UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2022

OR

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

For the transition period from_____to_____

Commission File Number: 001-37746

APTEVO THERAPEUTICS INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**81-1567056**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
2401 4th Avenue, Suite 1050 Seattle, Washington	
(Address of principal executive offices)	**98121 (Zip Code)**

Registrant's telephone number, including area code: (206) 838-0500

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

Title of Each Class	**Trading Symbols(s)**	**Name of Exchange on Which Registered**
Common Stock, $0.001 par value per share	**APVO**	**The Nasdaq Stock Market LLC (The Nasdaq Capital Market)**

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

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

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

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

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

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

As of November 10, 2022, the number of shares of the registrant's common stock outstanding was 5,091,758.

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In this Quarterly Report on Form 10-Q, "we," "our," "us," "Aptevo," and "the Company" refer to Aptevo Therapeutics Inc. and, where appropriate, its consolidated subsidiaries.

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements.

Aptevo Therapeutics Inc.
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share amounts, unaudited)

	September 30, 2022	December 31, 2021
ASSETS		
Current assets:		
Cash and cash equivalents	$ 22,150	$ 45,044
Restricted cash	427	1,259
Royalty receivable	—	3,664
Prepaid expenses	1,383	1,823
Other current assets	658	780
Total current assets	24,618	52,570
Property and equipment, net	1,669	2,379
Operating lease right-of-use asset	5,408	1,584
Other assets	—	68
Total assets	$ 31,695	$ 56,601
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and other accrued liabilities	$ 3,243	$ 3,462
Accrued compensation	1,372	2,077
Liability related to the sale of royalties, net - short-term	—	15,465
Current portion of long-term debt	2,000	11,667
Other current liabilities	1,171	2,086
Total current liabilities	7,786	34,757
Liability related to the sale of royalties, net - long-term	—	15,580
Long-term debt	1,910	3,707
Operating lease liability	6,237	1,341
Total liabilities	15,933	55,385
Stockholders' equity:		
Preferred stock: $0.001 par value; 15,000,000 shares authorized, zero shares issued or outstanding	—	—
Common stock: $0.001 par value; 500,000,000 shares authorized; 5,090,644 and 4,898,143 shares issued and outstanding at September 30, 2022 and December 31, 2021, respectively	47	47
Additional paid-in capital	217,109	215,232
Accumulated deficit	(201,394)	(214,063)
Total stockholders' equity	15,762	1,216
Total liabilities and stockholders' equity	$ 31,695	$ 56,601

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

Aptevo Therapeutics Inc.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except share and per share amounts, unaudited)

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2022	2021	2022	2021
Royalty revenue	$ —	$ 3,096	$ 3,114	$ 8,627
Operating expenses:				
Research and development	(4,477)	(4,367)	(13,208)	(14,451)
General and administrative	(3,307)	(3,479)	(10,863)	(11,536)
Loss from operations	(7,784)	(4,750)	(20,957)	(17,360)
Other income (expense):				
Other expense from continuing operations, net	(25)	(2,327)	(4,048)	(5,451)
Gain on extinguishment of liability related to sale of royalties	—	—	37,182	—
Net (loss) income from continuing operations	$ (7,809)	$ (7,077)	$ 12,177	$ (22,811)
Discontinued operations:				
Income from discontinued operations	$ 165	$ 80	$ 492	$ 626
Net (loss) income	$ (7,644)	$ (6,997)	$ 12,669	$ (22,185)
Net (loss) income per share:				
Basic	$ (1.50)	$ (1.43)	$ 2.52	$ (4.80)
Diluted	$ (1.50)	$ (1.43)	$ 2.52	$ (4.80)
Shares used in calculation:				
Basic	5,090,592	4,891,881	5,017,684	4,617,357
Diluted	5,090,592	4,891,881	5,019,552	4,617,357

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

Aptevo Therapeutics Inc.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands, unaudited)

	For the Nine Months Ended	
	2022	2021
Operating Activities		
Net income (loss)	$ 12,669	$ (22,185)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation	1,445	1,465
Depreciation and amortization	740	888
Non-cash interest expense and other	3,262	4,387
Gain on extinguishment of liability related to sale of royalties	(37,182)	—
Changes in operating assets and liabilities:		
Royalty receivable	3,664	(727)
Prepaid expenses and other current assets	630	(39)
Operating lease right-of-use asset	548	857
Accounts payable, accrued compensation and other liabilities	(1,383)	(1,695)
Long-term operating lease liability	524	(750)
Net cash used in operating activities	(15,083)	(17,799)
Investing Activities		
Purchases of property and equipment	(29)	(595)
Net cash used in investing activities	(29)	(595)
Financing Activities		
Payments of long-term debt, including fees	(11,767)	(10,550)
Repayments under liability related to sale of royalties	(6,779)	(5,531)
Proceeds from sale of royalties	—	35,000
Transaction costs from sale of royalties	—	(1,100)
Proceeds from exercise of stock options	—	200
Value of equity awards withheld for tax liability	(4)	—
Proceeds from exercise of warrants	—	985
Proceeds from milestones related to sale of royalties	10,000	—
Transaction costs for milestones related to sale of royalties	(500)	—
Proceeds from issuance of common stock	436	10,233
Net cash (used in) provided by financing activities	(8,614)	29,237
(Decrease) increase in cash, cash equivalents, and restricted cash	(23,726)	10,843
Cash, cash equivalents, and restricted cash at beginning of period	46,303	42,534
Cash, cash equivalents, and restricted cash at end of period	$ 22,577	$ 53,377
Supplemental Cash Flow Information		
Change in ROU asset and lease liability from lease remeasurement	$ 4,372	$ —

