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

FORM 10-K

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

For the fiscal year ended December 31, 2023

or

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

For the transition period from to

Commission File Number: 001-38381

EVOLUS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**46-1385614**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification Number)**

520 Newport Center Dr., Suite 1200
Newport Beach, California 92660
(949) 284-4555
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

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, $0.00001 par value per share	EOLS	The Nasdaq Stock Market LLC

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

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

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

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

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

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

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. Yes ☒ No ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to § 240.10D-1(b). ☐

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

The aggregate market value of the registrant's common stock held by non-affiliates of the registrant as of the last business day of the registrant's most recently completed second fiscal quarter was approximately $404.7 million, based on the closing price of the registrant's common stock on the Nasdaq Global Market of $7.27 per share for such date.

As of March 1, 2024, 57,943,622 shares of the registrant's sole class of common stock were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement (the "Proxy Statement") for its 2024 Annual Meeting of Stockholders are incorporated by reference into Part III, Items 10, 11, 12, 13 and 14 of this Annual Report on Form 10-K. Such proxy statement will be filed with the Securities and Exchange Commission within 120 days of the registrant's fiscal year ended December 31, 2023.

EVOLUS, INC.

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Special Note Regarding Forward-Looking Statements

This Annual Report on Form 10-K, or Annual Report, contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, that involve risks and uncertainties, including statements regarding future events, our business, financial condition, results of operations and prospects, our plans and expectations regarding regulatory approval, our industry and the regulatory environment in which we operate. Any statements contained herein that are not statements of historical or current facts are forward-looking statements. In some cases, you can identify forward-looking statements by terms such as “anticipate,” “believe,” “could,” “estimate,” “expect,” “intend,” “may,” “plan,” “potential,” “predict,” “project,” “should,” “will,” “would” or the negative of those terms, or other comparable terms intended to identify statements about the future. The forward-looking statements included herein are based on our current expectations, assumptions, estimates and projections, which we believe to be reasonable, and are subject to risks and uncertainties that could cause actual results to differ materially from those expressed in the forward-looking statements. These risks and uncertainties, all of which are difficult or impossible to predict accurately and many of which are beyond our control, include, but are not limited to, those made below under “Summary of Risk Factors” and in Item 1A Risk Factors in this Annual Report.

You should carefully consider these risks, as well as the additional risks described in other documents we file with the U.S. Securities and Exchange Commission (“SEC”) in the future, including subsequent Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q, which may from time to time amend, supplement or supersede the risks and uncertainties we disclose. We also operate in a very competitive and rapidly changing environment. New risks emerge from time to time and it is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in, or implied by, any forward-looking statements.

In light of the significant risks and uncertainties inherent in the forward-looking statements included herein, the inclusion of such information should not be regarded as a representation by us or any other person that such results will be achieved, and readers are cautioned not to place undue reliance on such forward-looking statements, which speak only as of the date hereof. Except as required by law, we undertake no obligation to revise the forward-looking statements contained herein to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events. You should read this Annual Report on Form 10-K and the other documents we file with the SEC with the understanding that our actual future results, levels of activity, performance and achievements may be materially different from what we expect. We qualify all of our forward-looking statements by the cautionary statements referenced above.

Summary of Risk Factors

An investment in our securities involves various risks and you are urged to carefully consider the risks discussed under Item 1A "Risk Factors," in this Annual Report on Form 10-K prior to making an investment in our securities. If any of the risks below or in Item 1A "Risk Factors" occurs, our business could be materially and adversely affected. As more fully described in Item 1A "Risk Factors", the principal risks and uncertainties that may affect our business, financial condition and results of operations include, but are not limited to, the following:

- We currently depend entirely on the successful commercialization of our only commercial product, Jeuveau®. If we are unable to successfully market and sell Jeuveau®, we may not generate sufficient revenue to continue our business.
- We have a limited operating history and have incurred significant losses since our inception and anticipate that we will continue to incur losses for the foreseeable future. We have only one approved product, which, together with our limited operating history, makes it difficult to assess our future viability.
- We are dependent on Symatese to achieve regulatory approval for the Evolysse™ dermal filler product line in the United States and Europe. Failure to obtain approval or obtain approval on our estimated time frame for the Evolysse™ product line would negatively affect our ability to sell these products.
- We may require additional financing to fund our future operations or execute corporate development activities, and a failure to obtain additional capital when so needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our operations.
- If we or our counterparties do not comply with the terms of our settlement agreements with Medytox, Inc., or Medytox, we may face litigation or lose our ability to market and sell Jeuveau®, which would materially and adversely affect our ability to carry out our business and our financial condition and ability to continue as a going concern.
- The terms of the Settlement Agreement with Medytox will continue to reduce our profitability.
- Our business, financial condition and operations have been, and may in the future be, adversely affected by a COVID-19 resurgence or other similar infectious disease outbreaks.
- We rely on the license and supply agreement, as amended, with Daewoong, which we refer to as the Daewoong Agreement, to provide us with exclusive rights to distribute Jeuveau® in certain territories. Any termination or loss of significant rights, including exclusivity, under the Daewoong Agreement would materially and adversely affect our development and commercialization of Jeuveau®.
- Our failure to successfully in-license, acquire, develop and market additional product candidates or approved products would impair our ability to grow our business.
- Jeuveau® faces, and any of our future product candidates will face, significant competition and our failure to effectively compete may prevent us from maintaining our market share and expansion.
- Jeuveau® may fail to achieve the broad degree of aesthetic practitioners adoption and use or consumer demand necessary for commercial success.
- Our ability to market Jeuveau® is limited to use for the treatment of glabellar lines, and if we want to expand the indications for which we market Jeuveau®, we will need to obtain additional regulatory approvals, which will be expensive and may not be granted.
- Third party claims of intellectual property infringement may prevent or delay our commercialization efforts and interrupt our supply of products.
- If we or any of our current or future licensors, including Daewoong, are unable to maintain, obtain or protect intellectual property rights related to Jeuveau® or any of our future product candidates, we may not be able to compete effectively in our market.

- We may need to increase the size of our organization, including our sales and marketing capabilities in order to further market and sell Jeuveau® and we may experience difficulties in managing this growth.
- We rely on our digital technology and applications and our business and operations would suffer in the event of computer system failures or breach.
- We are subject to extensive government regulation, and we may face delays in or not obtain regulatory approval of our product candidates and our compliance with ongoing regulatory requirements may result in significant additional expense, limit or delay regulatory approval or subject us to penalties if we fail to comply.

Unless the context indicates otherwise, as used in this Annual Report on Form 10-K, the terms "Evolus," "company," "we," "us" and "our" refer to Evolus, Inc., a Delaware corporation, and our subsidiaries taken as a whole, unless otherwise noted.

EVOLUS™, Jeuveau®, Evolux® and Evolysse™ are trademarks of ours that are used in this Annual Report on Form 10-K. Jeuveau® is the trade name in the United States for our approved product with non-proprietary name, prabotulinumtoxinA-xvfs. This product has different trade names outside of the United States, including Nuceiva® in Canada, Europe and Australia, but is referred to throughout this Annual Report on Form 10-K as Jeuveau®. Our dermal filler products have different trade names outside of the United States, including Estyme® in Europe, but are referred to throughout this Annual Report on Form 10-K as Evolysse™. This Annual Report on Form 10-K also includes trademarks, trade names and service marks that are the property of other organizations, such as BOTOX® and BOTOX® Cosmetic, which we refer to throughout this Annual Report on Form 10-K as BOTOX. Solely for convenience, trademarks and trade names referred to in this Annual Report on Form 10-K may appear without the ® and ™ symbols, but those references are not intended to indicate that we will not assert, to the fullest extent under applicable law, our rights, or that the applicable owner will not assert its rights, to these trademarks and trade names. We do not intend our use or display of other companies' trade names or trademarks to imply a relationship with, or endorsement or sponsorship of us by, any other companies.

Website References

In this Annual Report on Form 10-K, we make references to our website at www.evolus.com. References to our website through this Form 10-K are provided for convenience only and the content on our website does not constitute a part of, and shall not be deemed incorporated by reference into, this Annual Report on Form 10-K.

Part I

Item 1. Business.

Overview

We are a global performance beauty company with a customer-centric approach to delivering breakthrough products. Our primary market is the cash-pay aesthetic market, which consists of medical products that consumers pay for directly out of pocket. Our customers are aesthetic practitioners who are properly licensed to deliver our products. By avoiding the regulatory burdens that accompany reimbursed products and pursuing an aesthetic-only non-reimbursed product strategy, we believe that we create flexibility to deliver a unique value proposition to our customers. We utilize this flexibility to drive customer adoption efforts through programs such as our consumer loyalty program, co-branded marketing programs, promotional events and pricing strategies.

Our Products and Product Candidates

Our currently commercially available product and our product candidates represent two of the largest product categories within medical aesthetics, injectable neurotoxins and injectable dermal fillers, respectively.

Jeuveau® is our commercially available proprietary 900 kilodalton, or kDa, purified botulinum toxin type A formulation indicated for the temporary improvement in the appearance of moderate to severe glabellar lines, also known as "frown lines," in adults. Jeuveau® offers a 900kDa botulinum toxin alternative to BOTOX (onabotulinumtoxinA). We believe aesthetic practitioners generally prefer the performance characteristics of the complete 900 kDa neurotoxin complex and are accustomed to injecting this formulation.

Jeuveau® is bolstered by the results from our TRANSPARENCY global clinical program which included more than 2,100 patients and provides robust data to physicians evaluating the purchase of Jeuveau®. We believe the comprehensive TRANSPARENCY clinical data set, including a head-to-head Phase III study comparing Jeuveau® and BOTOX, provides physicians with confidence in recommending Jeuveau® to their patients.

Jeuveau® is currently available in the United States, Canada and certain European markets and we plan to make the product available in Australia and additional European markets.

Evolysse™ is a line of hyaluronic acid dermal fillers which utilizes first-generation cold technology currently in regulatory development. The line includes a variety of products including mid face, nasolabial folds, lips and eyes in the United States and Europe. Regulatory approval has been received for the Evolysse™ nasolabial fold product in Europe and the remaining three products are anticipated to be approved in late 2024. We anticipate a Premarket Approval, or PMA, applications for the first two Evolysse™ dermal filler products will be submitted to the U.S. Food and Drug Administration by mid-year 2024. The United States regulatory approval and commercial launch is expected in 2025 for the first two products with subsequent regulatory approval and product launches for the three remaining products in 2026 and 2027.

The following chart details certain important features of our primary product lines:

Product Line	Status	Description	Treatment	Approvals	Estimated Market Size in 2027
Jeuveau®	Commercial	Injectable botulinum toxin type A	Temporary improvement in the appearance of frown lines in adults.	United States - 2019 Canada - 2018 European Union/United Kingdom/European Economic Area - 2019 Australia - 2023 Switzerland - 2023	United States* - $3.9 billion Europe** - $0.7 billion
Evolysse™	Product Candidate in Regulatory Development	Portfolio of injectable hyaluronic-acid based dermal fillers.	Improvement of moderate to severe nasolabial folds facial wrinkles, mid face volume, lip fullness and infraorbital hollow correction.	Europe - Anticipated Late 2024 United States - Anticipated 2025	United States* - $2.2 billion Europe** - $1.6 billion

*Source: Medical Insight's The Global Aesthetic Market Study
** Source: Clarivate Aesthetic Injectables Market Insights

The Medical Aesthetics Market Opportunity

According to Medical Insights, in 2023, total sales of professional medical aesthetic products were estimated to be $19.7 billion globally. Through 2027, the total sales of professional medical aesthetic products is expected to expand by 7.5% per year to $26.8 billion. Within this market, the facial injectables market, consisting of neurotoxins and dermal fillers, is estimated to be $9.5 billion in 2023 and is expected to grow to $13.3 billion in 2027.

We believe that the medical aesthetics market and the facial injectables market are poised for consistent growth driven by a number of factors, including:

- increased use by millennials and younger demographics who are increasingly seeking medical aesthetic treatments and utilizing neurotoxins as an entry point for aesthetic procedures due to their minimally invasive nature;
- an aging population together with an increasing life expectancy, which is resulting in more consumers with a desire for improved appearance and well-being over a longer period of time;
- rising disposable income, with the United States Bureau of Economic Analysis reporting that real disposable income in the United States increased approximately 30% from December 2013 to December 2023;
- growing awareness, including through social media, utilization and acceptance of elective or minimally invasive aesthetic procedures; and
- continued innovation and improved accessibility to these treatments due to an increase in the number of aesthetic practitioners who perform these procedures.

Within the multiple age groups that receive aesthetic neurotoxin treatments, we strategically focus our marketing efforts on the millennial segment which is the largest cohort in the United States population. Millennials are defined as individuals born between 1981 and 1996. We believe millennials view aesthetic treatments as integral to personal health and self-care, heavily influenced by social media and the internet.

Our Strategic Differentiation

The key components of our strategy are to:

- Focus on the largest segments of the medical aesthetic market. Aesthetic neurotoxins and dermal fillers are the largest and two of the fastest growing segments in the rapidly expanding global aesthetics market. With their high regulatory barriers to entry, these economically resilient product segments are poised for continued growth and adoption.
- Pursue an aesthetic-only strategy to enhance marketing and pricing flexibility along with improving transparency for our customers. With a reduced regulatory burden compared to third-party payor reimbursed therapeutic products, there are a number of benefits that market participants in reimbursed markets are unable to achieve. Jeuveau® is currently the only U.S. commercialized neurotoxin without a therapeutic indication.
- Launch directly or partner outside of the United States to reach and serve aesthetic practitioners and consumers in those territories.
- Leverage our differentiated digital platform to efficiently open new customer accounts, personalize the purchasing process and efficiently deploy marketing programs at scale, including co-branded media. We have built and continue to improve our platform with the goal of limiting friction and enhancing the overall experience for aesthetic practitioners and ultimately consumers.
- Establish a leading medical aesthetics company with a diversified product offering by in-licensing technology, developing partnerships and potentially acquiring products.

Clinical Evidence/Regulatory Development

Jeuveau® - TRANSPARENCY: Evolus Clinical Development for Glabellar Lines

Our TRANSPARENCY clinical program was a comprehensive five-study clinical development program for Jeuveau® and was used to meet international regulatory requirements. The TRANSPARENCY program included three Phase III studies titled EV-001, EV-002 and EVB-003. Treatment of the Glabellar lines was based on a 4-point photonumeric Glabellar Line Scale, or GLS, where 0=no lines, 1=mild lines, 2=moderate lines and 3=severe lines.

U.S. Phase III Clinical Trials – Composite End Point Versus Placebo

The two identical U.S. Phase III studies, EV-001 and EV-002, enrolled a combined 654 adults who had moderate to severe glabellar lines at maximum frown. Subjects were randomly assigned in a 3:1 ratio to receive a single treatment of either Jeuveau® or placebo. The primary efficacy endpoint was defined as the proportion of subjects classified as responders on Day 30. A subject was considered a responder only if both the investigator and the subject independently agreed that there was a 2 point improvement or greater on the GLS from Day 0 to Day 30 at maximum frown. This type of endpoint where both the investigator and subject must agree is known as a composite endpoint.

Both of the U.S. Phase III studies met the primary endpoint of superiority over placebo. The percentages of responders in the intent to treat population were:

- EV-001: 1.2% placebo, 67.5% Jeuveau®, with an absolute difference between the groups of 66.3%, 95% CI (59.0, 72.4)
- EV-002: 1.3% placebo, 70.4% Jeuveau®, with an absolute difference between the groups of 69.1%, 95% CI (61.5, 75.1)

EU Phase III Clinical Trials – Head-to-Head Comparison of Jeuveau®, Botox and Placebo

The EVB-003 study was the third Phase III safety and efficacy study in the TRANSPARENCY Program and compared the efficacy of Jeuveau®, Botox and Placebo. The study was conducted in Europe and Canada and enrolled 540 adults who (i) the investigator assessed to have moderate to severe glabellar lines and (ii) who felt their glabellar lines had an important psychological impact, such as on their mood, anxiety or depressive symptoms. Subjects were randomly assigned in a 5:5:1 ratio to receive a single treatment of 20 units of Jeuveau®, 20 units of BOTOX or placebo.

The primary efficacy endpoint was defined as the proportion of subjects classified as responders on Day 30. A responder was a subject with a GLS score of 0 or 1, as assessed by the investigator at maximum frown. The primary analysis of the primary efficacy endpoint in the EVB-003 study showed the superiority of Jeuveau® over placebo, and established non-inferiority of Jeuveau® to BOTOX. The percentages of responders for the primary efficacy endpoint were:

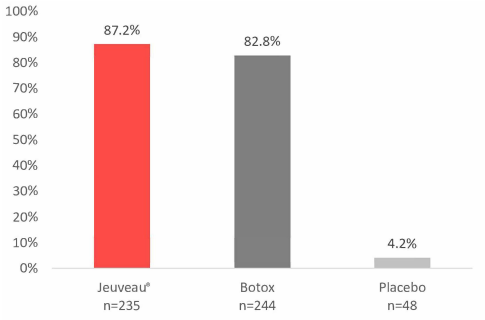
- 4.2% in the placebo group, 95% CI (0.0, 9.8);
- 82.8% in the BOTOX group, 95% CI (78.1, 87.5); and
- 87.2% in the Jeuveau® group, 95% CI (83.0, 91.5).

A confidence interval, or CI, is a range of values in which, statistically, there is a specified level of confidence where the result lies. As an example, in the results above for this Phase III study, the results indicate that there is a 95% level of confidence that the responder rate for placebo was between 0.0% and 9.8%, which we express as: 95% CI (0.0, 9.8).

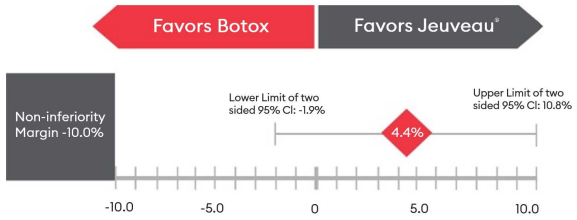
The absolute differences between the treatment groups were:

- 83.1% between Jeuveau® and placebo groups, 95% CI (70.3, 89.4), ($p<0.001$), indicating Jeuveau® was superior to placebo; and
- 4.4% between Jeuveau® and BOTOX groups, 95% CI (-1.9, 10.8), with non-inferiority of Jeuveau® versus BOTOX concluded based on the lower bound of the 95% CI for the absolute difference exceeding -10.0%.

EU Phase III Primary Endpoint - Responder Rates at Maximum Frown on Day 30 (GLS = 0 or 1) by Investigator Assessment



EU Phase III Primary Endpoint - Non-Inferiority, at Maximum Frown on Day 30 by Investigator Assessment



EU Phase III Trial - Select Secondary Endpoints

Measurement	Point in Time	Placebo	Onabot	Prabot
≥1 Improvement GLS at Maximum Frown	Day 2	12.20%	57.00%	54.2%*
≥1 Improvement GLS at Maximum Frown	Day 150	8.30%	34.40%	37.7%*
Subject Satisfaction	Day 30	6.30%	86.60%	91.3%*

*P-Value Placebo vs Jeuveau® <0.001

TRANSPARENCY Safety Evaluations

Safety was studied across all five studies that made up the TRANSPARENCY Clinical Program. Jeuveau® was relatively well tolerated with no drug related serious adverse events, or SAEs. Most adverse events were mild and the labeling information for Jeuveau® lists the most common adverse reactions as headache (9.3%), eyelid ptosis (2.0%), upper respiratory tract infections (3%) and increase white blood cell count (1%).

Evolysse™

Dermal Filler Pipeline

The graphic below provides a summary of the current status of development of the Evolysse™ line of dermal fillers in the United States and European Union and anticipated key milestones. In the United States we are seeking a PMA with the FDA. In the European Union we are seeking a CE mark for the Evolysse™ line of dermal fillers.

Region	Product	Indication	Preclinical	US Clinical Studies	Regulatory Submission/Review	Anticipated Key Date(s)
U.S. EVOLYSSE™ Range	Lift	Nasolabial Folds				• FDA PMA Submission Mid-2024 • Approval 2025
	Smooth					
	Sculpt	Cheek Augmentation				• Approval 2026
	Lips	Lip Augmentation				• Approval 2027
	Eye	Infraorbital Hollows				• Approval 2027

Region	Product	Indication(s)	Preclinical	EU Clinical Studies	Regulatory Submission/Review	Anticipated Key Date(s)
EU EVOLYSSE™ Range	Lift	Nasolabial Folds				• CE Mark anticipated 2H 2024
	Smooth	• Nasolabial Folds • Perioral Lines				• CE Mark anticipated 2H 2024
	Sculpt	Cheek Augmentation				• CE Mark anticipated 2H 2024
	Lips	Lip Augmentation				• CE Mark anticipated 2H 2024

Other Clinical Evaluations

Phase II "Extra-Strength" Jeuveau® Clinical Trial

In November 2021, we announced the initiation of a Phase II clinical trial designed to investigate a higher strength dose of Jeuveau® in the glabellar lines. This planned glabellar line study is a controlled, randomized, prospective, double blind, three-arm trial following patients out to a maximum of 12 months. Three-arms will be enrolled: the currently approved 20 units of BOTOX and 20 units of Jeuveau® compared to 40 units of "extra-strength" Jeuveau®.

In January 2023, we announced positive interim results from the Phase II clinical trial. The interim data analysis of the "extra-strength" formulation of Jeuveau® demonstrated a median duration of at least 26 weeks based on the time for patients to return to their original glabellar line scale score (baseline) and the duration of at least one point improvement on the same scale. The safety results included 33 adverse events, 88% of which rated as mild and 12% of which rated at moderate. There were no severe or serious adverse events observed in the safety results. In June 2023, we announced the successful completion of the Phase II clinical trial and in November 2023, we presented the final results of the "extra-strength" clinical trial. The clinical trial data showed that the "extra-strength" formulation of Jeuveau® had a similar safety profile to the controls and demonstrated a median duration of at least 26 weeks based on the time for patients to return to baseline after treatment.

Manufacturing

Jeuveau®

Daewoong Pharmaceuticals Co. Ltd., or Daewoong, manufactures and supplies Jeuveau® to us. Daewoong has over 70 years of experience manufacturing pharmaceutical products and is one of the largest pharmaceutical companies in South Korea. Daewoong constructed a facility in South Korea where Jeuveau® is produced. We believe this facility will be sufficient to meet demand for Jeuveau® for the foreseeable future. The Daewoong facility has been cleared by regulators in each jurisdiction in which Jeuveau® is approved and is subject to continuous inspections from these regulators.

Evolysse™

Symatese Aesthetics S.A.S., or Symatese, manufactures and supplies Evolysse™ for us. Symatese has 25 years of experience in manufacturing biomaterials and over a decade of experience manufacturing hyaluronic-acid based dermal fillers which have been approved in the United States, Europe and elsewhere. Symatese maintains a manufacturing facility outside Lyon, France for the production of Evolysse™. We believe this facility will be sufficient to meet the foreseeable demand for

Evolysse™. In connection with regulatory approvals for the United States and Europe, the Symatese facility will be inspected by regulators in those countries.

Daewoong License and Supply Agreement

In 2013, we entered into the Daewoong Agreement, which has been amended from time to time, pursuant to which Daewoong agreed to manufacture and supply Jeuveau® and grant us an exclusive license to import, distribute, promote, market, develop, offer for sale and otherwise commercialize and exploit Jeuveau® for aesthetic indications in the United States, EU, United Kingdom, members of the European Economic Area, Switzerland, Canada, Australia, New Zealand, and South Africa, as well as co-exclusive distribution rights with Daewoong in Japan. Under the Daewoong Agreement, we are required to make certain minimum annual purchases in order to maintain the exclusivity of the license. If we fail to meet these purchase requirements, Daewoong may, at its option, convert the exclusive license for such covered territory to a non-exclusive license. These minimum purchase obligations are contingent upon the occurrence of future events, including receipt of governmental approvals and our future market share in various jurisdictions. Under the Daewoong Agreement, Daewoong is responsible for all costs related to the manufacturing of Jeuveau®, including costs related to the operation and upkeep of its manufacturing facility, and we are responsible for all costs related to obtaining regulatory approval, including clinical expenses, and commercialization of Jeuveau®.

The initial term of the Daewoong Agreement expired September 30, 2023, and automatically renewed for an additional three-year term. The Daewoong Agreement automatically renews for unlimited additional three-year terms if we meet certain performance requirements. We expect to meet these performance requirements. The Daewoong Agreement will terminate (A) upon written notice by either us or Daewoong upon a continuing default that remains uncured within 90 days (or 30 days for a payment default) by the other party, or (B) without notice upon the bankruptcy or insolvency of our company.

Under the Daewoong Agreement, we are the sole owner of any marketing authorization and clinical trial results we pursue in a covered territory. However, if we do not renew the Daewoong Agreement or upon termination of the Daewoong Agreement due to a breach by us, we are obligated to transfer our rights to Daewoong.

Symatese License, Supply and Distribution Agreements

On May 9, 2023, we entered into a License, Supply and Distribution Agreement (the "Symatese U.S. Agreement") with Symatese, pursuant to which Symatese granted us an exclusive right to commercialize and distribute its five Evolysse™ dermal filler product candidates, including the products referred to as: (i) Lift; (ii) Smooth; (iii) Sculpt; (iv) Lips; and (v) Eye in the United States for use in the aesthetics and dermatological field of use. We also have the right of first negotiation to obtain a license from Symatese to commercialize and distribute any new products developed using the same technology as the Evolysse™ line of dermal fillers.

On December 20, 2023, we entered into a License, Supply and Distribution Agreement (the "Symatese Europe Agreement"), pursuant to which Symatese granted to us an exclusive right to commercialize and distribute four dermal filler product candidates, which are referred to as: (i) Lift; (ii) Smooth; (iii) Sculpt and (iv) Lips (collectively, the "European Filler Products") in 50 countries in Europe for use in the aesthetics and dermatological fields. We also have the right of first negotiation to obtain a license from Symatese to commercialize and distribute certain other new products developed using the same technology as the European Filler Products. Regulatory approval has been received for the Evolysse™ nasolabial fold product in Europe and the remaining three products are anticipated to be approved in late 2024. United States regulatory approval remains on track to begin in 2025. We plan to commence commercialization of the approved product lines in 2025 with subsequent product launches in 2026 and 2027.

Under both Symatese Agreements we are required to make certain minimum purchases in order to maintain the exclusivity of our licenses. Both agreements have a 15-year term from the first product that is approved under the agreement and contain unlimited automatic renewal terms of 5-years thereafter. The agreements can be terminated based upon a material breach that remains uncured or failure to meet the minimum purchase requirements. Under the agreements, Symatese is responsible for all costs related to the manufacturing of Evolysse™ including costs related to the operation and upkeep of its manufacturing facility, and we are responsible for certain costs related to the registration of the Lips and Eye Products with the FDA and all costs related to commercialization of Evolysse™. Under both agreements, Symatese will be responsible for and the sole owner of any marketing authorization and clinical trial results for the dermal filler products.

Impact of Settlement Agreements

In February 2021, we settled litigation claims related to a complaint against us filed by Allergan, Inc. and Allergan Limited (together, "Allergan") and Medytox, Inc. ("Medytox") in the U.S. International Trade Commission related to Jeuveau® (the "ITC Action") and certain related matters by entering into a Settlement and License Agreement with Medytox and Allergan, which we refer to as the U.S. Settlement Agreement, and another Settlement and License Agreement with Medytox, which we refer to as the Medytox Settlement Agreement. We refer to the U.S. Settlement Agreement and the Medytox Settlement Agreement collectively as the Medytox/Allergan Settlement Agreements.

We have completed all obligations to Allergan and the majority of our obligations to Medytox under the Medytox/Allergan Settlement Agreements. These completed obligations consisted of (i) cash payments totaling $35.0 million to Allergan and Medytox, of which we paid $15.0 million in the third quarter of 2021, $15.0 million in the first quarter of 2022, and $5.0 million in the first quarter of 2023, (ii) royalty payments to Allergan and Medytox on the sale of Jeuveau®, based on a certain dollar amount per vial sold of Licensed Products by or on our behalf in the United States, from December 16, 2020 through September 16, 2022, (iii) royalty payments to Medytox, from December 16, 2020 to September 16, 2022, of a low-double digit percentage of net sales of Jeuveau® sold by us or on our behalf in territories we have licensed outside the United States, and (iv) the issuance of 6,762,652 shares of our common stock to Medytox.

Our remaining obligation is to pay Medytox a mid-single digit royalty percentage on net sales of Jeuveau® in the United States and all territories we have licensed outside the United States through September 16, 2032.

Competition

Aesthetic Neurotoxins

There are only six approved injectable botulinum toxin type A neurotoxins in the United States for aesthetic indications, including Jeuveau®. There are also other injectable botulinum toxin type A products being developed for the U.S. market. We believe the primary competing products in this market include BOTOX, Dysport, Xeomin, Daxxify and Letybo:

- BOTOX, marketed by AbbVie, received FDA approval in 2002 for glabellar lines.
- Dysport, marketed by Galderma S.A., or Galderma, received FDA approval in 2009 for glabellar lines.
- Xeomin, marketed by Merz Pharma GmbH & Co., or Merz, received FDA approval in 2011 for glabellar lines.
- Daxxify, marketed by Revance Therapeutics, Inc., or Revance, received FDA approval in late 2022 for glabellar lines.
- Letybo, marketed by Hugel, Inc., or Hugel, received FDA approval in February 2024 for glabellar lines.

Additionally, Medytox, Inc. and Galderma S.A. have each submitted a BLA to the FDA for injectable botulinum toxin type A neurotoxins. If any one of these BLAs is approved, we expect the competition in the U.S. injectable botulinum toxin market to further increase. Most of our primary competitors are also approved to sell injectable botulinum toxin type A neurotoxins in Europe and other markets that we may enter.

Dermal Fillers

There are a number of dermal fillers currently offered in the United States. The major competitive products in the United States are:

Hyaluronic Acid Based Dermal Fillers

- Juvéderm line of fillers, marketed by AbbVie.
- Restylane line of fillers, which are marketed by Galderma.
- Belotero line of fillers marketed by Merz.
- RHA Line of fillers manufactured by Teoxane S.A. and marketed by Revance.
- Revanesse line of fillers marketed by Prollenium Medical Technologies, Inc.

Non-Hyaluronic Acid Dermal Fillers

- Sculptra Aesthetic marketed by Galderma.
- RADIESSE line of fillers marketed by Merz.

A number of companies are currently developing dermal fillers for the United States market. Outside of the United States there are an even greater number of competitors with dermal filler products available.

Other Medical Aesthetics Products

In addition to the companies commercializing and developing neurotoxins and dermal fillers, there are other products and treatments that may indirectly compete with our products and product candidates, including but not limited to laser treatments, brow lifts, chemical peels, medical grade and mass-market skin care products, fat injections and removal and cold therapy. We compete with various companies that have products in these medical aesthetic categories. Among these companies are AbbVie, Sanofi, Revance, Sun Pharma, Bausch Health Companies, Mentor Worldwide LLC, a division of Johnson & Johnson, Merz, Galderma, and Skinceuticals, a division of L'Oreal SA.

Seasonality

We have not observed significant seasonality in our net revenues in recent years. However, we are aware that sales of aesthetic neurotoxins are historically subject to the impact of traditional seasonality in the medical aesthetic market, which generally experiences higher revenue in the second and fourth calendar quarters as compared to the first and third calendar quarters.

Government Regulation in the United States

We operate in a highly regulated industry that is subject to significant federal, state, local and foreign regulation. Our business has been, and will continue to be, subject to a variety of laws including the Federal Food Drug and Cosmetic Act, or FFDCA, and the Public Health Service Act, or the PHS Act, among others. Biologics, such as our neurotoxin product, and medical devices, such as our dermal filler product candidates, are subject to regulation under the FFDCA and PHS Act.

In the United States, biopharmaceutical products and medical devices are subject to extensive regulation by the FDA. The FFDCA, PHS Act, and other federal and state statutes and regulations, govern, among other things, the research, development, testing, manufacture, storage, recordkeeping, regulatory approval, license or clearance, labeling, promotion and marketing, distribution, post-approval monitoring and reporting, sampling, and import and export of these products. Failure to comply with applicable U.S. requirements may subject a company to a variety of administrative or judicial sanctions, such as the FDA's refusal to approve pending license or marketing applications, warning letters and other enforcement actions, product recalls, product seizures, total or partial suspension of production or distribution, injunctions, fines, civil penalties and criminal prosecution.

FDA Marketing Approval of Biologics

The process required by the FDA before a biological product may be marketed in the United States generally involves the following:

- completion of nonclinical laboratory tests and animal studies according to good laboratory practices, or GLPs, and applicable requirements for the humane use of laboratory animals or other applicable regulations;
- submission to the FDA of an investigative new drug application, or IND, which must become effective before human clinical trials may begin;
- performance of adequate and well-controlled human clinical trials to establish the safety and efficacy of the proposed biological product for its intended use, according to the FDA's regulations, commonly referred to as good clinical practices, or GCPs, and any additional requirements including those for the protection of human research subjects and their health and other personal information;
- submission to the FDA of a BLA for marketing approval that includes substantive evidence of safety;
- purity and potency from results of nonclinical testing and clinical trials;

- satisfactory completion of an FDA inspection of the manufacturing facility or facilities where the biological product is produced to assess compliance with cGMP, to assure that the facilities, methods and controls are adequate to preserve the biological product's identity, strength, quality and purity and, if applicable, the FDA's current good tissue practices for the use of human cellular and tissue products;
- potential FDA audits of the nonclinical study and clinical trial sites that generated the data in support of the BLA; and
- FDA review and approval of the BLA.

Post-Approval Requirements for Biologics in the United States

Once a BLA is approved, a product is subject to certain post-approval requirements. For instance, the FDA closely regulates the post-approval marketing and promotion of biologics, including standards and regulations, off-label promotion, industry-sponsored scientific and educational activities and promotional activities involving the internet. Biologics may be marketed only for the approved indications and in accordance with the provisions of the approved labeling. Adverse event reporting and submission of periodic reports is required following the FDA approval of a BLA. The FDA also may require post-marketing testing, known as Phase IV testing, Risk Evaluation and Mitigation Strategies, or REMS, and surveillance to monitor the effects of an approved product or place conditions on an approval that could restrict the distribution or use of the product. In addition, quality control as well as product manufacturing, packaging and labeling procedures must continue to conform to cGMP after approval. Manufacturers and certain of their subcontractors are required to register their establishments with the FDA and certain state agencies, and are subject to periodic unannounced inspections by the FDA during which the agency inspects manufacturing facilities to assess compliance with applicable regulations such as cGMP and the Quality System Regulation. Accordingly, manufacturers must continue to expend time, money and effort in the areas of production and quality control to maintain compliance with cGMP. Regulatory authorities may withdraw product approvals or request product recalls if a company fails to comply with regulatory standards, if it encounters problems following initial marketing, or if previously unrecognized problems are subsequently discovered.

U.S. Medical Device Regulation

The FDA regulates the sale and distribution in interstate commerce of medical devices under FFDCA. Devices must undergo premarket review by the FDA prior to commercialization unless the device is of a type exempted from such review by statute, regulation, or pursuant to the FDA's exercise of enforcement discretion. Pursuant to the FFDCA, medical devices are subject to varying degrees of regulatory control and are classified in one of three classes depending on the controls the FDA determines necessary to reasonably ensure their safety and effectiveness.

Class I devices are those for which reasonable assurance of safety and effectiveness can be provided by adherence to the FDA's general controls for medical devices, which include applicable portions of the FDA's Quality System Regulation, or QSR, facility registration and product listing, reporting of adverse medical events and appropriate, truthful and non-misleading labeling, advertising and promotional materials. Many Class I devices are exempt from premarket regulation; however, some Class I devices require premarket clearance by the FDA through the 510(k) premarket notification process described below.

Class II devices are subject to the FDA's general controls, and any other special controls, such as performance standards, post-market surveillance, and the FDA guidelines, deemed necessary by the FDA to provide reasonable assurance of the devices' safety and effectiveness. Premarket review and clearance by the FDA for Class II devices are accomplished through the 510(k) premarket notification procedure, although some Class II devices are exempt from the 510(k) requirements. Premarket notifications are subject to user fees, unless a specific exemption applies. To obtain 510(k) clearance, a manufacturer must submit a premarket notification demonstrating that the proposed device is "substantially equivalent" to a predicate device, which is a previously cleared 510(k) device or a pre-amendment device that was in commercial distribution before May 28, 1976, for which the FDA has not yet called for the submission of a PMA application. In determining substantial equivalence, the FDA assesses whether the proposed device has the same intended use as the predicate device, and the same technological characteristics as the predicate device or different technological characteristics but the information submitted in the premarket notification demonstrates the device is as safe and effective as a legally marketed device and does not raise different questions of safety and effectiveness than the predicate device. The FDA may request additional information, including clinical data. Under the FFDCA, a manufacturer submits a premarket notification 90 days before introducing a device into interstate commerce, but the FDA's review of the premarket notification can take significantly longer. If the FDA determines that the device is substantially equivalent to the predicate device(s), the subject device may be

marketed. However, if the FDA makes a not substantially equivalent determination, then the device would be regulated as a Class III device, discussed below. If a manufacturer obtains a 510(k) clearance for its device and then makes a modification could significantly affect the device's safety or effectiveness, a new premarket notification must be submitted to the FDA.

Class III devices are deemed by the FDA to pose the greatest risk, such as those for which reasonable assurance of the device's safety and effectiveness cannot be assured solely by the general controls and special controls described above and that are life-sustaining or life-supporting. Some pre-amendment Class III devices for which the FDA has not yet required a PMA require the FDA's clearance of a premarket notification in order to be marketed.

However, most Class III devices are required to undergo the PMA process in which the manufacturer must demonstrate reasonable assurance of the safety and effectiveness of the device to the FDA's satisfaction. A PMA application must provide valid scientific evidence, typically extensive preclinical and clinical trial data and information about the device and its components regarding, among other things, device design, manufacturing and labeling. PMA applications (and supplemental PMA applications) are subject to significantly higher user fees than are 510(k) premarket notifications. Some PMA applications are exempt from a user fee, for example a small business's first PMA.

After a PMA application is submitted and found to be sufficiently complete, the FDA begins an in-depth review of the submitted information. During this review period, the FDA may request additional information or clarification of information already provided. The FDA also may convene an advisory panel of outside experts to review and evaluate the application and provide recommendations to the FDA as to the approvability of the device. In addition, the FDA generally will conduct a pre-approval inspection of the manufacturing facility to ensure compliance with the QSR. The FDA can delay, limit or deny approval of a PMA application for many reasons.

If the FDA's evaluations of both the PMA application and the manufacturing facilities are favorable, the FDA will either issue an approval letter authorizing commercial marketing or an approvable letter that usually contains a number of conditions that must be met in order to secure final approval. If the FDA's evaluations are not favorable, the FDA will deny approval of the PMA or issue a not approvable letter. The agency may determine that additional clinical trials are necessary, in which case the PMA approval may be delayed while the trials are conducted and the data acquired are submitted in an amendment to the PMA. Even with additional trials, the FDA may not approve the PMA application. The PMA process, including the gathering of clinical and nonclinical data and the submission to and review by the FDA, can take several years, and the process can be expensive and uncertain.

Even if the FDA approves a PMA, the agency can impose post approval conditions that it believes necessary to ensure the safety and effectiveness of the device, including, among other things, restrictions on labeling, promotion, sale and distribution. After approval of a PMA, a new PMA or PMA supplement may be required for a modification to the device, its labeling or its manufacturing process.

A clinical trial may be required in support of a 510(k) submission and generally is required for a PMA application. These trials generally require an Investigational Device Exemption, or IDE, approved by the FDA for a specified number of patients, unless the product is exempt from IDE requirements or deemed a non-significant risk device eligible for more abbreviated IDE requirements. The IDE application must be supported by appropriate data, such as animal and laboratory testing results, showing that it is safe to test the device in humans and that the testing protocol is scientifically sound. Clinical trials may begin 30 days after the submission of the IDE application unless the FDA disapproves the IDE or places the trial on clinical hold. Additionally, clinical trials may not begin until their protocol and informed consent receive approval from the appropriate institutional review boards, or IRBs, at the clinical trial sites. All clinical trials must be conducted in accordance with the FDA's IDE regulations.

Even if regulatory approval or clearance of a device is granted, the FDA may impose limitations on the uses and indications for which the device may be labeled and promoted, and the device remains subject to significant regulatory requirements. Medical devices may be marketed only for the uses and indications for which they are cleared or approved. Device manufacturers must register their facilities and list their devices with the FDA. A device manufacturer's manufacturing processes and those of some of its suppliers are required to comply with the applicable portions of the QSR, which covers quality management, design, production and process controls, quality assurance, labeling, packaging, shipping, and complaint handling. Device manufacturers must submit to the FDA medical device reports for deaths, serious injuries, and certain malfunctions and report certain field corrections and product recalls or removals. Some manufacturers also may be subject to post-market surveillance regulations. Facility records and manufacturing processes are subject to periodic unscheduled inspections by the FDA.

Failure to comply with applicable regulatory requirements can result in enforcement action by the FDA, which may include any of the following sanctions: public warning letters, fines, injunctions, civil or criminal penalties, recall or seizure of products, operating restrictions, partial suspension or total shutdown of production, delays in or denial of 510(k) clearance or PMA applications for new products, challenges to existing 510(k) clearances or PMA applications, and a recommendation by the FDA to disallow a device manufacturer from entering into government contracts. The FDA also has the authority to request repair, replacement or refund of the cost of any device manufactured or distributed. In the event that a supplier fails to maintain compliance with a device manufacturer's quality requirements, the manufacturer may have to qualify a new supplier and could experience manufacturing delays as a result.

Other Regulation of the Healthcare Industry

While we do not currently have plans for our neurotoxin product or our dermal filler product candidate to be covered by insurance or government reimbursement programs, if we were to offer reimbursable products, we could be subject to federal laws and regulations covering reimbursable products, such as the Anti-Kickback Statute, Stark Law and Physician Payment Sunshine Act. These laws that may affect our ability to operate include, but are not limited to:

- The Anti-Kickback Statute, which prohibit persons from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce either the referral of an individual, or furnishing or arranging for a good or service, for which payment may be made under a federal healthcare program;
- The Federal False Claims Act which imposes civil and criminal liability on individuals and entities who submit, or cause to be submitted, false or fraudulent claims for payment to the government;
- The Federal Civil Monetary Penalties Law, which prohibits, among other things, offering or transferring remuneration to a federal healthcare beneficiary that a person knows or should know is likely to influence the beneficiary's decision to order or receive items or services reimbursable by the government from a particular provider or supplier;
- The Foreign Corrupt Practices Act ("FCPA"), which prohibits certain payments made to foreign government officials;
- The Federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, which created new federal criminal statutes that prohibit knowingly and willfully executing, or attempting to execute, a scheme to defraud or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any healthcare benefit program, including private third-party payors and knowingly and willfully falsifying, concealing or covering up by trick, scheme or device a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of or payment for healthcare benefits, items or services relating to healthcare matters;
- The Federal Physician Payments Sunshine Act, and its implementing regulations, which require that certain manufacturers of drugs, medical devices, biologics, and medical supplies for which payment is available under Medicare, Medicaid, or the Children's Health Insurance Program (with certain exceptions) to report to the CMS information related to certain payments or other transfers of value made or distributed to physicians, which is defined broadly to include other healthcare providers, teaching hospitals, and ownership and investment interests held by physicians and their immediate family members; and
- State and foreign law equivalents of the foregoing and state laws regarding pharmaceutical company marketing compliance, reporting and disclosure obligations.

If our operations are found to be in violation of any of these laws, regulations, rules or policies or any other law or governmental regulation, or if interpretations of the foregoing change, we may be subject to civil and criminal penalties, damages, fines and the curtailment or restructuring of our operations.

Government Regulation in Europe

EU Regulation of Biologics

In the European Economic Area, or EEA (which is composed of the 27 Member States of the EU plus Norway, Iceland and Liechtenstein), medicinal products can only be commercialized after obtaining a Marketing Authorization, or MA.

There are two types of MAs:

- The Community MA, which is issued by the European Commission through the Centralized Procedure, based on the opinion of the Committee for Medicinal Products for Human Use, or CHMP, of the EMA and which is valid throughout the entire territory of the EEA. The Centralized Procedure is mandatory for certain types of products, such as biotechnology medicinal products, orphan medicinal products, and medicinal products indicated for the treatment of AIDS, cancer, neurodegenerative disorders, diabetes, auto-immune and viral diseases. The Centralized Procedure is optional for products containing a new active substance not yet authorized in the EEA, or for products that constitute a significant therapeutic, scientific or technical innovation or which are in the interest of public health in the EU.

- National MAs, which are issued by the competent authorities of the Member States of the EEA and only cover their respective territory, are available for products not falling within the mandatory scope of the Centralized Procedure.

Because we are a biotechnology medicinal products company, we are eligible for a Community MA under the Centralized Procedure.

Under the above described procedures, before granting the MA, the EMA or the competent authorities of the Member States of the EEA make an assessment of the risk-benefit balance of the product on the basis of scientific criteria concerning its quality, safety and efficacy.

EU Regulation of Medical Devices

In the European Union, medical devices must be CE marked in order to be marketed. CE marking a device involves working with a Notified Body (or in some cases, for the lowest risk class devices, the manufacturer can self-certify) to demonstrate that the device meets all applicable requirements of the EU medical devices legislation and that the Quality Management System is compliant. The EU's Medical Device Directive, or MDD, has been replaced by the EU Medical Device Regulation, or EU MDR, enacted in 2017, and which became effective on May 26, 2021. EU MDR requirements will phase in on a product-by-product basis as certifications issued under the MDD lapse and will require all products to undergo review and approval under these new regulations. The timing for this transition has been extended from no later than May 26, 2024 to December 2027 or December 2028, depending on device classification, provided certain conditions are met with regard to the new regulation, one of which being that all submissions are filed by May 26, 2024. The EU MDR will generally require increased levels of clinical data as compared to MDD requirements, and all product technical data must comply to the latest standards regardless of when the product was initially developed.

UK Regulation of Biologics and Medical Devices

The UK formally left the EU on January 31, 2020. The EU and the UK have concluded a trade and cooperation agreement, or TCA, which was provisionally applicable since January 1, 2021 and has been formally applicable since May 1, 2021. The TCA includes specific provisions concerning pharmaceuticals, which include the mutual recognition of GMP, inspections of manufacturing facilities for medicinal products and GMP documents issued, but does not foresee wholesale mutual recognition of UK and EU pharmaceutical regulations. At present, Great Britain has implemented EU legislation on the marketing, promotion and sale of medicinal products through the Human Medicines Regulations 2012 (as amended) (under the Northern Ireland Protocol, the EU regulatory framework will continue to apply in Northern Ireland). The regulatory regime in Great Britain therefore currently aligns with EU regulations in many ways, however it is possible that these regimes will diverge more significantly in the future now that Great Britain's regulatory system is independent from the EU.

In respect of medical devices, since the end of the Brexit transitional period on January 1, 2021, new regulations require medical devices to be registered with the Medicines and Healthcare products Regulatory Agency, or MHRA (the UK medicines and medical devices regulator) before being placed on the Great Britain market. The MHRA will only register devices where the manufacturer or their United Kingdom Responsible Person has a registered place of business in the United Kingdom. By July 1, 2023, in Great Britain, all medical devices will require a UKCA (UK Conformity Assessed) mark but CE marks issued by EU notified bodies will remain valid until December 2024. Manufacturers may choose to use the UKCA mark on a voluntary basis until June 30, 2023. UCKA marking will, however, not be recognized in the EU. The rules for placing medical devices on the market in Northern Ireland, which is part of the United Kingdom, differ from those in the rest of the United Kingdom.

Regulation Outside of the United States and Europe

In addition to regulations in the United States and EU, we may be subject to a variety of regulations in other jurisdictions governing manufacturing, clinical trials, commercial sales and distribution of our future products. Whether or not we obtain FDA approval or MA approval for a product candidate, we must obtain approval of the product by the comparable regulatory authorities of foreign countries before commencing clinical trials or marketing in those countries. The approval process varies from country to country, and the time may be longer or shorter than that required for FDA approval or MA approval. The requirements governing the conduct of clinical trials, product licensing, pricing and reimbursement vary greatly from country to country.

Data Privacy and Security Laws and Regulations

We are also subject to data privacy and security regulation by the federal government, states and non-U.S. jurisdictions in which we conduct our business. For example, HIPAA, as amended by the Health Information Technology and Clinical Health Act, or HITECH, and its implementing regulations, imposes certain requirements relating to the privacy, security and transmission of individually identifiable health information. Among other things, HITECH makes HIPAA's privacy and security standards directly applicable to "business associates," those independent contractors or agents of covered entities that create, receive, maintain, transmit or obtain protected health information in connection with providing a service on behalf of a covered entity. HITECH also increased the civil and criminal penalties that may be imposed against covered entities, business associates and possibly other persons, and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce the federal HIPAA laws and seek attorney's fees and costs associated with pursuing federal civil actions. In addition, state and non-U.S. laws, including the General Data Protection Regulation adopted by the EU, govern the privacy and security of health and other personal information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts.

There are numerous other laws and legislative and regulatory initiatives at the federal and state levels addressing privacy and security concerns. We also remain subject to federal or state privacy-related laws that are more restrictive than the privacy regulations issued under HIPAA. These laws vary and could impose additional penalties. For example, the Federal Trade Commission uses its consumer protection authority to initiate enforcement actions in response to alleged privacy and data security violations. Further, certain states have proposed or enacted legislation that will create new data privacy and security obligations for certain entities, such as the California Consumer Privacy Act, or CCPA, which came into effect January 1, 2020 and was recently amended and expanded by the California Privacy Rights Act, or the CRPA, passed on November 3, 2020. The CCPA and CPRA, among other things, create new data privacy obligations for covered companies and provides new privacy rights to California residents, including the right to opt out of certain disclosures of their information. The CCPA also created a private right of action with statutory damages for certain data breaches, thereby potentially increasing risks associated with a data breach. It remains unclear what, if any, additional modifications will be made to the CPRA by the California legislature or how it will be interpreted. Therefore, the effects of the CCPA and CPRA are significant and will likely require us to modify our data processing practices and may cause us to incur substantial costs and expenses to comply, particularly given our base of operations in California.

Environmental Regulation

We are subject to numerous foreign, federal, state, and local environmental, health and safety laws and regulations relating to, among other matters, safe working conditions, manufacturing practices, fire hazard control, product stewardship and end-of-life handling or disposition of products, and environmental protection, including those governing the generation, storage, handling, use, transportation and disposal of hazardous or potentially hazardous substances and biological materials. We believe that we have been and remain in substantial compliance with all applicable environmental laws and regulations and that we currently have no liabilities under such environmental requirements that could reasonably be expected to materially harm our business, results of operations or financial condition.

Human Capital Resources

As of December 31, 2023, we had 273 employees, all of whom were full-time in the United States, Canada and Europe, and 63% of our full-time employees were women. None of our employees are represented by labor unions or covered by collective bargaining agreements, and we have never experienced any work stoppage. We believe we have good relations with our employees.

Attracting and Developing Talent

We believe that our employees are our greatest asset, and our future success largely depends upon our continued ability to attract and retain high caliber talent. Talent management is critical to our ability to execute our long-term growth strategy. To facilitate talent attraction and retention, we strive to make our company a rewarding workplace. We provide opportunities for our employees to grow and develop in their careers, through professional development, leadership coaching, formal and informal training opportunities, and an annual performance review process to encourage ongoing growth and development. These opportunities are supported by strong total rewards packages, and by programs that build connections among our employees.

Compensation and Benefits

We are committed to a Total Rewards strategy that complements our mission, culture, and business objectives. Our goal is to provide competitive compensation and benefit programs that drive a high level of employee satisfaction and allow us to attract and retain the best and brightest talent. We want employees to feel at their best and be at their best so they can make a profound impact on our culture, community and business results. Compensation and benefits are two of the main pillars of our total rewards package. We provide total cash compensation (base pay and bonus/commission) that is highly competitive in the labor markets in which we compete for talent. We also ensure that pay is internally equitable by differentiating rewards based on employee performance and impact to the company. This empowers employees to take ownership over their career and development trajectory. Long-term incentives in the form of equity (Stock Options and RSUs) provide a sense of ownership in the company's long-term success and help retain talent that can make a difference. We also provide a robust and highly competitive benefits package to ensure employees' personal and family needs are met whether it's health (medical/dental/vision), wealth and retirement (401k with competitive employer match), or well-being (flexible PTO, paid leave, wellness coaching). We want employees to know that we are investing in their success so they can bring the best version of themselves each day.

Health, Safety and Wellness

We are committed to the health, safety and wellness of our employees. We provide our employees with access to a variety of health and wellness programs, including programs that support physical and mental health and well-being by providing tools, resources, and coaching to help them improve or maintain a healthy lifestyle. We maintain a healthy workplace by encouraging employees to work remotely if feeling ill and offering a hybrid work schedule.

Inclusion and Belonging

We promote an inclusive culture that values equity, opportunity, and respect. In 2019, we formed an employee-led Culture & Belonging Council. This council has a vision to create and foster a culture that reflects diversity and inclusion so that each of our employees has a sense of belonging as their authentic, unique selves. In support of our inclusive culture, we provide a variety of diversity, equity, and inclusion trainings, including unconscious bias training for employees and managers to strengthen employee awareness and strive to recruit a diverse talent pool across all levels of the organization. We are an equal opportunity employer and believe that diverse and differentiated views contribute to making us a better organization. It is our conscious effort to support and promote equal opportunity for all our employees within the workplace.

