rights of any class of capital stock of, the Company. Stockholder shall not commit or agree to take any action inconsistent with the foregoing.

3. No Disposition or Solicitation.

(a) No Disposition or Adverse Act. Stockholder hereby covenants and agrees that, except as contemplated by this Agreement and the Merger Agreement, prior to the Expiration Date, Stockholder shall not (i) offer to Transfer, Transfer or consent to any Transfer of any or all of the Covered Shares or any interest therein without the prior written consent of Parent, (ii) enter into any contract, option or other agreement or understanding with respect to any Transfer of any or all Covered Shares or any interest therein, (iii) grant any proxy, power-of-attorney or other authorization or consent in or with respect to any or all of the Covered Shares (other than a proxy card or broker instructions directing that the Covered Shares be voted in accordance with Section 2), (iv) deposit any or all of the Covered Shares into a voting trust or enter into a voting agreement or arrangement with respect to any or all of the Covered Shares or (v) take any other action that would make any representation or warranty of Stockholder contained herein untrue or incorrect or in any way restrict, limit or interfere with the performance of Stockholder's obligations hereunder or the transactions contemplated hereby or by the Merger Agreement. Notwithstanding the foregoing, a Stockholder may Transfer Covered Shares (i) to effect a "cashless exercise" to pay the exercise price of Company Options or to satisfy such Stockholder's Tax withholding obligations in connection with such exercise, as permitted pursuant to the terms of any of the Company Equity Awards, (ii) to effect a "net settlement" of Company RSUs to satisfy such Stockholder's Tax withholding obligations upon the settlement of a Company RSU, as permitted pursuant to the terms of any of the Company Equity Awards, (iii), in the case of a Stockholder that is not an individual, to an Affiliate of such Stockholder and (iv), in the case of a Stockholder that is an individual, (A) to any member of such Stockholder's immediate family, (B) to a trust for the sole benefit of such Stockholder or any member of such Stockholder's immediate family (i.e., spouse, lineal descendant or antecedent, brother or sister, adopted child or grandchild or the spouse of any child, adopted child, grandchild or adopted grandchild), (C) upon the death of such Stockholder, and (D) by will, divorce decree, intestacy or other similar law; *provided* that any such Transfer referenced in clauses (iii)—(iv) shall be permitted only if the applicable transferee agrees in writing to be bound by the terms of this Agreement (a "**Permitted Transfer**"). Any attempted Transfer of Covered Shares or any interest therein in violation of this Section 3(a) shall be null and void *ab initio*.

(b) Non-Solicitation. Prior to the Expiration Date, Stockholder hereby agrees that Stockholder shall not, and shall use its reasonable best efforts to cause its controlled Affiliates and Representatives not to, directly or indirectly:

(i) solicit, initiate, induce, encourage or facilitate, any inquiries or the making of any proposal or offer that constitutes, or could reasonably be expected to lead to, a Company Acquisition Proposal;

(ii) participate in any discussions or negotiations or cooperate in any way with any Person regarding any proposal or offer the consummation of which would constitute a Company Acquisition Proposal;

(iii) provide any non-public information or data concerning the Company or any of its Subsidiaries to any Person in connection with any proposal the consummation of which would constitute a Company Acquisition Proposal or for the purpose of soliciting, initiating, inducing, encouraging or facilitating a Company Acquisition Proposal;

(iv) enter into any binding or nonbinding letter of intent, term sheet, memorandum of understanding, merger agreement, acquisition agreement, agreement in principle, option agreement, joint venture agreement, partnership agreement, lease agreement or other similar agreement with respect to a Company Acquisition Proposal or any proposal or offer that could reasonably be expected to lead to a Company Acquisition Proposal;

(v) adopt, approve or recommend or make any public statement approving or recommending any inquiry, proposal or offer that constitutes, or could reasonably be expected to lead to, a Company Acquisition Proposal (including by approving any transaction, or approving any Person becoming an "interested stockholder," for purposes of Section 203 of the DGCL); take any action or exempt any Person (other than Parent and its Subsidiaries) from the restriction on "business combinations" or any similar provision contained in applicable takeover laws or the Company's organizational or other governing documents;

(vi) take any action that could reasonably be expected to lead to a Company Acquisition Proposal except as expressly permitted by Section 5.2 of the Merger Agreement; or

(vii) resolve, publicly propose or agree to do any of the foregoing.

(c) Notification. Prior to the Company Stockholder Meeting, Stockholder shall promptly (and, in any event, within 24 hours) notify Parent (orally and in writing) if (i) any written or other inquiries, proposals or offers with respect to a Company Acquisition Proposal or any inquiries, proposals, offers or requests for information relating to or that could reasonably be expected to lead to a Company Acquisition Proposal are received by Stockholder, (ii) any non-public information is requested in connection with any Company Acquisition Proposal from the Company or (iii) any discussions or negotiation with respect to or that could reasonably be expected to lead to a Company Acquisition Proposal are sought to be initiated or continued with the Company, indicating, in connection with such notice, the name of such Person and the material terms and conditions of any proposals or offers (including, if applicable, copies of any written requests, proposals or offers, including proposed agreements and other material written communications or, if oral, a summary of the material terms and conditions of such proposal or

offer), and thereafter shall keep Parent informed, on a current basis (and in any event within 24 hours), of the status and terms of any such proposals or offers (including any amendments thereto) and the status of any such discussions or negotiations, including by promptly providing copies of any additional requests, proposals or offers, including any drafts of proposed agreements and any amendments thereto and other information set forth above. Promptly following the execution and delivery of this Agreement, Stockholder shall and shall use its reasonable best efforts to cause its Representatives to, immediately cease and cause to be terminated any existing solicitation of, or discussions or negotiations with, any Person (other than Parent and its Representatives) relating to any Company Acquisition Proposal made prior to the date hereof and any access any such Persons may have to any physical or electronic data room or any confidential or proprietary information relating to any potential Company Acquisition Proposal.

4. Additional Agreements.

(a) Certain Events. In the event of any stock split, stock dividend, merger, reorganization, recapitalization or other change in the capital structure of the Company affecting the Covered Shares or the acquisition of Additional Owned Shares or other securities or rights of the Company by Stockholder, (i) the type and number of Covered Shares shall be adjusted appropriately, and (ii) this Agreement and the obligations hereunder shall automatically attach to any Additional Owned Shares or other securities or rights of the Company issued to or acquired by Stockholder. In the event of a Company Change in Recommendation, to the extent the Covered Shares (together will all shares of Company Common Stock subject to voting agreements entered into on the date hereof by and between Company stockholders and Parent) exceed 30% of the Company Outstanding Shares, then the number of shares of Company Common Stock subject to such voting agreements shall only be 30% of the Company Outstanding Shares in the aggregate, and the number of shares of Company Common Stock of each such Company stockholder subject to each such voting agreement shall be reduced proportionately based upon the number of shares of Company Common Stock subject thereto.

(b) Stop Transfer. In furtherance of this Agreement, Stockholder hereby authorizes and instructs the Company (including through the Company's transfer agent) to enter a stop transfer order with respect to all of the Covered Shares, including authorizing the Company to, as promptly as practicable after the date of this Agreement, make a notation on its records and give instructions to the transfer agent for the Covered Shares not to permit, during the term of this Agreement, the Transfer of the Covered Shares unless such Transfer is a Permitted Transfer, *provided* that promptly following the earlier of (x) the Expiration Date and (y) obtaining the Company Stockholder Approval, any such stop transfer instructions imposed pursuant to this Section 4(b) shall be lifted.

(c) Waiver of Appraisal and Dissenters' Rights and Actions. Stockholder hereby (i) waives and agrees not to exercise any rights of appraisal or rights to dissent from the Merger that Stockholder may have and (ii) agrees not to commence or participate in, assist or knowingly encourage, and to take all actions necessary to opt out of, any class in any class action with respect to, any action or claim, derivative or otherwise, against Parent, Merger Sub, the Company or any of their respective Subsidiaries or Affiliates and each of their successors and assigns relating to the negotiation, execution or delivery of this Agreement or the Merger Agreement or the consummation of the Merger, including any claim (A) challenging the validity

of, or seeking to enjoin the operation of, any provision of this Agreement (including any claim seeking to enjoin or delay the closing of the Merger) or (B) alleging a breach of any fiduciary duty of the Company Board in connection with the Merger Agreement or the transactions contemplated thereby; *provided* that nothing in this Section 4(c) shall restrict or prohibit Stockholder from asserting (x) its right to receive the Merger Consideration in accordance with the Merger Agreement and the DGCL or (y) counterclaims or defenses in any proceeding brought or claims asserted against it by Parent, Merger Sub, the Company or any of their respective Subsidiaries or Affiliates and each of their successors and assigns relating to this Agreement or the Merger Agreement, or from enforcing its rights under this Agreement.

(d) Communications. Stockholder shall not, and shall use reasonable best efforts to cause its Representatives not to, make any press release, public announcement or other communication with respect to the business or affairs of any of the Company, Parent or Merger Sub, including this Agreement and the Merger Agreement and the transactions contemplated hereby and thereby, without the prior written consent of Parent. Stockholder hereby (i) consents to and authorizes the publication and disclosure by Parent of Stockholder's identity and holding of Covered Shares, and the nature of Stockholder's commitments, arrangements and understandings under this Agreement in any press release or any other disclosure document in connection with the Merger or any other transactions contemplated by the Merger Agreement and (ii) agrees as promptly as practicable to notify Parent of any required corrections with respect to any written information supplied by Stockholder specifically for use in any such disclosure document.

(e) Additional Owned Shares. Stockholder hereby agrees to notify Parent promptly in writing of the number and description of any Additional Owned Shares.

5. Representations and Warranties of Stockholder. Stockholder hereby represents and warrants to Parent as follows:

(a) Title. Stockholder is the sole record and beneficial owner of the Covered Shares. The Owned Shares constitute all of the capital stock and any other equity securities of the Company owned of record or beneficially by Stockholder on the date hereof, and Stockholder is not the beneficial owner of, and does not have any right to acquire (whether currently, upon lapse of time, following the satisfaction of any conditions, upon the occurrence of any event or any combination of the foregoing) any shares of Company Common Stock or any other equity securities of the Company or any securities convertible into or exchangeable or exercisable for shares of Company Common Stock or such other equity securities, in each case other than the Owned Shares and any Additional Owned Shares. Dr. David Sidranksy, Chairman of the Board of Directors of the Company and managing partner of Stockholder, is not the beneficial owner of, and does not have any right to acquire (whether currently, upon lapse of time, following the satisfaction of any conditions, upon the occurrence of any event or any combination of the foregoing), directly or indirectly, (i) 5% or greater shares of Company Common Stock or any other equity securities of the Company or any securities convertible into or exchangeable or exercisable for shares of Company Common Stock or such other equity securities, or (ii) 5% or more of the Merger Consideration. Stockholder (or its nominee or custodian for the benefit of Stockholder) has sole voting power, sole power of disposition and sole power to issue instructions with respect to the matters set forth in Sections 3 and 4 hereof and all other matters set forth in this Agreement,

in each case with respect to all of the Covered Shares with no limitations, qualifications or restrictions on such rights, subject to applicable securities laws and the terms of this Agreement. Except as permitted by this Agreement, the Owned Shares and the certificates representing such Owned Shares, if any, are now, and at all times prior to the Expiration Date will be, held by Stockholder, or by a nominee or custodian for the benefit of Stockholder, free and clear of any and all liens, pledges, claims, options, proxies, voting trusts or agreements, security interests, understandings or arrangements or any other encumbrances whatsoever on title, transfer or exercise of any rights of a stockholder in respect of the Owned Shares (other than as created by this Agreement) (collectively, "**Liens**").

(b) Organization and Qualification. If Stockholder is not an individual, Stockholder is a legal entity duly organized, validly existing and, to the extent such concept is applicable, in good standing under the laws of the jurisdiction of its organization.

(c) Authority. Stockholder has all necessary individual or entity power and authority and legal capacity to, and has taken all action necessary in order to, execute, deliver and perform all of Stockholder's obligations under this Agreement, and consummate the transactions contemplated hereby, and no other proceedings or actions on the part of Stockholder are necessary to authorize the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated hereby.