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

Aptevo Therapeutics Inc.
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands, except share amounts, unaudited)

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount			
Balance at December 31, 2021	4,898,143	$ 47	$ 215,232	$ (214,063)	$ 1,216
Common stock issued upon vesting of restricted stock units	9,822	—	(4)	—	(4)
Commitment shares issued pursuant to Lincoln Park Purchase Agreement	99,276	—	—	—	—
Stock-based compensation	—	—	601	—	601
Net loss for the period	—	—	—	(7,697)	(7,697)
Balance at March 31, 2022	5,007,241	$ 47	$ 215,829	$ (221,760)	$ (5,884)
Common stock issued upon vesting of restricted stock units	4,326	—	—	—	—
Proceeds from issuance of common stock	78,285	—	436	—	436
Stock-based compensation	—	—	485	—	485
Net income for the period	—	—	—	28,010	28,010
Balance at June 30, 2022	5,089,852	$ 47	$ 216,750	$ (193,750)	$ 23,047
Common stock issued upon vesting of restricted stock units	792	—	—	—	—
Stock-based compensation	—	—	359	—	359
Net loss for the period	—	—	—	(7,644)	(7,644)
Balance at September 30, 2022	5,090,644	$ 47	$ 217,109	$ (201,394)	$ 15,762

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount			
Balance at December 31, 2020	4,410,909	$ 46	$ 202,154	$ (185,606)	$ 16,594
Proceeds from exercise of stock options	10,685	—	86	—	86
Proceeds from exercise of warrants	27,828	—	506	—	506
Stock-based compensation	—	—	574	—	574
Net loss for the period	—	—	—	(7,256)	(7,256)
Balance at March 31, 2021	4,449,422	$ 46	$ 203,320	$ (192,862)	$ 10,504
Proceeds from exercise of stock options	1,769	—	25	—	25
Proceeds from exercise of warrants	26,277	—	478	—	478
Proceeds from issuance of common stock	407,047	1	10,233	—	10,234
Stock-based compensation	—	—	572	—	572
Net loss for the period	—	—	—	(7,932)	(7,932)
Balance at June 30, 2021	4,884,515	$ 47	$ 214,628	$ (200,794)	$ 13,881
Proceeds from exercise of stock options	11,244	—	89	—	89
Stock-based compensation	—	—	319	—	319
Net loss for the period	—	—	—	(6,997)	(6,997)
Balance at September 30, 2021	4,895,759	$ 47	$ 215,036	$ (207,791)	$ 7,292

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

Note 1. Nature of Business and Significant Accounting Policies

Organization and Liquidity

Aptevo Therapeutics Inc. (Aptevo, we, us, or the Company) is a clinical-stage, research and development biotechnology company focused on developing novel immunotherapeutic candidates for the treatment of different forms of cancer. We have developed two versatile and enabling platform technologies for rational design of precision immune stimulatory drugs. Our lead clinical candidate, APVO436, and preclinical candidates, ALG.APV-527 and APVO603, were developed using our ADAPTIR™ modular protein technology platform. Our preclinical candidate APVO442 was developed using our ADAPTIR-FLEX™ modular protein technology platform.

We are currently trading on the Nasdaq Capital Market under the symbol "APVO."

The accompanying financial statements have been prepared on a basis that assumes we will continue as a going concern and which contemplates the realization of assets and satisfaction of liabilities and commitments in the normal course of business. For the three and nine months ended September 30, 2022, we had a net loss of $7.6 million and a net income of $12.7 million, respectively. We had an accumulated deficit of $201.4 million as of September 30, 2022. For the nine months ended September 30, 2022, net cash used in our operating activities was $15.1 million. We have suffered recurring losses from operations and negative cash flows from operating activities. We believe that our existing cash resources, milestone payments related to the Royalty Purchase Agreement with HealthCare Royalty Management, LLC (HCR), funds available under the Purchase Agreement with Lincoln Park Capital Fund, LLC (Lincoln Park) and the Equity Distribution Agreement with Piper Sandler & Co (Piper Sandler), cash to be generated from future deferred payments and milestones related to IXINITY sales and approvals by Medexus Pharmaceuticals Inc. (Medexus), and release of restricted cash securing letters of credit, will be sufficient to meet our projected operating requirements and debt service for at least twelve months from the date of issuance of these financial statements. We may choose to raise additional funds to support our operating and capital needs in the future.