Our company has been built on the belief and commitment of evolving together. This applies not only to our employees and customers, but also to the communities in which we operate. We offer paid volunteer time off to our employees and encourage our team of employees to become involved in their communities, lending their voluntary support to programs that positively impact the quality of life within these communities.

Corporate Information

Our principal executive offices are located at 520 Newport Center Drive, Suite 1200, Newport Beach, California 92660, and our telephone number is (949) 284-4555. Our website address is www.evolus.com. We do not incorporate the information on or accessible through our website into this Annual Report on Form 10-K, and you should not consider any information on, or that can be accessed through, our website a part of this Annual Report on Form 10-K or any other filing we make with the SEC.

Available Information

We make available, free of charge, on our website at www.evolus.com our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and any amendments to such reports, as soon as reasonably practicable after such reports are electronically filed with, or furnished to, the SEC. All such reports are also available free of charge via EDGAR

through the SEC website at www.sec.gov. We do not incorporate the information on or accessible through these websites into this Annual Report on Form 10-K, and you should not consider any information on, or that can be accessed through, these websites a part of this Annual Report on Form 10-K or any other filing we make with the SEC.

Item 1A. Risk Factors.

An investment in our company involves a high degree of risk. You should carefully consider the risks and uncertainties described below, together with all the other information in this Annual Report on Form 10-K, including Item 7"Management's Discussion and Analysis of Financial Condition and Results of Operations" and the consolidated financial statements and the notes thereto included in Item 8 "Consolidated Financial Statements and Supplementary Data." If any of the following risks actually occurs, our business, reputation, financial condition, results of operations, revenue, and future prospects could be seriously harmed. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that adversely affect our business. Unless otherwise indicated, references to our business being seriously harmed in these risk factors will include harm to our business, reputation, financial condition, results of operations, revenue and future prospects. In that event, the market price of our common stock could decline, and you could lose part or all of your investment.

Risks Related to Our Business and Strategy

We currently depend entirely on the successful commercialization of our only commercially available product, Jeuveau®. If we are unable to successfully market and sell Jeuveau®, we may not generate sufficient revenue to continue our business.

We currently have only one commercially available product, Jeuveau®, and our business presently depends entirely on our ability to successfully market and sell it in a timely manner. We commercially launched in the United States in May 2019 and through a distribution partner in Canada in October 2019. We commercially launched in Europe in September 2022, and as such, we have a limited history of generating revenue for Jeuveau® in those markets. Our near-term prospects, including our ability to generate revenue, as well as our future growth, depend entirely on the successful commercialization of Jeuveau®. The commercial success of Jeuveau® will depend on a number of factors, including our ability to successfully commercialize Jeuveau®, whether alone or in collaboration with others, including our ability to hire, retain and train sales representatives in the United States. Our ability to market and sell Jeuveau® is also dependent on the willingness of consumers to pay for Jeuveau® relative to other discretionary items, especially during economically challenging times. Additional factors necessary for the successful commercialization of Jeuveau® include the availability, perceived advantages, relative cost, relative safety of Jeuveau® and relative efficacy of competing products, the timing of new product introductions by our competitors, and the sales and marketing tactics of our competitors, including bundling of multiple products, in response to our launch of Jeuveau®. Each of these factors may vary on a country by country basis as we expand our operations.

If we do not achieve one or more of these factors, many of which are beyond our control, in a timely manner or at all, we could experience significant issues commercializing Jeuveau®. Further, we may never be able to successfully market and sell Jeuveau® or any future product candidates. In addition, our experience as a commercial company is limited. Accordingly, we may not be able to generate sufficient revenue through the sale of Jeuveau® or any future product candidates to continue our business.

We have a limited operating history and have incurred significant losses since our inception and anticipate that we may incur losses in the future. We have only one product and limited commercial sales, which, together with our limited operating history, makes it difficult to assess our future viability.

We are a global performance beauty company with a limited operating history. To date, we have invested substantially all of our efforts and financial resources in the clinical development, regulatory approval, and commercial launch of Jeuveau®, which is currently our only commercially available product. We began selling Jeuveau® in the United States in May 2019 and through a distribution partner in Canada in October 2019. We began selling Jeuveau® in Europe in September 2022 and, as such, have a limited history of generating revenue in those markets. We have incurred losses in each year since our inception in 2012. We have a limited operating history upon which you can evaluate our business and prospects. Consequently, any predictions about our future success, performance or viability may not be as accurate as they could be if we had a longer operating history or greater experience commercializing a product. In addition, we have limited experience and have not yet demonstrated an ability to successfully overcome many of the risks and uncertainties frequently encountered by companies in the medical aesthetics field. We continue to incur significant expenses related to the commercialization of Jeuveau®. We recorded net losses of $61.7 million and $74.4 million for the years ended December 31, 2023 and 2022, respectively. We had an accumulated deficit as of December 31, 2023 of $559.0 million. Our ability to achieve revenue and profitability is dependent on our ability to successfully market and sell Jeuveau®. Even if we achieve profitability in the future, we may not

be able to sustain profitability in subsequent periods. Our prior losses, combined with expected future losses, may adversely affect the market price of our common stock and, if needed, our ability to raise capital to continue operations.

We are reliant on Symatese to achieve regulatory approval for the Evolysse™ product line in the United States and Europe. Failure to obtain approval or obtain approval on our estimated time frame for the Evolysse™ product line would negatively affect our ability to sell these products.

The FDA and European regulatory processes for medical devices such as Evolysse™ are complex, time-consuming and subject to numerous inherent risks. Before Evolysse™ can be marketed in the United States or Europe, Symatese must obtain regulator approval for the dermal fillers. Regulators must determine that a proposed device is safe and effective for its intended use based, in part, on extensive data, including, but not limited to, technical, pre-clinical, clinical trial, manufacturing and labeling data. In addition, modifications to products that are approved by regulatory agencies generally require approval.

We are substantially dependent on our relationship with Symatese for the regulatory approval process of the Evolysse™ dermal filler product candidates. While we have agreed to share certain costs associated with the regulatory approval process to provide our experience to Symatese, Symatese is ultimately responsible for obtaining regulatory approval of the Evolysse™ product line. If Symatese encounters difficulties or delays in obtaining regulatory approvals for these products, our ability to commercialize and generate revenue from these products could be materially and adversely affected. As a result, our reliance on Symatese for the regulatory approval process exposes us to risks associated with Symatese's ability to successfully navigate the complex regulatory landscape. If we are unable to manage these risks effectively, it could have a material adverse effect on our business, financial condition, and results of operations.

In addition, if Symatese fails to maintain compliance with applicable regulatory requirements or if regulatory authorities impose new requirements, the approval process could be delayed or approvals could be denied. This may result in additional costs, reduced revenue projections, and potential harm to our business, reputation and market position.

We may require additional financing to fund our future operations or execute corporate development activities, and a failure to obtain additional capital when so needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our operations.

We have utilized substantial amounts of cash since our inception in order to conduct clinical development to support regulatory approval and launch of Jeuveau® in the United States, Europe, Canada, and Australia. We expect that we will continue to expend substantial resources for the foreseeable future in order to continue to market and sell Jeuveau® and for the clinical development of Evolysse™ and any additional product candidates we may choose to pursue. While we believe that we currently have adequate capital resources, which consist of cash and cash equivalents and cash generated from operations, to operate our business until our business generates profits and positive cash flow, this belief is based upon certain financial assumptions including net revenue, gross margin, working capital and expense assumptions. If these assumptions are incorrect, or if we experience other risks or uncertainties set forth in this Annual Report on Form 10-K, we may require additional capital to operate our business.

We expect to expend resources furthering the development and continuation of our marketing programs and commercialization infrastructure in connection with commercializing Jeuveau® within and outside of the United States. We have also agreed to reimburse Symatese for certain clinical trial expenses related to the Evolysse™ Lip and Eye products in the United States and for certain regulatory filing fees in Europe. In the long term, our expenditures will include costs associated with the continued commercialization of Jeuveau®, research and development, approval and commercialization of products and any of our future product candidates, including our proposed higher strength dose of Jeuveau® and the Evolysse™ line of dermal fillers, such as research and development, conducting preclinical studies and clinical trials and manufacturing and supplying as well as marketing and selling any products approved for sale. Because the commercialization expenditures needed to meet our sales objectives are highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully market and sell Jeuveau® or, if approved, the Evolysse™ line of dermal fillers. We may in the future, also, acquire other companies or products which may be costly and which may require additional capital to operate. In addition, other unanticipated costs may arise. Accordingly, our actual cash needs may exceed our expectations.

If we were to raise additional capital through marketing and distribution arrangements, or other collaborations, strategic alliances or licensing arrangements with third parties, we may have to relinquish certain valuable rights to our product candidates, technologies, future revenue streams or research programs or grant licenses on terms that may not be favorable to us. If we raise additional capital through public or private equity offerings or offerings of securities convertible into our

equity, the ownership interest of our existing stockholders will be diluted and the terms of any such securities may have a preference over our common stock. Debt financing, receivables financing and royalty financing may also be coupled with an equity component, such as warrants to purchase our capital stock, which could also result in dilution of our existing stockholders' ownership, and such dilution may be material. Additionally, if we raise additional capital through debt financing, we will have increased fixed or variable payment obligations and may be subject to covenants limiting or restricting our ability to take specific actions, such as incurring additional debt or making capital expenditures to meet specified financial ratios, and other operational restrictions, any of which could restrict our ability to market and sell Jeuveau® or any future product candidates or operate as a business and may result in liens being placed on our assets. If we were to default on any of our indebtedness, we could lose such assets.

In addition, the global economy, including the financial and credit markets, has recently experienced significant volatility and disruptions, including severely diminished liquidity and credit availability and rising interest rates. In the event we are unable to raise sufficient capital to fund our commercialization efforts to achieve specified minimum sales targets under the Daewoong Agreement, Symatese U.S. Agreement and the Symatese Europe Agreement, we will lose exclusivity of the license that we have been granted under those respective agreements. In addition, if we are unable to raise additional capital when required or on acceptable terms, we will be required to take actions to address our liquidity needs which may include the following: significantly reduce operating expenses and delay, reduce the scope of or discontinue some of our development programs, commercialization efforts or other aspects of our business plan, out-license intellectual property rights to our product candidates and sell unsecured assets, or a combination of the above. As a result, our ability to achieve profitability or to respond to competitive pressures would be significantly limited and may have a material adverse effect on our business, results of operations, financial condition and/or our ability to fund our scheduled obligations on a timely basis or at all.

If we or our counterparties do not comply with the terms of our settlement agreement with Medytox, we may face litigation or lose our ability to market and sell Jeuveau®, which would materially and adversely affect our ability to carry out our business and our financial condition and ability to continue as a going concern.

Effective February 18, 2021, we entered into a Settlement and License Agreement with Medytox which we refer to as the Medytox Settlement Agreement.

Under the Medytox Settlement Agreement we obtained (i) a license to commercialize, manufacture and to have manufactured for us certain products identified in the Medytox Settlement Agreements, including Jeuveau® (the "Licensed Products"), in the United States and other territories where we license Jeuveau®, (ii) the dismissal of outstanding litigation against us, including the ITC Action, a rescission of the related remedial orders, and the dismissal of a civil case in the Superior Court of California against us, which we refer to together with any claims (including claims brought in Korean courts) with a common nexus of fact as the Medytox/Allergan Actions, and (iii) releases of claims against us for the Medytox/Allergan Actions. Under the agreement, we remain obligated to pay to Medytox a mid-single digit royalty percentage on net sales of Jeuveau® in the United States and all territories we have licensed outside the United States until September 16, 2032. In addition, under the Medytox Settlement Agreement we made certain representations and warranties and agreed to certain customary positive and negative covenants.

In the event we fail to comply with the terms of the Medytox Settlement Agreement, subject to applicable cure periods, Medytox would have the ability to terminate the Medytox Settlement Agreement and thereby cancel the licenses granted to us and re-institute litigation against us. Any litigation may result in remedies against our products, resulting in either an injunction prohibiting our sales, or with respect to our sales, an obligation on our part to pay royalties and/or other forms of compensation to third parties, any of which would materially and adversely affect our ability to generate revenue from Jeuveau®, to carry out our business, and to continue as a going concern.

Additionally, if Medytox fails to comply with the terms of the Medytox Settlement Agreement and comply with the covenants and agreements under the Medytox Settlement Agreement, it could materially and adversely affect our ability to generate revenue from Jeuveau®, to carry out our business, and to continue as a going concern. For example, as required by the Medytox Settlement Agreement, in February 2021 Medytox filed a document with the Korean court that its litigation with Daewoong would not affect our right to have Jeuveau® manufactured by Daewoong or exported to us. If Medytox were to breach the Medytox Settlement Agreement and rescind this filing and the Korean court issued a ruling against Daewoong, our supply of Jeuveau® could be hindered. We would also be required to engage in costly and time-consuming litigation in order to enforce our rights under the Medytox Settlement Agreement.

The terms of the Medytox Settlement Agreement will reduce our profitability until the royalty obligations expire, and may affect the extent of any discounts we may offer to our customers.

As a result of the royalty payments that we are required to pay under the Medytox Settlement Agreement, our profitability has and will be adversely impacted for the period that we are required to pay royalties. We may be able to offset a portion of the loss of profitability by decreasing any discount to customers on Jeuveau® as compared to discounts we provided to customers prior to the Medytox Settlement Agreement. If we reduce discounts for any customers, their volume of purchases may decrease which would have a material and adverse effect on our business and results of operations.

We are subject to risks associated with a public health crisis, including the COVID-19 pandemic and other outbreaks of contagious diseases.

We are subject to risks associated with public health crises, including relating to the COVID-19 pandemic. The COVID-19 pandemic had, and may continue to have, a material adverse effects on our business, financial condition, results of operations and cash flows. Other public health crises, including any future outbreaks of contagious diseases, could have a similar material adverse effect on our business. Financial and operational impacts that we experienced in connection with the COVID-19 pandemic, and may experience as a result of future COVID-19 outbreaks or other public health crises, include:

- a decline in the rates of elective procedures;
- difficulties in enrolling patients in clinical programs;
- changes in the availability of our key personnel;
- temporary closures of our facilities or the facilities of our business partners, customers, third party service providers or other vendors;
- interruptions to our supply chain and distribution channels; and
- downstream economic effects, including disruptions capital or financial markets, increased inflation and rising interest rates.

Depending on the severity of the financial and operational impacts, our business, financial condition, and results of operations may be materially adversely impacted. The extent to which any future public health crises may impact our business, results of operations, and financial condition depends on many factors which are highly uncertain and are difficult to predict. These factors include, but are not limited to, the duration and spread of any outbreak, its severity, the actions to contain or address the impact of the outbreak, the timing, distribution, and efficacy of vaccines and other treatments, United States and foreign government actions to respond to possible reductions in global economic activity, and how quickly and to what extent normal economic and operating conditions can resume.

Unfavorable global economic conditions could adversely affect our business, financial condition or results of operations.

Because we do not expect Jeuveau® for the treatment of glabellar lines or, subject to regulatory approval, the Evolysse™ line of dermal fillers to be reimbursed by any government or third-party payor, our products will continue to be paid for directly by the consumer. Demand for Jeuveau® and, subject to regulatory approval, the Evolysse™ line of dermal fillers, is accordingly tied to the discretionary spending levels of our targeted consumer population. A severe or prolonged economic downturn, instability or crises affecting banks or other financial institutions, or inflation in consumer prices, as we are currently experiencing, could result in a variety of risks to our business, including a decline in the discretionary spending of our target consumer population, which could lead to a weakened demand for Jeuveau® , Evolysse™, or any future product candidates. A severe or prolonged economic downturn may also affect our ability to raise additional capital when needed on acceptable terms, if at all. A weak or declining economy, instability or crises affecting banks or other financial institutions, or political disruption or geopolitical conflicts, including the military conflict between Russia and Ukraine and the ongoing conflict in the Middle East, could also strain our suppliers, possibly resulting in supply disruption, or cause our customers to delay making payments for our products. Inflation in the markets we serve could similarly impact our revenues, as consumer spending power could decline. Any of the foregoing could harm our business.

In addition, our business strategy was developed based on a number of important assumptions about the cash-pay healthcare market. For example, we believe that the number of cash-pay healthcare procedures will increase in the future. However, these trends are uncertain and limited sources exist to obtain reliable market data. Therefore, sales of Jeuveau® or any of our future product candidates could differ materially from our projections if our assumptions are incorrect.

Adverse developments affecting the financial services industry, including events or concerns involving liquidity, defaults or non-performance by financial institutions, could adversely affect our business, financial condition or results of operations.

The funds in our operating accounts are held in banks or other financial institutions. Our cash held in non-interest bearing and interest-bearing accounts exceeds applicable Federal Deposit Insurance Corporation ("FDIC") insurance limits. Bank failures, events involving limited liquidity, defaults, non-performance or other adverse developments occur with respect to the banks or other financial institutions that hold our funds, or that affect financial institutions or the financial services industry generally, or concerns or rumors about any events of these kinds or other similar risks may lead to widespread demands for customer withdrawals and liquidity constraints that may result in market-wide liquidity problems, which could adversely impact our liquidity. For example, on March 10, 2023, the FDIC announced that Silicon Valley Bank had been closed by the California Department of Financial Protection and Innovation. On March 26, 2023, the assets, deposits and loans of Silicon Valley Bank were acquired by First-Citizens Bank & Trust Company. Although we did not have any funds in Silicon Valley Bank or other institutions that have been closed, we cannot guarantee that the banks or other financial institutions that hold our funds will not experience similar issues.

In addition, investor concerns regarding the U.S. or international financial systems could result in less favorable commercial financing terms, including higher interest rates or costs and tighter financial and operating covenants, or systemic limitations on access to credit and liquidity sources, thereby making it more difficult for us to acquire financing on terms favorable to us, or at all, and could have material adverse impacts on our liquidity, our business, financial condition or results of operations, and our prospects. Our business may be adversely impacted by these developments in ways that we cannot predict at this time, there may be additional risks that we have not yet identified, and we cannot guarantee that we will be able to avoid negative consequences.

Our products face significant competition and our failure to effectively compete may prevent us from achieving significant market penetration and expansion.

Jeuveau® is approved for use and Evolysse™ is being investigated for use in medical aesthetic market. Regulatory approval has been received for the Evolysse™ nasolabial fold product in Europe and the remaining three products are anticipated to be approved in late 2024. The United States regulatory approval and commercial launch is expected in 2025 for the first two products with subsequent regulatory approval and product launches for the remaining products in 2026 and 2027. The medical aesthetic market is highly competitive and dynamic and is characterized by rapid and substantial technological development and product innovations. Our products face, and we anticipate that our future products will face, significant competition from other facial aesthetic products, such as other injectable and topical botulinum toxins and dermal fillers. Our products may also compete with unapproved and off-label treatments. Many of our potential competitors, including AbbVie Inc., which acquired Allergan, who first launched BOTOX for cosmetic uses in 2002 and has since maintained the highest market share position in the aesthetic neurotoxin market with its BOTOX product, are large, experienced companies that enjoy significant competitive advantages, such as substantially greater financial resources enabling them to, among other things, market and discount aggressively. Within the dermal filler market we will also face large, experienced competitors such as AbbVie and Galderma. Competitors may also have greater brand recognition for their products, larger sales forces and larger aesthetic product portfolios allowing the companies to bundle products to provide customers more choices and to further discount their products. Additionally, our competitors have greater existing market share in the medical aesthetic market and long-standing customer loyalty programs and sales contracts with large customers which creates established business and financial relationships with customers, aesthetic societies and universities.

These competitors may also try to compete with our aesthetic products on price both directly, through rebates and promotional programs to high volume customers and coupons to consumers, and indirectly, through attractive product bundling with complimentary products, such as dermal fillers that offer convenience and an effectively lower price compared to the total price of purchasing each product separately. These companies may also seek to compete based on their longer operating history. Larger companies may be better capitalized than us and, accordingly, are able to offer greater customer loyalty benefits to encourage repeat use of their products and finance a sustained global advertising campaign to compete with our commercialization efforts at launch. A number of our larger competitors also have access to a significant number of studies and publications that they could use to compete with us.

In the long term, we expect to expand our focus to the broader cash-pay healthcare market. Competitors and other parties may seek to impact regulatory approval of our future product applications through the filing of citizen petitions or other similar documents, which could require costly and time-consuming responses to the regulatory agencies. Larger competitors could seek to prevent or delay our commercialization efforts via costly litigation which can be lengthy and expensive and serve to distract our management team's attention. We could face competition from other sources as well, including academic

institutions, governmental agencies and public and private research institutions. In addition, we are aware of other companies also developing and/or marketing products in one or more of our target markets, including competing injectable botulinum toxin type A formulations that are currently in Phase III clinical development in North America for the treatment of glabellar lines. For example, Revance Therapeutics, Inc. obtained approval for an injectable botulinum toxin type A neurotoxin on September 8, 2022, called "Daxxify" and Hugel, Inc. obtained approval for its injectable botulinum toxin type A neurotoxin on February 29, 2024. Additionally, both Galderma S.A. and Medytox, Inc. have submitted a BLA to the FDA for an injectable botulinum toxin type A neurotoxin . With the approval of Revance Therapeutic's and Hugel's BLAs and the potential approval of additional BLAs, we expect the competition in the U.S. injectable botulinum toxin market to further increase. We would face similar risks with respect to any future product candidates that we may seek to develop or commercialize in the broader cash-pay healthcare market. Successful competitors in that market have the ability to effectively discover, obtain patents, develop, test and obtain regulatory approvals for products, as well as the ability to effectively commercialize, market and promote approved products, including communicating the effectiveness, safety and value of products to actual and prospective customers and medical staff.

Our strategy of competing in the aesthetic neurotoxin market is dependent on the marketing and pricing flexibility that we believe is afforded to a company with a portfolio limited to cash-pay healthcare, comprised of products and procedures that are not reimbursed by third-party payors. In the event that regulations applicable to reimbursed products are changed to apply to cash-pay healthcare products, we would no longer have this flexibility and we may not be able to compete as effectively with our competitors which may have a material effect on our business, financial condition and results of operations. Additionally, as a result of the royalty payments that we are required to pay under the Medytox Settlement Agreement, we may not be able to discount Jeuveau® to the extent that we previously provided discounts to customers without impacting our gross profit margins. If we increase prices for any customers, their volume of purchases may decrease which would have a material and adverse effect on our business and results of operations.

In addition, competitors may develop new technologies within the medical aesthetic market that may be superior in safety and efficacy to our products or offer alternatives to the use of toxins or dermal fillers, including surgical and radio frequency techniques. To compete successfully in the medical aesthetic market, we will have to demonstrate that our products are at least as safe and effective as current products sold by our competitors. Competition in the medical aesthetic market could result in price-cutting and reduced profit margins, any of which would harm our business, financial condition and results of operations.

Due to less stringent regulatory requirements, there are many more aesthetic products and procedures available for use in international markets than are approved for use in the United States. There are also fewer limitations on the claims that our competitors in international markets can make about the effectiveness of their products and the manner in which they can market them. As a result, we expect to face more competition in these markets than in the United States.

Our commercial opportunity could also be reduced or eliminated if our competitors develop and commercialize products that are safer, are more effective, have fewer or less severe side effects, are more convenient or are less expensive than Jeuveau® or any other product that we may develop. Our competitors also may obtain FDA or other regulatory approval for these products more rapidly than we may obtain approval for our products, which could result in our competitors establishing a strong market position before we are able to enter the market, which may create additional barriers to successfully commercializing Jeuveau® and any future product candidates and attracting practitioner and consumer demand.

Our products may fail to achieve the broad degree of aesthetic practitioner adoption and use or consumer demand necessary for continued commercial success.

Jeuveau® or, subject to regulatory approval, the Evolysse™ line of dermal fillers may fail to gain sufficient market acceptance by aesthetic practitioners, consumers and others in the medical aesthetics community to continue to grow our net revenues. The continued commercial success of Jeuveau® and any future product candidates, including a proposed higher strength dose of Jeuveau® and the Evolysse™ line of dermal fillers, will depend significantly on the broad adoption and use of the resulting product by aesthetic practitioners for approved indications, including, in the case of Jeuveau®, the treatment of glabellar lines and other aesthetic indications that we may seek to pursue. We are aware that other companies are seeking to develop alternative products and treatments, any of which could impact the demand for our products.

The degree and rate of practitioner adoption of Jeuveau® and any product candidates depend on a number of factors, including the cost, profitability to our customers, consumer demand, characteristics and effectiveness of the product. Our success will also depend our ability to create compelling marketing programs, training of our customers and ability to overcome any biases aesthetic practitioners or consumers may have toward the use, safety and efficacy of existing products

over our products. Moreover, our competitors may utilize negative selling efforts or offer more compelling marketing or discounting programs than we are able to offer, including by bundling multiple aesthetic products to provide a more comprehensive offering than we can so long as Jeuveau® remains our only commercially available product.

In addition, in its clinical trials, Jeuveau® was clinically tested and compared to BOTOX, both of which contain a 900 kDa complex. We believe that aesthetic practitioners' familiarity with the 900 kDa complex's handling, preparation and dosing will more easily facilitate incorporation of Jeuveau® into their practices. However, the ease of integration of Jeuveau® into an aesthetic practitioner's practice may not be as seamless as we anticipate.

With respect to consumer demand, the treatment of glabellar lines with Jeuveau® is an elective procedure, the cost of which must be borne by the consumer, and we do not expect costs related to the treatment to be reimbursable through any third-party payor, such as Medicaid, Medicare or commercial insurance. The decision by a consumer to undergo treatment with Jeuveau® for the treatment of glabellar lines or other aesthetic indications that we may pursue may be influenced by a number of factors, including the cost, efficacy, safety, perception, marketing programs for, and aesthetic practitioner recommendations of Jeuveau® versus competitive products or procedures. Moreover, consumer demand may fluctuate over time as a result of consumer sentiment about the benefits and risks of aesthetic procedures generally and Jeuveau® in particular, changes in demographics and social trends, rising inflation and general consumer confidence and consumer discretionary spending, which may be impacted by the COVID-19 outbreak, economic and political conditions.

If Jeuveau®, Evolysse™, or any product candidates fails to achieve the broad degree of aesthetic practitioner adoption necessary for commercial success or the requisite consumer demand, our operating results and financial condition will be adversely affected, which may delay, prevent or limit our ability to generate revenue and continue our business.

Our ability to market Jeuveau® is limited to use for the treatment of glabellar lines, and if we want to expand the indications for which we market Jeuveau®, we will need to obtain additional regulatory approvals, which will be expensive and may not be granted.

We have received regulatory approval for Jeuveau® in the United States for the treatment of moderate to severe glabellar lines. The terms of that approval restrict our ability to market or advertise Jeuveau® for other indications, which could limit aesthetic practitioner and consumer adoption. Under the U.S. Federal Food Drug and Cosmetic Act, we may generally only market Jeuveau® for approved indications. Many of our competitors have received approval of multiple aesthetic and therapeutic indications for their neurotoxin products and may be able to market such products for use in a way we cannot. For example, we are aware that one of our competitors, AbbVie, has obtained and plans to obtain additional indications for its neurotoxin product within medical aesthetics and, therefore, is able to market its product across a greater number of indications than Jeuveau®. If we are unable to obtain approval for indications in addition to our approval for glabellar lines, our marketing efforts for Jeuveau® will be severely limited. As a result, we may not generate aesthetic practitioner and consumer demand or approval of Jeuveau®.

We rely on our digital technology and applications and our business and operations could suffer in the event of information system failures or a cybersecurity incident.

We are reliant on our digital technology, including our Evolus Practice App, which allows customers to open a new account, order Jeuveau®, pay invoices and engage with our customer experience team and medical affairs representatives. In the event that our digital technology is unable to function in the manner it was designed or at all, we would experience difficulty processing customer orders and requests in a timely manner or at all which would have a material adverse effect on our business, results of operations and financial condition.

The information systems underlying our digital technology may not be adequately designed or may not operate with the reliability and redundancy necessary to avoid performance delays or outages that could be harmful to our business. If our digital technology is unavailable when customers attempt to access them, or if they do not load as quickly as expected, users may not use our technology as often in the future, or at all, and our ability to sell our products through a more limited sales force may be disrupted and we may not realize the efficiencies of leveraging our digital technology, any of which could adversely affect our business and financial performance. As the number of users of our digital technology continues to grow we will need an increasing amount of technical infrastructure, including network capacity and computing power, to continue to satisfy our needs. It is possible that we may fail to continue to effectively scale and grow our technical infrastructure to accommodate these increased demands, which may adversely affect our customers' experience with our digital technology which may decrease our revenue and harm our results of operations.

Despite the implementation of security measures, our internal computer systems, including our information systems, and those of third parties on which we rely, are vulnerable to disruption or damage from computer viruses, malware, natural disasters, terrorism, war, telecommunication and electrical failures, cybersecurity incidents, insider threats, persons who access our information systems in an unauthorized manner, or inadvertent misconfiguration of our systems. The risk of a security incident or system disruption, particularly through cybersecurity incidents, including by computer hackers, foreign governments and cybercriminals, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. Interruptions in our operations caused by such an event could result in a material disruption of our current or future product development programs. The costs to us to mitigate network security problems, bugs, viruses, worms, malicious software programs and security vulnerabilities could be significant, and while we have implemented security measures to protect our data security and information systems, our efforts to address these problems may not be successful, and these problems could result in unexpected interruptions, delays, cessation of service, government files or penalties and other harm to our business and our competitive position. Interruptions in our operations caused by such an event could also result in a material disruption in our relationship with our customers. For example, if our Evolus Practice App were rendered inoperable, we would have to process orders by telephone or otherwise which may result in slower processing times and harm to our reputation.

Moreover, a cybersecurity incident that affects our information systems or results in the unauthorized access to financial information, personally identifiable information (PII), customer information or data, including credit card transaction data or other sensitive information, could materially damage our reputation. In addition, such a security incident may require notification to governmental agencies, the media or individuals pursuant to various international, federal and state privacy and security laws, including the General Data Protection Regulation (GDPR), the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Clinical Health Act of 2009, and its implementing rules and regulations, as well as regulations promulgated by the Federal Trade Commission and state breach notification laws. Additionally, the regulatory environment governing information, security and privacy laws is increasingly demanding and continues to evolve and a number of states have adopted laws and regulations that may affect our privacy and data security practices regarding the use, disclosure and protection of PII. For example, the California Consumer Privacy Act, among other things, has created new individual privacy rights and imposes increased obligations on companies handling PII. In the event of a security incident, we would also be exposed to the risk of litigation and potential liability, which could materially adversely affect our business, results of operations and financial condition. Our liability insurance may not be sufficient in type or amount to cover us against claims related to security breaches, cybersecurity incidents and other related security incidents.

Jeuveau® or any other product candidate for which we seek approval as a biologic may face competition sooner than anticipated.

With the enactment of the Biologics Price Competition and Innovation Act of 2009, or the BPCI Act, as part of the Patient Protection and Affordable Care Act, an abbreviated pathway for the approval of biosimilar or interchangeable biological products was created. The abbreviated regulatory pathway establishes legal authority for the FDA to review and approve biosimilar biologics. Under the BPCI Act, an application for a biosimilar product cannot be approved by the FDA until twelve years after the original branded product was approved under a Biologics License Application, or BLA. The law is complex and is still being interpreted and implemented by the FDA. For example, one company has filed a Citizen Petition requesting that the FDA not apply the BPCI Act to pre-enactment BLAs. As a result, its ultimate impact, implementation and meaning are subject to uncertainty. While it is uncertain when such processes intended to implement the BPCI Act may be fully adopted by the FDA, any such processes could have a material adverse effect on the future commercial prospects for our biological products.

We believe that Jeuveau® should qualify for the twelve-year period of exclusivity. However, there is a risk that this exclusivity could be shortened due to congressional action or otherwise, or that the FDA will not consider any of our product candidates to be a reference product for competing products, potentially creating the opportunity for competition sooner than anticipated. Moreover, the extent to which a biosimilar product, once approved, will be substituted for any one of our reference products in a way that is similar to traditional generic substitution for non-biological products is not yet clear and will depend on a number of marketplace and regulatory factors that are still developing.

If we are found to have improperly promoted off-label uses, or if customers misuse our products or use our products off-label, we may become subject to prohibitions on the sale or marketing of our products, significant fines, penalties, sanctions, or product liability claims, and our image and reputation within the industry and marketplace could be harmed.

The FDA and other regulatory agencies strictly regulate the marketing and promotional claims that are made about

pharmaceutical products, such as Jeuveau®. In particular, a product may not be promoted for uses or indications that are not approved by the FDA or other similar regulatory authorities as reflected in the product's approved labeling. Customers could use Jeuveau® on their patients in a manner that is inconsistent with the approved label of the treatment of moderate to severe glabellar lines, potentially including for the treatment of other aesthetic or therapeutic indications. If we are found to have promoted such off-label uses, we may receive warning letters from and be subject to other enforcement actions by the FDA, the European Medicines Agency, or EMA, and other regulatory agencies, and become subject to significant liability, which would materially harm our business. The federal government has levied large civil and criminal fines against companies for alleged improper promotion and has enjoined several companies from engaging in off-label promotion. If we become the target of such an investigation or prosecution based on our marketing and promotional practices, we could face similar sanctions, which would materially harm our business. In addition, management's attention could be diverted from our business operations, significant legal expenses could be incurred, and our reputation could be damaged. The FDA has also required that companies enter into consent decrees or permanent injunctions under which specified promotional conduct is changed or curtailed in order to resolve FDA enforcement actions. If we are deemed by the FDA to have engaged in the promotion of our products for off-label use, we could be subject to the FDA prohibitions or other restrictions on the sale or marketing of our products and other operations or significant fines and penalties, and the imposition of these sanctions could also affect our reputation and position within the industry. In addition, regulatory authorities outside the United States may impose similar fines, penalties or sanctions.

Customers may also misuse Jeuveau® or any future product we offer or use improper techniques, potentially leading to adverse results, side effects or injury, which may lead to product liability claims. If Jeuveau® or any future product candidates are misused or used with improper techniques or are determined to cause or contribute to consumer harm, we may become subject to costly litigation by our customers or their patients. Product liability claims could divert management's attention from our core business, be expensive to defend, result in sizable damage awards against us that may not be covered by insurance and subject us to negative publicity resulting in reduced sales of our products. Furthermore, the use of Jeuveau® or any future product candidates for indications other than those cleared by the FDA may not effectively treat such conditions, which could harm our reputation in the marketplace among customers and consumers. Any of these events could harm our business and results of operations and cause our stock price to decline.

Our products may cause serious or undesirable side effects or possess other unexpected properties that could delay or prevent their regulatory approval, limit the commercial profile of approved labeling, result in post-approval regulatory action or in product liability lawsuits.

Unforeseen side effects from Jeuveau®, Evolysse™, or any product we may offer in the future could arise either during clinical development or after marketing such product. Undesirable side effects caused by product candidates could cause us or regulatory authorities to interrupt, modify, delay or halt clinical trials and could result in a more restrictive label or the delay or denial of regulatory approval by the FDA, the EMA or similar regulatory authorities. Results of clinical trials could reveal a high and unacceptable severity and prevalence of side effects. In such an event, trials could be suspended or terminated and the FDA, the EMA or similar regulatory authorities could order us to cease further development of or deny approval of product candidates for any or all targeted indications. The drug or device-related side effects could affect patient recruitment or the ability of enrolled patients to complete the trial or result in product liability claims. Any of these occurrences may harm our business, financial condition, operating results and prospects.

Additionally, if we or others identify undesirable side effects, or other previously unknown problems, caused by Jeuveau®, or any of our future product candidates, after obtaining regulatory approval in the United States or other jurisdictions, a number of potentially negative consequences could result, including regulatory authorities withdrawing approval or limiting the marketing of our products, requiring a recall of the product, requiring additional warnings on our product labeling or medication guides or instituting Risk Evaluation and Mitigation Strategies, or REMS. In order to mitigate these risks, regulatory authorities may require additional costly clinical trials or costly post-marketing testing and surveillance to monitor the safety or efficacy of the product. As a result of any of these actions our sales of the product may decrease significantly, we may be required to expend material amounts to comply with any requirements of the regulatory authorities, we could be sued in a product liability lawsuit and held liable for harm caused to patients, and our brand and reputation may suffer.

We face an inherent risk of product liability as a result of the commercialization of Jeuveau®, Evolysse™, and any of our future product candidates. For example, we may be sued if any product we develop allegedly causes injury or is found to be otherwise unsuitable during product testing, manufacturing, marketing or sale. Any such product liability claims may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability and a breach of warranties. Claims could also be asserted against us under state consumer protection acts. If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities or be required to

limit commercialization of our products. Even a successful defense would require significant financial and management resources and result in decreased demand for Jeuveau®, Evolysse™, or any future product candidates or products we may develop, termination of clinical trial sites or entire trial programs, injury to our reputation and significant negative media attention, withdrawal of clinical trial participants or cancellation of clinical trials and significant costs and diversion management's time to defend the related litigation.

Our inability to obtain and maintain sufficient product liability insurance at an acceptable cost and scope of coverage to protect against potential product liability claims could prevent or inhibit the commercialization of Jeuveau®, Evolysse™, or any future products that we develop. We currently carry product liability insurance covering our clinical trials. Although we maintain such insurance, any claim that may be brought against us could result in a court judgment or settlement in an amount that is not covered, in whole or in part, by our insurance or that is in excess of the limits of our insurance coverage. Our insurance policies also have various exclusions and deductibles, and we may be subject to a product liability claim for which we have no coverage. We will have to pay any amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient capital to pay such amounts. Moreover, in the future, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses.

Any of the above events could prevent us from achieving or maintaining market acceptance of the affected product, negatively impact our revenues and could substantially increase the costs of commercializing our products. The demand for our products could also be negatively impacted by any adverse effects of a competitor's product or treatment.

Our failure to successfully in-license, acquire, develop and market additional product candidates or approved products would impair our ability to grow our business.

Although most of our effort is focused on the commercialization of Jeuveau®, a key element of our long-term strategy is to in-license, acquire, develop, market and commercialize a portfolio of products to serve the cash-pay aesthetic market. Jeuveau® is currently our sole commercially available product and Evolysse™ has not yet been approved for use by the FDA. Our competitors are currently able to bundle multiple aesthetic products to provide a more comprehensive offering than we can as a single product company. Because our internal research and development capabilities are limited, we may be dependent upon pharmaceutical and other companies, academic scientists and other researchers to sell or license products or technology to us. The success of this strategy depends partly upon our ability to identify and select promising aesthetic product candidates and products, negotiate licensing or acquisition agreements with their current owners and finance these arrangements.

The process of proposing, negotiating and implementing a license or acquisition of a product candidate or approved product is lengthy and complex. Other companies, including some with substantially greater financial, marketing, sales and other resources, may compete with us for the license or acquisition of product candidates and approved products. We have limited resources to identify and execute the acquisition or in-licensing of third-party products, businesses and technologies and integrate them into our current infrastructure. Moreover, we may devote resources to potential acquisitions or licensing opportunities that are never completed, or we may fail to realize the anticipated benefits of such efforts. We may not be able to acquire the rights to additional product candidates on terms that we find acceptable, or at all.

Further, any product candidates that we acquire may require additional development efforts prior to commercial sale, including preclinical or clinical testing and approval by the FDA, the EMA and other similar regulatory authorities. All product candidates are prone to risks of failure during product development, including the possibility that a product candidate will not be shown to be sufficiently safe and effective for approval by regulatory authorities. In addition, any approved products that we acquire may not be manufactured or sold profitably or achieve market acceptance.

We may need to increase the size of our organization, including our sales and marketing capabilities, in order to further market and sell Jeuveau® and we may experience difficulties in managing this growth.

As of December 31, 2023, we had 273 employees, all of whom were full-time employees. Our management and personnel, systems and facilities currently in place may not be adequate to support future growth. Our need to effectively execute our growth strategy requires that we identify, recruit, retain, incentivize and integrate any additional employees to effectively manage any future clinical trials, manage our internal development efforts effectively while carrying out our contractual obligations to third parties, and continue to improve our operational, financial and management controls, reporting systems and procedures.

We face risks in building and managing a sales organization whether internally or by utilizing third parties, including our

ability to retain and incentivize qualified individuals, provide adequate training to sales and marketing personnel, generate sufficient sales leads, effectively manage a geographically dispersed sales and marketing team, adequately provide complementary products to be offered by sales personnel, which may otherwise put us at a competitive disadvantage relative to companies with more extensive product lines, and handle any unforeseen costs and expenses. Any failure or delay in the development of our internal sales, marketing and distribution capabilities would adversely impact the commercialization of these products.

Due to our limited financial resources and our limited experience in managing a company with such anticipated growth, we may not be able to effectively manage the expansion of our operations or recruit and train additional qualified personnel. The physical expansion of our operations may lead to significant costs and may divert our management and business development resources. Any inability to manage growth could delay the execution of our development and strategic objectives or disrupt our operations.

Our business may be materially adversely affected by the impact of geopolitical tensions, including the ongoing military conflict between Russia and Ukraine and the conflict in the Middle East, on the global economy and capital markets.

U.S. and global markets are experiencing volatility and disruption following the escalation of geopolitical tensions, including the ongoing military conflict between Russia and Ukraine and the ongoing conflict in the Middle East. Although the length and impact of the ongoing military conflict in Ukraine is highly unpredictable, the conflict has led to market disruptions, including significant volatility in commodity prices, credit and capital markets, as well as supply chain interruptions, which could continue. The ongoing conflict in the Middle East or other such geopolitical conflicts, particularly in the regions in which we operate or seek to expand, could have a similar impact.

Additionally, the military conflict in Ukraine has led to the imposition of sanctions and other penalties by the U.S., EU and other countries against Russia. Russian military actions and the resulting sanctions have adversely affected the global economy and financial markets and could lead to further instability and lack of liquidity in capital markets, which could make it more difficult for us to obtain additional funds at terms favorable to us, or at all.

Although our business has not been materially impacted by the ongoing military conflicts, it is impossible to predict the extent to which our operations, or those of our suppliers and manufacturers, will be impacted in the short and long term, or the ways in which the conflict may impact our business. The extent and duration of the military action, sanctions and resulting market disruptions are impossible to predict, but could be substantial.

Our international operations will expose us to risks, and failure to manage these risks may adversely affect our operating results and financial condition.

We currently have operations in the United States, Canada, and Europe. International operations are subject to a number of inherent risks, and our future results could be adversely affected by a number of factors, including differences in demand for our products due to local requirements or preferences, the difficulty of hiring and managing employees with cultural and geographic differences and the costs of complying with differing regulatory requirements. Additionally, we may experience difficulties and increased costs due to differences in laws related to enforcing contracts, protecting intellectual property, taxes, tariffs and export regulations. The current conflict between Ukraine and Russia may also impact European economies and consumer discretionary spending negatively, and the conflict in the Middle East may have similar regional impacts. We do not have significant international operations in Russia, Ukraine, Israel, Palestine or the surrounding regions that have been impacted by the conflicts directly.

Our international operations will also subject us to risks related to multiple, conflicting and changing laws and regulations such as privacy regulations, including the GDPR, tax laws, export and import restrictions, employment laws, immigration laws, labor laws, regulatory requirements and other governmental approvals, permits and licenses. Additionally, we will face heightened risk of unfair or corrupt business practices in certain geographies and of improper or fraudulent sales arrangements that may impact financial results and result in restatements of, or irregularities in, financial statements. These and other factors could harm our ability to gain future revenue and, consequently, materially impact our business, operating results and financial condition.

Fluctuations in currency exchange rates may negatively affect our financial condition and results of operations.

Exchange rate fluctuations may affect the costs that we incur in our operations. The main currencies to which we are exposed to such fluctuations are the British pound and the EU euro. The exchange rates between these currencies and the U.S. dollar in recent years have fluctuated significantly and may continue to do so in the future. A depreciation of these currencies

against the U.S. dollar will decrease the U.S. dollar equivalent of the amounts derived from foreign operations reported in our consolidated financial statements, and an appreciation of these currencies will result in a corresponding increase in such amounts. The cost of certain items, such as raw materials, manufacturing, employee salaries and transportation and freight, required by our operations may be affected by changes in the value of the relevant currencies. To the extent that we are required to pay for goods or services in foreign currencies, such as under our Symatese U.S. Agreement and Symatese Europe Agreement, which has payments denominated in Euros, the appreciation of such currencies against the U.S. dollar will tend to negatively affect our business. There can be no assurance that foreign currency fluctuations will not have a material adverse effect on our business, financial condition and results of operations.

If we fail to attract and keep senior management and key personnel, we may be unable to market and sell Jeuveau® successfully, or any future products we develop.

Our success depends in part on our continued ability to attract, retain and motivate highly qualified management. We believe that our future success is highly dependent upon the contributions of our senior management, particularly David Moatazedi, our President, Chief Executive Officer and member of our Board of Directors, Sandra Beaver, our Chief Financial Officer, Rui Avelar, our Chief Medical Officer and Head of R&D, and Tomoko Yamagishi-Dressler, our Chief Marketing Officer, as well as other members of our senior management team. The loss of services of any of these individuals could delay or prevent the successful development of our product pipeline, completion of our planned clinical trials or the commercialization of Jeuveau®, Evolysse™, or any future products we develop.

In addition, we could experience difficulties attracting and retaining qualified employees in the future. For example, competition for qualified personnel in the pharmaceuticals and medical aesthetic field is intense due to the limited number of individuals who possess the skills and experience required by our industry. We may not be able to attract and retain quality personnel on acceptable terms, or at all. In addition, to the extent we hire personnel from competitors, we may be subject to allegations that they have been improperly solicited or that they have divulged proprietary or other confidential information or that their former employers own their research output.

Our strategy of focusing exclusively on the cash-pay healthcare market may limit our ability to increase sales or achieve profitability.

Our strategy is to focus exclusively on the cash-pay healthcare market. This focus may limit our ability to increase sales or achieve profitability. For example, to maintain our business model, we have chosen not to offer products or services available in the broader healthcare market that are reimbursed by third-party payors such as Medicare, Medicaid or commercial insurance. This eliminates our ability to offer a substantial number of products and indications for Jeuveau® or any future products, such as Evolysse™.

For example, under the Daewoong Agreement our rights to market and sell Jeuveau® are limited to cosmetic indications and under the Symatese U.S. Agreement and Symatese Europe Agreement our rights are limited to aesthetic and dermatologic uses. Daewoong has subsequently licensed the rights to the therapeutic indications for Jeuveau® to a third party. As a result, we do not have the ability to expand the permitted uses of our products for therapeutic indications.

Jeuveau® is the only U.S. neurotoxin without a therapeutic indication, although other companies may seek to develop a similar product in the future. We believe pursuing an aesthetic-only non-reimbursed product strategy allows for meaningful strategic advantages in the United States, including pricing and marketing flexibility. However, customers may choose to not pass any cost benefits received by them due to such pricing flexibility to their patients. In addition, companies offering aesthetic products competitive to Jeuveau®, whether they pursue an aesthetic-only non-reimbursed product strategy or not, may nonetheless try to compete with Jeuveau® on price both directly through rebates, promotional programs and coupons and indirectly through attractive product bundling and customer loyalty programs. Our business, financial results and future prospects will be materially harmed if we cannot generate sufficient consumer demand for Jeuveau®.

Our business involves the use of hazardous materials, and we and our third-party manufacturer and supplier must comply with environmental laws and regulations, which can be expensive and restrict how we do business.

Our research and development and manufacturing activities in the future may, and our licensors' manufacturing and supplying activities presently do, involve the controlled storage, use and disposal of hazardous materials, including botulinum toxin type A, a key component of Jeuveau®, and other hazardous compounds. We and our licensors are subject to laws and regulations governing the use, manufacture, storage, handling and disposal of these hazardous materials. In some cases, these hazardous materials and various wastes resulting from their use are stored at our licensors' facilities pending their use and disposal. We and our licensors cannot eliminate the risk of contamination, which could cause an interruption of any of our

licensors' manufacturing processes, our commercialization efforts, business operations and environmental damage resulting in costly clean-up and liabilities under applicable laws and regulations governing the use, manufacture, storage, handling and disposal of these materials and specified waste products. Although we believe that the safety procedures utilized by our licensors for handling and disposing of these materials generally comply with the standards prescribed by these laws and regulations, this may not eliminate the risk of accidental contamination or injury from these materials. In such an event, we may be held liable for any resulting damages and such liability could exceed our resources, and state or federal or other applicable authorities may curtail our use of certain materials and interrupt our business operations. Furthermore, environmental laws and regulations are complex, change frequently and have tended to become more stringent.

We may use third-party collaborators to help us develop, validate or commercialize any new products, and our ability to commercialize such products could be impaired or delayed if these collaborations are unsuccessful.

We may license or selectively pursue strategic collaborations for the development, validation and commercialization of Jeuveau®, Evolysse™, and any future product candidates. In any third-party collaboration, we would be dependent upon the success of the collaborators in performing their responsibilities and their continued cooperation. Our collaborators may not cooperate with us or perform their obligations under our agreements with them. Our collaborators may choose to pursue alternative technologies in preference to those being developed in collaboration with us. The development, validation and commercialization of our product candidates will be delayed if collaborators fail to conduct their responsibilities in a timely manner or in accordance with applicable regulatory requirements or if they breach or terminate their collaboration agreements with us. Disputes with our collaborators could also impair our reputation or result in development delays, decreased revenues and litigation expenses.

In addition, we may face significant competition in seeking appropriate collaborators. Whether we reach a definitive agreement for a collaboration will depend, among other things, upon our assessment of the collaborator's resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator's evaluation of a number of factors. Those factors may include the design or results of clinical trials, the likelihood of approval by the FDA or similar regulatory authorities outside the United States, the potential market for the subject product candidate, the costs and complexities of manufacturing and delivering such product candidate to consumers, the potential of competing products, the existence of uncertainty with respect to our ownership of technology, which can exist if there is a challenge to such ownership without regard to the merits of the challenge and industry and market conditions generally. The collaborator may also consider alternative product candidates or technologies for similar indications that may be available to collaborate on and whether such a collaboration could be more attractive than the one with us for our product candidate. Collaborations are complex and time-consuming to negotiate and document.

We may not be able to negotiate collaborations on a timely basis, on acceptable terms, or at all. If we are unable to do so, we may have to curtail the development of such product candidate, reduce or delay its development program or one or more of our other development programs, delay its potential commercialization or reduce the scope of any sales or marketing activities, or increase our expenditures and undertake development or commercialization activities at our own expense. If we elect to increase our expenditures to fund development or commercialization activities on our own, we may need to obtain additional capital, which may not be available to us on acceptable terms or at all. If we do not have sufficient funds, we may not be able to further develop our product candidates or bring them to market and generate revenue.

Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited.

We have incurred substantial losses during our history and we may never achieve profitability. To the extent that we continue to generate taxable losses, unused losses will carry forward to offset future taxable income, if any, until such unused losses expire. Under Section 382 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an "ownership change," generally defined as a greater than 50% change (by value) in its equity ownership over a three-year period, the corporation's ability to use its pre-change net operating loss carryforwards, or NOLs, and other pre-change tax attributes, such as research tax credits, to offset its post-change income may be limited. As of December 31, 2023, we had $317.7 million of federal NOLs and $227.3 million of state NOLs available to offset our future taxable income, if any. As of December 31, 2023, we had federal research and development credit carryforwards of $2.9 million. These federal and state NOLs and federal research and development tax credit carryforwards expire at various dates beginning in 2034. We may experience ownership changes in the future as a result of subsequent shifts in our stock ownership. As a result, if we earn net taxable income, our ability to use our pre-change NOLs to offset U.S. federal taxable income may be subject to limitations, which could potentially result in increased future tax liability to us. In addition, at the state level, there may be periods during which the use of NOLs is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed.

Increases in interest rates would increase the cost of servicing our debt and could reduce our profitability and limit our

cash available to fund our growth strategy.

The Pharmakon Term Loans have, and any additional debt we subsequently incur may have, a variable rate of interest. Higher interest rates could increase debt service requirements on our current variable rate indebtedness (even though the amount borrowed remains the same) and on any debt we subsequently incur, and could reduce funds available for operations, future business opportunities or other purposes and materially and adversely affect our profitability, cash flows and results of operations.

On May 9, 2023, we and Pharmakon entered into the Third Amendment to the Loan Agreement. Among other changes, the Third Amendment implements the transition from a London Interbank Offered Rate ("LIBOR") based interest rate to a Secured Overnight Financing Rate ("SOFR") based interest rate. SOFR is calculated differently from LIBOR and since the initial publication of SOFR, daily changes in the rate have, on occasion, been more volatile than daily changes in comparable benchmark or market rates. It is possible that SOFR over time may bear little or no relation to the historical actual or historical indicative data. It is possible that the volatility of and uncertainty around SOFR as a LIBOR replacement rate and the applicable credit adjustment would result in higher borrowing costs for us, and could adversely affect our liquidity, financial condition, and earnings. The consequences of these developments with respect to LIBOR cannot be entirely predicted and span multiple future periods but could result in an increase in the cost of our variable rate debt which may negatively impact our financial results.

Risks Related to Our Relationship with Our Licensors

We rely on the Daewoong Agreement, the Symatese U.S. Agreement and the Symatese Europe Agreement and any termination or loss of significant rights, including exclusivity, under these agreements would materially and adversely affect our business.