(d) Due Execution and Delivery. This Agreement has been duly and validly executed and delivered by Stockholder and, assuming due authorization, execution and delivery hereof by Parent, constitutes a legal, valid and binding agreement of Stockholder, enforceable against Stockholder in accordance with its terms, subject to the Bankruptcy and Equity Exception. If Stockholder is an individual and is married, and any of the Covered Shares constitute community property or spousal approval is otherwise necessary for this Agreement to be legal, binding and enforceable, this Agreement has been duly authorized, executed and delivered by, and constitutes the legal, valid and binding obligation of, Stockholder's spouse, enforceable against Stockholder's spouse in accordance with its terms.

(e) No Filings; No Conflict or Default. Except for any required filings under the any competition, antitrust and investment laws or regulations of foreign jurisdictions and the Exchange Act, no filing with, and no permit, authorization, consent or approval of, any Governmental Entity or any other Person is necessary for the execution and delivery of this Agreement by Stockholder, the consummation by Stockholder of the transactions contemplated hereby and the compliance by Stockholder with the provisions hereof. None of the execution and delivery of this Agreement by Stockholder, the consummation by Stockholder of the transactions contemplated hereby or compliance by Stockholder with any of the provisions hereof will (i) result in a violation or breach of, or constitute (with or without notice or lapse of time or both) a default (or give rise to any third party right of termination, cancellation, modification or acceleration) under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, license, permit, contract, commitment, arrangement, understanding, agreement or other instrument or obligation of any kind, including any voting agreement, proxy arrangement, pledge agreement, shareholders agreement or voting trust, to which Stockholder is a party or by which Stockholder or any of Stockholder's properties or assets may be bound, (ii) violate any judgment, order, writ, injunction, decree or award of any court, administrative agency or other Governmental Entity that

is applicable to Stockholder or any of Stockholder's properties or assets, (iii) constitute a violation by Stockholder of any law or regulation of any jurisdiction, (iv) render Section 203 of the DGCL, or any other state takeover statute or similar statute or regulation, applicable to the Merger or any other transaction involving Parent, or (v) if Stockholder is not an individual, contravene or conflict with Stockholder's governing or organizational documents, in each case, except, in the case of clauses (i) through (iv), for any conflict, breach, default or violation described above which would not materially impair the ability of Stockholder to perform its obligations hereunder or consummate the transactions contemplated hereby.

(f) No Litigation. There is no suit, claim, action, investigation or proceeding pending or, to the knowledge of Stockholder, threatened against Stockholder at law or in equity before or by any Governmental Entity that questions the beneficial or record ownership of Stockholder's Covered Shares, the validity of this Agreement or the performance by Stockholder of its obligations under this Agreement or that would reasonably be expected to materially impair the ability of Stockholder to perform its obligations hereunder or to consummate the transactions contemplated hereby.

(g) No Fees. No broker, finder or investment banker is entitled to any brokerage, finder's or other similar fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of Stockholder.

(h) Receipt; Reliance. Stockholder has received and reviewed a copy of the Merger Agreement. Stockholder understands and acknowledges that Parent and Merger Sub are entering into the Merger Agreement in reliance upon Stockholder's execution, delivery and performance of this Agreement and the representations, warranties, covenants and other agreements of Stockholder contained herein.

6. Termination. This Agreement and all rights and obligations of the parties hereunder shall commence on the date hereof and shall terminate upon the earliest of (such time, the "**Expiration Date**") (a) the mutual agreement of Parent and Stockholder, (b) the Company Stockholders Meeting at which a vote upon the adoption of the Merger Agreement and the approval of the Merger and the other transactions contemplated by the Merger Agreement is taken and (c) the termination of the Merger Agreement in accordance with its terms; *provided* that (i) nothing herein shall relieve any party hereto from liability for any breach of this Agreement and (ii) this Section 6 and Section 8 shall survive any termination of this Agreement.

7. No Limitation. Nothing in this Agreement shall be construed to prohibit Stockholder or any of Stockholder's Representatives who is an officer or member of the Company Board from taking any action (or failing to take any action) solely in his or her capacity as an officer or member of the Company Board (or any committee thereof) or from taking any action with respect to any Company Acquisition Proposal as an officer or member of the Company Board (or any committee thereof).

8. Miscellaneous.

(a) Entire Agreement. This Agreement (together with Schedule I) constitutes the entire agreement and supersedes all prior and contemporaneous agreements and understandings, both written and oral, among or between any of the parties hereto with respect to the subject matter hereof.

(b) Reasonable Efforts. At the other party's reasonable request and without further consideration, each party hereto shall execute and deliver such additional documents and take all such further lawful action as may be reasonably required or necessary to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated hereby. Without limiting the foregoing, Stockholder shall execute and deliver to Parent and any of its designees any proxies, including with respect to Additional Owned Shares, reasonably requested by Parent in furtherance of this Agreement.

(c) No Assignment. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the parties hereto and their respective successors and permitted assigns; *provided*, however, that, except in connection with a Permitted Transfer, neither this Agreement nor any of a party's rights or obligations hereunder may be assigned or delegated by such party without the prior written consent of the other party, and any attempted assignment or delegation of this Agreement or any of such rights or obligations by such party without the other party's prior written consent shall be void and of no effect.

(d) Binding Successors. Without limiting any other rights Parent may have hereunder in respect of any Transfer of the Covered Shares, Stockholder agrees that this Agreement and the obligations hereunder shall attach to the Covered Shares beneficially owned by Stockholder and shall be binding upon any Person to which legal or beneficial ownership of such Covered Shares shall pass, whether by operation of law or otherwise, including, without limitation, Stockholder's heirs, guardians, administrators, Representatives, successors or permitted assigns.

(e) Amendments. This Agreement may be amended at any time prior to the Effective Time (whether before or after receipt of the Company Stockholder Approval) by an instrument in writing signed on behalf of each of the parties hereto.

(f) Notice. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly delivered and received hereunder (a) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable international overnight courier service, (b) upon delivery in the case of delivery by hand, or (c) on the date delivered in the place of delivery if sent by email (if no automated notice of delivery failure is received by the sender) prior to 5:00 p.m. New York time, otherwise on the next succeeding Business Day, in each case to the intended recipient as set forth below:

if to Parent or Merger Sub

Advaxis, Inc.
212 Carnegie Center, Suite 206
Princeton, New Jersey 08540
Attention: Kenneth A. Berlin and Igor Gitelman
Email: berlin@advaxis.com; gitelman@advaxis.com

with copies to (which shall not constitute notice):

Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178
Attention: Robert W. Dickey
Email: robert.dickey@morganlewis.com

if to the Stockholder

Israel Biotech Fund I, L.P.
75 Fort Street, Clifton House
PO Box, 1350
KYI-1108, Grand Cayman
Attention: Sarit Steinberg
Email: sarit@ibf.fund

with copies to (which shall not constitute notice):

Latham & Watkins LLP
200 Clarendon Street
Boston, MA 02116
Attention: Peter N. Handrinos; Joshua M. Dubofsky
Email: Peter.Handrinos@lw.com; Josh.Dubofsky@lw.com

(g) Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If a final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the parties hereto agree that the court making such determination shall have the power to limit the term or provision, to delete specific words or phrases or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term.

(h) Remedies. All rights, powers and remedies provided under this Agreement or otherwise available in respect hereof at law or in equity shall be cumulative and not alternative, and the exercise of any such right, power or remedy by any party hereto shall not preclude the simultaneous or later exercise of any other such right, power or remedy by such party.

(i) No Waiver. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, covenant, agreement or condition herein may be waived by the party or parties entitled to the benefits thereof only by a written instrument signed by the party granting such waiver. Any such waiver shall not be applicable or have any effect except in the specific instance in which it is given. No failure on the part of any party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy. No single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

(j) No Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

(k) Applicable Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of Delaware, regardless of the Laws that might otherwise govern under applicable principles of conflicts of laws. In any action or proceeding between any of the parties hereto arising out of or relating to this Agreement, each of the parties hereto: (a) irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the Court of Chancery of the State of Delaware or, to the extent such court does not have subject matter jurisdiction, the United States District Court for the District of Delaware or, to the extent that neither of the foregoing courts has jurisdiction, the Superior Court of the State of Delaware; (b) agrees that all claims in respect of such action or proceeding shall be heard and determined exclusively in accordance with clause (a) of this Section 8(k); (c) waives any objection to laying venue in any such action or proceeding in such courts; (d) waives any objection that such courts are an inconvenient forum or do not have jurisdiction over any party hereto; and (e) agrees that service of process upon such party in any such action or proceeding shall be effective if notice is given in accordance with Section 8(f) of this Agreement. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY ACTION OR PROCEEDING 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 ACTION OR 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 ANY ACTION OR PROCEEDING, 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 8(k).

(l) Specific Performance. Each of the parties hereto acknowledges and agrees that irreparable damage would occur and that the parties hereto would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with its specific terms or were otherwise breached, and that monetary damages, even if available, would not be an adequate remedy therefor. It is accordingly agreed that, in addition to any other remedy that a party hereto may have under law or in equity, in the event of any breach or threatened breach by Parent or Stockholder of any covenant or obligation of such party contained in this Agreement, the other party shall be entitled to obtain an injunction or injunctions, specific performance and other equitable relief to prevent breaches of this Agreement and to enforce specifically the performance of the terms and provisions hereof, without proof of actual damages (and each party hereto hereby waives any requirement for the security or posting of any bond in connection with such remedy). The parties hereto further agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to applicable Law or inequitable for any reason, and not to assert that a remedy of monetary damages would provide an adequate remedy for any such breach or that Stockholder or Parent otherwise have an adequate remedy at law. The parties hereto acknowledge that the agreements contained in this Section 8(l) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, the parties hereto would not enter into this Agreement.

(m) Interpretation. The terms of Section 8.11 of the Merger Agreement apply to this Agreement *mutatis mutandis*.

(n) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. The exchange of a fully executed Agreement (in counterparts or otherwise) by all parties hereto by electronic transmission in .PDF format shall be sufficient to bind the parties hereto to the terms and conditions of this Agreement.

(o) Expenses. Except as otherwise provided herein, each party hereto shall pay such party's own expenses incurred in connection with this Agreement.

(p) No Ownership Interest. Nothing contained in this Agreement shall be deemed, upon execution, to vest in Parent any direct or indirect ownership or incidence of ownership of or with respect to any Covered Shares. All rights, ownership and economic benefits of and relating to the Covered Shares shall remain vested in and belong to Stockholder, and Parent shall have no authority to manage, direct, superintend, restrict, regulate, govern or administer any of the policies or operations of the Company or exercise any power or authority to direct Stockholder in the voting of any of the Covered Shares, except as otherwise provided herein.

(q) Capacity as Stockholder. Notwithstanding anything herein to the contrary, Stockholder signs this Agreement solely in Stockholder's capacity as a stockholder of the Company, and not in any other capacity, and this Agreement shall not limit or otherwise affect the actions (or failure to take any actions) of any Affiliate, employee or designee of Stockholder or any of its Affiliates in his or her capacity, if applicable, as an officer or director of the Company or any other Person.

[Signature page follows]

IN WITNESS WHEREOF, Parent and Stockholder have caused this Agreement to be duly executed as of the date first written above.

ADVAXIS, INC.

By: /s/ Kenneth A. Berlin
Name: Kenneth A. Berlin
Title: President and Chief Executive Officer

ISRAEL BIOTECH FUND I, L.P.
By its general partner:
Israel Biotech Fund GP Partners, L.P.
By its general partner:
I.B.F. Management, Ltd.