We continue to face significant challenges and uncertainties and, as a result, our available capital resources may be consumed more rapidly than currently expected due to: (a) changes we may make to the business that affect ongoing operating expenses; (b) changes we may make in our business strategy; (c) changes we may make in our research and development spending plans; (d) potential decreases in our expected milestone and deferred payments from Medexus with respect to IXINITY; (e) whether and to what extent future milestone payments are received under our Royalty Purchase Agreement; (f) macroeconomic conditions such as rising interest rates, inflation and costs; and (g) other items affecting our forecasted level of expenditures and use of cash resources. We may obtain additional funding through our existing equity Purchase Agreement with Lincoln Park or our Equity Distribution Agreement with Piper Sandler, or attempt to obtain other public or private financing, collaborative or licensing arrangements with strategic partners, or through credit lines or other debt financing sources to increase the funds available to fund operations. However, we may not be able to secure such funding in a timely manner or on favorable terms, if at all. Furthermore, if we issue equity or debt securities to raise additional funds, our existing stockholders may experience dilution, and the new equity or debt securities may have rights, preferences, and privileges senior to those of our existing stockholders. If we raise additional funds through collaboration, licensing, or other similar arrangements, it may be necessary to relinquish valuable rights to our potential products or proprietary technologies, or grant licenses on terms that are not favorable to us. Without additional funds, we may be forced to delay, scale back, or eliminate some of our research and development activities or other operations and potentially delay product development in an effort to provide sufficient funds to continue our operations. If any of these events occurs, our ability to achieve our development and commercialization goals may be adversely affected. Given the continuing global economic and geopolitical climate, including rising interest rates and stock market volatility, and direct and indirect effects from the ongoing COVID-19 pandemic, we may experience delays or difficulties in the financing environment and raising capital due to economic uncertainty.

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (GAAP). These unaudited condensed consolidated financial statements include all adjustments, which include normal recurring adjustments, necessary for the fair presentation of the Company's financial position. These unaudited interim consolidated financial statements should be read in conjunction with the audited consolidated financial statements as of and for the year ended December 31, 2021, and the notes thereto, which are included in the Company's Annual Report on Form 10-K for the year ended December 31, 2021.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates and changes in these estimates are recorded when known.

The unaudited condensed consolidated financial statements include the accounts of the Company and our wholly owned subsidiary, Aptevo Research and Development LLC. All intercompany balances and transactions have been eliminated.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires estimates and assumptions that affect the reported amounts of assets and liabilities, revenues and expenses, and related disclosures of contingent liabilities in the unaudited condensed consolidated financial statements and accompanying notes. Estimates are used for, but not limited to, forecasted royalties, effective interest rates, clinical accruals, useful lives of equipment, commitments and contingencies, and stock-based compensation. Given the continuing global economic and geopolitical climate and effects from the ongoing COVID-19 pandemic, these estimates are becoming more challenging, and actual results could differ materially from those estimates.

Significant Accounting Policies

Liability Related to Sale of Royalties and Non-Cash Interest Expense

On March 30, 2021, we entered into and closed a Royalty Purchase Agreement (the Royalty Purchase Agreement) with an entity managed by HCR pursuant to which we sold to HCR the right to receive royalty payments made by Pfizer Inc. (Pfizer) in respect of net sales of RUXIENCE. Under the terms of the Royalty Purchase Agreement, we received $35 million (the Investment Amount) at closing and we are eligible to receive additional payments in the aggregate of up to an additional $32.5 million based on the achievement of sales milestones in 2021, 2022 and 2023 (collectively, the Milestone Amounts). We received the 2021 milestone payments in the collective amount of $10 million on March 8, 2022. The proceeds from these milestone payments, net of transaction costs, were recorded as an additional liability related to the sale of royalties on the consolidated balance sheet as of March 31, 2022. The Company is eligible to receive additional payments in the aggregate of up to $22.5 million based on achievement of sales milestones in 2022 and 2023.

On the date we entered into the transaction, we accounted for the Royalty Purchase Agreement with HCR as a debt-like instrument, amortized under the effective interest rate method over the life of the related expected royalty stream. The liabilities related to the sale of royalties and the debt amortization were based on our estimates of royalties expected to be paid over the life of the arrangement.

On June 7, 2022, we entered into and closed an amendment to the Royalty Purchase Agreement (the Amendment to Royalty Purchase Agreement) (see Note 7) which removed all restrictions related to HCR's rate of return, and it is no longer a sale of a specified percentage of royalty revenue. The Amendment to Royalty Purchase Agreement was accounted for under ASC 610-20*, Gains and Losses from Derecognition of Nonfinancial Assets* and ASC 405-20, *Liabilities – Extinguishment of Liabilities* and the transaction is no longer considered a debt-like financing.

