

Risk Factors Comparison 2025-03-31 to 2024-03-27 Form: 10-K

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Our business involves a high degree of risk. You should consider and read carefully all of the risks and uncertainties described below, as well as other information included in this Annual Report on Form 10- K, including our audited consolidated financial statements and related notes appearing in Item 8 of this Annual Report on Form 10- K. The risks described below are not the only ones facing us. The occurrence of any of the following risks or additional risks and uncertainties not presently known to us or that we currently believe to be immaterial could materially and adversely affect our business, financial condition or results of operations. In such case, the trading price of our common stock could decline, and you may lose all or part of your investment. This Annual Report on Form 10- K also contains forward- looking statements and estimates that involve risks and uncertainties. Our actual results could differ materially from those anticipated in the forward- looking statements as a result of specific factors, including the risks and uncertainties described below.

Risks Related to Our Business and Products We have a history of net losses, and we expect to continue to incur losses for the foreseeable future. If we ever achieve profitability, we may not be able to sustain it We have incurred losses since our inception and expect to continue to incur losses for the foreseeable future. We have reported a net loss of approximately \$ ~~49.61~~ **1.0** million for the year ended December 31, ~~2023~~ **2024** and a net loss of approximately \$ ~~33.49~~ **6.1** million for the year ended December 31, ~~2022~~ **2023**. As a result of these losses, as of December 31, ~~2023~~ **2024**, we had an accumulated deficit of approximately \$ ~~248.309~~ **9** million. We expect to continue to incur net losses for the foreseeable future. We will continue to incur substantial expenses without corresponding revenues unless and until we are able to obtain regulatory approval or certification and successfully commercialize some of our product candidates. To date, we have generated only limited revenue from our products, and we expect to incur significant expenses to complete our clinical program for our product candidates in the United States and elsewhere. We may never be able to obtain regulatory approval or certification for the marketing of our product candidates in the United States or internationally. Even if we are able to commercialize some of our products or product candidates, there can be no assurance that we will generate significant revenues or ever achieve profitability. We expect to continue to incur significant sales and marketing, research and development, regulatory and other expenses as we expand our marketing efforts to increase adoption of our products, expand existing relationships with our customers, obtain regulatory approvals or certifications for our product candidates, conduct clinical studies on our existing and planned product candidates and develop new product candidates or add new features to our existing products. In addition, we expect our selling, general and administrative expenses to increase due to the additional costs associated with ~~being operating as~~ **being operating as** a public company. The net losses that we incur may fluctuate significantly from period to period. As a result of these increased expenditures, we will need to generate significant additional revenue in order to offset our operating expenses and achieve and sustain profitability. Accordingly, we may not achieve or maintain profitability, and we may continue to incur significant losses in the future. Even if we achieve profitability, we cannot be sure that we will remain profitable for any substantial period of time. If we do not achieve or sustain profitability, it will be more difficult for us to finance our business and accomplish our strategic objectives, either of which would have a material adverse effect on our business, financial condition, results of operations and prospects and may cause the market price of our common stock to decline.

We may need substantial additional funding. If we are unable to raise capital when needed, we could be forced to delay, reduce or eliminate our product development programs or commercialization efforts. We expect our expenses may increase substantially in connection with our ongoing and planned activities, particularly as we conduct our ongoing BACKBEAT study and our planned Virtue ISR- US pivotal study. Furthermore, we have incurred and will continue to incur additional costs associated with operating as a public company. Accordingly, we may need to obtain substantial additional funding in connection with our continuing operations. If we are unable to raise capital or obtain adequate funds when needed or on acceptable terms, we may be required to delay, limit, reduce or terminate our research and development programs or any future commercialization efforts or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves. In addition, attempting to secure additional financing may divert the time and attention of our management from day- to- day activities and distract from our research and development efforts. The amount and timing of our future funding requirements are dependent on many factors, including the cost and pace of execution of clinical studies and research and development activities, the strength of results from clinical studies and other research, development and manufacturing efforts, as well as the potential receipt of revenues or other payments or investments under a restructured Terumo Agreement, the Medtronic Agreement and / or future collaborations, and the realization of cash from the acquisition of Vivasure by Haemonetics. We had \$ 22.3 million in cash and cash equivalents at December 31, 2024, which consisted primarily of bank deposits and money market funds. We also had \$ 44.6 million of short- term marketable securities at December 31, 2024, which consisted primarily of our investments in corporate debt securities. Because our cash, cash equivalents and short- term investments as of December 31, 2024 are not sufficient to fund our operations for at least the next twelve months from the date of issuance of the consolidated financial statements included elsewhere in this Annual Report on Form 10- K, there is substantial doubt about our ability to continue as a going concern. The consolidated financial statements have been prepared on the basis that the Company will continue to operate as a going concern, which contemplates it will be able to realize assets and settle liabilities and commitments in the normal course of business for the foreseeable future. Accordingly, the consolidated financial statements do not include any adjustments that may result from the outcome of these uncertainties. See “ Basis of Presentation and Liquidity, ” in Note 1 to our consolidated financial statements

appearing elsewhere in this Annual Report on Form 10-K. We currently have a limited operating history and limited sources of revenue and may never become profitable. We commenced substantive operations in 2018. Our wholly-owned subsidiary Caliber Therapeutics, LLC (“ Caliber ”) commenced operations in 2008, our wholly-owned subsidiary BackBeat Medical, LLC (“ BackBeat ”) commenced operations in 2010 and our wholly-owned subsidiary FreeHold Surgical, LLC (“ FreeHold ”) commenced operations in 2010. Our limited operating history makes it difficult to evaluate our current business and predict our future results, prospects or viability. To date, we have not generated significant revenue. Our ability to generate substantial revenue and ultimately become profitable depends primarily upon our ability, alone or with our partners, to successfully obtain regulatory approval and certification for and successfully commercialize our product candidates. Our ability to generate future revenue from our products or any existing or future product candidates also depends on a number of additional factors, including our or our partners’ ability to: • successfully complete clinical development of our product candidates, including necessary clinical studies; • successfully develop the manufacturing processes for our product candidates; • establish and maintain supply and manufacturing relationships with third parties that ensure adequate and legally-compliant production of our product candidates; • complete and submit necessary applications for regulatory approvals and certifications for our product candidates in the United States and elsewhere; • obtain and maintain requisite regulatory approvals and certifications for our product candidates in the United States and elsewhere; • comply with regulations enforced by the FDA, and other comparable regulatory authorities with respect to our marketing of products and product candidates or modified products or product candidates; • obtain necessary FDA or foreign regulatory approvals or certifications, for our product candidates or for future product modifications or indication expansions for any of our product candidates that receives regulatory approval or certification; • obtain coverage and adequate reimbursement from third-party payors, including government and private payors, for our product candidates; • find distribution partners to help us sell, market and distribute our products globally; • achieve market acceptance for our products; • establish, maintain and protect our intellectual property rights; and • attract, hire and retain qualified personnel. In addition, because of the numerous risks and uncertainties associated with drug / device and software / device combination product development, including that our product candidates may not advance through development or achieve the endpoints of applicable clinical studies, we are unable to predict the timing or amount of our expenses, or if or when we will achieve or maintain revenues or profitability. In addition, our expenses could increase beyond expectations if we decide to or are required by the FDA or foreign regulatory authorities or notified bodies to perform non-clinical tests or clinical studies or trials for our product candidates in addition to those that we currently ~~anticipate~~ **anticipate**. If we complete the development and regulatory processes of our product candidates, we or our partners anticipate incurring significant costs associated with launching and commercializing our product candidates. Even if we generate revenues from the sale of our ~~77 products~~ **products** (or through the sale of products by our partners), we may not be profitable and may need to obtain additional funding to continue operations. If we fail to achieve profitability or do not sustain profitability on a continuing basis, then we may be unable to continue our operations at planned levels and be forced to reduce our operations. If we do not achieve our projected development and commercialization goals, our business may be harmed. For planning purposes, we estimate the timing of the accomplishment of various scientific, clinical, regulatory and other product development and commercialization goals, which we sometimes refer to as milestones. These milestones include the commencement or completion of scientific studies and clinical studies and the submission of regulatory applications. We base these milestones on a variety of assumptions, which are subject to numerous risks and uncertainties. Further, our collaboration agreement with Terumo, as further described herein, includes payments tied to the achievement of certain milestones, which in some cases, must be achieved by a specified calendar date. Other future collaboration agreements may have similar provisions. There is a risk we will not achieve these milestones on a timely basis or at all. Even if we achieve these milestones, the actual timing of the achievement of these milestones can vary dramatically compared to our estimates, often for reasons beyond our control, depending on numerous factors, including: • our ability and / or the ability of third-party vendors and partners to manufacture our product candidates; • our ability to source critical components or materials for the manufacture of our product candidates; • the rate of progress, costs and results of our clinical studies and research and development activities; • our ability to identify and enroll patients who meet clinical study eligibility criteria; • the extent of scheduling conflicts with participating physicians and clinical institutions; • adverse reactions reported during clinical studies or commercialization; • the ability of our product candidates to meet the standards for regulatory approval or certification; • the receipt of marketing approvals, clearances or certifications by our competitors and by us from the FDA and other regulatory agencies or notified bodies; and • other actions by regulators, including actions related to a class of products. If we do not meet these milestones for our products or if we are delayed in achieving these milestones, the development and commercialization of new product candidates, modifications of existing products or sales of existing products for new indications may be prevented or delayed, which could damage our reputation or materially adversely affect our business. Further, we may not receive milestone-based payments from partners on a timely basis or at all, which may have an adverse impact on our anticipated financial resources. In addition, Terumo has the right to terminate, and other partners may have the right to terminate or renegotiate, agreements if certain milestones are not achieved at all or on a timely basis. Even if we achieve a milestone for a product or product candidate, market acceptance for the product or product candidate is not assured. See “ — Risks Related to Our Reliance on Third Parties — We ~~did not meet the target achievement dates relating to certain milestone payments, and we do not~~ **Terumo have yet been unable to come to agreement with respect to amending** meet certain other target achievement dates relating to additional milestone payments, under the Terumo Agreement, and, **While we may and Terumo are pursuing mediation, we cannot provide assurance that such efforts will be successful or that we or Terumo will** not seek to be able to restructure **terminate** the Terumo Agreement **in a manner that provides us with a satisfactory amount of additional capital.** ” The clinical study process required to obtain regulatory approvals or certifications carries substantial risks and is lengthy and expensive with uncertain outcomes. If our clinical studies are unsuccessful or significantly delayed, or if we do not complete our clinical studies, our business may be

harmIn order to obtain approval of a PMA from the FDA for a device- led combination product candidate, such as our Virtue SAB, or for device candidates like ~~BackBeat CNT~~ **AVIM therapy** or CNT- HF which are designed to be integrated with the collaboration of device manufacturers into their existing medical devices such as pacemakers, as well as other future product candidates, or marketing approval for an NDA, such as our extended release formulation of sirolimus called “ SirolimusEFR, ” we must conduct well- controlled clinical studies designed to assess the safety and efficacy of the product candidate, in addition to nonclinical and other product development studies. Clinical development is a long, expensive and uncertain process and is ~~78subject--~~ **subject** to delays and to the risk that products may not ultimately adequately demonstrate safety or effectiveness in treating the indications for which they are designed. Completion of the clinical studies required to support a ~~marketing~~ **73marketing** authorization usually takes several years or more. We cannot assure you that we will successfully complete clinical testing of our products within the periods we have planned, or at all. Even if we achieve positive interim or preliminary results in clinical studies, these results do not necessarily predict final results, and positive results in early trials do not necessarily indicate success in later trials. Moreover, preclinical and clinical data are often susceptible to varying interpretations and analyses, and many companies have suffered significant setbacks in advanced clinical studies, even after receiving positive results in earlier trials. Any of our products may malfunction or may produce undesirable adverse effects that could cause us, **IRBs** or regulatory authorities to interrupt, delay or halt clinical studies. We, the FDA, or another regulatory authority may suspend or terminate clinical studies at any time to avoid exposing trial participants to unacceptable health risks. Additionally, the FDA or other regulatory authorities or notified bodies may disagree with our interpretation of the data from our preclinical studies and clinical studies, or may find the clinical study design, conduct or results inadequate to demonstrate safety or efficacy, and may require us to pursue additional preclinical studies or clinical studies, which could further delay or prevent the approval or certification of our products. The data we collect from our preclinical studies and clinical studies may not be sufficient to support potential FDA or foreign approval or certification, and if we are unable to demonstrate the safety and efficacy of our product candidates in our clinical studies, we will be unable to obtain regulatory approval or certification to market our products. We have in the past and may in the future experience unforeseen events during, or because of, the clinical study process that could delay or prevent us from receiving regulatory approval or certification for new products, modification of existing products, or approval or certification of new indications for existing products including:

- we may be unable to generate sufficient preclinical toxicology or other in vivo or in vitro data to support the initiation or continuation of clinical studies;
- the FDA or similar foreign regulatory authorities may find the product candidates are not sufficiently safe for investigational use in humans;
- officials at the FDA or similar foreign regulatory authorities may interpret data from preclinical testing and clinical studies in less favorable ways than we do;
- there may be delays or failures in obtaining regulatory authorization from the FDA or other regulatory authorities to commence a clinical study;
- there may be delays or failures in the manufacture or supply of devices and / or drugs for use in clinical studies;
- there may be delays in reaching agreement on acceptable terms with prospective CROs and clinical study sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and clinical study sites;
- there may be delays in identifying, recruiting and training suitable investigators;
- there may be delays in obtaining IRB or ethics committee (“ EC ”) approvals or governmental approvals, authorizations or allowances to conduct clinical studies at prospective sites;
- enrollment in our clinical studies may be slower than we anticipate, or we may experience high drop- out rates of subjects from our clinical studies, resulting in significant delays;
- delays in recruiting, screening and enrolling patients and delays caused by patients withdrawing from clinical studies or failing to return for post- treatment follow- up;
- failure by our CROs, other third parties or us to adhere to clinical study protocols, failure to perform in accordance ~~79with--~~ **with** the FDA’s or any other regulatory authority’s GCPs, or applicable regulatory guidelines in other countries, or occurrence of adverse events in trials of comparable products conducted by other companies;
- the occurrence of adverse events associated with the product candidate that are viewed to outweigh its potential benefits;
- we may have to amend clinical study protocols or conduct additional studies to reflect changes in regulatory requirements or guidance, which we may be required to submit to an IRB or EC and / or regulatory authorities for re- examination;
- the cost of clinical studies may be greater than we anticipate;
- we may have trouble in managing multiple clinical sites; **74**
- our clinical studies may produce negative or inconclusive results, or may not generate data with the level of statistical significance needed by the FDA or other regulatory authorities, and we may decide, or regulators may require us, to conduct additional clinical or preclinical testing or to abandon programs;
- the FDA or similar foreign regulatory authorities may find our or our suppliers’ manufacturing processes or facilities unsatisfactory;
- the FDA or similar foreign regulatory authorities may change their approval policies or adopt new regulations that may negatively affect or delay our ability to bring a product candidate to market or receive approvals or certification to treat new indications;
- our regulatory approvals may be tied to our current supply chain, especially for combination products, and if we need to change locations or vendors, we may be required to repeat preclinical testing, including biocompatibility testing, that would delay or prevent our ability to produce clinical or commercial products;
- we may be required to transfer manufacturing processes to larger- scale facilities operated by a CMO, and could be adversely affected by delays or failures by our CMOs or us to make any necessary changes to such manufacturing process; and
- third parties may be unwilling or unable to satisfy their contractual obligations to us.

Patient enrollment in clinical studies and completion of patient follow- up depend on many factors, including the size of the patient population, the nature of the trial protocol, the proximity of patients to clinical sites, the eligibility criteria for the clinical study, patient compliance, competing clinical studies and clinicians’ and patients’ perceptions as to the potential advantages of the product candidate being studied in relation to other available therapies, including any new treatments that may be approved for the indications we are investigating. In addition, patients participating in our clinical studies may drop out before completion of the trial or experience adverse medical events unrelated to our product candidates. Delays in patient enrollment or failure of patients to continue to participate in a clinical study may delay commencement or completion of the clinical study, cause an increase in the costs of the clinical study and delays, or result in the failure of the clinical study. In addition, we may in the future experience disruptions

caused by pandemics **or geopolitical events**, which may increase the likelihood that we encounter such difficulties or delays in initiating, enrolling, conducting or completing our planned and ongoing clinical studies. We could also encounter delays if a clinical study is suspended or terminated by us, by the IRBs of the institutions at which such studies are being conducted, by the Data Safety Monitoring Board for such trial or by the FDA or other regulatory authorities. Such authorities may impose such a suspension or termination due to a number of factors, including failure to conduct the clinical study in accordance with regulatory requirements or our clinical protocols, results of regulatory inspection of the clinical study operations or trial site by the FDA or other regulatory authorities resulting in the imposition of a clinical hold, unforeseen safety issues or adverse side effects, failure to demonstrate a benefit from using ~~80the~~ **the** investigational product, changes in governmental regulations or administrative actions or lack of adequate funding to continue the clinical study. If we experience delays in the completion of, or termination of, any clinical study, the approval, certification and commercial prospects of our device will be harmed, and our ability to generate product revenues from any of these product candidates will be delayed. In addition, any delays in completing our clinical studies will increase our costs, slow down the approval or certification process and jeopardize our ability to commence product sales and generate revenues. Any of these occurrences may harm our business, financial condition and prospects significantly. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical studies may also ultimately lead to the denial of regulatory approval of our product candidates. Failures or perceived failures in our clinical studies will delay and may prevent our product candidate development and regulatory approval or certification process, damage our business prospects and negatively affect our reputation and competitive position. Failure can occur at any stage of clinical testing. Our clinical studies may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical and non-clinical testing in addition to those we have planned. Our failure to adequately demonstrate the safety and efficacy of our system or any product we may develop in the future would prevent receipt of regulatory approval or certification and, ultimately, the commercialization of that product or indication for use. Further, regulators may determine that our financial relationships with certain principal investigators who provide us with consulting services from time to time for which we separately compensate them resulted in a perceived or actual conflict of interest that may have affected the interpretation of a study, the integrity of the data generated at the applicable clinical study site or the utility of the clinical study itself. Even if our future products are approved in the United States, commercialization of our product candidates in foreign countries would require approval by regulatory authorities or certification by notified bodies in those countries. Approval and certification procedures vary among jurisdictions and can involve requirements and administrative review periods different from, and greater than, those in the United States, and may necessitate ~~additional~~ **75additional** preclinical studies or clinical studies. Any of these occurrences could have an adverse effect on our business, financial condition and results of operations. Clinical studies must be conducted in accordance with the laws and regulations of the FDA and other applicable regulatory authorities' legal requirements, regulations or guidelines, and are subject to oversight by these governmental agencies and IRBs at the medical institutions where the clinical studies are conducted. In addition, clinical studies must be conducted under GCPs with supplies of our product candidates produced under cGMP and / or FDA's QSR and other requirements. Furthermore, we rely on CROs, consultants and clinical study sites to ensure the proper and timely conduct of our clinical studies and while we have agreements governing their committed activities, we have limited influence over their actual performance. We depend on our collaborators and on medical institutions and CROs to conduct our clinical studies in compliance with GCP requirements. To the extent our collaborators or the CROs fail to enroll participants for our clinical studies, fail to conduct the study to GCP standards or are delayed for a significant time in the execution of trials, including achieving full enrollment, we may be affected by increased costs, program delays or both. In addition, clinical studies that are conducted in countries outside the United States may subject us to further delays and expenses as a result of increased shipment costs, additional regulatory requirements and the engagement of non-U.S. CROs, as well as expose us to risks associated with clinical investigators who are unknown to the FDA, and different standards of diagnosis, screening and medical care, and sufficient heterogeneity in clinical patient populations to support approval. Even if we obtain all necessary FDA approvals, our product candidates may not achieve or maintain market acceptance and may be subject to additional regulatory requirements post-approval. Even if we obtain FDA approval of our product candidates, or new indications for our products, market acceptance of our products in the healthcare community, including physicians, patients and third-party payors, will depend on many factors, including: • our ability to provide incremental clinical and economic data that shows the safety and clinical efficacy and cost-effectiveness of, and patient benefits from, our products; • the availability of alternative treatments; ~~81~~ • whether our products are included on insurance company formularies or coverage plans; • the willingness and ability of patients and the healthcare community to adopt new technologies; • customer demand; • liability risks generally associated with the use of new product candidates; • the training required to use a new product candidate; • perceived inadequacy of evidence supporting clinical benefits or cost-effectiveness over existing alternatives; • the convenience and ease of use of our products relative to other treatment methods; • the pricing and reimbursement of our products relative to other treatment methods; and • the marketing and distribution support for our products. Even if we obtain all necessary FDA approvals, our products may fail to achieve market acceptance. If our products achieve market acceptance, they may not maintain that market acceptance over time if competing products or technologies are introduced that are received more favorably or are more cost-effective. Failure to achieve or maintain market acceptance would limit our ability to generate revenue and would have a material adverse effect on our business, financial condition, results of operations and prospects. Further, our products are subject to ongoing regulatory oversight and may require additional clinical data to support maintenance of regulatory approvals. We may be unable to compete successfully with larger companies in our highly competitive industry. The medical technology and pharmaceutical industries are highly competitive and the medical device industry is characterized by rapid and significant change. Many of our current and potential competitors have substantially greater financial, manufacturing, marketing, and technical resources than we do. Larger competitors may have substantially larger sales and marketing operations than we or our partners have or plan to