By: /s/ Yuval Cabilly
Name: Yuval Cabilly
Title: CEO

SCHEDULE I

Name and Contact Information for Stockholder	Number of Shares of Company Common Stock Beneficially Owned
Israel Biotech Fund I, L.P. 75 Fort Street, Clifton House PO Box, 1350 KYI-1108, Grand Cayman	3,315,119

Exhibit 10.2

Execution Version

VOTING AND SUPPORT AGREEMENT

THIS VOTING AND SUPPORT AGREEMENT (this "**Agreement**") is made and entered into as of October 18, 2022, by and among Advaxis, Inc., a Delaware corporation ("**Parent**"); and aMoon Growth Fund Limited Partnership, a Cayman Islands Exempted Limited Partnership ("**Stockholder**").

WHEREAS, concurrently with the execution and delivery of this Agreement, Parent, Doe Merger Sub, Inc., a Delaware corporation and a wholly owned Subsidiary of Parent ("**Merger Sub**"), and Ayala Pharmaceuticals, Inc., a Delaware corporation (the "**Company**"), are entering into an Agreement and Plan of Merger, dated as of the date hereof (the "**Merger Agreement**"), providing, among other things, for the merger of Merger Sub with and into the Company, with the Company being the surviving corporation (the "**Merger**"); and

WHEREAS, as a condition of and inducement to Parent's willingness to enter into the Merger Agreement, Parent and Merger Sub have required that Stockholder enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth in this Agreement and in the Merger Agreement, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Certain Definitions. For the purposes of this Agreement, capitalized terms used but not otherwise defined in this Agreement have the meanings ascribed to them in the Merger Agreement, and other capitalized terms used herein have the respective meanings ascribed to them in this Section 1.

"**Additional Owned Shares**" means all shares of Company Common Stock and any other equity securities of the Company which are beneficially owned by Stockholder and are acquired after the date hereof and prior to the Expiration Date.

"**Affiliate**" has the meaning set forth in the Merger Agreement; *provided, however*, that the Company shall not be deemed to be an Affiliate of Stockholder.

"**beneficial ownership**" (and related terms such as "beneficially owned" or "beneficial owner") has the meaning set forth in Rule 13d-3 under the Exchange Act, and a Person's beneficial ownership of securities shall be calculated in accordance with the provisions of such rule (in each case, irrespective of whether or not such rule is actually applicable in such circumstance).

"**Covered Shares**" means the Owned Shares and Additional Owned Shares.

"**Expiration Date**" has the meaning set forth in Section 6.

"**knowledge of Stockholder**" means, for any Stockholder that is an individual, the actual knowledge of such Stockholder and, for any Stockholder that is not an individual, the actual knowledge of any officer of Stockholder.

"**Liens**" has the meaning set forth in Section 5(a).

"**Owned Shares**" means all shares of Company Common Stock and any other equity securities of the Company which are beneficially owned by Stockholder as of the date hereof, as set forth on Schedule I.

"**Permitted Transfer**" has the meaning set forth in Section 3(a).

"**Representatives**" means, with respect to a Person, all of the officers, directors, employees, consultants, legal representatives, agents, advisors, auditors, investment bankers, and other advisors, agents or representatives of such Person.

"**Transfer**" means, with respect to a security, the transfer, pledge, hypothecation, encumbrance, assignment or other disposition (whether by sale, merger, consolidation, liquidation, dissolution, dividend, distribution or otherwise, and including the creation of any Liens) of such security or the beneficial ownership thereof, the offer to make such a transfer or other disposition, and each option, agreement, arrangement or understanding, whether or not in writing, to effect any of the foregoing. As a verb, "**Transfer**" has a correlative meaning.

2. Agreement to Vote. Prior to the Expiration Date, at the Company Stockholders Meeting, however called, or at any adjournment or postponement thereof, or in any other circumstance in which the vote, consent or other approval of the stockholders of the Company is sought, Stockholder irrevocably and unconditionally agrees that it shall, and shall cause any other holder of record of Stockholder's Covered Shares to, (a) appear at each such meeting or otherwise cause all Covered Shares to be counted as present thereat for purposes of calculating a quorum and (b) vote (or cause to be voted), or execute and deliver a written consent (or cause a written consent to be executed and delivered) covering, all Covered Shares:

(i) in favor of the adoption of the Merger Agreement and the approval of the Merger and the other transactions contemplated by the Merger Agreement, and the execution and delivery by the Company of the Merger Agreement and the approval of the terms thereof and each of the other actions contemplated by the Merger Agreement and this Agreement;

(ii) in favor of any adjournment or postponement recommended by the Company with respect to the Company Stockholders Meeting to the extent permitted or required pursuant to Section 5.5(a) of the Merger Agreement;

(iii) against any Company Acquisition Proposal, except as expressly permitted by Section 5.2 of the Merger Agreement;

(iv) against any merger agreement or merger (other than the Merger Agreement and the Merger), consolidation, combination, sale of substantial assets, reorganization, recapitalization, dissolution, liquidation or winding up of or by the Company, in each case except as expressly permitted by Section 5.2 of the Merger Agreement; and

(v) against any proposal, action or agreement that would reasonably be expected to (A) materially delay or postpone, prevent or otherwise impair the Merger or the other transactions contemplated by the Merger Agreement, (B) result in a breach in any respect of any covenant, representation, warranty or any other obligation or agreement of the Company under the Merger Agreement, (C) result in a breach in any respect of any covenant, representation, warranty or any other obligation or agreement of Stockholder under this Agreement, (D) result in any of the conditions set forth in Section 6 of the Merger Agreement not being fulfilled or (E) except as expressly contemplated by the Merger Agreement, change in any manner the dividend policy or capitalization of, including the voting rights of any class of capital stock of, the Company. Stockholder shall not commit or agree to take any action inconsistent with the foregoing.

3. No Disposition or Solicitation.

(a) No Disposition or Adverse Act. Stockholder hereby covenants and agrees that, except as contemplated by this Agreement and the Merger Agreement, prior to the Expiration Date, Stockholder shall not (i) offer to Transfer, Transfer or consent to any Transfer of any or all of the Covered Shares or any interest therein without the prior written consent of Parent, (ii) enter into any contract, option or other agreement or understanding with respect to any Transfer of any or all Covered Shares or any interest therein, (iii) grant any proxy, power-of-attorney or other authorization or consent in or with respect to any or all of the Covered Shares (other than a proxy card or broker instructions directing that the Covered Shares be voted in accordance with Section 2), (iv) deposit any or all of the Covered Shares into a voting trust or enter into a voting agreement or arrangement with respect to any or all of the Covered Shares or (v) take any other action that would make any representation or warranty of Stockholder contained herein untrue or incorrect or in any way restrict, limit or interfere with the performance of Stockholder's obligations hereunder or the transactions contemplated hereby or by the Merger Agreement. Notwithstanding the foregoing, a Stockholder may Transfer Covered Shares (i) to effect a "cashless exercise" to pay the exercise price of Company Options or to satisfy such Stockholder's Tax withholding obligations in connection with such exercise, as permitted pursuant to the terms of any of the Company Equity Awards, (ii) to effect a "net settlement" of Company RSUs to satisfy such Stockholder's Tax withholding obligations upon the settlement of a Company RSU, as permitted pursuant to the terms of any of the Company Equity Awards, (iii), in the case of a Stockholder that is not an individual, to an Affiliate of such Stockholder and (iv), in the case of a Stockholder that is an individual, (A) to any member of such Stockholder's immediate family, (B) to a trust for the sole benefit of such Stockholder or any member of such Stockholder's immediate family (i.e., spouse, lineal descendant or antecedent, brother or sister, adopted child or grandchild or the spouse of any child, adopted child, grandchild or adopted grandchild), (C) upon the death of such Stockholder, and (D) by will, divorce decree, intestacy or other similar law; *provided* that any such Transfer referenced in clauses (iii)—(iv) shall be permitted only if the applicable transferee agrees in writing to be bound by the terms of this Agreement (a "**Permitted Transfer**"). Any attempted Transfer of Covered Shares or any interest therein in violation of this Section 3(a) shall be null and void *ab initio*.

(b) Non-Solicitation. Prior to the Expiration Date, Stockholder hereby agrees that Stockholder shall not, and shall use its reasonable best efforts to cause its controlled Affiliates and Representatives not to, directly or indirectly:

(i) solicit, initiate, induce, encourage or facilitate, any inquiries or the making of any proposal or offer that constitutes, or could reasonably be expected to lead to, a Company Acquisition Proposal;

(ii) participate in any discussions or negotiations or cooperate in any way with any Person regarding any proposal or offer the consummation of which would constitute a Company Acquisition Proposal;

(iii) provide any non-public information or data concerning the Company or any of its Subsidiaries to any Person in connection with any proposal the consummation of which would constitute a Company Acquisition Proposal or for the purpose of soliciting, initiating, inducing, encouraging or facilitating a Company Acquisition Proposal;

(iv) enter into any binding or nonbinding letter of intent, term sheet, memorandum of understanding, merger agreement, acquisition agreement, agreement in principle, option agreement, joint venture agreement, partnership agreement, lease agreement or other similar agreement with respect to a Company Acquisition Proposal or any proposal or offer that could reasonably be expected to lead to a Company Acquisition Proposal;

(v) adopt, approve or recommend or make any public statement approving or recommending any inquiry, proposal or offer that constitutes, or could reasonably be expected to lead to, a Company Acquisition Proposal (including by approving any transaction, or approving any Person becoming an "interested stockholder," for purposes of Section 203 of the DGCL); take any action or exempt any Person (other than Parent and its Subsidiaries) from the restriction on "business combinations" or any similar provision contained in applicable takeover laws or the Company's organizational or other governing documents;

(vi) take any action that could reasonably be expected to lead to a Company Acquisition Proposal except as expressly permitted by Section 5.2 of the Merger Agreement; or

(vii) resolve, publicly propose or agree to do any of the foregoing.

(c) Notification. Prior to the Company Stockholders Meeting, Stockholder shall promptly (and, in any event, within 24 hours) notify Parent (orally and in writing) if (i) any written or other inquiries, proposals or offers with respect to a Company Acquisition Proposal or any inquiries, proposals, offers or requests for information relating to or that could reasonably be expected to lead to a Company Acquisition Proposal are received by Stockholder, (ii) any non-public information is requested in connection with any Company Acquisition Proposal from the Company or (iii) any discussions or negotiation with respect to or that could reasonably be expected to lead to a Company Acquisition Proposal are sought to be initiated or continued with the Company, indicating, in connection with such notice, the name of such Person and the material terms and conditions of any proposals or offers (including, if applicable, copies of any written requests, proposals or offers, including proposed agreements and other material written communications or, if oral, a summary of the material terms and conditions of such proposal or

offer), and thereafter shall keep Parent informed, on a current basis (and in any event within 24 hours), of the status and terms of any such proposals or offers (including any amendments thereto) and the status of any such discussions or negotiations, including by promptly providing copies of any additional requests, proposals or offers, including any drafts of proposed agreements and any amendments thereto and other information set forth above. Promptly following the execution and delivery of this Agreement, Stockholder shall and shall use its reasonable best efforts to cause its Representatives to, immediately cease and cause to be terminated any existing solicitation of, or discussions or negotiations with, any Person (other than Parent and its Representatives) relating to any Company Acquisition Proposal made prior to the date hereof and any access any such Persons may have to any physical or electronic data room or any confidential or proprietary information relating to any potential Company Acquisition Proposal.

4. Additional Agreements.

(a) Certain Events. In the event of any stock split, stock dividend, merger, reorganization, recapitalization or other change in the capital structure of the Company affecting the Covered Shares or the acquisition of Additional Owned Shares or other securities or rights of the Company by Stockholder, (i) the type and number of Covered Shares shall be adjusted appropriately, and (ii) this Agreement and the obligations hereunder shall automatically attach to any Additional Owned Shares or other securities or rights of the Company issued to or acquired by Stockholder. In the event of a Company Change in Recommendation, to the extent the Covered Shares (together will all shares of Company Common Stock subject to voting agreements entered into on the date hereof by and between Company stockholders and Parent) exceed 30% of the Company Outstanding Shares, then the number of shares of Company Common Stock subject to such voting agreements shall only be 30% of the Company Outstanding Shares in the aggregate, and the number of shares of Company Common Stock of each such Company stockholder subject to each such voting agreement shall be reduced proportionately based upon the number of shares of Company Common Stock subject thereto.