As a result of the Amendment to Royalty Purchase Agreement, the Company recognized a gain of $37.2 million, which was the total balance of liability related to the sale of royalties on the closing date. The Amendment to Royalty Purchase Agreement allowed us to regain full compliance with Nasdaq Listing Rule 5550(b)(1) in a way that was non-dilutive for our shareholders. We will not recognize royalty revenue on net sales of RUXIENCE that are paid to HCR going forward. The royalty revenue included in the consolidated statements of operations relates to the quarter ended March 31, 2022. Future Milestone Amounts will be accounted for as variable consideration and recognized as other income when such milestones are earned using the most likely method in accordance with ASC 610-20 *Other Income — Gains and Losses from the Derecognition of Nonfinancial Assets*.

Royalty Revenue

We recognized revenue in accordance with ASC 606, *Revenue from Contracts with Customers*. Under ASC 606, an entity recognizes revenue when its customer obtains control of promised goods or services, in an amount that reflects the consideration that the entity expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that an entity determines are within the scope of ASC 606, the entity performs the following five steps: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the entity satisfies a performance obligation.

RUXIENCE Royalty Revenue

Aptevo's royalty revenue exclusively related to royalties on Pfizer's net sales of RUXIENCE. Royalty revenue for the period covered by this report reflects revenue recorded only in the first quarter of 2022 due to our Amendment to Royalty Purchase Agreement with HCR (see Note 7). As a result of the amendment, we ceased reporting as royalty revenue, royalties paid by Pfizer to HCR related to Pfizer's sales of RUXIENCE.

We recognized royalty revenue under ASC 606, which provides revenue recognition constraints by requiring the recognition of revenue at the later of the following: 1) when the subsequent sale or usage occurs or 2) when the performance obligation to which some or all of the sales-based or usage-based royalty has been allocated has been satisfied (or partially satisfied). We satisfied our performance obligation prior to the period covered by this report, specifically in May 2011 when the original Collaboration and License Agreement between Trubion Pharmaceuticals and Wyeth was amended to remove the exclusivity/non-compete restrictions so that Pfizer could develop a CD20 biosimilar product in exchange for a one-time payment of $2.5 million and future royalties of 2.5% on any CD20 biosimilar product commercialized by Pfizer in the future. We do not have future performance obligations under this agreement. We applied the royalty recognition constraint required under the guidance for sales-based royalties, which requires a sales-based royalty to be recorded no sooner than the underlying sale. Therefore, royalties on sales of products commercialized by Pfizer were recognized in the quarter the product is sold.

Given royalty revenues were based on 2.5% of global net sales of RUXIENCE, the considerations were considered variable. Pfizer generally reported sales information to us within 60 days of quarter end. Unless we received finalized sales information for the respective quarter, we estimated the expected royalty proceeds based on an analysis of historical experience, analyst expectations, interim data provided by Pfizer, including their publicly announced sales, and other publicly available information. Differences between actual and estimated royalty revenues were adjusted for in the period in which they became known, typically the following quarter. Revenue recorded in the period covered by this report represents actual royalty revenue given the timing of RUXIENCE sales reports received from Pfizer. There was no significant financing component to the contract.

Debt Modification

On March 30, 2021, we amended our Credit Agreement with MidCap Financial (First Amendment to Credit Agreement) and used $10 million of the proceeds received from the Royalty Purchase Agreement to pay down the outstanding principal under the Credit Agreement from $25 million to $15 million. The amended Credit Agreement was accounted for under ASC 470-50, *Debt Modifications and Extinguishments* as a debt modification, rather than an extinguishment, based on a comparison of the present value of the cash flows under the terms of the debt immediately before and after the amendment, which resulted in a change of less than 10%. Unamortized issuance costs as of the date of modification will be amortized to interest expense using the effective interest method over the repayment term.

On June 7, 2022, we further amended the Credit Agreement with MidCap Financial (Limited Consent and Second Amendment to Credit Agreement) to obtain MidCap Financial's limited consent to amend the Royalty Purchase Agreement with HCR. The Limited Consent and Second Amendment to Credit Agreement did not change future cash flows or other terms of the Credit Agreement.

Additionally, on August 30, 2022, we amended our Credit Agreement with MidCap Financial (Third Amendment to Credit Agreement) to replace the London Interbank Offered Rate ("LIBOR") benchmark with the Secured Overnight Financing Rate plus 0.10% ("SOFR"), which is regulated by the Federal Reserve Bank of New York. Aptevo amended our Credit Agreement due to United Kingdom's Financial Conduct Authority's ("FCA") planned phase-out of one-month US Dollar LIBOR settings in 2023. Our Credit Agreement continues to bear base interest at a rate of 6.25% per annum plus SOFR, subject to a 1.50% SOFR floor and a 2.50% SOFR cap.

Other Significant Accounting Policies

Our other significant accounting policies were reported in our Annual Report on Form 10-K for the year ended December 31, 2021 that was filed with the SEC on March 24, 2022. Our other significant accounting policies have not changed materially from the policies previously reported.