have and may have greater name recognition. This may allow those competitors to spend more time with potential customers and ~~76~~ to focus on a larger number of potential customers, which would give them a significant advantage over the sales and marketing team we would use and our international distributors in making sales. Larger competitors may also have broader product lines, which enable them to offer customers bundled purchase contracts and quantity discounts. These competitors may have more experience than we have in research and development, marketing, manufacturing, preclinical testing, conducting clinical studies, obtaining FDA and foreign regulatory approvals or certifications and marketing approved or certified products. Our competitors may discover technologies and techniques, or enter into partnerships and collaborations, to develop competing products that are more effective or less costly than our products or the products we may develop. There can be no assurance that other companies will not succeed in developing or marketing devices and products that are more effective than our technology or products or that would render our technology or products obsolete or noncompetitive. Academic institutions, government agencies, and other public and private research organizations may seek patent protection regarding potentially competitive products or technologies and may establish exclusive collaborative or licensing relationships with our competitors. Our competitors may be better equipped than we are to respond to competitive pressures. Competition will likely intensify. Additionally, many companies in the healthcare industry, including healthcare provider systems, are consolidating to create new companies with greater market power, and we expect that to continue. As the healthcare industry consolidates, competition to provide goods and services to industry participants will become more intense. These industry participants may try to use their market power to negotiate price concessions or reductions for medical devices including those produced by us. If we reduce our prices because of consolidation in the healthcare industry, our revenue would decrease and our consolidated earnings, financial condition, or cash flows would suffer. ~~82~~ Our ~~82~~ ~~Our~~ operating results may fluctuate significantly, which makes our future operating results difficult to predict and could cause our operating results to fall below expectations or any guidance we may provide. Our quarterly and annual operating results may fluctuate significantly, which makes it difficult for us to predict our future operating results. These fluctuations may occur due to a variety of factors, many of which are outside of our control, including, but not limited to: • the level of demand for our products and any approved or certified products, which may vary significantly; • expenditures that we may incur to acquire, develop or commercialize additional products and technologies; • the ability to obtain, and timing and cost of obtaining regulatory approvals or certifications for planned or future products or indications; • the degree of competition in our industry and any change in the competitive landscape of our industry, including consolidation among our competitors or future partners; • coverage and reimbursement policies with respect to our products, if approved or certified, and potential future products that compete with our products; • the timing and success or failure of preclinical studies or clinical studies for our products or any future products we develop or competing products; • the timing of customer orders or medical procedures using our products and the number of available selling days in any quarterly period, which can be impacted by holidays, the mix of products sold and the geographic mix of where products are sold; • the timing and cost of, and level of investment in, research, development, regulatory approval or certification and commercialization activities relating to our products, which may change from time to time; • the cost of manufacturing our products, which may vary depending on the quantity of production and the terms of our agreements with third- party suppliers and manufacturers; and • future accounting pronouncements or changes in our accounting policies. The cumulative effects of these factors could result in large fluctuations and unpredictability in our quarterly and annual operating results. As a result, comparing our operating results on a period- to- period basis may not be meaningful. Investors should not rely on our past results as an indication of our future performance. ~~77~~ This ~~77~~ variability and unpredictability could also result in our failing to meet the expectations of industry or financial analysts or investors for any period. If our revenue or operating results fall below the expectations of analysts or investors or below any forecasts we may provide to the market, it could have a material adverse effect on our business, financial condition, results of operations or prospects. The sizes of the markets for product candidates have not been established with precision, and may be smaller than we estimate. Our estimates of the annual total addressable markets for our product candidates are based on a number of internal and third- party estimates, including, without limitation, the number of patients with specified diseases and the assumed prices at which we will be able to sell any products we develop in various markets. While we believe our assumptions and the data underlying our estimates are reasonable, these assumptions and estimates may not be correct and the conditions supporting our assumptions or estimates may change at any time, thereby reducing the predictive accuracy of these underlying factors. In addition, our estimates of the sizes of the PAD and CAD patient population may include patients who are asymptomatic ~~83~~ or in the early stages of disease; these patients might never progress to more advanced disease stages and, accordingly, might never be likely candidates for treatment with our products. As a result, our estimates of the annual total addressable market for our current or future products may prove to be incorrect. If the actual number of patients who would benefit from our products, the price at which we will be able to sell future products, or the annual total addressable market for our products is smaller than we have estimated, it may impair future sales of any product we develop and have an adverse impact on our business. The long- term macroeconomic effects of the COVID- 19 pandemic and any future pandemic or epidemic could adversely impact our business, including our clinical studies and financial condition. Outbreaks of contagious disease, including COVID- 19, or other adverse public health developments in the U. S. or worldwide could have a material adverse effect on our business, including our clinical trials and financial condition. While many of the ~~direct~~ impacts of the COVID- 19 pandemic have eased, the longer- term macroeconomic effects on global supply chains, inflation, labor shortages and wage increases continue to impact many industries, including ours. Moreover, with the potential for new strains of existing viruses to emerge, or other pandemics or epidemics, governments and businesses may re- impose aggressive measures to help slow the spread of disease in the future. Long- term macroeconomic effects from a pandemic or epidemic, including from supply and labor shortages and workforce reductions in response to challenging economic conditions, may have an adverse impact on our business. In addition, COVID- 19 caused, and any future pandemic or epidemic may cause, delays with respect to regulatory approvals or certifications for clinical studies, the initiation of clinical studies and the

coordination of follow-up with respect to clinical studies, as well as delays in receiving supplies and third-party testing results from vendors. The emergence of a new pandemic or epidemic may also cause us to experience additional disruptions that could severely impact our business and clinical studies, including:

- delays or difficulties in enrolling patients in our clinical studies;
- delays or difficulties in clinical site initiation, including difficulties in recruiting clinical site investigators and clinical site staff;
- diversion of healthcare resources away from the conduct of clinical studies, including the diversion of hospitals serving as our clinical study sites and hospital staff supporting the conduct of our clinical trials;
- interruption of key clinical study activities, such as clinical study site monitoring, due to limitations on travel imposed or recommended by federal or state governments, employers and others or interruption of clinical study subject visits and study procedures, the occurrence of which could affect the integrity of clinical study data;
- risk that participants enrolled in our clinical studies will contract the contagious disease while the clinical study is ongoing, which could impact the results of the clinical study, including by increasing the number of observed adverse events;
- limitations in employee resources that would otherwise be focused on the conduct of our clinical studies, including because of sickness of employees or their families or the desire of employees to avoid contact with large groups of people;
- delays in receiving authorizations, allowances or approvals from local regulatory authorities to initiate our planned clinical studies;
- delays in clinical sites receiving the supplies and materials needed to conduct our clinical studies, including interruption in global shipping that may affect the transport of clinical study materials, such as investigational materials used in our clinical studies;
- changes in local regulations as part of a response to such pandemic or epidemic which may require us to change ~~84the~~ **the** ways in which ~~78which~~ **which** our clinical studies are conducted, which may result in unexpected costs, or the discontinuation of such clinical studies altogether;
- interruptions or delays in preclinical studies due to restricted or limited operations at research and development laboratory facilities;
- delays in necessary interactions with local regulators, ethics committees and other important agencies and contractors due to limitations in employee resources or forced furlough of government employees; and
- refusal of the FDA to accept data from clinical studies in affected geographies.

The full extent of the impact and effects of COVID-19, and any future pandemics or epidemics, will depend on future developments, including, among other factors, how rapidly variants develop, availability, acceptance and effectiveness of vaccines along with related travel advisories, quarantines and restrictions, the recovery time of the disrupted supply chains and industries, the impact of labor market interruptions, the impact of government interventions, and uncertainty with respect to the duration of the global economic slowdown. COVID-19, or any future pandemics or epidemics, and resulting impacts on the financial, economic and capital markets environment, and future developments in these and other areas present uncertainty and risk with respect to our business and financial results. Interim, “top-line” and preliminary data from our clinical studies that we announce or publish from time to time may change as more patient data become available and are subject to audit and verification procedures that could result in material changes in the final data. From time to time, we may publicly disclose preliminary or top-line data from our preclinical studies and clinical studies, which is based on a preliminary analysis of then-available data, and the results and related findings and conclusions are subject to change following a more comprehensive review of the data related to the particular study or trial. We also make assumptions, estimations, calculations and conclusions as part of our analyses of data, and we may not have received or had the opportunity to fully and carefully evaluate all data. As a result, the top-line or preliminary results that we report may differ from future results of the same studies, or different conclusions or considerations may qualify such results, once additional data have been received and fully evaluated. Top-line data also remain subject to audit and verification procedures that may result in the final data being materially different from the preliminary data we previously published. As a result, top-line data should be viewed with caution until the final data are available. From time to time, we may also disclose interim data from our preclinical studies and clinical studies. Interim data from clinical studies that we may complete are subject to the risk that one or more of the clinical outcomes may materially change as patient enrollment continues and more patient data become available or as patients from our clinical studies continue other treatments for their disease. Adverse differences between preliminary or interim data and final data could significantly harm our business prospects. Further, disclosure of interim data by us or by our competitors could result in volatility in the price of our common stock. Further, others, including regulatory agencies, may not accept or agree with our assumptions, estimates, calculations, conclusions or analyses or may interpret or weigh the importance of data differently, which could impact the value of the particular program, the approvability or commercialization of the particular product candidate or product and our company in general. In addition, the information we choose to publicly disclose regarding a particular study or clinical study is based on what is typically extensive information, and you or others may not agree with what we determine is material or otherwise appropriate information to include in our disclosure. If the interim, top-line, or preliminary data that we report differ from actual results, or if others, including regulatory authorities, disagree with the conclusions reached, our ability to obtain approval or certification for, and commercialize, our product candidates may be harmed, which could harm our business, operating results, prospects or financial condition. ~~85Our~~ **Our** product candidates have in the past and may in the future be associated with serious adverse events, undesirable side effects or have other properties that could halt their clinical development, prevent their regulatory approval or certification, limit their commercial potential or result in significant negative consequences. Adverse events or other undesirable side effects caused by our product candidates could cause us or regulatory authorities to interrupt, delay or halt clinical studies and could result in a more restrictive label or the delay or denial of regulatory approval or certification by the FDA or other comparable foreign regulatory authorities or notified bodies. During the conduct of clinical studies, patients report changes in their health, including illnesses, injuries, and discomforts, to their study doctor. Often, it is not possible to determine whether the product candidate being studied caused these conditions. It is possible that as we ~~test~~ **test** our product candidates in larger, longer and more extensive clinical studies, or as use of these product candidates becomes more widespread if they receive regulatory approval or certification, illnesses, injuries, discomforts and other adverse events that were observed in previous trials, as well as conditions that did not occur or went undetected in previous trials, will be reported by patients. Many times, side effects are only detectable after investigational products are tested in large-

scale clinical studies or, in some cases, after they are made available to patients on a commercial scale following approval or certification. For example, during the initial study period for MODERATO I, there were eleven SAEs in seven of the 27 study patients. One event was adjudicated as “ probably related ” to the implant procedure for the Moderato device. Four events in four patients were adjudicated as “ possibly related ” to the Moderato device (atrial fibrillation, myocardial infarction with symptoms of heart failure, cardiac asthma, and arrhythmia due to ventricular oversensing). During the extended 21- month follow- up period, that included 24 patients who continued with ~~BackBeat-CNT~~ **AVIM therapy**, there were 25 SAEs in twelve patients. Five events in three patients were adjudicated as “ possibly ” device related. These included two events of atrial fibrillation in the same patient, pneumonia with cardiac decompensation and dyspnea with cardiac decompensation in one patient, and cardiac decompensation in one patient. For the MODERATO II study, there were no major adverse cardiac events (“ MACE ”) in the ~~BackBeat-CNT~~ **AVIM therapy** group and three MACE in two patients in the control group (one death from cancer and two cardiac events) at six months. During the randomized phase of the study, there were eight SAEs in four patients in the control group (n = 21) and none in the treatment group (n = 26). During the extended 18- month follow- up period that included treatment patients (n = 26) and crossover- to- treatment patients (n = 14), there were 26 SAEs in 16 patients. Over the entire three- year period of the SABRE study, a total of 66 SAEs occurred in 32 of the 50 study patients. If any serious adverse events occur, clinical studies or commercial distribution of any product candidates or products we develop could be suspended or terminated, and our business could be seriously harmed. Treatment- related side effects could also affect patient recruitment and the ability of enrolled patients to complete the trial or result in potential liability claims. Regulatory authorities could order us to cease clinical studies, deny approval of, or require us to cease selling any product candidates or products for any or all targeted indications. If we are required to delay, suspend or terminate any clinical study or commercialization efforts, the commercial prospects of such product candidates or products may be harmed, and our ability to generate product revenues from them or other product candidates that we develop may be delayed or eliminated. Additionally, if one or more of our product candidates receives marketing approval or certification and we or others later identify undesirable side effects or adverse events caused by such products, **including as part of any post- approval studies**, a number of potentially significant negative consequences could result, including but not limited to: • regulatory authorities may suspend, limit or withdraw approvals or certifications of such product, or seek an injunction against sale or distribution; • regulatory authorities may require additional warnings on the label, including “ boxed ” warnings, or issue safety alerts, Dear Healthcare Provider letters, press releases or other communications containing warnings or other safety information about the product; • we may be required to change the way the product is administered or conduct additional clinical studies or post- ~~86approval~~ **approval** studies; • we may be required to create and implement a REMS, which could include a medication guide outlining the risks of such side effects for distribution to patients or other similar measures; • we may be subject to fines, injunctions or the imposition of criminal penalties; • we could be sued and held liable for harm caused to patients; and • our reputation may suffer. Any of these events could prevent us from achieving or maintaining market acceptance of the particular product candidate, if approved or certified, and could seriously harm our business. ~~We~~ **80We** depend on attracting, retaining and developing key management, clinical, scientific, regulatory, quality, marketing and other expert personnel, and losing these personnel could impair the development and sales of our products or product candidates. We are highly dependent on our senior management and other key personnel. Our success depends on our continued ability to attract, retain, develop and motivate highly qualified management, clinical, scientific and sales and marketing personnel. Although we have entered into employment agreements with certain of our executive officers, our employees, including our executive officers, are employed “ at will, ” and each employee can terminate his or her employment with us at any time. We also do not maintain “ key person ” insurance policies on any of our officers or our other employees. The competition for qualified personnel in the medical innovation industry is intense, and we may incur significant costs to attract and retain them. We will need to hire additional personnel as we continue to expand our development activities and drive sales of our products or product candidates. We may not attract, retain and develop quality personnel on acceptable terms due to the competition for such personnel. If we are not able to attract and retain necessary personnel to accomplish our business objectives, we may experience constraints that will significantly impede the achievement of our development objectives, our ability to raise additional capital and our ability to implement our business strategy. If we make acquisitions, we could incur significant costs and encounter difficulties that harm our business. In the ordinary course of our business, we expect to from time to time evaluate the acquisition of, investment in or in- license of complementary products, technologies or businesses, although we do not currently have any agreements, arrangements or commitments with respect to any potential acquisition, investment or license. If we engage in such acquisitions, investments or in- licenses, we may incur significant transaction and integration costs and have difficulty integrating the acquired personnel, operations, products or technologies or otherwise realizing synergies or other benefits from the acquisitions, investments or in- licenses. The integration process could result in the loss of key employees, loss of key customers, loss of key vendors, decreases in revenue and increases in operating costs, as well as the disruption of our business. Acquisitions may disrupt our ongoing business, divert the time of our management and employees, increase our expenses, subject us to liabilities and increase our risk of litigation, all of which could harm our business. If we use cash to acquire companies, products or technologies, it may divert resources otherwise available for other purposes or increase our debt. If we use our capital stock to acquire companies, products or technologies, we may experience a change of control or our stockholders may experience substantial dilution or both. In addition, anticipated benefits of any future acquisitions may not materialize. Any of these risks, if realized, could materially and adversely affect our business, financial condition, results of operation and prospects. If we do not manage our growth or control costs related to growth, our results of operations will suffer. We intend to grow our business by commercializing our product candidates with partners when approved and, expanding our product development pipeline, possibly through acquisitions or other business combinations. Growth could place significant strain on our management, employees, operations, operating and financial systems, and other resources. To accommodate significant growth, we could be required to open additional facilities, expand and

improve our information ~~87~~systems ~~---~~ **systems** and procedures and hire, train, motivate and manage a growing workforce, all of which would increase our costs. Our systems, facilities, procedures and personnel may not be adequate to support our future operations. Further, we may not maintain or accelerate our current growth, manage our expanding operations or achieve planned growth on a timely and profitable basis. Litigation and other legal proceedings may adversely affect our business. From time to time we may be involved in various litigation matters, which could have an adverse impact on our reputation, business and financial condition and divert the attention of our management from the operation of our business. Claims arising out of actual or alleged violations of the law could be asserted against us by individuals, either individually or through class actions, by governmental entities in civil or criminal investigations and proceedings by other entities. These claims could be asserted under a variety of laws, including but not limited to patent, trade secret and other intellectual property matters, product liability claims, employee claims, tort or contract claims, and federal regulatory investigations. These actions could expose us to adverse publicity and to substantial monetary damages and legal defense costs, injunctive relief and criminal and civil fines and penalties. **Product-81**Product liability and other claims against us may reduce demand for our products or result in substantial damages. Our business exposes us to potential liability for risks that may arise from the clinical testing of our product candidates, the use of our products by physicians, and the manufacture and sale of any approved products. Individuals may bring a product liability claims against us, including frivolous lawsuits, if one **or more** of our products causes, or merely appears to have caused, an injury. We currently have product liability insurance for \$ 6. 0 million per occurrence with an annual aggregate maximum of \$ 6. 0 million. We cannot assure, however, that product liability claims will not exceed our insurance coverage limits or that such insurance coverage limits will continue to be available on acceptable terms, or at all. Our insurers may also claim that certain claims are not within the scope of our product liability insurance. A product liability claim, recall, or other claim regarding uninsured liabilities or for amounts over insured liabilities could have a material adverse effect on our business, financial condition, results of operations and prospects. Any product liability claim or series of claims or class actions brought against us, with or without merit, could result in: • liabilities that substantially exceed our insurance levels, which we would then be required to pay from other sources, if available; • an increase in our product liability insurance rates or the inability to renew or obtain product liability insurance coverage in the future on acceptable terms, or at all; • withdrawal of clinical study volunteers or subjects; • damage to our reputation and the reputation of our product candidates; • regulatory investigations that could require costly recalls or product modifications; • litigation costs; and • diversion of our management' s attention from managing our business. The misuse or promotion of off- label uses of our products may harm our reputation in the marketplace, result in injuries that lead to product liability suits or result in costly investigations, fines or sanctions by regulatory bodies, any of which could be costly to our business. Any products that we market will be approved for specific indicated uses and subject to limitations on those uses as specified in their respective approved for certified labeling. Uses outside of the approved or certified indications for use are known as " off- label uses. " We cannot prevent a physician from using our products off- label in the physician' s independent ~~88~~professional ~~---~~ **professional** medical judgment. However, there may be increased risk of injury to patients if physicians attempt to use our products off- label. Furthermore, the use of our products for indications, other than those approved or certified by the FDA or by any foreign regulatory authority or notified body, may not effectively treat such conditions, which could harm our reputation in the marketplace among physicians and patients. The FDA and other regulatory agencies strictly regulate the promotional claims that may be made about prescription products, such as our product candidates, if approved or certified. With only limited exceptions, a product generally may not be promoted for off- label uses. If the FDA or any foreign regulatory body determines that our promotional materials or training constitute promotion of an off- label use, it could request that we modify our training or promotional materials or subject us to regulatory or enforcement actions, including the issuance or imposition **a regulatory letter (such as** of an untitled ~~letter, which is used for~~ **or violators that do not** ~~necessitate a~~ warning letter), injunction, seizure, civil fine or criminal penalties. It is also possible that other federal, state or foreign enforcement authorities might take action under other regulatory authority, such as false claims laws, if they consider our business activities to constitute promotion of an off- label use, which could result in significant penalties, including, but not limited to, criminal, civil and administrative penalties, damages, fines, disgorgement, exclusion from participation in government healthcare programs and the curtailment of our operations. In addition, physicians may misuse our products, or use improper techniques if they are not adequately trained, potentially leading to injury and an increased risk of product liability. If so, 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 and result in sizable damage awards against us that may not be covered by insurance. **Our-82**Our information technology systems, or those of any of our CROs, manufacturers, other contractors, consultants, collaborators or potential future collaborators, may fail or suffer security or data privacy breaches or other unauthorized or improper access to, use of, or destruction of our proprietary or confidential data, employee data, or personal data, which could result in additional costs, loss of revenue, significant liabilities, harm to our brand and material disruption of our operations. Despite the implementation of security measures, our information technology systems and those of our current and any future CROs and other contractors, consultants, collaborators and third- party service providers, are vulnerable to attack and damage from computer viruses and malware (e. g., ransomware), malicious code, hacking, cyberattacks, phishing attacks and other social engineering schemes, cybersecurity threats, unauthorized access, natural disasters, terrorism, war, telecommunication and electrical failure, employee theft or misuse, human error, fraud, denial or degradation of service attacks, sophisticated nation- state and nation- state- supported actors or unauthorized access or use by persons inside our organization, or persons with access to systems inside our organization. Attacks upon information technology systems are increasing in their frequency, levels of persistence, sophistication and intensity, and are being conducted by sophisticated and organized groups and individuals with a wide range of motives and expertise. As a result of more people working remotely since the COVID- 19 pandemic, we may also face increased cybersecurity risks due to our reliance on internet technology and the number of our employees who are working remotely, which may create additional opportunities for cybercriminals to exploit vulnerabilities.