(b) Stop Transfer. In furtherance of this Agreement, Stockholder hereby authorizes and instructs the Company (including through the Company's transfer agent) to enter a stop transfer order with respect to all of the Covered Shares, including authorizing the Company to, as promptly as practicable after the date of this Agreement, make a notation on its records and give instructions to the transfer agent for the Covered Shares not to permit, during the term of this Agreement, the Transfer of the Covered Shares unless such Transfer is a Permitted Transfer, *provided* that promptly following the earlier of (x) the Expiration Date and (y) obtaining the Company Stockholder Approval, any such stop transfer instructions imposed pursuant to this Section 4(b) shall be lifted.

(c) Waiver of Appraisal and Dissenters' Rights and Actions. Stockholder hereby (i) waives and agrees not to exercise any rights of appraisal or rights to dissent from the Merger that Stockholder may have and (ii) agrees not to commence or participate in, assist or knowingly encourage, and to take all actions necessary to opt out of, any class in any class action with respect to, any action or claim, derivative or otherwise, against Parent, Merger Sub, the Company or any of their respective Subsidiaries or Affiliates and each of their successors and assigns relating to the negotiation, execution or delivery of this Agreement or the Merger Agreement or the consummation of the Merger, including any claim (A) challenging the validity

of, or seeking to enjoin the operation of, any provision of this Agreement (including any claim seeking to enjoin or delay the closing of the Merger) or (B) alleging a breach of any fiduciary duty of the Company Board in connection with the Merger Agreement or the transactions contemplated thereby; *provided* that nothing in this Section 4(c) shall restrict or prohibit Stockholder from asserting (x) its right to receive the Merger Consideration in accordance with the Merger Agreement and the DGCL or (y) counterclaims or defenses in any proceeding brought or claims asserted against it by Parent, Merger Sub, the Company or any of their respective Subsidiaries or Affiliates and each of their successors and assigns relating to this Agreement or the Merger Agreement, or from enforcing its rights under this Agreement.

(d) Communications. Stockholder shall not, and shall use reasonable best efforts to cause its Representatives not to, make any press release, public announcement or other communication with respect to the business or affairs of any of the Company, Parent or Merger Sub, including this Agreement and the Merger Agreement and the transactions contemplated hereby and thereby, without the prior written consent of Parent. Stockholder hereby (i) consents to and authorizes the publication and disclosure by Parent of Stockholder's identity and holding of Covered Shares, and the nature of Stockholder's commitments, arrangements and understandings under this Agreement in any press release or any other disclosure document in connection with the Merger or any other transactions contemplated by the Merger Agreement and (ii) agrees as promptly as practicable to notify Parent of any required corrections with respect to any written information supplied by Stockholder specifically for use in any such disclosure document.

(e) Additional Owned Shares. Stockholder hereby agrees to notify Parent promptly in writing of the number and description of any Additional Owned Shares.

5. Representations and Warranties of Stockholder. Stockholder hereby represents and warrants to Parent as follows:

(a) Title. Stockholder is the sole record and beneficial owner of the Covered Shares. The Owned Shares constitute all of the capital stock and any other equity securities of the Company owned of record or beneficially by Stockholder on the date hereof, and Stockholder is not the beneficial owner of, and does not have any right to acquire (whether currently, upon lapse of time, following the satisfaction of any conditions, upon the occurrence of any event or any combination of the foregoing) any shares of Company Common Stock or any other equity securities of the Company or any securities convertible into or exchangeable or exercisable for shares of Company Common Stock or such other equity securities, in each case other than the Owned Shares and any Additional Owned Shares. Stockholder (or its nominee or custodian for the benefit of Stockholder) has sole voting power, sole power of disposition and sole power to issue instructions with respect to the matters set forth in Sections 3 and 4 hereof and all other matters set forth in this Agreement, in each case with respect to all of the Covered Shares with no limitations, qualifications or restrictions on such rights, subject to applicable securities laws and the terms of this Agreement. Except as permitted by this Agreement, the Owned Shares and the certificates representing such Owned Shares, if any, are now, and at all times prior to the Expiration Date will be, held by Stockholder, or by a nominee or custodian for the benefit of Stockholder, free and clear of any and all liens, pledges, claims, options, proxies, voting trusts or agreements, security interests, understandings or arrangements or any other encumbrances whatsoever on title, transfer or exercise of any rights of a stockholder in respect of the Owned Shares (other than as created by this Agreement) (collectively, "**Liens**").

(b) Organization and Qualification. If Stockholder is not an individual, Stockholder is a legal entity duly organized, validly existing and, to the extent such concept is applicable, in good standing under the laws of the jurisdiction of its organization.

(c) Authority. Stockholder has all necessary individual or entity power and authority and legal capacity to, and has taken all action necessary in order to, execute, deliver and perform all of Stockholder's obligations under this Agreement, and consummate the transactions contemplated hereby, and no other proceedings or actions on the part of Stockholder are necessary to authorize the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated hereby.

(d) Due Execution and Delivery. This Agreement has been duly and validly executed and delivered by Stockholder and, assuming due authorization, execution and delivery hereof by Parent, constitutes a legal, valid and binding agreement of Stockholder, enforceable against Stockholder in accordance with its terms, subject to the Bankruptcy and Equity Exception. If Stockholder is an individual and is married, and any of the Covered Shares constitute community property or spousal approval is otherwise necessary for this Agreement to be legal, binding and enforceable, this Agreement has been duly authorized, executed and delivered by, and constitutes the legal, valid and binding obligation of, Stockholder's spouse, enforceable against Stockholder's spouse in accordance with its terms.

(e) No Filings; No Conflict or Default. Except for any required filings under the any competition, antitrust and investment laws or regulations of foreign jurisdictions and the Exchange Act, no filing with, and no permit, authorization, consent or approval of, any Governmental Entity or any other Person is necessary for the execution and delivery of this Agreement by Stockholder, the consummation by Stockholder of the transactions contemplated hereby and the compliance by Stockholder with the provisions hereof. None of the execution and delivery of this Agreement by Stockholder, the consummation by Stockholder of the transactions contemplated hereby or compliance by Stockholder with any of the provisions hereof will (i) result in a violation or breach of, or constitute (with or without notice or lapse of time or both) a default (or give rise to any third party right of termination, cancellation, modification or acceleration) under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, license, permit, contract, commitment, arrangement, understanding, agreement or other instrument or obligation of any kind, including any voting agreement, proxy arrangement, pledge agreement, shareholders agreement or voting trust, to which Stockholder is a party or by which Stockholder or any of Stockholder's properties or assets may be bound, (ii) violate any judgment, order, writ, injunction, decree or award of any court, administrative agency or other Governmental Entity that is applicable to Stockholder or any of Stockholder's properties or assets, (iii) constitute a violation by Stockholder of any law or regulation of any jurisdiction, (iv) render Section 203 of the DGCL, or any other state takeover statute or similar statute or regulation, applicable to the Merger or any other transaction involving Parent, or (v) if Stockholder is not an individual, contravene or conflict with Stockholder's governing or organizational documents, in each case, except, in the case of clauses (i) through (iv), for any conflict, breach, default or violation described above which would not materially impair the ability of Stockholder to perform its obligations hereunder or consummate the transactions contemplated hereby.

(f) No Litigation. There is no suit, claim, action, investigation or proceeding pending or, to the knowledge of Stockholder, threatened against Stockholder at law or in equity before or by any Governmental Entity that questions the beneficial or record ownership of Stockholder's Covered Shares, the validity of this Agreement or the performance by Stockholder of its obligations under this Agreement or that would reasonably be expected to materially impair the ability of Stockholder to perform its obligations hereunder or to consummate the transactions contemplated hereby.

(g) No Fees. No broker, finder or investment banker is entitled to any brokerage, finder's or other similar fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of Stockholder.

(h) Receipt; Reliance. Stockholder has received and reviewed a copy of the Merger Agreement. Stockholder understands and acknowledges that Parent and Merger Sub are entering into the Merger Agreement in reliance upon Stockholder's execution, delivery and performance of this Agreement and the representations, warranties, covenants and other agreements of Stockholder contained herein.

6. Termination. This Agreement and all rights and obligations of the parties hereunder shall commence on the date hereof and shall terminate upon the earliest of (such time, the "**Expiration Date**") (a) the mutual agreement of Parent and Stockholder, (b) the Company Stockholders Meeting at which a vote upon the adoption of the Merger Agreement and the approval of the Merger and the other transactions contemplated by the Merger Agreement is taken and (c) the termination of the Merger Agreement in accordance with its terms; *provided* that (i) nothing herein shall relieve any party hereto from liability for any breach of this Agreement and (ii) this Section 6 and Section 8 shall survive any termination of this Agreement.

7. No Limitation. Nothing in this Agreement shall be construed to prohibit Stockholder or any of Stockholder's Representatives who is an officer or member of the Company Board from taking any action (or failing to take any action) solely in his or her capacity as an officer or member of the Company Board (or any committee thereof) or from taking any action with respect to any Company Acquisition Proposal as an officer or member of the Company Board (or any committee thereof).

8. Miscellaneous.

(a) Entire Agreement. This Agreement (together with Schedule I) constitutes the entire agreement and supersedes all prior and contemporaneous agreements and understandings, both written and oral, among or between any of the parties hereto with respect to the subject matter hereof.

(b) Reasonable Efforts. At the other party's reasonable request and without further consideration, each party hereto shall execute and deliver such additional documents and take all such further lawful action as may be reasonably required or necessary to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated hereby. Without limiting the foregoing, Stockholder shall execute and deliver to Parent and any of its designees any proxies, including with respect to Additional Owned Shares, reasonably requested by Parent in furtherance of this Agreement.

(c) No Assignment. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the parties hereto and their respective successors and permitted assigns; *provided*, however, that, except in connection with a Permitted Transfer, neither this Agreement nor any of a party's rights or obligations hereunder may be assigned or delegated by such party without the prior written consent of the other party, and any attempted assignment or delegation of this Agreement or any of such rights or obligations by such party without the other party's prior written consent shall be void and of no effect.

(d) Binding Successors. Without limiting any other rights Parent may have hereunder in respect of any Transfer of the Covered Shares, Stockholder agrees that this Agreement and the obligations hereunder shall attach to the Covered Shares beneficially owned by Stockholder and shall be binding upon any Person to which legal or beneficial ownership of such Covered Shares shall pass, whether by operation of law or otherwise, including, without limitation, Stockholder's heirs, guardians, administrators, Representatives, successors or permitted assigns.

(e) Amendments. This Agreement may be amended at any time prior to the Effective Time (whether before or after receipt of the Company Stockholder Approval) by an instrument in writing signed on behalf of each of the parties hereto.

(f) Notice. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly delivered and received hereunder (a) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable international overnight courier service, (b) upon delivery in the case of delivery by hand, or (c) on the date delivered in the place of delivery if sent by email (if no automated notice of delivery failure is received by the sender) prior to 5:00 p.m. New York time, otherwise on the next succeeding Business Day, in each case to the intended recipient as set forth below:

if to Parent or Merger Sub

Advaxis, Inc.
212 Carnegie Center, Suite 206
Princeton, New Jersey 08540
Attention: Kenneth A. Berlin and Igor Gitelman
Email: berlin@advaxis.com; gitelman@advaxis.com

with copies to (which shall not constitute notice):

Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178
Attention: Robert W. Dickey
Email: robert.dickey@morganlewis.com

if to the Stockholder

aMoon Growth Fund Limited Partnership
34 Yerushalaim Rd
Beit Gamla, 6th Floor
Attention: Noam Waldoks
Email: noam@aMoon.fund

with copies to (which shall not constitute notice):

Latham & Watkins LLP
200 Clarendon Street
Boston, MA 02116
Attention: Peter N. Handrinos; Joshua M. Dubofsky
Email: Peter.Handrinos@lw.com; Josh.Dubofsky@lw.com

(g) Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If a final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the parties hereto agree that the court making such determination shall have the power to limit the term or provision, to delete specific words or phrases or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term.