Recent Accounting Pronouncements

In March 2020, the Financial Accounting Standards Board (FASB) issued Accounting Standard Update (ASU) 2020-04, *Reference Rate Reform* (Topic 848) to provide optional expedients and exceptions for applying GAAP to loan and lease agreements, derivative contracts, and other transactions affected by the anticipated transition away from LIBOR toward new interest rate benchmarks. The FCA, which regulates LIBOR, phased out one-week and two-month US Dollar LIBOR settings on December 31, 2021. All other US Dollar LIBOR settings, including the overnight, one-month, three-month, six-month and twelve-month, will be phased out on June 30, 2023.

We evaluated ASC 848, *Reference Rate Reform*, as part of our August 30, 2022 amendment to Credit Agreement with MidCap Financial (see Note 6). The adoption of ASC 848 did not have a material impact on our consolidated financial statements.

Note 2. Discontinued Operations

The accompanying unaudited condensed consolidated financial statements include discontinued operations from two separate transactions: the sale of our hyperimmune business to Saol International Limited in September 2017, from which we received a payment in March 2021 related to the collection of certain accounts receivable, and the sale of our Aptevo BioTherapeutics LLC business in February 2020.

On February 28, 2020, we entered into an LLC Purchase Agreement with Medexus, pursuant to which we sold all of the issued and outstanding limited liability company interests of Aptevo BioTherapeutics LLC, a wholly owned subsidiary of Aptevo. As a result

of the transaction, Medexus obtained all rights, title and interest to the IXINITY product and the related Hemophilia B business and intellectual property.

The following table represents the components attributable to income from discontinued operations in the unaudited condensed consolidated statements of operations (in thousands):

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2022	2021	2022	2021
Deferred payment from Medexus	165	80	492	399
Gain on contingent consideration from Saol	—	—	—	227
Income from discontinued operations	$ 165	$ 80	$ 492	$ 626

The LLC Purchase Agreement with Medexus entitles us to future deferred payments and milestones. For the nine months ended September 30, 2022, we collected $0.5 million in deferred payment from Medexus related to IXINITY sales. For the nine months ended September 30, 2021, we collected $0.2 million related to the sale of the hyperimmune business to Saol as a result of the collection of certain accounts receivable and a deferred payments of $0.4 million from Medexus related to IXINITY sales. Pursuant to our LLC Purchase Agreement, the rate for deferred payments increased from 2% to 5% of net sales as of June 30, 2022.

Note 3. Collaboration Agreements

Alligator Bioscience AB

On July 20, 2017, our wholly owned subsidiary Aptevo Research and Development LLC (Aptevo R&D), entered into a collaboration and option agreement (the Collaboration Agreement) with Alligator Bioscience AB (Alligator), pursuant to which Aptevo and Alligator will collaboratively develop ALG.APV-527, a lead bispecific antibody candidate simultaneously targeting 4-1BB (CD137), a member of the TNFR superfamily of a costimulatory receptor found on activated T-cells, and 5T4, a tumor antigen widely overexpressed in a number of different types of cancer.

We assessed the arrangement in accordance with ASC 606 and concluded that the contract counterparty, Alligator, is not a customer. As such the arrangement is not in the scope of ASC 606 and is instead treated as a collaborative agreement under ASC 808 – *Collaborative Arrangements* (ASC 808). In accordance with ASC 808, we concluded that because the Collaboration Agreement is a cost sharing agreement, there is no revenue.

For the three months ended September 30, 2022 and 2021, we recorded approximately $0.6 million and $0.1 million in our research and development expense related to the Collaboration Agreement, respectively.

Note 4. Fair Value Measurements

The Company's estimates of fair value for financial assets and financial liabilities are based on the framework established in the fair value accounting guidance. The framework is based on the inputs used in valuation, it gives the highest priority to quoted prices in active markets and requires that observable inputs be used in the valuations when available. The disclosure of fair value estimates in the fair value accounting guidance hierarchy is based on whether the significant inputs into the valuation are observable. In determining the level of the hierarchy in which the estimate is disclosed, the highest priority is given to unadjusted quoted prices in active markets and the lowest priority to unobservable inputs that reflect the Company's significant market assumptions. The level in the fair value hierarchy within which the fair value measurement is reported is based on the lowest level input that is significant to the measurement in its entirety. The three levels of the hierarchy are as follows:

Level 1— Quoted prices in active markets for identical assets and liabilities;

Level 2— Inputs other than quoted prices in active markets that are either directly or indirectly observable; and

Level 3— Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

At September 30, 2022 and December 31, 2021, we had $18.4 million and $41.2 million in Level 1 money market funds, respectively. The carrying amounts of our money market funds approximate their fair value. At September 30, 2022 and December 31, 2021, we did not have any Level 2 or Level 3 assets.

Note 5. Cash, Cash Equivalents, and Restricted Cash

The Company's cash equivalents are highly liquid investments with a maturity of 90 days or less at the date of purchase and include time deposits and investments in money market funds. Restricted cash, which are time deposits, includes $0.4 million securing letters of credit.