Furthermore, because the techniques used to obtain unauthorized access to, or to sabotage, systems change frequently and often are not recognized until launched against a target, we may be unable to anticipate these techniques or implement adequate preventative measures. We may also experience security breaches that may remain undetected for an extended period. Even if identified, we may be unable to adequately investigate or remediate incidents or breaches due to attackers increasingly using tools and techniques that are designed to circumvent controls, to avoid detection, and to remove or obfuscate forensic evidence. We and certain of our service providers are, from time to time, subject to cyberattacks and security incidents. While we do not believe that we have experienced any significant system failure, accident or security breach to date, if such an event were to occur and cause interruptions in our operations or result in the unauthorized acquisition of, or access to, personally identifiable information or individually identifiable health information, it could result in a material disruption of our development programs and our business operations, whether due to a loss of our trade secrets or other similar disruptions. Some of the federal, state and foreign government requirements include obligations of companies to notify individuals of security breaches involving particular personally identifiable information, which could result from breaches experienced by us or by our vendors, contractors or organizations with which we have formed strategic relationships. ~~89~~ **Notifications** and follow-up actions related to a security breach could impact our reputation, cause us to incur significant costs, including legal expenses and remediation costs. For example, the loss of clinical study data from completed or future clinical studies could result in delays in our regulatory approval or certification efforts and significantly increase our costs to recover or reproduce the lost data. We also rely on third parties to manufacture our product candidates, and similar events relating to their computer systems could also have a material adverse effect on our business. To the extent that any disruption or security breach were to result in a loss of, or damage to, our data, or inappropriate disclosure of confidential or proprietary information, we could be exposed to litigation and governmental investigations, the further development and commercialization of our product candidates could be delayed, and we could be subject to significant fines or penalties for any noncompliance with certain state, federal and / or international privacy and security laws. Our insurance policies may not be adequate to compensate us for the potential losses arising from any such disruption, failure or security breach. In addition, such insurance may not be available to us in the future on economically reasonable terms, or at all. Further, our insurance may not cover all claims made against us and could have high deductibles in any event, and defending a suit, regardless of its merit, could be costly and divert management attention. We must successfully maintain and upgrade our information technology systems, and our failure to do so could have a material adverse effect on our business, financial condition and results of operations. As we expand, in order to remain competitive, we will need to significantly expand and improve our information technology systems and personnel to support historical and expected future growth. As such, we will continue to invest in and implement, significant modifications and upgrades to our information technology systems and procedures, including replacing legacy systems with successor systems, making changes to legacy systems or acquiring new systems with new functionality, hiring employees with information technology expertise and building new policies, procedures, training programs and monitoring tools. These types of activities subject us to inherent costs and risks associated with replacing and changing these systems, fulfill customer orders, potential disruption of our internal control structure, substantial capital expenditures, additional administration and operating expenses, acquisition and retention of sufficiently skilled personnel to implement and operate the new systems, demands on management time and other risks and costs of delays or difficulties ~~in~~ **83** in transitioning to or integrating new systems into our current systems. These implementations, modifications and upgrades may not result in productivity improvements at a level that outweighs the costs of implementation, or at all. In addition, difficulties with implementing new technology systems, delays in our timeline for planned improvements, significant system failures, or our inability to successfully modify our information systems to respond to changes in our business needs may cause disruptions in our business operations and have a material adverse effect on our business, financial condition and results of operations. Economic conditions may adversely affect our business, financial condition and share price. Adverse worldwide economic conditions may negatively impact our business. A significant change in the liquidity or financial condition of our customers could cause unfavorable trends in their purchases and / or in our receivable collections, and additional allowances may be required, which could adversely affect our business, financial condition and results of operations. Adverse worldwide economic conditions may also adversely impact our suppliers' ability to provide us with materials and components, which could have a material adverse effect on our business, financial condition and results of operations. The global credit and financial markets have recently experienced extreme volatility and disruptions, including severely diminished liquidity and credit availability, declines in consumer confidence, inflation, declines in economic growth, wage inflation because of labor shortages and uncertainty about economic stability. The financial markets and the global economy may also be adversely affected by the current or anticipated impact of military conflict, including the conflict between Russia and Ukraine and the Israeli- Palestinian conflict, terrorism or other geopolitical events. Sanctions imposed by the United States and other countries in response to such conflicts, including the one in Ukraine, may also adversely impact the financial markets and the global economy, and any economic countermeasures by affected countries and others could exacerbate market and economic instability. In addition, the attacks by Hamas on Israel in October 2023, Israel' s response and a potential broader armed conflict in the Middle East are likely to continue impacting the global economy, including that of the United States and have added to concerns of a widening conflict in the Middle ~~90~~ **East** -- **East**. In particular, oil prices have become increasingly volatile in the aftermath of the attacks on Israel. Each of the developments described above, or any combination of them, could adversely affect our businesses, financial condition and results of operations. There can be no assurance that further deterioration in credit and financial markets and confidence in economic conditions will not occur. Our general business strategy may be adversely affected by any such economic downturn, volatile business environment or continued unpredictable and unstable market conditions. If the current equity and credit markets deteriorate, it may make any necessary debt or equity financing more difficult, more costly and more dilutive. These developments, or the perception that any of them could occur, may restrict the ability of key market participants to operate in certain financial markets or restrict our access to capital. For example, there is a risk that one or more of our current

service providers, manufacturers and other partners may not survive an economic downturn, which could directly affect our ability to attain our operating goals on schedule and on budget. Any of these factors could have a material adverse effect on our business, financial condition and results of operations and reduce the price of our common stock. Business disruptions could seriously harm our future revenue and financial condition and increase our costs and expenses. Our operations could be subject to power shortages, telecommunications failures, water shortages, floods, hurricanes, typhoons, fires, extreme weather conditions, health epidemics or pandemics or other contagious outbreaks, such as the recent COVID- 19 pandemic, and other natural or man- made disasters or business interruptions, for which we are predominantly self- insured. We rely on third- party manufacturers to produce our products and product candidates and / or components thereof. Our ability to obtain clinical supplies of our products and / or components thereof could be disrupted if the operations of these suppliers were affected by a man- made or natural disaster or other business interruption. The occurrence of any of these business disruptions could seriously harm our operations and financial condition and increase our costs and expenses. Disruptions at the FDA, other government agencies and notified bodies caused by funding shortages or global health concerns could hinder their ability to hire, retain or deploy key leadership and other personnel, or otherwise prevent new or modified products from being developed, approved, certified or commercialized in a timely manner or at all, or otherwise prevent those agencies and bodies from performing normal business functions on which the operation of our business may rely, which could negatively impact our business. The ability of the FDA, other government agencies and notified bodies to review and approve or certify new products can be affected by a variety of factors, including government budget and funding levels, statutory, regulatory and policy changes, the FDA' s or other government agencies' ability to hire and retain key personnel and accept the payment of user fees, and other events that may otherwise affect the FDA' s, other government agencies' and notified bodies' ability to perform routine functions . **These factors may also impact the FDA' s ability to provide feedback on clinical trials and development programs, to meet with sponsors and to otherwise review regulatory submissions .** Average review times at the FDA, other government agencies and notified bodies have fluctuated in recent years as a result. In addition, government funding of other government agencies that fund research and development activities is subject to the political process, which is inherently fluid and unpredictable. Disruptions at the FDA, other agencies and notified bodies may also slow the time necessary for new drugs and medical devices or modifications to approved drugs or approved or certified medical devices to be reviewed and / or approved or certified by necessary government agencies or notified bodies, which would adversely affect our business. For example, over the last several years, the U. S. government has shut down several times and certain regulatory agencies, such as the FDA, have had to furlough critical FDA employees and stop critical activities. **For example, the new U. S. presidential administration recently announced plans to reduce the number of federal employees by establishing voluntary termination programs, by position eliminations or by involuntary terminations. If funding for the FDA is reduced, if the FDA workforce is reduced, if FDA priorities are changed or if a prolonged government shutdown occurs, it could significantly impact the ability of the FDA to timely review and process our regulatory submissions.** Separately, in response to the COVID- 19 pandemic, the FDA had significantly curtailed and limited its inspection of both foreign and domestic facilities. Furthermore, regulatory authorities outside the United States adopted similar restrictions or other policy measures in response to the COVID- 19 pandemic. If a prolonged government shutdown occurs, or if new or existing global health concerns continue to hinder or prevent the FDA or other regulatory authorities from conducting their regular inspections, reviews, or other regulatory activities, it could significantly impact the ability of the FDA or other regulatory authorities to timely review and process our regulatory submissions, which could have a material adverse effect on our business. In addition, in the EU, notified bodies must be officially designated to certify products and services in accordance with the EU Medical Devices Regulation. While several notified bodies have been designated, current designated notified bodies are facing a large amount of requests with the new regulation as a consequence of which review times have ~~91lengthened~~ **lengthened** . This situation may impact the ability of our notified body (ies) to timely review and process our regulatory submissions, and our ability to grow our business in the EEA. We, in conjunction with our partners, intend to expand sales of our products internationally in the future, but we and our partners may experience difficulties in obtaining regulatory approval or certification or in successfully marketing and distributing our products internationally even if approved or certified. A variety of risks associated with marketing and distributing our products internationally could materially adversely affect our business. Our future growth may depend, in part, on our and our partners' ability to develop and commercialize our planned and future products in foreign markets. Sales of our products outside of the United States are and will be subject to foreign regulatory requirements governing clinical studies and marketing approval or certification, as well as FDA regulation of the export of drugs and medical devices from the United States. To obtain separate regulatory approval or certification in many other countries we must comply with numerous and varying regulatory requirements regarding safety and efficacy and governing, among other things, clinical studies, commercial sales, pricing and distribution of our planned or future products. We and / or our partners will incur substantial expenses in connection with our expected international expansion. Additional risks related to operating in foreign countries include: • differing reimbursement regimes in foreign countries, including price controls; • unexpected changes in tariffs, trade barriers, price and exchange controls and other regulatory requirements; • economic weakness, including inflation, or political instability in particular foreign economies and markets; • compliance with tax, employment, immigration and labor laws for employees living or traveling abroad; • foreign taxes, including withholding of payroll taxes; • unexpected changes in tariffs, trade barriers and regulatory requirements; • foreign currency fluctuations, which could result in increased operating expenses, reduced revenue and other obligations incidental to doing business in another country; • difficulties staffing and managing foreign operations; • workforce uncertainty in countries where labor unrest is more common than in the United States; **85** • potential liability under the U. S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), or comparable foreign regulations; • the existence of additional third- party patent rights of potential relevance to our business; • economic weakness, including inflation or political instability in particular foreign economies and markets; • challenges protecting and enforcing our contractual and intellectual

property rights, especially in those foreign countries that do not respect and protect intellectual property rights to the same extent as the United States; • product shortages resulting from any events affecting raw material or finished good supply or distribution or manufacturing capabilities abroad; • compliance with tax, employment, immigration and labor laws for employees living or traveling abroad; and • business interruptions resulting from geopolitical actions, including war and terrorism (including the ongoing invasion of Ukraine by Russia and the Israeli- Palestinian conflict), natural disasters, including earthquakes, typhoons, floods and fires, or health epidemics or pandemics or other contagious outbreaks, such as the recent COVID- 19 pandemic. These and other risks associated with our international operations may materially adversely affect our ability to attain or maintain profitable operations, which would have a material adverse effect on our business, financial condition and results of operations. **92**In addition, there can be no guarantee that we will receive approval or certification to sell our product candidates in any international market we target, nor can there be any guarantee that any sales would result, even if such approval or certification is received. Even if the FDA grants marketing approval for a product candidate, comparable regulatory authorities or notified bodies of foreign countries must also approve or certify the manufacturing or marketing of the product candidate in those countries. Approval in the United States, or in any other jurisdiction, does not ensure approval or certification in other jurisdictions. Obtaining foreign approvals or certifications could result in significant delays, difficulties and costs for us and require additional trials and additional expenses. Regulatory requirements can vary widely from country to country and could delay the introduction of our products or product candidates in those countries. Marketing authorization by the FDA does not ensure registration, certification, clearance or approval by regulatory authorities or notified bodies in other countries, and registration, certification, clearance or approval by one or more foreign regulatory authorities or notified bodies does not ensure registration, clearance, certification or approval by regulatory authorities or notified bodies in other foreign countries or by the FDA. However, a failure or delay in obtaining registration or regulatory clearance, certification or approval in one country may have a negative effect on the regulatory process in others. Clinical studies conducted in one country may not be accepted by other countries. If we fail to comply with these regulatory requirements or to obtain and maintain required approvals or certifications, our target market will be reduced and our ability to generate revenue will be diminished. Our inability to successfully enter all our desired international markets and manage business on a global scale could negatively affect our business, financial results and results of operation. We may in the future bring certain cGMP product release testing, stability testing and cGMP pharmaceutical manufacturing capabilities in- house, and we may not be able to do so successfully or in compliance with FDA regulations. We have brought certain activities that we previously outsourced to third parties, in- house, and we may bring certain additional activities in- house in the future. For example, we have brought certain cGMP product release testing related to SirolimusEFR in- house. In addition, we may eventually bring the manufacture of pharmaceutical drug products, such as SirolimusEFR, in- house. To the extent we do bring these functions in- house, we will be directly subject to FDA and other regulations with respect to these activities, such as the FDA’s good laboratory practice requirements, cGMP **regulations requirements** and similar foreign requirements. We cannot provide assurance that we will be able to perform these functions effectively or comply with applicable regulations if we bring these functions in- house. We may expend our limited resources to pursue a particular product or indication and fail to capitalize on products or indications that may be more profitable or for which there is a greater likelihood of success. Because we have limited financial and managerial resources, we focus on specific products and product candidates, indications and discovery programs. As a result, we may forgo or delay pursuit of other opportunities with others that could have had greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial products or profitable market opportunities. Our spending on current and future research and development programs for specific indications may not yield any commercially viable products. If we do not accurately anticipate physician and patient needs, as well as evaluate the commercial potential **or 86** target market for a particular potential product, we may miss valuable product development opportunities or we may relinquish valuable rights to that potential product through future collaborations, licenses and other similar arrangements in cases in which it would have been more advantageous for us to further advance development or to retain sole development and commercialization rights to such potential product. Our ability to utilize our net operating loss carryforwards and certain other tax attributes may be limited. As of December 31, **2023-2024**, we had gross net operating loss (“ NOL ”) carryforwards of approximately \$ **178-135.1** million for federal income tax purposes, and \$ **148-113.5** million for state income tax purposes, and approximately \$ **6.1-4** million of federal research and development tax credits, after applying limitations under Section 382 and Section 383 of the Internal Revenue Code of 1986, as amended (the “ Internal Revenue Code ”). Utilization of these NOLs depends on many factors, including our future income, which cannot be assured. Some of these NOLs could expire unused and be unavailable to offset our future income tax liabilities. In addition, under Section 382 of the Internal Revenue Code, and corresponding provisions of state law, if a corporation undergoes an “ ownership change, ” which is generally defined as a greater than 50 % **93** ~~change~~ **change**, by value, in its equity ownership by 5 % stockholders over a three- year period, the corporation’s ability to use its pre- change NOLs and other pre- change tax attributes to offset its post- change income may be limited. We have experienced Section 382 ownership changes in the past, and the federal NOL disclosed above reflects the impact of the calculated Section 382 limitation. In addition, we may experience additional ownership changes in the future as a result of subsequent changes in our stock ownership, some of which may be outside of our control. If we determine that an ownership change has occurred and our ability to use our historical NOLs is materially limited, it could harm our future operating results by effectively increasing our future tax obligations. In addition, under the Tax Cuts and Jobs Act of 2017 (the “ Tax Act ”), future tax losses may be utilized to offset no more than 80 % of the taxable income annually. There is also a risk that due to statutory or regulatory changes or other unforeseen reasons, our future NOLs could expire or otherwise be unavailable to offset future income tax liabilities. For these reasons, we may not be able to realize a tax benefit from the use of any future NOLs we generate, whether or not we attain profitability. As of December 31, **2024 and 2023 and 2022**, we recorded a full valuation allowance on **these deferred tax assets. As of December 31, 2024, we had approximately \$ 87.3 million of foreign net**

operating loss carryforwards related to our acquisition of Motus GI. Similarly, we have recorded a full valuation allowance on these deferred tax assets. Changes in tax laws could adversely affect the taxes we pay and, as a result, adversely affect our financial condition and results of operations. Tax laws, regulations, and administrative practices may be subject to significant change, with or without notice, due to economic, political and / or other conditions, and significant judgment is required in applying the relevant provisions of tax law. If such changes were to be adopted or if the tax authorities were to challenge our application of relevant provisions of applicable tax laws, our financial condition and results of operations could be adversely affected. In particular, the U. S. government may enact significant changes to the taxation of business entities including, among others, **an increase a change** in the corporate income tax rate, the imposition of minimum taxes or surtaxes on certain types of income, significant changes to the taxation of income derived from international operations, and an addition of further limitations on the deductibility of business interest. For example, the Inflation Reduction Act of 2022 enacted on August 16, 2022, among other provisions, imposes a 15 % minimum tax on the adjusted financial statement income of certain large corporations, as well as a 1 % excise tax on corporate stock repurchases by publicly traded companies. This act, as well as any other changes to tax laws that are enacted, could adversely affect our tax liability. While certain other draft legislation has been publicly released and is under development in Congress at this time, the likelihood of these changes being enacted or implemented is unclear. We are currently unable to predict whether such changes will occur. If such changes are enacted or implemented, we are currently unable to predict the ultimate impact on our business and therefore there can be no assurance our business will not be adversely affected.

Risks Related to Our Reliance on Third Parties We are, and expect to continue to be, highly dependent on partners to drive the successful marketing and sale of our initial product candidates. There is no assurance that we will be able to form and properly manage partnerships. There is no assurance that partnerships will be successful. We intend to primarily pursue licensing and distribution arrangements with strategic partners to commercialize and sell our product candidates. As such, licensing and collaboration payments, including upfront and milestone payments, as well as royalties and revenue **sharing 87sharing** arrangements related to our products and product candidates, will account for substantially all of our revenue for the foreseeable future. Any of these relationships may require us to incur non- recurring and other charges, increase our near and long- term expenditures, issue securities that dilute our existing stockholders or disrupt our management and business. In addition, we face significant competition in seeking appropriate strategic partners and the negotiation process is time- consuming and complex. We have limited experience in negotiating, establishing and managing such collaborations and we may be unable to successfully form and maintain such arrangements. Without commercialization partners, we may not have adequate financial or other resources to successfully commercialize our product candidates. In addition, any potential future collaborations may be terminable by our strategic partners, and we may not be able to adequately protect our rights under these agreements. Furthermore, strategic partners may negotiate for exclusive rights to commercialize our products or certain rights to control decisions regarding the development and commercialization of our products, if approved, and may not conduct those activities in the same manner as we do. Any termination of collaborations we have entered into or may enter into in the future, or any delay in entering into collaborations **94related -- related** to our products or product candidates, could delay the development and commercialization of our products or product candidates and reduce their competitiveness if they reach the market, which could have a material adverse effect on our business, financial condition and results of operations. Successfully commercializing medical device combinations such as ours is a complex and uncertain process, dependent on the efforts of management, distributors, outside consultants, physicians and general economic conditions, among other factors. Any factors that adversely impact the commercialization of our product candidates will have a negative impact on our business, results of operations and financial condition. We cannot assure you that we or our partners will be successful in developing or commercializing any of our product candidates or any other new product candidates. Our inability to successfully commercialize our product candidates through partnerships and / or successfully develop and commercialize additional products or any enhancements to our products which we may develop would have a material adverse effect on our business, results of operations and financial condition. We ~~did not meet the target achievement dates relating to certain milestone payments, and we do not~~ **Terumo have yet been unable to come to agreement with** expect **respect** to **amending** meet certain other target achievement dates relating to additional milestone payments, under the Terumo Agreement, and, **While we may and Terumo are pursuing mediation, we cannot provide assurance that such efforts will be successful or that we or Terumo will not seek** be able to restructure **terminate** the Terumo Agreement in a manner that provides us with a satisfactory amount of additional capital. In June 2019, we entered into a strategic partnership with Terumo (the “ Terumo Partnership ”) for the manufacture and distribution of our product Virtue SAB. Under the Terumo Agreement, we were initially eligible for certain milestone payments in the amount of \$ 65 million from Terumo upon completion of certain minimum enrollments in clinical studies, making certain filings and submissions, and obtaining certain regulatory approvals and certifications. Of these milestone payments, \$ 35 million relate to achieving certain milestones by specified target achievement dates. **. As , and, as** of the date of this Annual Report on Form 10- K, ~~we have already passed~~ the target achievement dates for **two three** \$ 5 million milestone payments **have already passed**, in each case, without achieving the related milestones. In addition, due to delays in our Virtue SAB program resulting from the COVID- 19 pandemic, supply chain issues and unexpected **changes to** regulatory ~~delays and requirements~~, **including increased testing and other activities related to chemistry, manufacturing, and control, increased nonclinical and good laboratory practice preclinical data requirements, including biocompatibility, as well as a requirement to repeat good laboratory practice preclinical studies already performed based on changes to source of component materials and a change in manufacturing site**, we are unlikely to be able to complete the remaining time- based milestones by the specified target achievement dates to earn the remaining \$ **25-20** million in time- based milestone payments pursuant to ~~the our agreement with Terumo . Our failure to earn milestone payments under our agreement~~ **Agreement** with Terumo will have an adverse effect on our results of operations. Further, Terumo has the right to terminate the agreement, or certain of its obligations thereunder, if certain milestones are not achieved. If Terumo elects to terminate the agreement, our development and commercialization plans

for Virtue SAB could be adversely impacted, and this could have a material adverse effect on our business, financial condition, results of operations and prospects. As previously disclosed, we have been negotiating with Terumo for mutually agreeable adjustments to the Terumo Agreement with the purposes— **purpose** of restructuring milestone payments as well as making other potential material modifications to that agreement, including additional financial commitments by Terumo to us **Orchestra** and the Virtue SAB program. **We More recently, we and Terumo have been negotiating terms** delayed initiation of our Virtue ISR—US pivotal study, for which we secured conditional IDE approval from a new strategic alliance agreement that would, **among the other things** FDA on August 8, **(i) replace** 2023, until such time as we and Terumo restructure the Terumo Agreement in; **(ii) have Terumo make certain upfront and milestone- based payments to us; and (iii) narrow the scope of Terumo’ s rights to only coronary applications of Virtue SAB. Because there had not been an agreement on the terms of such new strategic alliance agreement, we previously provided Terumo with a manner notice of breach of the Terumo Agreement, as we believe that Terumo has failed to, among other things, meet certain clinical and regulatory obligations under the Terumo Agreement, which has resulted in significant damages to us. We believe Terumo’ s breaches of the Terumo Agreement provides— provide us with a termination** satisfactory amount of additional capital, whether from milestone payments or other financial arrangements. In addition, in light **right of under** the recent FDA approval **Terumo Agreement, which we could exercise at any time. We further believe we would be entitled to significant damages as a result of Terumo Boston Scientific Corporation’ s AGENT™ paclitaxel-coated balloon breaches if we are unable to come to a negotiated resolution with Terumo. The parties are now in a mediation procedure pursuant to the Terumo Agreement and the International Mediation Rules of the International Centre for Dispute Resolution (“ ICDR ”). The mediation could assist in potentially resolving disagreements and facilitating the 88th treatment completion of negotiations. The coronary ISR, we and Terumo Agreement provides that matters that are reviewing not resolved through mediation are to be resolved by binding arbitration conducted under the design for auspices of the ICDR in accordance Virtue ISR—US pivotal study and considering alternative clinical study designs with input from its International Arbitration Rules. The parties have not yet agreed to the procedural parameters of such mediation, including the terms of a standstill arrangement, pursuant to which neither party would exercise any termination rights under the Terumo Agreement during the mediation period. As noted above, we believe that we have the right to terminate the Terumo Agreement in connection with Terumo’ s aforementioned material breaches of their obligations thereunder. Terumo has the right to terminate the agreement, our or clinical steering committee certain of its obligations thereunder, if certain milestones are not achieved over time. In this regard, under the terms of the Terumo Agreement, if we do not file a PMA for Virtue SAB for the treatment of ISR by March 30, 2025 (the “ Virtue SAB PMA Deadline ”), Terumo has the right to terminate the Terumo Agreement. We did not meet the Virtue SAB PMA Deadline. Accordingly, as of March 31, 2025, Terumo may seek to terminate the Terumo Agreement, although we understand that no such step is imminent. Nonetheless, absent an agreement related to the mediation or otherwise, both we and Terumo would be free to exercise any termination rights we each may have in accordance with the terms of the Terumo Agreement. The mediation proceeding could lead to various outcomes which may affect the terms or status of the Terumo Agreement, the most likely of which may include (i) we and Terumo agree to enter into a new strategic alliance agreement that replaces and substantially restructures the terms of the Terumo Agreement, including material changes to the scope of indications and territories to which Terumo would have rights; or (ii) we and Terumo mutually agree to terms whereby the Terumo Agreement is terminated . If negotiations are the mediation does not completed lead to an agreement our or satisfaction resolution, or to, if applicable, we do not prevail in arbitration, or if the satisfaction of Terumo Agreement is terminated , our clinical study, product development, and commercialization plans for Virtue SAB may continue to be further adversely impacted. We expect to be highly dependent on partners and third- party vendors to manufacture and provide important materials and components for our products and product candidates. There is no assurance that we will be able properly manage our supply chain. Further, we currently do not have redundancy built into our supply chain We utilize and intend to continue to utilize partners and third- party vendors to assist in the manufacture and assembly of our products and product candidates, as well as to provide materials and components essential to the manufacture of our 95products— **products** and product candidates, in particular Virtue SAB. For example, for our Virtue SAB product candidate, we currently source sirolimus from a single manufacturer in China, and we source angioplasty balloons from a single manufacturer in Singapore. Disruptions in those countries or with respect to those suppliers for any reason, including, without limitation, further outbreaks of COVID- 19, including any strains or variants of the virus, or any future pandemic, could cause us to seek new or additional suppliers for these products and could have a material adverse effect on our business. We expect to continue to rely on third- party manufacturers for the commercial supply of any of our product candidates for which we obtain marketing approval, if any. We may be unable to maintain or establish required agreements with third- party manufacturers or to do so on acceptable terms. Even if we are able to establish agreements with third- party manufacturers, reliance on third- party manufacturers entails additional risks, including: • the failure of the third party to manufacture our product candidates according to our schedule, or at all, including if our third- party contractors give greater priority to the supply of other products over our product candidates or otherwise do not satisfactorily perform according to the terms of the agreements between us and them; • the reduction or termination of production or deliveries by suppliers, or the raising of prices or renegotiation of terms; • the termination or nonrenewal of arrangements or agreements by our third- party contractors at a time that is costly or inconvenient for us; • the breach by the third- party contractors of our agreements with them; • the failure of third- party contractors to comply with applicable regulatory requirements; • the failure of the third party to manufacture our product candidates according to our specifications; **89** • the mislabeling of clinical supplies, potentially resulting in the wrong dose amounts being supplied or active drug or placebo not being properly identified; • clinical supplies not being delivered to clinical sites on time, leading to clinical study interruptions, or of drug or medical device supplies not being distributed to commercial vendors in a timely manner, resulting in lost sales; and • the misappropriation of our proprietary**