Our ability to exclusively commercialize Jeuveau® and Evolysse™ are completely dependent on the Daewoong Agreement, and the Symatese U.S. Agreement and Symatese Europe Agreement, respectively. Under each agreement we have numerous obligations, including minimum product purchases, milestone payments and commercialization and development obligations. If we breach any material obligation, our partners may terminate or decrease our rights under the agreements. If we were to lose rights under the Daewoong Agreement, or either of the Symatese Agreements, we would experience an immediate reduction in our revenues and future business opportunities. We believe it would be difficult to find an alternative supplier of these products. In addition, to the extent the alternative supplier has not secured regulatory approvals in a jurisdiction, we would have to expend significant resources to obtain regulatory approvals that may never be obtained or require several years to obtain, which could significantly delay commercialization. We may be unable to raise additional capital to fund our operations during this extended time on terms acceptable to us or at all. Additionally, if we experience delays as a result of a dispute with either of our partners the demand for our products could be materially and adversely affected.

We currently rely solely on Daewoong to manufacture Jeuveau®, and on Symatese to manufacture Evolysse™ and as such, any production or other problems with either licensor could adversely affect us.

We depend solely upon Daewoong for the manufacturing of Jeuveau®, and on Symatese to manufacture Evolysse™. Although alternative sources of supply may exist, the number of third-party suppliers with the necessary manufacturing and regulatory expertise and facilities is limited, and it could be expensive and take a significant amount of time to arrange for and qualify alternative suppliers, which could have a material adverse effect on our business. Suppliers of any new product candidate would be required to qualify under applicable regulatory requirements and would need to have sufficient rights under applicable intellectual property laws to the method of manufacturing the product candidate. Obtaining the necessary FDA approvals or other qualifications under applicable regulatory requirements and ensuring non-infringement of third-party intellectual property rights could result in a significant interruption of supply and could require the new manufacturer to bear significant additional costs which may be passed on to us.

In addition, our reliance on Daewoong and Symatese entails additional risks, including reliance on our partners for regulatory compliance and quality assurance, the possible breach of either the Daewoong Agreement by Daewoong or the Symatese U.S. Agreement and Symatese Europe Agreement by Symatese, and the possible termination or nonrenewal of either agreement at a time that is costly or inconvenient for us. Our failure, or the failure of our partners, to comply with applicable regulations could result in sanctions being imposed on us, including fines, injunctions, civil penalties, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of products, operating restrictions and criminal prosecutions, any of which could significantly and adversely affect supplies of our products. Our dependence on our partners also subjects us to all of the risks related to our partner's business, which are all generally beyond our control. Our partners' ability to perform their obligations under their respective agreements is dependent on their operational and financial health, which

could be negatively impacted by several factors, including changes in the economic, political and legislative conditions in their home countries and the broader region in general and the ability of our partners to continue to successfully attract customers and compete in its market.

Additionally, we are dependent on our licensors for day-to-day compliance with cGMP for production of our products. Facilities used by our licensors to produce the drug substance, devices and materials or finished products for commercial sale must pass inspection and be approved by the FDA and other relevant regulatory authorities. If the safety of our products is compromised due to a failure to adhere to applicable laws or for other reasons, we may not be able to successfully commercialize our product and we may be held liable for injuries sustained as a result. In addition, the manufacturing facilities of certain of our suppliers are located outside of the United States. This may give rise to difficulties in importing our product into the United States or other countries as a result of, among other things, regulatory agency approval requirements, taxes, tariffs, local import requirements such as import duties or inspections, incomplete or inaccurate import documentation or defective packaging. Any of these factors could adversely impact our ability to effectively market and sell our products.

Any failure or refusal by our licensors or any other third party to supply our products that we may develop could delay, prevent or impair our clinical development or commercialization efforts.

Moreover, our licensors developed the manufacturing process for our products in facilities outside the United States. If these facilities were to be damaged, destroyed or otherwise unable to operate or comply with regulatory requirements, whether due to earthquakes, fire, floods, hurricanes, storms, tornadoes, other natural disasters, public health emergencies, employee malfeasance, terrorist acts, power outages or otherwise, or if operations at the facility is disrupted for any other reason, such an event could jeopardize our licensors' ability to manufacture our products as promptly as we or our customers expect or possibly at all. If our licensors are unable to manufacture our products within a timeframe that meets our and our customers' expectations, our business, prospects, financial results and reputation could be materially harmed. Any disaster recovery and business continuity plans that we and our licensors may have in place or put in place may not be adequate in the event of a serious disaster or similar event. We may incur substantial expenses as a result of our or our licensors' lack of disaster recovery and business continuity plans, or the adequacy thereof, which could have a material adverse effect on our business.

We forecast the demand for commercial quantities of our products, and if our forecasts are inaccurate, we may experience delays in shipments, increased inventory costs or inventory levels, and reduced cash flow.

We purchase our products from our licensors, Daewoong and, subject to regulatory approval, Symatese. Pursuant to our agreements with our licensors, we are obligated to submit forecasts of anticipated product orders and may, from time to time, submit purchase orders on the basis of these forecasting requirements. For a variety of reasons we may not be able to accurately predict future demand. In addition, we expect our licensors to manufacture our products for other markets in which we do not have exclusive rights. If our business significantly expands, our demand for commercial products would increase and our licensors may be unable to meet our increased demand. In addition, our products have fixed future expiration dates. If we overestimate demand for our products, we will have excess inventory, which may have to be disposed of if such inventory exceeds approved expiration dates, which would result in lost revenues and increase our expenses. If we underestimate requirements for our products, we may have inadequate inventory, which could interrupt, delay or prevent delivery of our products to our customers. Any of these occurrences would negatively affect our financial performance.

Risks Related to Intellectual Property

Third-party claims of intellectual property infringement may prevent or delay our commercialization efforts and interrupt our supply of products.

Our commercial success depends in part on our avoiding infringement of the proprietary rights of third parties. Competitors in the field of dermatology, medical aesthetic and neurotoxins have developed large portfolios of patents and patent applications in fields relating to our business. In particular, there are patents held by third parties that relate to the treatment with neurotoxin-based products for the indication we are currently marketing. There may also be patent applications that have been filed but not published that, when issued as patents, could be asserted against us. There is a substantial amount of litigation, both within and outside the United States, involving patent and other intellectual property rights in the technology, medical device and pharmaceutical industries, including patent infringement lawsuits, interferences, oppositions and inter-party reexamination proceedings before the U.S. Patent and Trademark Office, or USPTO. Numerous U.S. and foreign issued patents and pending patent applications, which are owned by third parties, exist in the fields in which we are developing Jeuveau®. As the technology, medical device and pharmaceutical industries expand and more patents are issued, the risk increases that our product candidates may be subject to claims of infringement of the patent rights of third parties.

Third parties may assert that we or any of our current or future licensors, including Daewoong, are employing their proprietary technology without authorization. There may be third-party patents or patent applications with claims to materials, methods of manufacture or methods for treatment related to the use or manufacture of Jeuveau® or any future product candidates. Because patent applications can take many years to issue, there may be currently pending patent applications that may later result in issued patents that Jeuveau® or any future product candidates may infringe. In addition, third parties may obtain patents in the future and claim that use of our technologies infringes upon these patents. If any third-party patents were held by a court of competent jurisdiction to cover the manufacturing process of Jeuveau® or any future product candidates, the holders of any such patents may be able to block our ability to commercialize such product candidate unless we obtain a license under the applicable patents or until such patents expire. Similarly, if any third-party patent were held by a court of competent jurisdiction to cover aspects of our methods of use, the holders of any such patent may be able to block our ability to develop and commercialize the applicable product candidate unless we obtain a license or until such patent expires. In either case, such a license may not be available on commercially reasonable terms or at all.

In addition to claims of patent infringement, third parties may bring claims against us asserting misappropriation of proprietary technology or other information in the development, manufacture and commercialization of Jeuveau® or any of our future product candidates. Defense of such a claim would require dedicated time and resources, which time and resources could otherwise be used by us toward the maintenance of our own intellectual property and the development and commercialization of Jeuveau® and any of our future product candidates or by any of our current or future licensors for operational upkeep and manufacturing of our products. For example, prior to entering into the Medytox Settlement Agreement, we were a defendant in a lawsuit brought by Medytox in the Superior Court of the State of California, or the Medytox Litigation, and a respondent in an action filed by Allergan and Medytox in the U.S. International Trade Commission, each alleging, among other things, that Daewoong stole Medytox's botulinum toxin bacterial strain, or the BTX strain, that Daewoong misappropriated certain trade secrets of Medytox, including the process used to manufacture Jeuveau® (which Medytox claims is similar to its biopharmaceutical drug, Meditoxin) using the BTX strain, and that Daewoong thereby interfered with Medytox's plan to license Meditoxin to us, or the Medytox Litigation. Each of the Medytox Litigation and the ITC Action diverted the attention of our senior management and were costly, in terms of legal costs and the ultimate payments and royalties to be paid under the Medytox Settlement Agreement.

Additionally, we are aware that multiple entrants into the dermal filler market have faced litigation related to allegations of intellectual property infringement and have either expended large amounts of money to defend these claims, attempted to invalidate a third-party's intellectual property as a defense, or have entered into settlement and license agreements in order to commercialize their dermal filler products. As the importer of record and commercial distributor of Evolysse™, we may be required to defend these cases, which may result in increased legal costs and royalty costs.

Parties making claims against us or any of our current or future licensors may request and obtain injunctive or other equitable relief, which could effectively block our ability to further develop and commercialize one or more of our product candidates. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of employee resources from our business. In the event of a successful claim of infringement, we or any of our current or future licensors may have to pay substantial damages, including treble damages and attorneys' fees for willful infringement, obtain one or more licenses from third parties which may not be commercially or more available, pay royalties or redesign our infringing products or manufacturing processes, which may be impossible or require substantial time and monetary expenditure. Furthermore, even in the absence of litigation, we may need to obtain licenses from third parties to advance our research, manufacture clinical trial supplies or allow commercialization of our products or any future product candidates. We may fail to obtain any of these licenses at a reasonable cost or on reasonable terms, if at all. In that event, we would be unable to further develop and commercialize one or more of our product candidates, which could harm our business significantly. Similarly, third-party patents could exist that might be enforced against our products, resulting in either an injunction prohibiting our sales, or with respect to our sales, an obligation on our part to pay royalties and/or other forms of compensation to third parties.

If we or any of our current or future licensors, including Daewoong and Symatese, are unable to maintain, obtain or protect intellectual property rights related to our products, we may not be able to compete effectively in our market.

We and our current licensors, Daewoong and Symatese, currently rely upon a combination of trademarks, trade secret protection, confidentiality agreements and proprietary know-how. Botulinum toxin cannot be patented, as it is produced by *Clostridium botulinum*, a gram-positive, rod-shaped, anaerobic, spore-forming, motile bacterium with the ability to produce the neurotoxin botulinum. Only the manufacturing process for botulinum toxin can be patented, for which Daewoong has obtained a U.S. patent. Our trade secrets and other confidential proprietary information and those of our licensors could be disclosed or competitors could otherwise gain access to our trade secrets or independently develop substantially equivalent

information and techniques. Further, the laws of some foreign countries do not protect proprietary rights to the same extent or in the same manner as the laws of the United States. As a result, we or any of our current or future licensors may encounter significant problems in protecting and defending our or their intellectual property both in the United States and internationally. If we or any of our current or future licensors are unable to prevent material disclosure of the non-patented intellectual property related to our products to third parties, we may not be able to establish or maintain a competitive advantage in our market, which could adversely affect our business.

In addition to the protection afforded by trademarks, confidentiality agreements and proprietary know-how, we may in the future rely upon in-licensed patents for any future product offerings. The strength of patents we may in-license in the technology and healthcare fields involves complex legal and scientific questions and can be uncertain. The patent applications that we may in-license may fail to result in issued patents with claims that cover any of our future product candidates in the United States or in other foreign countries, and the issued patents that we may in-license may be declared invalid or unenforceable.

We are reliant on the ability of our licensors, to maintain their intellectual property and protect their intellectual property against misappropriation, infringement or other violation. We may not have primary control over our future licensors' patent prosecution activities. Furthermore, we may not be allowed to comment on prosecution strategies, and patent applications may be abandoned by the patent owner without our knowledge or consent. With respect to patents that are issued to our licensors, or patents that may be issued on patent applications, third parties may challenge their validity, enforceability or scope, which may result in such patents being narrowed or invalidated. As a licensee, we are reliant on Daewoong, Symatese, and our future licensors to defend any third-party claims. Our licensors may not defend or prosecute such actions as vigorously or in the manner that we would have if entitled to do so, and we will be subject to any judgment or settlement resulting from such actions. Also, a third-party may challenge the validity of our in-licensing transactions. Furthermore, even if they are unchallenged, any of our future in-licensed patents and patent applications may not adequately protect the licensors or our intellectual property or prevent others from designing around their or our claims.

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

Competitors may infringe our intellectual property, including any future patents we may acquire, or the patents and other intellectual property of our licensors, including Daewoong or Symatese. As a result, we or any of our current or future licensors may be required to file infringement claims to stop third-party infringement or unauthorized use. This can be expensive, particularly for a company of our size, and time-consuming. In addition, in an infringement proceeding, a court may decide that a patent of ours or any of our current or future licensors is not valid or is unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that our patent claims do not cover its technology or that the factors necessary to grant an injunction against an infringer are not satisfied.

An adverse determination of any litigation or other proceedings could put one or more of such patents at risk of being invalidated or interpreted narrowly. Interference, derivation or other proceedings brought at the USPTO may be necessary to determine the priority or patentability of inventions with respect to any of our future patent applications or those of our licensors or collaborators. Litigation or USPTO proceedings brought by us or any of our current or future licensors may fail or may be invoked against us or our licensors by third parties. Even if we are successful, domestic or foreign litigation or USPTO or foreign patent office proceedings may result in substantial costs and distraction to our management or the management of any of our current or future licensors, including Daewoong or Symatese. We may not be able, alone or with any of our current or future licensors or collaborators, to prevent misappropriation of our proprietary rights, particularly in countries where the laws may not protect such rights as fully as in the United States.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation or other proceedings, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation or proceedings. In addition, during the course of this kind of litigation or proceedings, there could be public announcements of the results of hearings, motions or other interim proceedings or developments or public access to related documents. If investors perceive these results to be negative, the market price for our common stock could be significantly harmed.

Most of our competitors are larger than we are and have substantially greater resources. They are, therefore, likely to be able to sustain the costs of complex patent litigation longer than we could. Accordingly, despite our efforts, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property. In addition, the uncertainties associated with litigation could compromise our ability to raise the funds necessary to continue our clinical trials, continue

our internal research programs, or in-license needed technology or other product candidates. There could also be public announcements of the results of the hearing, motions, or other interim proceedings or developments. If securities analysts or investors perceive those results to be negative, it could cause the price of shares of our common stock to decline.

We may not be able to protect our intellectual property rights throughout the world.

Filing, prosecuting and defending patents on product candidates in all countries throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the United States can be less extensive than those in the United States. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the United States and in some cases may even force us to grant a compulsory license to competitors or other third parties. Consequently, we may not be able to prevent third parties from using our inventions in all countries outside the United States or from selling or importing products made using our inventions in and into the United States or other jurisdictions. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop their own products and further, may export otherwise infringing products to territories where we have patent protection, but enforcement is not as strong as that in the United States. These products may compete with our products and our patents or other intellectual property rights may not be effective or sufficient to prevent them from competing.

Many companies have encountered significant problems in protecting and defending intellectual property rights in foreign jurisdictions. The legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents and other intellectual property protection, particularly those relating to biopharmaceuticals, which could make it difficult for us to stop the infringement of our patents or marketing of competing products in violation of our proprietary rights generally. Proceedings to enforce our patent rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business, could put our patents at risk of being invalidated or interpreted narrowly and our patent applications at risk of not issuing and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate, and the damages or other remedies awarded, if any, may not be commercially meaningful. Accordingly, our efforts to enforce our intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop or license.

In addition, our ability to protect and enforce our intellectual property rights may be adversely affected by unforeseen changes in domestic and foreign intellectual property laws.

If we are unable to protect the confidentiality of our trade secrets, our business and competitive position would be harmed.

In addition to seeking patents for our product candidates, we also rely on trade secrets, including unpatented know-how, technology and other proprietary information, to maintain our competitive position.

We seek to protect our trade secrets, in part, by entering into non-disclosure and confidentiality agreements with parties who have access to them, such as our employees, collaborators, consultants, advisors and other third parties. We expect to enter into confidentiality and invention assignment agreements with our employees and consultants. Despite these efforts, any of these parties may breach the agreements and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts within and outside the United States are less willing or unwilling to protect trade secrets. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor, we would have no right to prevent them, or those to whom they communicate it, from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor, our competitive position would be harmed.

We may be subject to claims that our employees, consultants or independent contractors have wrongfully used or disclosed confidential information of third parties.

We employ individuals who were previously employed at other pharmaceutical or medical aesthetic companies. We may be subject to claims that we or our employees, consultants or independent contractors have inadvertently or otherwise used or disclosed confidential information of our employees' former employers or other third parties. We may also be subject to claims that former employers or other third parties have an ownership interest in our patents. Litigation may be necessary to defend against these claims. We may not be successful in defending these claims, and even if we are successful, litigation could result in substantial cost and be a distraction to our management and other employees. Any litigation or the threat thereof may adversely affect our ability to hire employees. A loss of key personnel or their work product could diminish or

prevent our ability to commercialize product candidates, which could have an adverse effect on our business, results of operations and financial condition.

We may need to license intellectual property from third parties, and such licenses may not be available or may not be available on commercially reasonable terms.

A third party may hold intellectual property, including patent rights that are important or necessary to the development of Evolysse™ or our future product candidates including certain formulations and methods of production of these products. It may be necessary for us to use the patented or proprietary technology of third parties to commercialize our product candidates, in which case we would be required to obtain a license from these third parties on commercially reasonable terms, or our business could be harmed, possibly materially.

If our trademarks and trade names are not adequately protected, then we may not be able to build name recognition in our markets of interest and our business may be adversely affected.

Our registered or unregistered trademarks or trade names may be challenged, infringed, circumvented or declared generic or determined to be infringing on other marks. We may not be able to protect our rights to these trademarks and trade names, which we need to build name recognition by potential partners or customers in our markets of interest. Over the long term, if we are unable to establish name recognition based on our trademarks and trade names, then we may not be able to compete effectively, and our business may be adversely affected.

Third parties may assert that we are using trademarks or trade names that are confusingly similar to their marks. If any third party were able to establish that our trademarks or trade names were infringing their marks, that third party may be able to block our ability to use the infringing trademark or trade name. In addition, if a third party were to bring such a claim, we would be required to dedicate time and resources to fight the claim, which time and resources could otherwise be used toward the maintenance of our own intellectual property.

Parties making claims against us may request and obtain injunctive or other equitable relief, which could prevent our ability to use the subject trademarks or trade names. Defense of these claims, regardless of their merit, would involve substantial litigation expense and would be a substantial diversion of employee resources from our business. In the event of a successful claim of infringement against us, we may have to pay substantial damages, including treble damages and attorneys' fees for willful infringement. We may be required to re-brand one or more of our products, product candidates, or services offered under the infringing trademark or trade name, which may require substantial time and monetary expenditure. Third parties could claim senior rights in marks which might be enforced against our use of trademarks or trade names, resulting in either an injunction prohibiting our sales under those trademarks or trade names.

Risks Related to Government Regulation

Our business and products are subject to extensive government regulation.

We are subject to extensive, complex, costly and evolving regulation by federal and state governmental authorities in the United States, the EU, Canada and other countries, principally by the FDA, the U.S. Drug Enforcement Administration, the Centers for Disease Control and Prevention, the EMA and other similar regulatory authorities. Our partners Daewoong and Symatese are also subject to extensive regulation by the FDA and their own country's regulatory authorities as well as other regulatory authorities. Our failure to comply with all applicable regulatory requirements, or our partner's failure to comply with applicable regulatory requirements, including those promulgated under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Controlled Substances Act, may subject us to operating restrictions and criminal prosecution, monetary penalties and other enforcement or administrative actions, including, sanctions, warnings, product seizures, recalls, fines, injunctions, suspension, revocation of approvals, or exclusion from future participation in the Medicare and Medicaid programs.

Following regulatory approval, we, and our direct and indirect suppliers, including Daewoong and Symatese, remain subject to the periodic inspection of our plants and facilities, review of production processes, and testing of our products to confirm that we are in compliance with all applicable regulations. Adverse findings during regulatory inspections may result in requirements that we implement REMS programs, requirements that we complete government mandated clinical trials, and government enforcement actions including those relating to labeling, advertising, marketing and promotion, as well as regulations governing manufacturing controls.

If we experience delays in obtaining approval or if we fail to obtain approval of our product candidates, the commercial

prospects for our product candidates may be harmed and our ability to generate revenue will be materially impaired.

We may not obtain regulatory approval for the commercialization of any future product candidates.

The research, testing, manufacturing, labeling, approval, selling, import, export, marketing and distribution of drug and biologic products, such as our neurotoxin product, and medical devices, such as our dermal filler product candidates, are subject to extensive regulation by the FDA and other regulatory authorities in the United States and other countries, with regulations differing from country to country. If we, our products or the manufacturing facilities for our products fail to comply with applicable regulatory requirements, a regulatory agency may:

- impose restrictions on the marketing or manufacturing of the product, suspend or withdraw product approvals or revoke necessary licenses;
- issue warning letters, show cause notices or untitled letters describing alleged violations, which may be publicly available;
- mandate modifications to promotional materials or require us to provide corrective information to aesthetic practitioners;
- require us to enter into a consent decree, which can include imposition of various fines, reimbursements for inspection costs, required due dates for specific actions and penalties for noncompliance;
- commence criminal investigations and prosecutions;
- impose injunctions;
- impose other civil or criminal penalties;
- suspend any ongoing clinical trials;
- delay or refuse to approve pending applications or supplements to approved applications filed by us;
- refuse to permit drugs or active ingredients to be imported or exported;
- suspend or impose restrictions on operations, including costly new manufacturing requirements; or
- seize or detain products or require us to initiate a product recall.

Any of the foregoing could materially harm our business and reputation. Prior to obtaining approval to commercialize a product candidate in the United States or abroad, we or our collaborators must demonstrate with substantial evidence from well-controlled clinical trials, and to the satisfaction of the FDA, the EMA or other similar foreign regulatory authorities, that such product candidates are safe and effective for their intended uses. Results from preclinical studies and clinical trials can be interpreted in different ways. Even if we and our collaborators believe the preclinical or clinical data for our product candidates are promising, such data may not be sufficient to support approval by the FDA, the EMA and other similar regulatory authorities. Administering product candidates to humans may produce undesirable side effects, which could interrupt, delay or halt clinical trials and result in the FDA, the EMA or other similar regulatory authorities delaying or denying approval of a product candidate for any or all targeted indications.

Regulatory approval of a BLA or BLA supplement, PMA, marketing authorization application, or MAA, or other product approval is not guaranteed, and the approval process is expensive and may take several years. The FDA, the EMA and other regulatory authorities have substantial discretion in the approval process. Despite the time and expense expended, failure can occur at any stage, and we could encounter problems that cause us to abandon, modify or repeat clinical trials, or perform additional preclinical studies and clinical trials. The number of preclinical studies and clinical trials that will be required for the FDA, the EMA or other regulatory approval varies depending on the product candidate, the disease or condition that the product candidate is designed to address and the regulations applicable to any particular product candidate. The FDA, the EMA and other regulatory authorities can delay, limit or deny approval of a product candidate for many reasons, including the following:

- a product candidate may not be deemed safe, effective, pure or potent;

- the data from preclinical studies and clinical trials may not be deemed sufficient;
- the FDA or other regulatory authorities might not approve our third-party manufacturers' processes or facilities;
- deficiencies in the formulation, quality control, labeling, or specifications of a product candidate or in response to citizen petitions or similar documents filed in connection with the product candidate;
- general requirements intended to address risks associated with a class of drugs, such as a new REMS requirement for neurotoxins, dermal fillers or other aesthetic products;
- the enactment of new laws or promulgation of new regulations that change the approval requirements; or
- the FDA or other regulatory authorities may change their approval policies or adopt new regulations.

If any future product candidates fail to demonstrate safety and efficacy in clinical trials or do not gain approval, our business and results of operations will be materially and adversely harmed.

We are subject to ongoing regulatory obligations and continued regulatory review, which may result in significant additional expense, limit or delay regulatory approval and subject us to penalties if we fail to comply with applicable regulatory requirements.

Jeuveau® and, subject to regulatory approval, Evolysse™ and any other approved products are subject to continual regulatory review by the FDA, the EMA and other similar regulatory authorities.

Any regulatory approvals that we or our collaborators receive for any future product candidates may also be subject to limitations on the approved indications for which the product may be marketed or to the conditions of approval, or contain requirements for potentially costly post-marketing testing, including Phase IV clinical trials, and surveillance to monitor the safety and efficacy of the product. In addition, the manufacturing processes, labeling, packaging, distribution, adverse event reporting, storage, advertising, promotion and recordkeeping for Jeuveau® and any other future product candidates, such as Evolysse™, will be subject to extensive and ongoing regulatory requirements. These requirements include submissions of safety and other post-marketing information and reports, registration, as well as continued compliance with cGMP requirements and compliance with good clinical practice, or GCP, requirements, for any clinical trials that we conduct post-approval. Later discovery of previously unknown problems with Jeuveau® or any future product candidates, including adverse events of unanticipated severity or frequency, or with our third-party manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may result in, among other things: restrictions on the marketing or manufacturing of the product, withdrawal of the product from the market, or voluntary or mandatory product recalls; fines, warning letters or holds on clinical trials; refusal by the FDA, the EMA or other similar regulatory authorities to approve pending applications or supplements to approved applications filed by us or our strategic collaborators or suspension or revocation of product license approvals; product seizure or detention or refusal to permit the import or export of products; and injunctions or the imposition of civil or criminal penalties.

Our ongoing regulatory requirements may also change from time to time, potentially harming or making costlier our commercialization efforts. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained and we may not achieve or sustain profitability, which would adversely affect our business.

If we fail to obtain regulatory approvals in foreign jurisdictions for Jeuveau® or any future product candidates, we will be unable to market our products outside of the United States.

In addition to regulations in the United States, we are and will be subject to a variety of foreign regulations governing manufacturing, clinical trials, commercial sales and distribution of our future products. Whether or not we obtain FDA approval for a product candidate, we must obtain approval of the product by the comparable regulatory authorities of foreign countries before commencing clinical trials or marketing in those countries. The approval procedures vary among countries and can involve additional clinical testing, and the time required to obtain approval may differ from that required to obtain FDA approval. Clinical trials conducted in one country may not be accepted by regulatory authorities in other countries. Approval by the FDA does not ensure approval by regulatory authorities in other countries, and approval by one or more foreign regulatory authorities does not ensure approval by regulatory authorities in other foreign countries or by the FDA. The foreign regulatory approval process may include all of the risks associated with obtaining FDA approval. We may not be able to file for regulatory approvals or to do so on a timely basis, and even if we do file, we may not receive necessary

approvals to commercialize our products in markets outside of the United States.

Jeuveau® or any future products may cause or contribute to adverse medical events that we are required to report to regulatory agencies and if we fail to do so, we could be subject to sanctions that would materially harm our business.

Some participants in our clinical trials have reported adverse events after being treated with Jeuveau®. If we are successful in commercializing Jeuveau® or any other product candidate, including Evolysse™, the FDA and other regulatory agency regulations require that we report certain information about adverse medical events if those products may have caused or contributed to those adverse events. The timing of our obligation to report would be triggered by the date we become aware of the adverse event as well as the nature of the event. We may fail to report adverse events that we become aware of within the prescribed timeframe. We may also fail to appreciate that we have become aware of a reportable adverse event, especially if it is not reported to us as an adverse event or if it is an adverse event that is unexpected or removed in time from the use of our products. If we fail to comply with our reporting obligations, the FDA, the EMA or other similar regulatory authorities could take action including criminal prosecution, the imposition of civil monetary penalties, seizure of our products, or delay in approval or clearance of future products.

We may in the future be subject to various U.S. federal and state laws pertaining to health care fraud and abuse, including anti-kickback, self-referral, false claims and fraud laws, and any violations by us of such laws could result in fines or other penalties.

While we do not expect that Jeuveau® or Evolysse™ will subject us to the various U.S. federal and most state laws intended to prevent health care fraud and abuse, we may in the future become subject to such laws. The Anti-Kickback Statute prohibits the offer, receipt, or payment of remuneration in exchange for or to induce the referral of patients or the use of products or services that would be paid for in whole or part by Medicare, Medicaid or other federal health care programs. Remuneration has been broadly defined to include anything of value, including cash, improper discounts, and free or reduced price items and services. Many states have similar laws that apply to their state health care programs as well as private payors. Violations of anti-kickback and other applicable laws can result in exclusion from federal health care programs and substantial civil and criminal penalties.

The federal False Claims Act, or FCA, imposes liability on persons who, among other things, present or cause to be presented false or fraudulent claims for payment by a federal health care program. The FCA has been used to prosecute persons submitting claims for payment that are inaccurate or fraudulent, that are for services not provided as claimed, or for services that are not medically necessary. The FCA includes a whistleblower provision that allows individuals to bring actions on behalf of the federal government and share a portion of the recovery of successful claims. Some state law equivalents of the above federal laws, such as the Anti-Kickback Statute and FCA, apply to items or services regardless of whether the good or service was reimbursed by a government program, so called all-payor laws. These all-payor laws could apply to our sales and marketing activities even if the Anti-Kickback Statute and FCA laws are inapplicable.

If our marketing or other arrangements were determined to violate anti-kickback or related laws, including the FCA or an all-payor law, then we could be subject to penalties, including administrative, civil and criminal penalties, damages, fines, disgorgement, the exclusion from participation in federal and state healthcare programs, individual imprisonment or the curtailment or restructuring of our operations, any of which could materially and adversely affect our ability to operate our business and our financial results.

State and federal authorities have aggressively targeted pharmaceutical companies for alleged violations of these anti-fraud statutes, based on improper research or consulting contracts with doctors, certain marketing arrangements with pharmacies and other healthcare providers that rely on volume-based pricing, off-label marketing schemes, and other improper promotional practices. Companies targeted in such prosecutions have paid substantial fines, have been ordered to implement extensive corrective action plans, and have in many cases become subject to consent decrees severely restricting the manner in which they conduct their business, among other consequences. Additionally, federal and state regulators have brought criminal actions against individual employees responsible for alleged violations. If we become the target of such an investigation or prosecution based on our contractual relationships with providers or institutions, or our marketing and promotional practices, we could face similar sanctions, which would materially harm our business.

Also, the FCPA and similar worldwide anti-bribery laws generally prohibit companies and their intermediaries from making improper payments to non-U.S. officials for the purpose of obtaining or retaining business. Our internal control policies and procedures may not protect us from reckless or negligent acts committed by our employees, future distributors, partners, collaborators or agents. Violations of these laws, or allegations of such violations, could result in fines, penalties or prosecution and have a negative impact on our business, results of operations and reputation.

Legislative or regulatory healthcare reforms in the United States and other countries may make it more difficult and costly for us to obtain regulatory clearance or approval of any future product candidates and to produce, market, and distribute our products after clearance or approval is obtained.

From time to time, legislation is drafted and introduced in the U.S. Congress or other countries that could significantly change the statutory provisions governing the regulatory clearance or approval, manufacture, and marketing of regulated products or the reimbursement thereof. In addition, regulations and guidance are often revised or reinterpreted by the FDA and other regulatory authorities in ways that may significantly affect our business and our products. Any new regulations or revisions or reinterpretations of existing regulations may impose additional costs or lengthen review times of any future product candidates. Such changes could, among other things, require changes to manufacturing or marketing methods, changes to product labeling or promotional materials, recall, replacement, or discontinuance of one or more of our products; and additional recordkeeping.

Each of these would likely entail substantial time and cost and could materially harm our business and our financial results. In addition, delays in receipt of or failure to receive regulatory clearances or approvals for any future products would harm our business, financial condition and results of operations.

Risks Related to Our Common Stock

Medytox and Daewoong each own a significant portion of our common stock and may exert significant control over our business.

We had 57,820,621 shares of common stock issued and outstanding as of December 31, 2023. As of December 31, 2023, Medytox owned 5.8% of our outstanding shares of common stock and Daewoong owned 5.4% of our outstanding shares of common stock.

This concentrated ownership position may provide either of Medytox or Daewoong with influence in determining the outcome of corporate actions requiring stockholder approval, including the election and removal of directors.

Securities class action and derivative lawsuits have been filed against us and certain of our officers and directors, which could result in substantial costs and could divert management attention.

As disclosed in Part I, Item 3 “Legal Proceedings,” we and certain of our officers have been named as defendants in a securities class action lawsuit and we are a nominal defendant in derivative lawsuits filed against certain of our officers and directors. We maintain director and officer’s insurance coverage and continue to engage in vigorous defense of such litigation. If we are not successful in our defense of such litigation, we could be forced to make significant payments to or other settlements with our stockholders and their lawyers outside of our insurance coverage, and such payments or settlement arrangements could have a material adverse effect on our business, operating results or financial condition. We may also be the target of this type of litigation in the future, as companies that have experienced volatility in the market price of their stock have been subject to securities act litigation. Even if the claims asserted in these lawsuits are not successful, the litigation could result in substantial costs and significant adverse impact on our reputation and divert management’s attention and resources, which could have a material adverse effect on our business, operating results or financial condition.

The trading price of our common stock has been volatile, and purchasers of our common stock could incur substantial losses.

Our stock price is volatile. For example, the closing price of our common stock during the year ended December 31, 2023 has ranged from a low of $7.15 to a high of $11.05. The stock market in general and the market for earlier stage pharmaceutical and medical aesthetic companies in particular have experienced extreme volatility that has often been unrelated to the operating performance of particular companies. The market price for our common stock may be influenced by many factors, some of which are beyond our control, including:

- changes in financial estimates or guidance, including our ability to meet our future revenue and operating profit or loss estimates or guidance;
- the public’s reaction to our earnings releases, other public announcements and filings with the SEC or those of companies that are perceived to be similar to us;
- variations in our financial results or those of companies that are perceived to be similar to us;

- any termination or loss of rights under the Daewoong Agreement, the Symatese U.S. Agreement or the Symatese Europe Agreement;
- adverse developments in the regulatory approval process for Evolysse™;
- the FDA or other U.S. or foreign regulatory or legal actions or changes affecting us or our industry;
- adverse developments concerning our manufacturer or any future strategic partnerships;
- adverse developments affecting our compliance with the Medytox Settlement Agreement;
- adverse developments concerning litigation pending against us;
- introductions and announcements of new technologies and products by us, any commercialization partners or our competitors, and the timing of these introductions and announcements;
- success or failure of competitive products or medical aesthetic products generally;
- announcements of results of clinical trials or regulatory approval or disapproval of product candidates;
- unanticipated safety concerns related to the use of Jeuveau® or any of our future products;
- changes in the structure of healthcare payment systems;
- announcements by us or our competitors of significant acquisitions, licenses, strategic partnerships, new product approvals and introductions, joint ventures or capital commitments;
- overall financial market conditions for the pharmaceutical and biopharmaceutical sectors and issuance of securities analysts' reports or recommendations;
- rumors and market speculation involving us or other companies in our industry;
- short selling of our common stock or the publication of opinions regarding our business prospects in a manner that is designed to create negative market momentum;
- sales of substantial amounts of our stock by Medytox and Daewoong or other significant stockholders or our insiders, or the expectation that such sales might occur;
- news reports relating to trends, concerns and other issues in medical aesthetics market or the pharmaceutical or biopharmaceutical industry;
- operating and stock performance of other companies that investors deem comparable to us and overall performance of the equity markets;
- additions or departures of key personnel, including our Chief Executive Officer, Chief Financial Officer, Chief Medical Officer and Chief Marketing Officer;
- intellectual property, product liability or other litigation against us, our manufacturer or other parties on which we rely or litigation against our general industry;
- changes in our capital structure, such as future issuances of securities and the incurrence of additional debt;
- changes in accounting standards, policies, guidelines, interpretations or principles;
- economic conditions in the markets in which we operate, including those related to COVID-19 and ongoing geopolitical conflicts; and
- other factors described in this "Risk Factors" section.

In addition, the stock market in general, and the market for pharmaceutical, biotechnology and medical aesthetics companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to

the operating performance of those companies. Broad market and industry factors may affect the market price of our common stock, regardless of our actual operating performance. In the past, following periods of volatility in the overall market and the market prices of a particular company's securities, securities class action litigation has often been instituted against that company. We may become the target of this type of litigation in the future. Securities litigation, if instituted against us, could result in substantial costs and divert our management's attention and resources from our business.

Future sales of our common stock by us, Medytox, Daewoong or others, or the perception that such sales may occur, could depress the market price of our common stock.

Sales by us of a substantial number of shares of our common stock in the public market, or the perception that these sales might occur, could significantly reduce the market price of our common stock and could impair our ability to raise capital through the sale of additional equity securities.

Additionally, as discussed above, both of Medytox and Daewoong own a significant portion of our outstanding shares of common stock. Subject to the restrictions described in the paragraph below, future sales of these shares in the public market will be subject to certain contractual limitations in the case of shares of our common stock owned by Medytox and the volume and other restrictions of Rule 144 under the Securities Act for so long as Medytox or Daewoong are deemed to be our affiliate, unless the shares to be sold are registered with the SEC. Additionally, the shares of common stock held by Medytox are subject to contractual restrictions on transfer that, subject to certain limited exceptions such as transfers to affiliates prohibit Medytox from transferring more than 50% of the shares it holds prior to September 16, 2024 and more than 75% of the shares it holds prior to September 16, 2025, with such contractual restrictions terminating on September 16, 2025. The sale by Medytox or Daewoong of a substantial number of shares of our common stock, or a perception that such sales could occur, could significantly reduce the market price of our common stock.

We have filed a registration statement with the SEC covering shares of our common stock available for future issuance under our 2017 Omnibus Incentive Plan and 2023 Inducement Incentive Plan and may file future registration statements covering shares of our common stock for future issuance under any future plans. Upon effectiveness of such registration statements, any shares subsequently issued under such plans will be eligible for sale in the public market, except to the extent that they are restricted by the contractual arrangements discussed above and subject to compliance with Rule 144 in the case of our affiliates. Sales of a large number of the shares issued under these plans in the public market, or a perception that such sales could occur, could significantly reduce the market price of our common stock.

Anti-takeover provisions in our certificate of incorporation and bylaws, as well as Delaware law, could discourage a takeover.

Our certificate of incorporation, bylaws and Delaware law contain provisions that might enable our management to resist a takeover and might make it more difficult for an investor to acquire a substantial block of our common stock. These include the following provisions:

- permit our Board of Directors to issue shares of preferred stock, with any rights, preferences and privileges as they may designate, without stockholder approval, which could be used to dilute the ownership of a hostile bidder significantly;
- provide that the authorized number of directors may be changed only by resolution of our Board of Directors and that a director may only be removed for cause by the affirmative vote of the holders of at least 66 2/3% of our voting stock;
- provide that all vacancies, including newly created directorships, may, except as otherwise required by law, be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum;
- divide our Board of Directors into three classes, with each class serving staggered three-year terms, which may delay the ability of stockholders to change the membership of a majority of our Board of Directors;
- require that any action to be taken by our stockholders must be effected at a duly called annual or special meeting of stockholders and not be taken by written consent;
- provide that stockholders seeking to present proposals before a meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide notice in writing in a timely manner and also specify requirements as to the form and content of a stockholder's notice, which may discourage or deter a potential

acquiror from conducting a solicitation of proxies to elect the acquiror's own slate of directors or otherwise attempting to obtain control of our company;

- prohibit cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates; and
- provide that special meetings of our stockholders may be called only by the chairman of the Board of Directors, our Chief Executive Officer or by our Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors, which may delay the ability of our stockholders to force consideration by our company of a take-over proposal or to take certain corporate actions, including the removal of directors.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our Board of Directors, which is responsible for appointing the members of our management. In addition, we are subject to Section 203 of the General Corporation Law of the State of Delaware, or the DGCL, which generally prohibits a Delaware corporation from engaging in any of a broad range of business combinations with an interested stockholder who owns in excess of 15% of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner. This provision could have the effect of delaying or preventing a change-of-control, whether or not it is desired by or beneficial to our stockholders. Further, other provisions of Delaware law may also discourage, delay or prevent someone from acquiring us or merging with us.

Our certificate of incorporation designates the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or agents.

Our certificate of incorporation provides that, unless we consent in writing to an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for all "internal corporate claims." "Internal corporate claims" are claims that are based upon a violation of a duty by a current or former director, officer or stockholder in such capacity, or as to which Title 8 of the DGCL confers jurisdiction upon the Court of Chancery of the State of Delaware, or the Court of Chancery, in each case subject to the Court of Chancery having personal jurisdiction over the indispensable parties named as defendants and the claim not being one which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction. For example, this choice of forum provision would not apply to claims brought pursuant to the Exchange Act or the Securities Act of 1933, as amended, or any other claim for which the federal courts have exclusive jurisdiction. Any person purchasing or otherwise acquiring any interest in any shares of our capital stock shall be deemed to have notice of and to have consented to this provision of our certificate of incorporation. The choice of forum provision in our certificate of incorporation will not relieve us of our duties to comply with the federal securities laws and the rules and regulations thereunder, and our stockholders will not be deemed to have waived our compliance with these laws, rules and regulations.

This choice of forum provision may limit our stockholders' ability to bring a claim in a judicial forum that they find favorable for disputes with us or our directors, officers, employees or agents, which may discourage such lawsuits against us and our directors, officers, employees and agents even though an action, if successful, might benefit our stockholders. Stockholders who do bring a claim in the Court of Chancery could face additional litigation costs in pursuing any such claim, particularly if they do not reside in or near Delaware. The Court of Chancery may also reach different judgments or results than would other courts, including courts where a stockholder considering an action may be located or would otherwise choose to bring the action, and such judgments or results may be more favorable to us than to our stockholders. Alternatively, if a court were to find this provision of our certificate of incorporation inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could have a material adverse effect on our business, financial condition or results of operations.

Claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce the amount of money available to us.

Our certificate of incorporation and bylaws provide that we can indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law. Separate indemnity agreements have been issued with each director and executive officer.

In addition, as permitted by Section 145 of the DGCL, our bylaws and our indemnification agreements that we have entered into with our directors and officers, among other things provide that:

- We have indemnified our directors and officers for serving us in those capacities, or for serving as a director, officer, employee or agent of other business enterprises at our request, to the fullest extent permitted by Delaware law. Delaware law provides that we may indemnify such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to our best interest and, with respect to any criminal proceeding, had no reasonable cause to believe such person's conduct was unlawful.
- We may, in our discretion, indemnify employees and agents in those circumstances where indemnification is permitted by applicable law.
- We will be required to advance expenses, as incurred, to our directors and officers in connection with defending a proceeding, except that such directors or officers shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.
- The rights conferred in our bylaws will not be exclusive. We may not retroactively amend our bylaw provisions to reduce our indemnification obligations to directors, officers, employees and agents.

As a result, claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce the amount of money available to us.

General Risk Factors

Our business could be negatively affected as a result of actions of activist stockholders, and such activism could impact the trading value of our securities.

Stockholders may, from time to time, engage in proxy solicitations or advance stockholder proposals, or otherwise attempt to effect changes and assert influence on our Board of Directors and management. Activist campaigns that contest or conflict with our strategic direction or seek changes in the composition of our Board of Directors could have an adverse effect on our operating results and financial condition. A proxy contest would require us to incur significant legal and advisory fees, proxy solicitation expenses and administrative and associated costs and require significant time and attention by our Board of Directors and management, diverting their attention from the pursuit of our business strategy. Any perceived uncertainties as to our future direction and control, our ability to execute on our strategy, or changes to the composition of our Board of Directors or senior management team arising from a proxy contest could lead to the perception of a change in the direction of our business or instability which may result in the loss of potential business opportunities, make it more difficult to pursue our strategic initiatives, or limit our ability to attract and retain qualified personnel and business partners, any of which could adversely affect our business and operating results. If individuals are ultimately elected to our Board of Directors with a specific agenda, it may adversely affect our ability to effectively implement our business strategy and create additional value for our stockholders. We may choose to initiate, or may become subject to, litigation as a result of the proxy contest or matters arising from the proxy contest, which would serve as a further distraction to our Board of Directors and management and would require us to incur significant additional costs. In addition, actions such as those described above could cause significant fluctuations in our stock price based upon temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our business.

If securities or industry analysts publish unfavorable research about our business or decrease the frequency or cease to provide coverage of our company, our stock price and trading volume could decline.

The trading market for our common stock depends in part on the research and reports that equity research analysts publish about us and our business. If one or more of the equity research analysts who cover us downgrades our common stock or issues other unfavorable commentary or research the price of our common stock may decline. If one or more equity research analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our common stock could decrease, which in turn could cause the trading price or trading volume of our common stock to decline.

We have not paid dividends in the past and do not expect to pay dividends in the future, and any return on investment may be limited to the value of our stock.

We have never paid cash dividends on our common stock and do not anticipate paying cash dividends on our common stock in the foreseeable future, and the payment of dividends is also restricted under our credit facility. The payment of dividends

on our common stock will depend on our earnings, financial condition and other business and economic factors affecting us at such time as our Board of Directors may consider relevant. If we do not pay dividends, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future.

The requirements of being a public company may strain our resources, divert management's attention and affect our ability to attract and retain executive management and qualified Board members.

As a public company, we are subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Nasdaq Marketplace Rules and other applicable securities rules and regulations. Complying with these rules and regulations will increase our legal and financial compliance costs, make some activities more difficult, time-consuming or costly and increase demand on our systems and resources, particularly after we are no longer an "emerging growth company," as defined in the JOBS Act. The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our business and operating results. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. In order to maintain and, if required, improve our disclosure controls and procedures and internal control over financial reporting to meet this standard, significant resources and management oversight may be required. As a result, management's attention may be diverted from other business concerns, which could adversely affect our business and operating results. We may need to hire more employees in the future or engage outside consultants to assist us in complying with these requirements, which will increase our costs and expenses.

In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased selling, general and administrative expenses and a diversion of our management's time and attention from revenue-generating activities to compliance activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to their application and practice, regulatory authorities may initiate legal proceedings against us and our business may be adversely affected.

Item 1B. Unresolved Staff Comments.

None.

Item 1C. Cybersecurity.

Risk Management and Strategy

Our cybersecurity risk management process is designed to identify and manage internal and external cybersecurity threats and vulnerabilities to and within our business and operations. Our cybersecurity program is integrated into our overall risk management systems, business continuity and crisis management programs, third-party risk management program, insurance risk management program, and employee compliance programs. Our cybersecurity program includes systems and processes such as, but not limited to, maintenance and monitoring of information security policies, implementation and maintenance of infrastructure security systems, programs and policies designed to promote employee awareness of cyber policies and practices (including implementing an annual process for employees to complete security awareness training in addition to new employee cybersecurity awareness training), information systems configuration management, use of third-party risk management systems, process to promote identity and information asset protection and cybersecurity threat operations with continuous monitoring. This program also includes processes to oversee and identify material risks from cybersecurity threats associated with our use of third-party service providers.

We have developed an incident response plan designed to coordinate the activities that we and our third-party security service providers take to prepare to respond and recover from cybersecurity incidents, which include processes to triage, assess severity, investigate, escalate, contain, and remediate an incident, as well as to comply with potentially applicable legal obligations and mitigate any reputational damage. Additionally, as part of our overall risk management program, we maintain a global insurance portfolio with cybersecurity coverage.

To date, we do not believe that our business, results of operations and financial condition have been materially affected as a result of identified cybersecurity threats or incidents, including as a result of any previous cybersecurity incidents that we are aware of. However, we cannot provide assurance that we will not be materially affected in the future by such risks or any future cybersecurity incidents. For more information on our cybersecurity-related risks, please refer to the risk factor titled “We rely on our digital technology and applications and our business and operations could suffer in the event of information system failures or a cybersecurity incident” in Part I, Item 1A of this Report.

Governance

Our cybersecurity team is led by the SVP of IT and Operations, who reports to our Chief Financial Officer. Our SVP of IT and Operations and the cybersecurity team have over 25 years of experience managing and securing technology infrastructure. The cybersecurity team has responsibility for the planning and execution of our processes to manage cybersecurity and other information technology risks. The cybersecurity team also institutes and maintains controls for our systems, applications, and databases. Our management, with involvement and input from our Board of Directors, performs annual enterprise-wide cybersecurity assessments to identify and manage key existing and emerging risks for our company.

The Board of Directors receives periodic updates on our cybersecurity risks from our SVP of IT and Operations, which include risk assessments, areas of emerging risks, incidents and industry trends, and other areas of importance. These reports include updates on our progress preparing for, preventing, detecting, responding to and recovering from material cyber incidents, if any. In addition, as needed, management updates the Board of Directors regarding any material cybersecurity incidents.

Item 2. Properties.

Our corporate headquarters is located at 520 Newport Center Drive, Suite 1200, Newport Beach, CA 92660, in a facility that we lease, encompassing approximately 17,758 square feet of space. On July 27, 2023, we entered into an amendment to the existing lease agreement for our corporate headquarters for additional office space of approximately 8,333 square feet of space. The lease term for the additional office space is expected to commence in the second half of 2024. The lease agreement expires on January 31, 2030. With the additional office space, we believe our facilities are sufficient for our current needs. When our lease expires, we may exercise our renewal option or look for additional or alternate space for our operations, and we believe that suitable additional or alternative space will be available in the future on commercially reasonable terms.

Item 3. Legal Proceedings.

Securities Class Action Lawsuit

On October 16 and 28, 2020, two putative securities class action complaints were filed in the U.S. District Court for the Southern District of New York by Evolus shareholders Armin Malakouti and Clinton Cox, respectively, naming us and certain of our officers as defendants. The complaints assert violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, claiming that the defendants made false and materially misleading statements and failed to disclose material adverse facts related to our acquisition of the right to sell Jeuveau®, the complaint against us filed by Allergan and Medytox in the U.S. International Trade Commission related to Jeuveau® (the "ITC Action"), and risks related to the ITC Action. The complaints assert a putative class period of February 1, 2019 to July 6, 2020. The court consolidated the actions on November 13, 2020, under the caption In re Evolus Inc. Securities Litigation, No. 1:20-cv-08647 (PGG). On September 17, 2021, the court appointed a lead plaintiff and lead counsel. On November 17, 2021, the lead plaintiff filed an amended class action complaint against us, three of our officers, and Alphaeon Corporation, our former majority shareholder. On January 18, 2022, we and the officer defendants served a motion to dismiss the amended complaint. On February 10, 2022, Alphaeon Corporation served its motion to dismiss the amended complaint. Both motions were fully briefed on June 16, 2022. The outcome of the legal proceeding is uncertain at this point. Based on information available to us at present, management cannot reasonably estimate a range of loss with respect to this matter.

Shareholder Derivative Lawsuit

On November 27, 2020 and December 2, 2020, two putative Evolus shareholders filed substantially similar shareholder derivative actions in the U.S. District Court for the Southern District of New York against certain of our officers and directors as defendants. The complaints alleged substantially similar facts as those in the Securities Class Action and assert claims for, among other things, breach of fiduciary duty, waste of corporate assets, unjust enrichment, and violations of Section 14(a) of the Exchange Act and for contribution under Sections 10(b) and 21(D) of the Exchange Act. On December 29, 2020, the plaintiffs filed a joint stipulation to consolidate their actions and on February 5, 2021, the court consolidated the action under the caption In re Evolus, Inc. Derivative Litigation, No. 1:20-cv-09986-PPG, and adjourned defendants' time to move, answer or otherwise respond to the complaints. On September 20, 2021, the court so-ordered the parties' stipulated stay of the consolidated derivative suit pending the court's decision on the defendants' motion to dismiss the Securities Class Action.

It is possible that additional suits will be filed, or additional allegations will be made by stockholders, with respect to these same or similar or other matters and also naming us and/or our officers and directors as defendants. We believe that the complaints are without merit and intends to vigorously defend against it. However, the outcome of the legal proceeding is uncertain at this point. Based on information available to us at present, management cannot reasonably estimate a range of loss with respect to this matter.

Books and Records Demand

On March 5, 2021, we received a letter from a putative stockholder demanding inspection of specified categories of our books and records under Section 220 of the Delaware General Corporations Law. We were subsequently informed that the stockholder sold his shares of our common stock. On October 13, 2021, we received a substantially similar demand to inspect specified categories of our books and records under Section 220 of the Delaware General Corporations Law from another putative stockholder. The subject of the demand is substantially similar to the allegations in the putative securities class action and derivative complaints described above. We responded to the demand in December 2021. The outcome of this matter is uncertain at this point. Based on information available to us at present, management cannot reasonably estimate a range of loss with respect to this matter.

Other Legal Matters

In addition to the legal proceedings set forth above, from time to time, we may be subject to other legal proceedings and claims in the ordinary course of business.

Item 4. Mine Safety Disclosures.

Not applicable.

Part II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information

Our common stock has been listed and traded on the Nasdaq under the symbol "EOLS" since February 12, 2018.