(h) Remedies. All rights, powers and remedies provided under this Agreement or otherwise available in respect hereof at law or in equity shall be cumulative and not alternative, and the exercise of any such right, power or remedy by any party hereto shall not preclude the simultaneous or later exercise of any other such right, power or remedy by such party.

(i) No Waiver. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, covenant, agreement or condition herein may be waived by the party or parties entitled to the benefits thereof only by a written instrument signed by the party granting such waiver. Any such waiver shall not be applicable or have any effect except in the specific instance in which it is given. No failure on the part of any party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy. No single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

(j) No Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

(k) Applicable Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of Delaware, regardless of the Laws that might otherwise govern under applicable principles of conflicts of laws. In any action or proceeding between any of the parties hereto arising out of or relating to this Agreement, each of the parties hereto: (a) irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the Court of Chancery of the State of Delaware or, to the extent such court does not have subject matter jurisdiction, the United States District Court for the District of Delaware or, to the extent that neither of the foregoing courts has jurisdiction, the Superior Court of the State of Delaware; (b) agrees that all claims in respect of such action or proceeding shall be heard and determined exclusively in accordance with clause (a) of this Section 8(k); (c) waives any objection to laying venue in any such action or proceeding in such courts; (d) waives any objection that such courts are an inconvenient forum or do not have jurisdiction over any party hereto; and (e) agrees that service of process upon such party in any such action or proceeding shall be effective if notice is given in accordance with Section 8(f) of this Agreement. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY ACTION OR PROCEEDING 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 ACTION OR 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 ANY ACTION OR PROCEEDING, 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 8(k).

(l) Specific Performance. Each of the parties hereto acknowledges and agrees that irreparable damage would occur and that the parties hereto would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with its specific terms or were otherwise breached, and that monetary damages, even if available, would not be an adequate remedy therefor. It is accordingly agreed that, in addition to any other remedy that a party hereto may have under law or in equity, in the event of any breach or threatened breach by Parent or Stockholder of any covenant or obligation of such party contained in this Agreement, the other party shall be entitled to obtain an injunction or injunctions, specific performance and other equitable relief to prevent breaches of this Agreement and to enforce specifically the performance of the terms and provisions hereof, without proof of actual damages (and each party hereto hereby waives any requirement for the security or posting of any bond in

connection with such remedy). The parties hereto further agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to applicable Law or inequitable for any reason, and not to assert that a remedy of monetary damages would provide an adequate remedy for any such breach or that Stockholder or Parent otherwise have an adequate remedy at law. The parties hereto acknowledge that the agreements contained in this Section 8(l) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, the parties hereto would not enter into this Agreement.

(m) Interpretation. The terms of Section 8.11 of the Merger Agreement apply to this Agreement *mutatis mutandis*.

(n) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. The exchange of a fully executed Agreement (in counterparts or otherwise) by all parties hereto by electronic transmission in .PDF format shall be sufficient to bind the parties hereto to the terms and conditions of this Agreement.

(o) Expenses. Except as otherwise provided herein, each party hereto shall pay such party's own expenses incurred in connection with this Agreement.

(p) No Ownership Interest. Nothing contained in this Agreement shall be deemed, upon execution, to vest in Parent any direct or indirect ownership or incidence of ownership of or with respect to any Covered Shares. All rights, ownership and economic benefits of and relating to the Covered Shares shall remain vested in and belong to Stockholder, and Parent shall have no authority to manage, direct, superintend, restrict, regulate, govern or administer any of the policies or operations of the Company or exercise any power or authority to direct Stockholder in the voting of any of the Covered Shares, except as otherwise provided herein.

(q) Capacity as Stockholder. Notwithstanding anything herein to the contrary, Stockholder signs this Agreement solely in Stockholder's capacity as a stockholder of the Company, and not in any other capacity, and this Agreement shall not limit or otherwise affect the actions (or failure to take any actions) of any Affiliate, employee or designee of Stockholder or any of its Affiliates in his or her capacity, if applicable, as an officer or director of the Company or any other Person.

[Signature page follows]

IN WITNESS WHEREOF, Parent and Stockholder have caused this Agreement to be duly executed as of the date first written above.

ADVAXIS, INC.

By: /s/ Kenneth A. Berlin
Name: Kenneth A. Berlin
Title: President and Chief Executive Officer

AMOON GROWTH FUND LIMITED PARTNERSHIP
BY: AMOON GROWTH FUND G.P. LIMITED PARTNERSHIP, ITS GENERAL PARTNER
BY: AMOON GENERAL PARTNER, LTD., ITS GENERAL PARTNER

By: /s/ Yair C. Schindel
Name: Dr. Yair C. Schindel
Title: Director, Managing Partner

/s/ Todd Sone
Todd Sone
GP

SCHEDULE I

Name and Contact Information for Stockholder	Number of Shares of Company Common Stock Beneficially Owned
aMoon Growth Fund Limited Partnership 34 Yerushalaim Rd Beit Gamla, 6th Floor Ra'anana, 4350110, Israel	2,991,473

Exhibit 10.3

Execution Version

Ayala-Oncology Israel Ltd.

October 18, 2022

Roni Mamluk, Ph.D.
By Email

Dear Roni:

Reference is made to that certain Agreement and Plan of Merger among Advaxis, Inc. ("***Advaxis***"), Ayala Pharmaceuticals, Inc. ("***Ayala***") and Doe Merger Sub, Inc., dated as of even date herewith (the "***Merger Agreement***") and to that certain Employment Agreement between you and Ayala-Oncology Israel Ltd. (the "***Company***") dated as of January 1, 2020 (the "***Employment Agreement***").

You and the Company have agreed that your employment will terminate as of immediately following the Effective Time (as defined in the Merger Agreement). Effective as of the Effective Time, you will be deemed to resign from all corporate, board, and other offices you hold with the Company and its affiliates.

Following the termination of your employment as of immediately following the Effective Time and subject to your timely execution (and non-revocation) of a Waiver and Release Agreement that will be provided to you under separate cover, the Company will pay to you the Special Termination Benefits (as defined in the Employment Agreement), consisting of a cash payment equal to the sum of your annual salary and your target annual bonus and accelerated vesting of all unvested equity awards of Ayala, its successor or a parent entity thereof held by you as of immediately following the Effective Time (the "***Accelerated Unvested Awards***"). Notwithstanding any contrary terms of your Employment Agreement, the cash portion of the Special Termination Benefits will be paid to you in substantially equal installment payments in accordance with the normal payroll practices of the Company over the 12 month period beginning on the Effective Time, subject to applicable withholdings.

You agree that, notwithstanding the foregoing, you will not lend, offer, pledge, sell, contract to sell, sell or grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly ("***Transfer***"), any shares of Ayala common stock or other equity securities into which such shares may be converted (including shares of common stock of Advaxis), in any case, acquired by you under the Accelerated Unvested Awards ("***Shares***") during the 12 month period beginning at the Effective Time, other than for the purposes of paying any applicable taxes or exercise price associated with the exercise, vesting or settlement of the Accelerated Unvested Awards or as authorized in writing by Ayala. Any attempted Transfer of Shares in violation of this paragraph will be null and void. Ayala will not be required to (a) recognize on its books any Transfers in violation of this paragraph or (b) treat as owner of a Share any purchaser or other transferee to whom a Share has been Transferred in violation of this paragraph. To ensure compliance with the requirements of this paragraph, Ayala may issue "stop transfer" instructions to its transfer agent, if any, or make notations to the same effect in its records, in each case, as Ayala determines to be necessary or appropriate. Ayala is an intended third-party beneficiary of this paragraph. For purposes of this paragraph, "Ayala" shall be deemed to refer to Ayala and any successor thereto, including Advaxis.

Very truly yours,

/s/ David Sidransky

Ayala Pharmaceuticals, Inc.
Name: Dr. David Sidransky
Title: Chairman of the Board of Directors

Confirmation
I acknowledge receipt of the above letter and my agreement with its terms

/s/ Roni Mamluk

Roni Mamluk, Ph.D.

Date: October 18, 2022

Exhibit 10.4

Execution Version

Ayala-Oncology Israel Ltd.

October 18, 2022

Yossi Maimon
By Email

Dear Yossi:

Reference is made to that certain Agreement and Plan of Merger among Advaxis, Inc. ("***Advaxis***"), Ayala Pharmaceuticals, Inc. ("***Ayala***") and Doe Merger Sub, Inc., dated as of even date herewith (the "***Merger Agreement***") and to that certain Employment Agreement between you and Ayala-Oncology Israel Ltd. (the "***Company***") dated as of March 15, 2019 (as amended, the "***Employment Agreement***").

You and the Company have agreed that your employment will terminate as of immediately following the Effective Time (as defined in the Merger Agreement). Effective as of the Effective Time, you will be deemed to resign from all corporate and other offices you hold with the Company and its affiliates.

Following the termination of your employment as of immediately following the Effective Time and subject to your timely execution (and non-revocation) of a Waiver and Release Agreement that will be provided to you under separate cover, the Company will pay to you the Special Termination Benefits (as defined in the Employment Agreement), consisting of a cash payment equal to the sum of your annual salary and your target annual bonus and accelerated vesting of all unvested equity awards of Ayala, its successor or a parent entity thereof held by you as of immediately following the Effective Time (the "***Accelerated Unvested Awards***"). Notwithstanding any contrary terms of your Employment Agreement, the cash portion of the Special Termination Benefits will be paid to you in substantially equal installment payments in accordance with the normal payroll practices of the Company over the 12 month period beginning on the Effective Time, subject to applicable withholdings.

You agree that, notwithstanding the foregoing, you will not lend, offer, pledge, sell, contract to sell, sell or grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly ("***Transfer***"), any shares of Ayala common stock or other equity securities into which such shares may be converted (including shares of common stock of Advaxis), in any case, acquired by you under the Accelerated Unvested Awards ("***Shares***") during the 12 month period beginning at the Effective Time, other than for the purposes of paying any applicable taxes or exercise price associated with the exercise, vesting or settlement of the Accelerated Unvested Awards or as authorized in writing by Ayala. Any attempted Transfer of Shares in violation of this paragraph will be null and void. Ayala will not be required to (a) recognize on its books any Transfers in violation of this paragraph or (b) treat as owner of a Share any purchaser or other transferee to whom a Share has been Transferred in violation of this paragraph. To ensure compliance with the requirements of this paragraph, Ayala may issue "stop transfer" instructions to its transfer agent, if any, or make notations to the same effect in its records, in each case, as Ayala determines to be necessary or appropriate. Ayala is an intended third-party beneficiary of this paragraph. For purposes of this paragraph, "Ayala" shall be deemed to refer to Ayala and any successor thereto, including Advaxis.

Very truly yours,

/s/ David Sidransky

Ayala Pharmaceuticals, Inc.
Name: Dr. David Sidransky
Title: Chairman of the Board of Directors

Confirmation
I acknowledge receipt of the above letter and my agreement with its terms

/s/ Yossi Maimon

Yossi Maimon

Date: October 18, 2022

Exhibit 10.5

Execution Version

Ayala Pharmaceuticals, Inc..

October 18, 2022

Gary Gordon, M.D., Ph.D.
By Email

Dear Gary:

Reference is made to that certain Agreement and Plan of Merger among Advaxis, Inc. ("***Advaxis***"), Ayala Pharmaceuticals, Inc. (the "***Company***") and Doe Merger Sub, Inc., dated as of even date herewith(the "***Merger Agreement***") and to that certain Employment Agreement between you and the Company dated as of July 24, 2019 (as amended, the "***Employment Agreement***").