information, including our trade secrets and know-how. In addition, successfully manufacturing a medical device combination product or product candidate such as our Virtue SAB is a complex and uncertain process, dependent on the efforts of management, suppliers, manufacturing companies, packaging vendors, testing companies, outside consultants and general economic conditions, among other factors. Our ability to supply our products commercially and to develop any future products depends, in part, on our ability to obtain these materials, components and products in accordance with regulatory requirements and in sufficient quantities for commercialization and clinical testing. Any factors that adversely impact the manufacturing of our products or product candidates will have a negative impact on our business, results of operations and financial condition. We cannot assure you that we or our partners will be successful in manufacturing our current products or product candidates or any potential enhancements to our products or any other new products. Our inability to successfully manufacture our products through partnerships and / or successfully develop and manufacture additional products or any enhancements to our products which we may develop would have a material adverse effect on our business, results of operations and financial condition. We and our partners may be unable to sustain revenue growth. We expect our ability to increase our revenue in future periods to primarily depend on the ability of commercial partners to successfully penetrate our target markets and increase sales of our products or product candidates, which will, in turn, depend in part on our partners' success in growing their customer base and obtaining reorders from those customers. New products will also need to be developed and approved, or certified or otherwise authorized by the FDA and foreign regulatory agencies or notified bodies to sustain revenue growth in our markets. Additional clinical data and new products may be necessary to grow revenue. ~~96The~~ **The** failure of our manufacturing partners and component suppliers to meet regulatory quality standards applicable to their manufacturing processes could have an adverse effect on our business, financial condition and results of operations. Our medical device and component manufacturers must register with the FDA and are subject to periodic inspection by the FDA for compliance with the QSR and cGMP, requirements, which require manufacturers of medical devices and drugs, respectively, to adhere to certain manufacturing practices, including design controls, product validation and verification, in process testing, quality control and documentation **procedures requirements**. Similar requirements apply in foreign jurisdictions. Compliance with applicable regulatory requirements is subject to continual review and is rigorously monitored through periodic inspections or audits by the FDA and other regulatory agencies or notified bodies. Our component, polymer and drug suppliers are also required to meet certain standards applicable to their manufacturing processes. We cannot assure you that we, our manufacturing partners, or component suppliers comply or can continue to comply with all regulatory requirements. The inability of one of these parties to achieve or maintain compliance with these requirements or quality standards may disrupt our ability to supply products sufficient to meet demand until compliance is achieved, or until a new supplier or manufacturer has been identified and evaluated. Our or these parties' failure to comply with applicable regulations could cause sanctions to be imposed on us, including warning letters, fines, injunctions, civil penalties, failure of regulatory authorities to grant marketing approval of our product candidates, delays, suspension or withdrawal of approvals, certifications, license revocation, seizures or recalls of products or product candidates, operating restrictions and criminal prosecutions, which could harm our business. We cannot assure you that if we need to engage new suppliers, manufacturers or testing resources to satisfy our business requirements that we can locate new ones in compliance with regulatory requirements. Our failure to do so could have a material adverse effect on our business, financial condition, results of operations and prospects. From time to time, we engage outside parties to perform services related to certain of our clinical studies and trials, and any failure of those parties to fulfill their obligations could cause costs and delays. From time to time, we engage consultants and CROs to help design, monitor and analyze the results of certain of our clinical studies and trials. The consultants and CROs we engage interact with clinical investigators to enroll patients in our clinical studies. We depend on ~~these~~ **90these** consultants, CROs and clinical investigators to perform the clinical studies and trials and monitor and analyze data from these studies and trials under the investigational plan and protocol for the study or trial and in compliance with regulations and requirements for conducting, recording and reporting results of clinical studies or trials to assure that the data and results are credible and accurate and the trial participants are adequately protected, as required by the FDA and foreign regulatory authorities. The consultants and CROs also are responsible for protecting confidential patient data and complying with U. S. and foreign laws and regulations related to data privacy. We may face delays in our regulatory approval process if these parties do not perform their obligations in a timely or competent fashion or if we must change service providers. This risk is greater for our clinical studies and trials conducted outside of the United States, where it may be more difficult to ensure our studies and trials are conducted in compliance with FDA requirements. Any third parties we hire to design or monitor and analyze results of our clinical studies and trials may also provide services to our competitors, which could compromise the performance of their obligations to us. If these third parties do not successfully carry out their duties or meet expected deadlines, or if the quality, completeness or accuracy of the data they obtain is compromised due to the failure to adhere to our clinical study protocols or for other reasons, our clinical studies or trials may be extended, delayed or terminated or may otherwise prove to be unsuccessful, and our development costs will increase. We may not establish or maintain relationships with these third parties on favorable terms, or at all. If we need to enter into replacement arrangements because a third-party is not performing in accordance with our expectations, we may not be able to do so without undue delays or considerable expenditures, or at all. The FDA and similar regulatory bodies may hold us responsible for any failure of our third-party consultants or CROs. Our monitoring of our third-party consultants or CROs may fail to detect, remedy or report their failures. ~~97The~~ **The** continuing development of many of our products and product candidates depends upon our maintaining strong working relationships with physicians. The research, development, marketing and sale of many of our new and improved products or product candidates depend upon our maintaining working relationships with physicians. We rely on these professionals to provide us with considerable knowledge and experience regarding the development, marketing and sale of our products or product candidates. Physicians assist us as researchers, marketing and product consultants, inventors and public speakers. If we cannot maintain our strong working relationships with these professionals and continue to receive their advice and input, the development and

marketing of our products or product candidates could suffer, which could have a material adverse effect on our business, financial condition, results of operations and prospects. At the same time, the medical device industry's relationship with physicians is under increasing scrutiny by the Office of Inspector General (the "OIG"), and the U. S. Department of Justice (the "DOJ"), and various state regulators or enforcement bodies. Our failure to comply with requirements governing the industry's relationships with physicians, including the reporting of certain payments to physicians under the National Physician Payment Transparency Program or an investigation into our compliance by the OIG or the DOJ, could have a material adverse effect on our business, financial condition, results of operations and prospects. We have limited pharmaceutical manufacturing experience and our CMOs may experience development or manufacturing problems or delays in producing our products and planned or future products that could limit or prevent the potential growth of our revenue or increase our losses. We are responsible for the manufacture of the proprietary SirolimusEFR used in our Virtue SAB product candidate. We have already experienced substantial delays and other challenges in the manufacture of SirolimusEFR as a result of supply chain and personnel issues experienced by the single source CMO that produces SirolimusEFR for us. Many of the processes, ingredients and components required for manufacture of SirolimusEFR are also required for manufacture of COVID-19 vaccines and tests and, as such, supply chains continue to be adversely impacted. Further, the manufacture of SirolimusEFR involves certain novel processes that we continue to develop to achieve consistent reproducibility as well as increase scale to support large clinical studies and future commercialization. In the event that we do not have sufficient SirolimusEFR, our planned clinical studies could be prevented or delayed. Further delays in our trial timelines will result in additional expenses to us and potentially risk or damage our partnership with Terumo and the future competitiveness of our Virtue SAB solution. If approved for use in connection with our medical device product candidates or as a stand-alone product, we currently expect to remain responsible for the manufacture and supplying of SirolimusEFR at clinical and / or commercial scale for our partner, Terumo. We have limited experience in manufacturing pharmaceutical products and no experience manufacturing SirolimusEFR in the volume that we anticipate will be required if we achieve planned levels needed for clinical studies and / or commercial sales. We do not currently have, nor do we currently have plans to acquire, the infrastructure or capability internally to manufacture or test SirolimusEFR on a clinical and / or commercial scale. Instead, we rely on contract manufacturers for current production of SirolimusEFR for clinical study supplies and currently plan to continue to use contract manufacturers for supply and testing. Our reliance on third-party suppliers and manufacturers, including 91 including certain single-source suppliers, could harm our ability to fulfill our supply obligations to Terumo. If our third-party suppliers fail to deliver the required quantities of materials on a timely basis and at reasonable prices, and we are unable to find one or more replacement suppliers capable of production at a substantially equivalent cost in substantially equivalent volumes and quality on a timely basis, the supply of our products or product candidates to customers and the development of any future products will be delayed, limited or prevented, which could have material adverse effect on our business, financial condition and results of operations. The facilities used by our CMOs to manufacture our product candidates must be authorized by the applicable regulatory authorities, including the FDA, pursuant to inspections that will be conducted after a PMA, NDA or comparable foreign regulatory marketing application is submitted. We depend on our contract manufacturing partners for compliance with the FDA's cGMP or similar foreign requirements for manufacture of both the active drug substances and finished drug product. If our contract manufacturers cannot successfully manufacture material that conforms to our specifications and the FDA's or foreign regulatory authorities' strict regulatory requirements, they will not be able to secure or maintain FDA or foreign approval for use of their manufacturing facilities with respect to our product candidates. In addition, if the FDA 98 or or any other applicable regulatory authority does not approve these facilities for the manufacture of our product candidates or if it withdraws any such approval in the future, or if our suppliers or contract manufacturers decide they no longer want to supply or manufacture for us, we may need to find alternative manufacturing facilities, in which case we might not be able to identify manufacturers for clinical or commercial supply on acceptable terms, without delay, or at all, which would significantly impact our ability to fulfill our supply obligations for SirolimusEFR for Virtue SAB, as well as sales of SirolimusEFR for other potential clinical applications. In addition, the manufacture of pharmaceutical products is complex and requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls. Manufacturers of pharmaceutical products often encounter difficulties in production, particularly in scaling up and validating initial production and absence of contamination. They may also encounter equipment breakdowns requiring lengthy repairs or the need to replace equipment. These problems include difficulties with production costs and yields, quality control, including stability of the product, quality assurance testing, operator error, shortages of qualified personnel, as well as compliance with strictly enforced federal, state and foreign regulations. Furthermore, if contaminants are discovered in our supply or in the manufacturing facilities, such manufacturing facilities may need to be closed for an extended period of time to investigate and remedy the contamination and could require that affected supplies be withdrawn or withheld from the market. Any stability or other issues relating to the manufacture of our product candidates may occur in the future. Additionally, our manufacturers may experience manufacturing difficulties due to resource constraints or as a result of labor disputes or unstable political environments. If our manufacturers were to encounter any of these difficulties, or otherwise fail to comply with their contractual obligations, our ability to provide SirolimusEFR to Terumo would be jeopardized, which would result in a material adverse effect on our business, financial condition, results of operations and prospects. Reduction or interruption in supply and an inability to develop alternative sources for supply may adversely affect our partners' manufacturing operations and related product sales. We purchase many of the components and raw materials used in manufacturing our products from numerous suppliers in various countries. Generally, we have been able to obtain adequate supplies of such raw materials and components. However, for reasons of quality assurance, unique processes, or specialty item availability, we may procure certain components and raw materials from a sole supplier. For example, for our Virtue SAB product candidate, we source sirolimus from a single manufacturer in China, we source porous angioplasty balloons from a single manufacturer in Germany with unique processes and expertise, and we source custom specialty polymers from a

single manufacturer in the United States. We work closely with our suppliers to try to ensure continuity of supply while maintaining high quality and reliability. However, we cannot guarantee that these efforts will be successful. In addition, due to the stringent regulations and requirements of the FDA, comparable regulatory bodies in countries in the EU and similar regulatory bodies elsewhere around the world regarding the manufacture of our products or product candidates, we may not be able to quickly establish additional or replacement sources for certain components or materials. A reduction in or an interruption to supply, and an inability to develop alternative sources for such supply, could adversely affect our ability to manufacture our products in a timely or cost-effective manner and to make our related product sales. Manufacturing facilities used to make our balloons or other components may be shut down, sold or otherwise become unavailable and it will take time and money for us to identify and requalify new facilities. In addition, assuming our ~~BackBeat CNT~~ **AVIM therapy** product candidate is approved, we will be reliant on Medtronic, Inc. (an affiliate of Medtronic plc) (“Medtronic”) and its ability to obtain supplies for and to produce its ~~AVIM BackBeat CNT~~ enabled pacemaker systems. If Medtronic is unable or ~~unwilling~~ **unwilling** to obtain such supplies or is otherwise unable or unwilling to produce its ~~AVIM BackBeat CNT~~ enabled pacemaker systems, it could adversely affect our results of operations. We source certain products from foreign suppliers, making us vulnerable to supply problems or price fluctuations caused by trade conflicts and other geopolitical events. Geopolitical risks and other global events could negatively affect our ability to rely on foreign suppliers. Ongoing uncertainty in the trade relationship between China and the United States could cause delays in the manufacturing supply chain for sirolimus, which we currently source from China. Likewise, export restrictions enacted in foreign countries, ~~including~~ **including** those imposed in China, could limit our ability to obtain products from foreign suppliers or make foreign-made products more costly than anticipated. Any disruptions or delays in our supply chain could negatively impact our ability to operate our business or increase our costs. Further, any import restrictions or tariffs imposed on products we or our partners import from China, Singapore or any other foreign supplier, as a result of global trade conflict, could cause us to increase prices for our future products or reduce our margins. In February 2022, following Russia’s invasion of Ukraine, the United States, the EU, and the UK imposed various economic sanctions against Russia. Additional impacts, including restrictions on the sale of oil or other energy resources from Russia to other countries in the region, that could result in an increase in our global shipping expenses, reduce our sales or otherwise have an adverse effect on particularly our European operations. Furthermore, escalation by Russia beyond Ukraine and into other countries within the region could also reduce our sales and have a negative effect on our European operations.

Risks Related to Government Regulation and Our Industry. Healthcare reform initiatives and other administrative and legislative proposals may adversely affect our business. There have been, and continue to be, proposals by the federal government, state governments, regulators and third-party payors to control or manage the increased costs of healthcare and, more generally, to reform the U. S. healthcare system. Certain of these proposals could limit the prices we are able to charge for our products or the coverage and reimbursement available for our products and could limit the acceptance and availability of our products. The adoption of proposals to control prices could have a material adverse effect on our business, financial condition, results of operations and prospects. In the United States, there have been, and continue to be, a number of legislative initiatives to contain healthcare costs. For example, in March 2010, ACA was enacted in the United States, which made a number of substantial changes in the way healthcare is financed by both governmental and private insurers. Among other ways in which it may affect our business, the ACA established a new Patient-Centered Outcomes Research Institute to oversee and identify priorities in comparative clinical effectiveness research in an effort to coordinate and develop such research, implemented payment system reforms including a national pilot program on payment bundling to encourage hospitals, physicians and other healthcare providers to improve the coordination, quality and efficiency of certain healthcare services through bundled payment models, and expanded the eligibility criteria for Medicaid programs. Since its enactment, there have been judicial, U. S. Congressional and executive branch challenges to certain aspects of the ACA. On June 17, 2021, the U. S. Supreme Court dismissed the most recent judicial challenge to the ACA brought by several states without specifically ruling on the constitutionality of the ACA. ~~Prior to the Supreme Court’s decision, President Biden issued an executive order to initiate a special enrollment period from February 15, 2021 through August 15, 2021 for purposes of obtaining health insurance coverage through the ACA marketplace. The executive order also instructed certain governmental agencies to review and reconsider their existing policies and rules that limit access to healthcare, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA.~~ It is unclear how other healthcare reform measures of the ~~Biden~~ **new** administration or other efforts, if any, will impact our business. In addition, other legislative changes have been proposed and adopted since the ACA was enacted. On August 2, 2011, the Budget Control Act of 2011 was signed into law, which, among other things, reduced Medicare payments to providers, effective on April 1, 2013 and, due to subsequent legislative amendments to the statute, will remain in effect through 2031, with the exception of a temporary suspension from May 1, 2020 through March 31, 2022, unless additional Congressional action is taken. On January 2, 2013, the American Taxpayer Relief Act of 2012 was signed into law, which, among other things, reduced Medicare payments to several providers, including hospitals, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. The Medicare Access and CHIP Reauthorization Act of 2015 (the “MACRA”), enacted on April 16, 2015, repealed the formula by which Medicare made annual payment adjustments to physicians and implemented fixed annual updates and a new system of incentive payments that began in 2019 ~~100 that that~~ **are** based on various performance measures and physicians’ participation in alternative payment models such as ~~accountable~~ **93 accountable** care organizations. It is unclear what effect new quality and payment programs, such as MACRA, may have on our business, financial condition, results of operations or cash flows. In addition to continuing pressure on prices and cost-containment measures in the United States, legislative developments at the EU or member state level may result in significant additional requirements or obstacles. The delivery of healthcare in the EU, including the establishment and operation of health services and the pricing and reimbursement of medicines, is almost exclusively a matter

for national, rather than EU, law and policy. National governments and health service providers have different priorities and approaches to the delivery of healthcare and the pricing and reimbursement of products in that context. In general, however, the healthcare budgetary constraints in most EU member states have resulted in restrictions on the pricing and reimbursement of medicines by relevant health service providers. Coupled with ever- increasing EU and national regulatory burdens on those wishing to develop and market products, this could restrict or regulate post- approval activities and affect the ability of pharmaceutical companies to commercialize their products. In international markets, reimbursement and healthcare payment systems vary significantly by country, and many countries have instituted price ceilings on specific products and therapies. We expect additional state, federal and foreign healthcare policies and reform measures to be adopted in the future, any of which could limit reimbursement for healthcare products and services or otherwise result in reduced demand for our products or other products we may commercialize in the future or additional pricing pressure and have a material adverse effect on our industry generally and on our customers. Any changes in, or uncertainty with respect to, future coverage or reimbursement rates could affect demand for our products or other products we may commercialize in the future, which, in turn, could impact our ability to successfully commercialize our products or other products we may commercialize in the future and could have a material adverse effect on our business, financial condition and results of operations. For instance, in December 2021, the EU Regulation No 2021 / 2282 on HTA, amending Directive 2011 / 24 / EU, was adopted. This regulation, which entered into force in January 2022, intends to boost cooperation among EU member states in assessing health technologies, including some medical devices, and providing the basis for cooperation at the EU level for joint clinical assessments in these areas. The regulation foresees a three- year transitional period and will permit EU member states to use common HTA tools, methodologies, and procedures across the EU, working together in four main areas, including joint clinical assessment of the innovative health technologies with the most potential impact for patients, joint scientific consultations whereby developers can seek advice from HTA authorities, identification of emerging health technologies to identify promising technologies early, and continuing voluntary cooperation in other areas. Individual EU member states will continue to be responsible for assessing non- clinical (e. g., economic, social, ethical) aspects of health technologies, and making decisions on pricing and reimbursement. Regulatory compliance is expensive, complex and uncertain, and approvals or certifications can often be denied or significantly delayed. We may not obtain the necessary approvals or certifications and failure to obtain timely regulatory approval or certification, if at all, would adversely affect our business. We are not permitted to commercialize, market, promote or sell any of our product candidates in the United States without obtaining approval from the FDA. Foreign regulatory authorities impose similar requirements. The time required to obtain approval or certification by the FDA, comparable foreign regulatory authorities and notified bodies is unpredictable, typically takes many years following the commencement of clinical studies and depends upon numerous factors, including the type, complexity and novelty of the product candidates involved. In addition, approval policies, regulations or the type and amount of clinical data necessary to gain approval may change during the course of a product candidate' s development and may vary among jurisdictions, which may cause delays in the approval, certification or the decision not to approve an application. Regulatory authorities and notified bodies have substantial discretion in the approval or certification process and may refuse to accept any application or may decide that our data are insufficient for approval or certification and require additional preclinical, clinical or other studies. We have not submitted for or obtained marketing approval for any product candidate, except for European Conformity (" CE ") mark certification of our first- generation **BackBeat CNT AVIM therapy** on the Moderato IPG device. ~~101~~**11** In the United States, before we can market a new medical device, or a new use of, new claim for or significant modification to an existing device, we must first receive either clearance under Section 510 (k) of the FDCA, or approval of a PMA application from the FDA, unless an exemption applies. Under the FDCA, medical devices are classified into one of three classes, Class I, Class II or Class III, depending on the degree of risk associated with each medical device and the extent of manufacturer and regulatory control needed to ensure its safety and effectiveness. Certain Class I and Class II devices are exempt from premarket notification (510 (k)) requirements as well as ~~the~~ **Medical Device cGMPs, also referred to as the QSR requirements**. A Class I or Class II device that is exempt from 510 (k) requirements must still comply with other requirements unless ~~the~~ **94** the device is explicitly exempt from those requirements as indicated in the regulation for that device type. We do not believe Virtue SAB or **BackBeat CNT AVIM therapy** or other of our current product candidates will be exempt from, or eligible for, clearance under Section 510 (k) of the FDCA. We expect our product candidates will require submission and FDA approval of a PMA to be marketed in the United States. In the process of obtaining PMA approval, the FDA must determine that a proposed device is safe and effective for its intended use (s) based, in part, on extensive data, including, but not limited to, technical, preclinical, clinical study, manufacturing and labeling data. The PMA process is typically required for devices that are deemed to pose the greatest risk, such as life- sustaining, life- supporting or implantable devices. Modifications to products that are approved through a PMA application generally require FDA approval. The PMA process can be expensive, lengthy and uncertain. The process of obtaining a PMA is much more costly and uncertain than the 510 (k) clearance process and generally takes from one to three years, or even longer, from the time the application is submitted to the FDA. In the United States, before we can market a new drug product, or market an approved drug for a new indication, we must receive approval of an NDA. In the process of obtaining NDA approval, the FDA must determine that the drug product candidate is safe and effective for its intended uses. The NDA is a comprehensive, multivolume application that includes, among other things, the results of preclinical and clinical studies, information about the drug' s composition, and plans for manufacturing, packaging and labeling the drug. The time required to obtain NDA approval by the FDA is unpredictable and typically takes many years following the commencement of clinical studies. We expect that obtaining regulatory approvals for our product candidates will require us to conduct human clinical studies. For our medical device product candidates and combination drug / device product candidates regulated as medical devices, we will need to obtain approval of an IDE, prior to beginning a clinical study in the United States. For our drug product candidates, we will need to submit an IND application that the FDA authorizes prior to beginning clinical studies in the United States. Preclinical studies, submissions related to CMC of

our product candidates, and safety data such as biocompatibility will be required in connection with any IDE or IND applications. It is possible that unforeseen failure of one or more of these tests could cause delays in the application process. Despite the time, effort and cost involved in conducting clinical studies and seeking regulatory approvals or certifications, a product candidate may not be approved or certified by the FDA or comparable regulatory authorities or notified bodies. Any delay or failure to obtain necessary regulatory approvals or certifications could harm our business. Furthermore, even if we are granted regulatory approvals or certifications, they may include significant limitations on the indicated uses for the device, which may limit the market for the product. The FDA, comparable regulatory authorities (or notified bodies) can delay, limit or deny approval of a drug or approval or certification of a medical device for many reasons, including:

- our inability to demonstrate to the satisfaction of the FDA or the applicable regulatory entity or notified body that our products are safe or effective for their intended uses;
- inability to satisfy regulators on the biocompatibility of our novel materials or to gain agreement with regulators on the methods or results of biocompatibility testing;
- the disagreement of the FDA or the applicable foreign regulatory authority or notified body with the design or implementation of our clinical studies or the interpretation of data from preclinical studies or clinical studies;
- serious and unexpected adverse effects experienced by participants in our clinical studies;
- the data from our preclinical studies and clinical studies may be insufficient to support approval;
- our inability to demonstrate that the clinical and other benefits of the product candidate outweigh the risks;
- the quality systems, manufacturing processes and / or facilities we use may not meet applicable requirements; and
- the potential for approval policies or regulations of the FDA or applicable foreign regulatory bodies to change significantly in a manner rendering our clinical data or regulatory filings insufficient for approval or certification.