The following table shows our cash, cash equivalents and restricted cash as of September 30, 2022 and December 31, 2021:

(in thousands)	September 30, 2022	December 31, 2021
Cash	$ 3,731	$ 3,841
Cash equivalents	18,419	41,203
Restricted cash	427	1,259
Total cash, cash equivalents, and restricted cash	$ 22,577	$ 46,303

Note 6. Debt

Credit Agreement

On August 5, 2020, we entered into a Credit Agreement, with MidCap Financial. The Credit Agreement provided us with up to $25.0 million of available borrowing capacity under a term loan facility. The full $25.0 million was drawn on the closing date of the Credit Agreement. The term loan facility has a 48 month term, is interest-only for the first 18 months, with straight-line amortization for the remaining 30 months and bears interest at a rate of one month LIBOR plus 6.25% per annum, subject to a 1.50% LIBOR floor and a 2.50% LIBOR cap. Certain assets of the Company are pledged as collateral under the terms of the Credit Agreement. The FCA, which regulates LIBOR, phased out one-week and two-month US Dollar LIBOR settings on December 31, 2021. All other US Dollar LIBOR settings, including the overnight, one-month, three-month, six-month and twelve-month, will be phased out on June 30, 2023. Our 2020 Credit Agreement with MidCap Financial referenced one-month LIBOR and also provided that we may amend the Credit Agreement to reflect an alternative rate of interest upon the phase out of LIBOR.

On November 6, 2020, Kevin Tang and his related entities filed a statement on Schedule 13D to report the purchase of 1,760,000 shares of the Company's common stock, which at the time represented approximately 54% of the Company's issued and outstanding shares of the Company's common stock. This acquisition of voting stock triggered a change in control, resulting in an Event of Default under Section 10.1(a)(ii) of the Credit Agreement. On November 10, 2020, the Company obtained a waiver from MidCap Financial pursuant to which, among other things, MidCap Financial waived such Event of Default and MidCap Financial and the Company agreed that an immediate event of default under the Credit Agreement will be deemed to have occurred in the event that (a) a majority of the seats on the Company's board of directors are occupied by persons who were neither (i) nominated by the Company's board of directors nor (ii) appointed by the directors so nominated, and (b) Tang has appointed the majority of the Company's board of directors. No other events of default have occurred with respect to the Credit Agreement.

On March 30, 2021, we amended our Credit Agreement with MidCap Financial and used $10.0 million of the proceeds received from the Royalty Purchase Agreement to pay down the outstanding principal under the Credit Agreement from $25.0 million to $15.0 million. $10.0 million of the remaining $15.0 million principal balance was paid on March 29, 2022. Beginning March 1, 2022, monthly repayment of the remaining $5.0 million of principal commenced and will continue for the final 30 months of the loan term. The term loan facility includes additional payment provisions if milestones related to IXINITY under the LLC Purchase Agreement with Medexus or royalties related to RUXIENCE under the Royalty Purchase Agreement with HCR are sold during the term of the loan. If the Company sells the IXINITY deferred payment stream and milestones prior to full repayment of this $5.0 million principal amount, under the agreement with MidCap Financial, we will be required to use the proceeds from the sale to pay down the outstanding loan principal balance. MidCap Financial also released its security interest in the RUXIENCE royalty payments. A fee of $0.6 million was paid by the Company to MidCap Financial in connection with the amendment in lieu of the formula-based fee previously required.

The amended Credit Agreement was accounted for as a debt modification, rather than an extinguishment, based on a comparison of the present value of the cash flows under the terms of the debt immediately before and after the amendment, which resulted in a change of less than 10%. Unamortized issuance costs as of the date of modification will be amortized to interest expense using the effective interest method over the repayment term.

On June 7, 2022, we further amended the Credit Agreement with MidCap Financial to obtain MidCap Financial's limited consent to amend our Royalty Purchase Agreement with HCR. The Limited Consent and Second Amendment to Credit Agreement did not change future cash flows or other terms of the Credit Agreement.

Additionally, on August 30, 2022, we amended our Credit Agreement with MidCap Financial to replace the LIBOR benchmark with SOFR, which is regulated by the Federal Reserve Bank of New York. We amended our Credit Agreement due to FCA's planned phase-out of one-month US Dollar LIBOR settings in 2023. Our Credit Agreement continues to bear base interest at a rate of 6.25% per annum plus SOFR, subject to a 1.50% SOFR floor and a 2.50% SOFR cap.

As of September 30, 2022, we classified $2.0 million of the remaining $3.9 million principal of the amended Credit Agreement to current portion of long-term debt on the unaudited condensed consolidated balance sheet.

This facility is subject to a subjective acceleration clause that could be invoked by MidCap Financial upon the occurrence of any event MidCap Financial deems to have a material adverse effect on our ability to repay the lender.

Note 7. Liability Related to Sale of Royalties

In March 2021, we entered into and closed the Royalty Purchase Agreement with HCR pursuant to which we sold to HCR the right to receive royalty payments made by Pfizer in respect of global net sales of RUXIENCE. Under the terms of the agreement, we received $35.0 million at closing and we are eligible to receive additional payments in the aggregate of up to an additional $32.5 million based on the achievement of sales milestones in 2021, 2022 and 2023. We received the 2021 milestone payments in the collective amount of $10.0 million on March 8, 2022. The proceeds from these Milestone Amounts, net of transaction costs, were recorded as an additional liability related to the sale of royalties on the consolidated balance sheet as of March 31, 2022. We are eligible to receive additional Milestone Amounts in aggregate of up to $22.5 million based on achievement of sales milestones in 2022 and 2023.