In the event of a termination of your employment by the Company without Cause (as defined in your Employment Agreement) or your resignation for Justified Reason (as defined in your Employment Agreement, except that no demotion in position or reduction in duties or authority in connection with the transactions contemplated by the Merger Agreement that is agreed to by you shall provide a basis for you to resign for Justified Reason) within the 12 month period following the Effective Time (as defined in the Merger Agreement) (a "***Qualifying Termination***") and subject to your timely execution (and non-revocation) of a Waiver and Release Agreement that will be provided to you under separate cover, you will be entitled to the Special Termination Benefits (as defined in the Employment Agreement), consisting of a cash payment equal to the sum of your annual salary and your target annual bonus and accelerated vesting of all unvested equity awards of the Company, its successor or a parent entity thereof held by you as of the date of your Qualifying Termination (the "***Accelerated Unvested Awards***"). Notwithstanding any contrary terms of your Employment Agreement, the cash portion of the Special Termination Benefits will be paid to you in substantially equal installment payments in accordance with the normal payroll practices of the Company over the 12 month period beginning on the Effective Time, subject to applicable withholdings. For purposes of Section 409A of the Internal Revenue Code of 1986, each such installment payment will constitute a separate payment.

You agree that, notwithstanding the foregoing, you will not lend, offer, pledge, sell, contract to sell, sell or grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly ("***Transfer***"), any shares of Company common stock or other equity securities into which such shares may be converted (including shares of common stock of Advaxis), in any case, acquired by you under the Accelerated Unvested Awards ("***Shares***") during the 12 month period beginning at the Effective Time, other than for the purposes of paying any applicable taxes or exercise price associated with the exercise, vesting or settlement of the Accelerated Unvested Awards or as authorized in writing by the Company. Any attempted Transfer of Shares in violation of this paragraph will be null and void. The Company will not be required to (a) recognize on its books any Transfers in violation of this paragraph or (b) treat as owner of a Share any purchaser or other transferee to whom a Share has been Transferred in violation of this paragraph. To ensure compliance with the requirements of this paragraph, the Company may issue "stop transfer" instructions to its transfer agent, if any, or make notations to the same effect in its records, in each case, as the Company determines to be necessary or appropriate. For purposes of this paragraph, "Company" shall be deemed to refer to the Company and any successor thereto, including Advaxis.

Very truly yours,

/s/ David Sidransky

Ayala Pharmaceuticals, Inc.
Name: Dr. David Sidransky
Title: Chairman of the Board of Directors

Confirmation
I acknowledge receipt of the above letter and my agreement with its terms

/s/ Gary Gordon

Gary Gordon, M.D., Ph.D.

Date: October 18, 2022

Exhibit 99.1

Ayala Pharmaceuticals and Advaxis Enter into Merger Agreement

Merger brings U.S. management and presence, cash to develop compelling late-stage asset

Lead candidate AL102 being evaluated in ongoing Phase 2/3 RINGSIDE study, a potential registration trial in desmoid tumors

Ayala and Advaxis stockholders will respectively own approximately 62.5% and 37.5%

Combined Company to Seek Uplisting to Nasdaq

Conference Call and Webcast today at 8:00am ET

REHOVOT, Israel WILMINGTON, Del., & MONMOUTH JUNCTION, NJ October 19, 2022 — Ayala Pharmaceuticals, Inc. (Nasdaq: AYLA) (Ayala), a clinical-stage oncology company focused on developing and commercializing small molecule therapeutics for patients suffering from rare tumors and aggressive cancers and Advaxis, Inc. (OTCQX: ADXS) (Advaxis), a biotechnology company devoted to the discovery, development and commercialization of immunotherapies based on a technology which uses engineered *Listeria monocytogenes*, today announced that they have entered into a definitive merger agreement. The merger would result in a combined company that will focus predominantly on the development and commercialization of Ayala's lead program AL102 for the treatment of desmoid tumors and Advaxis's candidate ADXS-504 in development for prostate cancer.

Kenneth A. Berlin, President and Chief Executive Officer of Advaxis, said, "Advaxis took a thorough approach in our quest to find the right partner with the right products. This merger is expected to enhance Advaxis's portfolio of clinical assets, with Ayala's proprietary gamma secretase inhibitors that are being developed as targeted therapies for rare and aggressive tumors. Ayala's lead candidate, AL102, is currently being investigated in the Phase 2/3 RINGSIDE study in desmoid tumors, which we believe will accelerate the stage of product development for the combined company dramatically. We are particularly excited about very promising interim data from RINGSIDE, which showed that AL102 monotherapy had meaningful anti-tumor activity with tumor shrinkage in the majority of patients that appeared to be deepening over time. The combined management team has extensive commercial and R&D experience, and we believe we have the cash to advance the combined portfolio through key milestones in 2023, including longer-term data from Part A of RINGSIDE, clarity on the registration path for AL101 in recurrent/metastatic adenoid cystic carcinoma (ACC) and initial clinical and PSA data from the Phase 1 trial of ADXS-504 in prostate cancer. We believe that this transaction will also help drive our efforts to return to a Nasdaq listing and enhance our ability to access capital."

Roni Mamluk, Ph.D., President and Chief Executive Officer of Ayala commented, "We are pleased to announce the proposed merger with Advaxis, which is expected to provide our pipeline and AL102 with additional financial resources as well as additional infrastructure in the U.S. The two companies have a shared mission to develop innovative therapies to improve the lives of patients with cancer and I believe we have found a good partner to advance our pipeline and create value for our stakeholders."

Additional Transaction Details

Subject to the terms and conditions of the merger agreement, at the closing of the merger, each outstanding share of Ayala common stock will be converted into the right to receive shares of common stock of Advaxis based on the exchange ratio set forth in the merger agreement. Upon completion of the merger, Ayala stockholders will own approximately 62.5% of the combined company's outstanding common stock and Advaxis stockholders will own approximately 37.5%, subject to the terms of the merger agreement. Advaxis will, at the effective time of the merger, assume the outstanding restricted stock units and stock options of Ayala, subject to the terms of the merger agreement. No fractional shares will be issued in connection with the merger and Advaxis will pay cash in lieu of any such fractional shares. The merger is intended to qualify for U.S. federal income tax purposes as a tax-free reorganization under the provisions of Section 368(a) of the Internal Revenue Code of 1986, as amended.

Consummation of the merger is subject to certain closing conditions, including, among other things, approval by the stockholders of Ayala. At the closing of the merger, Ayala will be delisted from The Nasdaq Global Market. The combined company's common stock is expected to begin trading on the OTCQX at the effective time of the merger, subject to Advaxis' planned efforts to have the stock of the combined company listed on Nasdaq, as to which no assurances can be made.

Management and Board of Directors

At the effective time of the merger, the executive officers of the combined company will include Mr. Kenneth A. Berlin, President, Chief Executive Officer and Director; Andres Gutierrez, M.D., Ph.D., current Chief Medical Officer of Advaxis; and Igor Gitelman, Interim Chief Financial Officer of Advaxis. Roni Mamluk, Ph.D., Founder and Chief Executive Officer of Ayala, and Yossi Maimon, Chief Financial Officer of Ayala will resign their positions and will help with the transition. Gary Gordon, M.D., Chief Medical Officer of Ayala, will also resign his position but is expected to continue in an advisory role for a period of time. The board of directors of the combined company is expected to consist of seven members: two designated by Advaxis, four designated by Ayala, and Mr. Berlin.

Conference Call and Webcast

There will be a conference call and webcast at 8:00 a.m. Eastern Time today, Wednesday, October 19, 2022, with Advaxis and Ayala to discuss the merger and respond to questions.

Investors Dial:	1-877-407-9716
Int'l Investors Dial:	1-201-493-6779
Investors in Israel Dial:	1 809 406 247
Conference ID:	13733948
Webcast:	Webcast Link

The webcast will also be archived for a period of 90 days on the Investor Relations web pages of Advaxis (https://www.advaxis.com/events-and-presentations) and Ayala (https://ir.ayalapharma.com/news-events/events-presentations).

About Ayala Pharmaceuticals, Inc.

Ayala Pharmaceuticals, Inc. is a clinical-stage oncology company focused on developing and commercializing small molecule therapeutics for patients suffering from rare tumors and aggressive cancers. Ayala's approach is focused on predicting, identifying and addressing tumorigenic drivers of cancer through a combination of its bioinformatics platform and next-generation sequencing to deliver targeted therapies to underserved patient populations. The company has two product candidates under development, AL101 and AL102, targeting the aberrant activation of the Notch pathway with gamma secretase inhibitors to treat a variety of tumors, including adenoid cystic carcinoma (ACC) and desmoid tumors. AL102 has received Fast Track Designation from the U.S. FDA and is currently in the Phase 3 portion of a pivotal study for patients with desmoid tumors (RINGSIDE). AL101 has received Fast Track Designation and Orphan Drug Designation from the U.S. FDA and is currently in a Phase 2 clinical trial for patients with ACC (ACCURACY) bearing Notch activating mutations. For more information, visit www.ayalapharma.com.

About Advaxis, Inc.

Advaxis, Inc. is a clinical-stage biotechnology company focused on the development and commercialization of proprietary Lm-based antigen delivery products. These off-the-shelf immunotherapies are a significant advancement in immunotherapy as they integrate multiple functions into a single therapy by directing antigen presenting cells to stimulate T-cells and other components of the immune system, while reducing tumor protection in the tumor microenvironment, facilitating the elimination of tumors. The company has two programs in the clinic: ADXS-503 for late-stage lung cancer and ADXS-504 for early-stage prostate cancer. To learn more about Advaxis, visit www.advaxis.com.

To learn more about Advaxis, visit www.advaxis.com.

Contacts:

Ayala Pharmaceuticals:

Investors:
Joyce Allaire
LifeSci Advisors LLC
+1-617-435-6602
jallaire@lifesciadvisors.com

+1-857-444-0553
info@ayalapharma.com

Media:
Tricia Persad-Bevil
JPA
+44-7792-524442

Advaxis:
Tim McCarthy
LifeSci Advisors, LLC
tim@lifesciadvisors.com
+1 917-679-9282

Important Information about the Merger and Where to Find It

This communication relates to a proposed transaction between Ayala Pharmaceuticals, Inc. ("Ayala") and Advaxis, Inc. ("Advaxis"). In connection with the proposed transaction, Advaxis intends to file with the Securities and Exchange Commission ("SEC") a registration statement on Form S-4 that will include a proxy statement of Ayala and that will constitute a prospectus with respect to shares of Advaxis's common stock to be issued in the proposed transaction ("Proxy Statement/Prospectus"). Each of Ayala and Advaxis may also file other documents with the SEC regarding the proposed transaction. This document is not a substitute for the Proxy Statement/Prospectus or any other document which Ayala or Advaxis may file with the SEC. INVESTORS, AYALA STOCKHOLDERS AND ADVAXIS STOCKHOLDERS ARE URGED TO READ THE PROXY STATEMENT/PROSPECTUS AND ANY OTHER RELEVANT DOCUMENTS THAT ARE OR WILL BE FILED WITH THE SEC, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO THESE DOCUMENTS, CAREFULLY AND IN THEIR ENTIRETY BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION AND RELATED MATTERS. Investors, Ayala stockholders and Advaxis stockholders will also be able to obtain free copies of the Proxy Statement/Prospectus (when available) and other documents containing important information about Ayala, Advaxis and the proposed transaction that are or will be filed with the

SEC by Ayala or Advaxis through the website maintained by the SEC at www.sec.gov. Copies of the documents filed with the SEC by Advaxis will also be available free of charge on Advaxis's website at https://www.advaxis.com/financial-information/sec-filings or by contacting Advaxis's investor relations department by email at ir@advaxis.com. Copies of the documents filed with the SEC by Ayala will also be available free of charge at https://ir.ayalapharma.com/financial-information/sec-filings or by contacting Ayala's investor relations department by email at jallaire@lifesciadvisors.com.

Participants in the Solicitation

Ayala and Advaxis and certain of their respective directors and executive officers may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction. Information regarding Ayala's directors and executive officers, including a description of their direct or indirect interests, by security holdings or otherwise, is contained in Ayala's proxy statement for its 2022 annual meeting of stockholders which was filed with the SEC on April 27, 2022. Information regarding Advaxis's directors and executive officers, including a description of their direct or indirect interests, by security holdings or otherwise, is contained in Advaxis's proxy statement for its 2022 annual meeting of stockholders which was filed with the SEC on February 28, 2022. Additional information regarding the direct and indirect interests of the participants in the solicitation of proxies in connection with the proposed transaction, including the interests of Ayala and Advaxis directors and executive officers in the transaction, which may be different than those of Ayala and Advaxis stockholders generally, will be contained in the Proxy Statement/Prospectus and any other relevant documents that are or will be filed with the SEC relating to the transaction. You may obtain free copies of these documents using the sources indicated above.