Regulatory changes could result in restrictions on our ability to carry on or expand our operations, higher than anticipated costs or lower than anticipated sales. The FDA and foreign regulatory authorities enforce these regulatory requirements through various mechanisms, including periodic unannounced inspections. Failure to comply with applicable regulations could jeopardize our ability to sell our products and result in enforcement actions such as: warning letters; fines; injunctions; civil penalties; termination of distribution; recalls or seizures of products; delays in the introduction of products into the market; total or partial suspension of production; refusal to grant future approvals or certifications; withdrawals or suspensions of current approvals or certifications, resulting in prohibitions on sales of our products; and, in the most serious cases, criminal penalties. Subject to the transitional provisions provided in the EU Medical Devices Regulation, and in order to sell our products in EU member states, our products must comply with the general safety and performance requirements of the EU Medical Devices Regulation, which repeals and replaces the Medical Devices Directive and the Active Implantable Medical Devices Directive. Compliance with these requirements is a prerequisite to be able to affix the CE mark to our products, without which they cannot be sold or marketed in the EU. All medical devices (including active implantable medical devices) placed on the market in the EU must meet the general safety and performance requirements laid down in Annex I to the EU Medical Devices Regulation, including the requirement that a medical device must be designed and manufactured in such a way that, during normal conditions of use, it is suitable for its intended purpose. Medical devices must be safe and effective and must not compromise the clinical condition or safety of patients, or the safety and health of users and — where applicable — other persons, provided that any risks which may be associated with their use constitute acceptable risks when weighed against the benefits to the patient and are compatible with a high level of protection of health and safety, taking into account the generally acknowledged state of the art. To demonstrate compliance with the general safety and performance requirements, we must undergo a conformity assessment procedure, which varies according to the type of medical device and its (risk) classification. A conformity assessment procedure generally requires the intervention of a notified body. The notified body would typically audit and examine the technical file and the quality system for the manufacture, design and final inspection of our devices. If satisfied that the relevant product conforms to the relevant general safety and performance requirements, the notified body issues a certificate of conformity, which the manufacturer uses as a basis for its own declaration of conformity. The manufacturer may then apply the CE mark to the device, which allows the device to be placed on the market throughout the EU. Failing to comply with applicable laws and regulations, would preclude us from being able to affix the CE mark to our products, which would prevent us from selling them within the EU. The aforementioned EU rules are generally applicable in the EEA (which consists of the 27 EU member states plus Norway, Liechtenstein and Iceland). Non-compliance with the above requirements would also prevent us from selling our products in these countries. International regulatory approval or certification processes may take longer than the FDA approval process. We may be unable to obtain future regulatory approval or certification in a timely manner, or at all, especially if existing regulations are changed or new regulations are adopted. A failure or delay in obtaining necessary regulatory approvals or certifications would materially adversely affect our business. In the EU, we must inform the notified body that carried out the conformity assessment of the medical devices that we market or sell in the EU and the EEA of any planned substantial changes to our quality system or substantial changes to our medical devices that could affect compliance with the general safety and performance requirements laid down in Annex I to the EU Medical Devices Regulation or cause a substantial change to the intended use for which the device has been CE marked. The notified body will then assess the planned changes and verify whether they affect the products' ongoing conformity with the EU Medical Devices Regulation. If the assessment is favorable, the notified body will issue a new certificate of conformity or an addendum to the existing certificate attesting compliance with the general safety and performance requirements and quality system requirements laid down in the Annexes to the EU Medical Devices Regulation. The notified body may disagree with our proposed changes and product introductions or modifications could be delayed or canceled, which could adversely affect our ability to grow our business. Our medical device products must be manufactured in accordance with federal, state and foreign regulations, and we or any of our suppliers or third-party manufacturers could be forced to recall our installed systems or terminate production if we fail to comply with these regulations. The methods used in, and the facilities used for, the manufacture of our medical device products must comply with the FDA's QSR which is a complex regulatory scheme that covers the procedures and documentation of the

design, testing, production, process controls, quality assurance, labeling, packaging, handling, storage, distribution, installation, servicing and shipping of medical devices. Furthermore, we are required to verify that our suppliers maintain facilities, procedures and operations that comply with our quality standards and applicable regulatory requirements. The FDA enforces the QSR through periodic announced or unannounced inspections of medical device manufacturing facilities, which may include the facilities of subcontractors. Our products are also subject to similar state regulations and various laws and regulations of foreign countries governing manufacturing. Our third-party manufacturers may not take the necessary steps to comply with applicable regulations, which could cause delays in the delivery of our products. ~~¶ 96~~If any of these events occurs, our reputation could be harmed, we could be exposed to product liability claims and we could lose customers and experience reduced sales and increased costs. Even if we obtain regulatory approval or certification for a product candidate, our products will remain subject to regulatory scrutiny and post-marketing requirements. Failure to comply with post-marketing regulatory requirements could subject us to enforcement actions, including substantial penalties, and might require us to recall or withdraw a product from the market. Any regulatory approvals or certifications that we may receive for our product candidates will require the submission of reports to regulatory authorities and surveillance to monitor the safety and efficacy of the product candidate, may contain significant limitations related to use restrictions for specified age groups, warnings, precautions or contraindications, and may include burdensome post-approval study or risk management requirements. For example, the FDA may require a REMS in order to approve our drug product candidates, which could entail requirements for a medication guide, physician training and communication plans or additional elements to ensure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. In addition, if one of our product candidates is approved or certified, it will be subject to ongoing and pervasive regulatory requirements governing, among other things, the manufacture, marketing, labeling, advertising, adverse event reporting, recordkeeping, sale, promotion, sampling, testing, conduct of post-marketing studies, registration, and listing of drugs and medical devices. For example, we must submit periodic reports to the FDA as a condition of approval. These reports include safety and effectiveness information about the drug or device after its approval. Failure to submit such reports, or failure to submit the reports in a timely manner, could result in enforcement action by the FDA. Following its review of the periodic reports, the FDA might ask for additional information or initiate further investigation. Regulatory changes could result in restrictions on our ability to continue or expand our operations, higher than anticipated costs or lower than anticipated sales. Even after we have obtained the proper regulatory approval or certification to market a device, we have ongoing responsibilities under FDA regulations and applicable foreign laws and regulations. The FDA, state and foreign regulatory authorities have broad enforcement powers. Our failure to comply with applicable regulatory requirements could result in enforcement action by the FDA, state or foreign regulatory authorities, which may include any of the following sanctions: • untitled letters or warning letters; • fines, injunctions, consent decrees and civil penalties; • recalls, termination of distribution, administrative detention or seizure of our products; • customer notifications or repair, replacement or refunds; ~~104~~• operating restrictions or partial suspension or total shutdown of production; • delays in or refusal to grant our requests for future PMA approvals or foreign regulatory approvals or certifications of new products, new intended uses or modifications to existing products; • withdrawals or suspensions of our current PMA or foreign regulatory approvals or certifications, resulting in prohibitions on sales of our products; • FDA refusal to issue certificates to foreign governments needed to export products for sale in other countries; and • criminal prosecution. Any government investigation of alleged violations of law could require us to expend significant time and resources in response and could generate negative publicity. Any failure to comply with ongoing regulatory requirements may adversely affect our ability to commercialize and generate revenue from our products. If regulatory sanctions are applied or if regulatory approval or certification is withdrawn, our business will be seriously harmed. Moreover, the policies of the FDA and of other regulatory authorities may change, and additional government regulations may be enacted that could prevent, limit or delay regulatory approval or certification of our product candidates. We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative or executive action, either in the United States or abroad. **For example, with the change in U. S. presidential administrations in 2025, there is substantial uncertainty as to how, if at all, the new administration will seek to modify or revise the requirements and policies of the FDA and other regulatory agencies with jurisdiction over our product candidates. The impending uncertainty could present new challenges or potential opportunities as we navigate the clinical development and approval process for our product candidates. If we experience delays in obtaining approval or if we or they 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. In addition, the U. S. Supreme Court's June 2024 decision in *Loper Bright Enterprises v. Raimondo* overturned the longstanding *Chevron* doctrine, under which courts were required to give deference to regulatory agencies' reasonable interpretations of ambiguous federal statutes. The *Loper* decision could result in additional legal challenges to regulations and guidance issued by federal agencies, including the FDA, on which we rely. Any such legal challenges, if successful, could have a material impact on our business. Additionally, the *Loper* decision may result in increased regulatory uncertainty, inconsistent judicial interpretations, and other impacts to the agency rule-making process, any of which could adversely impact our business and operations.** 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 or certification that we may have obtained and we may not achieve or sustain profitability. Modifications to any approved or certified device products may require us to obtain new PMA approvals or approvals of a PMA supplement or foreign certification, and if we market modified products without obtaining necessary approvals or certifications, we may be required to cease marketing or recall the modified products until required approvals or certifications are obtained. Certain modifications to any device product for which we receive PMA approval may require approval of a new PMA or a PMA supplement, or alternatively a notification or other submission to the FDA. The FDA requires device manufacturers to make and document a determination of whether a modification requires an approval, supplement or

clearance; however, the FDA can review a manufacturer's decision. The FDA may not agree with our decisions regarding whether approval of a modification is necessary. We may make modifications to approved devices in the future that we believe do not require approval of a new PMA or PMA supplement. If the FDA disagrees with our determination and requires us to submit a new PMA or PMA supplement for modifications to our previously approved device products, we may be required to cease marketing or to recall the modified product until we obtain approval, and we may be subject to significant regulatory fines or penalties. In addition, the FDA may not approve our products for the indications that are necessary or desirable for successful commercialization or could require clinical trials to support any modifications. In the EU, we must inform the notified body that carried out the conformity assessment of the medical devices that we market or sell in the EU and the EEA of any planned substantial changes to our quality system or substantial changes to our medical devices that could affect compliance with the general safety and performance requirements laid down in Annex I to the EU Medical Devices Regulation or cause a substantial change to the intended use for which the device has been CE marked. The notified body will then assess the planned changes and verify whether they affect the products' ongoing conformity with the EU Medical Devices Regulation. If the assessment is favorable, the notified body will issue a new certificate of conformity or an addendum to the existing certificate attesting compliance with the general safety and performance requirements and quality system requirements laid down in the Annexes to the EU Medical Devices Regulation. The notified body may disagree with our proposed changes and product introductions or modifications could be delayed or canceled, which could adversely affect our ability to grow our business. ~~105~~Our medical device products, if approved or certified, may cause or contribute to adverse medical events or be subject to failures or malfunctions that we are required to report to the FDA or similar foreign regulatory authorities, and if we fail to do so, we would be subject to sanctions that could harm our reputation, business, financial condition and results of operations. The discovery of serious safety issues with our products, or a recall of our products either voluntarily or at the direction of the FDA or another governmental authority, could have a negative impact on us. We are subject to the FDA's medical device reporting regulations and similar foreign regulations, which require us to report to the FDA when we receive or become aware of information that reasonably suggests that one or more of our products may have caused or contributed to a death or serious injury or malfunctioned in a way that, if the malfunction were to recur, it could cause or contribute to a death or serious injury. The timing of our obligation to report is 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 of which we become aware within the prescribed timeframe. We may also fail to recognize 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 the product. If we fail to comply with our reporting obligations, the FDA or foreign regulatory authorities could take action, including warning letters, untitled letters, administrative actions, criminal prosecution, imposition of civil monetary penalties, revocation of our device approval, seizure of our products or delay in approval or certification of future products. ~~98~~The FDA and foreign regulatory bodies have the authority to require the recall of commercialized products in the event of material deficiencies or defects in design or manufacture of a product or in the event that a product poses an unacceptable risk to health. The FDA's authority to require a recall must be based on a finding that there is reasonable probability that the device could cause serious injury or death. We may also choose to voluntarily recall a product if any material deficiency is found. A government-mandated or voluntary recall by us could occur as a result of an unacceptable risk to health, component failures, malfunctions, manufacturing defects, labeling or design deficiencies, packaging defects or other deficiencies or failures to comply with applicable regulations. Product defects or other errors may occur in the future. Depending on the corrective action we take to redress a product's deficiencies or defects, the FDA, foreign regulatory authorities or notified bodies may require, or we may decide, that we will need to obtain new approvals or certifications for the device before we may market or distribute the corrected device. Seeking such approvals or certifications may delay our ability to replace the recalled devices in a timely manner. Moreover, if we do not adequately address problems associated with our devices, we may face additional regulatory enforcement action, including FDA and similar foreign regulatory authorities warning letters, product seizure, injunctions, administrative penalties or civil or criminal fines. Companies are required to maintain certain records of recalls and corrections, even if they are not reportable to the FDA. We may initiate voluntary withdrawals or corrections for our products in the future that we determine do not require notification of the FDA or foreign regulatory authorities. If the FDA or foreign regulatory authorities disagree with our determinations, it could require us to report those actions as recalls and we may be subject to enforcement action. A future recall announcement could harm our reputation with customers, potentially lead to product liability claims against us and negatively affect our sales. Any corrective action, whether voluntary or involuntary, as well as defending ourselves in a lawsuit, will require the dedication of our time and capital, distract management from operating our business and may harm our reputation and financial results. Virtue SAB is a drug / device combination, which may result in additional regulatory and other risks. Our Virtue SAB product candidate is subject to regulation in the United States as a drug / device combination product. If marketed individually, each constituent part of Virtue SAB would be subject to different regulatory pathways and would require approval of an independent marketing applications by the FDA. A combination product, however, is assigned to an FDA center that will have primary jurisdiction over its regulation based on a determination of the combination product's primary mode of action, which is the single mode of action that provides the most important therapeutic effect. In the case of Virtue SAB, we believe that the primary mode of action is attributable to the device component of the product. In this regard, in 2019, the FDA confirmed that Virtue SAB will be regulated as a combination product candidate, with the FDA's Center for Devices and Radiological Health as the lead review center of a marketing application. Although we believe a single marketing application for the approval of a combination product would be appropriate and successful, there can be no ~~106~~assurance that the FDA will not determine that separate marketing applications are necessary. If the FDA were to make that determination, it could significantly increase the resources and time required to bring a particular combination product to market. The EU regulates medical devices and medicinal products separately, through different legislative instruments, and the applicable requirements will vary depending on the type of drug-

device combination product. For instance, drug- delivery products intended to administer a medicinal product where the medicinal product and the device form a single integral product are regulated as medicinal products in the EU. In such a case, the marketing authorization application must include — where available — the results of the assessment of the conformity of the device part with the EU Medical Devices Regulation contained in the manufacturer’ s EU declaration of conformity of the device or the relevant certificate issued by a notified body. If the marketing authorization application does not include the results of the conformity assessment and where for the conformity assessment of the device, if used separately, the involvement of a notified body is required, the EMA or the EU member state competent authority must require the applicant to provide a notified body opinion on the conformity of the device. By contrast, in case of drug- delivery products intended to administer a medicinal product where the device and the medicinal product do not form a single integral product (but are, e. g., co- packaged), the medicinal product is regulated in accordance with the rules for medicinal products described above while the device part is regulated as a medical device and will have to comply with all the requirements set forth by the EU Medical Devices Regulation. Although the FDA and similar foreign regulatory agencies have or may have systems in place for the review and approval or certification of combination products such as ours, we have and may continue to experience delays in the development and commercialization of our product candidates due to regulatory timing constraints and uncertainties in the product development and approval process-99process, as well as coordination between two different centers within FDA responsible for review of the different components of the combination product. If the FDA does not conclude that SirolimusEFR as a standalone product candidate satisfies the requirements for the Section 505 (b) (2) regulatory approval pathway, or if the requirements for SirolimusEFR under Section 505 (b) (2) are not as we expect, the approval pathway for SirolimusEFR may take significantly longer, cost significantly more and entail significantly greater complications and risks than anticipated, and in either case may not be successful. We may seek FDA approvals for our SirolimusEFR as both a standalone drug product candidate and as part of our Virtue SAB product candidate as well as, potentially, other device / drug combination product candidates for other clinical applications. For the standalone drug product candidate development program, we may seek approval for SirolimusEFR to treat conditions such as acute or chronic joint inflammation (osteoarthritis), through the Section 505 (b) (2) regulatory pathway. The Drug Price Competition and Patent Term Restoration Act of 1984, also known as the Hatch- Waxman Amendments, added Section 505 (b) (2) to the FDCA. Section 505 (b) (2) permits the filing of an NDA where at least some of the information required for approval comes from trials that were not conducted by or for the applicant and for which the applicant has not obtained a right of reference. Section 505 (b) (2), would allow an NDA we submit to the FDA to rely in part on data in the public domain or the FDA’ s prior conclusions regarding the safety and effectiveness of approved drugs, which could expedite the development program for our product candidates by potentially decreasing the amount of clinical data that we would need to generate in order to obtain FDA approval. If the FDA does not allow us to pursue the Section 505 (b) (2) regulatory pathway as we anticipate, we may need to conduct additional clinical studies, provide additional data and information and meet additional standards to obtain regulatory approval, if ever. If this were to occur, the time and financial resources required to obtain FDA approval for SirolimusEFR, and complications and risks associated with the development of certain of our product candidates, would likely substantially increase. Moreover, inability to pursue the Section 505 (b) (2) regulatory pathway could result in competitive products reaching the market before our product candidates, which could impact our competitive position and prospects. Even if we are allowed to pursue the Section 505 (b) (2) regulatory pathway, we cannot assure you that our product candidates will receive the requisite approvals for commercialization, or that a competitor would not obtain approval first along with subsequent market exclusivity, thereby delaying potential approval of our product. In addition, the pharmaceutical industry is highly competitive, and Section 505 (b) (2) NDAs are subject to special requirements designed to protect the patent rights of sponsors of previously approved drugs that are referenced in a Section 505 (b) (2) NDA. These requirements may give rise to patent litigation and mandatory delays in approval of our NDAs for 107up-up to 30 months or longer depending on the outcome of any litigation. It is not uncommon for a manufacturer of an approved product to file a citizen petition with the FDA seeking to delay approval of, or impose additional approval requirements for, pending competing products. If successful, such petitions can significantly delay, or even prevent, the approval of the new product. However, even if the FDA ultimately denies such a petition, the FDA may substantially delay approval while it considers and responds to the petition. In addition, even if we are able to utilize the Section 505 (b) (2) regulatory pathway, there is no guarantee this would ultimately lead to expedited product development or earlier approval. Moreover, even if our product candidates are approved under Section 505 (b) (2), the approval may be subject to limitations on the indicated uses for which the products may be marketed or to other conditions of approval or may contain requirements for costly post- marketing testing and surveillance to monitor the safety or efficacy of the products. The EU regulates medical devices and medicinal products separately, through different legislative instruments, and the applicable requirements will vary depending on the type of drug- device combination product. For instance, drug- delivery products intended to administer a medicinal product where the medicinal product and the device form a single integral product are regulated as medicinal products in the EU. In such a case, the marketing authorization application must include — where available — the results of the assessment of the conformity of the device part with the EU Medical Devices Regulation contained in the manufacturer’ s EU declaration of conformity of the device or the relevant certificate issued by a notified body. If the marketing authorization application does not include the results of the conformity assessment and where for the conformity assessment of the device, if used separately, the involvement of a notified body is required, the EMA or the EU member state competent authority must require the applicant to provide a notified body opinion on the conformity of the device. By contrast, in case of drug- delivery products intended to administer a medicinal product where the device and the medicinal product do not form a single integral product (but are, e. g., co- packaged), the medicinal product is regulated in accordance with the rules for medicinal products described above while the device part is regulated as a medical device and will have to comply with all the requirements set forth by the EU Medical Devices Regulation. Should SirolimusEFR be considered a drug product, it would be subject to various other EMA regulatory requirements and timelines. Changes-100Changes in methods of product

candidate manufacturing or formulation may result in additional costs or delay. As product candidates proceed through preclinical studies to late-stage clinical studies towards potential approval and commercialization, it is common that various aspects of the development program, such as manufacturing methods and formulation, are altered along the way in an effort to optimize processes and results. Such changes carry the risk that they will not achieve these intended objectives. Any of these changes could cause our product candidates to perform differently and affect the timing, continuation or results of planned clinical studies or other future clinical studies conducted with the altered materials. Such changes may also require additional testing and / or FDA or foreign regulatory authority approval or notified body certification. This could delay completion of clinical studies, require the conduct of bridging clinical studies or the repetition of one or more clinical studies, increase clinical study costs, delay approval of our product candidates and jeopardize our ability to commence sales and generate revenue. Our relationships with physicians, patients and payors in the United States and elsewhere may be subject, directly or indirectly, to applicable anti-kickback, fraud and abuse, false claims, transparency, and other healthcare laws and regulations. Our current and future operations with respect to the commercialization of our products are subject to various U. S. federal, state and foreign healthcare laws and regulations. These laws will affect our operations, sales and marketing activities, support and education programs and our relationships with physicians and other customers and third-party payors. The laws that may affect our ability to operate include:

- the federal Anti-Kickback Statute, which prohibits, among other things, persons or entities from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce or reward, or in return for, either the referral of an individual for, or the purchase, order or recommendation of, any good or service, for which payment may be made under a federal healthcare program such as Medicare and Medicaid. A person or entity does not need to have actual knowledge of the federal Anti-Kickback Statute or specific intent to ~~violate~~ **violate** it to have committed a violation;
- the federal False Claims Act, which imposes criminal and civil penalties, including through civil whistleblower or qui tam actions, against individuals or entities for knowingly presenting, or causing to be presented, to the federal government, claims for payment that are false or fraudulent or making a false statement to avoid, decrease or conceal an obligation to pay money to the federal government; in addition, the government may assert that a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the federal False Claims Act;
- HIPAA, which imposes criminal and civil liability for executing a scheme to defraud any healthcare benefit program or making false statements relating to healthcare matters. Similar to the federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it to have committed a violation;
- the federal Physician Payment Sunshine Act, which requires manufacturers of drugs, 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 annually to the government information related to payments or other "transfers of value" made to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors), certain non-physician practitioners (physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, anesthesiology assistants and certified nurse midwives) and teaching hospitals, and requires applicable manufacturers and group purchasing organizations to report annually to the government ownership and investment interests held by the physicians described above and their immediate family members and payments or other "transfers of value" to such physician owners (manufacturers are required to submit reports to the government by the 90th day of each calendar year); and
- analogous state and foreign laws and regulations, such as state anti-kickback and false claims laws, which may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers; state laws that require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government; and state and foreign laws that require drug and medical device manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures and pricing information.