Holders of Record

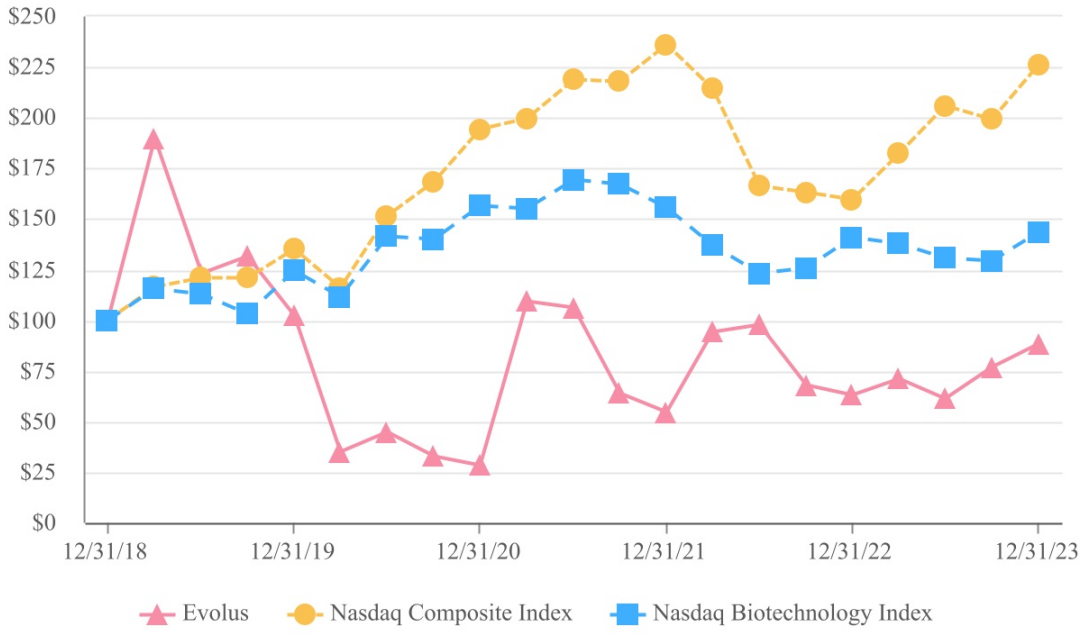
As of March 1, 2024, we had approximately 36 holders of record of our common stock. This number does not include beneficial owners whose shares were held in street name. The actual number of holders of our common stock is greater than this number of record holders and includes stockholders who are beneficial owners, but whose shares are held in street name by brokers or held by other nominees. This number of holders of record also does not include stockholders whose shares may be held in trust by other entities.

Dividend Policy

We have never declared or paid any cash dividends on our capital stock and we do not currently intend to pay any cash dividends on our capital stock for the foreseeable future. We currently intend to retain all available funds and any future earnings to support our operations and finance the growth and development of our business. Any future determination related to our dividend policy will be made at the discretion of our Board of Directors and will depend upon, among other factors, our results of operations, financial condition, capital requirements, tax considerations, legal or contractual restrictions, business prospects, the requirements of current or then-existing debt instruments, general economic conditions and other factors our Board of Directors may deem relevant. The payment of dividends is also restricted under our credit facility.

Performance Graph

This performance graph shall not be deemed "soliciting material" or "filed" with the SEC for purposes of Section 18 of the Exchange Act, or otherwise subject to the liabilities under that Section, and shall not be deemed incorporated by reference into any of our filings under the Securities Act or Exchange Act, except as shall be expressly set forth by specific reference in such filing.



This graph shows a comparison of the cumulative total return on our common stock, The Nasdaq Composite Index, and The Nasdaq Biotechnology Index for the five years ended December 31, 2023. The graph assumes that $100 was invested at the market close on the last trading day for the year ended December 31, 2018 in each investment and assumes the reinvestment of any dividends. The stock price performance on the graph is not necessarily indicative of future stock price performance.

Company/Index	12/31/2018	12/31/2019	12/31/2020	12/31/2021	12/31/2022	12/31/2023
Evolus	$ 100.00	$ 102.27	$ 28.24	$ 54.71	$ 63.11	$ 88.49
Nasdaq Composite Index	$ 100.00	$ 135.23	$ 194.24	$ 235.78	$ 157.74	$ 226.24
Nasdaq Biotechnology Index	$ 100.00	$ 124.41	$ 156.36	$ 155.37	$ 138.42	$ 143.60

Unregistered Sales of Equity Securities

As consideration for the rights granted under the Symatese Europe Agreement as described in *Note 2. Basis of Presentation and Summary of Significant Accounting Policies*, on December 20, 2023 we issued to Symatese 610,000 shares of our common stock, par value $0.00001 per share. Such shares were offered and sold in reliance upon the exemption from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), set forth under Section 4(a)(2) of the Securities Act relating to sales by an issuer not involving any public offering. Symatese has represented to us that it is an accredited investor and that it acquired such shares of common stock for investment purposes only and not with a view to any resale, distribution or other disposition of securities in violation of the Securities Act.

Item 6. [Reserved].

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion contains management's discussion and analysis of our financial condition and consolidated results of operations and should be read together with the consolidated financial statements and the notes thereto included in Item 8 "Consolidated Financial Statements and Supplementary Data" and included elsewhere in this Annual Report on Form 10-K. This discussion contains forward-looking statements that reflect our plans, estimates and beliefs and involve numerous risks and uncertainties, including but not limited to those described in the Item 1A "Risk Factors" section of this Annual Report on Form 10-K. Actual results may differ materially from those contained in any forward-looking statements. You should carefully read "Special Note Regarding Forward-Looking Statements" and Item 1A "Risk Factors."

Overview

We are a global performance beauty company with a customer-centric approach to delivering breakthrough products in the cash-pay aesthetic market. Our first product, Jeuveau® (prabotulinumtoxinA-xvfs), is currently sold in the United States, Canada and certain European countries. We have commercial launch plans in additional countries where we have regulatory approval that we expect to implement in the next few years. We are also actively pursuing regulatory approval of Evolysse™, a line of hyaluronic acid dermal fillers, and anticipate obtaining regulatory approval of the Evolysse™ line of products in Europe in the second half of 2024 and in the United States beginning in 2025. Regulatory approval has already been received for the Evolysse™ nasolabial fold product in Europe.

Jeuveau® is a proprietary 900 kDa purified botulinum toxin type A formulation indicated for the temporary improvement in the appearance of moderate to severe glabellar lines, also known as "frown lines," in adults. Evolysse™, a line of dermal fillers, is a first-generation cold technology hyaluronic acid line for products including mid face, nasolabial folds, lips and eyes. Our primary market is the cash-pay aesthetic market, which consists of medical products that consumers pay for directly out of pocket. Our customers are aesthetic practitioners who are properly licensed to deliver our products. By avoiding the regulatory burdens that accompany reimbursed products and pursuing an aesthetic-only non-reimbursed product strategy, we create flexibility to deliver a unique value proposition to our customers. We utilize this flexibility to drive customer adoption through programs such as our consumer loyalty program, co-branded marketing programs, promotional events and pricing strategies.

Recent Developments

Symatese Agreements

On May 9, 2023, we entered into a License, Supply and Distribution Agreement, or the Symatese U.S. Agreement, with Symatese S.A.S ("Symatese"), pursuant to which Symatese granted to us an exclusive right to commercialize and distribute five dermal filler product candidates which we collectively refer to as Evolysse™, including the products we refer to as: (i) Lift; (ii) Smooth; (iii) Sculpt; (iv) Lips; and (v) Eye in the United States for aesthetic and dermatological uses. We also have the right of first negotiation to obtain a license from Symatese for any new products developed using the same technology as the Evolysse™ line of dermal fillers.

Evolysse™ Lift, Smooth, and Sculpt are currently in advanced stages of clinical trials pursuant to an investigational device exemption, or IDE, from the U.S. Food and Drug Administration, or FDA. We have agreed to a cost-sharing arrangement with Symatese to gain FDA approval of the Evolysse™ Lips and Eye products. Subject to FDA approval, we expect Evolysse™ Lift and Smooth to commercially launch in the first half of 2025, Evolysse™ Sculpt to launch in 2026 and Evolysse™ Lips and Eye to launch in 2027.

On December 20, 2023, we entered into a License, Supply and Distribution Agreement, or the Symatese Europe Agreement, pursuant to which Symatese granted to us an exclusive right to commercialize and distribute four dermal filler product candidates, which are referred to as: (i) Lift; (ii) Smooth; (iii) Sculpt and (iv) Lips in 50 countries in Europe for use in the aesthetics and dermatological fields. Regulatory approval has been received for the Evolysse™ nasolabial fold product in Europe and the remaining three products are anticipated to be approved in late 2024.

We will be licensing our neurotoxin, Jeuveau®, to Symatese for distribution in France, marking the fifth European market that we have now entered. In addition, we will sub-license its distribution rights for the Evolysse™ fillers line to a Symatese subsidiary for distribution in France.

"Extra-Strength" Clinical Trial

In November 2021, we announced the initiation of a Phase II clinical trial designed to investigate a higher strength dose of Jeuveau® in the frown lines. We completed our patient enrollment in the clinical study evaluating the "extra-strength" dose in the second quarter of 2022. This program provides us with the opportunity to offer the first multi-strength neurotoxin, giving customers and consumers increased treatment options. In June 2023, we announced the successful completion of the Phase II clinical trial and in November 2023, we presented the final results of the "extra-strength" clinical trial. The clinical trial data showed that the "extra-strength" formulation of Jeuveau® had a similar safety profile to the controls and demonstrated a median duration of at least 26 weeks based on the time for patients to return to baseline after treatment.

The Pharmakon Term Loans

On December 14, 2021, we entered into a loan agreement with BPCR Limited Partnership, BioPharma Credit Investments V (Master) LP, and Biopharma Credit PLC (collectively, "Pharmakon"). Pursuant to the terms of the agreement, Pharmakon agreed to make term loans to us in two tranches ("Pharmakon Term Loans"). The first tranche of $75.0 million was funded on December 29, 2021. On December 5, 2022, we entered into a Second Amendment to the loan agreement to extend our option to draw down the second tranche of $50.0 million until December 31, 2023. In exchange for the extension, we paid an amendment fee of $0.5 million to Pharmakon. On May 9, 2023, we entered into a Third Amendment to the loan agreement, which provides for the advancement of the second tranche of $50.0 million in two installments: (i) $25.0 million advanced on May 31, 2023 and (ii) $25.0 million advanced on December 15, 2023. The Pharmakon Term Loans matures on the six-year anniversary of the closing date of the first tranche. See "—Liquidity and Capital Resources—The Pharmakon Term Loans" for further information.

Impact of Settlement Agreements

In February 2021, we settled litigation claims related to a complaint against us filed by Allergan, Inc. and Allergan Limited (together, "Allergan") and Medytox, Inc. ("Medytox") in the U.S. International Trade Commission related to Jeuveau® (the "ITC Action") and certain related matters by entering into a Settlement and License Agreement with Medytox and Allergan, which we refer to as the U.S. Settlement Agreement, and another Settlement and License Agreement with Medytox which we refer to as the Medytox Settlement Agreement. We refer to the U.S. Settlement Agreement and the ROW Settlement Agreement collectively as the Medytox/Allergan Settlement Agreements.

We have completed all obligations to Allergan and the majority of our obligations to Medytox under the Medytox/Allergan Settlement Agreements. The completed obligations consisted of (i) cash payments of $35.0 million, of which we paid the first payment of $15.0 million in the third quarter of 2021, the second payment of $15.0 million in the first quarter of 2022, and the final payment of $5.0 million in the first quarter of 2023, (ii) payment to Allergan and Medytox of certain royalties on the sale of Jeuveau®, based on a certain dollar amount per vial sold of Licensed Products by or on our behalf in the United States, from December 16, 2020 through September 16, 2022, (iii) payment to Medytox, from December 16, 2020 to September 16, 2022, of a low-double digit royalty on net sales of Jeuveau® sold by us or on our behalf in territories we have licensed outside the United States, and (iv) the issuance of 6,762,652 shares of our common stock to Medytox.

Going forward, our remaining obligation will be to pay Medytox a mid-single digit royalty percentage on net sales of Jeuveau® in the United States and all territories we have licensed outside the United States through September 16, 2032.

As a result of the royalty payments that we are required to pay under the Medytox Settlement Agreements, our cost of sales and gross profit margin have been negatively impacted and will continue to be negatively impacted to a lesser extent from September 2022 to September 2032.

Contingent Royalties to Evolus Founders

We are obligated to make quarterly future payments to the founders of Evolus, which we refer to as the Evolus Founders, of a low single digit percentage of net sales of Jeuveau®. These obligations will terminate at the end of the second quarter of 2029. The fair value of the obligations are valued quarterly and are referred to in our consolidated financial statements as the contingent royalty obligation.

Market Trends and Uncertainties

The global economy, including the financial and credit markets, has recently experienced extreme volatility and disruptions, including uncertainty regarding the stability of certain financial institutions, increases in inflation rates, rising interest rates, severely diminished liquidity and credit availability, declines in consumer confidence, declines in economic growth, and uncertainty about economic stability. We expect elevated levels of cost inflation to continue, potentially impacting consumer

discretionary spending for aesthetic medical procedures. Markets experiencing uncertainty could have substantial high rates of inflation. We cannot reasonably estimate the financial impact of increased inflation on our financial condition, results of operations or cash flows in the future.

Results of Operations

Comparison of the Years Ended December 31, 2023 and 2022

The following table summarizes our results of operations for the periods indicated:

	Year Ended December 31,	
(in millions)	**2023**	**2022**
Revenue:		
Product revenue, net	$ 199.7	$ 146.6
Service revenue	2.4	2.0
Total net revenues	202.1	148.6
Operating expenses:		
Product cost of sales (excludes amortization of intangible assets)	61.6	55.9
Selling, general and administrative	164.9	141.8
Research and development	6.6	4.7
In-process research and development	8.9	2.0
Revaluation of contingent royalty obligation payable to Evolus Founders	4.3	5.8
Depreciation and amortization	5.1	3.7
Total operating expenses	251.3	213.9
Loss from operations	(49.2)	(65.3)
Non-operating expense, net	(12.3)	(9.0)
Loss before income taxes:	(61.5)	(74.3)
Income tax expense	0.2	0.1
Net loss	$ (61.7)	$ (74.4)
Unrealized loss, net of tax	(0.1)	(0.3)
Comprehensive loss	$ (61.8)	$ (74.7)

The following table summarizes our gross profit margin for the periods indicated:

	Year Ended December 31,	
(in millions)	**2023**	**2022**
Total net revenues	$ 202.1	$ 148.6
Cost of sales:		
Product cost of sales (excludes amortization of intangible assets)	61.6	55.9
Amortization of distribution right intangible asset	3.0	3.0
Total cost of sales	64.5	58.9
Gross profit	$ 137.6	$ 89.8
Gross profit margin	*68.1 %*	*60.4 %*

Net Revenues

We currently operate in one reportable segment, and all of our net revenues are derived from sales of Jeuveau®. Net revenues consist of revenues, net of adjustments primarily for customer rebates, rewards related to the consumer loyalty program and co-branded marketing programs. Revenues are recognized when the control of the promised goods is transferred to the customer in an amount that reflects the consideration allocated to the related performance obligations and to which we expect to be entitled in exchange for those products or services.

Net revenues of Jeuveau® sales increased by $53.5 million, or 36.0%, to $202.1 million for the year ended December 31, 2023 from $148.6 million for the year ended December 31, 2022, primarily due to higher sales volumes. Net revenues during the year ended December 31, 2023 and 2022 consisted of $2.4 million and $2.0 million of service revenue, respectively, from the sale of Jeuveau® through a distribution partner in Canada. We anticipate our continued sales growth will depend on our ability to grow our customer base and increase purchases by our current customers in the competitive aesthetic market as well as on regulatory approval for the Evolysse™ dermal filler product line in the United States and Europe by Symatese.

Cost of Sales

Product Cost of Sales

Product cost of sales, excluding amortization of intangible assets, primarily consisted of the cost of inventory purchased from Daewoong. In addition, during the period from December 2020 to September 2022, product cost of sales, excluding amortization of intangible assets, also included certain royalties on the sale of Jeuveau® payable to Medytox and Allergan pursuant to the Medytox/Allergan Settlement Agreements, partially offset by reimbursement receivable from Daewoong pursuant to the Daewoong Arrangement with respect to such royalties. Our royalty obligations to Allergan concluded on September 16, 2022, and beginning on September 17, 2022, our royalty obligations to Medytox were reduced to a mid-single digit percentage of net revenue through the expiration of our Medytox royalty obligation in September 2032.

Product cost of sales, excluding amortization of intangible assets, increased by $5.7 million, or 10.1%, to $61.6 million for the year ended December 31, 2023 from $55.9 million from the year ended December 31, 2022 primarily due to higher sales volume, offset by reduced royalty obligations to Medytox. We anticipate that our product cost of sales will fluctuate in line with changes in revenues until the expiration of our Medytox royalty obligation in September 2032.

Gross Profit Margin

Our gross profit margin was 68.1% and 60.4% for the years ended December 31, 2023 and 2022, respectively. Our gross profit margin was impacted negatively and materially through September 2022, by our payments under the Medytox/Allergan Settlement Agreements. Our gross profit margin has been and will continue to be negatively impacted to a lesser extent from September 2022 to September 2032 as we pay royalty obligations to Medytox at a mid-single digit percentage of net revenue. We also anticipate our gross profit margin will fluctuate as we implement various marketing programs that may affect the average selling price for Jeuveau® and as we expand internationally.

Selling, General and Administrative

Selling, general and administrative expenses increased by $23.1 million, or 16.3%, to $164.9 million for the year ended December 31, 2023 from $141.8 million for the year ended December 31, 2022, primarily resulting from increasing personnel costs and related to our commercial activities. Selling, general and administrative expenses may fluctuate in the future primarily due to potential changes in marketing strategies and international launches.

Research and Development

Research and development expenses increased by $1.8 million, or 38.3%, to $6.6 million for the year ended December 31, 2023 from $4.7 million for the year ended December 31, 2022. The increase was primarily attributable to increasing our clinical operations and research and development expenses related to the Phase II “extra-strength” clinical trial. We expect our research and development expenses to continue to increase if and when we develop further product candidates and as we pursue regulatory approvals in other jurisdictions.

In-process Research and Development

In-process research and development increased by $6.9 million, or 343.5%, to $8.9 million for the year ended December 31, 2023 from $2.0 million for the year ended December 31, 2022. In 2022, we recorded an upfront payment of $2.0 million in connection with the License and Research Collaboration Agreement (the “Collaboration Agreement”) we entered into with a 3D printing company with biomaterial capabilities. In 2023, we recorded the upfront payment of $4.4 million and the issuance of shares of $4.4 million in connection with the Symatese U.S. Agreement and Symatese Europe Agreement, respectively. See *Note 2. Basis of Presentation and Summary of Significant Accounting Policies* for additional information.

Revaluation of Contingent Royalty Obligation Payable to Evolus Founders

The change in the fair value of the contingent royalty obligation payable to Evolus Founders is recorded in operating expenses in each reporting period. During the years ended December 31, 2023 and 2022, the revaluation charges of $4.3 million and $5.8 million, respectively, were primarily driven by changes in management assumptions relating to revenue forecasts, the discount rate used and the timing of cash flows.

Depreciation and Amortization

Depreciation and amortization increased by $1.4 million, or 37.9%, to $5.1 million for the year ended December 31, 2023 from $3.7 million for the year ended December 31, 2022, primarily due to an increase in amortization of internal-use software and leasehold improvements.

Non-Operating Expense, Net

Non-operating expense, net, increased by $3.3 million, or 36.6%, to $12.3 million for the year ended December 31, 2023 from $9.0 million for the year ended December 31, 2022, primarily due the advancement of the $50.0 million second tranche of the Pharmakon Term Loans in 2023. Interest on the Pharmakon Term Loans is based on a variable interest rate, which we expect will continue to fluctuate with the market.

Income Taxes Expense

There was minimal income tax expense for the years ended December 31, 2023 and 2022.

Liquidity and Capital Resources

As of December 31, 2023, we had cash and cash equivalents of $62.8 million, positive working capital of $64.1 million and stockholders' deficit of $20.7 million.

We began selling Jeuveau® in May 2019 and have a relatively limited history of generating revenues. Since inception, we have incurred recurring net operating losses and have an accumulated deficit of $559.0 million as of December 31, 2023 as a result of ongoing efforts to develop and commercialize Jeuveau®, including providing selling, general and administrative support for our operations. We had net loss of $61.7 million and $74.4 million in the years ended December 31, 2023 and 2022, respectively. We had a net loss from operations of $49.2 million and $65.3 million in the years ended December 31, 2023 and 2022, respectively. We used net cash of $34.0 million and $84.9 million in operating activities for the twelve months ended December 31, 2023 and 2022, respectively. We expect to continue to incur significant expenses for the foreseeable future as we increase marketing efforts for Jeuveau® in the U.S., Europe, and Australia, pursue regulatory approvals in other jurisdictions and ready for commercial launch of the Evolysse™ Lift, Smooth, Sculpt and Eye dermal filler product line.

Impact of Inflation

The markets in which we operate are currently experiencing increased inflation. While we do not believe that inflation has had a material impact on our business, revenues or operating results during the periods presented, a prolonged inflationary environment could impact consumer discretionary spending for aesthetic medical procedures, increase our cash required for operations and impact our liquidity position.

"At-the-market" Offerings of Common Stock

On March 8, 2023, we entered into an "at-the-market" sales agreement (the "ATM Sales Agreement") and filed a shelf registration statement on Form S-3 and corresponding prospectus with the SEC to permit sales under the ATM Sales Agreement, which registration statement became effective on June 8, 2023. We have not sold any shares under the ATM Sales Agreement. See Note 9. Stockholders' Equity for additional information.

The Pharmakon Term Loans

On December 14, 2021, we entered into a loan agreement with Pharmakon. Pursuant to the terms of the agreement, Pharmakon agreed to make term loans to us in two tranches. The first tranche of $75.0 million was funded on December 29, 2021. We received net proceeds of approximately $68.7 million from Pharmakon, after issuance costs and debt discounts. On December 5, 2022, we entered into a Second Amendment to the loan agreement to extend our option to draw down the second tranche of $50.0 million until December 31, 2023. On May 9, 2023, we entered into a Third Amendment to the loan agreement, which provided for the advancement of the second tranche of $50.0 million in two installments: (i) $25.0 million

advanced on May 31, 2023 and (ii) $25.0 million advanced on December 15, 2023, which amounts were advanced on such dates subject to the terms and conditions of the Pharmakon Term Loans. We are required to pay interest only under the loan agreement until March 2026, after which we make seven equal quarterly payments, each in an amount equal to 1/12th of the outstanding principal amount of the loan. We pay the remaining principal of the loan on the maturity date. The Pharmakon Term Loans will mature on the sixth year anniversary of the closing date of the first tranche. The term loan bears an annual interest rate equal to the 3-month secured overnight financing rate ("SOFR") (subject to a SOFR rate floor of 1.0%) plus 8.5% per annum. The proceeds of the Pharmakon Term Loans are used to fund our general corporate and working capital requirements.

Contingent Royalties to Evolus Founders

We are obligated to make quarterly royalty payments of a low single digit percentage of net sales of Jeuveau® to the Evolus Founders. These obligations terminate at the end of the second quarter of 2029. The fair value of the obligations is valued quarterly and is referred to in our consolidated financial statements as the contingent royalty obligation.

As of December 31, 2023 and 2022, we recorded an aggregate balance of $45.0 million and $46.3 million, respectively, on our consolidated balance sheet for the future royalty payment obligation to Evolus Founders.

Litigation Settlement

As described in "—Overview—Impact of Settlement Agreements," on February 18, 2021, upon entering into the Medytox/Allergan Settlement Agreements, we agreed to pay to Allergan and Medytox $35.0 million in multiple payments over two years, of which we paid the first payment of $15.0 million in the third quarter of 2021, the second payment of $15.0 million in the first quarter of 2022, and the final payment of $5.0 million in the first quarter of 2023. We also issued 6,762,652 shares of common stock to Medytox. In addition, during the period from December 16, 2020 through September 16, 2022, we agreed to pay to Allergan and Medytox royalties on the sale of Jeuveau®, based on a certain dollar amount per vial sold in the United States, and a low-double digit royalty on net sales of Jeuveau® sold in other Evolus territories. During the period from September 17, 2022 to September 16, 2032, we agreed to pay to Medytox a mid-single digit royalty percentage on all net sales of Jeuveau®. The royalty payments are made quarterly.

License and Supply Agreement

The Daewoong Agreement includes certain minimum annual purchases we are required to make in order to maintain the exclusivity of the license. We may, however, meet these minimum purchase obligations by achieving certain market share in our licensed territories. These potential minimum purchase obligations are contingent upon the occurrence of future events, including receipt of governmental approvals and our future market share in various jurisdictions.

Symatese U.S. Agreement

The Symatese U.S. Agreement includes certain milestone payments, development cost-sharing arrangements, and minimum annual purchases we are required to make in order to maintain the exclusivity of the license. We may, however, meet these minimum purchase obligations by achieving certain market share in our licensed territory. These potential minimum purchase obligations are contingent upon the occurrence of future events, including receipt of governmental approvals and our future market share.

Symatese Europe Agreement

The Symatese Europe Agreement includes certain milestone payments and minimum annual purchases we are required to make in order to maintain the exclusivity of the license. We may, however, meet these minimum purchase obligations by achieving certain market share in our licensed territory. These potential minimum purchase obligations are contingent upon the occurrence of future events, including receipt of governmental approvals and our future market share.

Operating Leases

Our corporate headquarters in Newport Beach, California is under a non-cancelable operating lease, which expires on January 31, 2030 with an option to extend the term for an additional 60 months. Lease payments increase based on an annual rent escalation clause that occurs on each February 1 anniversary.

Current and Future Capital Requirements

We believe that our current capital resources, which consist of cash and cash equivalents, future cash generated from operations and sales under the ATM Sales Agreement will be sufficient to satisfy our cash requirements for at least the next twelve months for working capital to support our daily operations and meet commitments under our contractual obligations with third parties, although we may wish to access the debt and equity markets or other sources of financing to satisfy our long-term cash requirements as further discussed below.

We have based our projections of capital requirements on assumptions that may prove to be incorrect and we may use all our available capital resources, which consist of cash and cash equivalents and cash generated from operations, sooner than we expect. Our cash requirements depend on numerous factors, including but not limited to, the impact of any potential disruptions to our supply chain, inflation or other economic conditions, uncertainty regarding the stability of certain financial institutions, and other long-term commitments and contingencies. Because of the numerous risks and uncertainties associated with research, development and commercialization of our products, we are unable to estimate the exact amount of our operating capital requirements. In such case, we may be required to raise additional capital to fund future operations through the incurrence of debt, the entry into licensing or collaboration agreements with partners, sale of equity securities, grants or other sources of financing. However, there can be no assurance such financing or other alternatives will be available to us on acceptable terms, or at all. The global economy, including the financial and credit markets, has recently experienced significant volatility and disruptions, including severely diminished liquidity and credit availability and rising interest rates. These conditions may adversely impact our ability to raise additional capital on acceptable terms, or at all.

Our future funding requirements will depend on many factors, including, but not limited to:

- the rate of revenue growth for Jeuveau® in the United States and success of planned international launches;
- the timing of regulatory approval for the Evolysse™ dermal filler product line in the United States and Europe by Symatese and our ability to successfully commercialize these products;
- development costs and milestone payments related to the Evolysse™ products;
- our ability to forecast demand for our products, scale our supply to meet that demand and manage working capital effectively;
- corporate development activities including the purchase, license, or other acquisition of products and services to add to our product or service offerings;
- the number, characteristics, and development stage of any future product candidates we may develop or acquire;
- the timing and costs of any ongoing or future clinical programs we may conduct;
- the cost of manufacturing our product or any future product candidates and any products we successfully commercialize, including costs associated with our supply chain;
- the timing and amounts of the royalty and other payments payable in connection with the Medytox Settlement Agreement;
- the amounts of the royalty payable to the Evolus Founders;
- the cost of commercialization activities for Jeuveau®, the Evolysse™ dermal filler product line or any future product candidates that are approved or cleared for sale, including marketing, sales and distribution costs;
- the cost of maintaining a sales force, the productivity of that sales force, the market acceptance of our products and the actions and product introductions of our competitors;
- our ability to establish and maintain strategic collaborations, licensing or other arrangements and the financial terms of any such agreements that we may enter into;
- any product liability or other lawsuits related to our products;
- the cost of any current litigation, including our ongoing securities class action lawsuit and shareholder derivative lawsuit;

- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company;
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing intellectual property and any other future intellectual litigation we may be involved in; and
- the timing, receipt and amount of sales of any future approved or cleared products, if any.

Cash Flows

The following table summarizes our cash flows for the periods indicated:

	Year Ended December 31,	
	2023	2022
(in millions)		
Net cash provided by (used in):		
Operating activities	$ (34.0)	$ (84.9)
Investing activities	(1.6)	(2.9)
Financing activities	44.6	(4.1)
Effect of exchange rates on cash	(0.1)	(0.3)
Change in cash and cash equivalents	8.9	(92.3)
Cash and cash equivalents, beginning of period	53.9	146.3
Cash and cash equivalents, end of period	$ 62.8	$ 53.9

Operating Activities

For the year ended December 31, 2023, operating activities used $34.0 million of cash, which primarily resulted from our net loss of $61.7 million. Net operating assets and liabilities changed by $5.9 million, primarily driven by improved collections from customers, payments to vendors, the timing of inventory purchases from our supplier, and the final cash litigation settlement payment of $5.0 million to Medytox and Allergan. Operating activities also includes adjustments for certain non-cash charges including $16.5 million of stock-based compensation expense, $1.4 million of provision of allowance for doubtful accounts, $1.1 million of amortization of debt discount and issuance costs, $5.1 million of depreciation and amortization, $4.3 million in revaluation of our contingent royalty obligation and $4.4 million of in-process research and development expense.

For the year ended December 31, 2022, operating activities used $84.9 million of cash, which primarily resulted from our net loss of $74.4 million. Net operating assets and liabilities changed by $34.3 million, primarily driven by timing of receipts from customers and payments to vendors and the second cash litigation settlement payment of $15.0 million to Medytox and Allergan. Operating activities also includes adjustments for certain non-cash charges including $10.8 million of stock-based compensation expense, $5.8 million in revaluation of our contingent royalty obligation, $1.6 million of provision of allowance for doubtful accounts, $1.1 million of amortization of debt discount and issuance costs and $3.7 million of depreciation and amortization.

Investing Activities

Cash used in investing activities was $1.6 million for the year ended December 31, 2023, compared to $2.9 million for the year ended December 31, 2022.

Financing Activities

Cash provided by financing activities was $44.6 million for the year ended December 31, 2023, compared to $4.1 million of cash used in financing activities for the year ended December 31, 2022. For the year ended December 31, 2023, cash provided by financing activities resulted from $50.0 million net proceeds from drawing on the second tranche of the Pharmakon Term Loans as described above.

Indebtedness

See "*—Liquidity and Capital Resources*" for a description of our Pharmakon Term Loans.

Material Cash Requirements

Our material cash requirements from known contractual and other obligations, including commitments for capital expenditures, primarily consist of (i) principal and interest payments related to our Pharmakon Term Loans (future interest payments on our outstanding Pharmakon Term Loans total approximately $60.9 million, with $17.9 million due within twelve months), (ii) quarterly royalty payments to the Evolus Founders of a low single digit percentage of net sales of Jeuveau® (these obligations terminate in the quarter after the 10-year anniversary of the first commercial sale of Jeuveau® in the United States), (iii) quarterly royalty payments to Medytox of a low-double digit royalty on net sales of Jeuveau® sold in the United States and other Evolus territories (during the period from September 17, 2022 to September 16, 2032), (iv) minimum purchase obligations under the Daewoong Agreement, (v) €12.1 milestone payments under the Symatese U.S. Agreement consisting of €1.6 million in June 2025, €4.1 million in June 2026, €3.2 million in June 2027, and €3.2 million in June 2028, in each case subject to three of the dermal filler products gaining approval prior to that date, (vi) €3.1 million of milestone payments under the Symatese Europe Agreement consisting of : €1.2 million on the second anniversary of certain regulatory approvals and €1.9 million on the earlier of the third anniversary of certain regulatory approvals or following a year in which we achieves €25 million in revenue in Europe for the dermal filler products, and (vii) obligations under operating leases related to our office space which are described in more detail in *Item 8. Consolidated Financial Statements and Supplementary Data - Note 7. Operating Leases.*

Critical Accounting Policies and Estimates

Management's discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of these consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and related disclosure of contingent assets and liabilities, revenue and expenses at the date of the consolidated financial statements as well as the expenses incurred during the reporting period. Generally, we base our estimates on historical experience and on various other assumptions in accordance with GAAP that we believe to be reasonable under the circumstances. Actual results may differ materially from these estimates under different assumptions or conditions and such differences could be material to the financial position and results of operations. On an ongoing basis, we evaluate our estimates and assumptions in light of changes in circumstances, facts and experience.

While our significant accounting policies are more fully described in the notes to our consolidated financial statements appearing elsewhere in this Annual Report on Form 10-K, we believe the following accounting policies to be most critical for fully understanding and evaluating our financial condition and results of operations, as these policies relate to the more significant areas involving management's judgments and estimates.

Revenue Recognition

We recognize revenue when control of the promised goods or services is transferred to our customers, in an amount that reflects the consideration to which we expect to be entitled in exchange for the goods or services. In order to achieve that core principle, a five-step approach is applied: (1) identify the contract with a customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue allocated to each performance obligation when (or as) we satisfy the performance obligations. A performance obligation is a promise in a contract to transfer a distinct good or service to the customer and is the unit of account for revenue recognition.

We generate product revenue from the sale of Jeuveau® in the United States and Europe and service revenue from the sale of Jeuveau® through a distribution partner in Canada. For product revenue, we recognize revenue when control of Jeuveau® is transferred to a customer upon receipt. For service revenue, we are determined to be the agent in the distribution of Jeuveau® in Canada and record the sale as service revenue on a net basis.

Product revenues are recorded net of sales-related adjustments, wherever applicable.

The consumer loyalty program allows participating customers to earn rewards for qualifying treatments to their patients (i.e. consumers) using Jeuveau® and redeem the rewards for Jeuveau® in the future at no additional cost. The loyalty program represents a customer option that provides a material right and, accordingly, is a performance obligation. At the time

Jeuveau® product is sold to customers, the invoice price is allocated between the product sold and the estimated material right reward, or Reward, that the customer might redeem in the future. The standalone selling price of the Reward is measured based on estimated average selling price of Jeuveau® at the time of redemption and the expected redemption rate by customers based on historical sales data. We do not believe there is a reasonable likelihood that there will be a material change in the future estimates or assumptions we use to establish the liability for the Reward. However, if the actual customer and consumer participation rates and number of qualifying treatments in any future periods materially differ from the estimates, we may be exposed to adjustments that could be material. The portion of invoice price allocated to the Reward is initially recorded as deferred revenue, and when customers redeem the Reward and the related product is delivered, the deferred revenue is reversed and included in net revenues.

Contingent Royalty Obligation to the Evolus Founders

We determine the fair value of the contingent royalty obligation payable to the Evolus Founders under the Amended Purchase Agreement based on significant unobservable inputs using a discounted cash flows method. Changes in the fair value of this contingent royalty obligation are determined each period end and recorded in operating expenses in the consolidated statements of operations and comprehensive loss and in the current and non-current liabilities in the consolidated balance sheets. The significant unobservable input assumptions that can significantly change the fair value includes (i) projected net revenues during the payment period, (ii) the discount rate and (iii) the timing of payments. Significant increases (decreases) in the discount rate would result in a significantly lower (higher) fair value measurement, which could materially impact the fair value reported on the consolidated balance sheet.

Recently Issued and Adopted Accounting Pronouncements

We describe the recently issued accounting pronouncements that apply to us in *Item 8. Consolidated Financial Statements and Supplementary Data - Note 2. Basis of Presentation and Summary of Significant Accounting Policies-Recent Accounting Pronouncements.*

Item 7A. Quantitative and Qualitative Disclosure About Market Risk.

We are exposed to market risk in the ordinary course of our business. Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial market prices and rates. Our market risk exposure is primarily a result of fluctuations in interest rates and foreign currency exchange rates.

Interest Rate and Market Risk

We are exposed to market risks in the ordinary course of our business. Our cash and cash equivalents include cash in readily available checking and money market accounts. These securities are not dependent on interest rate fluctuations that could cause the principal amount of these assets to fluctuate and thus do not pose any interest rate risk to us. While we believe our cash and cash equivalents do not contain excessive risk, we cannot provide absolute assurance that in the future our investments will not be subject to adverse changes in market value.

We are exposed to risks related to fluctuations in interest rates on our outstanding variable rate for the Pharmakon Term Loans. As of December 31, 2023, we had $120.4 million outstanding on the term loan. We estimate that a 1% increase or decrease in underlying interest rates as of December 31, 2023 would increase or decrease annual interest expenses by $1.3 million.

Foreign Exchange

Our operations are primarily conducted in the U.S. dollar. Exchange rate fluctuations may affect the costs that we incur in our operations. We conduct operations in foreign countries and are mainly exposed to fluctuations in the British pound and the EU euro. Transactional exposure arises when transactions occur in currencies other than the U.S. dollar. Transactions denominated in foreign currencies are recorded at the exchange rate prevailing at the date of the transaction with the resulting liabilities being translated into the U.S. dollar at exchange rates prevailing at the balance sheet date. The resulting gains and losses, which were insignificant for the years ended December 31, 2023, and 2022, are included in other expenses in the consolidated statement of operations and comprehensive loss.

Item 8. Consolidated Financial Statements and Supplementary Data.

Evolus, Inc.

Index to Consolidated Financial Statements

Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Evolus, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Evolus, Inc. (the Company) as of December 31, 2023 and 2022, the related consolidated statements of operations and comprehensive loss, stockholders' equity (deficit) and cash flows for each of the two years in the period ended December 31, 2023, and the related notes (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2023 and 2022, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2023, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2023, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework), and our report dated March 7, 2024 expressed an unqualified opinion thereon.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the account or disclosure to which it relates.

	Valuation of fair value of contingent royalty obligation
Description of the Matter	As discussed in Note 2 of the consolidated financial statements, the Company records payment obligations to its founders which consists of quarterly royalty payments of a low single digit percentage of net sales of Jeuveau®. The obligations terminate in the second quarter of 2029, which is the 10-year anniversary of the first commercial sale of Jeuveau® in the United States. The Company determines the fair value of the contingent royalty obligation at each reporting period end based on significant unobservable inputs using a discounted cash flows method. Auditing the Company's contingent royalty obligation was challenging due to the effort required to evaluate the appropriateness of the significant unobservable inputs used in the fair value calculation, specifically the US projected net revenues of Jeuveau® during the payment period.
How We Addressed the Matter in Our Audit	To test the estimated fair value of the contingent royalty obligation, we performed audit procedures that included, among others, assessing the terms of the arrangement, evaluating the methodology used, and testing the US projected net revenues of Jeuveau® used by the Company in its analysis. We also compared the US projected net revenues to current industry, market and economic trends and performed sensitivity analyses of other assumptions to evaluate the changes in the contingent royalty obligation that would result from changes in the assumptions. We also assessed the historical accuracy of management's forecasts of US net revenues used in developing the estimate to assist in evaluating the reliability of the US projected net revenues of Jeuveau® utilized in the estimate.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2017.

Irvine, California

March 7, 2024

Evolus, Inc.
Consolidated Balance Sheets
(in thousands, except par value and share data)

	December 31, 2023	December 31, 2022
ASSETS		
Current assets		
Cash and cash equivalents	$ 62,838	$ 53,922
Accounts receivable, net	30,529	22,448
Inventories	10,998	18,852
Prepaid expenses	5,700	3,902
Other current assets	2,356	1,678
Total current assets	112,421	100,802
Property and equipment, net	2,087	2,616
Operating lease right-of-use assets	5,763	1,947
Intangible assets, net	47,110	48,597
Goodwill	21,208	21,208
Other assets	409	2,813
Total assets	$ 188,998	$ 177,983
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current Liabilities		
Accounts payable	$ 4,271	$ 8,935
Accrued expenses	33,813	24,794
Accrued litigation settlement	—	5,000
Operating lease liabilities	1,377	1,320
Contingent royalty obligation payable to Evolus Founders	8,830	6,460
Total current liabilities	48,291	46,509
Operating lease liabilities	4,810	1,224
Contingent royalty obligation payable to Evolus Founders	36,200	39,850
Term loan, net of discount and issuance costs	120,359	71,879
Deferred tax liability	27	22
Total liabilities	$ 209,687	$ 159,484
Commitments and contingencies (Note 8)		
Stockholders' equity (deficit)		
Preferred Stock, $0.00001 par value; 10,000,000 shares authorized; no shares issued and outstanding at December 31, 2023 and December 31, 2022, respectively	—	—
Common Stock, $0.00001 par value; 100,000,000 shares authorized; 57,820,621 and 56,260,570 shares issued and outstanding at December 31, 2023 and December 31, 2022, respectively	1	1
Additional paid-in capital	538,716	516,129
Accumulated other comprehensive loss	(427)	(337)
Accumulated deficit	(558,979)	(497,294)
Total stockholders' equity (deficit)	(20,689)	18,499
Total liabilities and stockholders' equity (deficit)	$ 188,998	$ 177,983

See accompanying notes to consolidated financial statements.

Evolus, Inc.
Consolidated Statements of Operations and Comprehensive Loss
(in thousands, except share and per share data)

	Year Ended December 31,	
	2023	**2022**
Revenue:		
Product revenue, net	$ 199,721	$ 146,592
Service revenue	2,364	2,024
Total net revenues	202,085	148,616
Operating expenses:		
Product cost of sales (excludes amortization of intangible assets)	61,559	55,887
Selling, general and administrative	164,944	141,840
Research and development	6,556	4,742
In-process research and development	8,869	2,000
Revaluation of contingent royalty obligation payable to Evolus Founders	4,257	5,755
Depreciation and amortization	5,133	3,722
Total operating expenses	251,318	213,946
Loss from operations	(49,233)	(65,330)
Other income (expense):		
Interest income	860	119
Interest expense	(13,832)	(9,097)
Other income (expense), net	696	(9)
Loss before income taxes:	(61,509)	(74,317)
Income tax expense	176	95
Net loss	$ (61,685)	$ (74,412)
Other comprehensive loss:		
Unrealized loss, net of tax	(90)	(337)
Comprehensive loss	$ (61,775)	$ (74,749)
Net loss per share, basic and diluted	$ (1.08)	$ (1.33)
Weighted-average shares outstanding used to compute basic and diluted net loss per share	56,918,721	56,065,297

See accompanying notes to consolidated financial statements.

Evolus, Inc.

Consolidated Statements of Stockholders' Equity (Deficit)

(in thousands, except share data)

	Common Stock		Additional Paid In Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total
	Shares	Amount				
Balance at December 31, 2021	**55,576,988**	**$ 1**	**$ 504,757**	**$ —**	**$ (422,882)**	**$ 81,876**
Issuance of common stock in connection with the incentive equity plan	683,582	—	539	—	—	539
Stock-based compensation expense	—	—	10,833	—	—	10,833
Net loss	—	—	—	—	(74,412)	(74,412)
Other comprehensive loss	—	—	—	(337)	—	(337)
Balance at December 31, 2022	**56,260,570**	**$ 1**	**$ 516,129**	**$ (337)**	**$ (497,294)**	**$ 18,499**
Issuance of common stock in connection with the incentive equity plan	950,051	—	224	—	—	224
Issuance of common stock in connection with Symatese Europe Agreement	610,000	—	5,905	—	—	5,905
Stock-based compensation	—	—	16,458	—	—	16,458
Net loss	—	—	—	—	(61,685)	(61,685)
Other comprehensive loss	—	—	—	(90)	—	(90)
Balance at December 31, 2023	**57,820,621**	**$ 1**	**$ 538,716**	**$ (427)**	**$ (558,979)**	**$ (20,689)**

See accompanying notes to consolidated financial statements.

Evolus, Inc.
Consolidated Statements of Cash Flows
(in thousands)

	Year Ended December 31,	
	2023	**2022**
Cash flows from operating activities		
Net loss	$ (61,685)	$ (74,412)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	5,133	3,722
Stock-based compensation	16,458	10,833
Provision for bad debts	1,440	1,598
Amortization of operating lease right-of-use assets	734	775
Amortization of debt discount and issuance costs	1,116	1,086
Deferred income taxes	5	(18)
Revaluation of contingent royalty obligation to Evolus Founders	4,257	5,755
Non-cash in-process research and development expense	4,429	—
Changes in assets and liabilities:		
Inventories	4,193	(10,688)
Accounts receivable	(9,521)	(9,389)
Prepaid expenses	(1,798)	1,180
Other assets	(864)	4,854
Accounts payable	(1,017)	968
Accrued expenses	9,019	(5,199)
Accrued litigation settlement	(5,000)	(15,000)
Operating lease liabilities	(907)	(977)
Net cash used in operating activities	(34,008)	(84,912)
Cash flows from investing activities		
Purchases of property and equipment	(473)	(1,618)
Additions to capitalized software	(1,154)	(1,321)
Net cash used in investing activities	(1,627)	(2,939)
Cash flows from financing activities		
Payment of contingent royalty obligation to Evolus Founders	(5,537)	(4,185)
Proceeds from issuance of long-term debt, net of discounts	50,000	—
Payments for debt issuance costs	(46)	(500)
Issuance of common stock in connection with incentive equity plan	224	539
Net cash provided by (used in) financing activities	44,641	(4,146)
Effect of exchange rates on cash	(90)	(337)
Change in cash and cash equivalents	8,916	(92,334)
Cash and cash equivalents, beginning of period	53,922	146,256
Cash and cash equivalents, end of period	$ 62,838	$ 53,922

See accompanying notes to consolidated financial statements.

Evolus, Inc.
Consolidated Statements of Cash Flows (Continued)
(in thousands)

	Year Ended December 31,	
	2023	2022
Supplemental disclosure of cash flow information		
Cash paid for interest	$ 12,708	$ 7,999
Cash paid for income taxes	117	76
Non-cash investing and financing information		
Operating lease right-of-use assets obtained in exchange for operating lease liabilities	4,550	—
Issuance of common stock in connection with Symatese Europe Agreement	1,476	—

See accompanying notes to consolidated financial statements.

Evolus, Inc.
Notes to Consolidated Financial Statements
(in thousands, except share and per share data)

Note 1. Description of Business

Description of Business

Evolus, Inc., ("Evolus" or the "Company") is a global performance beauty company focused on delivering products in the cash-pay aesthetic market. The Company received the approval of its first product Jeuveau® (prabotulinumtoxinA-xvfs) from the U.S. Food and Drug Administration (the "FDA") in February 2019. The product was also approved by Health Canada in August 2018, the European Commission ("EC") in September 2019, the Australian Therapeutics Good Administration ("TGA") in January 2023, and Swissmedic in November 2023. Jeuveau® is a proprietary 900 kDa purified botulinum toxin type A formulation indicated for the temporary improvement in the appearance of moderate to severe glabellar lines, also known as "frown lines," in adults. The Company commercially launched Jeuveau® in the United States in May 2019, in Canada through a distribution partner in October 2019, and began its launch in Europe in September 2022. In 2023, the Company entered into an agreement to be the exclusive distributor of Evolysse™, a line of dermal fillers currently in late-stage development in the U.S. and Europe. Regulatory approval has been received for the Evolysse™ nasolabial fold product in Europe and the remaining three products are anticipated to be approved in late 2024. U.S. regulatory approval and commercial launch remains on track to begin in 2025 for the first two products with subsequent product launches for the remaining products in 2026 and 2027. The Company currently generates all of its net revenues from Jeuveau®. The Company is headquartered in Newport Beach, California.

Liquidity and Financial Condition

The accompanying consolidated financial statements have been prepared on a basis that assumes that the Company will continue as a going concern. This basis of accounting contemplates the recovery of the Company's assets and the satisfaction of the Company's liabilities and commitments in the normal course of business and does not include any adjustments to reflect the possible future effects of the recoverability and classification of recorded asset amounts or amounts and classification of liabilities that might be necessary should the Company be unable to continue as a going concern.

Since inception, the Company has incurred recurring net operating losses and negative cash flows from operating activities and management expects operating losses and negative cash flows to continue for at least the next twelve months. The Company recorded net loss from operations of $49,233 and a total net loss of $61,685 for the twelve months ended December 31, 2023. The Company used cash of $34,008 from operations during the twelve months ended December 31, 2023, which included the final lump sum settlement payment of $5,000 to Medytox and Allergan, Inc. and Allergan Limited (together, "Allergan") and an upfront payment of $4,441 to Symatese S.A.S. ("Symatese"). As of December 31, 2023, the Company had $62,838 in cash and cash equivalents and an accumulated deficit of $558,979.

On March 8, 2023, the Company entered into an "at-the-market" sales agreement (the "ATM Sales Agreement") and filed a shelf registration statement on Form S-3 and corresponding prospectus with the SEC to permit sales under the ATM Sales Agreement, which registration statement became effective on June 8, 2023. The Company has not sold any shares under the ATM Sales Agreement. See *Note 9. Stockholders' Equity* for additional information.

The Company believes that its current capital resources, which consist of cash and cash equivalents, will be sufficient to fund its operations through at least the next twelve months from the date the accompanying consolidated financial statements are issued based on its expected cash needs. The Company may need to raise additional capital to fund future operations or execute corporate development activities through entering into licensing or collaboration agreements with partners, grants or other sources of financing. Sufficient funds may not be available to the Company at all or on attractive terms when needed from equity or debt financings. If the Company is unable to obtain additional funding from these or other sources when needed, or to the extent needed, it may be necessary to reduce its scope of operations to reduce the current rate of spending through actions such as reductions in staff and delaying, scaling back, or suspending certain research and development, sales and marketing programs and other operational goals.

Note 2. Basis of Presentation and Summary of Significant Accounting Policies

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP").

Evolus, Inc.
Notes to Consolidated Financial Statements
(in thousands, except share and per share data)

Principles of Consolidation

The Company's consolidated financial statements include the Company's accounts and those of the Company's wholly-owned subsidiaries, Evolus Pharma Limited, Evolus International Ltd. and Evolus Pharma BV, and have been prepared in conformity with GAAP. All intercompany transactions have been eliminated.

Use of Estimates

Management is required to make certain estimates and assumptions in order to prepare consolidated financial statements in conformity with GAAP. Such estimates and assumptions affect the reported consolidated financial statements. These estimates include, but are not limited to net revenues, allowance for doubtful accounts, fair value measurements, inventory valuations and stock-based compensation, among others. Management bases estimates on historical experience and on assumptions that management believes are reasonable. The Company's actual results could differ materially from those estimates.

Risks and Uncertainties

The Company is party to an agreement (the "Daewoong Agreement") with Daewoong Pharmaceutical Co. Ltd. ("Daewoong"), pursuant to which the Company received an exclusive distribution license to Jeuveau® from Daewoong for aesthetic indications in the United States, European Union, United Kingdom, members of the European Economic Area, Switzerland, Canada, Australia, New Zealand, and South Africa, as well as co-exclusive distribution rights with Daewoong in Japan. Jeuveau® is manufactured by Daewoong in a facility in South Korea. The Company also has the option to negotiate first with Daewoong to secure a distribution license for any product that Daewoong directly or indirectly develops or commercializes that is classified as an injectable botulinum toxin (other than Jeuveau®) in a territory covered by the Daewoong Agreement. The Company relies on Daewoong, its exclusive and sole supplier, to manufacture Jeuveau®. Any termination or loss of significant rights, including exclusivity, under the Daewoong Agreement would materially and adversely affect the Company's commercialization of Jeuveau®. See *Note 8. Commitments and Contingencies* and *Note 10. Medytox/Allergan Settlement Agreements and Daewoong Arrangement* for additional information.

The Company commercially launched Jeuveau® in the United States in May 2019 and in Canada through its distribution partner in October 2019. The Company also began commercially launching Jeuveau® in Europe in September 2022 and, as such, has a limited history of sales in those markets. If any previously granted approval to market and sell Jeuveau® is retracted or the Company is denied approval or approval is delayed by regulators in any other jurisdictions, it may have a material adverse impact on the Company's business and its consolidated financial statements.

The Company is also subject to risks common to companies in the pharmaceutical industry including, but not limited to, dependency on the commercial success of Jeuveau®, the Company's sole commercial product, significant competition within the medical aesthetics industry, its ability to maintain regulatory approval of Jeuveau®, third party litigation and challenges to its intellectual property, uncertainty of broad adoption of its product by aesthetic practitioners and patients, its ability to in-license, acquire or develop additional product candidates and to obtain the necessary approvals for those product candidates, and the need to scale manufacturing capabilities over time.

Any disruption and volatility in the global capital markets, including caused by other events, such as public health crises, increased inflation and rising interest rates, and geopolitical conflicts, including the military conflict between Russia and Ukraine and the ongoing conflict in the Middle East, may increase the Company's cost of capital and adversely affect its ability to access financing when and on terms that the Company desires. Any of these events could have a material adverse effect on the Company's business, financial condition, results of operations and cash flows.

Segment Reporting

Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision-maker. The Company has determined that it operates in a single operating and reportable segment. The Company's chief operating decision maker is its Chief Executive Officer who manages operations and reviews the financial information as a single operating segment for the purposes of allocating resources and evaluating its financial performance.