Due to the nature of the transaction, which included a cap on HCR's rate of return, constituting continuing involvement under the Collaboration and License Agreement originally between Trubion and Wyeth, we recorded a liability related to the proceeds received from HCR of $35.0 million, net of transaction costs of $1.1 million. Further, we received proceeds related to the 2021 milestone of $10.0 million, net of transaction costs of $0.5 million, and recorded additional liability related to sale of royalties. We recognized royalty revenue on net sales of RUXIENCE and recorded the royalty payments to HCR as a reduction of the liability when paid.

On April 1, 2022, the Company received a letter from Nasdaq indicating that it was not in compliance with Nasdaq Listing Rule 5550(b)(1). On June 7, 2022, we entered into and closed an amendment to our Royalty Purchase Agreement, resulting in the Company recognizing $37.2 million gain, which was the total balance of liability related to the sale of royalties on the closing date. The Amendment to Royalty Purchase Agreement allowed us to regain full compliance with Nasdaq Listing Rule 5550(b)(1) in a way that was non-dilutive for our shareholders. Pursuant to the Amendment to Royalty Purchase Agreement, we agreed to forego our right to receive 50% of RUXIENCE royalty revenue if HCR received aggregate royalty payments totaling 190% of the Investment Amount plus Milestone Amounts to the extent paid by HCR. The Amendment to Royalty Purchase Agreement eliminated all of our continuing involvement with the cash generating activities related to the royalties and removed all restrictions related to the rate of return and was therefore accounted for under ASC 610-20, *Gains and Losses from Derecognition of Nonfinancial Assets* and ASC 405-20, *Liabilities – Extinguishment of Liabilities*.

The Amendment to Royalty Purchase Agreement continues to include the opportunity to earn up to $22.5 million of additional milestone payments (up to $12.5 million and $10 million for 2022 and 2023, respectively). The royalty revenue included in the consolidated statements of operations relates to the quarter ended March 31, 2022. Future milestone payments will be accounted for as variable consideration and recognized using the most likely method in accordance with ASC 610-20 *Other Income — Gains and Losses from the Derecognition of Nonfinancial Assets*.

The following table presents the changes in the liability in the period related to the sale of royalties under the Royalty Purchase Agreement with HCR (in thousands):

	For the Nine Months Ended September 30, 2022	For the Nine Months Ended September 30, 2021
Liability related to sale of royalties, beginning balance	$ 31,045	$ —
Proceeds from sale of royalties, net of transaction costs	—	33,900
Proceeds from milestone payments, net of transaction costs	9,500	—
Non-cash interest expense	3,416	3,709
RUXIENCE royalties paid by Pfizer to HCR	(6,779)	(5,529)
Gain from extinguishment of liability related to sale of royalties	(37,182)	—
Liability related to sale of royalties, ending balance	—	32,080
Current portion of liability related to sale of royalties	—	(13,369)
Liability related to sale of royalties, non-current	$ —	$ 18,711

We recorded non-cash interest expense through the date of the Amendment to Royalty Purchase Agreement.

Note 8. Leases

Office Space Lease - Operating

We have an operating lease related to our office and laboratory space in Seattle, Washington. This lease was amended in March 2019 to extend the term through April 2030 and provide two options to extend the lease term, each by five years, as well as a one-time option to terminate the lease in April 2023, with nine months' notice, or by July 2022. We had previously determined we should not include any periods after the termination option when evaluating this amendment as we were not reasonably certain to not exercise the option, therefore we recorded our liability through April 30, 2023.

On May 26, 2022, we amended our office and laboratory lease to remove the one-time termination option. In exchange for removing the termination option, we received six months of free rent. As a result, we recorded an additional $4.4 million of lease liability and right-of-use asset on the consolidated balance sheet on the date of the amendment. As of September 30, 2022, we are not reasonably certain to exercise the two options to extend the lease term. Therefore, pursuant to our May 26, 2022 amendment, we recorded our lease liability through April 30, 2030.

For the three and nine months ended September 30, 2022 and 2021, we recorded $0.2 million and $0.6 million related to variable lease expense, respectively.

Equipment Leases - Operating

As of September 30, 2022, we had operating leases for four copiers in our Seattle, Washington headquarters. The future expense for these leases will be straight-line and will include any variable expenses that arise.

Equipment Lease – Financing

As of September 30, 2022, we did not have any lease classified as a financing lease. There were no financing lease payments in the three and nine months ended September 30, 2022. As of September 30, 2021, we had one equipment lease classified as a financing lease and the lease transferred ownership of the underlying asset to us at the end of the lease term in 2020. There were no financing lease payments in the three and nine months ended September 30, 2021.