Ensuring **101Ensuring** that our internal operations and business arrangements with third parties comply with applicable healthcare laws and regulations could involve substantial costs. Certain physicians who may be in a position to influence the ordering or use of our products in procedures they perform have ownership interests in us and / or receive compensation for consulting and advisory services provided to us. It is possible that governmental authorities will conclude that our business practices do not comply with applicable fraud and abuse or other healthcare laws and regulations or guidance. If our operations are found to be in violation of such laws or any other governmental laws and regulations that may apply to us, we may be subject to significant penalties, including civil, criminal and administrative penalties, damages, fines, exclusion from U. S. government funded healthcare programs, such as Medicare and Medicaid, disgorgement, individual imprisonment, contractual damages, reputational harm, diminished profits and the curtailment or restructuring of our operations. Healthcare cost-containment pressures and legislative or administrative reforms resulting in restrictive coverage and reimbursement practices of third-party payors could decrease the demand for our products, the prices that customers are willing to pay for those products and the number of procedures performed using our devices, which could have an adverse effect on our business. Our products are, and our future products are expected to be, purchased principally by hospitals and ambulatory medical facilities, which typically bill various third-party payors, including governmental programs, such as Medicare and Medicaid, private insurance plans and managed care plans, for the healthcare services provided to their patients. Because there is often no separate reimbursement for products used in surgical procedures, the additional cost associated with the use of some of our products can impact the profit margin of the hospital or surgery center where the procedure is performed. **109Some** **Some** of our target customers may be unwilling to adopt our products in light of the additional associated cost. Further, any decline in the amount payors are willing to reimburse our customers for the procedures using our products may make it difficult for customers to adopt our products and could create additional pricing pressure for us. We may be unable to sell our products on a profitable basis if third-party payors deny coverage or reduce their current levels of reimbursement. The ability of our customers to obtain appropriate coverage and reimbursement for our products or procedures

using our products from government and private third- party payors is critical to our success. Reimbursement varies from country to country, state to state and plan to plan, and can significantly influence the acceptance of new products and services. Certain private third- party payors may view some procedures using our products as experimental and may not provide coverage. Third- party payors may not cover and reimburse the procedures using our products in whole or in part in the future, or payment rates may not be adequate, or both. For products administered under the supervision of a physician, obtaining coverage and adequate reimbursement may be particularly difficult because of the higher prices often associated with such drugs. Additionally, separate reimbursement for the product itself or the treatment or procedure in which the product is used may not be available, which may impact physician utilization. Further, the adequacy of coverage and reimbursement by third- party payors is also related to billing codes to describe procedures performed using our products. Hospitals and physicians use several billing codes to bill for such procedures. Third- party payors may not continue to recognize the billing codes available for use by our customers. Reimbursement rates are unpredictable, and we cannot project how our business may be affected by future legislative and regulatory developments. Future legislation or regulation, or changing payment methodologies, may have a material adverse effect on our business, and reimbursement may not be adequate for all customers. From time to time, typically on an annual basis, payment amounts are updated and revised by third- party payors. Because the cost of our products generally is recovered by the healthcare provider as part of the payment for performing a procedure and not separately reimbursed, these updates could directly impact the demand for our products. We cannot predict how pending and future healthcare legislation will impact our business and any changes in coverage and reimbursement that further restricts coverage of our products or lowers reimbursement for procedures using our devices could materially affect our business. After we develop new products or seek to market our products for new indications, once approved (or certified), we may find limited demand for the product unless government and private third- party payors provide adequate coverage and reimbursement. Even with reimbursement approval and coverage by government and private payors, providers submitting reimbursement claims may face delays in payment if there is confusion by providers regarding the appropriate codes to use in seeking reimbursement. Such delays may create an unfavorable impression within the marketplace regarding the level of reimbursement or coverage available for our products. Demand for our products or new approved (or certified) indications for our existing products may fluctuate over time if federal, state and foreign legislative or administrative policy changes affect coverage or reimbursement levels for our products, or the services related to our products. In the United States, there have been, and we expect there will continue to be, legislative and regulatory proposals to change the healthcare system, some of which could have a material adverse effect on our business. **Actual 102Actual** or perceived failures to comply with U. S. and foreign privacy and data protection laws, regulations and standards may adversely affect our business, operations and financial performance. We are subject to or affected by numerous federal, state and foreign laws and regulations, as well as regulatory guidance, governing the collection, use, disclosure, retention and security of personal data, such as information that we collect about patients and healthcare providers in connection with clinical studies in the United States and abroad. The global data protection landscape is rapidly evolving, and implementation standards and enforcement practices are likely to remain uncertain for the foreseeable future. This evolution may create uncertainty in our business, affect our or our collaborators', service providers' and contractors' ability to operate in certain jurisdictions or to collect, store, transfer use and share personal information, necessitate the acceptance of more onerous obligations in our contracts, result in liability or impose additional costs on us. The cost of compliance with these laws, regulations and standards is high and is likely to increase in the future. Any failure or perceived failure by us or our collaborators, service providers and contractors to comply with federal, state or foreign laws or regulation, our internal policies and procedures or our contracts governing ~~110processing~~ **processing** of personal information could result in negative publicity, diversion of management time and effort and proceedings against us by governmental entities or others. In many jurisdictions, enforcement actions and consequences for noncompliance are rising. In the United States, HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations, imposes privacy, security and breach notification obligations on certain healthcare providers, health plans, and healthcare clearinghouses, known as covered entities, as well as their business associates that perform certain services that involve creating, receiving, maintaining or transmitting individually identifiable health information for or on behalf of such covered entities, and their covered subcontractors. HIPAA establishes privacy and security standards that limit the use and disclosure of individually identifiable health information and protected health information (" PHI ") and requires the implementation of administrative, physical and technological safeguards to protect the privacy of PHI and ensure the confidentiality, integrity and availability of electronic PHI. Most healthcare providers, including research institutions from which we obtain patient health information, are subject to privacy and security regulations promulgated under HIPAA. Covered entities are those that electronically transmit health information in connection with transactions susceptible to standards set by the U. S. Department of Health and Human Services and may concern billing and payment for services or insurance coverage. Business associates may perform or assist in performance of a function or activity involving the use or disclosure of individually identifiable health information, or other activities that may involve disclosure of individually identifiable health information by the covered entity. While we do not believe that we are currently acting as a covered entity or business associate under HIPAA and, thus, are not directly regulated under HIPAA, federal and state regulators may disagree and bring an enforcement action under HIPAA against us. **Even when HIPAA does not apply, according to the Federal Trade Commission (the " FTC "), failing to take appropriate steps to keep consumers' personal information secure constitutes unfair acts or practices in or affecting commerce in violation of Section 5 (a) of the Federal Trade Commission Act. The FTC expects a company' s data security measures to be reasonable and appropriate in light of the sensitivity and volume of consumer information it holds, the size and complexity of its business, and the cost of available tools to improve security and reduce vulnerabilities. Individually identifiable health information is considered sensitive data that merits stronger safeguards. In 2024, the FTC finalized updates to the Health Breach Notification Rule that, among other things, clarified its applicability to health apps and**

other similar technologies and expanded the information the breach notification requirements for entities subject to the rule, which may add additional complexity to compliance obligations going forward. In addition, certain state laws govern the privacy and security of health-related and other personal information, many of which differ from each other in significant ways and often are not preempted by HIPAA, thus complicating compliance efforts. By way of example, the California Consumer Privacy Act (the “CCPA”), which went into effect on January 1, 2020, gives California residents expanded rights to access and delete their personal information, opt out of certain personal information sharing, and receive detailed information about how their personal information is used. The CCPA provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation. The CCPA may increase our compliance costs and potential liability. Further, the California Privacy Rights Act (the “CPRA”) passed in California in 2020, significantly amending the CCPA and imposing additional data protection obligations on covered businesses, including additional consumer rights processes, limitations on data uses, new audit requirements for higher risk data and opt outs for certain uses of sensitive data. The CPRA also creates a new California data protection agency authorized to issue substantive regulations and could result in increased privacy and information security enforcement. The majority of the provisions went into effect on January 1, 2023, and additional compliance investment and potential business process changes may be required. Similar laws have taken effect in Virginia, Colorado, Connecticut, **Montana, Oregon, Texas,** and Utah. **Additionally, Delaware, Indiana, Iowa, Kentucky, Maryland, Minnesota, Nebraska, New Hampshire, New Jersey, Rhode Island** and ~~been enacted or proposed in other states~~ **Tennessee have adopted privacy laws, which take effect from January 1, 2025 through 2026**, reflecting a trend toward more stringent privacy legislation in the United States. **In addition, some of these laws (including the CPRA), along with other standalone health privacy laws, subject health-related information to additional safeguards and disclosures and some specifically regulate consumer health data. For example, Washington’s My Health My Data Act, effective as of March 31, 2024, imposes similar requirements specific to consumer health data. Similar laws have also passed in Connecticut and Nevada, which came into effect in 2023 and 2024. Further, Numerous numerous** data privacy related legislative proposals remain pending at the federal level as well. The enactment of such laws could have potentially conflicting requirements that would make compliance challenging. In the event that we are subject to or affected by HIPAA, the CCPA, the CPRA or other domestic privacy and data protection laws, any liability from failure to comply with the requirements of these laws could adversely affect our financial condition. Our operations abroad may also be subject to increased scrutiny or attention from data protection authorities. For example, the EU and the UK General Data Protection Regulations (respectively, the “EU GDPR” and the “UK GDPR,” together, the “GDPR”) each impose strict requirements for processing the personal data of individuals within the EEA, and / or the UK and to processing that occurs in the context of an establishment in, respectively, the EEA and / or UK. The EU GDPR, which went into effect in May 2018 and introduces strict requirements for processing the personal information of EU subjects, including clinical study data. The GDPR has and will continue to increase compliance burdens on us, including by mandating potentially burdensome documentation requirements and granting certain rights to individuals to control how we collect, use, disclose, retain and process information about them. The processing of sensitive personal data, such as physical health condition, may impose heightened compliance burdens under the GDPR and is a topic of active interest among foreign regulators. Companies that must comply with the GDPR face increased compliance obligations and risk, including more robust regulatory enforcement of data protection requirements and potential fines for noncompliance of up to € 20 million under the EU GDPR and £ 17.5 million under the UK GDPR or 4 % of the annual global revenues of the noncompliant company, whichever is greater. In addition to these fines, supervisory authorities have extensive audit and inspection rights, and powers ~~to~~ **to** order temporary or permanent bans on all or some processing of personal data carried out by noncompliant actors; the GDPR also confers a private right of action on data subjects and consumer associations to lodge complaints, seek judicial remedies and obtain compensation for damages resulting from violations of the GDPR. The existence of parallel regimes under the EU GDPR and UK GDPR, and divergence in respect of implementing or supplementary laws across the EEA and UK in certain areas, means that we could be subject to potentially overlapping or divergent enforcement actions for certain actual or perceived violations. Among other requirements, the GDPR regulates transfers of personal data subject to the GDPR to third countries that have not been found to provide adequate protection to such personal data, including the United States; in July 2020, the Court of Justice of the EU, (the “CJEU”), limited how organizations could lawfully transfer personal data from the EEA and UK to the United States by invalidating the Privacy Shield for purposes of international transfers and imposing further restrictions on the use of standard contractual clauses (“SCCs”). The European Commission issued revised SCCs on June 4, 2021 to account for the decision of the CJEU and recommendations made by the European Data Protection Board. The revised SCCs must be used for relevant new data transfers from September 27, 2021; existing standard contractual clauses arrangements had to be migrated to the revised clauses by December 27, 2022. The revised SCCs cannot be used for transfers to non-EEA entities whose processing is already subject to the GDPR; however, no equivalent standard data protection clauses have been issued and approved by the European Commission and, therefore, current market practice is largely to use the SCCs notwithstanding this issue. The new SCCs apply only to the transfer of personal data outside of the EEA and not the UK. The UK’s Information Commissioner’s Office has published new data transfer standard contracts for transfers from the UK under the UK GDPR. This new documentation became mandatory for relevant data transfers from September 21, 2022; existing standard contractual clauses arrangements must be migrated to the new documentation by March 21, 2024. The relationship between the UK and the EU in relation to certain aspects of data protection law remains unclear, and the European Commission has adopted an adequacy decision in favor of the UK, enabling data transfers from EU member states to the UK without additional safeguards. However, the UK adequacy decision will automatically expire in June 2025 unless the European Commission re-assesses and renews or extends that decision. In September 2021, the UK government launched a consultation on its proposals for wide-ranging reform of UK data protection laws following Brexit and the response to this consultation was published in June 2022. There is a risk that any

material changes which are made to the UK data protection regime could result in the European Commission reviewing the UK adequacy decision and the UK losing its adequacy decision if the European Commission deems the UK no longer provides adequate protection of personal data. As supervisory authorities issue further guidance on personal data export mechanisms, including the aforementioned ‘ supplementary measures,’ and / or start taking enforcement action, we could suffer additional costs, complaints and / or regulatory investigations or fines, and / or if we are otherwise unable to transfer personal data between and among countries and regions in which we operate, it could affect the manner in which we provide our services, the geographical location or segregation of our relevant systems and operations. The GDPR may impose additional responsibility and liability in relation to personal data that we process and we may be required to put in place ~~additional~~ **104additional** mechanisms, at significant cost and diversion of management attention, to ensure compliance with the new data protection rules. This may be onerous and may adversely affect our business, operations and financial performance. The EU has also proposed a Regulation on Privacy and Electronic Communications, or ePrivacy Regulation, which, if adopted, would impose new obligations on the use of personal data in the context of electronic communications, particularly with respect to online tracking technologies and direct marketing. Additionally, the EU adopted the EU Clinical Trials Regulation, which came into effect on January 31, 2022. This regulation imposes new obligations on the use of data generated from clinical trials and enables European patients to have the opportunity to access information about clinical trials. Failure or perceived failure to comply with the GDPR, the EU Clinical Trials Regulations or other countries’ privacy or data security- related laws, rules or regulations could result in significant regulatory penalties and fines, affect our compliance with contracts entered into with our partners, collaborators and other third- party payors, and could have an adverse effect on our reputation, business and financial condition. Environmental and health safety laws may result in liabilities, expenses and restrictions on our operations. Federal, state, local and foreign laws regarding environmental protection, hazardous substances and human health and safety may adversely affect our business. Using hazardous substances in our operations exposes us to the risk of accidental ~~injury~~ **injury**, contamination or other liability from the use, storage, importation, handling or disposal of hazardous materials. If our or our suppliers’ operations result in the contamination of the environment or expose individuals to hazardous substances, we could be liable for damages and fines, and any liability could significantly exceed our insurance coverage and have a material adverse effect on our business, financial condition, results of operations and prospects. Future changes to environmental and health and safety laws could cause us to incur additional expenses or restrict our operations. We are subject to economic sanctions, export control, anti- bribery, anti- corruption and anti- money laundering laws, including the U. S. Foreign Corrupt Practices Act, and violations of these laws could result in substantial penalties and prosecution. We are exposed to trade and economic sanctions and other restrictions imposed by the United States and other governments and organizations. The U. S. Departments of Justice, Commerce, State and Treasury and other federal agencies and authorities have a broad range of civil and criminal penalties they may seek to impose against corporations and individuals for violations of economic sanctions laws, export control laws, and other federal statutes and regulations, including sanctions laws administered by the Office of Foreign Assets Control and other U. S. governmental agencies. Governmental regulation of the import or export of our products, or our failure to obtain any required import or export authorization for our products under the laws of the United States or other countries, could harm our ability to engage in international trade and adversely affect our revenue. Moreover, any new export or import restrictions, new legislation or shifting approaches in the enforcement or scope of existing regulations, or in the countries, persons or technologies targeted by such regulations, could result in decreased use of our products by, or in our decreased ability to export our products to, existing or potential customers or to conduct business with foreign parties. The FCPA, the UK Bribery Act of 2010 (the “ Bribery Act ”), and similar laws around the world generally prohibit U. S. companies and their employees and intermediaries from offering, promising, authorizing or making improper payments to foreign government officials for the purpose of obtaining or retaining business or gaining any advantage. We face significant risks if we, which includes our third party business partners and intermediaries, fail to comply with the FCPA or other anti- corruption and anti- bribery laws. In addition, the Bribery Act prohibits both domestic and international bribery, as well as bribery across both private and public sectors. An organization that “ fails to prevent bribery ” by anyone associated with the organization can be charged under the Bribery Act unless the organization can establish the defense of having implemented “ adequate procedures ” to prevent bribery. We have implemented policies, procedures, and internal controls to help ensure compliance with these laws, though such compliance measures ultimately may not be effective in preventing our employees, contractors, business partners, intermediaries or agents from violating or circumventing our policies and / or the law. Under these laws and regulations, as well as other anti- corruption laws, anti- money laundering laws, export control laws, customs laws, sanctions laws and other laws governing our operations, various government agencies may require export licenses, may seek to impose modifications to business practices, including cessation of business activities in sanctioned countries or with sanctioned persons or entities and modifications to compliance programs, which may increase compliance costs. An actual or alleged violation of these laws or regulations could result in internal, independent, or government investigations and severe criminal or civil sanctions, fines or penalties, as well as legal expenses, and could negatively affect our reputation, business, financial condition and results of operations. ~~Risks~~ **105Risks** Related to Our Intellectual Property We may not effectively be able to protect or enforce our intellectual property, which could have a material adverse effect on our business, financial condition, results of operations and prospects. The medical innovation market in which we participate is largely technology driven. Physicians historically have moved quickly to new products and new technologies. As a result, intellectual property rights, particularly patents and trade secrets, play a significant role in product development and differentiation. Patents enable us to stop unauthorized third parties from making, using, selling, offering for sale or importing products that are covered under valid and enforceable patents. Trade secrets enable us to protect information that we do not wish to divulge to the public. Trademarks also play a role in product differentiation. If we are unable to adequately protect our intellectual property and proprietary technology, competitors may be able to use our technologies or the goodwill we have acquired in the marketplace and erode or negate ~~any~~ **113any** competitive advantage we may have, which

could ultimately harm our business and ability to achieve profitability. In order to protect our intellectual property, we may be involved in intellectual property litigation, which is inherently complex, expensive and unpredictable. We hold patents and pending patent applications. Our patents cover inventions, which include features of our technologies or products. However, our competitors may seek to produce products that include our technologies that are not subject to patent protection, which may negatively affect our business. The patents we own may not be sufficiently broad to protect our technology or to give us any competitive advantage. We are unable to provide any assurances that any of our patents, or patents to which we have rights through licensing agreements, have, or that any of our pending patent applications that mature into issued patents will include, claims with a scope sufficient to protect our technology or products, any additional features we develop with respect to our technology or products, or any new technology or products that we seek to develop in the future. Our patents could be challenged as invalid or unenforceable, or circumvented by competitors. Medical device patents involve complex legal, scientific and factual questions, and therefore, the issuance, scope, validity and enforceability of any patent claims that we may obtain cannot be predicted with certainty. Any patents for which we have applied may not be granted. Third parties own numerous U. S. and foreign issued patents and pending patent applications in the fields in which we have developed our technology or manufacture and sell our products. Third party- owned patents, as well as other prior art, can be an obstacle to our ability to obtain patent protection for our technology. Because patent applications in the United States and most other countries are confidential for a period of time after filing, we cannot be certain that we were the first to file any patent application related to our products. Furthermore, for United States applications in which all claims are entitled to a priority date before March 16, 2013 (the date when United States patent law changed from granting rights to the first- to- invent to the first- to- file), an interference proceeding can be provoked by a third- party or instituted by the USPTO, to determine who was the first to invent any of the subject matter covered by the patent claims of our applications. We cannot be certain that we are the first to invent the inventions covered by pending patent applications entitled to a priority date before March 16, 2013, and, if we are not, we may be subject to priority disputes. We may be required to disclaim part or all of the term of certain patents or all of the term of certain patent applications. There may be prior art of which we are not aware that may affect the validity or enforceability of a patent claim, and we may be subject to a third- party pre- issuance submission of prior art to the USPTO. There also may be prior art of which we are aware, but which we do not believe affects the validity or enforceability of a claim, which may, nonetheless, ultimately be found to affect the validity or enforceability of a claim through a post- issuance proceeding or in litigation. No assurance can be given that if challenged, our patents would be declared by a court to be valid or enforceable, or that even if found valid and enforceable, a competitor' s technology or product would be found by a court to infringe our patents. We may analyze patents or patent applications of our competitors that we believe are relevant to our activities and consider that we are free to operate in relation to our products, but our competitors may obtain issued claims, including in patents we considered to be unrelated, which block our efforts or may potentially result in our technology or products or our activities infringing such claims. The possibility exists that others will develop technology or products which have the same effect as our technology or products on an independent basis which do not infringe our patents or other intellectual property rights or will design around the claims of patents that we have had issued that cover our technology or products.