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Notes to Consolidated Financial Statements
(in thousands, except share and per share data)

Concentration of Credit Risk

Financial instruments that potentially subject the Company to a concentration of credit risk consist of cash and cash equivalents and accounts receivable. Substantially all of the Company's cash is held by financial institutions that management believes are of high credit quality. Such deposits may, at times, exceed federally insured limits. To date, the Company has not experienced any losses associated with this credit risk and continues to believe that this exposure is not significant. The Company invests, or plans to soon invest, its excess cash, in line with its investment policy, primarily in money market funds and debt instruments of U.S. government agencies.

The Company's accounts receivable is derived from customers located principally in the United States. Concentrations of credit risk with respect to trade receivables are limited due to the Company's credit evaluation process. The Company does not typically require collateral from its customers. Credit losses historically have not been material. The Company continuously monitors customer payments and maintains an allowance for credit losses based on its assessment of various factors including historical experience, age of the receivable balances, and other current economic conditions or other factors that may affect customers' ability to pay.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash and highly liquid investments with remaining maturities at purchase of three months or less that can be liquidated without prior notice or penalty. Cash and cash equivalents may include deposits, money market funds and debt securities. Amounts receivable from credit card issuers are typically converted to cash within two to four days of the original sales transaction and are considered to be cash equivalents.

Inventories

Inventories consist of finished goods held for sale and distribution. Cost is determined based on the estimated amount payable to the Company's supplier after accounting for any reimbursement receivable pursuant to the Daewoong Settlement Agreement (as such term is defined, and such agreement is discussed, in *Note 10. Medytox/Allergan Settlement Agreements and Daewoong Arrangement*), using the first-in, first-out method with prioritization of the items with the earliest expiration dates. Inventory valuation reserves are established based on a number of factors including, but not limited to, finished goods not meeting product specifications, product excess and obsolescence, or application of the lower of cost or net realizable value concepts. The determination of events requiring the establishment of inventory valuation reserves, together with the calculation of the amount of such reserves may require judgment. No material inventory valuation reserves have been recorded for the periods presented. Adverse changes in assumptions utilized in the Company's inventory reserve calculations could result in an increase to its inventory valuation reserves.

Product cost of sales, excluding amortization of intangible assets, consisted of the inventory cost and certain royalties on the sale of Jeuveau® payable to Medytox and Allergan pursuant to the Medytox/Allergan Settlement Agreements (as such term is defined in *Note 10. Medytox/Allergan Settlement Agreements and Daewoong Arrangement*).

Fair Value of Financial Instruments

Fair value is defined as the exchange price that would be received for an asset or an exit price paid to transfer a liability in an orderly transaction between market participants in a principal market on the measurement date.

The fair value hierarchy defines a three-tiered valuation hierarchy for disclosure of fair value measurement is classified and disclosed by the Company in one of the three categories as follows:

- Level 1—Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities;
- Level 2—Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities in active markets; quoted prices in markets that are not active; or other inputs that are observable, either directly or indirectly, or can be corroborated by observable market data for substantially the full term of the asset or liability; and

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- Level 3—Prices or valuation techniques that require inputs that are unobservable that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The categorization of a financial instrument within the valuation hierarchy is based upon the lowest level of input that is significant to the fair value measurement.

Property and Equipment

Property and equipment are stated at cost. Depreciation and amortization are provided using the straight-line method over the estimated useful lives of approximately three to five years. Leasehold improvements are amortized over the shorter of the estimated useful lives of the improvements or the term of the related lease.

Goodwill

Goodwill represents the excess of the purchase price over the fair value of the net tangible and intangible assets acquired in a business combination. The Company assesses goodwill for impairment annually and whenever events or changes in circumstances indicate that the carrying amount of goodwill may not be recoverable. The Company performs an annual qualitative assessment of its goodwill in the fourth quarter of each calendar year to determine if any events or circumstances exist, such as an adverse change in business climate or a decline in the overall industry demand, that would indicate that it would more likely than not reduce the fair value of a reporting unit below its carrying amount, including goodwill. If events or circumstances do not indicate that the fair value of a reporting unit is below its carrying amount, then goodwill is not considered to be impaired and no further testing is required. For the purpose of impairment testing, the Company has determined that it has one reporting unit. There was no impairment of goodwill for any of the periods presented.

Intangible Assets

The distribution right intangible asset related to Jeuveau® is amortized over the period the asset is expected to contribute to the future cash flows of the Company. The Company determined the pattern of this intangible asset's future cash flows could not be readily determined with a high level of precision. As a result, the distribution right intangible asset is being amortized on a straight-line basis over the estimated useful life of 20 years.

A portion of the Symatese Europe Agreement represents the license and distribution right to Evolysse™ in Europe. The definite-lived distribution right intangible asset related to the Evolysse™ nasolabial fold product approved in Europe is amortized on a straight-line basis over the estimated useful life of 15 years.

The Company capitalizes certain internal-use software costs associated with the development of its mobile and web-based customer platforms. These costs include personnel expenses and external costs that are directly associated with the software projects. These costs are included as intangible assets in the accompanying consolidated balance sheets. The capitalized internal-use software costs are amortized on a straight-line basis over the estimated useful life of two years upon being placed in service.

The Company reviews long-term and identifiable definite-lived intangible assets or asset groups for impairment when events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be recoverable. If the sum of the expected future undiscounted cash flows is less than the carrying amount of the asset or an asset group, further impairment analysis is performed. An impairment loss is measured as the amount by which the carrying amount of the asset or asset groups exceeds the fair value for assets to be held and used or fair value less cost to sell for assets to be disposed of. The Company also reviews the useful lives of its assets periodically to determine whether events and circumstances warrant a revision to the remaining useful life. Changes in the useful life are adjusted prospectively by revising the remaining period over which the asset is amortized. There was no material impairment of long-lived assets for any periods presented.

Leases

At the inception of a contractual arrangement, the Company determines whether the contract contains a lease by assessing whether there is an identified asset and whether the contract conveys the right to control the use of the identified asset in exchange for consideration over a period of time. If both criteria are met, upon lease commencement, the Company records a lease liability which represents the Company's obligation to make lease payments arising from the lease, and a corresponding right-of-use ("ROU") asset which represents the Company's right to use an underlying asset during the lease term. Operating

lease assets and liabilities are included in ROU assets, current portion of operating lease liabilities and noncurrent operating lease liabilities in the accompanying consolidated balance sheets.

Operating lease ROU assets and lease liabilities are initially recognized based on the present value of the future minimum lease payments over the lease term at commencement date calculated using the Company's incremental borrowing rate applicable to the underlying asset unless the implicit rate is readily determinable. The incremental borrowing rate, the ROU asset and the lease liability are reevaluated upon a lease modification. Operating lease ROU assets also include any lease payments made at or before lease commencement and exclude any lease incentives received, if any. The Company determines the lease term as the noncancelable period of the lease and may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise such options. The Company's leases do not contain any residual value guarantees. Leases with a term of 12 months or less are not recognized on the consolidated balance sheets. For operating leases, the Company recognized rent expense on a straight-line basis over the lease term. There were no significant finance leases as of December 31, 2023.

Contingent Royalty Obligation Payable to Evolus Founders

The Company was acquired by Strathspey Crown Holdings Group, LLC ("SCH") in 2013 and subsequently by its subsidiary, Alphaeon Corporation ("Alphaeon"), by means of a stock purchase agreement ("Stock Purchase Agreement") pursuant to which Alphaeon assumed certain payment obligations related to the acquisition. On December 14, 2017, the Stock Purchase Agreement was amended ("Amended Stock Purchase Agreement"), and, as a result, effective upon the closing of the Company's initial public offering in February 2018, the Company assumed all of Alphaeon's payment obligations under the Amended Stock Purchase Agreement.

Payment obligations to the Evolus Founders consist of quarterly royalty payments of a low single digit percentage of net sales of Jeuveau®. The obligations terminate in the second quarter of 2029, which is the 10-year anniversary of the first commercial sale of Jeuveau® in the United States. Under the Amended Stock Purchase Agreement, the Company recorded the fair value of all revised payment obligations owed to the Evolus Founders.

The Company determines the fair value of the contingent royalty obligation payable at each reporting period end based on Level 3 inputs using a discounted cash flows method. Changes in the fair value of the contingent royalty obligation payable are determined at each reporting period end and recorded in operating expenses in the accompanying consolidated statements of operations and comprehensive loss and as a liability in the accompanying consolidated balance sheets.

Long-Term Debt

Long-term debt represents the debt balance with Pharmakon (see *Note 6. Term Loans*), net of discount and issuance costs. Debt issuance costs represent legal, lender and consulting costs or fees associated with debt financing. Debt discounts and issuance costs are amortized into interest expense over the term of the debt.

Foreign Currency Translation

The financial statements of foreign subsidiaries are measured using the local currency as the functional currency. Assets and liabilities are translated into U.S. dollars at current exchange rates as of balance sheet date, and income and expense items are translated into U.S. dollars using the average rates of exchange prevailing during the period. Gains and losses arising from translation are recorded in other comprehensive loss as a separate component of stockholders' equity. Foreign currency gains or losses on transactions denominated in a currency other than the Company's functional currency are recorded in other expenses, net in the accompanying consolidated statements of operations and comprehensive loss.

Revenue Recognition

The Company recognizes revenue when control of the promised goods or services is transferred to its customers, in an amount that reflects the consideration to which the Company expects to be entitled in exchange for the goods or services. In order to achieve that core principle, a five-step approach is applied: (1) identify the contract with a customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue allocated to each performance obligation when the

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(in thousands, except share and per share data)

Company satisfies the performance obligation. A performance obligation is a promise in a contract to transfer a distinct good or service to the customer and is the unit of account for revenue recognition.

General

The Company generates product revenue from the sale of Jeuveau® in the United States and Europe, and service revenue from the sale of Jeuveau® through a distribution partner in Canada.

For product revenue, the Company recognizes revenue when control of the promised goods under a contract is transferred to a customer, in an amount that reflects the consideration the Company expects to receive in exchange for those goods as specified in the customer contract. The transfer of control occurs upon receipt of the goods by the customer since that is when the customer has obtained control of the goods' economic benefits. The Company does not provide any service-type warranties and does not accept product returns except under limited circumstances such as damages in transit or ineffective product. The Company also excludes any amounts related to taxes assessed by governmental authorities from revenue measurement. Shipping and handling costs associated with outbound product freight are accounted for as fulfillment costs and are included in selling, general and administrative expenses in the accompanying consolidated statements of operations and comprehensive loss.

For service revenue, the Company evaluated the arrangement with the distribution partner in Canada and determined that it acts as an agent in the distribution of Jeuveau® in Canada as it does not control the product before control is transferred to a customer. The indicators of which party exercises control include primary responsibility over performance obligations, inventory risk before the good or service is transferred and discretion in establishing the price. Accordingly, the Company records the sale as service revenue on a net basis. Revenue from services is recognized in the period the service is performed for the amount of consideration expected to be received.

Disaggregation of Revenue

The Company's disaggregation of revenue is consistent with its operating segment as disclosed above.

Gross-to-Net Revenue Adjustments

The Company provides customers with discounts, such as trade and volume discounts and prompt pay discounts, that are directly reflected in the invoice price. Revenues are recorded net of sales-related adjustments, wherever applicable, primarily for the volume based rebates, consumer loyalty programs and co-branded marketing programs.

- *Volume-Based Rebates* — Volume-based rebates are contractually offered to certain customers. The rebates payable to each customer are determined based on the contract and quarterly purchase volumes.

- *Consumer Loyalty Program* — The Company's consumer loyalty program allows participating customers to earn rewards for qualifying treatments to their patients (i.e. consumers) using Jeuveau® and redeem the rewards for Jeuveau® in the future at no additional cost. The loyalty program represents a customer option that provides a material right and, accordingly, is a performance obligation. At the time Jeuveau® product is sold to customers, the invoice price is allocated between the product sold and the estimated material right reward ("Reward") that the customer might redeem in the future. The standalone selling price of the Reward is measured based on estimated average selling price of Jeuveau® at the time of redemption and the expected redemption rate by customers based on historical sales data. The portion of invoice price allocated to the Reward is initially recorded as deferred revenue. Subsequently, when customers redeem the Reward and the related product is delivered, the deferred revenue is recognized in net revenues at that time.

- *Co-Branded Marketing Programs* — The Company offers eligible customers with a certain level of Jeuveau® purchases to receive advertising co-branded with the Company. The co-branded advertising represents a performance obligation. At the time Jeuveau® product is sold to customers, the invoice price is allocated between the product sold and the advertisement. The standalone selling price of the advertisement is measured based on the estimated market value of similar advertisement adjusted for the customer's portion of the advertisement. The portion of invoice price allocated to the advertisement is initially recorded as deferred revenue. Subsequently, when the advertisement airs, the deferred revenue is recognized in net revenues at that time.

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Contract Balances

A contract with a customer states the terms of the sale, including the description, quantity and price of each product purchased. Amounts are recorded as accounts receivable when the Company's right to consideration becomes unconditional. The Company does not have any significant financing components in customer contracts given the expected time between transfer of the promised products and the payment of the associated consideration is less than one year. As of December 31, 2023 and 2022, all amounts included in accounts receivable, net on the accompanying consolidated balance sheets are related to contracts with customers.

The Company did not have any contract assets nor unbilled receivables as of December 31, 2023 or 2022. Sales commissions are included in selling, general and administrative expenses when incurred.

Contract liabilities reflect estimated amounts that the Company is obligated to pay to customers or patients primarily under the rebate and deferred revenue associated with Rewards under the consumer loyalty program and co-branded marketing programs. The Company's contract liabilities are included in accounts payable and accrued expenses in the accompanying consolidated balance sheets.

As of December 31, 2023 and 2022, the accrued revenue contract liabilities, primarily related to volume-based rebates, consumer loyalty program and co-branded marketing programs, were $11,033 and $9,011, respectively, which were recorded in accrued expenses in the accompanying consolidated balance sheets. For the years ended December 31, 2023 and 2022, provisions for rebate, consumer loyalty programs and co-branded marketing programs were $32,511 and $22,759, respectively, which were offset by related payments, redemptions and adjustments of $30,489 and $21,682, respectively, which were recorded as adjustments to gross revenues in the accompanying consolidated statement of operations.

During the years ended December 31, 2023 and 2022, the Company recognized $7,868 and $7,566, respectively, of revenue related to amounts included in contract liabilities at the beginning of the period and did not recognize any revenue related to changes in transaction prices regarding its contracts with customers from previous periods.

Collectability

Accounts receivable are recorded at the invoiced amount and do not bear interest. At the time of contract inception or new customer account set-up, the Company performs a collectability assessment of the customer's creditworthiness. The Company assesses the probability that the Company will collect the entitled consideration in exchange for the goods sold, by considering the customer's ability and intention to pay when consideration is due. The Company's expected loss allowance methodology for accounts receivable is developed using historical collection experience, current and future economic and market conditions and periodic evaluation of customers' receivables balances using relevant available information, from internal and external sources, relating to past events, current conditions and forecasts. Historical credit loss experience provides the basis for estimation of expected credit losses and are adjusted as necessary using the relevant information available. The Company writes off accounts receivable balances when it is determined that there is no possibility of collection. As of December 31, 2023 and 2022, allowance for credit losses was $1,490 and $2,050, respectively. For the years ended December 31, 2023 and 2022, provision for bad debts was $1,440 and $1,598, respectively, and the write-off amount was $2,000 and $1,933, respectively.

Practical Expedients

The Company expenses sales commissions when incurred as the amortization period is one year or less. These costs are recorded within selling, general and administrative expenses in the accompanying consolidated statements of operations and comprehensive loss. The Company does not adjust the amount of promised consideration for the effects of the time value of money for contracts in which the anticipated period between when the Company transfers the goods or services to the customer and when the customer pays within one year.

Research and Development Expenses

Research and development costs are expensed as incurred. Research and development expenses include personnel-related costs, costs associated with pre-clinical and clinical development activities, costs associated with and costs for prototype products that are manufactured prior to market approval for that prototype product, internal and external costs associated

with the Company's regulatory compliance and quality assurance functions, including the costs of outside consultants and contractors that assist in the process of submitting and maintaining regulatory filings, and overhead costs, including allocated facility related expenses.

In-process Research and Development

Intangible assets acquired that are used for research and development, do not yet have regulatory approval for commercialization, and have no future alternative use are expensed as in-process research and development.

Collaboration Agreement

In June 2022, the Company entered into a License and Research Collaboration Agreement (the "Collaboration Agreement") with a 3D printing company with biomaterial capabilities (the "Licensor"). Under the terms of the Collaboration Agreement, the Company was granted a license to the Licensor's technology to develop and commercialize any aesthetic product or non-therapeutic product that is created through the use or practice of the Licensor's patents. The Company paid $2,000 upon the signing of the Collaboration Agreement and has research funding, ongoing milestone and royalty payment obligations depending on the development plans, the success of such development and approval and commercialization of products. The upfront payment of $2,000 was recorded as in-process research and development expense.

Symatese U.S. Agreement

On May 9, 2023, the Company and Symatese, entered into a License, Supply and Distribution Agreement (the "Symatese U.S. Agreement"), pursuant to which Symatese granted to the Company an exclusive right to commercialize and distribute its five dermal filler product candidates, including the products referred to as: (i) Lift; (ii) Smooth; (iii) Sculpt; (iv) Lips; and (v) Eye (collectively, the "Products") in the United States for use in the aesthetics and dermatological field of use. The Company also has the right of first negotiation to obtain a license from Symatese to commercialize and distribute any new products developed using the same technology as the Evolysse™ line of dermal fillers.

As consideration for the rights granted under the Symatese U.S. Agreement, the Company is required to make up to €16,200 in milestone payments to Symatese, including an initial payment of €4,100 within 30 days of execution of the Symatese U.S. Agreement, and additional annual payments of €1,600 in June 2025, €4,100 in June 2026, €3,200 in June 2027, and €3,200 in June 2028, in each case subject to three of the Products gaining approval prior to that date. In June 2023, the Company paid $4,441 as an upfront payment upon the signing of the Symatese U.S. Agreement and has developmental costs, ongoing milestone and royalty payment obligations. The Symatese U.S. Agreement is also subject to minimum purchase requirements and failure to meet such requirements may result in a reduction or termination of the Company's exclusive rights, subject to certain exceptions. Additionally, the Company agreed to a specified cost-sharing agreement with Symatese related to the registration of the Lips and Eye Products with the FDA.

The initial term of the Symatese U.S. Agreement is fifteen (15) years from the first FDA approval of a Product, with automatic renewals for successive five (5)-year terms subject to the terms of the Symatese U.S. Agreement. The upfront payment of $4,441 was recorded as in-process research and development expense in the twelve months ended December 31, 2023.

Symatese Europe Agreement

On December 20, 2023, the Company entered into a License, Supply and Distribution Agreement (the "Symatese Europe Agreement"), pursuant to which Symatese granted to us an exclusive right to commercialize and distribute four dermal filler product candidates, which are referred to as: (i) Lift; (ii) Smooth; (iii) Sculpt and (iv) Lips in 50 countries in Europe for use in the aesthetics and dermatological fields.

In exchange for the rights granted under the Symatese Europe Agreement, the Company issued 610,000 shares of common stock and is required to pay two milestone payments: (i) €1,200 on the second anniversary of certain regulatory approvals, and (ii) €1,900 on the earlier of the third anniversary of certain regulatory approvals or following a year in which the Company achieves €25,000 in revenue in Europe. The Symatese Europe Agreement is also subject to minimum purchase requirements and failure to meet such requirements may result in a reduction or termination of the Company's exclusive rights, subject to certain exceptions.

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The initial agreement is for a term of fifteen (15) years, with automatic year renewal provisions. Upon the receiving of regulatory approval for the Evolysse™ nasolabial fold product in Europe, the Company recorded $4,429 in in-process research and development expense and $1,476 in intangible assets in the twelve months ended December 31, 2023 for the stock issuance of 610,000 shares. The intangible assets of $1,476 represents the value of the approved nasolabial fold product in Europe and is amortized over its estimated useful life.

Litigation Settlement

In February 2021, upon entering into certain agreements to settle intellectual property disputes relating to Jeuveau®, the Company agreed to pay to Allergan and Medytox $35,000 in multiple payments over two years, of which $15,000 was paid in the third quarter of 2021, $15,000 was paid in the first quarter of 2022, and $5,000 was paid in the first quarter of 2023, and issued 6,762,652 shares of its common stock to Medytox. In addition, for the period from December 16, 2020 through September 16, 2022 (the "Restricted Period"), the Company agreed to pay to Allergan and Medytox a royalty on the sale of Jeuveau®, based on a certain dollar amount per vial sold in the United States and a low-double digit royalty on net sales of Jeuveau® sold in other Evolus territories. Royalties for sales during the Restricted Period ended in the third quarter of 2022. For the period from December 16, 2020 to September 16, 2022, Daewoong agreed to reimburse the Company certain amounts with respect to the royalties payable to Medytox and Allergan. This reimbursement was received quarterly and recorded as an offset to the related royalties to Medytox and Allergan in the product cost of sales on the accompanying consolidated statements of operations and comprehensive loss. For the period from September 17, 2022 to September 16, 2032, the Company agreed to pay Medytox a mid-single digit royalty percentage on all net sales of Jeuveau®. The royalty payments are made quarterly and recorded as product cost of sales on the accompanying consolidated statements of operations and comprehensive loss in the periods the royalties are incurred.

As of December 31, 2023, there were no liabilities recorded in the accompanying consolidated balance sheets related to the litigation settlement with Allergan and Medytox. As of December 31, 2022, a current liability of $5,000 was recorded in the accompanying consolidated balance sheets related to the litigation settlement with Allergan and Medytox.

See *Note 10. Medytox/Allergan Settlement Agreements and Daewoong Arrangement* for the details of all litigation settlement agreements.

Stock-Based Compensation

The Company recognizes stock-based compensation expense for employees, consultants and members of the Board of Directors based on the fair value at the date of grant.

The Company uses the Black-Scholes option pricing model to value stock option grants. The Black-Scholes option pricing model requires the input of subjective assumptions, including the expected volatility of the Company's common stock, expected risk-free interest rate, and the option's expected life. The fair value of the Company's restricted stock units ("RSUs") is based on the fair value on the grant date of the Company's common stock. The Company also evaluates the impact of modifications made to the original terms of equity awards when they occur.

The Company uses a Monte Carlo simulation model to determine the fair value of performance units with market conditions at the grant date. The Monte Carlo simulation model involves the generation of a large number of possible stock price outcomes for the Company's stock which is assumed to follow a Geometric Brownian Motion. The use of the Monte Carlo simulation model requires the input of a number of assumptions including expected volatility of the Company's stock price, which is based on the historical volatility of its stock; risk-free interest rate, which is based on the treasury zero-coupon yield commensurate with the term of the performance unit as of the grant date; and expected dividends as applicable, which is zero, as the Company has never paid any cash dividends.

The fair value of stock options and RSUs with service conditions that are expected to vest is amortized on a straight-line basis over the requisite service period. Stock-based compensation for RSUs with performance or market conditions is recorded over the requisite service period using the accelerated attribution method. Stock-based compensation expense is recognized net of actual forfeitures when they occur, as an increase to additional paid-in capital in the consolidated balance sheets and in the selling, general and administrative or research and development expenses in the consolidated statements of operations and comprehensive loss.

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Advertising Costs

Advertising costs are expensed as incurred and primarily include costs related to social media ads and co-branded marketing programs. Advertising costs are included in selling, general and administrative expenses. For the years ended December 31, 2023 and 2022, the Company incurred advertising costs of $7,490 and $11,642, respectively.

Income Taxes

The Company accounts for income taxes under the asset and liability method. Under this method, deferred tax assets and liabilities are determined on the basis of differences between the consolidated financial statements and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse.

A valuation allowance is recorded against deferred tax assets to reduce the net carrying value when it is more likely than not that some portion or all of a deferred tax asset will not be realized. In making such a determination, the Company considers all available positive and negative evidence, including future reversals of existing taxable temporary differences, projected future taxable income, and ongoing prudent and feasible tax planning strategies in assessing the amount of the valuation allowance. When the Company establishes or reduces the valuation allowance against its deferred tax assets, its provision for income taxes will increase or decrease, respectively, in the period such determination is made.

Additionally, the Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities based on the technical merits of the position. The tax benefit recognized in the consolidated financial statements for a particular tax position is based on the largest benefit that is more likely than not to be realized upon settlement. Accordingly, the Company establishes reserves for uncertain tax positions. The Company has not recognized interest or penalties in its consolidated statement of operations and comprehensive loss.

The Company is required to file federal and state income tax returns in the United States and various other state jurisdictions. The preparation of these income tax returns requires the Company to interpret the applicable tax laws and regulations in effect in such jurisdictions, which could affect the amount of tax paid by the Company. An amount is accrued for the estimate of additional tax liability, including interest and penalties, for any uncertain tax positions taken or expected to be taken in an income tax return. The Company reviews and updates the accrual for uncertain tax positions as more definitive information becomes available.

The Company’s income tax returns are based on calculations and assumptions that are subject to examination by the Internal Revenue Service and other tax authorities. In addition, the calculation of the Company’s tax liabilities involves dealing with uncertainties in the application of complex tax regulations. The Company recognizes liabilities for uncertain tax positions based on a two-step process. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount that is more than 50% likely of being realized upon settlement. While the Company believes it has appropriate support for the positions taken on its tax returns, the Company regularly assesses the potential outcomes of examinations by tax authorities in determining the adequacy of its provision for income taxes. The Company continually assesses the likelihood and amount of potential revisions and adjusts the income tax provision, income taxes payable and deferred taxes in the period in which the facts that give rise to a revision become known.

The Company monitors changes to the tax laws in the states it conducts business and files corporate income tax returns. The Company does not expect changes to state tax laws through December 31, 2023 to materially impact its consolidated financial statements.

Net Loss Per Share

Basic net loss per share is computed by dividing the net loss by the weighted-average number of shares of common stock outstanding during the period including contingently issuable shares. Diluted earnings per share is based on the treasury stock method and includes the effect from potential issuance of ordinary shares, such as shares issuable pursuant to the exercise of stock options and the vesting of restricted stock units. Because the impact of the options and non-vested RSUs are anti-dilutive during periods of net loss, there was no difference between the weighted-average number of shares used to calculate

basic and diluted net loss per common share for the periods presented. Excluded from the dilutive net loss per share computation for the twelve months ended December 31, 2023 and 2022, were stock options of 5,753,466 and 4,769,521, respectively, and non-vested RSUs of 3,281,045 and 2,663,320, respectively. Although these securities were anti-dilutive for these periods, they could be dilutive in future periods.

Recent Accounting Pronouncements

Recently Adopted Pronouncements

In March 2020, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting* and in January 2021, the FASB issued ASU No. 2021-01, *Reference Rate Reform (Topic 848): Scope ("ASU 2021-01")*. Both ASU No. 2020-04 and ASU No. 2021-01 provides optional expedients and exceptions for applying GAAP to contracts, hedging relationships and other transactions that reference the London Interbank Offered Rate ("LIBOR") or another reference rate expected to be discontinued because of reference rate reform. ASU No. 2020-04 and ASU No. 2021-01 are effective upon issuance for contract modifications and hedging relationships, and the Company is allowed to elect to apply the amendments prospectively through December 31, 2022. In December 2022, the FASB issued ASU No. 2022-06, *Reference Rate Reform (Topic 848): Deferral of the Sunset Date of Topic 848*, which extends the temporary accounting rules under Topic 848 to December 31, 2024. The Company transitioned to SOFR from LIBOR on May 9, 2023. There are no material impacts to the consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. The update simplifies the accounting for goodwill impairment by removing step two of the goodwill impairment test, which requires a hypothetical purchase price allocation. A goodwill impairment will be the amount by which a reporting unit's carrying amount, including goodwill, exceeds its fair value. The impairment charge will be limited to the amount of goodwill allocated to that reporting unit. The Company adopted this guidance on the effective date of January 1, 2023. There are no material impacts to the consolidated financial statements as a result of this adoption.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which modifies the measurement and recognition of credit losses for most financial assets and certain other instruments. The new standard requires the use of forward-looking expected credit loss models based on historical experience, current conditions, and reasonable and supportable forecasts that affect the collectability of the reported amount, which may result in earlier recognition of credit losses under the new standard. The new guidance also modifies the impairment models for available-for-sale debt securities and for purchased financial assets with credit deterioration since their origination. Subsequent to the issuance of ASU No. 2016-13, the FASB issued ASU No. 2018-19, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses*. This ASU does not change the core principle of the guidance in ASU No. 2016-13, instead these amendments are intended to clarify and improve operability of certain topics included within the credit losses standard. The FASB also subsequently issued ASU No. 2019-04 which did not change the core principle of the guidance in ASU No. 2016-13 but clarified that expected recoveries of amounts previously written off and expected to be written off should be included in the valuation account and should not exceed amounts previously written off and expected to be written off. The Company prospectively adopted this guidance on the effective date of January 1, 2023 and the adoption did not have a material impact to the consolidated financial statements and resulted in no adjustment to the Company's prior year earnings.

Recent Accounting Pronouncements Issued But Not Adopted

In December 2023, the FASB issued ASU No. 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*. This update requires disaggregated information about a reporting entity's effective tax rate reconciliation as well as information on income taxes paid. ASU No. 2023-09 is effective for public entities with annual periods beginning after December 15, 2024, with early adoption permitted. The Company is currently evaluating the impact of this guidance on its consolidated financial statements.

In November 2023, the FASB issued ASU No. 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*. This update requires public entities to disclose information about their reportable segments' significant expenses and other segment items on an interim and annual basis. Public entities with a single reportable segment are required to apply the disclosure requirements in ASU 2023-07, as well as all existing segment disclosures and reconciliation

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requirements in ASC 280, on an interim and annual basis. ASU 2023-07 is effective for fiscal years beginning after December 15, 2023 and for interim periods beginning after December 15, 2024, with early adoptions permitted. The Company is currently evaluating the impact of this guidance on its consolidated financial statements.

Other recent accounting pronouncements issued by the FASB (including its Emerging Issues Task Force), the American Institute of Certified Public Accountants, and the SEC did not, or are not believed by management to, have a material impact on the Company's present or future financial position, results of operations or cash flows.

Note 3. Fair Value Measurements

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The Company measures and reports certain financial instruments as assets and liabilities at fair value on a recurring basis. The fair value of these instruments was as follows:

	As of December 31, 2023			
	Fair Value	Level 1	Level 2	Level 3
Liabilities				
Contingent royalty obligation payable to Evolus Founders	$ 45,030	$ —	$ —	$ 45,030

	As of December 31, 2022			
	Fair Value	Level 1	Level 2	Level 3
Liabilities				
Contingent royalty obligation payable to Evolus Founders	$ 46,310	$ —	$ —	$ 46,310

The Company did not transfer any assets or liabilities measured at fair value on a recurring basis between levels during the year ended December 31, 2023.

The Company determines the fair value of the contingent royalty obligation payable to Evolus Founders based on Level 3 inputs using a discounted cash flows method. The significant unobservable input assumptions that can significantly change the fair value include (i) projected amount and timing of net revenues during the payment period, which terminates at the end of the second quarter of 2029, (ii) the discount rate, and (iii) the timing of payments. During the years ended December 31, 2023 and 2022, the Company utilized discount rates between 13.0% and 15.0%, reflecting changes in the Company's risk profile. Net revenue projections are also updated to reflect changes in the timing of expected sales. Significant increases (decreases) in the discount rate and to the projected net revenues would result in a significantly lower (higher) fair value measurement, which could materially impact their fair value reported on the consolidated balance sheet.

The following table shows a reconciliation of the beginning and ending fair value measurements of the contingent royalty obligation payable:

	Year Ended December 31,	
	2023	2022
Fair value, beginning of period	$ 46,310	$ 44,740
Payments	(5,537)	(4,185)
Change in fair value recorded in operating expenses	4,257	5,755
Fair value, end of period	$ 45,030	$ 46,310

Other Financial Assets and Liabilities

The Company's financial instruments consist primarily of cash and cash equivalents, accounts receivable, accounts payable, accrued expenses, lease liabilities, and long-term debt. The carrying amount of cash and cash equivalents, accounts

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receivable, accounts payable and accrued expenses approximates their fair value because of the short-term maturity of such instruments.

The Company estimates the fair value of long-term debt and operating lease liabilities using the discounted cash flow analysis based on the interest rates for similar rated debt securities (Level 2). As of December 31, 2023 and 2022, the fair value of long-term debt was $140,241 and $75,232, respectively. The fair value of operating lease liabilities as of December 31, 2023 and 2022 approximated their carrying value.

Note 4. Goodwill and Intangible Assets

The table below shows the weighted-average life, original cost, accumulated amortization and net book value by major intangible asset classification:

	Weighted-Average Life (Years)	Original Cost	Accumulated Amortization	Net Book Value
Definite-lived intangible assets				
Distribution rights	20	$ 60,552	$ (14,500)	$ 46,052
Capitalized software	2	9,804	(8,746)	1,058
Intangible assets, net		70,356	(23,246)	47,110
Indefinite-lived intangible asset				
Goodwill	*	21,208	—	21,208
Total as of December 31, 2023		$ 91,564	$ (23,246)	$ 68,318

	Weighted-Average Life (Years)	Original Cost	Accumulated Amortization	Net Book Value
Definite-lived intangible assets				
Distribution right	20	$ 59,076	$ (11,545)	$ 47,531
Capitalized software	2	8,636	(7,570)	1,066
Intangible assets, net		67,712	(19,115)	48,597
Indefinite-lived intangible asset				
Goodwill	*	21,208	—	21,208
Total as of December 31, 2022		$ 88,920	$ (19,115)	$ 69,805

* Intangible assets with indefinite lives have an indeterminable average life.

The following table outlines the estimated future amortization expense related to intangible assets held as of December 31, 2023 that are subject to amortization:

Fiscal year	
2024	$ 3,936
2025	3,201
2026	3,082
2027	3,054
2028	3,054
Thereafter	30,783
	$ 47,110

Distribution rights represent the license and associated distribution rights to Jeuveau® and Evolysse™. For the year ended December 31, 2023, the Company capitalized $1,476 related to the license and distribution right to Evolysse™ nasolabial fold product in Europe, which is amortized on a straight-line basis over the estimated useful life of 15 years.

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For the years ended December 31, 2023 and 2022, the Company capitalized $1,168 and $1,322, respectively, related to costs of computer software developed for internal use. The software is amortized over a two-year period using the straight-line method. For the years ended December 31, 2023 and 2022, total intangible assets amortization expense of $4,072 and $3,350, respectively, was recorded within depreciation and amortization on the accompanying consolidated statements of operations and comprehensive loss.

Note 5. Accrued Expenses

Accrued expenses consisted of:

	Year Ended December 31,	
	2023	2022
Accrued royalties under the Medytox Settlement Agreement	$ 3,657	$ 2,618
Accrued payroll and related benefits	13,433	7,454
Accrued revenue contract liabilities	11,033	9,011
Other accrued expenses	5,690	5,711
	$ 33,813	$ 24,794

Note 6. Term Loans

Pharmakon Term Loans

On December 14, 2021, the Company entered into a loan agreement with Pharmakon. Pursuant to the terms of the agreement, Pharmakon agreed to make term loans to the Company in two tranches (the "Pharmakon Term Loans"). The first tranche of $75,000 was funded on December 29, 2021. On December 5, 2022, the Company entered into a Second Amendment to the loan agreement to extend the Company's option to draw down the second tranche of $50,000 until December 31, 2023, and paid an amendment fee of $500 to Pharmakon. The Pharmakon Term Loans will mature on the sixth year anniversary of the closing date of the first tranche (the "Maturity Date").

On May 9, 2023, the Company entered into the Third Amendment to the loan agreement. Under the Third Amendment, Pharmakon agreed to advance the second tranche of $50,000 to the Company in two installments: (i) $25,000 advanced on May 31, 2023 and (ii) $25,000 advanced on December 15, 2023. The Third Amendment amended the principal payment terms to seven quarterly payments, each in an amount equal to $1/12^{th}$ of the outstanding principal amount of the Pharmakon Term Loans following the 51st-month anniversary of the closing date of the first tranche and the remaining principal balance of the Pharmakon Term Loans on the Maturity Date. The Third Amendment replaced the interest rates based on LIBOR with interest rates based on the Secured Overnight Financing Rate ("SOFR") throughout the remaining term of the Pharmakon Term Loans.

Initially, the Pharmakon Term Loans accrued interest at a per annum rate equal to the 3-month U.S. Dollar LIBOR rate (subject to a LIBOR rate floor of 1.0%) plus 8.5% per annum. Beginning May 2023, the Pharmakon Term Loans accrue interest at a per annum rate equal to the 3-month SOFR rate (subject to a SOFR rate floor of 1.0%) plus 8.5% per annum.

The Company may elect to prepay all amounts, not less than $20,000, owed prior to the Maturity Date. Prepayments of the first tranche prior to the second anniversary of the closing date of the first tranche and prepayments of the second tranche prior to the second anniversary of the date on which the second tranche is drawn by the Company will be accompanied by a make whole amount equal to the sum of all interest that would have accrued through such second anniversary. Prepayments of the Pharmakon Term Loans will also be accompanied by a prepayment premium equal to the principal amount so prepaid multiplied by 3.0% if made prior to the third anniversary of the closing date of the first tranche, 2.0% if made on or after the third anniversary of the closing date of the first tranche but prior to the fourth anniversary of the closing date of the first tranche, and 1.0% if made on or after the fourth anniversary of the closing date of the first tranche but prior to the Maturity Date. If the Pharmakon Term Loans are accelerated following the occurrence of an event of default, including a material adverse change, the Company is required to immediately pay Pharmakon an amount equal to the sum of all outstanding principal, unpaid interest, and applicable make whole and prepayment premiums.

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The Pharmakon Term Loans are secured by substantially all of the Company's assets. The Pharmakon Term Loans contain customary affirmative and restrictive covenants and representations and warranties. The affirmative covenants include, among others, certain information delivery requirements, obligations to maintain certain insurance, and certain notice requirements. The restrictive covenants include, among others, incurring certain additional indebtedness, consummating certain change in control transactions, or incurring any non- permitted lien or other encumbrance on the Company's assets, without Pharmakon's prior written consent. The Pharmakon Term Loans do not contain covenants requiring the Company to maintain a minimum cash threshold or minimum revenues or earnings. As of December 31, 2023, the Company was in compliance with its debt covenants.

At the closing date of the first tranche, the Company incurred $3,042 and $3,263 in debt discounts and issuance costs related to the Pharmakon Term Loans, respectively. Debt discounts and issuance costs related to the entire Pharmakon Term Loans have been allocated pro rata between the funded and unfunded portions. Debt discounts and issuance costs allocated to the first tranche of $75,000 have been presented as a deduction to the debt balance and amortized into interest expense using the effective interest method. Debt discounts and issuance costs associated with the unfunded second tranche are deferred as assets until the tranche is drawn and are amortized into interest expense using the straight-line method over the term of the debt. Upon the first draw of the second tranche in May 2023, debt discounts and issuance costs associated with the second tranche were reclassified from assets to debt as a deduction to the debt balance.

As of December 31, 2023, the borrowings outstanding under the Pharmakon Term Loans were classified as long-term debt in the accompanying consolidated balance sheets. The overall effective interest rate was approximately 15.33% and 14.01% for the first and second tranche, respectively, as of December 31, 2023.

As of December 31, 2023, the principal amounts of long-term debt maturities for each of the next five fiscal years are as follows:

Fiscal year		
2024	$	—
2025		—
2026		41,667
2027		83,333
Total principal payments		125,000
Unamortized debt discounts and issuance costs		(4,641)
Long term debt, net of discounts and issuance costs	$	120,359

Note 7. Operating Leases

On May 15, 2019, the Company entered into a five-year non-cancelable operating lease (the "Lease Agreement"), which was set to expire January 31, 2025, for its corporate headquarters in Newport Beach, California. Lease payments increase each year on February 1 based on an annual rent escalation clause. The Company has an option to extend the term of the lease for an additional 60 months, which was not recognized as part of its ROU assets and lease liabilities.

On July 27, 2023, the Company entered into the First Amendment to the Lease Agreement (the "Lease Amendment") for its corporate headquarters. The Lease Amendment includes a lease extension to January 31, 2030 with a three-month rent abatement period and additional office space. On July 27, 2023, the effective date of the Lease Amendment, the Company recognized additional ROU assets and lease liabilities in the amount of $4,550.

The Company's lease agreement does not contain any residual value guarantees or material restrictive covenants. The payments associated with the renewal will only be included in the measurement of the lease liability and ROU assets if the exercise of the renewal option is determined to be reasonably certain. The Company considers the timing of the renewal period and other economic factors such as the financial implications of a decision to extend or not to extend a lease in determining if the renewal option is reasonably certain to be exercised.

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The components of operating lease expense are as follows:

	Year Ended December 31,	
	2023	2022
Fixed operating lease expense	$ 1,164	$ 1,084
Variable operating lease expense	183	91
	$ 1,347	$ 1,175

The weighted-average remaining lease term and discount rate are as follows:

	As of December 31,	
	2023	2022
Weighted-average remaining lease term (years)	6.1	2.1
Weighted-average discount rate	11.0%	9.4%

Operating lease expenses were included in the selling, general and administrative expenses in the accompanying consolidated statements of operations and comprehensive loss. Operating lease right-of-use assets and related current and noncurrent operating lease liabilities are presented in the accompanying consolidated balance sheets.

The following table presents the future minimum payments under the operating lease agreements with non-cancelable terms as of December 31, 2023:

Fiscal year	
2024	$ 1,377
2025	1,053
2026	1,451
2027	1,502
2028	1,555
Thereafter	1,744
Total operating lease payments	8,682
Less: imputed interest	(2,495)
Present value of operating lease liabilities	$ 6,187

Note 8. Commitments and Contingencies

Purchase Commitments

As of December 31, 2023, the Company has entered into commitments to purchase services and products for an aggregate amount of approximately $2,044. Certain minimum purchase commitments related to the purchase of Jeuveau® and Evolysse™ are described below.

License and Supply Agreement

The Daewoong Agreement includes certain minimum annual purchases that the Company is required to make in order to maintain the exclusivity of the license. The Company may, however, meet these minimum purchase obligations by achieving certain market share in the licensed territories. These potential minimum purchase obligations are contingent upon the occurrence of future events, including receipt of governmental approvals and the Company's future market share in various jurisdictions.

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Symatese U.S. Agreement and Symatese Europe Agreement

The Symatese U.S. Agreement and the Symatese Europe Agreement include certain minimum purchase requirements, and failure to meet such requirements may result in a reduction or termination of the Company's exclusive rights, subject to certain exceptions. These potential minimum purchase obligations are contingent upon the occurrence of future events, including receipt of governmental approvals and the Company's future market share in various jurisdictions.

Legal Proceedings

Securities Class Action Lawsuit

On October 16 and 28, 2020, two putative securities class action complaints were filed in the U.S. District Court for the Southern District of New York by Evolus shareholders Armin Malakouti and Clinton Cox, respectively, naming the Company and certain of its officers as defendants. The complaints assert violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, claiming that the defendants made false and materially misleading statements and failed to disclose material adverse facts related to the Company's acquisition of the right to sell Jeuveau®, the complaint against the Company filed by Allergan and Medytox in the U.S. International Trade Commission related to Jeuveau® (the "ITC Action"), and risks related to the ITC Action. The complaints assert a putative class period of February 1, 2019 to July 6, 2020. The court consolidated the actions on November 13, 2020, under the caption *In re Evolus Inc. Securities Litigation*, No. 1:20-cv-08647 (PGG). On September 17, 2021, the court appointed a lead plaintiff and lead counsel. On November 17, 2021, the lead plaintiff filed an amended class action complaint against the Company, three of its officers, and Alphaeon Corporation, the Company's former majority shareholder. On January 18, 2022, the Company and the officer defendants served their motion to dismiss the amended complaint. On February 10, 2022, Alphaeon Corporation served its motion to dismiss the amended complaint. Both motions were fully briefed on June 16, 2022. The outcome of the legal proceeding is uncertain at this point. Based on information available to the Company at present, management cannot reasonably estimate a range of loss with respect to this matter.

Shareholder Derivative Lawsuit

On November 27, 2020 and December 2, 2020, two putative Evolus shareholders filed substantially similar shareholder derivative actions in the U.S. District Court for the Southern District of New York against certain of the Company's officers and directors as defendants. The complaints alleged substantially similar facts as those in the Securities Class Action and assert claims for, among other things, breach of fiduciary duty, waste of corporate assets, unjust enrichment, and violations of Section 14(a) of the Exchange Act and for contribution under Sections 10(b) and 21(D) of the Exchange Act. On December 29, 2020, the plaintiffs filed a joint stipulation to consolidate their actions and on February 5, 2021, the court consolidated the action under the caption *In re Evolus, Inc. Derivative Litigation*, No. 1:20-cv-09986-PPG, and adjourned defendants' time to move, answer or otherwise respond to the complaints. On September 20, 2021, the court so-ordered the parties' stipulated stay of the consolidated derivative suit pending the court's decision on the defendants' motion to dismiss the Securities Class Action.

It is possible that additional suits will be filed, or additional allegations will be made by stockholders, with respect to these same or similar or other matters and also naming the Company and/or its officers and directors as defendants. The Company believes that the complaints are without merit and intends to vigorously defend against it. However, the outcome of the legal proceeding is uncertain at this point. Based on information available to the Company at present, management cannot reasonably estimate a range of loss with respect to this matter.

Books and Records Demand

On March 5, 2021, the Company received a letter from a putative stockholder demanding inspection of specified categories of the Company's books and records under Section 220 of the Delaware General Corporations Law. The Company was subsequently informed that the stockholder sold his shares of the Company's common stock. On October 13, 2021, the Company received a substantially similar demand to inspect specified categories of the Company's books and records under Section 220 of the Delaware General Corporations Law from another putative stockholder. The subject of the demand is substantially similar to the allegations in the putative securities class action and derivative complaints described above. The Company responded to the demand in December 2021. The outcome of this matter is uncertain at this point. Based on

information available to the Company at present, management cannot reasonably estimate a range of loss with respect to this matter.

Other Legal Matters

The Company is, from time to time, involved in various litigation matters or regulatory encounters arising in the ordinary course of business that could result in unasserted or asserted claims or litigation. These other matters may raise difficult and complex legal issues and are subject to many uncertainties, including, but not limited to, the facts and circumstances of each particular case or claim, the jurisdiction in which each suit or regulatory encounter is brought, and differences in applicable laws and regulations. Except as set forth above, the Company does not believe that these other matters would have a material adverse effect on its accompanying financial position, results of operations or cash flows. However, the resolution of one or more of the other matters in any reporting period could have a material adverse impact on the Company's financial results for that period.

In the normal course of business, the Company enters into contracts and agreements that contain a variety of representations and warranties and provide for general indemnifications. The Company's exposure under these agreements is unknown because they involve claims that may be made against the Company in the future, but have not yet been made. The Company accrues a liability for such matters when it is probable that future expenditures will be made, and such expenditures can be reasonably estimated. No amounts were accrued as of December 31, 2023.

Note 9. Stockholders' Equity

Preferred Stock

The Company has 10,000,000 authorized shares of preferred stock with a par value of $0.00001 per share. As of December 31, 2023, no shares of its preferred stock were issued and outstanding.

Common Stock

The Company has 100,000,000 authorized shares of common stock with a par value of $0.00001 per share. As of December 31, 2023, 57,820,621 shares of its common stock were issued and outstanding.

"At-the-market" Offerings of Common Stock

On March 8, 2023, the Company entered into the ATM Sales Agreement with Leerink Partners LLC (formerly known as SVB Securities LLC) (the "Sales Agent") pursuant to which shares of the Company's common stock can be sold from time to time for aggregate gross proceeds of up to $50,000 (the "ATM Program"). Under the ATM Sales Agreement, the Sales Agent is entitled to compensation, at a commission rate equal to 3.0% of the gross proceeds from sales of the Company's common shares under the ATM Program. The Company has not sold any shares under the ATM Sales Agreement.

2017 Omnibus Incentive Plan and Stock-based Compensation Allocation

The Company's 2017 Omnibus Incentive Plan (the "Plan") provides for the grant of incentive options to employees of the Company, and for the grant of non-statutory options, restricted stock awards, restricted stock unit awards, stock appreciation rights, performance stock awards and other forms of stock compensation to the Company's officers, directors, consultants and employees of the Company. The maximum number of shares of common stock that may be issued under the Plan is 4,361,291 shares, plus an annual increase on each anniversary of November 21, 2017 equal to 4.0% of the total issued and outstanding shares of the Company's common stock as of such anniversary (or such lesser number of shares as may be determined by the Company's Board of Directors). On November 21, 2023 and 2022, an additional 2,287,649 and 2,249,863, shares, respectively, were reserved under the evergreen provision of the Plan. As of December 31, 2023, the Company had an aggregate of 2,919,942 shares of its common stock available for future issuance under the Plan.

2023 Inducement Incentive Plan

In September 2023, the Company's Board of Directors adopted the Company's 2023 Inducement Incentive Plan (the "Inducement Plan") in accordance with Nasdaq Listing Rule 5635(c)(4). The Company's Inducement Plan provides for the grant of equity awards to selected individuals in connection with their commencing employment with the Company as an

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inducement material to their accepting such employment. The Board of Directors reserved 1,000,000 shares of common stock for issuance under the Inducement Plan. As of December 31, 2023, the Company had an aggregate of 718,060 shares of its common stock available for future issuance under the Inducement Plan.

Inducement Grants

From time to time, the Company has granted equity awards to its newly hired employees, including executives, in accordance with Nasdaq Listing Rule 5635(c)(4) and outside of the Company's Plan and Inducement Plan. Such grants were made pursuant to a stand-alone nonstatutory stock option agreement and a stand-alone RSU agreement, which were approved by the Compensation Committee of the Board of Directors. Any shares underlying the inducement grants are not, upon forfeiture, cancellation or expiration, returned to a pool of shares reserved for future issuance.

Stock Options

Options to purchase the Company's stock are granted at exercise prices based on the Company's common stock price on the date of grant. The option grants generally vest over a one-to four-year period. The options have a contractual term of ten years. The fair value of options is estimated using the Black-Scholes option pricing model, which has various inputs, including the grant date common share price, exercise price, risk-free interest rate, volatility, expected life and dividend yield. The change of any of these inputs could significantly impact the determination of the fair value of the Company's options as well as significantly impact its results of operations. The Company records stock-based compensation expense net of actual forfeitures when they occur.

The significant assumptions used in the Black-Scholes option-pricing are as follows:

- *Expected Volatility.* The expected volatility of common stock is estimated based on the historical volatility of the Company's common stock over the most recent period commensurate with the estimated expected term of the stock options.
- *Expected Term.* The expected term represents the period of time in which the options granted are expected to be outstanding. The Company estimates the expected term of options with consideration of vesting date, contractual term, and historical experience. The expected term of "plain vanilla" options is estimated based on the midpoint between the vesting date and the end of the contractual term under the simplified method permitted by the SEC implementation guidance. The weighted-average expected term of the Company's options is approximately six years.
- *Risk-Free Rate.* The risk-free interest rate is selected based upon the implied yields in effect at the time of the option grant on U.S. Treasury zero-coupon issues with a term approximately equal to the expected life of the option being valued.
- *Dividends.* The Company does not anticipate paying cash dividends in the foreseeable future. Consequently, the Company uses an expected dividend yield rate of zero.

The assumptions used in determining the fair value of stock options granted were as follows:

	Year Ended December 31,	
	2023	**2022**
Volatility	83.6%	78.9%
Risk-free interest rate	3.7%	2.1%
Expected life (years)	6.21	6.19
Dividend yield rate	—%	—%

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A summary of stock option activity for the year ended December 31, 2023 and 2022, is presented below:

	Stock Options	Weighted Average Exercise Per Share	Weighted Average Remaining Contractual Terms (Years)	Aggregate Intrinsic Value
Outstanding as of December 31, 2021	3,922,286	$ 11.23	7.10	$ 455
Granted	1,773,043	6.82		
Exercised	(53,098)	10.08		
Cancelled/forfeited	(872,710)	13.19		
Outstanding as of December 31, 2022	4,769,521	$ 9.24	7.02	$ 2,911
Granted	1,406,922	10.54		
Exercised	(39,823)	5.59		
Cancelled/forfeited	(383,154)	11.14		
Outstanding as of December 31, 2023	5,753,466	$ 9.46	6.69	$ 11,111
Exercisable as of December 31, 2023	3,370,875	$ 9.79	5.32	$ 6,815

The aggregate intrinsic value of outstanding and exercisable options represents the excess of the fair market value of the Company's common stock over the exercise price of underlying options as of December 31, 2023 and 2022.

Restricted Stock Units

RSU grants generally vest over a one- to four-year period. The fair value of RSU grants is determined at the grant date based on the common share price.

A summary of RSU activity for the year ended December 31, 2023 and 2022, is presented below:

	Restricted Stock Units	Weighted Average Grant Date Fair Value
Outstanding as of December 31, 2021	1,926,467	$ 8.06
Granted	1,890,533	7.00
Vested	(630,484)	8.02
Forfeited	(490,059)	7.21
Outstanding as of December 31, 2022	2,696,457	$ 7.48
Granted	1,746,415	10.27
Vested	(851,759)	7.33
Forfeited	(310,068)	8.79
Outstanding as of December 31, 2023	3,281,045	$ 8.88

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Performance Restricted Stock Units

In January 2023, the Company's Board of Directors granted 292,349 shares of performance restricted stock units ("PRSUs") to certain executive officers under the Plan. The PRSU awards function in the same manner as restricted stock units except that vesting terms are based on achievement of certain pre-established performance measures.