No Offer or Solicitation

This communication is not intended to and shall not constitute an offer to sell or the solicitation of an offer to buy or sell any securities or a solicitation of any vote or approval, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

Cautionary Statement Regarding Forward-Looking Statements

Certain statements contained in this filing may be considered forward-looking statements within the meaning of the U.S. Private Securities Litigation Reform Act of 1995, including statements regarding the proposed transaction involving Ayala Pharmaceuticals, Inc. ("Ayala") and Advaxis, Inc. ("Advaxis"), the ability to consummate the proposed transaction, and the ability to list the common stock of the combined company on Nasdaq. Forward-looking statements generally include statements that are predictive in nature and depend upon or refer to future events or conditions, and include words such as "may," "will," "should," "would," "expect," "anticipate," "plan," "likely," "believe," "estimate," "project," "intend," and other similar

expressions among others. Statements that are not historical facts are forward-looking statements. Forward-looking statements are based on current beliefs and assumptions that are subject to risks and uncertainties and are not guarantees of future performance. Actual results could differ materially from those contained in any forward-looking statement as a result of various factors, including, without limitation: (i) the risk that the conditions to the closing of the proposed transaction are not satisfied, including the failure to timely or at all obtain stockholder approval for the proposed transaction or the failure to timely or at all obtain any required regulatory clearances; (ii) uncertainties as to the timing of the consummation of the proposed transaction, the ability of each of Ayala and Advaxis to consummate the proposed transaction, and the ability of the combined company to meet the requirements to list its common stock on Nasdaq; (iii) the ability of Ayala and Advaxis to integrate their businesses successfully and to achieve anticipated synergies; (iv) the possibility that other anticipated benefits of the proposed transaction will not be realized, including without limitation, anticipated revenues, expenses, earnings and other financial results, and growth and expansion of the combined company's operations, and the anticipated tax treatment of the combination; (v) potential litigation relating to the proposed transaction that could be instituted against Ayala, Advaxis or their respective directors; (vi) possible disruptions from the proposed transaction that could harm Ayala's and/or Advaxis's respective businesses; (vii) the ability of Ayala and Advaxis to retain, attract and hire key personnel; (viii) potential adverse reactions or changes to relationships with customers, employees, suppliers or other parties resulting from the announcement or completion of the proposed transaction; (ix) potential business uncertainty, including changes to existing business relationships, during the pendency of the proposed transaction that could affect Ayala's or Advaxis's financial performance; (x) certain restrictions during the pendency of the proposed transaction that may impact Ayala's or Advaxis's ability to pursue certain business opportunities or strategic transactions; (xi) legislative, regulatory and economic developments; (xii) unpredictability and severity of catastrophic events, including, but not limited to, acts of terrorism or outbreak of war or hostilities, as well as management's response to any of the aforementioned factors; and (xiv) such other factors as are set forth in Ayala's periodic public filings with the SEC, including but not limited to those described under the heading "Risk Factors" in Ayala's Form 10-K for the fiscal year ended December 31, 2021, and Advaxis's periodic public filings with the SEC, including but not limited to those described under the heading "Risk Factors" in Advaxis's Form 10-K for the fiscal year ended October 31, 2021. Ayala and Advaxis can give no assurance that the conditions to the proposed transaction will be satisfied. Except as required by applicable law, Ayala and Advaxis undertakes no obligation to revise or update any forward-looking statement, or to make any other forward-looking statements, whether as a result of new information, future events or otherwise.

CORPORATE PARTICIPANTS

Tim McCarthy, *Investor Relations, LifeSci Advisors, LLC*

Ken Berlin, *President and Chief Executive Officer, Advaxis, Inc.*

Roni Mamluk, Ph.D., *President and Chief Executive Officer, Ayala Pharmaceuticals, Inc.*

CONFERENCE CALL PARTICIPANTS

Maury Raycroft, *Jefferies*

Dane Leone, *Raymond James*

PRESENTATION

Operator

Greetings. Welcome to the Ayala Pharmaceuticals and Advaxis Enter into Merger Agreement conference call.

Please note, this conference is being recorded.

At this time, I'll hand the conference over to Tim McCarthy of LifeSci Advisors. Tim, you may now begin.

Tim McCarthy

Thank you, Operator. Good morning, everyone and thank you for joining us.

Before we begin formal remarks, let me remind you that some of the information in today's news release and on this conference call contains forward-looking statements within the meaning of the U.S. Private Securities Litigation Reform Act of 1995. These forward-looking statements relate to, among other things, the anticipated benefits of the proposed transaction between Ayala Pharmaceuticals, Inc. and Advaxis, Inc., the anticipated impact of the proposed transaction on the combined company's business and future financial and operating results, the expected amount and timing of synergies from the proposed transaction, the anticipated closing date for the proposed transaction, the ability to list the common stock of the combined company on Nasdaq, and other aspects of operations or operating results. Forward-looking statements generally include statements that are predictive in nature and depend upon or refer to future events or conditions, and include words such as "may," "will," "should," "would," "expect," "anticipate," "plan," "likely," "believe," "estimate," "project," "intend," and other similar expressions among others. Statements that are not historical facts are forward-looking statements. Forward-looking statements are based on current beliefs and assumptions that are subject to risks and uncertainties and are not guarantees of future performance. Actual results could differ materially from those contained in any forward-looking statements as a result of various factors.

Any forward-looking statements made, speak only as of the date of today's press release and conference call, Wednesday October 19, 2022, and the companies undertake no obligation to publicly update any forward-looking statements or supply new information regarding the circumstances after the date of this call.

This call is being recorded and the replay will be available on each company's website.
For further information related to today's announcement, you may visit the Advaxis website at advaxis.com and the Ayala website at ayalapharma.com.

At this time, I would like to turn the call over to Ken Berlin, President and Chief Executive Officer of Advaxis. Mr. Berlin, please go ahead.

Ken Berlin

Thank You Tim.

We're very excited to be here this morning in the U.S. and this afternoon for Roni and others in Israel to announce the proposed merger between Advaxis and Ayala Pharmaceuticals. On our call today, we will explain why we are so excited about this transaction and will review the terms of the agreement and strategic rationale, and then address any questions you may have.

Joining me on the call today is Ayala's President and CEO Dr. Roni Mamluk. Our Management Team and Board have reviewed a number of business development opportunities to determine how best to advance Advaxis to a later stage company. And we believe this transaction with Ayala enables us to meet this goal in a meaningful way.

This proposed merger will create what we believe will be a stronger oncology company with interesting programs, a global presence and provides the combined company the ability to invest additional cash in a later stage asset. We also believe that the combined company will be better positioned to uplist to Nasdaq.

Let me summarize the key points and rationale for the transaction.

We believe the merger has the potential to transform Advaxis's pipeline. With Ayala, we are gaining a late-stage asset, AL102, which is in a Phase 3 trial for desmoid tumors. This candidate has a validated mechanism of action and has generated very promising interim data from the ongoing study. We believe it has been significantly de-risked and is on a path to potential registration. Ayala has also a second product candidate, AL101, which is being investigated for the treatment of recurrent/metastatic adenoid cystic carcinoma.

The combined company will enable the investment of additional cash in a later stage asset with an estimated $20 million available at closing and an enhanced potential to raise additional cash as needed.

And finally, we will have an exceptional combined team by adding a very capable and experienced group of professionals in Rehovot, Israel, to our associates in New Jersey.

The addition of Ayala's late-stage assets presents us with the opportunity to reprioritize the combined pipeline of the Company. Regarding the existing Advaxis pipeline, ADXS-504, our vaccine for the treatment of prostate cancer, will continue in a Phase 1 open-label dose escalation trial at Columbia University toward an anticipated data read out of initial clinical and PSA data in 2023. The costs of this study are predominately paid for by Columbia. Based on our evaluation of the best opportunities in our enhanced portfolio, the Company has decided to conduct an orderly wind down of the Advaxis 503 program in non-small cell lung cancer in order to focus on AL102 and our other programs.

The terms of the merger are explained in detail in the press release we issued this morning. This deal has been structured as a reverse merger via a stock-for-stock transaction, where Advaxis will be the technical acquiror. Ayala is incorporated in Wilmington, Delaware but its principal operations and the majority of its team are Israel.

The Board of Directors at closing of this deal will consist of 7 individuals: 2 current Advaxis board members will be designated and join the board, and 4 current Ayala board members and I will also become a board member. I will remain President and CEO. Roni, Founder and CEO of Ayala, and Yossi Maimon, CFO, will be stepping down from their positions. Dr. Andres Gutierrez will be Chief Medical Officer of the combined company. Dr. Gary Gordon, Ayala's current CMO, will resign at the closing but is expected to continue in an advisory role going forward. We will provide more details on our plans for the management team in the coming weeks. The transaction is expected to close in the first quarter of 2023 subject to approval by Ayala's shareholders and customary closing conditions.

To summarize, we are incredibly enthusiastic about what we view as a truly transformational deal. The merger of the two companies will create a company with new leadership focused primarily on a substantially de-risked asset, AL102, with near-term commercial potential.

I will now turn the call over to Roni for some additional comments.

Dr. Roni Malmuk

Thank You, Ken.

We founded Ayala in 2017 with the mission to develop targeted therapies for people with rare tumors and aggressive cancers. I am very proud of the progress we made toward this goal. AL102, our lead product candidate, is now in a potential registration trial, and as Ken mentioned, it has generated very promising interim data. If approved, we believe it will be a valuable new treatment option for patients with desmoid tumors.

Entering into this merger with Advaxis will provide us with the financial resources to advance testing of AL102 for the treatment of desmoid tumors in our pivotal Phase 2/3 RINGSIDE trial. It will also give us an enhanced presence in the U.S. where we see large opportunity to help these patients.

Today, there are no FDA-approved therapies for desmoid tumors. The annual incidence is approximately 1,700 patients in the United States and we estimate that there are between 5,500 to 7,000 patients actively seeking treatment in the U.S. at any one time. Note that this is a disease of young people with a five-year survival rate in excess of 95%. Yet, desmoid tumors can lead to chronic pain, functional deficiency, disfiguration and psychological problems which have a significant negative impact on the quality of life of patients.

Positive interim data from the open label Part A of RINGSIDE were featured in an oral presentation at the ESMO congress in September of this year. The data showed that AL102 monotherapy had a very intriguing therapeutic index with a tolerable safety profile and a meaningful anti-tumor activity in the majority of patients that appeared to be deepening over time. We look forward to sharing longer-term data from Part A in 2023.

Part A of RINGSIDE is the Phase 2 part of the study which was conducted primarily to choose a dose for the randomized portion of the study. At this point, a dose of 1.2 milligram once daily has been selected and RINGSIDE Part B, the randomized Phase 3 portion of the study, is now open for enrollment. In addition, those patients who participated in Part A, are eligible to enroll into an open label extension study with treatment of AL102 at the selected 1.2 milligram once daily dose.

Earlier this month, Ayala hosted a KOL Event/webinar to review the RINGSIDE data with industry experts. I encourage you to listen to the replay of this webcast which can be found on our website to gain a better appreciation of the promise of this asset. Altogether, the early data were considered encouraging by the KOLs. At the end of the day, it will be the aggregated data, not only the response rate or the progression free survival, which will define the place of these new drugs in the treatment of desmoid tumors.

Our second product candidate AL101 is being investigated for the treatment of recurrent/metastatic adenoid cystic carcinoma. We plan to clarify the registration path for this candidate in 2023.

I want to take this opportunity to thank my colleagues at Ayala who have worked hard over the last five years to get us to this advanced stage. I am pleased to say that we will be keeping our operations in Rehovot, Israel, where the majority of our team is based.

I will now turn the call back to Ken. Ken?

Ken Berlin.

Thank You, Roni, for your comments, and also for all of your hard work building the excellent team in Rehovot, developing these programs and entrusting this team with them. I know that you share our enthusiasm for the proposed merger of our two companies.