Challenges

106 Challenges raised in patent infringement litigation may cause determinations that our patents or licensed patents are invalid, unenforceable, or otherwise subject to limitations. In such events, third parties may use the discoveries or technologies covered by our patents or licensed patents without paying damages, licensing fees or royalties to us, which could significantly diminish the value of our patents or licensed patents. We could also be adversely affected if our licensors terminate licenses granted to us to use their patented technology. Thus, any patents that we may own, or to which we have rights through licensing agreements, may not provide sufficient protection against competitors. Furthermore, an adverse decision in a judicial or administrative proceeding can result in a third party receiving the patent right sought by us, which, in turn, could affect our ability to commercialize our technology or products.

14 **We** **We** hold trademark applications or registrations relating to our products. Our trademarks may also be opposed, cancelled, or challenged as invalid or not distinctive by competitors or third parties. Registration of a trademark is not conclusive as to its validity or the right to use such trademark. Third parties own numerous U. S. and foreign trademark registrations and trademark applications in the fields in which we manufacture and sell our products. We may be found to infringe a third party' s trademark registrations or common law trademark rights. We may be unable to enforce our intellectual property rights throughout the world. Filing, prosecuting and defending patents covering our products in all countries throughout the world would be prohibitively expensive, and the laws of some foreign countries do not protect our intellectual property rights to the same extent as the laws of the United States. Many companies have encountered significant problems in protecting and defending intellectual property rights in certain foreign jurisdictions. This could make it difficult for us to stop infringement of our foreign patents, if obtained, or the misappropriation of our other intellectual property rights. For example, some foreign countries have compulsory licensing laws under which a patent owner must grant licenses to third parties. In addition, some countries limit the enforceability of patents against third parties, including government agencies or government contractors. In these countries, patents may provide limited or no benefit. Patent protection must ultimately be sought on a country- by- country basis, which is an expensive and time- consuming process with uncertain outcomes. Hence, we may choose not to seek patent protection in certain countries, and we will not have the benefit of patent protection in those countries. Our competitors or other third parties might conduct research and development activities in countries where we do not have patent rights and then use the information learned from such activities to develop competitive products for sale in our major commercial markets. Additionally, in the event that our trademarks are successfully challenged in the United States and in jurisdictions outside of the United States, we could be forced to rebrand our products, which could result in loss of brand recognition and could require us to devote resources to advertising and marketing new brands. Our competitors may infringe our trademarks, and we may not have adequate resources to enforce our trademarks. The legal systems of certain countries, particularly certain developing countries, do not favor the enforcement of patents, trade secrets and other intellectual property

protection, which could make it difficult for us to stop the infringement of our patents or marketing of competing products against by third parties in violation of our intellectual property rights generally. The initiation of proceedings by third parties to challenge the scope, validity, or enforceability of our patent rights in foreign jurisdictions could result in substantial cost and divert our efforts and attention from other aspects of our business. Proceedings to enforce our patent rights in the United States and in jurisdictions outside of the United States 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. Further, we may not always detect infringement of our intellectual property rights, and defending our intellectual property rights, even if successfully detected, prosecuted, enjoined, or remedied, could result in the expenditure of significant financial and managerial resources. 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 and own or license. If we cannot protect and control unpatented trade secrets, know-how and other proprietary technology, we may suffer competitive harm. Besides patented intellectual property, we also rely on trade secrets, unpatented proprietary technology, confidential information and know-how to protect our technology and maintain our competitive position, particularly when patent protection is not appropriate or obtainable. These include, but may not be limited to, with respect to Virtue SAB and other product candidates our **Focal Interventional** Therapies group intends to develop, the chemical and physical aspects of the polymers and excipients in our formulation and the process by which our **formulation-107 formulation** is mixed, purified, concentrated, diluted, stored, filled into vials, freeze dried, sterilized, inspected, labeled and packaged, as well as physical and engineering aspects of our catheter, detailed specifications of our porous balloon, and physical and engineering aspects of our dose unit, recon unit, **115 and 115 and** pre-filled syringe. With respect to **BackBeat CNT-AVIM therapy**, this may include, but may not be limited to, certain aspects of our proprietary algorithms. However, trade secrets and unpatented proprietary technology are difficult to protect. To protect proprietary technology and processes, we rely in part on confidentiality and intellectual property assignment agreements with our employees, consultants and others. These agreements may not prevent disclosure of confidential information nor result in the effective assignment to us of intellectual property and may not provide an adequate remedy if unauthorized disclosure of confidential information or other breaches of the agreements occur. Others may independently discover or reverse engineer our trade secrets and proprietary information licensed to us or that we own in a manner that could prevent legal recourse by us. Enforcing a claim that a party illegally obtained and is using trade secrets licensed to us or that we own is difficult, expensive and time consuming, and the outcome is unpredictable. In the United States, trade secret violations are both a matter of federal law and state law, and the criteria for protection of trade secrets under state law can vary among different jurisdictions. Courts outside the United States may be less willing to protect trade secrets or unpatented proprietary technology. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights, and failure to obtain or maintain trade secret protection could adversely affect our competitive business position. Third parties may assert that our employees or consultants have wrongfully used or disclosed confidential information or misappropriated trade secrets. We employ individuals and retain the services of consultants who previously worked with other companies, including our competitors. Although we try to ensure that our employees and consultants do not use the proprietary information or know-how or intellectual property of others in their work for us, we may be subject to claims that we or our employees, consultants or independent contractors have inadvertently or otherwise used or disclosed intellectual property, including trade secrets or other proprietary information, of a former employer or other third party. Litigation may be necessary to defend against these claims. If we fail in defending any such claims or settling those claims, in addition to paying monetary damages or a settlement payment, we may be subject to an injunction and lose valuable intellectual property rights or personnel. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees. We may be involved in litigation or other proceedings relating to patent, trade secret and other intellectual property rights, which could cause substantial costs and liability. There may be patents and patent applications owned by our competitors, which, if determined to be valid and enforceable, may be infringed by us. We do not always conduct independent reviews of patents issued to third parties. Holders of certain patents may contact us and request we enter into license agreements for the underlying technology and pay them royalties, which could be substantial. If we need to obtain a license to use any intellectual property owned by a third party, we may be unable to obtain such license on favorable terms or at all or we may be required to make substantial royalty or other payments to use this intellectual property. Litigation concerning patents, trade secret and proprietary rights is time-consuming, expensive and unpredictable, and could divert the attention of our management from our business operations. Patent applications in the United States and elsewhere can be pending for many years before issuance, or unintentionally abandoned patents or applications can be revived, so there may be applications of others now pending or recently revived patents of which we are unaware. Patent applications in the United States, Europe and elsewhere are published approximately 18 months after the earliest filing for which priority is claimed, with such earliest filing date being commonly referred to as the priority date. These applications that later result in issued patents, or the revival of previously abandoned patents, may prevent, limit or otherwise interfere with our ability to develop, manufacture, and market our products. Third parties may assert claims that we are employing their proprietary technology or intellectual property rights without authorization, including claims from competitors or from non-practicing entities that have no relevant product revenue and against whom our own patent portfolio may have no deterrent effect. As we continue to commercialize our technology and products in their current or updated forms, launch new technologies and products and enter new markets, we expect competitors may claim that one or more of our technology or products infringe their intellectual property rights as a strategy to impede our commercialization and entry into new markets. The large number of patent issuances, the rapid rate of new patent application filings, the complexities of the technologies involved, and the uncertainty of litigation may increase the risk to our business and

result in business resources ~~116~~ and ~~and~~ management's attention being diverted to patent litigation. An adverse ruling in a patent litigation could subject us to significant liability, require us to seek licenses, and restrict our ability to commercialize our technology or manufacture and sell our products. Some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. ~~Additionally~~ ~~108~~ ~~Additionally~~, we may become a party to adversarial proceedings regarding our or third-party patent portfolios. Such proceedings could include supplemental examination or contested post-grant proceedings such as post-grant review, reexamination, inter partes review, interference or derivation proceedings before the USPTO, and challenges in U. S. District Courts. Patents may be subjected to opposition, post-grant review or comparable proceedings lodged in various foreign, both national and regional, patent offices. The legal threshold for initiating litigation or contested proceedings may be low, so that even lawsuits or proceedings with a low probability of success might be initiated. Litigation and contested proceedings can also be expensive and time-consuming, and our adversaries in these proceedings may have the ability to dedicate substantially greater resources to prosecuting these legal actions than we can. We may also occasionally use these proceedings to challenge the patent rights of others. We cannot be certain that any particular challenge will be successful in limiting or eliminating the challenged patent rights of the third party. An unfavorable outcome in abovementioned lawsuits and proceedings could require us to pay substantial damages, including treble damages, to lose our patent protection, to cease using the technology that is subject matter of the lawsuits or proceedings, and / or to license rights, potentially at a substantial cost, from prevailing third parties. There is no guarantee that any prevailing party would offer us a license or that we could acquire any license on commercially acceptable terms. Even if we can obtain rights to a third-party's intellectual property, those rights may be non-exclusive, and therefore our competitors may obtain access to the same intellectual property. Ultimately, we may have to cease some of our business operations because of infringement claims, which could severely harm our business. To the extent we are found to be infringing on the intellectual property rights of others, we may not develop or otherwise obtain alternative technology. If we need to redesign our products to avoid third-party intellectual property rights, we may suffer significant regulatory delays associated with conducting additional studies or submitting technical, manufacturing or other information related to any redesigned product and, ultimately, in obtaining regulatory approval. Further, any such redesigns may result in less effective or less commercially desirable products or both. Even if we were ultimately to prevail, any of these events could require us to divert substantial financial and management resources that we would otherwise be able to devote to our business. Intellectual property litigation, regardless of its outcome, may cause negative publicity, adversely impact prospective customers, cause product shipment delays, or prohibit us from manufacturing, importing, marketing or otherwise commercializing our products and technology. In addition, if the breadth or strength of protection provided by the patents and patent applications we own or in-license is threatened, it could dissuade companies from collaborating with us to license, develop or commercialize current or future technology or products. In addition, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. There could also be public announcements of the results of hearings, motions or other interim proceedings or developments, and if securities analysts or investors view these announcements in a negative light, the price of our common stock could be adversely affected. Lastly, we may need to indemnify our customers, licensees, commercialization partners, and distributors with respect to infringement by our technology or products of the intellectual property rights of third parties. Third parties may assert infringement claims against our customers, licensees, commercialization partners, or distributors based on our technology or products. These claims may require us to initiate or defend protracted and costly litigation on behalf of our customers, licensees, commercialization partners, or distributors, regardless of the merits of these claims. If any of these claims succeed or settle, we may be forced to pay damages or settlement payments on behalf of our customers, licensees, commercialization partners, or distributors or may be required to obtain licenses for the technology or products they use. If we cannot obtain all necessary licenses on commercially reasonable terms, our customers, licensees, commercialization partners, or distributors may be forced to stop using or selling our products or technology. ~~117~~ ~~Patents~~ ~~---~~ ~~Patents~~ covering our technology or products could be found invalid or unenforceable if challenged in court or before administrative bodies in the United States or abroad. The issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability, and our patents may be challenged in the courts or patent offices in the United States and abroad. We may be subject to a third-party pre-issuance submission of prior art to the USPTO, or become involved in opposition, derivation, revocation, reexamination, post-grant and inter partes review, or interference proceedings or other similar proceedings challenging our patent rights. An adverse determination in any such submission, proceeding or litigation could reduce the scope of, or invalidate or render unenforceable, our patent rights, allow third parties to commercialize our technology or products and compete directly with us, without payment to us, or result in our inability to manufacture or commercialize products without infringing third-party patent rights if patent rights are awarded to third parties instead of to us. Moreover, we may have to participate in interference proceedings declared by the USPTO to determine priority of invention or in post-grant challenge proceedings, such as oppositions in a foreign patent office, that challenge our priority of invention or other features of patentability with respect to our ~~patents~~ ~~109~~ ~~patents~~ and patent applications. Such challenges may result in loss of patent rights, in loss of exclusivity or in patent claims being narrowed, invalidated or held unenforceable, which could limit our ability to stop others from using or commercializing similar or identical technology and products, or limit the duration of the patent protection of our technology or products. Such proceedings also may result in substantial cost and require significant time from our scientists and management, even if the eventual outcome is favorable to us. Any of the foregoing could have a material adverse effect on our business, financial condition and results of operations. In addition, if we initiate legal proceedings against a third party to enforce a patent we own covering the third party's competing products, the defendant could counterclaim that such patent is invalid or unenforceable. In patent litigation in the United States, defendant counterclaims alleging invalidity or unenforceability are commonplace. Grounds for a validity challenge could be an alleged failure to meet any of several statutory requirements, including lack of novelty, obviousness or

non- enablement. Grounds for an unenforceability assertion could be an allegation that someone connected with prosecution of the patent withheld relevant information from the USPTO or made a misleading statement during prosecution. Third parties may also raise claims challenging the validity or enforceability of our patents before administrative bodies in the United States or abroad, even outside the context of litigation, including through re- examination, post- grant review, inter partes review, interference proceedings, derivation proceedings and equivalent proceedings in foreign jurisdictions (e. g., opposition proceedings). Such proceedings could result in the revocation of, cancellation of or amendment to our patents in such a way that they no longer cover our products. The outcome following legal assertions of invalidity and unenforceability is unpredictable. With respect to the validity question, for example, we cannot be certain that there is no invalidating prior art, of which we and the patent examiner were unaware during prosecution. If a third party were to prevail on a legal assertion of invalidity or unenforceability, we would lose at least part, and perhaps all, of the patent protection on the applicable product (s). Such a loss of patent protection could have a material adverse effect on our business, financial condition and results of operations. Obtaining and maintaining our patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by government patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements. Obtaining and maintaining our patent protection depends on compliance with various procedural measures, document submissions, fee payments and other requirements imposed by government patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements. Periodic maintenance fees, renewal fees, annuity fees and various other government fees on patents and applications will be due to be paid to the USPTO and various government patent agencies outside of the United States over the lifetime of our patents and applications. The USPTO and various non- U. S. government agencies require compliance with several procedural, documentary, fee payment and other similar provisions during the patent application process. We may intentionally choose not to or inadvertently fails to comply with such requirements. In some cases, an inadvertent lapse can be cured by payment of a late fee or by other means in accordance with the applicable rules. There are situations, however, in which non-compliance can result in the abandonment or lapse of the patent or patent application, resulting in a partial or complete loss of patent rights in the relevant jurisdiction. In such an event, potential competitors might be able to enter the market with similar or identical products or technology, which could have a material adverse effect on our business, financial condition and results of operations. Changes in U. S. patent law could diminish the value of patents in general, thereby impairing our ability to protect our products. Changes in either the patent laws or interpretation of the patent laws in the United States could increase the uncertainties and costs surrounding the prosecution of patent applications and the enforcement or defense of issued patents. Assuming that other requirements for patentability are met, prior to March 2013, in the United States, the first to invent the claimed invention was entitled to the patent, while outside the United States, the first to file a patent application was entitled to the patent. After March 2013, under the Leahy- Smith America Invents Act (the “ America Invents Act ”), enacted in September 2011, the United States transitioned to a first inventor to file system in which, assuming that other requirements for patentability are met, the first inventor to file a patent application will be entitled to the patent on an invention regardless of whether a third party was the first to invent the claimed invention. A third party that files a patent application at the USPTO after March 2013, but before us could therefore be awarded a patent covering an invention of ours even if we had made the invention before it was made by such third party. This will require us to be cognizant of the time from invention to filing of a patent application. Since patent applications in the United States and most other countries are confidential for a period of time after filing or until issuance, we cannot be certain that we were the first to file any patent application related to our products or invent any of the inventions claimed in our patents or patent applications. The America Invents Act also includes a number of significant changes that affect the way patent applications are prosecuted and also may affect patent litigation. These include allowing third- party submission of prior art to the USPTO during patent prosecution and additional procedures to attack the validity of a patent by USPTO administered post-grant proceedings, including post- grant review, inter partes review and derivation proceedings. Because of a lower evidentiary standard in USPTO proceedings compared to the evidentiary standard in U. S. federal courts necessary to invalidate a patent claim, a third party could potentially provide evidence in a USPTO proceeding sufficient for the USPTO to hold a claim invalid even though the same evidence would be insufficient to invalidate the claim if first presented in a district court action. Accordingly, a third party may attempt to use the USPTO procedures to invalidate our patent claims that would not have been invalidated if first challenged by the third party as a defendant in a district court action. Therefore, the America Invents Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents. Future actions by the U. S. Congress, the federal courts and the USPTO could cause the laws and regulations governing patents to change in unpredictable ways. Any of the foregoing could have a material adverse effect on our business, financial condition and results of operations. We may be subject to claims challenging the ownership or inventorship of our patents and other intellectual property and, if unsuccessful in any of these proceedings, we may be required to obtain licenses from third parties, which may not be available on commercially reasonable terms, or at all, or to cease the development, manufacture and commercialization of one or more of our products. We may be subject to claims that current or former employees, collaborators or other third parties have an interest in our patents, trade secrets or other intellectual property as an inventor or co- inventor. For example, we may have inventorship disputes arise from conflicting obligations of employees, consultants or others who are involved in developing our products. Litigation may be necessary to defend against these and other claims challenging inventorship of our patents, trade secrets or other intellectual property. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights, such as exclusive ownership of, or right to use, intellectual property that is important to our products. If we were to jointly own such intellectual property with other owners, other owners may be able to use the jointly owned intellectual property or license their rights in the jointly owned intellectual property to other third parties, including our competitors. We also may be required to obtain and maintain licenses from third parties, including parties involved in any such disputes. Such licenses may not be available on

commercially reasonable terms, or at all, or may be non-exclusive. If we are in breach of any license agreements granted to us, such licenses may terminate. If we are unable to obtain and maintain such licenses, we may need to cease the development, manufacture and commercialization of one or more of our products. ~~119 Patent~~ Patent terms may be inadequate to protect our competitive position on our product candidates for an adequate amount of time. The term of any individual patent depends on applicable law in the country where the patent is granted. In the United States, provided all maintenance fees are timely paid, a patent generally has a term of 20 years from its application filing date or earliest claimed non-provisional filing date. Extensions may be available under certain circumstances, but the life of a patent and, correspondingly, the protection it affords is limited. Even if we or our licensors obtain patents covering our products, when the terms of all patents covering a product expire, our business may become subject to competition from products identical or similar to ours which can be sold without infringing our patents. As a result, our owned and licensed patent portfolio do not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours beyond the patent term. We may be unable to acquire patent term extension in the United States under the Hatch-Waxman Act and in foreign countries under similar legislation. In the United States, a patent that covers a medical device approved by the FDA may be eligible for a term extension designed to restore the period of the patent term that is lost during the pre-market regulatory review process conducted by the FDA. Depending upon the timing, duration and conditions of FDA marketing approval of our products, one or more of our U. S. patents may be eligible for limited patent term extension under the Drug Price Competition and Patent Term Restoration Act of 1984 (the “Hatch-Waxman Act”), which permits a patent term extension of up to five years for a patent covering an approved product as compensation for effective patent term lost during product development and the FDA regulatory review process. A patent term extension cannot extend the remaining term of a patent beyond a total of 14 years from the date of product approval, and only claims covering such approved drug product, a method for using it or a method for manufacturing it may be extended. In the EU, our product candidates may be eligible for term extensions based on similar legislation. In either jurisdiction, however, we may not receive an extension if we fail to apply within applicable deadlines, fail to apply prior to expiration of relevant patents or otherwise fail to satisfy applicable requirements. Even if we are granted such extension, the duration of such ~~111 such~~ extension may be less than our request. If we are unable to obtain a patent term extension, or if the term of any such extension is less than our request, the period during which we can enforce our patent rights for that product will be in effect shortened and our competitors may obtain approval to market competing products sooner. The resulting reduction of years of revenue from applicable products could be substantial. We may need to obtain intellectual property rights from third parties, and may not be successful in obtaining necessary rights to develop any future product through acquisitions and in-licenses. We may find it necessary or prudent to obtain licenses from third-party intellectual property holders to advance our research or to allow commercialization of our products, and we cannot provide any assurances that third-party intellectual property rights do not exist which might be enforced against our products in the absence of such a license. In addition, with respect to any patents we may in the future co-own with third parties, we may wish to acquire exclusive licenses to such co-owners’ interest to such patents. However, we may be unable to secure such licenses or otherwise acquire or in-license any intellectual property rights from third parties that we identify as necessary for planned or future products. The licensing or acquisition of third-party intellectual property rights is a competitive area, and more established companies may pursue strategies to exclusively license or acquire third-party intellectual property rights that we may consider attractive or necessary. These established companies may have a competitive advantage over us due to their size, capital resources and greater clinical development and commercialization capabilities. In addition, companies that perceive us to be a competitor may be unwilling to assign or license rights to us. We also may be unable to license or acquire third-party intellectual property rights on terms that would allow us to make an appropriate return on our investment or at all. If we are unable to successfully obtain rights to required third-party intellectual property rights or maintain the existing intellectual property licenses we have, we may have to abandon development of the relevant products, which could have a material adverse effect on our business, financial condition and results of operations. ~~120 If~~ 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 trademarks or trade names may be challenged, infringed, circumvented, declared generic or determined to be violating or infringing other marks. We may not be able to protect our rights to these trademarks and trade names, which we need to build name recognition among potential partners and customers in our markets of interest. At times, competitors or other third parties may adopt trade names or trademarks similar to ours, thereby impeding our ability to build brand identity and possibly leading to market confusion. In addition, there could be potential trade name or trademark infringement or dilution claims brought by owners of other trademarks. Over the long term, if we are unable to establish name recognition based on our trademarks and trade names, then we may not be able to compete effectively and our business may be adversely affected. Our efforts to enforce or protect our proprietary rights related to trademarks, domain names or other similar intellectual property may be ineffective, could result in substantial costs and diversion of resources and could adversely affect our business, financial condition and results of operations. Risks Related to Ownership of Our Common Stock. Stockholder litigation and regulatory inquiries and investigations are expensive and could harm our business, financial condition and operating results and could divert management attention. In the past, securities class action litigation and / or stockholder derivative litigation and inquiries or investigations by regulatory authorities have often followed significant business transactions, such as the sale of a company or announcement of any other strategic transaction, such as the Business Combination. Any stockholder litigation and / or regulatory investigations against us, whether or not resolved favorably, could result in substantial costs and divert management’s attention from other business concerns, which could adversely affect our business and cash resources. Anti-takeover provisions contained in our Charter and our Bylaws and under Delaware law could impair a takeover attempt. Certain provisions of Delaware law, as well as provisions in our certificate of incorporation (“Charter”) and our bylaws (“Bylaws”), may discourage unsolicited takeover proposals that stockholders may consider to be in their best interests. These provisions may make it more difficult to remove management and may discourage transactions that otherwise

could involve payment of a premium over prevailing market prices for our securities. Among other things, these provisions: **112**

- allow our Board to authorize the issuance of undesignated preferred stock, the terms of which may be established and the shares of which may be issued without stockholder approval, and which may include supermajority voting, special approval, dividend, or other rights or preferences superior to the rights of other stockholders;
- provide for a classified board of directors with staggered three- year terms;
- provide that directors may only be removed for cause, and only by the affirmative vote of shares representing a majority of the shares entitled to vote at an election of directors;
- prohibit stockholder action by written consent;
- provide that special meetings may only be called by the Chairperson of the Board, the Chief Executive Officer or a majority of the directors;
- provide that we may indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law;
- provide that any adoption, amendment or repeal of any provision of the Bylaws by our stockholders will require the affirmative vote of the holders of at least ~~662-~~ **662** 3 % of the voting power of all of the then- outstanding shares of our capital stock entitled to vote generally in the election of directors, voting together as a single class; and
- establish advance notice requirements for nominations for elections to the Board and for proposing matters that can be acted upon by stockholders at stockholder meetings.