A summary of PRSU activity for the year ended December 31, 2023 and 2022, is presented below:

	Performance Restricted Stock Units	Weighted Average Grant Date Fair Value
Outstanding as of December 31, 2022	—	$ —
Granted	292,349	10.25
Vested	(58,469)	10.25
Forfeited	—	—
Outstanding as of December 31, 2023	233,880	$ 10.25

CEO Performance Award

For RSUs granted to employees that vest based on market conditions, such as the trading price of the Company's common stock exceeding certain price targets, the Company uses a Monte Carlo Simulation in estimating the fair value at grant date and recognizes compensation cost over the requisite service period. On May 8, 2023, the Company granted the Company's Chief Executive Officer ("CEO") an award of 560,000 PRSUs under the Plan.

The stock units subject to the award are subject to both performance- and time-based vesting requirements. 40% of the stock units subject to the award are eligible to vest if the average of the closing prices for a share of the Company's common stock over a period of 20 consecutive trading days is $30 or more and an additional 60% of the stock units subject to the award are eligible to vest if the average of the closing prices for a share of the Company's common stock over a period of 20 consecutive trading days is $50 or more, in each case within five years after the grant of the award and while the CEO is employed by the Company (or, in certain circumstances, within 20 days following a termination of his employment). Any stock units that become eligible to vest based on stock price will vest, subject to the CEO's continued service, over the four-year period after the grant date.

The Company used a Monte Carlo simulation to determine that the grant date fair value of the awards was $3,774. Compensation expense is recorded if the service condition is met regardless of whether the market condition is satisfied.

The following table summarizes stock-based compensation expense:

	Year Ended December 31,	
	2023	2022
Selling, general and administrative	$ 15,564	$ 10,565
Research and development	894	268
Total stock-based compensation expense	$ 16,458	$ 10,833

Note 10. Medytox/Allergan Settlement Agreements and Daewoong Arrangement

Medytox/Allergan Settlement Agreements

U.S. Settlement Agreement

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Effective February 18, 2021, the Company, Allergan and Medytox entered into a Settlement and License Agreement (the "U.S. Settlement Agreement"), pursuant to which, among other things: (i) Allergan and Medytox agreed to file a petition requesting the remedial orders related to the ITC Action be rescinded with respect to the Company; (ii) Medytox agreed to dismiss substantially similar litigation in California against the Company; (iii) the Company, on the one hand, and Medytox and Allergan, on the other hand, agreed to mutually release certain claims they may have against one another and their respective affiliates; (iv) Allergan and Medytox granted to the Company and its agents a license to manufacture and commercialize certain products identified in the U.S. Settlement Agreement, including Jeuveau® (the "Licensed Products"), in the United States during the 21 month period that, pursuant to the ITC Action, the Company was restricted from, among other things, selling, marketing, or promoting such imported Jeuveau® in the United States (the "Restricted Period"); (v) the Company agreed to pay to Allergan and Medytox $35,000 in multiple payments over two years, of which the Company paid the first cash payment of $15,000 in the third quarter of 2021, the second cash payment of $15,000 in the first quarter of 2022, and the final cash payment of $5,000 in the first quarter of 2023; and (vi) during the Restricted Period, the Company agreed to pay to Allergan and Medytox certain confidential royalties on the sale of Licensed Products, calculated on dollar amount per vial sold of Licensed Products by or on behalf of the Company in the United States. Royalties for sales during the Restricted Period ended on September 16, 2022.

ROW Settlement Agreement

Effective February 18, 2021, the Company and Medytox entered into a Settlement and License Agreement (the "ROW Settlement Agreement" and, together with the U.S. Settlement Agreement, the "Medytox/Allergan Settlement Agreements"), pursuant to which, among other things: (i) the Company and Medytox agreed to mutually release certain claims they may have against one another and their respective affiliates; (ii) Medytox granted to the Company and its agents a license to manufacture and commercialize the Licensed Products, in Canada, the European Union, Switzerland, member countries and cooperating countries of the European Economic Area, certain members of the Commonwealth of Independent States, South Africa, Australia and Japan (the "ROW Territories") during the Restricted Period; (iii) Medytox granted to the Company and its agents a fully paid up license to manufacture and commercialize the Licensed Products in the ROW Territories and the United States from the end of the Restricted Period (the "Medytox License Period"); (iv) the Company and Medytox agreed to enter into the Share Issuance Agreement (as defined below) pursuant to which the Company issued 6,762,652 shares (the "Settlement Shares") of the Company's common stock, par value $0.00001 per share, to Medytox; (v) the Company and Medytox agreed to enter into the Registration Rights Agreement (as defined below), pursuant to which the Company granted certain registration rights to Medytox with respect to the Settlement Shares; (vi) during the Restricted Period that ended September 16, 2022, the Company agreed to pay Medytox a confidential low-double digit royalty on net sales of the Licensed Products sold by or on behalf of the Company in the ROW Territories; and (vii) during the Medytox License Period from September 17, 2022 to September 16, 2032, the Company agreed to pay Medytox a mid-single digit royalty percentage on net sales of the Licensed Products sold by or on behalf of the Company in the United States and the ROW Territories.

Share Issuance Agreement

In connection with the execution of the ROW Settlement Agreement, the Company and Medytox entered into a Share Issuance Agreement effective February 18, 2021 (the "Share Issuance Agreement"). Pursuant to the Share Issuance Agreement and subject to the terms and conditions set forth therein, among other things, the Company issued to Medytox the Settlement Shares to enter into the ROW Settlement Agreement and in consideration for Medytox's representations, warranties, and other agreements set forth in the Share Issuance Agreement. The Settlement Shares are subject to contractual restrictions on transfer that, subject to certain limited exceptions such as transfers to affiliates, prevented Medytox from transferring any shares of common stock prior to February 16, 2022 or more than 25% of the shares it held prior to September 16, 2023 and, thereafter, prohibit Medytox from transferring more than 50% of the shares it holds prior to September 16, 2024 and more than 75% of the shares it holds prior to September 16, 2025, with such contractual restrictions terminating on September 16, 2025.

Registration Rights Agreement

In connection with the execution of the ROW Settlement Agreement, the Company and Medytox also entered into a Registration Rights Agreement effective February 18, 2021 (the "Registration Rights Agreement"). Pursuant to the Registration Rights Agreement, among other things, the Company agreed, after March 31, 2022, (i) to comply with certain requests by Medytox to register for sale, under the Securities Act, the Settlement Shares, and (ii) to include the Settlement Shares in certain registrations by the Company of its securities for sale under the Securities Act, to the extent requested by

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Medytox, in each case subject to certain customary conditions, exceptions and limitations as set forth in the Registration Rights Agreement.

In addition, Medytox's registration rights under the Registration Rights Agreement will terminate at such time that Medytox is able to sell all of the Settlement Shares over a three-month period, or less, pursuant to an exemption to registration under the Securities Act. As of September 30, 2023, Medytox's registration rights under the Registration Rights Agreement have terminated.

As of December 31, 2023, the Company accrued $3,657 for royalties under the Medytox/Allergan Settlement Agreements. As of December 31, 2022, the Company accrued $2,618 for royalties under the Medytox/Allergan Settlement Agreements and $5,000 of accrued litigation settlement expense.

Daewoong Arrangement

Daewoong Settlement Agreement

On March 23, 2021, the Company and Daewoong entered into a Confidential Settlement and Release Agreement (the "Daewoong Settlement Agreement"), pursuant to which, among other things: (i) Daewoong agreed to (a) pay to the Company an amount equal to $25,500, which the Company received in April 2021, (b) pay certain legal fees incurred by the Company's litigation counsel in connection with its defense of the ITC Action (including any appeal of the resulting remedial orders), (c) cancel all remaining milestone payments, totaling $10,500 in aggregate, and (d) reimburse the Company certain amounts (calculated on a dollar amount per vials sold basis in the United States) for sales of certain products with respect to which the Company is required to pay Medytox and Allergan royalties pursuant to the U.S. Settlement Agreement; and (ii) the Company agreed to (a) release, on behalf of itself and certain of its affiliates and representatives, certain claims they may have against Daewoong related to the allegations made in or the subject matter of the Medytox/Allergan Actions, or any orders, remedies and losses resulting from the Medytox/Allergan Actions, and (b) coordinate with Daewoong on certain matters related to the Medytox/Allergan Actions.

Daewoong Agreement Amendment

In connection with the execution of the Daewoong Settlement Agreement, on March 23, 2021, the Company and Daewoong also entered into the Third Amendment to the Supply Agreement (the "Daewoong Agreement Amendment"). Pursuant to the Daewoong Agreement Amendment, the parties amended the Daewoong Agreement to (i) expand the territory within which the Company may distribute Jeuveau® to certain countries in Europe, (ii) reduce the period of time with respect to which the Company is required to deliver binding forecasts to Daewoong; (iii) introduce certain limitations on Daewoong's ability to convert the Company's exclusive license for certain territories to a non-exclusive license in the event the Company fails to meet certain minimum purchase requirements for such territory; (iv) adjust the minimum purchase requirements and reduce the transfer price per vial of Jeuveau® applicable to various territories, (v) require that any Jeuveau® supplied by Daewoong match certain shelf-life thresholds, and (vi) prohibit the Company from sharing certain confidential information of Daewoong with Medytox or its affiliates or representatives.

Total inventory payments to Daewoong were $50,770 and $50,685 for the years ended December 31, 2023 and 2022, respectively.

Note 11. Employee Benefit Plan

The Company maintains a defined contribution 401(k) plan covering substantially all employees. Matching contributions totaled $1,582 and $773 for the years ended December 31, 2023 and 2022, respectively.

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Note 12. Income Taxes

The Company's loss before income taxes was generated from its U.S. operations and foreign operations as follows:

	Year Ended December 31,	
	2023	2022
United States	$ 51,004	$ 66,103
Foreign	10,505	8,214
Loss before taxes	$ 61,509	$ 74,317

The following table shows the expense (benefit) for income taxes:

	Year Ended December 31,	
	2023	2022
Current provision:		
Federal	$ —	$ —
State	138	113
Foreign	33	—
Total current provision	$ 171	$ 113
Deferred provision (benefit):		
Federal	$ 1	$ (8)
State	4	(10)
Foreign	—	—
Total deferred (benefit) provision	$ 5	$ (18)
Total provision for income taxes	$ 176	$ 95

As of December 31, 2023, the Company has federal net operating loss ("NOL") carryforwards of $317,668, of which $72,579 will begin to expire in 2034. The federal NOLs generated in 2018 and in the subsequent years in the amount of $245,089 have an indefinite carryforward period. As of December 31, 2023, the Company has state NOL carryforwards of $227,347, which will begin to expire in 2024. As of December 31, 2023, the Company has federal research and development ("R&D") credit carryforwards of $2,929, which will begin to expire in 2034. The Company also has California R&D credit carryforwards of $2,918, which has an indefinite carryforward period.

The NOL and the R&D credit carryforwards generated by the Company in tax years ended February 11, 2018 and prior have been included in the consolidated and unitary income tax returns of Alphaeon Corporation ("Alphaeon"). After the Company left Alphaeon consolidated and unitary income tax group on February 11, 2018, the Company files its own standalone income tax returns. Deferred tax assets in the accompanying consolidated financial statements reflect the Company's standalone tax attributes that are reportable on its own income tax returns.

In general, if a company experiences a greater than 50 percentage point aggregate change in ownership of certain significant stockholders over a three-year period, utilization of its pre-change NOL carryforwards and R&D credit carryforwards is subject to an annual limitation under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, and similar state laws. The annual limitation generally is determined by multiplying the value of the Company's stock at the time of such ownership change, subject to certain adjustments, by the applicable long-term tax-exempt rate. The annual limitations may result in the expiration of NOL and R&D credit carryforwards before utilization and may be material. The Company has started but has not completed an analysis to determine whether its NOL and R&D credits generated through December 31, 2023 are likely to be limited by Section 382 and 383. The Company anticipates that an ownership change as defined under Section 382 may have occurred and that the resulting limitation would significantly reduce the Company's ability to utilize its NOL and R&D credit carryforwards before they expire. Additionally, future ownership changes under Section 382 and 383 may also limit the Company's ability to fully utilize any remaining tax benefits. The Company's net deferred income tax

(in thousands, except share and per share data)

assets have been offset by a valuation allowance. Therefore, any resulting reduction to the Company's NOL and R&D credit carryforwards once the analysis is complete will be offset by a corresponding reduction of the valuation allowance and there would be no impact on the Company's consolidated balance sheet, statement of operations, or cash flows.

The components of deferred tax assets and liabilities were as follows:

	As of December 31,	
	2023	2022
Deferred income tax assets:		
Net operating losses	$ 83,257	$ 80,494
Stock compensation	5,442	5,168
Research and Development credits	2,617	2,617
Accrued compensation	5,955	4,675
Operating lease liabilities	1,567	646
Accrued legal settlement	17,674	19,203
R&E Capitalization	3,415	1,100
Fixed asset depreciation	183	—
Other, net	5,126	2,135
Valuation allowance	(116,073)	(103,695)
Total deferred income tax assets	9,163	12,343
Deferred income tax liabilities:		
Intangible amortization	(7,730)	(11,525)
Operating lease right-of-use assets	(1,460)	(495)
Fixed asset depreciation	—	(345)
Total deferred income tax liabilities	(9,190)	(12,365)
Net deferred income taxes	$ (27)	$ (22)

A reconciliation of the difference between the provision (benefit) for income taxes and income taxes at the statutory U.S. federal income tax rate is as follows:

	Year Ended December 31,	
	2023	2022
Income tax at statutory rate	$ (12,917)	$ (15,607)
State income taxes, net of Federal benefit	(1,981)	(2,673)
Revaluation of contingent royalty obligation	1,078	1,462
Meals and entertainment	385	358
Change in state tax rate	218	(3)
Officers' compensation	793	(1,529)
Foreign Rate Differential	222	10
Stock compensation	449	299
Other, net	(449)	(391)
Valuation allowance	12,378	18,169
Income tax provision (benefit)	$ 176	$ 95

Evolus, Inc.
Notes to Consolidated Financial Statements
(in thousands, except share and per share data)

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

	Year Ended December 31,	
	2023	2022
Beginning balance	$ 2,924	$ 2,924
Increases to prior year tax positions	—	—
Increases to current year tax positions	—	—
Ending balance	$ 2,924	$ 2,924

The Company has considered the amounts and probabilities of the outcomes that can be realized upon ultimate settlement with the tax authorities and determined unrecognized tax benefits primarily related to credits should be established as noted in the summary rollforward above. The Company's effective income tax rate would not be impacted if the unrecognized tax benefits are recognized. Additional amounts in the summary rollforward could impact the Company's effective tax rate if it did not maintain a full valuation allowance on its net deferred tax assets. The Company does not expect its unrecognized tax benefits to change significantly over the next 12 months.

The Company's policy is to recognize interest expense and penalties related to income tax matters as a component of income tax expense. There were no accrued interest and penalties associated with uncertain tax positions as of December 31, 2023 and 2022. The Company's tax returns for all years since inception are open for audit.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Our management, under the supervision and with the participation of our Chief Executive Officer and our Chief Financial Officer, our principal executive and principal financial officers, respectively, conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act of 1934, as amended, as of the end of the period covered by this Annual Report on Form 10-K. Based on this evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that, as of December 31, 2023, our disclosure controls and procedures were effective (a) to ensure that information that we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and (b) to include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in reports filed or submitted under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Rule 13a-15(f) under the Exchange Act. Under the supervision and with the participation of senior management, including our Chief Executive Officer and Chief Financial Officer, we evaluated the effectiveness of our internal control over financial reporting based on the framework in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework). Based on the evaluation under that framework and applicable SEC rules, our management concluded that our internal control over financial reporting was effective as of December 31, 2023.

The Company's independent registered public accounting firm, Ernst & Young LLP, has issued an attestation report on the effectiveness of our internal control over financial reporting as of December 31, 2023, which is included in this Item 9A under the caption "Report of Independent Registered Public Accounting Firm."

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the quarter ended December 31, 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations of Internal Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal controls over financial reporting will prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management overriding of the controls. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Evolus, Inc.

Opinion on Internal Control Over Financial Reporting

We have audited Evolus, Inc.'s internal control over financial reporting as of December 31, 2023, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Evolus, Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2023, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2023 and 2022, the related consolidated statements of operations and comprehensive loss, stockholders' equity (deficit) and cash flows for each of the two years in the period ended December 31, 2023, and the related notes and our report dated March 7, 2024 expressed an unqualified opinion thereon.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Ernst & Young LLP

Irvine, California

March 7, 2024

Item 9B. Other Information.

Insider Trading Arrangements

None.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections

Not applicable.

Part III

Item 10. Directors, Executive Officers and Corporate Governance.

Except as disclosed below with respect to our Code of Conduct, the information required by this item is incorporated herein by reference to information contained in the Proxy Statement for our 2024 Annual Meeting of Stockholders.

We have a Code of Conduct applicable to all directors, officers and employees of the Company. We have posted the Code of Business Conduct on our website at www.evolus.com. We will post any amendments to the Code of Conduct on our website. In accordance with the requirements of the SEC and Nasdaq, we will also post waivers applicable to any of our officers or directors from provisions of the Code of Conduct on our website.

Item 11. Executive Compensation.

The information required by this item is incorporated herein by reference to information contained in the Proxy Statement for our 2024 Annual Meeting of Stockholders.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

The information required by this item is incorporated herein by reference to information contained in the Proxy Statement for our 2024 Annual Meeting of Stockholders.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

The information required by this item is incorporated herein by reference to information contained in the Proxy Statement for our 2024 Annual Meeting of Stockholders.

Item 14. Principal Accounting Fees and Services.

The information required by this item is incorporated herein by reference to information contained in the Proxy Statement for our 2024 Annual Meeting of Stockholders.

Part IV

Item 15. Exhibits, Financial Statement Schedules.

(a) The following documents are filed as part of this Annual Report on Form 10-K:

(1) Financial Statements. See Item 8 "Consolidated Financial Statements and Supplementary Data" elsewhere in this Annual Report on Form 10-K.

(2) Financial Statement Schedules. None. Financial statement schedules have been omitted because they are not applicable.

(3) Exhibits. The following exhibits are filed (or incorporated by reference herein) as part of this Annual Report on Form 10-K:

EXHIBIT INDEX

		Incorporated by Reference				
Exhibit Number	**Exhibit Title**	**Form**	**File No.**	**Exhibit**	**Filing Date**	**Filed Herewith (x)**
3.1	Amended and Restated Certificate of Incorporation.	8-K	001-38381	3.1	2/12/18	
3.2	Certificate of Amendment to Amended and Restated Certificate of Incorporation, dated June 12, 2023	8-K	001-38381	3.1	6/14/23	
3.3	Amended and Restated Bylaws.	8-K	001-38381	3.2	2/12/18	
4.1	Specimen certificate evidencing shares of common stock of the Registrant.	S-1/A	333-222478	4.1	1/25/18	
4.3	Description of Securities					X
10.1‡	Stock Purchase Agreement, dated as of September 30, 2014, by and between Strathspey Crown Holdings, LLC and ALPHAEON Corporation.					X
10.2‡	Amendment to Stock Purchase Agreement, dated as of September 30, 2014, by and between Strathspey Crown Holdings, LLC and ALPHAEON Corporation.					X
10.3‡	License and Supply Agreement, dated as of September 30, 2013, by and between Daewoong Pharmaceutical Co., Ltd. and the Registrant.	10-K	001-38381	10.3	3/8/23	
10.4‡	First Amendment to License and Supply Agreement, dated as of February 26, 2014, by and between Daewoong Pharmaceutical Co., Ltd. and the Registrant.					X
10.5‡	Second Amendment to License and Supply Agreement, dated as of July 15, 2014, by and between Daewoong Pharmaceutical Co., Ltd. and the Registrant.					X
10.6+	2017 Omnibus Incentive Plan.	S-1	333-222478	10.6	1/9/18	
10.7+	Form of Option Award Agreement under 2017 Omnibus Incentive Plan.	S-1	333-222478	10.7	1/9/18	
10.8+	Form of Dueling Option Award Agreement under 2017 Omnibus Incentive Plan.	S-1	333-222478	10.8	1/9/18	
10.9+	Form of Restricted Shares Award Agreement under 2017 Omnibus Incentive Plan.	S-1	333-222478	10.9	1/9/18	
10.10+	Form of RSU Award Agreement under 2017 Omnibus Incentive Plan.	S-1	333-222478	10.10	1/9/18	
10.11+	Form of RSU Award Agreement under 2017 Omnibus Incentive Plan (Updated 2020)	10-K	001-38381	10.11	2/25/20	
10.12+	Form of Inducement Stock Option Award Agreement	S-8	333-263325	99.2	3/4/22	
10.13+	Form of Inducement Restricted Stock Unit Award Agreement	S-8	333-263325	99.3	3/4/22	

10.14+	Form of Performance Restricted Stock Unit Agreement	10-K	001-38381	10.14	3/8/23
10.15+	2023 Inducement Incentive Plan	S-8	333-274906	99.3	10/6/23
10.16+	Form of Indemnification Agreement by and between the Registrant and its directors and officers.	S-1/A	333-222478	10.11	1/25/18
10.17†	Second Amendment to Stock Purchase Agreement, dated as of December 14, 2017, by and among SCH-AEON, LLC (f/k/a Strathspey Crown Holdings, LLC), ALPHAEON Corporation, the Registrant and J. Christopher Marmo, as Contributors' Representative, and acknowledged by the parties listed as Contributors on the signature pages thereto.	S-1	333-222478	10.20	1/9/18
10.18+	Employment Agreement, dated as of May 6, 2018, by and between David Moatazedi and the Registrant.	S-1	333-226186	10.29	7/16/18
10.19+	Amendment to Employment Agreement, dated August 1, 2022, by and between Evolus, Inc. and David Moatazedi	10-Q	001-38381	10.3	8/2/22
10.20+	Amended and Restated Employment Agreement, dated August 1, 2022, by and between Evolus, Inc. and Rui Avelar, M.D.	10-Q	001-38381	10.4	8/2/22
10.21+	Employment Agreement, dated September 5, 2022, by and between Sandra Beaver and the Registrant.	10-Q	001-38381	10.1	11/8/22
10.22	Lease, dated as of May 15, 2019, between the Registrant and 520 Newport Center Drive LLC	8-K	001-38381	10.1	5/21/19
10.23‡	Settlement and License Agreement, dated February 18, 2021, by and between Evolus, Inc. and Medytox, Inc.	10-Q	001-38381	10.3	5/12/21
10.24	Share Issuance Agreement, dated February 18, 2021, by and between Evolus Inc. and Medytox, Inc.	10-Q	001-38381	10.4	5/12/21
10.25‡	Confidential Settlement and Release Agreement, dated March 23, 2021, by and between Evolus, Inc. and Daewoong Pharmaceutical Co. Ltd.	10-Q	001-38381	10.5	5/12/21
10.26‡	Third Amendment to Supply Agreement, dated March 23, 2021, by and between Evolus, Inc. and Daewoong Pharmaceutical Co. Ltd.	10-Q	001-38381	10.7	5/12/21
10.27‡	Loan Agreement, dated as of December 14, 2021, by and among Evolus, Inc. (as Borrower and a Credit Party), BioPharma Credit PLC (as Collateral Agent), BPCR Limited Partnership (as a Lender), and BioPharma Credit Investments V (Master) LP (as a Lender).	8-K	001-38381	10.1	12/14/21
10.28	First Amendment to Loan Agreement, dated April 5, 2022, by and among Evolus, Inc. (as Borrower and a Credit Party), BioPharma Credit PLC (as Collateral Agent), BPCR Limited Partnership (as a Lender), and BioPharma Credit Investments V (Master) LP (as a Lender).	10-Q	001-38381	10.2	8/2/22
10.29	Second Amendment to Loan Agreement, dated as of December 5, 2022, by and among Evolus, Inc. (as Borrower and a Credit Party), BioPharma Credit PLC (as Collateral Agent), BPCR Limited Partnership (as a Lender), and BioPharma Credit Investments V (Master) LP (as a Lender).	8-K	001-38381	10.1	12/8/22
10.30‡	Fourth Amendment to Supply Agreement, dated December 12, 2022, by and between Evolus, Inc. and Daewoong Pharmaceutical Co. Ltd.	8-K	001-38381	10.1	12/13/22
10.31‡	Fifth Amendment to Supply Agreement, dated as of April 20, 2023, by and between Daewoong Pharmaceutical Co. Ltd. and Evolus, Inc.	10-Q	001-38381	10.1	8/2/23
10.32‡	License, Supply, and Distribution Agreement, dated as of May 9, 2023 by and between Symatese S.A.S. and the Registrant	10-Q	001-38381	10.2	8/2/23

10.33	Third Amendment to Loan Agreement, dated as of May 9, 2023, by and among Evolus, Inc. (as Borrower and a Credit Party), BioPharma Credit PLC (as Collateral Agent), BPCR Limited Partnership (as a Lender), and BioPharma Credit Investments V (Master) LP (as a Lender).	10-Q	001-38381	10.3	8/2/23	
10.34+	Employment Agreement, dated August 21, 2023, by and between Tomoko Yamagishi-Dressler and the Registrant.	10-Q	001-38381	10.2	11/7/23	
10.35‡	License, Supply, and Distribution Agreement (Europe), dated as of December 20, 2024, by and between Evolus Pharma B.V. and Symatese Aesthetics S.A.S					X
10.36	First Amendment to Lease, dated as of July 27, 2023, by and between the Registrant and 520 Newport Center Drive LLC					X
21.1	List of Subsidiaries.					X
23.1	Consent of independent registered public accounting firm.					X
24.1	Power of Attorney (included on signature page).					X
31.1	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.					X
31.2	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.					X
32.1#	Certifications of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
97	Policy Regarding the Recoupment of Certain Compensation Payments					X
101.INS*	Inline XBRL Instance Document.					X
101.SCH*	Inline XBRL Taxonomy Extension Schema Document.					X
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document.					X
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document.					X
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document.					X
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)					X

+ Indicates management contract or compensatory plan.

† The Registrant has omitted and filed separately with the Securities and Exchange Commission portions of the exhibit pursuant to a confidential treatment request under Rule 406 promulgated under the Securities Act of 1933, as amended, or the Securities Act.

‡ Portions of this exhibit have been omitted pursuant to Item 601(b)(10) of Regulation S-K.

The information in Exhibit 32.1 shall not be deemed “filed” for purposes of Section 18 of the Exchange Act of 1934, as amended, or the Exchange Act, or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act or the Exchange Act (including this Annual Report on Form 10-K), unless the Registrant specifically incorporates the foregoing information into those documents by reference.

Item 16. Form 10-K Summary.

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on March 7, 2024.

EVOLUS, INC.

By: /s/ David Moatazedi
David Moatazedi
President and Chief Executive Officer

POWER OF ATTORNEY

The undersigned directors and officers of Evolus, Inc. constitute and appoint David Moatazedi and Sandra Beaver, and each of them, as their true and lawful attorneys and agents with power of substitution, to do any and all acts and things in our name and behalf in our capacities as directors and officers and to execute any and all instruments for us and in our names in the capacities indicated below, which said attorneys and agents may deem necessary or advisable to enable said corporation to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission, in connection with this Annual Report on Form 10-K, including specifically but without limitation, power and authority to sign for us or any of us in our names in the capacities indicated below, any and all amendments hereto; and we do hereby ratify and confirm all that said attorneys and agents shall do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ David Moatazedi David Moatazedi	President, Chief Executive Officer and Member of the Board of Directors (Principal Executive Officer)	March 7, 2024
/s/ Sandra Beaver Sandra Beaver	Chief Financial Officer (Principal Financial Officer)	March 7, 2024
/s/ Vikram Malik Vikram Malik	Chairman of the Board of Directors	March 7, 2024
/s/ Simone Blank Simone Blank	Director	March 7, 2024
/s/ Robert Hayman Robert Hayman	Director	March 7, 2024
/s/ David Gill David Gill	Director	March 7, 2024
/s/ Karah Parschauer Karah Parschauer	Director	March 7, 2024

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Signature	Title	Date
/s/ Brady Stewart Brady Stewart	Director	March 7, 2024

Exhibit 4.3

DESCRIPTION OF CAPITAL STOCK

The following is a summary of the rights of our common stock and preferred stock, certain provisions of our certificate of incorporation and our bylaws, and applicable law. This summary does not purport to be complete and is qualified in its entirety by the provisions of our certificate of incorporation and bylaws, copies of which are filed as exhibits to our Annual Report on Form 10-K for the year ended December 31, 2023.

General

Our authorized capital stock consists of:

- 100,000,000 shares of common stock, par value $0.00001 per share; and
- 10,000,000 shares of preferred stock, par value $0.00001 per share.

As of December 31, 2023, there were 56,260,570 outstanding shares of our common stock. As of that date, there were outstanding options to purchase 4,769,521 shares of our common stock and 2,696,457 shares of common stock issuable upon the vesting and settlement of restricted stock units.

Common Stock

The following summarizes the rights of holders of our common stock:

Voting

The holders of our common stock are entitled to one vote per share. The number of authorized shares of common stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of our capital stock entitled to vote, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law, or DGCL.

Dividends

Subject to preferences that may be applicable to the holders of outstanding shares of preferred stock, the holders of common stock are entitled to share equally, on a per share basis, in any dividends when, as and if declared by our board of directors out of assets legally available for dividends (except that in the event a dividend or distribution is paid in the form of common stock (or rights to acquire such stock), then holders of common stock shall receive common stock (or rights to acquire such stock, as the case may be).

As a Delaware corporation, we are subject to certain restrictions on dividends under the DGCL. Generally, a Delaware corporation may only pay dividends either out of "surplus" or out of the current or the immediately preceding year's net profits. Surplus is defined as the excess, if any, at any given time, of the total assets of a corporation over its total liabilities and statutory capital. The value of a corporation's assets can be measured in a number of ways and may not necessarily equal their book value.

Liquidation Rights

Upon our liquidation, dissolution or winding up, after satisfaction of all our liabilities and the payment of any liquidation preference of any outstanding preferred stock, the holders of shares of common stock will be entitled to share equally, on a per share basis, in all of our assets legally remaining for distribution after payment of all debt and other liabilities.

Redemption Rights

There are no redemption or sinking fund provisions applicable to our common stock.

Preemptive Rights and Conversion Rights

There are no preemptive or conversion rights applicable to our common stock.

Preferred Stock

We have no shares of our preferred stock outstanding, but our board of directors is authorized, without further action by our stockholders, to create and issue one or more series of preferred stock and to fix the rights, powers, preferences and privileges thereof. Among other rights, our board of directors may determine, without further vote or action by our stockholders:

- the number of shares constituting the series and the distinctive designation of the series;
- the dividend rate on the shares of the series, whether dividends will be cumulative, and if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on shares of the series;
- whether the series will have voting rights in addition to the voting rights provided by law and, if so, the terms of the voting rights;
- whether the series will have conversion privileges and, if so, the terms and conditions of conversion;
- whether or not the shares of the series will be redeemable or exchangeable, and, if so, the dates, terms and conditions of redemption or exchange, as the case may be;
- whether the series will have a sinking fund for the redemption or purchase of shares of that series, and, if so, the terms and amount of the sinking fund; and
- the rights of the shares of the series in the event of our voluntary or involuntary liquidation, dissolution or winding up and the relative rights or priority, if any, of payment of shares of the series.

Any future issuance of shares of preferred stock, or the issuance of rights to purchase shares of preferred stock, could, among other things, decrease the amount of earnings and assets available for distribution to the holders of common stock or could adversely affect the rights and powers, including voting rights, of the holders of the common stock.

Anti-Takeover Effects of Provisions of our Certificate of Incorporation, Bylaws and Delaware Law

Delaware Anti-Takeover Law

We are subject to Section 203 of the DGCL, or Section 203. Section 203 generally prohibits a public Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years following the time that such stockholder became an interested stockholder, unless:

- prior to such time the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- at or subsequent to such time the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock which is not owned by the interested stockholder.

In general, Section 203 defines a business combination to include:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition involving the interested stockholder of 10% or more of the assets of the corporation;
- subject to exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;

- subject to exceptions, any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; and

- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 defines an interested stockholder as any entity (other than the corporation and any direct or indirect majority-owned subsidiary of the corporation) or person beneficially owning 15% or more of the outstanding voting stock of the corporation and any entity or person affiliated with, associated with or controlling or controlled by such entity or person.

Certificate of Incorporation and Bylaws

The following provisions of our certificate of incorporation and bylaws may make a change-of-control of our company more difficult and could delay, defer or prevent a tender offer or other takeover attempt that a stockholder might consider to be in its best interest, including takeover attempts that might result in the payment of a premium to stockholders over the market price for their shares. These provisions also may promote the continuity of our management by making it more difficult for a person to remove or change the incumbent members of our board of directors.

Authorized but Unissued Shares; Undesignated Preferred Stock. The authorized but unissued shares of our common stock will be available for future issuance without stockholder approval, subject to applicable law and the Nasdaq Marketplace Rules. These additional shares may be used for a variety of corporate purposes, including future public offerings to raise additional capital, acquisitions and employee benefit plans. In addition, our board of directors may authorize, without stockholder approval, the issuance of undesignated preferred stock with voting rights or other rights or preferences designated from time to time by our board of directors (including the right to approve an acquisition or other change in our control). The existence of authorized but unissued shares of common stock or preferred stock may enable our board of directors to render more difficult or to discourage an attempt to obtain control of us by means of a merger, tender offer, proxy contest or otherwise.

Election and Removal of Directors. Our board of directors will consist of not less than five nor more than nine directors. The exact number of directors will be fixed from time to time only by resolution of our board of directors. Our board of directors currently has seven members.

Our certificate of incorporation provides that directors may be removed only for cause and only by the affirmative vote of holders of at least 66 2/3% of our then outstanding voting stock.

Classified Board of Directors. Our certificate of incorporation provides that our board of directors is classified with approximately one-third of the directors elected each year. The authorized number of directors may be changed only by resolution of the board of directors. The directors are divided into three classes, designated class I, class II and class III. Each class consists, as nearly as may be possible, of one-third of the total number of directors constituting the entire board of directors. At each annual meeting of stockholders, successors to the class of directors whose term expires at that annual meeting will be elected until the third annual meeting of stockholders next succeeding the elections or until their successors are duly elected and qualified or until their earlier death, resignation or removal. In addition, if the number of directors is changed, any increase or decrease will be apportioned by our board of directors among the classes so as to maintain the number of directors in each class as nearly equal as possible, and any additional director of any class elected to fill a vacancy resulting from an increase in such class or from the removal from office, death, disability, resignation or disqualification of a director or other cause will hold office for a term that will coincide with the remaining term of that class, but in no case will a decrease in the number of directors have the effect of removing or shortening the term of any incumbent director.

Director Vacancies. Our certificate of incorporation authorizes only our board of directors to fill vacant directorships.

No Cumulative Voting. Our certificate of incorporation provides that stockholders do not have the right to cumulate votes in the election of directors (therefore allowing the holders of a majority of the shares of common stock entitled to vote in any election of directors to elect all of the directors standing for election, if they should so choose).

Special Meetings of Stockholders. Our certificate of incorporation and bylaws provide that special meetings of our stockholders may only be called by the chairman of the board, our Chief Executive Officer or by our board of directors pursuant to a resolution adopted by a majority of the total number of authorized directors.

Advance Notice Procedures for Director Nominations. Our bylaws establish advance notice procedures for stockholders seeking to nominate candidates for election as directors at an annual or special meeting of stockholders. Although our bylaws do not give the board of directors the power to approve or disapprove stockholder nominations of candidates to be elected at an annual meeting, our bylaws may have the effect of precluding the conduct of certain business at a meeting if the proper

procedures are not followed or may discourage or deter a potential acquiror from conducting a solicitation of proxies to elect its own slate of directors or otherwise attempting to obtain control of us.

Action by Written Consent. Our certificate of incorporation provides that any action required or permitted to be taken by the stockholders must be effected at a duly called annual or special meeting of stockholders and may not be effected by any consent in writing in lieu of a meeting of such stockholders, subject to the rights of the holders of any series of preferred stock.

Amending Our Certificate of Incorporation and Bylaws. Our certificate of incorporation and bylaws may be amended by the affirmative vote of the holders of at least 66 2/3% of the voting power of our then-outstanding common stock.

Exclusive Jurisdiction. Our certificate of incorporation provides that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery shall be the sole and exclusive forum for all "internal corporate claims." "Internal corporate claims" are claims, (i) that are based upon a violation of a duty by a current or former director or officer or stockholder in such capacity, or (ii) as to which Title 8 of the DGCL confers jurisdiction upon the Court of Chancery, except for, as to each of (i) and (ii) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction. This exclusive forum provision is intended to apply to claims arising under Delaware state law and would not apply to claims brought pursuant to the Securities Exchange Act of 1934, as amended, or the Securities Act, or any other claim for which the federal courts have exclusive jurisdiction. The exclusive forum provision in our certificate of incorporation will not relieve us of our duties to comply with the federal securities laws and the rules and regulations thereunder, and our stockholders will not be deemed to have waived our compliance with these laws, rules and regulations.

Conflicts of Interest

Delaware law permits corporations to adopt provisions renouncing any interest or expectancy in certain opportunities that are presented to the corporation or its officers, directors or stockholders. Our certificate of incorporation, to the maximum extent permitted from time to time by Delaware law, renounces any interest or expectancy that we have in, or right to be offered an opportunity to participate in, specified business opportunities that are from time to time presented to Alphaeon or any of its officers, directors, stockholders, agents, members, partners, subsidiaries (other than our company) and affiliates, other than those directors and officers of our company who are offered business opportunities in their capacity as directors and officers of our company, or the specified parties. Our certificate of incorporation provides that, to the fullest extent permitted by law, none of the specified parties will have any duty to refrain from engaging in a corporate opportunity that we might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so. In addition, to the fullest extent permitted by law, in the event that any of the specified parties acquire knowledge of a potential transaction or other business opportunity which may be a corporate opportunity for itself or himself or its or his affiliates or for us, such person will have no duty to communicate or offer such transaction or business opportunity to us and they may take any such opportunity for themselves or offer it to another person or entity. Our certificate of incorporation does not renounce our interest in any business opportunity that is offered to a director or officer of our company in his or her capacity as a director or officer of our company. To the fullest extent permitted by law, no business opportunity will be deemed to be a potential corporate opportunity for us unless we would be permitted to undertake the opportunity under our certificate of incorporation, we have sufficient financial resources to undertake the opportunity and the opportunity would be in line with our business.

Nasdaq Global Market Listing

Our common stock is listed on the Nasdaq Global Market under the symbol "EOLS."

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Computershare Trust Company, N.A. The transfer agent and registrar's address is 150 Royall Street, Canton, Massachusetts 02021.

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED. SUCH EXCLUDED INFORMATION HAS BEEN MARKED WITH "[***]".

STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this " ***Agreement*** ") is made and entered into as of September 30, 2014, between **STRATHSPEY CROWN HOLDINGS, LLC**, a Delaware limited liability company (" ***Seller*** ") and **ALPHAEON CORPORATION**, a Delaware corporation (" ***Purchaser*** ").

RECITALS

A.Pursuant to the Contribution Agreement (the "***Contribution Agreement***") between Seller, Evolus, Inc., a Delaware corporation (" ***Evolus*** "), the shareholders of Evolus (the "***Contributors***") and J. Christopher Marmo, as the Contributors' Representative (the "***Contributors' Representative***"), the Seller received 1,250,000 shares of Series A Preferred Stock of Evolus and 10,000,000 shares of Common Stock of Evolus, representing 100% of the outstanding capital stock of Evolus, of which 125,000 shares of the Series A Preferred Stock of Evolus and 1,000,000 shares of the Common Stock of Evolus (the " ***Class D Shares*** ") were in exchange for Class D Units of the Seller.

B. Pursuant to the Contribution Agreement, the Contributors were given the right to require that the Seller sell all of the Class D Shares to the Purchaser, and the Contributors have exercised such right.

C. Seller now desires to sell all of the Class D Shares, and Purchaser is willing to purchase the Class D Shares, subject to the terms and conditions of this Agreement.

NOW, THEREFORE , in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

AGREEMENT

1. Definitions. The following terms, as used in this Agreement, have the following meanings:

"***Affiliate***" means, with respect to any Person, (i) any other Person directly or indirectly controlling, controlled by, or under common control with such specified Person, or (ii) any other Person owning or controlling twenty percent (20%) or more of the outstanding voting securities of such Person. For purposes of the foregoing, the term "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as applied to any Person, means the possession, directly or indirectly, of the power to cause the direction of the management and policies of such Person, whether through the ownership of voting or other securities, by contract or otherwise.

" ***Daewoong Agreement***" means the License & Supply Agreement between Evolus and Daewoong Pharmaceutical Co., Ltd, a corporation organized and existing under the laws of the Republic of Korea, dated as of September 30, 2013.

" ***FDA***" means the United States Food and Drug Administration, or any successor thereto.

" ***GAAP***" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, as in effect on the date of this Agreement.

" ***Net Sales***" means the net sales on behalf of Evolus, Seller and any of their Affiliates, authorized sublicensees and assignees for Product sold to third parties other than sublicensees and assignees, as determined in accordance with GAAP applied on a consistent basis. The deductions booked by Evolus, Seller or any of their Affiliates or authorized sublicensees or assignees to calculate the recorded net sales from gross sales include the following:

(i) normal trade and cash discounts;

(ii) amounts repaid or credited by reasons of defects, rejections, recalls or returns;

(iii) rebates and chargebacks to customers and third parties (including, without limitation, Medicare, Medicaid, TriCare, Managed Healthcare);

(iv) any amounts recorded in gross revenue associated with goods provided to customers for free including samples;

(v) amounts provided or credited to customers through coupons, other discount programs and co-pay assistance programs;

(vi) delayed ship order credits, discounts or payments related to the impact of price increases between purchase and shipping dates;

(vii) fee for service payments to customers for any non-separable services (including compensation for maintaining agreed inventory levels and providing information); and

(viii) amounts received for transportation and delivery of the Product, including insurance;

provided, however, with respect to the calculation of Net Sales: (a) Net Sales only include the value charged or invoiced on the first sale to a third party and sales between or among

Evolus, Seller and any of their Affiliates, authorized sublicensees and assignees shall be disregarded for purposes of calculating Net Sales; (b) if Product is delivered to the third party before being invoiced (or is not invoiced), Net Sales will be calculated at the time all the revenue recognition criteria under GAAP are met; and (c) distributors shall not be considered as sublicensees or assignees.

"***Person*** " means an individual, a corporation, a partnership, a limited liability company, an association, a trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"***Product*** " means the botulinum toxin product licensed to the Company under the Daewoong Agreement.

"***U.S. Approval*** " means first approval of the FDA necessary for the marketing of the Product in the United States for Glabellar indication.

2. Sale of Shares.

(a) Seller hereby sells, assigns, transfers, conveys, and delivers to Purchaser, Seller's entire right, title, and interest in the Class D Shares.

(b) In consideration for the Class D Shares, Purchaser shall make the following payments: (A) a payment by Purchaser to Seller in an aggregate amount equal to Ten Million United States Dollars ($10,000,000) upon U.S. Approval; (B) quarterly payments by Purchaser to Seller in an aggregate amount equal to [***] percent [***] of the Net Sales of the Product in the United States and its territories and possessions for each quarter (or portion thereof) following the U.S. Approval; and (C) quarterly payments by Purchaser to Seller in an aggregate amount equal to [***] percent [***] of the Net Sales of the Product in any region, territory or jurisdiction other than the United States and its territories and possessions for each quarter (or portion thereof) for any indication in such non-United States region, territory or jurisdiction for which Purchaser or any of its Affiliates has the right to market or sell the Product.

(c) Purchaser has the right to terminate the payments set forth in clauses (B) and (C) of Section 2(b) of this Agreement upon payment of a lump-sum cash payment to Seller equal to One Hundred Forty-Five Million United States Dollars ($145,000,000).

2. Severability. If any term or provision of this Agreement or the application thereof to any circumstance shall, in any jurisdiction and to any extent, be invalid or unenforceable, such term or provision shall be ineffective as to such jurisdiction to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable such term or provision in any other jurisdiction, the remaining terms and provisions of this Agreement or the application of such terms and provisions to circumstances other than those as to which it is held invalid or enforceable.

3. Governing Law. This Agreement shall be governed in all respects by the laws of the State of Delaware, without regard to conflict of law principles.

4. Counterparts . This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission or other electronic means shall constitute effective execution and delivery of this Agreement and may be used in lieu of the original Agreement for all purposes.

5. Third Party Beneficiary. Seller and Purchaser acknowledge and agree that the Contributors are intended third party beneficiaries of this Agreement and the obligations under this Agreement shall inure to the benefit of the Contributors. The Contributors' Representative, on behalf of the Contributors, shall have the right power and authority to enforce the provisions hereof as though the Contributors were a party hereto.

6. Entire Agreement; Amendment. This Agreement contains the entire agreement between the parties with respect to the matters contemplated herein, and supersedes all other prior written or oral negotiations, commitments, or understandings with respect to the matters provided for herein. No amendment or variation of the terms of this Agreement will be valid unless made in writing and executed by the parties hereto and the Contributors' Representative on behalf of the Contributors.

[Remainder of Page Left Intentionally Blank]

IN WITNESS WHEREOF , the undersigned have executed this Agreement as of the date first set forth above.

SELLER:

STRATHSPEY CROWN HOLDINGS, LLC,
a Delaware limited liability company

By: /s/ Robert Grant
Name: Robert Grant
Title: Manager

PURCHASER:

ALPHAEON CORPORATION

By: /s/ Robert Grant
Name: Robert Grant
Title: Chief Executive Officer

AMENDMENT TO STOCK PURCHASE AGREEMENT

THIS AMENDMENT TO STOCK, PURCHASE AGREEMENT (this " ***Amendment***") is made and entered into as of September 30, 2014 (the "***Effective Date***"), by and between **STRATHSPEY CROWN HOLDINGS, LLC**, a Delaware limited liability company ("***Seller***") and **ALFHAEON CORPORATION**, a Delaware corporation ("***Purchaser***").

RECITALS

WHEREAS, Seller and Purchaser entered into that certain Stock Purchase Agreement, dated as of September 30, 2014 (the "Agreement"), pursuant to which and subject to the terms and conditions of which, Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, all of the Class D Shares of Evolus;

WHEREAS, the Agreement may be amended by written instrument making specific reference to the Agreement signed by Buyer and Seller; and

NOW, THEREFORE , in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

AGREEMENT

1. Defined Terms. Capitalized terms used but not defined in this Amendment shall have the respective meanings ascribed to them in the Agreement,

2. Amendments.

a. **Definitions** . ***Net Sales*** . The definition of "***Net Sales*** " shall be shall be amended to read in its entirety as follows

" ***Net Sales***" means the net sales on behalf of Evolus, Seller, Purchaser and any of their Affiliates, authorized sublicensees and assignees for Product sold to third parties other than sublicensees and assignees, as determined in accordance with GAAP applied on a consistent basis. The deductions booked by Evolus, Seller, Purchaser or any of their Affiliates or authorized sublicensees or assignees to calculate the recorded net sales from gross sales include the following:

(i) normal trade and cash discounts;

(ii) amounts repaid or credited by reasons of defects, rejections, recalls or returns;

(iii) rebates and chargebacks to customers and third parties (including, without limitation, Medicare, Medicaid, TriCare, Managed Healthcare);

(iv) any amounts recorded in gross revenue associated with goods provided to customers for free including samples;

(v) amounts provided or credited to customers through coupons, other discount programs and co-pay assistance programs;

(vi) delayed ship order credits, discounts or payments related to the impact of price increases between purchase and shipping dates;

(vii) fee for service payments to customers for any non-separable services (including compensation for maintaining agreed inventory levels and providing information); and

(viii) amounts received for transportation and delivery of the Product, including insurance;

provided, however, with respect to the calculation of Net Sales: (a) Net Sales only include the value charged or invoiced on the first sale to a third party and sales between or among Evolus, Seller, Purchaser and any of their Affiliates, authorized sublicensees and assignees shall be disregarded for purposes of calculating Net Sales; (b) if Product is delivered to the third party before being invoiced (or is not invoiced), Net Sales will be calculated at the time all the revenue recognition criteria under GAAP are met; and (c) distributors shall not be considered as sublicensees or assignees.

b. **Definitions**, ***Product***. The definition of " ***Product***" shall be shall be amended to read in its entirety as follows

"***Product*** " means (i) the botulinurn toxin product licensed to the Company under the Daewoong Agreement, and (ii) any other botulinum toxin, including any next generation botulinum toxin, in-licensed by Parent or any Affiliate of Parent, including, without limitation, Evolus or Alpheori, from any third party (a "***New Toxin*** ").

c. Sale of Shares. Section 2(b) of the Agreement shall be amended and restated to read in its entirety as follows:

"(b) In consideration for the Class D Shares, Purchaser shall make the following payments: (A) a payment by Purchaser to Seller in an aggregate amount equal to Ten Million United States Dollars ($10,000,000) upon U.S. Approval; (B) quarterly payments by Purchaser to Seller in an aggregate amount equal to [***] percent [***] of the Net Sales of the Product in the United States and its territories and possessions for each quarter (or portion thereof) following the U.S. Approval; provided, however, that any quarterly payments related to a Product which is a New Toxin shall be reduced by the amount of royalties, if any, that are paid by Evolus, Seller, Purchaser and any of their Affiliates to any third party (who is not an Affiliate) for the license rights to the

New Toxin; provided , further , that in No event shall the quarterly payments by Purchaser to Seller be less than [***] percent [***] of the Net Sales of the New Toxin in the United States and its territories and possessions; and (C) quarterly payments by Purchaser to Seller in an aggregate amount equal to [***] percent [***] of the Net Sales of the Product in any region, territory or jurisdiction other than the United States and its territories and possessions for each quarter (or portion thereof) for any indication in such non-United States region, territory or jurisdiction for which Purchaser or any of its Affiliates has the right to market or sell the Product; provided , however , that any quarterly payments related to a Product which is a New Toxin shalt be reduced by the amount of royalties, if any, that are paid by Evolus, Seller, Purchaser and any of their Affiliates to any third party (who is not an Affiliate) for the license rights to the New Toxin; provided , further , that in No event shall the quarterly payments by Purchaser to Seller be less than [***] percent [***] of the Net Sales of the New Toxin in such non-United States region, territory or jurisdiction.

3. Governing Law. This Agreement shall be governed in all respects by the laws of the State of Delaware, without regard to conflict of law principles.

4. Counterparts . This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission or other electronic means shall constitute effective execution and delivery of this Agreement and may be used in lieu of the original Agreement for all purposes.

5. Third Party Beneficiary. Seller and Purchaser acknowledge and agree that the Contributors are intended third party beneficiaries of this Amendment and the obligations under this Amendment shall inure to the benefit of the Contributors, The Contributors' Representative, on behalf of the Contributors, shall have the right power and authority to enforce the provisions hereof as though the Contributors were a party hereto.

6. Entire Agreement; Amendment . This Amendment shall be deemed to form an integral part of the Agreement and construed in connection with and as part of the Agreement, and all terms, conditions, covenants and agreements set forth in the Agreement and each other instrument or agreement referred to therein, as applicable, except as explicitly set forth herein, are hereby ratified and confirmed and shall remain in full force and effect, unmodified in any way. In the event of any inconsistency or conflict between the provisions of the Agreement and this Amendment, the provisions of this Amendment will prevail and govern, All references to the "Agreement" in the Agreement shall hereinafter refer to the Agreement as supplemented by this Amendment,

[Remainder of Page Left Intentionally Blank]

IN WITNESS WHEREOF , the undersigned have executed this Agreement as of the date first set forth above.

SELLER:

STRATHSPEY CROWN HOLDINGS , **LLC** ,
a Delaware limited liability company

By: /s/ Robert Grant
Name: Robert Grant
Title: Manager

PURCHASER:

ALPHAEON CORPORATION

By: /s/ Robert Grant
Name: Robert Grant
Title: Chief Executive Officer

FIRST AMENDMENT

This **FIRST AMENDMENT** ("**First Amendment** ") is effective as of February 26, 2014 ("**First Amendment Effective Date** "), by and between Daewoong Pharmaceutical Co., Ltd. ("**DAEWOONG** ") and Evolus Inc. ("**EVOLUS** "), and amends that certain License & Supply Agreement between the Parties dated September 30, 2013 (the "**Original Agreement** ").

The Parties, for their mutual benefit, now wish to amend the Original Agreement. Capitalized terms herein used which are not herein defined shall have the respective meanings ascribed to them in the Original Agreement. All references to the term "Agreement" in the Original Agreement shall be deemed to include all of the terms and conditions of this First Amendment.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1.AMENDMENT.

(a) Territory. The definition of "Territory" in Section 1.36 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

""Territory" means the United States of America and its territories and possessions, the EU, Switzerland, Australia, Canada, Russia and the CIS and South Africa. As used herein, (a) ***"EU"*** *means all of the European Union member states as of the applicable time during the Term and (b) CIS means all of the Commonwealth of Independent member states as of the applicable time during the Term. From time to time in this Agreement, all regions within the Territory other than the United States of America and its territories and possessions are sometimes referred to herein as the "****Non-US Territory*** *", and the United States and its territories and possessions are referred to as the "****US Territory*** *."*"

2.COUNTERPARTS. This First Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. Signatures to this First Amendment transmitted by facsimile, email, portable document format (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of this Agreement shall have the same effect as the physical delivery of the paper document bearing original signatures.