Our Advaxis leadership team has taken the time to carefully determine how best to transition Advaxis into the next stage of growth and development. We strongly believe that we have made the best selection by combining Ayala's late-stage and de-risked drug programs with our U.S. leadership experience, presence, and capital. The high therapeutic index of this new drug-class has the potential to make a difference in the lives of many patients with desmoid tumors, adenocystic carcinomas and other cancers which fits perfectly with our mission at Advaxis—to improve the lives of people living with cancer and their loved ones.

We are now ready to take questions.

Operator?

Thank you. Our first question is from the line of Maury Raycroft with Jefferies. Please proceed with your questions.

Maury Raycroft

Hi, good morning. Congrats on the update, and thank you for taking my questions. Wondering if you could talk more about how you're thinking about cash runway going forward, and given how long SpringWorks' DeFi Phase 3 took to enroll, can you talk about how the runway will get you to key future milestones.

Ken Berlin

Hi, Maury. It's nice to meet you. I look forward to having engaging dialogs with you in the future. It's a good question. So, obviously, cash is a critical component, and while we'll bring some cash to the table, it's not a complete solution to what we need for the combined company, but it's enough cash to get us certainly through some key milestones in 2023. And we have a way to modulate the spend as needed if the markets just aren't permissive. We know these are tough markets certainly for biotech companies. Some are successfully raising money, but companies, kind of where we're at, less so. But I do believe there'll be opportunities to put more cash in the balance sheet at an appropriate time, notwithstanding where the markets stand today. But we'll never say never. We understand these are tough markets and we're not going into this with our eyes closed. But we believe, again, to come back to the answer to your question, we can modulate spend if needed, but we think we'll be able to hit key timelines, key milestones this year and also not unduly delay getting to the finish line on the Phase 3 aspect of the 102 program.

Maury Raycroft

Got it. That's helpful. For the ongoing study, as you're enrolling Part B, I guess, could you report some additional data from Part A, potentially PK data or CRO data from Part A or from the open-label extension as you continue with this study?

Dr. Roni Mamluk

Right. Actually, if I may take this question. As you know, Maury, Part A is ongoing and not only that, indeed, we plan to fill during 2023 more data from the Part A and more mature data. Now this Part B's open and also the open-label extension and we have selected the dose going forward of 1.2 milligram once a day. We will have patients from Part A switching into the open-label extension. So, currently, we expect to have more mature data from those patients that enrolled into Part A, and we expect to be able to report that probably around the midyear 2023.

Maury Raycroft

Got it. And last question for me. Just anything else you're seeing about enrollment projections for this study at this point.

Dr. Roni Mamluk

No, so this is really too early to say. We really have only opened the study recently, you know, in September. So, too early to tell currently.

Maury Raycroft

Okay. Okay, thank you for taking my questions.

Operator

Thank you. Our next question is from the line of Dane Leone with Raymond James. Please proceed with your questions.

Dane Leone

Hi. Thank you for taking the questions. Maybe you could just provide some decision-making rationale or the process that the boards went through in coming to this merger agreement. And the genesis of this is obviously we know nirogacestat works in desmoid tumors as a result of the DeFi study. AL102's obviously multiple years behind that in a pivotal setting. Is there a data update in '23 for RINGSIDE that more complete the target profile picture of AL102 that would allow a partnership with a larger biopharma company that control some of the development costs? Or what have you had in terms of conversations with potential partners and maybe why hasn't one materialized? Thank you.

Dr. Roni Mamluk

Okay. Ken, do you want me to start?

Ken Berlin

I think you'll start and I'll supplement, if needed.

Dr. Roni Mamluk
Okay. Yes. We'll start from the end, Dane. The rationale—actually, or in general, for the rationale for this merger for Ayala, this is I think very clear. We were, Ayala, were looking to continue and fund our advanced programs and also at the same time to enhance U.S. presence. So, Advaxis with Ken as a lead actually allows us to fulfill these two requirements. So that's actually the rationale that we went through.

With regards to additional data, I think the longer term data of patients on AL102 will be very important to understand how AL102 potentially will be measured against nirogacestat. First of all, I just wanted to remind everyone that AL102 is given once a day, where nirogacestat is given twice a day, which is a benefit if you think about the chronic treatment, like inhibitors (phon) inhibitors seems to be for desmoid tumors.

In addition, what we have seen in the early data that we saw in Part A is that not only that the majority of the patients had tumor size reduction, these response were deepening over time. At ESMO, we had relatively short-term data, so we just started to see the trend of all the parameters. By the way, all the trends were going down on all parameters with it, tumor volume, T1 and T2. So, actually, we delivered the longer-term data, will enable us now to see treatment over probably a period of one year from these patients, and therefore, we will be able to see better how the responses mature and deepening over time.

Dane Leone

Okay, thank you.

Ken Berlin

So, Dane, from our perspective, I think you insinuate a few things about being behind, being smaller in SpringWorks. Now I'll tell you what we see. And again, it's early days, but we see the potential to have a competitive advantage. Certainly, dosing advantage. There could be others that need to be born out with more mature data from the Part A patients and obviously data from the Part B patients.

But we think that there'll be a place, a decent place for this compound in this market. A small market, but we still think it's a commercially interesting market. So that's what we see and that's what we saw and that's what ultimately got us here.

Dane Leone

Thanks.

Operator

Thank you. I'm not showing any phone questions at this time. I'll turn it back to Management for further remarks.

Ken Berlin

Well, thank you for joining us today. As you can tell, we are excited about the coming together of these two companies, obviously, subject to closing. At Advaxis, as we said, this brings a late-stage asset that we've been looking for for a while to the fold and we have cash to put against it. And that's what, obviously, Ayala has seen, an enhanced U.S. presence.

So, we will provide more updates as things move forward. Thank you for participating, and we look forward to talking more in the future.

Operator
This will conclude today's conference. You may disconnect your lines at this time and thank you for your participation.

Important Information about the Merger and Where to Find It

This communication relates to a proposed transaction between Ayala Pharmaceuticals, Inc. ("Ayala") and Advaxis, Inc. ("Advaxis"). In connection with the proposed transaction, Advaxis intends to file with the Securities and Exchange Commission ("SEC") a registration statement on Form S-4 that will include a proxy statement of Ayala and that will constitute a prospectus with respect to shares of Advaxis's common stock to be issued in the proposed transaction ("Proxy Statement/Prospectus"). Each of Ayala and Advaxis may also file other documents with the SEC regarding the proposed transaction. This document is not a substitute for the Proxy Statement/Prospectus or any other document which Ayala or Advaxis may file with the SEC. INVESTORS, AYALA STOCKHOLDERS AND ADVAXIS STOCKHOLDERS ARE URGED TO READ THE PROXY STATEMENT/PROSPECTUS AND ANY OTHER RELEVANT DOCUMENTS THAT ARE OR WILL BE FILED WITH THE SEC, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO THESE DOCUMENTS, CAREFULLY AND IN THEIR ENTIRETY BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION AND RELATED MATTERS. Investors, Ayala stockholders and Advaxis stockholders will also be able to obtain free copies of the Proxy Statement/Prospectus (when available) and other documents containing important information about Ayala, Advaxis and the proposed transaction that are or will be filed with the SEC by Ayala or Advaxis through the website maintained by the SEC at www.sec.gov. Copies of the documents filed with the SEC by Advaxis will also be available free of charge on Advaxis's website at https://www.advaxis.com/financial-information/sec-filings or by contacting Advaxis's investor relations department by email at ir@advaxis.com. Copies of the documents filed with the SEC by Ayala will also be available free of charge at https://ir.ayalapharma.com/financial-information/sec-filings or by contacting Ayala's investor relations department by email at jallaire@lifesciadvisors.com.

Participants in the Solicitation

Ayala and Advaxis and certain of their respective directors and executive officers may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction. Information regarding Ayala's directors and executive officers, including a description of their direct or indirect interests, by security holdings or otherwise, is contained in Ayala's proxy statement for its 2022 annual meeting of stockholders which was filed with the SEC on April 27, 2022. Information regarding Advaxis's directors and executive officers, including a description of their direct or indirect interests, by security holdings or otherwise, is contained in Advaxis's proxy statement for its 2022 annual meeting of stockholders which was filed with the SEC on February 28, 2022. Additional information regarding the direct and indirect interests of the participants in the solicitation of proxies in connection with the proposed transaction, including the interests of Ayala and Advaxis directors and executive officers in the transaction, which may be different than those of Ayala and Advaxis stockholders generally, will be contained in the Proxy Statement/Prospectus and any other relevant documents that are or will be filed with the SEC relating to the transaction. You may obtain free copies of these documents using the sources indicated above.

No Offer or Solicitation

This communication is not intended to and shall not constitute an offer to sell or the solicitation of an offer to buy or sell any securities or a solicitation of any vote or approval, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

Cautionary Statement Regarding Forward-Looking Statements

Certain statements contained in this filing may be considered forward-looking statements within the meaning of the U.S. Private Securities Litigation Reform Act of 1995, including statements regarding the proposed transaction involving Ayala Pharmaceuticals, Inc. ("Ayala") and Advaxis, Inc. ("Advaxis"), the ability to consummate the proposed transaction, and the ability to list the common stock of the combined company on Nasdaq. Forward-looking statements generally include statements that are predictive in nature and depend upon or refer to future events or conditions, and include words such as "may," "will," "should," "would," "expect," "anticipate," "plan," "likely," "believe," "estimate," "project," "intend," and other similar expressions among others. Statements that are not historical facts are forward-looking statements. Forward-looking statements are based on current beliefs and assumptions that are subject to risks and uncertainties and are not guarantees of future performance. Actual results could differ materially from those contained in any forward-looking statement as a result of various factors, including, without limitation: (i) the risk that the conditions to the closing of the proposed transaction are not satisfied, including the failure to timely or at all obtain stockholder approval for the proposed transaction or the failure to timely or at all obtain any required regulatory clearances; (ii) uncertainties as to the timing of the consummation of the proposed transaction, the ability of each of Ayala and Advaxis to consummate the proposed transaction, and the ability of the combined company to meet the requirements to list its common stock on Nasdaq; (iii) the ability of Ayala and Advaxis to integrate their businesses successfully and to achieve anticipated synergies; (iv) the possibility that other anticipated benefits of the proposed transaction will not be realized, including without limitation, anticipated revenues, expenses, earnings and other financial results, and growth and expansion of the combined company's operations, and the anticipated tax treatment of the combination; (v) potential litigation relating to the proposed transaction that could be instituted against Ayala, Advaxis or their respective directors; (vi) possible disruptions from the proposed transaction that could harm Ayala's and/or Advaxis's respective businesses; (vii) the ability of Ayala and Advaxis to retain, attract and hire key personnel; (viii) potential adverse reactions or changes to relationships with customers, employees, suppliers or other parties resulting from the announcement or completion of the proposed transaction; (ix) potential business uncertainty, including changes to existing business relationships, during the pendency of the proposed transaction that could affect Ayala's or Advaxis's financial performance; (x) certain restrictions during the pendency of the proposed transaction that may impact Ayala's or Advaxis's ability to pursue certain business opportunities or strategic transactions; (xi) legislative, regulatory and economic developments; (xii) unpredictability and severity of catastrophic events, including, but not limited to, acts of terrorism or outbreak of war or hostilities, as well as management's response to any of the aforementioned factors; and (xiv) such other factors as are set forth in Ayala's periodic public filings with the SEC, including but not limited to those described under the heading "Risk Factors" in Ayala's Form 10-K for the fiscal year ended December 31, 2021, and Advaxis's periodic public filings with the SEC, including but not limited to those described under the heading "Risk Factors" in Advaxis's Form 10-K for the fiscal year ended October 31, 2021. Ayala and Advaxis can give no assurance that the conditions to the proposed transaction will be satisfied. Except as required by applicable law, Ayala and Advaxis undertakes no obligation to revise or update any forward-looking statement, or to make any other forward-looking statements, whether as a result of new information, future events or otherwise.