~~121~~ **Our** Charter provides that the Court of Chancery of the State of Delaware and the federal district courts of the United States will be the exclusive forums for certain disputes between us and our stockholders, which could make our securities less attractive and impose legal costs on us if such limitations are challenged. Our Charter provides that, unless we otherwise consent in writing, the Court of Chancery of the State of Delaware (or, in the event that the Court of Chancery of the State of Delaware lacks subject matter jurisdiction, another state or federal court located within the State of Delaware) is, to the fullest extent permitted by law, the sole and exclusive forum for any:

- derivative action or proceeding brought on our behalf,
- action, suit or proceeding asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or stockholders to us or to our stockholders,
- action, suit or proceeding arising pursuant to any provision of the Delaware General Corporation Law, our Charter or our Bylaws, and
- action, suit or proceeding asserting a claim against us governed by the internal affairs doctrine.

This exclusive forum provision would not apply to suits brought to enforce a duty or liability vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, such as those created by the Exchange Act or the Securities Act of 1933, as amended (the “ Securities Act ”), or any other claim for which the federal courts have exclusive jurisdiction. In addition, to prevent having to litigate claims in multiple jurisdictions and the threat of inconsistent or contrary rulings by different courts, among other considerations, our Charter provides that, unless we consent in writing to the selection of an alternative forum, to the fullest extent permitted by law, the federal district courts of the United States will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act. However, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder. Accordingly, both state and federal courts have jurisdiction to entertain such claims. As noted above, our Charter provides that the federal district courts of the United States will be the exclusive forum for the resolution of any complaint asserting a cause of action under the Securities Act. Due to the concurrent jurisdiction for federal and state courts created by Section 22 of the Securities Act over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder, there is uncertainty as to whether a court would enforce the exclusive forum provision. Our Charter further provides that any person or entity purchasing or otherwise acquiring any interest in our securities shall be deemed to have notice of and to have consented to these provisions. Investors also cannot waive compliance with the federal securities laws and the rules and regulations thereunder. These exclusive forum provisions may limit a stockholder’ s ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees and this limitation may make our securities less attractive to investors. Further, ~~while~~ **113** ~~while~~ the Delaware courts have determined that such choice of forum provisions are facially valid, a stockholder may nevertheless seek to bring such a claim arising under the Securities Act against us or our directors, officers, or other employees in a venue other than in the federal district courts of the United States. In such instance, we would expect to vigorously assert the validity and enforceability of the exclusive forum provisions of our Charter. This may require significant additional costs associated with resolving such action in other jurisdictions and we cannot assure you that the provisions will be enforced by a court in those other jurisdictions. If a court were to find either exclusive- forum provision in our Charter to be inapplicable or unenforceable in an action, we may incur further significant additional costs associated with resolving the dispute in other jurisdictions, all of which could harm our business. The price of our securities may be volatile. Fluctuations in the price of our securities could contribute to the loss of all or part of your investment. The trading price of our securities has experienced volatility since the closing of the Business Combination. For example, from the closing of the Business Combination through March ~~22-27~~, **2024** **2025**, the closing price of our common stock on the Nasdaq Global Market ranged from a high of \$ 22. 18 to a low of \$ ~~43. 42~~ **84**. The price of our common stock may continue to experience volatility in the future and is subject to wide fluctuations in response to various factors, some of which are beyond our control. Any of such factors, including the factors listed below, could have a material adverse effect on your investment in ~~122~~ **our** securities and our securities may trade at prices significantly below the price you paid. In such circumstances, the trading price of our securities may not recover and may experience a further decline. Factors affecting the trading price of our securities may include:

- the results of our clinical trials;
- actual or anticipated fluctuations in our quarterly financial results or the quarterly financial results of companies perceived to be similar to us;
- changes in the market’ s expectations about our operating results;
- the inability to maintain our listing on Nasdaq;
- our operating results failing to meet the expectation of securities analysts or investors in a particular period;
- changes in financial estimates and recommendations by securities analysts concerning us or the market in general;
- operating and stock price performance of other companies that investors deem comparable to us;
- our ability to develop product candidates;
- changes in laws and regulations affecting our business;
- litigation involving us;
- changes in our capital structure, such as future issuances of securities or the incurrence of additional debt;
- the volume of our securities available for public sale;
- any major change in our Board or management;
- sales of our securities by directors, executive officers or significant stockholders, or the perception

that such sales could occur; and • general economic and political conditions such as recessions, interest rates, fuel prices, international currency fluctuations and acts of war or terrorism. Broad market and industry factors may materially harm the market price of our securities irrespective of our operating performance. The stock market in general and Nasdaq in particular have experienced price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of the particular companies affected. The trading prices and valuations of these stocks, and of our securities, may not be predictable. A loss of investor confidence in the market for medical device company stocks or the stocks of other companies which investors perceive to be similar to us could depress our stock price regardless of our business, prospects, financial conditions or results of operations. A decline in the market price of our securities also could adversely affect our ability to issue additional securities and our ability to obtain additional financing in the future. ~~Moreover~~ **114Moreover**, in the past, securities class action litigation has often been brought against a company following a decline in the market price of its securities. If we face such litigation, it could result in substantial costs and a diversion of management's attention and resources, which could harm our business. Our ability to timely raise capital in the future may be limited, or may be unavailable on acceptable terms, if at all. The failure to raise capital when needed could harm our business, operating results and financial condition. Debt or equity issued to raise additional capital may reduce the value of our common stock. We cannot be certain when or if our operations will generate sufficient cash to fund our ongoing operations or the growth of our business. We intend to make investments to support our current business and may require additional funds to respond to business challenges. Additional financing may not be available on favorable terms, if at all. If adequate funds are not available on acceptable terms, we may be unable to invest in our future growth opportunities, which could harm our business, operating results and financial condition. If we incur debt, the debt holders could have rights senior to holders of our common ~~123stock~~ **stock** to make claims on our assets. The terms of any debt could restrict our operations, including our ability to pay dividends on our common stock. If we issue additional equity securities in the future, our stockholders will experience dilution, and the new equity securities could have rights senior to those of our common stock. Because the decision to issue securities in the future will depend on numerous considerations, including factors beyond our control, we cannot predict or estimate the amount, timing or nature of any future issuances of debt or equity securities. As a result, stockholders will bear the risk of future issuances of debt or equity securities reducing the value of their common stock and diluting their interest. The future sales, or the perception of future sales, of shares by existing stockholders and future exercise of registration rights may adversely affect the market price of our common stock. Sales of a substantial number of shares of our common stock in the public market could occur at any time. If our existing stockholders sell substantial amounts of common stock in the public market, or the market perceives that they intend to do so, the market price of our common stock could decline. The holders of an aggregate of **up to** 17, 148, 494 shares of common stock (not including 1, 310, 000 shares underlying warrants) or approximately **45 47.9%** of our outstanding common stock as of March ~~22-27, 2024~~ **2025**, are entitled to registration rights under the Second Amended and Restated Registration Rights Agreement and Lock-Up Agreement, as of November 21, 2023 (the "Amended and Restated Registration Rights Agreement") entered into in connection with the closing of the Business Combination, and the Company **has** ~~expects to file on the date hereof an amendment to the registration statement that registers~~ **registered**, among other things, the resale of those outstanding shares of Common Stock as well as the issuance of shares of Common Stock underlying warrants. In certain circumstances, holders of these securities can demand that we conduct an underwritten offering of their securities or facilitate block trades of their securities. In addition, the holders have certain "piggy-back" registration rights with respect to registration statements we file. We will bear the expenses incurred in connection with the filing of any such registration statements. The presence of these additional shares trading in the public market may have an adverse effect on the market price of our securities. Due to the significant number of redemptions of HSAC2's ordinary shares in connection with the Business Combination, there was a significantly lower number of HSAC2 ordinary shares that converted into shares of our common stock in connection with the Business Combination. As a result, the shares of our common stock being registered for resale (a portion of which may not be resold until the expiration of the applicable lock-up period) are anticipated to constitute a considerable percentage of our public float. Additionally, some of the shares of our common stock being registered for resale were originally purchased by selling securityholders pursuant to investments in Legacy Orchestra at prices considerably below the current market price of our common stock. This discrepancy in purchase prices may have an impact on the market perception of our common stock's value and could increase the volatility of the market price of our common stock or result in a significant decline in the public trading price of our common stock. The registration of these shares for resale creates the possibility of a significant increase in the supply of our common stock in the market. The increased supply, coupled with the potential disparity in purchase prices, may lead to heightened selling pressure, which could negatively affect the public trading price of our common stock. **Our** ~~Certain of our officers and directors and Medtronic are subject to lock-up agreements covering 6, 895, 756 shares of common stock (the "Lock-Ups"), including common stock issuable upon exercise of warrants, pursuant to which our officers and directors and Medtronic have agreed that they will not, without our permission and subject to certain exceptions, among other things, sell or transfer any shares of our capital stock held by such person or any of their affiliates (the "Transfer Restrictions"). The Lock-Ups expire upon the earlier of (i) five calendar days following the date of the publication of certain results of the BACKBEAT pivotal study; provided, that in the event the results of the BACKBEAT pivotal study are positive as reasonably determined by Medtronic, the Transfer Restrictions shall continue for an additional five calendar days following the U. S. regulatory approval; provided, further that the Transfer Restrictions shall terminate immediately (A) if the BACKBEAT pivotal study is terminated or (B) if the Medtronic Agreement is terminated and (ii) December 16, 2024. As the restrictions on resale end, the market price of shares of our common stock could drop significantly if the holders of these shares of common stock sell them or are perceived by the market as intending to sell them. These factors could also make it more difficult for us to raise additional funds through future offerings of our shares of common stock or other securities.~~ **124Our** warrants may not be exercised at all and we may not receive any cash proceeds from the exercise of the warrants. The exercise prices of our warrants, in certain circumstances, may be higher than the

prevailing market price of our underlying common stock and the cash proceeds to us associated with the exercise of our warrants are contingent upon our stock price. The value of our common stock may fluctuate and may not exceed the exercise price of the warrants at any given time. As of the date of this Annual Report **115** Report on Form 10- K, a significant portion of our warrants are “ out of the money ,” meaning the exercise price is higher than the market price of our common stock. Holders of such “ out of the money ” warrants are not likely to exercise such warrants. There can be no assurance that such warrants will be in the money prior to their respective expiration dates, and therefore, we may not receive any cash proceeds from the exercise of such warrants. See “ Management' s Discussion and Analysis of Financial Condition and Results of Operations – Liquidity and Capital Resources ” for additional information. **2** Our failure to meet Nasdaq’ s continued listing requirements could result in a delisting of our common stock. If we fail to satisfy Nasdaq’ s continued listing requirements, such as the corporate governance requirements or the minimum closing bid price requirement, Nasdaq may take steps to delist our common stock. Such a delisting would likely have a negative effect on the price of our common stock and would impair a stockholder’ s ability to sell or purchase our common stock when a stockholder wishes to do so. In the event of a delisting, we can provide no assurance that any action taken by us to restore compliance with listing requirements would allow our common stock to become listed again, stabilize the market price or improve the liquidity of our common stock, prevent our common stock from dropping below the Nasdaq minimum bid price requirement or prevent future non- compliance with Nasdaq’ s listing requirements. If securities or industry analysts do not publish or cease publishing research or reports about us, our business, or our market, or if they change their recommendations regarding our securities adversely, the price and trading volume of our securities could decline. The trading market for our securities will be influenced by the research and reports that industry or securities analysts may publish about us, our business, our market, or our competitors. If any of the analysts who cover us change their recommendation regarding our common stock adversely, or provide more favorable relative recommendations about our competitors, the price of our securities would likely decline. If any analyst who covers or may cover us were to cease coverage or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our stock price or trading volume to decline. Because we do not anticipate paying any cash dividends in the foreseeable future, capital appreciation, if any, would be your sole source of gain. We currently anticipate that we will retain future earnings for the development, operation and expansion of our business and do not anticipate declaring or paying any cash dividends for the foreseeable future. Any future determination to pay dividends will be made at the discretion of our Board, subject to applicable laws. It will depend on a number of factors, including our financial condition, results of operations, capital requirements, contractual, legal, tax and regulatory restrictions, general business conditions, and other factors that our Board may deem relevant. In addition, the ability to pay cash dividends may be restricted by the terms of debt financing arrangements, as any future debt financing arrangement likely will contain terms restricting or limiting the amount of dividends that may be declared or paid on our securities. As a result, capital appreciation, if any, of our securities would be your sole source of gain on an investment in such securities for the foreseeable future. It may be more difficult to compare our performance to that of other public companies and our securities may be less attractive to investors if we take advantage of exemptions from disclosure requirements that are available to an “ emerging growth company ” We qualify as an “ emerging growth company ” as defined in Section 2 (a) (19) of the Securities Act, as modified by the JOBS Act. As such, we are eligible for certain exemptions available to emerging growth companies from various reporting requirements applicable to other public companies that are not emerging growth companies. We intend to take advantage of those exemptions for as long as we continue to be an emerging growth company. We will remain an emerging growth **125** company **125** company until the earliest of (i) the last day of the fiscal year in which the market value of our common stock that is held by non- affiliates exceeds \$ 700 million as of June 30 of that fiscal year, (ii) the last day of the fiscal year in which we have total annual gross revenue of \$ 1. 235 billion or more during such fiscal year (as indexed for inflation), (iii) the date on which we have issued more than \$ 1 billion in non- convertible debt in the prior three- year period or (iv) the last day of the fiscal year following the fifth anniversary of the date of the first sale of shares by our predecessor in its initial public offering, which will be December 31, 2026. The exemptions available to emerging growth companies include: (a) exemption from the auditor attestation requirements with respect to internal control over financial reporting under Section 404 (b) of the Sarbanes- Oxley Act, (b) exemptions from say- on- pay, say- on- frequency and say- on- golden parachute voting requirements and (c) reduced disclosure obligations regarding executive compensation in **its-116** its periodic reports and proxy statements. In addition, Section 107 of the JOBS Act also provides that an emerging growth company can take advantage of the exemption from complying with new or revised accounting standards provided in Section 7 (a) (2) (B) of the Securities Act as long as we are an emerging growth company. An emerging growth company can therefore delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected not to opt out of such extended transition period and, therefore, we may not be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies or that are emerging growth companies that have opted out of the extended transition period. This may make it more difficult to compare our performance to that of other public companies which could make our securities less attractive, which may result in a less active and more volatile trading market for our securities. We may not be able to timely and effectively implement controls and procedures required by Section 404 of the Sarbanes- Oxley Act, which could have a material adverse effect on our business. Pursuant to Section 404 of the Sarbanes- Oxley Act, and in light of SEC guidance, management is required to report our assessment of internal control over financial reporting beginning with the fiscal year ending December 31, 2023, and, if and when we become an accelerated filer or large accelerated filer who is not eligible to be a smaller reporting company and has annual revenues of at least \$ 100. 0 million (and cease to be an emerging growth company), an attestation of the independent registered public accounting firm will also be required. The rules governing the standards that must be met for management to assess internal control over financial reporting are complex and require significant documentation, testing and possible remediation. To comply with the Sarbanes- Oxley Act, the requirements of being a reporting company under the Securities Exchange Act of 1934, as amended (the “ Exchange Act ”) and any complex

accounting rules in the future, we may need to upgrade our legacy information technology systems, implement additional financial and management controls, reporting systems and procedures, and hire additional accounting and finance staff or retain additional outside consultants. If we are unable to implement the additional requirements of Section 404 of the Sarbanes- Oxley Act in a timely manner or with adequate compliance, we may not be able to assess whether our internal control over financial reporting is effective, which may subject us to adverse regulatory consequences and could harm investor confidence and lead to a decrease in the market price of our securities. We could become subject to investigations by Nasdaq, the SEC or other regulatory authorities, which could require additional financial and management resources. We will incur significant increased expenses and administrative burdens as a public company, which could negatively impact our business, financial condition and results of operations. We face increased legal, accounting, administrative and other costs and expenses as a public company. These increased costs require us to divert a significant amount of money and management attention that could otherwise be used to expand the business and achieve strategic objectives. There are significant financial costs and expenses for complying with the Sarbanes- Oxley Act, including the requirements of Section 404, as well as rules and regulations of the SEC, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and the rules and regulations thereunder, rules and regulations of the Public Company Accounting Oversight Board (“ PCAOB ”) and the securities exchanges. Compliance with public company requirements increase costs and make regulated activities more time- consuming. Advocacy efforts by stockholders and third parties may also prompt **126-additional changes in governance and reporting requirements, which could further increase costs and administrative burdens. In order to comply with these requirements, we carry out activities that Legacy Orchestra had not done previously. For example, we have created and adopted new internal controls and disclosure controls and procedures, all of which will increase expenses and administrative burdens. In addition, we have new expenses associated with SEC reporting requirements. Furthermore, if any issues in complying with those requirements are identified (for example, if the auditors identify a material weakness or significant deficiency in the internal control over financial reporting), we could incur further additional costs to remediate those issues. It may also be more expensive to obtain director and officer liability insurance. Risks associated with our status as a public company may make it more difficult to attract and retain qualified persons to serve on our Board or as executive officers. The additional reporting and other obligations imposed by these rules and regulations increase legal and financial compliance costs and the costs of related legal, accounting and administrative activities. These increased costs require us to divert a significant amount of money that could otherwise be used to expand the business and achieve strategic objectives.** 117Changes in laws or regulations, or a failure to comply with any laws and regulations, may adversely affect our business, investments and results of operations. We are subject to laws and regulations enacted by national, regional and local governments. In particular, we are required to comply with certain SEC, Nasdaq and other legal requirements. Compliance with, and monitoring of, applicable laws and regulations may be difficult, time consuming and costly. Those laws and regulations and their interpretation and application may also change from time to time and those changes could have a material adverse effect on our business, investments and results of operations. In addition, a failure to comply with applicable laws or regulations, as interpreted and applied, could have a material adverse effect on our business and results of operations.

Risks Related to Our Operations in IsraelThe research and development facilities of Motus GI Technologies, our wholly owned subsidiary and some of our suppliers are located in Israel and, therefore, our business, financial condition and results of operation may be adversely affected by political, economic and military instability in Israel. The research and development facilities of Motus GI Technologies, our wholly owned subsidiary are located in northern Israel. In addition, the employees of Motus GI Technologies are residents of Israel. Accordingly, political, economic and military conditions in Israel may directly affect the business of Motus GI Technologies. Since the State of Israel was established in 1948, the State of Israel and its economy has experienced significant growth and expansion, coupled with an increase in the standard of living, and has developed one of the most advanced high- tech industries in the world. However, it continues to face many geo- political and other challenges that may affect companies located in Israel, such as ours. For example, a number of armed conflicts have occurred between Israel and its Arab neighbors. Although Israel has entered into peace agreements with Egypt and Jordan, comprehensive agreements with the Palestinian Authority, and other agreements with neighboring Arab countries regarding public normalization of relations, there continues to be unrest and terrorist activity in Israel with varying levels of severity, as well as ongoing hostilities and armed conflicts between Israel and the Palestinian Authority, and other groups in the West Bank and Gaza Strip. The effects of these hostilities and violence on the Israeli economy and the operations of Motus GI Technologies are unclear, and we cannot predict the effect on Motus GI Technologies of a further increase in these hostilities or any future armed conflict, political instability or violence in the region. Motus GI Technologies could be harmed by any major hostilities involving Israel, the interruption or curtailment of trade between Israel and its trading partners, boycotts or a significant downturn in the economic or financial condition of Israel. The impact of Israel’ s relations with its Arab neighbors in general, or on our operations in the region in particular, remains uncertain. The establishment of new fundamentalist Islamic regimes or governments more hostile to Israel could have serious consequences for the stability in the region, place additional political, economic and military confines upon Israel, materially adversely affect the operations of Motus GI Technologies and limit our ability to sell our products to countries in the region. In particular, on October 7, 2023, war broke out between Israel and the terrorist organizations in the Gaza Strip, following a surprise attack on Israel led by certain armed groups in the Gaza Strip. To date, our operations in Israel have not been significantly impacted by the ongoing war. Additionally, several countries, principally in the Middle East, still restrict doing business with Israel and Israeli companies, and additional countries and groups have imposed or may impose restrictions on doing business with Israel and Israeli companies if hostilities in Israel or political instability in the region continues or increases. These restrictions may limit our ability to sell our products to companies in these

countries. Furthermore, the Boycott, Divestment and Sanctions Movement, a global campaign attempting to increase economic and political pressure on Israel to comply with the stated goals of the movement, may gain increased traction and result in a boycott of Israeli products and services. Any hostilities involving Israel or the interruption or curtailment of trade between Israel and its present trading partners, or significant downturn in the economic or financial condition of Israel, could adversely affect our business, results of operations and financial condition. Our commercial insurance policy does not cover losses associated with armed conflicts and terrorist attacks. Although the Israeli government in the past covered the reinstatement value of certain damages that were caused by terrorist attacks or acts of war, we cannot assure you that this government coverage will be maintained, or if maintained, will be sufficient to compensate us fully for damages incurred. The operations of Motus GI Technologies could also be disrupted by the obligations of some of our employees to perform military service. Some of our employees in Israel may be called upon to perform up to 54 days in each three year period (and in the case of military 118