3.No OTHER AMENDMENTS. Except as herein set forth, the Original Agreement has not been modified and, as amended by this First Amendment, remains of full force and effect. To the extent there are any inconsistencies or ambiguities between the specific subject matter of this First Amendment and the Original Agreement, the terms of this First Amendment shall supersede the Original Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this First Amendment effective as of the First Amendment Effective Date.

DAEWOONG PHARMACEUTICAL CO., LTD.

By: /s/ Jongwook Lee

Name: Jongwook Lee

Title: CEO, President

Date: March 17, 2014

EVOLUS INC.

By: /s/ Christopher Marmo

Name: Christopher Marmo

Title: Chief Executive Officer

Date: February 26, 2014

Annex B Amendment

Target Performance for Russia, CIS, and South Africa*

(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nabota™	[***] USD per [***] IU vial [***] USD per [***] IU vial [***] USD per [***] IU vial	[***]	[***]	[***]	[***]	[***]

*In the event that EVOLUS fails to achieve the Minimum Annual Purchases in the Amended Territories as described above (i.e. [***]% of targeted performance for the amended territories), but EVOLUS or its affiliates have achieved at least [***]% of the target performance by market share in the Amended Territories based upon the table set forth below, then Evolus and its affiliates shall be deemed to have met the Annual Purchase Minimums for the Amended Territories for the applicable year. For avoidance of doubt, if the Minimum Annual Purchase quantities are accomplished for any given year in the Amended Territories, then EVOLUS shall have met the Minimum Annual Purchase for the Amended Territories in such year regardless of the market share criteria set forth below.

*Target Performance for Russia, CIS, and South Africa

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nabota™	[***] USD per [***] IU vial [***] USD per [***] IU vial [***] USD per [***] IU vial	[***]%	[***]%	[***]%	[***]%	[***]%

SECOND AMENDMENT

This **SECOND AMENDMENT** ("**Second Amendment** ") is effective as of July 15, 2014 ("**Second Amendment Effective Date** "), by and between Daewoong Pharmaceutical Co., Ltd. ("**DAEWOONG** ") and Evolus Inc. ("**EVOLUS** "), and amends that certain License & Supply Agreement between the Parties dated September 30, 2013, as amended by that certain First Amendment dated on February 26, 2014 (the "**Original Agreement** ").

The Parties, for their mutual benefit, now wish to amend the Original Agreement. Capitalized terms herein used which are not herein defined shall have the respective meanings ascribed to them in the Original Agreement. All references to the term "Agreement" in the Original Agreement shall be deemed to include all of the terms and conditions of this Second Amendment.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1.AMENDMENT.

(a) Territory. The definition of "Territory" in Section 1.36 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

> "Territory" means the United States of America and its territories and possessions, the EU, Australia, Canada, Russia and the CIS, South Africa, and Japan. As used herein, (a) **"EU"** means all of the European Union member states as of the applicable time during the Term and (b) CIS means all of the Commonwealth of Independent member states as of the applicable time during the Term. From time to time in this Agreement, all regions within the Territory other than Japan and the United States of America and its territories and possessions are sometimes referred to herein as the "**Non-US Territory** ", and the United States and its territories and possessions are referred to as the "**US Territory** ," and Japan is referred to as "**Japan** ."

(b) Exclusivity. All definition and meaning of exclusivity including but not limited to such a word written as "exclusive" and/or "exclusively" in the entire Original Agreement, is hereby considered as exclusive only in the Non-US Territory and US Territory. Any right or license to be granted by DAEWOONG to EVOLUS shall be non-exclusive in Japan. As following this condition, section 2.2 (a), 3.4, 4.9, 4.10, 12.3 13.7 and 24.2 shall not be related to Japan among the territories of this Agreement.

2. COUNTERPARTS. This Second Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. Signatures to this Second Amendment transmitted by facsimile, email, portable document format (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of this Agreement shall have the same effect as the physical delivery of the paper document bearing original signatures.

3. No OTHER AMENDMENTS. Except as herein set forth, the Original Agreement has not been modified and, as amended by this Second Amendment, remains of full force and effect. To the extent there are any inconsistencies or ambiguities between the specific subject matter of this Second Amendment and the Original Agreement, the terms of this Second Amendment shall supersede the Original Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this Second Amendment effective as of the Second Amendment Effective Date.

DAEWOONG PHARMACEUTICAL CO., LTD.

By: /s/ Jongwook Lee

Name: Jongwook Lee

Title: CEO, President

Date: July 15, 2014

EVOLUS INC.

By: /s/ Christopher Marmo

Name: Christopher Marmo

Title: Chief Executive Officer

Date: July 15, 2014

Annex B Amendment

Target Performance for Japan

(volume calculation based on [***] IU)

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nabota™	[***]] USD per [***] IU vial [***] USD per [***] IU vial [***] USD per [***] IU Vial	[***] Vial	[***] Vial	[***] Vial	[***] Vial	[***] Vial

* In the event that EVOLUS fails to achieve the Minimum Annual Purchases in Japan as described above (i.e., [***]% of the targeted performance for Japan), but EVOLUS or its Affiliates have achieved at least [***]% of the target performance by market share in Japan based upon the table set forth below, then EVOLUS and its Affiliates shall be deemed to have met the Annual Purchase Minimums for Japan for the applicable year. For the avoidance of doubt, if the Minimum Annual Purchase quantities are accomplished for Japan for any given year, then EVOLUS shall have met the Minimum Annual Purchases for Japan in such year regardless of the market share criteria set forth below.

Target percentage of market share for Japan

Product	Price per Unit	1st Year	2nd Year	3rd Year	4th Year	5th Year
Nabota™	[***] USD per [***] IU vial [***] USD per [***] IU vial [***] USD per [***] IU vial	[***]%	[***]%	[***]%	[***]%	[***]%

LICENSE, SUPPLY, AND DISTRIBUTION AGREEMENT (EUROPE)

This License, Supply, and Distribution Agreement ("Agreement") is effective as of December 20, 2023, ("Effective Date") between:

Symatese Aesthetics SAS, a French *société par actions simplifiée* with a sole shareholder, registered with the Lyon Trade and Companies Register under [***], represented by its current Directeur Général, Mr. Jean-Paul Gérardin, duly empowered for the purposes herein (hereinafter referred to as "Symatese");

and

Evolus Pharma B.V., a Netherlands Besloten Vennootschap registered with the Netherlands Chamber of Commerce [***], (Hereinafter referred to as "Evolus") represented in this matter by David Moatazedi, Chief Executive Officer of Evolus, Inc., its sole stockholder, empowered for the purposes herein.

Symatese and Evolus are referred to individually as a "Party" and collectively as the "Parties".

RECITALS

1. Symatese is a wholly-owned subsidiary of Symatese Group S.A.S. and a sister company of Symatese S.A.S. (the "Symatese Parent") and Evolus Pharma B.V. is a wholly owned subsidiary of Evolus, Inc. (the "Evolus Parent").

2. Symatese Parent and Evolus Parent previously entered into that certain License, Supply, and Distribution agreement dated as of May 9, 2023 with respect to the right to market, sell, and distribute, on an exclusive basis, Symatese's dermal filler products in the United States (the "U.S. Agreement").

3. The Parties wish to enter into an agreement with respect to the right to market, sell and distribute, on an exclusive basis, the Products in the Territory for use in the Field (each as defined below).

4. Symatese and Evolus desire to enter into this Agreement for such dermal filler products under the terms and conditions set out below.

In consideration of the premises and the mutual covenants contained herein, the Parties agree as follows:

1. DEFINITIONS

Capitalized terms used in this Agreement (other than headings) have the following meanings set forth in this Article 1, or, if not listed in this Article 1, the meanings as designated in the text of this Agreement.

1.1 "Affiliate" means, with respect to a Person, any Person who directly or indirectly Controls or is Controlled by or is under common Control with such Person. Notwithstanding the foregoing, neither Party will be deemed an Affiliate of the other Party.

1.2 "Applicable Law" means the applicable provisions of any and all national, regional, provincial, territorial, state and local laws, treaties, legislation, statutes, rules, regulations, administrative codes, and ordinances, and any and all directives, and orders or administrative decisions of any Governmental Authority having jurisdiction over or related to the subject matter of this Agreement.

1.3 "Business Day" means any day (excluding Saturdays and Sundays) that is not a legal holiday in New York, California, or France, and is not a day on which banking institutions in such states are required by Applicable Law to be closed.

1.4 "Calendar Quarter" means each of the three (3) month periods ending March 31, June 30, September 30, and December 31; provided, that: (a) the first Calendar Quarter of the Term shall extend from the Effective Date to the end of the first complete such three (3)-month period thereafter; and (b) the final Calendar Quarter of the Term shall end on the last day of the Term.

1.5 "cGMP" means the then-current good manufacturing practices as required by the European Community under provisions of "The Rules Governing Medicinal Products in the European Community, Volume 4, Good Manufacturing Practices, Annex 13, Manufacture of Investigational Medicinal Products, July 2003," or the equivalent Applicable Law of an applicable Governmental Authority within the Territory.

1.6 "Clinical Study" means any study of a medical device, biologic or pharmaceutical product involving human subjects or specimens thereof, including human factors and user comprehension studies and the pre-trial and post-trial work necessary to establish, conduct and complete a trial that is conducted to evaluate feasibility, support a Regulatory Approval or to support post-market research.

1.7 "Commercialize," "Commercializing" or "Commercialization" mean any activities undertaken relating to the promotion, marketing, sale, and distribution of products and services including marketing, advertising, importing, having imported, distributing, exporting, having exported, selling, offering for sale, transporting, customs clearance, warehousing, invoicing, handling and delivery to consumers, and the process of Commercialization. Commercialization also includes sales force efforts, detailing, advertising, medical education, planning, marketing, sales force training, and sales and distribution. The term "Commercialize" shall mean in all sales channels applicable to a field, whether direct or indirect, including all consumer sales channels, retail channels, insurance channels and distributor channels. For clarity, Commercialization does not include obtaining or maintaining Regulatory Approval for such products and services nor any activities related to Development or Manufacturing.

1.8 "Commercially Reasonable Efforts" means, in respect of a Party and an obligation under this Agreement, the level of efforts and resources (measured as of the time that such efforts and resources are required to be used under this Agreement) that are commonly and reasonably used by such Party (together with its Affiliates) to Develop, Manufacture or Commercialize, as the case may be, a product owned by such Party or to which it has rights, which product is at a similar stage in its development or product life and is of a similar market and profitability potential to the Product based on all other Relevant Factors. Notwithstanding the foregoing, if the performance of a Party's obligations under the Agreement is impaired by the other Party's failure to perform its obligations under the Agreement, the determination of whether such first Party has used Commercially Reasonable Efforts in performing a given obligation will be determined in the context of such other Party's failure. The Parties understand that the level of effort may change over time, reflecting changes in the status of a Product. Furthermore, Commercially Reasonable Efforts will not mean that a Party commits that it will actually accomplish an applicable task, or that it will devote thereto efforts or resources beyond those that a prudent commercial enterprise would devote, even though remaining motivated to do so as described above.

1.9 "Components" means all components or ingredients used in the Manufacturing of a Product under this Agreement.

1.10 "Confidential Information" means any information, data or documents, regardless of their nature (technical, scientific, financial, etc.) or subject-matter (know-how, methods, processes, etc.), medium (written, hard-copy or digital documents, etc.) or transmission method (written or oral) (i) disclosed by or on behalf of a Party to or on behalf of the other Party after the Effective Date, or (ii) to which the receiving party has access within the framework of the performance of this Agreement, or (iii) generated during the performance of this Agreement. In particular, the existence, nature and content of this Agreement are Confidential Information.

1.11 "Contract Provider" means any Third Party who supplies Symatese with any Component and/or Packaging necessary to Manufacture a Product.

1.12 "Contract Year" means each period beginning on January 1 and ending on December 31; provided that the first Contract Year of the Term extends from the First Commercial Sale of the first Product in the Territory for the Field until to December 31 of the then-current Contract Year, and the last Contract Year extends from January 1 of such Contract Year until the effective date of the termination of this Agreement or the expiration of the Initial Term.

1.13 "Control," "Controls," or "Controlled" means:

(a) with respect to any Intellectual Property Rights, Regulatory Materials, or other information, the possession by a Party, including through its Affiliates, of the ability to disclose, grant access to, license or sublicense such Intellectual Property Rights, Regulatory Materials, or other information as provided for herein without violating the terms of any agreement or other arrangement with any Third Party; and

(b) with respect to a Person, ownership directly or through one or more Affiliates, of more than fifty percent (50%) of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or more than fifty percent (50%) of the equity interests in the case of any other type of legal entity, status as a general partner in any partnership, or any other arrangement whereby a Party controls or has the right to control the board of directors or equivalent governing body of a corporation or other entity, or the ability to cause the direction of the management or policies of a corporation or other entity.

1.14 "Development," "Develop," or "Developed" means development activities with respect to a product, including pre-clinical research and development, clinical development, testing, Clinical Studies, supporting Manufacturing activities and related regulatory activities, for obtaining Regulatory Approval. For clarity, Development does not include any activities related to Commercialization or Manufacturing.

1.15 "Direct Sales" means Net Sales Evolus generated from shipments directly from Evolus to an end-user of the Symatese Fillers or a channel that is in close proximity to an end-user (e.g. hospitals, clinics, pharmacies) without the use of a wholesale distributor or intermediary.

1.16 "Disputed Matter" has the meaning set forth in Section 17.1.

1.17 "Excluded Claim" means a dispute, controversy or claim that concerns: (a) the construction, scope, validity, enforceability, inventorship or infringement of any Patent, trademark, or copyright; or (b) any antitrust, anti-monopoly or competition law or regulation, whether or not statutory.

1.18 "Eye Product" means the dermal filler Product developed by Symatese and referred to as "Eye".

1.19 "Facilities" means the manufacturing facilities of Symatese where the Product is Manufactured, as set forth on **Exhibit A**.

1.20 "FASY Technology" means the technical information, data, knowledge and trade secrets owned by Symatese and its Affiliates, patentable or non-patentable, relating to the design and manufacture of cross-linked hyaluronic acid (HA) gel with lidocaine necessary and useful for the development, manufacture and marketing of the Products referred to in **Exhibit A**.

1.21 "Field" means all aesthetics and dermatologic uses or indications, including all uses by dermatologists, plastic surgeons, medical spas, and other aesthetic practitioners.

1.22 "First Commercial Sale" means the first sales of Products on a Product-by-Product and jurisdiction-by-jurisdiction basis, the first sale by Evolus to a Third Party for end use or consumption of a Product after Regulatory Approval has been granted with respect to such Product for the Field in such jurisdiction. A First Commercial Sale shall not include any Product supplied for use in clinical trials, for research, as Samples, or for other non-commercial uses.

1.23 "GCP" means current good clinical practices as established under Applicable Laws.

1.24 "Governmental Authority" means any court, agency, authority, department, regulatory body or other instrumentality of any government or country or of any national, federal, state, provincial, regional, county, city or other political subdivision of any such government or any supranational organization of which any such country is a member, which has competent and binding authority to decide, mandate, regulate, enforce, or otherwise control the activities of the Parties or their Affiliates contemplated by this Agreement.

1.25 "GLP" means current good laboratory practices as established under Applicable Laws.

1.26 "Intellectual Property Rights" means (i) all worldwide rights, title and interest in and to any patents, letter Patents, industrial models, design patents, petty patents, patents of importation, utility models, certificates of invention, and/or other indicia of inventorship and/or invention ownership, and any and all applications for any of the foregoing, and including any such rights granted upon any reissue, division, continuation or continuation-in-part or extensions, now or hereafter filed, related to any such applications or patents, and all discoveries or inventions, whether or not patentable; (ii) all worldwide rights, title and interest in and to all know-how and trade secret rights arising under the common law, state law, federal law or the laws of any foreign country; (iii) all trademarks; and (iv) all worldwide copyright rights, moral rights and all other literary property and/or other rights of authorship, whether or not registered, and all registrations and applications for registration relating thereto.

1.27 "Label" means any label approved by a Governmental Authority in the applicable Territory affixed to a Product Package, pursuant to the terms of this Agreement, in accordance with Applicable Laws.

1.28 "Labeling" means the Label and any Governmental Authority-approved printed material that will accompany a Product when sold in its final form, including without limitation any Instructions for Use.

1.29 "Manufacture," "Manufactured" or "Manufacturing" means any processes and activities conducted for the manufacture of products or any component thereof for Development or Commercialization thereof, including packaging, labeling, quality control and quality assurance testing. Manufacturing shall include obtaining products and services from contract manufacturers. For clarity, Manufacturing does not include any activities related to Commercialization or Development.

1.30 "Material Communications" means any letters, reports, or other documents received by, or sent to, any Governmental Authority that relates to a Product, a Facility, or such processes or procedures.

1.31 "Net Sales Evolus" means the net sales of the Product sold by Evolus to any Third Party, as reported by Evolus and determined in accordance with U.S. Generally Accepted Accounting Principles, including requirements for revenue recognition.

1.32 "Packaging" means all material used to prepare a fully packaged Product, including, but not limited to, containers, cartons, vials, syringes, Labels, blister packs, inserts and

shipping cases, as applicable, each of which shall conform to the Regulatory Approval. "Package" has a correlative meaning.

1.33 "Patents" means the rights and interests in and to issued patents and pending patent applications (which, for purposes of this Agreement, include certificates of invention, supplementary protection certificates and applications therefor, applications for certificates of invention and priority rights) in any country or jurisdiction, including all international applications, provisional applications, substitutions, continuations, continuations-in-part, continued prosecution applications including requests for continued examination, divisional applications and renewals, and all letters, patents or certificates of invention granted thereon, and all reissues, reexaminations, term extensions, term adjustments, term restorations, renewals, substitutions, confirmations, registrations, revalidations, revisions and additions of or to any of the foregoing, in each case, in any country or jurisdiction.

1.34 "Person" means any individual, partnership, joint venture, limited liability company, corporation, firm, trust, association, unincorporated organization, Governmental Authority, or other entity not specifically listed herein.

1.35 "Products" means those dermal filler products listed on **Exhibit A**.

1.36 "Products Forecast" has the meaning set forth in Section 3.2(a).

1.37 "QSR" means the Quality System Regulation applicable to the design, manufacture, packaging, labeling, storage, and testing of medical devices, including the Products.

1.38 "Quality and Regulatory Agreement" or "QRA" means a Quality Assurance/Quality Control/Regulatory Agreement to be entered into by the Parties which will set forth certain obligations of the Parties in relation to the design, manufacture, packaging, storage, quality control, and testing of the Products in accordance with QSR, and including obligations related to marketing and materiovigilance.

1.39 "Regulatory Approval" means any approvals, registrations, licenses, permits, certificates, consents, clearances, exemptions, medical device approvals, medical device registration certificates, or authorizations that are required for the use, Development, and Commercialization of Product in the Territory in the Field.

1.40 "Regulatory Materials" means regulatory applications, submissions, notifications, communications, correspondence, registrations, Regulatory Approvals, or other filings made to, received from, or otherwise conducted with a Regulatory Authority to Develop, Manufacture, or Commercialize a Product in the Territory.

1.41 "Relevant Factors" means the following factors (as applicable): [***].

1.42 "Sample" means a Unit of the Products listed in **Exhibit A** that is provided to customers free of charge on an educational, training or promotional basis and labeled as "Free Sample" or similar wording or is used for other non-commercial purposes such as for research and development or clinical trials. For the avoidance of doubt, a Sample shall not be considered the same as a "Product" which is specifically designated for commercial sale.

1.43 "Specifications" means the specifications for the Products as applicable from time to time during the Term and attached hereto as **Exhibit A**, which Specifications shall at a minimum conform to the Regulatory Approval.

1.44 "Shelf-Life Threshold" means, at the time of shipment to Evolus of a Product or Sample that the shelf life is at least:

(a) During the first Contract Year, [***] of the shelf life stated on the Product Label or the Regulatory Approval, or

(b) After the first Contract Year at least [***] of the of that stated on the Product Label or the Regulatory Approval.

1.45 "Term" has the meaning set forth in Section 14.1.

1.46 "Territory" means Europe, specifically meaning the current geographic area covered by the following countries and territories located on the European continent and their territories and possessions: Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kosovo, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Russia, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, and Vatican City.

1.47 "Third Party" means a Person that is not Symatese or Evolus nor an Affiliate of Symatese or Evolus.

1.48 "Trademarks" means the trademarks, existing or future, (i) used and owned by Symatese and its Affiliates to designate its technology, which shall include the mention "By Symatese", that EVOLUS undertakes to use systematically as part of its distribution commitment, and (ii) used by Evolus and owned by Symatese to designate the Products listed in **Exhibit A**.

1.49 "Unit" means a single syringe of the corresponding Product.

2. LICENSE, APPOINTMENT AND EXCLUSIVITY

2.1 Exclusive Evolus Appointment. Symatese hereby appoints Evolus, and Evolus hereby accepts such appointment, as Symatese's sole and exclusive (even as to Symatese) licensee for the Commercialization of Products for the Field in the Territory, and Evolus shall use Commercially Reasonable Efforts to Commercialize the Products in the Territory for the Field. Evolus may establish any sub-distributors without the prior written consent of Symatese. Nothing in this Agreement shall limit or prohibit Evolus from Commercializing other products, provided, however, in the event that Evolus Commercializes another hyaluronic-acid based dermal fillers in the Field in the Territory for indications covered by the Products , then the exclusivity for the Commercialization of Products for the Field in the Territory will be transformed into a non-exclusive right for the Field in any countries within the Territory in which Evolus has not yet Commercialized the Products, but shall remain exclusive in any countries with the Territory where the Products have already been Commercialized.

2.2 Exclusive Appointment of Symatese as Distributor in France. Evolus shall enter into an agreement with Symatese to act as the exclusive distributor of the Products for the Field in France (the "**Sublicense Agreement**").

2.3 Right of First Negotiation.

(a) Additional FASY Products. During the Term, if Symatese develops any improved products (defined as "**Improved Products**" in **Exhibit B**) from the FASY Technology, then Symatese shall promptly notify Evolus in writing and provide a reasonably detailed description of each such product that is part of the FASY Technology (each, a "**FASY Notice**"). Upon receipt of such FASY Notice, Evolus shall have [***] days to notify Symatese in writing whether Evolus is interested in distributing and Commercializing such product that is covered by such FASY Notice (exclusively or non-exclusively) in the Field in the Territory. If Evolus provides such notice, the Parties will negotiate in good faith, for a period of [***] (unless

extended by the Parties), an agreement containing the commercially reasonable terms for the distribution and Commercialization of such FASY Technology in the Field in the Territory. The Parties shall not be obligated to enter into a definitive agreement with respect to such product that is covered by such FASY Notice, and if the Parties have not entered into a definitive agreement for such product within the [***] day negotiation period, or if Evolus does not timely respond to the FASY Notice, then Symatese shall be free to negotiate with any Third Party with respect to the distribution and Commercialization of such product.

(b) Eye Product. During the Term, if the exclusive distribution rights previously granted to the Eye Product are terminated or returned to Symatese, then Symatese and Evolus shall negotiate in good faith to add the Eye Product to this Agreement on the same terms as the Products included in this Agreement with reasonable modifications made to the Minimum Purchase Requirements in Section 3.1(a).

2.4 Negative Covenant. Symatese covenants that it will not use or practice, or allow any Third Party to use or practice, the FASY Technology in the Territory for the Field except for the Eye Product and skin quality improvement products. If Symatese grants any Third Party the right to use FASY Technology in the Territory for uses outside the Field, the agreement containing such grant shall include provisions and safeguard to prevent the sale of the Product by a Third Party in the Territory for the Field, including, but not limited to ensuring that: (a) the formulations of any such products using the FASY Technology are materially different from the Product and utilize different branding and trademarks; and (b) Evolus shall be expressly designated as the beneficiary of these provisions and warranties.

3. SUPPLY TERMS

3.1 Supply Terms. Symatese will supply the fully Manufactured and packaged Products to Evolus during the Term for Commercializing such Products for the Field in the Territory in accordance with this Article 3:

(a) Minimum Purchase Requirement. Subject to Sections 3.1(b), 3.1(c), and 3.1(d), the total Product ordered by Evolus or its distributors annually during a Contract Year of the Initial Term (excluding any purchases of Samples) shall be greater than or equal to the annual minimum purchase requirement defined in units for such Contract Year (the "Minimum Purchase Requirement") for the Product in the Territory for the Field, in each case according to the table below:

Contract Year	Minimum Purchase Requirement Product (per Unit)	Market Share in the Territory as non-contractual indicator
Year 1	[***]	[***]
Year 2	[***]	[***]
Year 3	[***]	[***]
Year 4	[***]	[***]
Year 5	[***]	[***]
Year 6	[***]	[***]
Year 7	[***]	[***]
Year 8	[***]	[***]
Year 9	[***]	[***]
Year 10 through expiration of the Term	[***]	[***]

(b) Purchase Target Adjustment. The calculation of the Minimum Purchase Requirement for each Contract Year is based on a Unit and assumes: [***].

As an example [***].

(c) Minimum Purchase Calculation. Determining the achievement of the Minimum Purchase Requirement for a given Contract Year shall be based on: (i) the number of Units of Product actually received by Evolus in the Contract Year, plus (ii) the number of Units of Product subject to firm Purchase Orders or in the binding Products Forecast with requested delivery dates prior to the end of such Contract Year.

(d) Effect of Failure to Meet Minimum Purchase Requirement. If Evolus fails to purchase the Minimum Purchase Requirement in any Contract Year but achieves the corresponding market share for the Product in the Territory for the Field for such Contract Year, then Evolus shall be deemed to have achieved the Minimum Purchase Requirement for such Contract Year. Additionally, for a Contract Year, if, both: (a) Evolus achieves at least [***] of the Minimum Purchase Requirement under this Agreement for such Contract Year and (b) the sum of the purchases under (i) this Agreement and (ii) the U.S. Agreement is equal to [***] of the combination of (x) Minimum Purchase Requirement under this Agreement and (y) Minimum Purchase Requirement under the U.S. Agreement, then Evolus shall be deemed to have achieved the Minimum Purchase Requirement for such Contract year.

Subject to the foregoing, if Evolus fails to purchase the Minimum Purchase Requirement for one (1) Contract Year, Symatese shall have the right to convert the exclusive right granted to Evolus under Section 2.1 into a non-exclusive right, and, if Evolus also fails in this first and the second Contract Years, whether or not exclusivity has been withdrawn after the first Contract Year, Symatese shall have the right to terminate this Agreement in accordance with Section 14.2(c); except that Symatese's rights in the foregoing shall not apply if Evolus' failure to purchase the Minimum Purchase Requirement for any such Contract Year is attributable to or the result of a force majeure under Section 16.12, Symatese's supply failure, or Symatese's willful misconduct or breach of this Agreement. The Parties agree that this Section 3.1(d) is Symatese's sole and complete remedy for Evolus' failure to achieve the Minimum Purchase Requirement.

3.2 Forecasts and Ordering.

(a) At least[***] days prior to the anticipated date of the First Commercial Sale for a Product in the Territory for the Field, Evolus shall prepare and provide Symatese with a written non-binding rolling forecast, on a month-by-month basis, of its total requirement for Products, including desired delivery dates, for the following [****] months ("Products Forecast"). Starting after the First Commercial Sale, on the first Business Day of each month during the Term, Evolus shall submit to Symatese a Products Forecast where the first [***] months of each Products Forecast shall be binding, and the remainder of the Products Forecast shall be non-binding.

(b) Evolus shall submit written purchase orders for Products ("Purchase Orders") at least [***] days prior to the requested shipment date for such Purchase Order. Any Purchase Order may be amended solely by written agreement of the Parties. No terms and conditions contained in any Purchase Order, acknowledgment, invoice, bill of lading, acceptance or other preprinted form issued by either Party shall be effective to the extent such terms or conditions are inconsistent with or modify any term or condition contained in this Agreement unless explicitly approved in writing by both Parties.

(c) Symatese shall notify Evolus within [***] days after Symatese receives a Purchase Order from Evolus indicating if Symatese rejects such Purchase Order, otherwise the Purchase Order is deemed accepted. Symatese may accept a Purchase Order by: (i) initiating performance under such Purchase Order; (ii) accepting full payment from Evolus as consideration for such Purchase Order; or (iii) expressly accepting such Purchase Order in writing. Immediately after acceptance by Symatese, each Purchase Order shall be binding upon Symatese.

(d) If Symatese believes that it will not be able to satisfy Evolus' requirements for the Products, it shall promptly notify Evolus, specifying the reasons for the expected delay and its anticipated duration. In the event of any shortage of Product's in Symatese's inventory, Symatese shall, on order by Evolus, ship to Evolus at least as many units of the Product as Symatese ships to any other customer who has historically ordered similar quantities of Products, taking into account all customers' purchase histories and industries, among other things. If any Product is subject to limited availability at any time and Evolus has placed Purchase Orders for such Product, then either before or after the date such Product becomes subject to limited availability, Symatese agrees to notify Evolus before filling any Purchase Order for such Product, and Evolus has the right, in its sole discretion and without liability or penalty, to cancel any existing Purchase Order for such Product.

(e) **Delivery Terms**. Symatese shall deliver all Products to Evolus Ex Works (Incoterms 2020) Symatese's distribution facility, and the time, quantity, and delivery locations terms are of the essence under this Agreement. For each shipment associated with a Purchase Order, Symatese shall include in such shipment: (a) a packing slip that describes the Products delivered and states the Purchase Order number; and (b) documentation demonstrating that the Products meet the then-current Specifications. Evolus shall bear all costs of shipping, including

the costs of any taxes (other than any income taxes of Symatese) or import approvals that are required. Evolus shall be responsible for clearing the Products through customs. Subject to Section 3.3, title to, and risk of loss of, the Products ordered by Evolus shall pass to Evolus on delivery of the Products.

3.3 Safety Stock. Symatese and Evolus shall, at their respective cost and expense, during the term of this Agreement, maintain a quantity of Product inventory on a [***] basis equal to Evolus' requirements for Product equal to: (a) if the approved shelf life of the Product is [***] or less, [***] months of such Product, based on Evolus' most recent Products Forecast; and (b) if the approved shelf life of the Product is greater than [***], [***] months of such Product based on Evolus' most recent Products Forecast ("Safety Stock"). The Safety Stock shall be: (x) maintained for the sole benefit of Evolus and its Affiliates; (y) stored at a secure facility in compliance with cGMP; and (z) shall not be used for the benefit of Symatese, its Affiliates or any customer of Symatese (other than Evolus and its Affiliates). Symatese shall rotate the Safety Stock on a "First Expiry-First Out" basis for routine fulfillment of firm Purchase Orders, subject to the Shelf-Life Threshold. Such Safety Stock shall be independent of any safety stock maintained for the benefit of Symatese or any other customer of Symatese. In the event Symatese is not able to supply Evolus Product pursuant to any firm Purchase Order, Symatese shall draw upon the Safety Stock maintained for Evolus to make up for any shortfall. Within [***] days after the end of each Calendar Quarter, Symatese shall deliver a report to Evolus describing the quantities of the Safety Stock remaining as of the end of such Calendar Quarter.

3.4 Maximum Sample Purchases. During a given Contract Year, on a Product-by-Product basis, Evolus shall not place a Purchase Order for Samples of such Product that exceeds the amount set forth below:

(a) During the first Contract Year a particular Product is sold in the Territory: [***] the total Units of the Product purchased during the Contract Year.

(b) During the second Contract Year a particular Product is sold in the Territory, [***] the total Units of the Product purchased during the Contract Year.

(c) During the third Contract Year a particular Product is sold in the Territory, [***] the total Units of the Products purchased during the Contract Year.

For the subsequent Contract Year a particular Product is sold in the Territory, [***] the total Units of the Product purchased during the Contract Year

Any purchases of Samples above the thresholds set forth above shall be deemed to be purchases of Product (and not Samples) at the higher Price set forth for Product and shall count toward the Minimum Purchase Requirement for such Product for such Contract Year.

3.5 Acceptance and Rejection, **Non-Conforming Product**.

(a) A Product is non-conforming ("Non-Conforming") if the Product:

has not been manufactured, filled, tested, packaged, stored, and supplied by Symatese in accordance with (i) all applicable QSRs in the Territory, (ii) all Applicable Laws in the Territory, (iii) all requirements of Governmental Authorities in the Territory, (iv) the Regulatory Approvals, (v) the Specifications, (vi) the QRA, and (vii) this Agreement;

has not been manufactured, filled, tested, packaged, and stored at the Facilities, with such Facilities having been approved by the Governmental Authorities in the Territory and the country of manufacture;

is adulterated or misbranded under any Applicable Laws in the Territory;

does not meet the Shelf-Life Threshold;

is not free from defects in material, manufacturing, and workmanship for the shelf-life of the Product; or

does not comply with any accepted Purchase Order.

(b) If any delivery of Product is Non-Conforming in relation to any matter discoverable upon visual inspection made with reasonable care, then Evolus will notify Symatese within [***] days after receipt of the Product. If any delivery of Product is Non-Conforming in relation to any matter which is not discoverable upon visual inspection made with reasonable care, then Evolus shall also notify Symatese within [***] days after discovery. Symatese shall promptly notify Evolus as to whether it confirms or denies that the Product is Non-Conforming.

(c) If Symatese does not agree that the Product is Non-Conforming, then the Parties shall submit information regarding the disputed shipment to each other for review. If the Parties cannot agree as to whether the Product is Non-Conforming within [***] weeks after Evolus' initial claim that a Product is Non-Conforming, then upon the request of either Party the dispute shall be submitted to a mutually acceptable independent laboratory with a minimum of ten (10) years of senior level experience manufacturing pharmaceutical products and complying with guidelines and regulations of the Governmental Authorities in the Territory. If the independent laboratory determines the Product is not Non-Conforming, then Evolus shall pay for the Product. The costs of the independent laboratory shall be borne by the Party with whom the independent laboratory disagrees.

(d) If any Product delivered by Symatese hereunder is determined to be Non-Conforming, then Symatese shall promptly replace, at its expense (all costs included) the Non-Conforming Product with a substitute Product that conforms to the requirements of this Agreement at Symatese's expense, and Evolus shall, in accordance with Symatese's written instructions, and at Symatese's expense, return or destroy all Non- Conforming Product.

3.6 Delays.

(a) In the event Symatese is unable to supply to Evolus, in whole or in part, the Products requested for any reason, then Symatese shall notify Evolus as promptly as possible in writing of such shortage, or potential shortage, or inability to timely supply a Product and, if possible, the date when Symatese will again be able to supply such Product. Symatese shall use its best efforts to remedy any shortfall of a Product as expeditiously as possible, and until such shortfall is remedied, use its best efforts to manage its filling capacity with preference for such Product over other products of Symatese.

(b) In addition, if an event occurs during the manufacture of any Product batch which is likely to materially affect the safety, efficacy, or regulatory status of the Product, Symatese shall notify Evolus as soon as reasonably possible (but in any event no later than [***] Business Days of becoming aware of the process event). Evolus and Symatese shall consult with each other as to the disposition of all affected batches of the Product, which disposition shall be at the expense of Symatese. Symatese agrees to report to Evolus in compliance with the terms and conditions of the QRA any atypical process events, regardless of whether they are or are not likely to materially affect the safety, efficacy, or regulatory status of the Product. No Product may be reworked unless the rework procedure is in conformity with (i) all applicable QSRs in the Territory, (ii) all Applicable Laws in the Territory, (iii) all requirements of Governmental Authorities in the Territory, (iv) the QRA, and (v) this Agreement, and Evolus provides its prior written consent.

3.7 Shortages. In the event of any shortages of any Product, Component or Packaging, Symatese undertakes to make its best efforts to fulfill its manufacturing obligations to the extent of Evolus' order forecasts.

3.8 Reports. Upon written request from Evolus, Symatese shall provide Evolus with a report detailing projected shipment dates for Purchase Orders and the capacity and status of all Facilities.

4. PRICING AND PAYMENTS

4.1 Price. For each Unit of the Products ordered in each Purchase Order, Symatese shall charge Evolus according to the table below (the "Price").

Product Use	Unit Price (Euro)
Product	[***]
Sample	[***]

4.2 Price adjustments. The Prices outlined in Section 4.1 will remain fixed until [***]. Starting [***], these Prices will be reviewed by the Parties and adjusted annually according to the following formula (the "Price Adjustment"):

New Product Unit Price = [***]

New Sample Unit Price= [***]

(a) **Definitions**: For purposes of Section 4.2: [***]

4.3 Invoicing. Symatese shall submit an invoice to Evolus with each shipment of the Products supplied to Evolus under each Purchase Order for the amount due for such shipment. Evolus shall pay undisputed amounts in each invoice to Symatese within [***] days of the invoice date, it being specified that the payments of the various invoices shall be made OUR (i.e. costs borne by the issuer). Evolus shall notify Symatese in writing of any dispute regarding an invoice within [***] days of Evolus' receipt of such invoice. The Parties shall seek to resolve all such disputes promptly and in good faith. Notwithstanding anything to the contrary, Symatese shall continue performing its obligations under this Agreement during any such dispute.

4.4 Exclusive Distribution Right Equity Issuance and Milestone Payment. In consideration for the exclusive distribution right and other benefits conferred on Evolus under the Agreement, Evolus shall :

(a) cause Evolus Parent to issue 610,000 shares of Common Stock of Evolus Parent to Symatese pursuant to the terms of the Share Issuance Agreement to be entered into in connection with this Agreement on the Effective Date.

(b) pay to Symatese in cash each milestone payment set forth in the table below after the occurrence of each corresponding milestone event (each, a "Milestone Payment"). Each Milestone Payment shall become due and payable by Evolus within [***] days after achievement of the applicable milestone event. By express agreement, once the milestone for a particular Milestone Payment is reached the Milestone Payment is definitively acquired by Symatese and is in no way refundable to Evolus for any reason whatsoever, including, but not limited to, early termination or cancellation of the Agreement, whatever the cause, or any other reason based on the execution of the Agreement and its consequences.

Milestone Event	Milestone Payment Amount (Euros)
Two-year anniversary of the CE Mark approval of a second* Product under the Medical Device Regulation ("Regulatory Milestone") *It being noted that the ESTYME® LIFT has previously received CE Mark approval	€1.2 million
The later to occur of (i) the three-year anniversary of the Regulatory Milestone or (ii) December of any calendar year in which Evolus achieves [***] of net revenue in the Territory for the Products; provided however, that if the Regulatory Milestone is achieved the payment shall occur no later than December 2029 regardless of the revenue condition.	€1.9 million

4.5 Royalty Payments. In partial consideration for the exclusive distribution right and other benefits conferred on Evolus under the Agreement, Evolus shall pay Symatese a royalty of [***] of Net Sales Evolus of the Products in the Territory for the Field by Evolus during the Term after the First Commercial Sale of each Product, except that, if the Direct Sales of Products made by Evolus in the Territory for the Field in a given Calendar Quarter is less than [***] of the cumulative sales of Products made by Evolus in the Territory during this same Calendar Quarter, the royalty shall be increased to [***] of Net Sales Evolus for such Calendar Quarter (and reverting to [***] for the subsequent Contract Quarter).

4.6 Royalty Reporting. Within [***] days following the end of each Calendar Quarter after the First Commercial Sale, Evolus shall remit to Symatese all royalty payments due for the applicable Calendar Quarter, together with a written report in sufficient detail by country to permit Symatese to confirm the accuracy the royalty payments made by Evolus. On an annual basis, Symatese shall have the right, at its own cost, to audit the amount paid under the royalty payments.

4.7 Payments. All amounts due from Evolus to Symatese hereunder shall be paid by wire transfer to an account designated in writing in advance by Symatese, it being specified that the transfers shall be made OUR (i.e. costs borne by the issuer). Any undisputed payments or portions thereof that are not paid on the date such payments are due shall bear simple interest at the lower of: (a) [***] per annum; or (b) the maximum rate permissible by governing law.

4.8 Tax Matters.

(a) If laws or regulations require that taxes be withheld, Evolus shall: (a) deduct those taxes from the payment; (b) pay the taxes to the proper taxing authority; and (c) send evidence of the obligation together with proof of tax payment to Symatese within [***] following that tax payment.

(b) The parties shall cooperate to provide all tax forms necessary to complete the obligations under this agreement.

(c) On all invoices related to Purchase Orders, Symatese shall document that Products shall be exported to the Netherlands to Evolus noting Evolus' VAT registration number in the Netherlands.

5. DISTRIBUTION TERMS

5.1 Products commercialization plan: Evolus shall prepare and communicate to Symatese a commercialization plan for countries inside the European Union, and a plan for commercialization in the countries outside EU.

For countries outside EU, based on the Products commercialization plan, Symatese and Evolus will agree on the registration planning. All the internal and external costs complementary to CE marking costs for these registrations outside EU will be shared on a basis of [***] between the Parties.

5.2 Products Commercialization. Evolus shall use Commercially Reasonable Efforts after Regulatory Approval for the Product has been obtained by Symatese to:

(a) Commercialize the Products in the Territory for the Field in accordance with Applicable Law;

(b) Subject to Section 5.2(b)(i), commence the First Commercial Sale of at least [***] within [***] Product receiving the necessary Regulatory Approvals for that Product ("Standard Commercialization Period").

(i) Notwithstanding the foregoing, Evolus shall have the right to delay the First Commercial Sale of [***], provided that:

(1) [***]; and

(2) [***].

(ii) In the event Evolus exercises its right to delay the First Commercial Sale o[***].

Evolus shall provide Symatese with [***]; and

(c) maintain sufficient facilities and appropriate, trained staff and personnel for the Commercialization of the Product.

(d) establish and transmit to SYMATESE periodic reports regarding its activities of sales and promotion of the Products and the market according to Exhibit C

5.3 Marketing and Branding.

(a) **Joint Marketing Committee**. Within [***] days of the Effective Date, the Parties will form a joint marketing committee (the "Marketing Committee") comprised of at least one (1) representative from each Party, and at all times an equal number of representatives of each Party. Such representatives shall have sufficient experience and qualifications to facilitate discussions and activities within the scope of the Marketing Committee's responsibilities. The Marketing Committee may invite non-members to participate in the discussions and meetings, provided that such participants will have no voting authority at the Marketing Committee meeting and are subject to confidentiality provisions no less strict that those described in Article 10. The Marketing Committee's purpose shall be to facilitate the flow of information between the Parties with respect to commercial and marketing insights and vision for the Product, and such other functions as appropriate, to further the purposes of this Agreement, as may be mutually agreed to in writing by the Parties. The Marketing Committee

may form sub-committees as needed to address such other functions. The Marketing Committee will not have any decision-making authority over any matters referred to it under this Agreement. The Marketing Committee may be combined with the committee formed under the U.S. Agreement.

(b) **Use of Trademarks.** Evolus shall use the Trademarks and the Technology trademark as described in the Exhibit A for the Product in the Territory. At no additional cost to Evolus, Evolus shall have the right to use the Trademark licensed to Evolus under Section 9.1.

5.4 Recalls. If a Party is required to recall, or on its own initiative recalls, any of the Products, the Parties agrees to assist each other in such a recall. Evolus agrees that if a recall occurs, Evolus will notify all affected customers promptly and will promptly provide Symatese with a written status report of the recall. Symatese agrees, at Evolus' discretion, either to refund the Price of the recalled Products to the end user, or to replace recalled Products within a reasonable time, including freight and applicable duties and taxes. The Party responsible for the cause of such recall shall bear the costs of such recall, except that, if neither Party is the cause of such recall, then the Parties shall equally share the costs of such recall. The obligations set forth in this Section 5.4 shall survive the expiration or earlier termination of this Agreement.

5.5 Adverse Event Reporting. Promptly after the Effective Date the Parties shall negotiate in good faith and enter into a safety data exchange agreement on reasonable and customary terms, including that each Party shall (i) comply with all safety monitoring requirements under Applicable Law; (ii) be responsible for timely reporting all adverse events, recalls, complaints, and safety data related to the Product in the Territory to the applicable Governmental Authorities in accordance with Applicable Law; and (iii) promptly report to the other Party any adverse event, customer complaint, or communication from any Governmental Authority related to the Products in the Territory, and in all events, with sufficient detail and time to allow the other Party to meet its regulatory reporting requirements under Applicable Law.

5.6 Records. Evolus shall use Commercially Reasonable Efforts to maintain at its principal place of business adequate, complete, and detailed books and records of all purchases, sales, advertising expenditures, inventory and other transactions and information related to the Products.

6. MANUFACTURE OF PRODUCT

6.1 Symatese and its Affiliates shall and shall cause Symatese Parent to Manufacture, Package, Label fulfill all obligations regulations related to the Products in conformity with the QRA and Applicable Laws, including, the MDR regulations and ISO 13485 in order to obtain and maintain the CE registration and specific regulations for countries outside European Union.

6.2 Quality Assurance/Quality Control. The Parties shall enter into a separate master QRA within [***] from the Effective Date.

6.3 No Contract Manufacturing. Except with the consent of Evolus or in connection with Section 8.1, which consent may be withheld in Evolus' absolute discretion, only Symatese and its Affiliates shall manufacture the Products for supply to Evolus, and no sublicensees of Symatese or other Third Parties shall manufacture the Products for supply to Evolus.

6.4 Records and Batch Samples. Symatese shall maintain, and shall cause its Contract Providers, if any, to maintain all records and batch samples necessary to comply with all Applicable Laws relating to the Development, testing, Manufacture, Packaging, storage and supply of the Product, and the performance of its obligations under this Agreement. All such records and batch samples shall be maintained for such period as may be required pursuant to the Applicable Laws or in the absence of such, Symatese policy; provided, however, that all records and batch samples relating to the manufacture, stability, and quality control of each batch of the

Product shall be retained at least until the second (2nd) anniversary of the end of the approved shelf-life for all Products from such batch.

6.5 Inspection of Books and Records. During the Term, and thereafter for the greater of (a) the period stipulated by the Applicable Laws in the Territory, and (b) [***], Symatese shall cause Symatese Parent to agree that Evolus, at reasonable times upon reasonable prior notice, may inspect and copy the research and development and manufacturing books and records of Symatese Parent, including audits of any Contract Provider, pertaining to Symatese's obligations under this Agreement for purposes of ensuring compliance with the terms of this Agreement. Symatese agrees to obtain the foregoing right of inspection for Evolus with respect to the relevant books and records of Symatese parent and its Contract Providers, if any.

7. DEVELOPMENT AND REGULATORY MATTERS

7.1 Symatese Development and Regulatory Obligations. As between the Parties, Symatese shall, at its sole expense, be responsible for the Development of Product exclusively in the European Union for use in the Field, including the performance of Clinical Studies, Product testing, and the conduct of regulatory activities required to obtain and maintain all Regulatory Approvals necessary for all activities and uses of Product in the European Union for the Field. For countries outside European Union, Symatese and Evolus will agree on the registration planning. All the internal and external costs complementary to CE marking costs for these registrations outside EU will be shared on a basis of [***] between the Parties.

7.2 All Development Activities shall be conducted in compliance with all Applicable Laws, including ISO 13485. Symatese shall keep Evolus reasonably informed as to the progress of Symatese's Development activities and its regulatory activities relating to Product in the Territory

7.3 Regulatory Approval Holder. Subject to Applicable Laws, Symatese shall cause Symatese Parent to apply for Regulatory Approval for the Products in the Field in the Territory. As a legal manufacturer, Symatese Parent shall be the owner of the registration of the Products with the applicable Governmental Authority.

7.4 Improvement of Shelf Life. Prior to the First Commercial Sale and throughout the Term, Symatese shall cause Symatese Parent to work in good faith to perform stability testing to increase the stated shelf life in any Regulatory Approval of the Products to at least [***].

7.5 Information Exchange.

(a) **Deficiency**. If Symatese is notified of a deficiency in any Regulatory Materials, then Symatese shall immediately notify Evolus, and the Parties shall consult with each other regarding appropriate responses and timing. Symatese shall respond to such deficiency. The Parties acknowledge that the Governmental Authorities may require an expedited response to their inquiries and in such case shall work together to ensure that responses are filed within the requisite deadlines.

(b) **Government Communications**.

the Parties shall promptly (but in any event not later than [***] provide each other with copies of all Material Communications with any Governmental Authority, including without limitation, adverse event reports and safety reports, regarding a Product, the Facilities, or the procedures or processes used in connection with a Product; and

the notification obligation in this Section 7.5(b) shall be twenty-four (24) hours if a Governmental Authority is commencing or threatening seizure of a Product or, with respect to Symatese, closure of or suspension of operations at a Facility.

(c) Evolus shall be entitled to review Symatese's responses to any Material Communications relating to the Product prior to their submission, if practicable, and Evolus' reasonable views and comments shall be taken into account prior to submission, subject to Evolus' comments being submitted on a timely basis. Symatese shall also use its best efforts to provide Evolus with the notice, information, documentation, and opportunity to comment provided for above with respect to any Symatese Contract Provider.

(d) At least each Calendar Quarter during the Initial Term, each Party shall keep the other fully informed of the material status of regulatory and commercial developments related to the Products in the Field in its respective territory, including any material decision by any Governmental Authority of their respective territory.

7.6 Cooperation. The Parties shall cooperate with each other with respect to the activities governed by this Article 7, including executing documents and providing information to the other Party.

7.7 Diligence. Symatese shall use Commercially Reasonable Efforts, alone or in conjunction with its Affiliates, to obtain Regulatory Approval for, and Develop and Manufacture at least [***] Products for the Territory in the Field.

7.8 Quality Control. Symatese shall use Commercially Reasonable Efforts to Develop and Manufacture the Products in accordance with all Applicable Law in all material respects, including where applicable cGMP, and maintain ongoing quality assurance and testing procedures sufficient to satisfy regulatory requirements under Applicable Law.

7.9 The terms of the QUALITY AND REGULATORY AGREEMENT shall prevail if at any time the provisions of this QUALITY AND REGULATORY AGREEMENT would conflict with the terms of the agreement License Supply and Distribution Agreement EU.

QUALITY AND REGULATORY AGREEMENT constitutes an ancillary contract to this License Supply and Distribution Agreement EU.

WHEREAS both parties acknowledge that both QUALITY AND REGULATORY AGREEMENT as well as DISTRIBUTION AGREEMENT are necessary to perform their obligations.

8. SYMATESE OBLIGATIONS

8.1 Manufacturing Facility

(a) Symatese Parent currently has an operational and efficient Facility for Manufacturing the Product (current facility). As a guarantee of continuity supply of the Products to Evolus according to this Agreement, Symatese undertakes to set up a second Facility for Manufacturing the Product that is as operational and efficient as the current Facility to create additional Manufacturing capacity (additional facility).

(b) The Parties shall form a sub-committee of the Marketing Committee, composed of at least one (1) member of each Party, to provide updates and feedback on the build-out in accordance with the ISO 13485.

9. INTELLECTUAL PROPRIETARY RIGHTS

9.1 Trademark License. Symatese and Affiliates hereby grant to Evolus a royalty-free, exclusive, non-assignable, non-transferable, non-sublicensable, to use the Trademarks solely in connection with the advertising, sale, distribution, and Commercialization of the Products in the Territory. Evolus shall use the Trademarks: (i) in compliance with Applicable

Laws; and (ii) in reasonable conformity with the style and appearance standards that are substantially equivalent to those standards maintained by Symatese as of the Effective Date.

9.2 IP Ownership. Each Party will retain ownership and all right, title and interest to all Intellectual Property Rights existing prior to the Effective Date or conceived, reduced to practice, made, or developed by such Party outside of the activities performed under this Agreement. Symatese will also retain ownership of the Symatese Trademarks. Joint research is not contemplated by this Agreement. If the Parties decide to engage in joint research during the Term, then the Parties shall negotiate and enter into a separate joint research agreement.

9.3 No Other Proprietary Rights. Except as expressly stated in this Agreement, nothing shall grant either Party any right, title, or interest in and to any Patent application, Patent, trade secret, trademark, or other Intellectual Property Right of the other Party, whether expressly, by implication or by estoppel.

9.4 Infringement. Evolus shall be responsible for handling any infringement in the Territory of any Trademarks, Patents, or other Intellectual Property Rights of Evolus or its Affiliates related to the Products, of which Evolus may learn, including initiating any protective action with respect to such infringement, and Symatese agrees to cooperate to the fullest extent necessary to enable Evolus to conduct such defense.

10. CONFIDENTIALITY

10.1 Confidentiality and Non-Use Obligations. Subject to this Section, the Parties each undertake to keep in strict confidence and not disclose to any Third Party, or to use themselves other than for the performance of their respective obligations, or the exercise of their respective rights under this Agreement, any proprietary, Confidential Information in any form directly or indirectly belonging or relating to the other Party, or its Affiliates, disclosed by or on behalf of a Party and received by the other Party pursuant to or in the course of this Agreement or the performance of this Agreement. The Parties agree that a Party receiving Confidential Information of the other Party shall not disclose such Confidential Information to any Third Party without prior written consent of the other Party, except for disclosures made in confidence to any Third Party under written terms consistent with this Agreement.

10.2 Permitted Disclosures. A Party may disclose Confidential Information disclosed by the other Party to the extent such disclosure is reasonably necessary in the following instances:

(a) when complying with applicable governmental laws, regulations (including the regulations of applicable securities exchanges) or judicial orders; *provided* that notice of any such disclosure shall be sent to the other Party as soon as practicable prior to any such disclosure to provide the other Party an opportunity to challenge or limit the disclosure obligations.

(b) when disclosing to actual or potential investors, investment bankers, lenders, other financing sources or acquirors (and attorneys and independent accountants thereof) in connection with potential investment, acquisition, collaboration, merger, public offering, due diligence or similar investigations by such Third Parties or in confidential financing documents, provided that, in each case, any such Third Party agrees to be bound by terms of confidentiality and non-use (or, in the case of the receiving Party's attorneys and independent accountants, such Third Party is obligated by applicable professional or ethical obligations) that are no less stringent than those contained in this Agreement (except to the extent that a shorter confidentiality period is customary in the industry), except in the case of disclosure of any trade secrets or know-how related to the Manufacturing of the Product, which disclosure shall require prior written consent prior to such disclosure; or

(c) when disclosing to a receiving Party's: (i) Affiliates, potential or actual collaborators, partners, and licensees (including potential co-marketing and co-promotion contractors); (ii) potential or actual investment bankers, acquirers, lenders or investors; and (iii) employees, consultants and agents; each of whom, prior to disclosure, must be bound by similar obligations of confidentiality and non-use as set forth in this Article 10.

10.3 Duration and Exceptions. The obligations contained in this Article 10 shall survive for a period of ten (10) years following the expiry or termination of this Agreement for any reason, except with respect to any Confidential Information qualifying as, and properly identified as a trade secret under Applicable Law, for which the duty of confidence set forth herein shall not expire, and shall remain valid so long as such Confidential Information qualifies as a trade secret. Notwithstanding the foregoing, the obligations of confidentiality contained in this Article 10 shall not apply to any Confidential Information which:

(a) is publicly disclosed by the disclosing Party, either before or after it is disclosed to the receiving Party hereunder;

(b) was known to the receiving Party or any of its Affiliates, without obligation to keep it confidential, prior to disclosure by the disclosing Party;

(c) is subsequently disclosed on a non-confidential basis to the receiving Party or any of its Affiliates by a Third Party lawfully in possession thereof and without confidentiality or non-sue obligations; or

(d) is published by a Third Party or otherwise becomes publicly available or enters the public domain, either before or after it is disclosed to the receiving Party, and is not directly or indirectly supplied by the receiving Party in violation of this Agreement.

10.4 Press Release. Each Party agrees not to, and agrees to cause its Affiliates not to, issue any press release or other public statement disclosing the existence of this Agreement or the transactions contemplated hereby, unless such press release or other public statement is approved by the other Party in writing (such approval not to be unreasonably withheld, delayed or conditioned); except that, each Party will be authorized to make any disclosure, without the approval of the other Party, that is required by Applicable Laws (including the US Securities Act of 1933, as amended, and the US Securities Exchange Act of 1934, as amended) or the rules of any securities exchange. Nevertheless, it is agreed between the Parties that the first press release relating to this Agreement is subject to the prior written approval of both Parties.

11. REPRESENTATIONS AND WARRANTIES

11.1 Authorization; Enforceability. Each Party represents and warrants to the other Party that: (a) it is a corporation duly organized and validly existing under the laws of its jurisdiction of organization and has all requisite power and authority to enter into this Agreement; (b) it is duly authorized by all requisite action to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby, and that the same do not conflict or cause a default with respect to such Party's obligations under any other agreement; and (c) it has duly executed and delivered this Agreement.

11.2 Compliance with Laws, Permits and Licenses. Both Parties represent and warrant to the other Party that their actions under this Agreement shall comply with all Applicable Laws and regulations pertaining to the Development, Manufacture, supply, and use of the Products, including, if applicable, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and any laws enacted to implement the Organisation of Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Officials in International Business Transactions. Each Party further represents and warrants that it has and shall throughout the Term, at its expense, obtain and maintain any and all licenses, permits, orders,

authorizations, and consents required by the Governmental Authority in the Territory to perform its obligations under this Agreement.

11.3 Debarment. Both Parties represent and warrant to the other Party that in the course of the Development, Manufacture, and Commercialization of the Products, the Parties have not and shall not knowingly use any employee, consultant, or subcontractor who has ever been debarred or is the subject of debarment or convicted of a crime for which a Person could be debarred (including by the U.S. Food and Drug Administration under 21 U.S.C. § 335a (or subject to a similar sanction of any other Governmental Authority)). Each Party shall notify the other immediately upon becoming aware (a) that any of its employees, consultants, or subcontractors has been debarred or is the subject of debarment proceedings by any Governmental Authority, or (b) that any part of this Section 11.3 is no longer true and correct.

11.4 Products Warranty. Symatese warrants to Evolus that:

(a) the Products supplied to Evolus under this Agreement shall be Manufactured in accordance with ISO 13485, the Regulatory Approval and conform with the Specifications and will be free from significant defects in material and workmanship;

(b) the Products supplied to Evolus under this Agreement are free of defects in design;

(c) no claim, lien, or action exists or is threatened against Symatese that would interfere with the Commercialization of the Products;

(d) no Products, nor the Manufacture or Commercialization of the Products, infringes any Third Party Intellectual Property Rights;

(e) the Evolus will receive good and valid title to the Products, free and clear of all encumbrances and liens of any kind;

(f) the Products are manufactured and supplied in accordance with Applicable Law; and

(g) all Products meet the Shelf-Life Threshold upon shipment to Evolus.

Evolus shall notify Symatese of any warranty claim for a Product under this Section 11.4. Upon receipt of a warranty claim, Symatese shall promptly repair or replace the applicable Product, at no charge to Evolus.

12. INDEMNIFICATION AND INSURANCE

12.1 Indemnification by Evolus. Subject to Section 12.3, Evolus hereby agrees to indemnify, defend and hold harmless Symatese, its Affiliates, and its and their respective directors, employees and agents ("Symatese Indemnitees") from any and all claims, suits, demands, losses, liabilities, damages, penalties or expenses, including reasonable attorney fees, (collectively, "Claims") by any Third Party arising from or related to the negligence, gross negligence, willful misconduct, or breach of this Agreement (including a breach of any of the representations or warranties in Article 11) by Evolus, its Affiliates or any of their permitted sub-distributors, sales representatives or employees, except, in each case, to the extent such Claims result from the negligence, gross negligence, willful misconduct, or breach of this Agreement by any Symatese Indemnitee.

12.2 Indemnification by Symatese. Subject to Section 12.3, Symatese hereby agrees to indemnify, defend and hold harmless Evolus, its Affiliates, and its and their respective directors, employees and agents from any and all Claims by any Third Party arising from or related to the negligence, gross negligence, willful misconduct, or breach of this Agreement

(including a breach of any of the representations or warranties in Article 11) by any Symatese Indemnitee, except, in each case, to the extent such Claims result from the negligence, gross negligence, willful misconduct, or breach of this Agreement by Evolus, its Affiliates or any of their permitted sub-distributors, sales representatives or employees.

12.3 Procedures. For a Party to exercise its rights under Section 12.1 or Section 12.2, the Party seeking to exercise its rights (the "Indemnified Party") must: (a) promptly notify the other Party (the "Indemnifying Party") of the Claim; *provided* that failure to give such notice shall not relieve Indemnifying Party of its obligations except where, and solely to the extent that, such failure actually and materially prejudices the rights of Indemnifying Party; (b) provide reasonable cooperation to the Indemnifying Party (and its insurer), as reasonably requested, at Indemnifying Party's reasonable cost and expense; and (c) tender to the Indemnifying Party (and its insurer) full authority to defend or settle the Claim; *provided* that the Indemnifying Party shall not settle or compromise the Claim in any manner which would: (i) require any payment by the Indemnified Party; (ii) require an admission of legal wrongdoing in any way on the part of the Indemnified Party; or (iii) effect an amendment of this Agreement, in each case without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, delayed, or conditioned. Neither Party has any obligation to indemnify the other Party in connection with any settlement made without the Indemnifying Party's written consent. The Indemnified Party has the right to participate at its own expense in the Claim and in selecting counsel therefor.

12.4 Insurance. During the Term, Evolus shall use Commercially Reasonable Efforts to procure and maintain insurance from a reputable insurer that is consistent with normal business practices of similarly situated companies. Upon request of a Party, the other Party shall list such other Party as additional insured on any insurance policies procured and maintained under this Agreement and shall provide the other Party with written evidence of insurance upon request. Each Party shall provide the other Party with written notice at least thirty (30) days prior to the cancellation, non renewal or material change in such insurance. Each Party shall, upon the written request of the other Party, furnish to the other Party a certificate of insurance evidencing the foregoing coverage.

13. LIMITATIONS OF LIABILITY

13.1 EXCLUSION OF CONSEQUENTIAL DAMAGES. EXCEPT FOR BREACH OF A PARTY'S OBLIGATIONS UNDER ARTICLE 10, AND EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 12 REGARDING CLAIMS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS, IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

13.2 LIABILITY LIMITATION. EXCEPT FOR BREACH OF A PARTY'S OBLIGATIONS UNDER ARTICLE 10, AND EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 12 REGARDING CLAIMS, UNDER NO CIRCUMSTANCES SHALL THE TOTAL LIABILITY OF EVOLUS AND ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EXCEED THE TOTAL AMOUNT PAID BY EVOLUS TO SYMATESE UNDER THIS AGREEMENT DURING THE SIX (6) MONTHS PRECEDING SUCH ACTION OR CLAIM (AS DETERMINED IN REFERENCE TO THE DATE OF FILING OF SUCH ACTION OR CLAIM).

13.3 Independence of Provisions. The Parties agree that Sections 13.1 and 13.2 are independent of any exclusive remedies for breach of warranty set forth in this Agreement. Furthermore, Symatese and Evolus each agrees that the Prices for Products set forth in this

Agreement reflect the allocation of risk set forth in this Agreement, and that the Parties would not enter into this Agreement without these limitations on its liabilities.

14. TERM AND TERMINATION

14.1 Term. Subject to Section 14.2, this Agreement commences on the Effective Date and continues until the day that is the fifteen (15) year anniversary of the date of the first Regulatory Milestone achieved for a Product in the Territory ("**Initial Term**"). After the Initial Term, this Agreement shall automatically renew for successive five (5)-year terms (each, a "Subsequent Term") for so long as Evolus meets the Minimum Purchase Requirements and the Agreement is not terminated by either other Party pursuant to Section 14.2(a). The Initial Term and each Subsequent Term shall collectively be the "Term".

14.2 Termination.

(a) If either Party believes that the other is in material breach of its obligations hereunder, then the non-breaching Party may deliver notice of such breach to the other Party. The allegedly breaching Party shall have forty-five (45) days to cure such breach from the receipt of the notice, except that, if such breach is capable of being cured but is not cured within such 45-day period, the breaching Party may cure such breach during an additional period as is reasonable in the circumstances by initiating actions to cure such breach during such 45-day period and using Commercially Reasonable Efforts to pursue such actions. If the allegedly breaching Party fails to cure that breach within the applicable period set forth above, then the Party originally delivering the notice of breach may terminate this Agreement on written notice of termination. The Parties agree that the termination remedy under this Section 14.2(a) are to be invoked only if the applicable material breach cannot be adequately remedied through a combination of specific performance and the payment of money damages as available to the non-breaching Party in accordance with this Agreement.

(b) Evolus may terminate this Agreement promptly by written notice of termination to Symatese if Symatese fails to meet the Regulatory Milestone by December 31, 2026. Such termination shall be effective thirty (30) days after Symatese's receipt of notice from Evolus.

(c) Symatese may terminate this Agreement promptly by written notice of termination to Evolus for Evolus' failure to purchase the Minimum Purchase Requirements set forth under Section 3.1. Such termination shall be effective thirty (30) days after Evolus' receipt of notice from Symatese.

14.3 Effect of Termination or Expiration.

(a) The rights of each Party against the other Party that have accrued up to the date of such termination or expiration shall remain in force after the termination or expiration of this Agreement.

(b) Evolus' obligations to pay any Milestone Payments for milestones not achieved as of the effective date of the termination shall cease, and Evolus shall have the right to continue selling Products during the one hundred eighty (180) days following the effective date of the termination, subject to payment of royalties under Section 4.5. At the end of such the one hundred eighty (180) day period, Evolus shall destroy any remaining supplies of unsold Products and send a certification of such destruction to Symatese.

(c) Each receiving Party shall return to the disclosing Party or destroy, at the disclosing Party's election, all Confidential Information of disclosing Party, including all copies thereof and all materials, substances and compositions delivered or provided by disclosing Party to receiving Party, except that receiving Party may keep one copy of such Confidential Information in its legal files solely for the purpose of enabling it to comply with the provisions of

this Agreement, and receiving Party shall not be required to remove such Confidential Information from its back-up or archive electronic records, including its electronic laboratory notebook and laboratory information management systems.

(d) The Party terminating this Agreement, or in the case of the expiration of this Agreement, each Party, shall not be liable to the other Party for any damage of any kind (whether direct or indirect) incurred by the other Party by reason of the expiration or earlier termination of this Agreement. Termination of this Agreement will not constitute a waiver of any of either Party's rights, remedies, or defenses under this Agreement, at law, in equity, or otherwise.

(e) Termination is not the sole remedy under this Agreement and, whether or not termination is implemented and notwithstanding anything contained in this Agreement to the contrary, all other remedies will remain available except as agreed to otherwise herein.

14.4 Survival. The provisions of Article 10 shall survive the expiration or termination of this Agreement and shall continue in effect for ten (10) years. Additionally, the provisions of: (a) Articles 1, 11 through 13, 15, 16, and 17 shall survive any expiration or termination of this Agreement; (b) Sections 9.3, 9.4, 14.3 and 14.4.shall survive any expiration or termination of this Agreement; and (c) Sections 3.5 - 3.7, 4.1, 4.2, 4.3, 4.5 - 4.8, 5.4 - 5.6, 6.1 - 6.5, 7.1 and 7.5, shall survive any expiration or termination of this Agreement, but solely with respect to any obligations that accrued: (i) prior to termination or expiration of the Agreement; or (ii) pursuant to Section 14.3(b).

15. DATA PROTECTION

15.1 Under this Agreement, the Parties may exchange files and/or information containing personal data, as defined in Article 4 of the GDPR ("Personal Data"). The Parties undertake to comply with all Applicable Laws and regulation in respect of data protection, in particular the EU General Data Protection Regulation n°2016/679 of April 27, 2016 ("GDPR"), as well as other regulations present or future, applicable to Personal Data processed for performance of this Agreement.

15.2 The Parties shall take all necessary steps to protect in the best possible conditions of security and confidentiality the Personal Data that they collect and/or process under this Agreement. In addition, the Parties shall retain and / or process such data only for the strict performance of this Agreement and shall ensure that such data remain fully intact and in no way deformed, damaged or accessible by third parties not expressly authorized.

15.3 Finally, if either Party becomes aware of a Personal Data breach within the meaning of Article 4 of GDPR, it undertakes (i) to notify such breach to the other Party no later than 48 hours from its discovery and (ii) to provide adequate information to the other Party so that the latter can comply with its obligations to the competent data protection authority (CNIL) within the time limit set by Article 33 of the GDPR.

16. GENERAL PROVISIONS

16.1 Notices. Unless otherwise stated in this Agreement, any notice, report, payment or document to be given by a Party to the other Party will be in writing and shall be deemed given when delivered personally or mailed by certified or registered mail, postage prepaid (such mailed notice to be effective on the date which is three (3) Business Days after the date of mailing), or sent by nationally recognized overnight courier (such notice sent by courier to be effective one business day after it is deposited with such courier), or sent by email or facsimile (such notice sent by email or facsimile to be effective when sent, if confirmed by certified or registered mail or overnight courier) as follows:

If to Symatese Aesthetics:

Address: Z.A d'Outreville , 60540 Bornel
Attention: Directeur général
Phone: [***]
Email: [***]

If to Evolus:

Address: 520 Newport Center Dr., Suite 1200
Newport Beach, CA 92692
Attention: CEO
Phone: [***]
Email: [***]

with a copy to:

Address: Z.A d'Outreville , 60540 Bornel
Attention: Direction financière
Phone: [***]
Email: [***]

with a copy to:

Address: 520 Newport Center Dr., Suite 1200
Newport Beach, CA 92692
Attention: Legal
Phone: [***]
Email: [***]

or to such other place as either Party may designate as to itself by written notice to the other Party.

16.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of England and Wales, without regard to the conflict of laws principles thereof. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

16.3 Change of control. In the event that Symatese or Symatese Parent (collectively referred to as the "Selling Party") receives a bona fide offer from a third party for the sale of all or substantially all of its assets or equity interests, the Selling Party shall inform of such offer to Evolus or Evolus Parent (collectively referred to as the "Purchasing Party") within a reasonable period of time, but in no event later than 30 days after receipt of the offer.

16.4 Amendment and Waiver. No amendments or waivers of the terms and conditions of this Agreement shall be binding upon either Party unless in writing, signed by the Parties and specifying the provision of this Agreement that is amended or waived. No waiver by either Party of any breach of this Agreement by the other Party shall be effective as to any other breach, whether of the same or any other term or condition and whether occurring before or after the date of such waiver.

16.5 English Language. This Agreement was prepared in the English language, which language shall govern the interpretation of, and any dispute regarding, the terms of this Agreement.

16.6 Independent Contractors, No Partnership. Each Party represents that it is acting on its own behalf as an independent contractor and is not acting as an agent (or legal representative) for or on behalf of the other Party or any Third Party. This Agreement and the relationship hereby established by and between Symatese and Evolus do not constitute a partnership, joint venture, franchise, agency, or contract of employment. Evolus is not granted, and shall not exercise, the right or authority to assume or create any obligation or responsibility on behalf of or in the name of Symatese or its Affiliates.

16.7 Assignment. Neither Party may assign this Agreement, or its rights or obligations hereunder, without the prior written consent of the other Party; *except* that either Party may assign this Agreement, or all of its rights and obligations hereunder: (a) to an Affiliate, or (b) if a transfer or sale to a Third Party of all or substantially all of that Party's assets or business that relate to this Agreement occurs, whether by change of control, merger, sale of stock, sale of assets or otherwise. Any assignment in violation of this Section 16.7 shall be null

and void. This Agreement shall bind and inure to the benefit of the Parties and their respective successors and permitted assigns.

16.8 Severability. If any provision of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other term or provision hereof. The Parties agree that they shall negotiate in good faith or shall permit a court to replace any provision hereof so held invalid, illegal, or unenforceable with a valid provision which is as similar as possible in substance to the invalid, illegal or unenforceable provision.

16.9 Interpretation. Headings in this Agreement are included for ease of reference only and shall have no legal effect. This Agreement shall be deemed to comprise the language mutually chosen by the Parties and no rule of strict construction shall be applied against any Party. Unless otherwise expressly provided herein or the context of this Agreement otherwise requires: (a) the singular shall include the plural and vice versa, (b) words of any gender include each other gender, (c) words such as "herein", "hereof," "hereby" and "hereunder" refer to this Agreement as a whole; (d) the words "include(s)," "including," "such as," and "for example" shall be deemed to be followed by the phrase "but not limited to," "without limitation," or words of similar import unless otherwise specified; (e) the word "or" shall be deemed to include the word "and" (e.g., "and/or"); (f) references to a particular statute, law or regulation include all rules and regulations promulgated thereunder and any successor statute, law, rules or regulations then in effect, in each case including the then-current amendments thereto; (g) references to "Article," "Section," "subsection," "clause," or other subdivision, or an Exhibit or Appendix, without reference to a documents are to the specified provision, Exhibit, or Appendix to this Agreement; (h) the word "will" shall be construed to have the same meaning and effect as the word "shall"; (i) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein); (j) any reference herein to any Person shall be construed to include the Person's or entity's successors and assigns; (k) the word "notice" means notice in writing (whether or not specifically stated) and shall include notices, consents, approvals and other written communications contemplated under this Agreement; (l) provisions that require that a Party, the Parties or any committee hereunder "agree," "consent" or "approve" or the like shall require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes or otherwise, including by e-mail; and (m) unless stated otherwise, references to any specific law, rule or regulation, or article, section or other division thereof, shall be deemed to include the then-current amendments thereto or any replacement or successor law, rule or regulation thereof.

16.10 Entire Agreement. The terms, conditions and provisions contained in this Agreement constitute the entire understanding of the Parties with respect to the transactions and matters contemplated hereby and supersede all previous communications, representations, agreements, and understandings relating to the subject matter hereof. For clarity, this Agreement shall supersede any prior confidentiality or non-disclosure agreement that was between the Parties and that covered the subject matter of this Agreement ("Prior CDA"), and all Confidential Information (as defined therein) exchanged between the Parties under the Prior CDA prior to the Effective Date shall be governed by the Prior CDA, while all Confidential Information exchanged between the Parties as of or after the Effective Date shall be governed by this Agreement.

16.11 Further Assurances. Each Party covenants and agrees that subsequent to the execution and delivery of this Agreement, and without any additional consideration, it shall execute and deliver any further legal instruments and perform any acts which are or may become reasonably necessary to effectuate the terms and conditions of this Agreement.

16.12 Force Majeure. No Party shall be held liable to the other Party, or be deemed to have defaulted under or breached this Agreement, for failure or delay in performing any

obligation under this Agreement to the extent such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party, potentially including epidemics, pandemics (including COVID-19), embargoes, war, acts of war (whether war be declared or not), acts of terrorism, insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances or shortages, fire, floods, or other acts of God, or acts by any Governmental Authority (including shelter-in-place orders, quarantine orders, or lock down orders), or unavailability of materials related to the manufacture of Products. The affected Party shall notify the other Party of such force majeure circumstances as soon as reasonably practical and shall promptly undertake and continue diligently all Commercially Reasonable Efforts necessary to cure such force majeure circumstances or to perform its obligations in spite of the ongoing circumstances.

16.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be signed and delivered by facsimile, or electronically in PDF format, each of which will be binding when sent.

17. DISPUTE RESOLUTION

17.1 Dispute Resolution. The Parties agree that any dispute, controversy or claim that arises out of, or relates to, this Agreement ("Disputed Matter") shall be resolved solely by means of the procedures set forth in this Article 17, and that such procedures constitute legally binding obligations that are an essential provision of this Agreement. If either Party fails to observe the procedures of this Article 17, as may be modified by their written agreement, the other Party may bring an action for specific performance of these procedures in any court of competent jurisdiction.

17.2 Arbitration. Each Disputed Matter that is not an Excluded Claim shall be finally resolved by binding arbitration administered by the International Chamber of Commerce (the "ICC").

17.3 The seat and venue of the arbitration shall [***]. There shall be three (3) arbitrators, each of whom shall have significant legal or business experience in the medical device, biotechnology, or pharmaceutical industry, and none of whom shall be a current or former employee or director, or a current significant shareholder, of either Party or any of their respective Affiliates or any sublicensee. Such arbitrators shall be selected pursuant to the following:

The claimant (the "Claimant") shall designate one (1) arbitrator in the notice of arbitration (the "Notice of Arbitration"). If the Claimant does not designate one (1) arbitrator in its Notice of Arbitration, the ICC shall, within [***] days upon application by either Party, appoint one (1) arbitrator for the Claimant.

The respondent (the "Respondent") shall designate one (1) arbitrator in the answer to the Notice of Arbitration (the "Answer to the Notice of Arbitration"). If the Respondent fails: (A) to designate one (1) arbitrator in its Answer to the Notice of Arbitration; or (B) to file its Answer to the Notice of Arbitration by the time that it is required to do so, the ICC shall, within [***] days upon application by either Party, appoint one (1) arbitrator for the Respondent.

The two (2) arbitrators so appointed above shall, within [***] days of confirmation of the second arbitrator, designate a third arbitrator who shall act as the presiding arbitrator of the arbitral tribunal. Failing such designation within [***] from the confirmation of the second arbitrator, the ICC shall, within [***] days upon application by either Party, appoint the presiding arbitrator.

(a) The arbitration proceedings shall be conducted in English. The arbitration tribunal shall apply the Arbitration Rules of the ICC (the "ICC Rules") in force when the Notice of Arbitration is submitted in accordance with the ICC Rules, and the ICC Rules are deemed to

be incorporated by reference to this sub-Section. Where the ICC Rules are in conflict with the provisions of this Section 17.2, including the provisions concerning the appointment of arbitrators, the provisions of this Section 17.2 shall prevail.

(b) The arbitrators shall decide any Disputed Matter submitted by the Parties to the arbitration strictly in accordance with the internal laws of [***] and shall not apply any other substantive law.

(c) Each Party shall cooperate with the other Party in making full disclosure of and providing complete access to all relevant information and documents requested by the other in connection with such arbitration proceedings; provided, that the Disputed Matter shall be resolved in a confidential manner, and none of the foregoing information or documents or the result of the arbitration shall be disclosed or otherwise used unless required by law or to a court in aid of enforcement of the arbitration award.

(d) During arbitration and prior to an arbitration award being granted, the Parties shall continue to perform those obligations under this Agreement that are not in dispute.

(e) Either Party may apply to the arbitrators for interim injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. The arbitrators' authority to award punitive or any other type of damages not measured by a Party's compensatory damages shall be subject to the limitation set forth in Article 13.

(f) Except to the extent necessary to confirm or enforce an award or as may be required by Applicable Laws, neither Party nor an arbitrator may disclose the existence, content, or results of an arbitration without the prior written consent of the other Party. In no event shall an arbitration be initiated after the date when commencement of a legal or equitable proceeding based on the dispute, controversy or claim would be barred by the applicable statute of limitations.

(g) The Parties agree that, if a Disputed Matter arises over the nature or quality of performance under this Agreement, neither Party may terminate this Agreement until final resolution of the Disputed Matter through arbitration or other judicial determination. The Parties further agree that any payments made pursuant to this Agreement pending resolution of the Disputed Matter shall be refunded if an arbitrator or court determines that such payments are not due.

17.4 Provisional Remedies. Nothing in this Agreement shall limit the right of either Party to seek to obtain in any court of competent jurisdiction or arbitration panel any equitable or interim relief or provisional remedy, including injunctive relief, that may be necessary to protect the rights or property of that Party, and such an action by such Party may be filed and maintained notwithstanding any ongoing discussions between the Parties or any ongoing arbitration proceeding. In addition, either Party may bring an action in any court of competent jurisdiction to resolve disputes pertaining to any Excluded Claims, and no such Excluded Claim shall be subject to arbitration pursuant to Section 17.2. Seeking or obtaining such equitable or interim relief or provisional remedy in a court shall not be deemed a waiver of the Agreement under the dispute resolution provisions set forth herein. For clarity, any such equitable remedies shall be cumulative and not exclusive and are in addition to any other remedies that either Party may have under this Agreement or Applicable Laws.

[Signature page follows.]

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the Effective Date.

SYMATESE EVOLUS
Symatese Aesthetics S.A.S Evolus Pharma B.V.
By its sole shareholder, Evolus, Inc.

By: Jean-Paul Gérardin By: David Moatazedi
Title: CEO Title: CEO, Evolus, Inc.

[Signature Page to License, Supply and Distribution Agreement]

Exhibit A

[***]

EXHIBIT B

[***]

FIRST AMENDMENT TO LEASE

I. PARTIES AND DATE.

This First Amendment to Lease ("**Amendment**") is made and dated as of July 27, 2023, by and between **520 NEWPORT CENTER DRIVE LLC**, a Delaware limited liability company ("**Landlord**"), and **EVOLUS, INC.**, a Delaware corporation ("**Tenant**").

II. RECITALS.

Landlord and Tenant entered into an office space lease dated May 15, 2019 (the "**Lease**") for space consisting of 17,630 rentable square feet known as Suite No. 1200 (the "**Premises**") in the building located 520 Newport Center Drive, Newport Beach, California (the "**Building**").

Landlord and Tenant each desire to modify the Lease to add approximately 8,333 rentable square feet of space known as Suite No. 1400 on the fourteenth floor of the Building ("**Suite 1400**"), extend the Lease Term, adjust the Basic Rent, and make such other modifications as are set forth in "III. MODIFICATIONS" next below.

III. MODIFICATIONS.

A. Basic Lease Provisions. The Basic Lease Provisions are hereby amended as follows:

1. Effective as of the Commencement Date for Suite 1400, Item 2 shall be amended by adding "Suite No. 1400."

2. Item 4 is hereby amended by adding the following:

"Estimated Commencement Date for Suite 1400: August 1, 2024"

3. Item 5 is hereby deleted in its entirety and the following substituted in lieu thereof:

"5. Lease Term: The Term of this Lease shall expire on January 31, 2030 ("**Expiration Date**")."

4. Effective as of the Commencement Date for Suite 1400, Item 6 shall be amended by adding the following for Suite 1400 (i.e., 8,333 rentable square feet):

"Basic Rent for Suite 1400:

Months of Term or Period for Suite 1400	Monthly Rate Per Rentable Square Foot of Suite 1400	Monthly Basic Rent for Suite 1400
Commencement Date for Suite 1400 to 1/31/26	$6.65	$55,414.45
2/1/26 to 1/31/27	$6.88	$57,331.04
2/1/27 to 1/31/28	$7.12	$59,330.96
2/1/28 to 1/31/29	$7.37	$61,414.21
2/1/29 to 1/31/30	$7.63	$63,580.79

Notwithstanding the above schedule of Basic Rent for Suite 1400 to the contrary, as long as Tenant is not in Default (as defined in Section 14.1) under the Lease, Tenant shall be entitled to an abatement of 3 full calendar months of Basic Rent in the aggregate amount of $166,243.35 (i.e. $55,414.45 per month) (the "**Abated Basic Rent for Suite 1400**") for the first 3 full calendar months following the Commencement Date for Suite 1400 (the "**Abatement Period for Suite 1400**"). In the event Tenant is in Default at any time during the Term, as extended herein, which Default results in the termination of the Lease or in Tenant's right to possession of the Premises, the unamortized portion of the Abated Basic Rent for Suite 1400 (amortized on a straight-line basis over the period commencing on the Commencement Date for Suite 1400 and ending on January 31, 2030) shall immediately become due and payable. The payment by Tenant of the Abated Basic Rent for Suite 1400 in the event of a Default shall not limit or affect any of Landlord's other rights, pursuant to the Lease or at law or in equity. Only Basic Rent for Suite 1400 shall be abated during the Abatement Period for Suite 1400 and all other additional rent and other costs and charges specified in the Lease shall remain as due and payable pursuant to the provisions of the Lease."

Effective as of February 1, 2025, Item 6 shall be amended by adding the following Basic Rent schedule for the original Premises (i.e., 17,630 rentable square feet):

"Basic Rent for Suite 1200:

Months of Term or Period for Suite 1200	Monthly Rate Per Rentable Square Foot for Suite 1200	Monthly Basic Rent for Suite 1200
2/1/25 to 1/31/26	$6.65	$117,239.50
2/1/26 to 1/31/27	$6.88	$121,294.40
2/1/27 to 1/31/28	$7.12	$125,525.60
2/1/28 to 1/31/29	$7.37	$129,933.10
2/1/29 to 1/31/30	$7.63	$134,516.90

Notwithstanding the above schedule of Basic Rent for Suite 1200 to the contrary, as long as Tenant is not in Default (as defined in Section 14.1 of the Lease) under the Lease, Tenant shall be entitled to an abatement of 3 full calendar months of Basic Rent for Suite 1200 in the aggregate amount of $351,718.50 (i.e. $117,239.50 per month) (the "**Abated Basic Rent for Suite 1200**") for the period commencing February 1, 2025 and ending April 30, 2025 (the "**Abatement Period for Suite 1200**"). In the event Tenant is in Default at any time during the Term, as extended herein, which Default results in the termination of the Lease or Tenant's right to possession of the Premises, the unamortized portion of the Abated Basic Rent for Suite 1200 (amortized on a straight-line basis over the period commencing on February 1, 2025 and ending on January 31, 2030) shall immediately become due and payable. The payment by Tenant of the Abated Basic Rent for Suite 1200 in the event of a Default shall not limit or affect any of Landlord's other rights, pursuant to the Lease or at law or in equity. Only Basic Rent for Suite 1200 shall be abated during the Abatement Period for Suite 1200 and all other additional rent and other costs and charges specified in the Lease shall remain as due and payable pursuant to the provisions of the Lease."

5. Effective as of the Commencement Date for Suite 1400, Item 7 shall be amended by adding the following:

"7. Property Tax Base for Suite 1400: The Property Taxes per rentable square foot of Suite 1400 incurred by Landlord and attributable to the twelve-month period ending June 30, 2025 (the "**Base Year**" for Suite 1400).

Project Cost Base for Suite 1400: The Project Costs per rentable square foot of Suite 1400 incurred by Landlord and attributable to the Base Year for Suite 1400."

Effective as of February 1, 2025, Item 7 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

"7. Property Tax Base: The Property Taxes per rentable square foot incurred by Landlord and attributable to the twelve-month period ending June 30, 2025 (the "**Base Year**").

Project Cost Base: The Project Costs per rentable square foot incurred by Landlord and attributable to the Base Year.

Expense Recovery Period: Every twelve-month period during the Term (or portion thereof during the first and last Lease years) ending June 30."

6. Effective as of the Commencement Date for Suite 1400, Item 8 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

"8. Floor Area of Premises: approximately 25,963 rentable square feet, comprised of approximately 17,630 rentable square feet in Suite 1200 and approximately 8,333 rentable square feet in Suite 1400

Floor Area of Building: approximately: 326,121 rentable square feet"

7. Item 9 is hereby deleted in its entirety and the following substituted in lieu thereof:

"9. Security Deposit: $281,000.00"

8. Effective as of the Commencement Date for Suite 1400, Item 11 shall be deleted in its entirety and the following substituted in lieu thereof:

"11. Parking: 89 parking passes in accordance with the provisions set forth in **Exhibit F** to this Lease."

B. Commencement Date. As used herein, the "**Commencement Date for Suite 1400**" shall occur on the earlier of (a) the date Suite 1400 is deemed ready for occupancy as set forth below, or (b) the date Tenant commences its business activities within Suite 1400. Promptly following request by Landlord, the parties shall memorialize on a form provided by Landlord (the "**Suite 1400 Commencement Memorandum**") the actual Commencement Date for Suite 1400. Should Tenant fail to execute and return the Suite 1400 Commencement Memorandum to Landlord within 5 business days (or provide specific written objections thereto within that period), then Landlord's determination of the

Commencement Date for Suite 1400 as set forth in the Suite 1400 Commencement Memorandum shall be conclusive. Suite 1400 shall be deemed "ready for occupancy" if and when Landlord, to the extent applicable, has substantially completed all the work required to be completed by Landlord pursuant to the Work Letter attached to this Amendment but for minor punch list matters, and has obtained the requisite governmental approvals for Tenant's occupancy in connection with such work.

C. Delay in Possession. If Landlord, for any reason whatsoever, cannot deliver possession of Suite 1400 to Tenant on or before the Estimated Commencement Date for Suite 1400 set forth in Section III.A.2 above, this Amendment shall not be void or voidable, nor shall Landlord be liable to Tenant for any resulting loss or damage. However, Tenant shall not be liable for any rent for Suite 1400 until the Commencement Date for Suite 1400 occurs as provided in Section III.B above, except that if Landlord's failure to substantially complete all work required of Landlord pursuant to Section III.B above is attributable to any action or inaction by Tenant (including without limitation any Tenant Delay described in the Work Letter, if any, attached to this Amendment), then Suite 1400 shall be deemed ready for occupancy, and Landlord shall be entitled to full performance by Tenant (including the payment of rent), as of the date Landlord would have been able to substantially complete such work and deliver Suite 1400 to Tenant but for Tenant's delay(s).

D. Operating Expenses. Notwithstanding any contrary provision in the Lease, Landlord hereby agrees that Tenant shall not be obligated to pay Landlord for Operating Expenses accruing in connection with Suite 1400 during the 12-month period commencing as of the Commencement Date for Suite 1400 nor in connection with Suite 1200 during the period commencing February 1, 2025 and ending January 31, 2026.

E. Right to Extend This Lease. Section 3 of Exhibit G to the Lease titled "Right to Extend" shall remain in full force and effect during the extension period ending January 31, 2030, except that the reference in the second sentence to Tenant giving Landlord written notice of its commitment to extend the Term not less than 9 months or more than 12 months prior to the expiration date of the Term shall be amended to refer instead to not less than 12 months or more than 15 months advance written notice.

F. Right of First Offer. Notwithstanding anything to the contrary contained therein, Section 4 of Exhibit G to the Lease entitled "Right of First Offer" shall remain in full force and effect during the extension period ending January 31, 2030.

G. Right to Terminate. Section 5 of Exhibit G to the Lease entitled "Right to Terminate" has expired and shall be deleted in its entirety and nothing substituted in lieu thereof.

H. Signage. Landlord, at its sole cost and expense, shall affix and maintain a sign (restricted solely to Tenant's name as set forth herein) adjacent to the entry door of Suite 1400, and shall add an identification strip in the lobby directory of the Building. Any subsequent changes to that initial signage shall be made at Tenant's expense in accordance with Section 5.2 of the Lease.

I. Additional "Walk-Up" Monument Signage. In addition to Tenant's existing monument signage pursuant to Section 6 of Exhibit G to the Lease, provided Tenant is not in Default of the Lease, Tenant shall have the right to install non-exclusive signage on one slot on the "walk-up" monument sign located at the South entrance to the Building (near the 520 Marketplace Café) in the location currently occupied by Sherry Meyerhoff LLP, which signage shall consist only of the name "Evolus, Inc." The type, location and design of such signage shall be subject to the prior written approval of Landlord and the City of Newport Beach, and shall be consistent with Landlord's signage criteria for the Project. Fabrication, installation, insurance, and maintenance of such signage shall be at Tenant's sole cost and expense. Tenant understands and agrees that it shall use Landlord's designated contractor for installing the monument signage. Should Tenant fail to have the monument signage installed by December 31, 2024, then Tenant's right to install same thereafter shall be deemed null and void. Except for the foregoing, no sign, advertisement or notice visible from the exterior of the Premises shall be inscribed, painted or affixed by Tenant on any part of the Premises without prior consent of Landlord. Tenant's signage right shall belong solely to Evolus, Inc., a Delaware corporation, and may not be transferred or assigned (except in connection with an assignment of the Lease to a Tenant Affiliate as described in Section 9.1(e) of the Lease) without Landlord's prior written consent, which may be withheld by Landlord in Landlord's sole discretion. In the event Tenant, exclusive of any subtenant(s), fails to occupy the entire Premises, then Tenant shall, within 30 days following notice from Landlord, remove the walk-up monument signage at Tenant's expense. Tenant shall also remove such signage promptly following the expiration or earlier termination of the Lease. Any such removal shall be at Tenant's sole expense, and Tenant shall bear the cost of any resulting repairs to the monument that are reasonably necessary due to the removal.

J. Floor Plan of Premises. Effective as of the Commencement Date for Suite 1400, Exhibit A attached to the Lease shall be deleted and Exhibit A attached to this Amendment shall be substituted in lieu thereof.

K. Parking. Notwithstanding any contrary provision in the Lease, effective as of the Commencement Date for Suite 1400, Tenant may purchase at the rates set forth in Exhibit F to the Lease, up to 27 additional Parking Passes (which, for the avoidance of doubt, are in addition to the 62 Parking Passes allocated to the original Premises) for unreserved parking spaces in connection with its leasing of Suite 1400 (as reflected in Section III.A.8 of this Amendment). Tenant acknowledges that Landlord may require up to 50% of the additional Parking Passes be located in the parking structure located at 555 San Nicolas. Landlord agrees that Tenant may convert up to 6 of the additional Parking Passes to Converted Stalls by providing written notice of such election to Landlord prior to the Commencement Date for Suite 1400 (which, for the avoidance of doubt, are in addition to the 10 Converted Stalls allocated to the Original Premises). Tenant acknowledges that if such written notice of election is not delivered to Landlord prior to the Commencement Date for Suite 1400, then the conversion of the Parking Passes to Converted Stalls shall be subject to the month to month availability of such reserved stalls as determined by Landlord and the reserved stalls shall be at Landlord's scheduled rates. Notwithstanding any contrary provision in Exhibit F to the Lease, the monthly parking charges shall continue to be $80.00 per Parking Pass per month and $160.00 per Converted Stall per month through January 31, 2030. From and after February 1, 2030, the monthly parking charges shall be at Landlord's scheduled parking charges from time to time.

L. Tenant Improvements. Landlord hereby agrees to complete the First Amendment Tenant Improvements for the Premises, including Suite 1400, in accordance with the provisions of Exhibit X, First Amendment Work Letter, attached hereto.

M. Security Deposit. Landlord currently holds a Security Deposit in the amount of $222,564.00. Concurrently with Tenant's delivery of this Amendment, Tenant shall deliver the sum of $58,436.00 to Landlord, which sum shall be added to the Security Deposit presently being held by Landlord in accordance with Section 4.3 of the Lease. <Notwithstanding the provisions of Section 1950.7 of the California Civil Code, it is understood that the Security Deposit may be applied to any damages sustained by Landlord due to an early termination of the Lease as a result of Tenant's default or insolvency. In addition, the last sentence of Section 4.3 of the Lease and the last sentence of Section 4.4 of the Lease are each hereby deleted in their entirety.

IV. GENERAL.

A. Effect of Amendments. The Lease shall remain in full force and effect except to the extent that it is modified by this Amendment.

B. Entire Agreement. This Amendment embodies the entire understanding between Landlord and Tenant with respect to the modifications set forth in "III. MODIFICATIONS" above and can be changed only by a writing signed by Landlord and Tenant.

C. Counterparts; Digital Signatures. If this Amendment is executed in counterparts, each is hereby declared to be an original; all, however, shall constitute but one and the same amendment. In any action or proceeding, any photographic, photostatic, or other copy of this Amendment may be introduced into evidence without foundation. The parties agree to accept a digital image (including but not limited to an image in the form of a PDF, JPEG, GIF file, or other e-signature) of this Amendment, if applicable, reflecting the execution of one or both of the parties, as a true and correct original.

D. Defined Terms. All words commencing with initial capital letters in this Amendment and defined in the Lease shall have the same meaning in this Amendment as in the Lease, unless they are otherwise defined in this Amendment.

E. Authority. If Tenant is a corporation, limited liability company or partnership, or is comprised of any of them, each individual executing this Amendment for the corporation, limited liability company or partnership represents that he or she is duly authorized to execute and deliver this Amendment on behalf of such entity and that this Amendment is binding upon such entity in accordance with its terms.

F. California Certified Access Specialist Inspection. Pursuant to California Civil Code § 1938, Landlord hereby states that the Premises have not undergone inspection by a Certified Access Specialist (CASp) (defined in California Civil Code § 55.52(a)(3)). Pursuant to Section 1938 of the California Civil Code, Landlord hereby provides the following notification to Tenant: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction related accessibility standards within the premises."

G. Attorneys' Fees. The provisions of the Lease respecting payment of attorneys' fees shall also apply to this Amendment.

H. Nondisclosure of Lease Terms. Tenant acknowledges that the content of this Amendment and any related documents are confidential information. Except to the extent disclosure is required by law, Tenant shall keep such confidential information strictly confidential and shall not disclose such confidential information to any person or entity other than Tenant's financial, legal and space-planning consultants, provided, however, that Tenant may disclose the terms to prospective subtenants or assignees under the Lease or pursuant to legal requirement.

I. Brokers. Article 18 of the Lease is amended to provide that the parties recognize the following parties as the brokers who negotiated this Amendment, and agree that Landlord shall be responsible for payment of brokerage commissions to such brokers pursuant to its separate agreements with such brokers: Irvine Management Company ("**Landlord's Broker**") is the agent of Landlord exclusively and Savills ("**Tenant's Broker**") is the agent of Tenant exclusively. By the execution of this Amendment, each of Landlord and Tenant hereby acknowledge and confirm (a) receipt of a copy of a Disclosure Regarding Real Estate Agency Relationship conforming to the requirements of California Civil Code 2079.16, and (b) the agency relationships specified herein, which acknowledgement and confirmation is expressly made for the benefit of Tenant's Broker. If there is no Tenant's Broker so identified herein, then such acknowledgement and confirmation is expressly made for the benefit of Landlord's Broker. By the execution of this Amendment, Landlord and Tenant are executing the confirmation of the agency relationships set forth herein. The warranty and indemnity provisions of Article 18 of the Lease, as amended hereby, shall be binding and enforceable in connection with the negotiation of this Amendment.

V. EXECUTION.

Landlord and Tenant executed this Amendment on the date as set forth in "I. PARTIES AND DATE." above.

LANDLORD:

520 NEWPORT CENTER DRIVE LLC,
a Delaware limited liability company

By: /s/Jonathan H. Brinsden

Jonathan H. Brinsden
Group President
Commercial Properties

By: Roger H, DeWarnes

Roger H. DeWames
Division Executive Vice President
Office Properties

TENANT:

EVOLUS, INC.,
a Delaware corporation

By: /s/David Moatazedi

David Moatazedi
CEO

By: /s/Sandra Beaver

Sandra Beaver
CFO

EXHIBIT A

This exhibit has been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Registrant undertakes to provide such information to the Securities and Exchange Commission upon request.

EXHIBIT X

This exhibit has been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Registrant undertakes to provide such information to the Securities and Exchange Commission upon request.

Exhibit 21.1

EVOLUS, INC.

LIST OF SUBSIDIARIES

Name of Subsidiary	Jurisdiction of Incorporation or Organization
Evolus Pharma Limited	Ireland
Evolus Pharma BV	Netherlands
Evolus International Ltd.	United Kingdom
Evolus GmbH	Germany
Evolus Australia Pty Ltd	Australia

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

(1) Registration Statement (Form S-8 No. 333-223068), pertaining to the Evolus, Inc. 2017 Omnibus Incentive Plan of Evolus, Inc.,
(2) Registration Statement (Form S-8 No. 333-229184), pertaining to the Evolus, Inc. 2017 Omnibus Incentive Plan of Evolus, Inc.,
(3) Registration Statement (Form S-8 No. 333-236620), pertaining to the Evolus, Inc. 2017 Omnibus Incentive Plan of Evolus, Inc.,
(4) Registration Statement (Form S-8 No. 333-254746), pertaining to the Evolus, Inc. 2017 Omnibus Incentive Plan of Evolus, Inc.,
(5) Registration Statement (Form S-8 No. 333-263325), pertaining to (i) the Evolus, Inc. 2017 Omnibus Incentive Plan of Evolus, Inc., (ii) certain Inducement Stock Option awards, and (iii) certain Inducement Restricted Stock Unit awards,
(6) Registration Statement (Form S-8 No. 333-267359), pertaining to (i) certain Inducement Stock Option awards and (ii) certain Inducement Restricted Stock Unit awards,
(7) Registration Statement (Form S-8 No. 333-270360) pertaining to the Evolus, Inc. 2017 Omnibus Incentive Plan of Evolus, Inc.,
(8) Registration Statement (Form S-3 333-270370), and
(9) Registration Statement (Form S-8 No. 333-274906), pertaining to (i) the Evolus, Inc. 2023 Inducement Incentive Plan of Evolus, Inc. (ii) certain Inducement Stock Option awards, and (iii) certain Inducement Restricted Stock Unit awards;

of our reports dated March 7, 2024, with respect to the consolidated financial statements of Evolus, Inc. and the effectiveness of internal control over financial reporting of Evolus, Inc. included in this Annual Report (Form 10-K) of Evolus, Inc. for the year ended December 31, 2023.

/s/ Ernst & Young LLP

Irvine, California
March 7, 2024

Exhibit 31.1

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, David Moatazedi, certify that:

1. I have reviewed this Annual Report on Form 10-K of Evolus, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: March 7, 2024

/s/ David Moatazedi

David Moatazedi
President, Chief Executive Officer and Director
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Sandra Beaver, certify that:

1. I have reviewed this Annual Report on Form 10-K of Evolus, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: March 7, 2024

/s/ Sandra Beaver

Sandra Beaver
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

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

Each of the undersigned hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted in accordance with Section 906 of the Sarbanes-Oxley Act of 2002, in his or her capacity as an officer of Evolus, Inc., that, to his or her knowledge:

(1) the Annual Report on Form 10-K of Evolus, Inc. for the fiscal year ended December 31, 2023 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934; and

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

Date: March 7, 2024

By: /s/ David Moatazedi

David Moatazedi
President and Chief Executive Officer
(Principal Executive Officer)

Date: March 7, 2024

By: /s/ Sandra Beaver

Sandra Beaver
Chief Financial Officer
(Principal Financial Officer)

Policy Regarding the Recoupment of Certain Compensation Payments

As adopted by the Board of Directors on December 1, 2023

In the event Evolus, Inc. (the "Company") is required to prepare an accounting restatement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws (including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period), the Company shall recover reasonably promptly the amount of any erroneously awarded Incentive-Based Compensation from each Covered Individual unless an exception (set forth below) applies.

Incentive-Based Compensation shall be considered "erroneously awarded" under this policy to the extent such Incentive-Based Compensation (1) is received by the Covered Individual on or after the effective date of Rule 5608 of The Nasdaq Stock Market LLC ("Nasdaq") Rules and while the Company has a class of securities listed on a national securities exchange or a national securities association, (2) is received by the Covered Individual during the three completed fiscal years immediately preceding the date that the Company is required to prepare the accounting restatement (and any transition period applicable to a change in the Company's fiscal year as required by Nasdaq listing rules), and (3) the amount of such received Incentive-Based Compensation exceeds the amount of the Incentive-Based Compensation that would have been received by the Covered Individual had it been determined based on the restated financial results (with such Incentive-Based Compensation computed in each case without regard to any taxes paid). For purposes of this policy, the date that the Company is required to prepare the accounting restatement is the earlier to occur of (A) the date the Company's Board of Directors (the "Board"), or a committee of the Board, or the officer or officers of the Company authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare such accounting restatement, or (B) the date a court, regulator, or other legally authorized body directs the Company to prepare such accounting restatement.

For purposes of this policy, Incentive-Based Compensation is considered "received" by a Covered Individual in the Company's fiscal period during which the Financial Reporting Measure applicable to the Incentive-Based Compensation is attained, even if the payment or grant of the Incentive-Based Compensation occurs after the end of that fiscal period. For Incentive-Based Compensation based on stock price or total shareholder return, where the amount of erroneously awarded compensation is not subject to mathematical recalculation directly from the information in an accounting restatement, the amount of erroneously awarded compensation will be determined by the Compensation Committee of the Board (the "Committee") based on a reasonable estimate of the effect of the accounting restatement on the stock price or total shareholder return upon which the Incentive-Based Compensation was received. The Company must maintain documentation of the determination of that reasonable estimate and provide such documentation to Nasdaq as required by Nasdaq listing rules. If the erroneously awarded Incentive-Based Compensation consists of shares (including share-denominated equity awards) or options that are still held by the Covered Individual at the time of recovery, the recoverable amount is the number of shares or options received in excess of the number of shares or options that would have been received based on the accounting restatement (or the value of that excess number). If the options have been exercised but the underlying shares have not been

sold, the recoverable amount is the number of shares underlying the excess options based on the restatement (or the value thereof). If the shares have been sold, the recoverable amount is the proceeds that were received in connection with the sale of the excess number of shares. Amounts credited under plans (other than tax-qualified plans for which the exception set forth below applies) based on erroneously awarded Incentive-Based Compensation and any accrued earnings thereon are also recoverable under this policy.

The Company shall not be required under this policy to recover erroneously awarded Incentive-Based Compensation if the Committee has made a determination that recovery would be impracticable and either of the following conditions are met: (1) after making a reasonable attempt to recover such erroneously awarded Incentive-Based Compensation, the Committee determines that the direct expense paid to a third party to assist in enforcing this policy would exceed the amount to be recovered (documentation evidencing the reasonable attempt to recover the erroneously awarded Incentive-Based Compensation must be maintained and provided to Nasdaq as required by listing rules), or (2) the recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company, to fail to meet the requirements of Internal Revenue Code Section 401(a)(13) or Internal Revenue Code Section 411(a) and the regulations thereunder.

For purposes of this policy, the following definitions will apply:

- "Covered Individual" means (i) any current or former officer of the Company who is or was subject to Section 16 of the Securities Exchange Act of 1934, as amended, at any time during the applicable performance period for the relevant Incentive-Based Compensation, (ii) any current or former member of the Company's executive leadership team reporting directly to the Chief Executive Officer, or (iii) any Vice President of Accounting or Corporate Controller, in each case regardless of whether such individual continues to hold such position or continues to be employed by the Company or any of its subsidiaries.

- "Incentive-Based Compensation" means any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a Financial Reporting Measure.

- "Financial Reporting Measures" means measures that are determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measures that are derived wholly or in part from such measures (including, for purposes of this policy, stock price and total shareholder return). A Financial Reporting Measure need not be presented within the Company's financial statements or included in a filing with the Securities and Exchange Commission.

This policy is intended to comply with the requirements of Rule 10D-1 promulgated by the Securities and Exchange Commission and the related listing rules of Nasdaq, and the terms hereof shall be construed consistent with that intent. This policy does not limit any other remedies the Company may have available to it in the circumstances, which may include, without limitation, dismissing an employee or initiating other disciplinary procedures. The provisions of this policy are in addition to (and not in lieu of) any rights to repayment the Company may have under Section 304 of the Sarbanes-Oxley Act of 2002 (applicable to the Chief Executive Officer and Chief Financial Officer only) and other applicable laws. The Company shall not indemnify any

Covered Individual against the loss of erroneously-awarded Incentive-Based Compensation that is recovered by the Company pursuant to this policy and such Covered Individual shall be solely responsible for any costs, including the fees of accountants and legal advisors related to their representation related to the loss of erroneously-awarded Incentive Based Compensation.

The Committee shall have the sole authority to construe and interpret this policy and to make all determinations required to be made pursuant to this policy. Any such construction, interpretation or determination by the Committee shall be final and binding.

The Committee may revise this policy from time to time.