Components of lease expense:

(in thousands)	For the Three Months Ended September 30, 2022	For the Nine Months Ended September 30, 2022	For the Three Months Ended September 30, 2021	For the Nine Months Ended September 30, 2021
Operating lease cost	$ 299	$ 978	$ 395	$ 1,185
Finance lease cost:				
Amortization of right-of-use assets	—	2	2	5
Total lease cost	$ 299	$ 980	$ 397	$ 1,190

Right of use assets acquired under operating leases:

(in thousands)	As of September 30, 2022	As of December 31, 2021
Operating leases, excluding Seattle office lease	$ 2	$ 7
Seattle office lease, including amendment	5,406	1,577
Total operating leases	$ 5,408	$ 1,584

Lease payments:

(in thousands)	For the Nine Months Ended September 30, 2022	For the Nine Months Ended September 30, 2021
For operating leases	$ 779	$ 1,053

The long-term portion of the lease liabilities is $6.2 million and the remainder of our lease liabilities are included in other current liabilities on our unaudited condensed consolidated balance sheets.

As of September 30, 2022, the weighted average remaining lease term and weighted average discount rate for operating leases was 7.6 years and 12.03%. As of September 30, 2021, the weighted average remaining lease term and weighted average discount rate for operating leases was 1.6 years and 14.46%.

Note 9. Net Income (Loss) per Share

Basic net income (loss) per share is calculated by dividing the net income (loss) by the weighted average number of common shares outstanding for the period. Diluted net income (loss) per share is computed by dividing the net income (loss) by the weighted average number of common share equivalents outstanding for the period using the as-if converted method. For the purpose of this calculation, warrants, stock options and restricted stock units (RSUs) are only included in the calculation of diluted net income (loss) per share when their effect is dilutive.

We utilize the control number concept in the computation of diluted earnings per share to determine whether potential common stock instruments are dilutive. The control number used is loss from continuing operations or income from discontinued operations. The control number concept requires that the same number of potentially dilutive securities applied in computing diluted earnings per share from continuing operations be applied to all other categories of income or loss, regardless of their anti-dilutive effect on such categories.

Common stock equivalents include warrants, stock options and unvested RSUs.

The following table presents the computation of basic and diluted net income (loss) per share (in thousands, except share and per share amounts):

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2022	2021	2022	2021
Net (loss) income from continuing operations	$ (7,809)	$ (7,077)	$ 12,177	$ (22,811)
Income from discontinued operations	165	80	492	626
Net (loss) income	$ (7,644)	$ (6,997)	$ 12,669	$ (22,185)
Basic and diluted net (loss) income per share from continuing operations:				
Basic	$ (1.53)	$ (1.45)	$ 2.42	$ (4.94)
Diluted	$ (1.53)	$ (1.45)	$ 2.42	$ (4.94)
Basic and diluted net income per share from discontinued operations:				
Basic	$ 0.03	$ 0.02	$ 0.10	$ 0.14
Diluted	$ 0.03	$ 0.02	$ 0.10	$ 0.14
Shares used in calculation:				
Basic	5,090,592	4,891,881	5,017,684	4,617,357
Diluted	5,090,592	4,891,881	5,019,552	4,617,357

The following table represents all potentially dilutive shares:

	As of September 30,	
(in thousands)	2022	2021
Warrants	351	351
Outstanding options to purchase common stock	366	350
Unvested RSUs	227	64

We use the treasury stock method when determining dilutive shares. As of September 30, 2022, we determined that outstanding warrants and options are not dilutive as the exercise prices were higher than our average share price for the three and nine months ended September 30, 2022. Unvested RSUs are the only dilutive shares included in the calculation of diluted earnings per share. For the three and nine months ended September 30, 2021, the Company was in a net loss position, therefore the share number used to calculate diluted earnings per share is the same as the basic earnings per share calculation.

Note 10. Equity

Equity Distribution Agreement

On December 14, 2020, we entered into an Equity Distribution Agreement with Piper Sandler. The Equity Distribution Agreement provides that, upon the terms and subject to the conditions set forth therein, we may issue and sell through Piper Sandler, acting as sales agent, shares of our common stock, $0.001 par value per share having an aggregate offering price of up to $50.0 million. This offering supersedes and replaces the program we commenced in December 2017. We have no obligation to sell any such shares under the Equity Distribution Agreement. The sale of such shares of common stock by Piper Sandler will be effected pursuant to a Registration Statement on Form S-3 which we filed on December 14, 2020. In the nine months ended September 30, 2022, the Company issued 78,285 shares of common stock under the Equity Distribution Agreement. We received $0.4 million in proceeds from the issuance of these shares. We did not issue any shares under the Equity Distribution Agreement in the nine months ended September 30, 2021.

Lincoln Park Purchase Agreement

On February 16, 2022, we entered into a Purchase Agreement (2022 Purchase Agreement) and a Registration Rights Agreement with Lincoln Park. The 2022 Purchase Agreement and Registration Rights Agreement replaced our 2018 Purchase Agreement and Registration Rights Agreement with Lincoln Park. Under the 2022 Purchase Agreement, Lincoln Park committed to purchase up to $35.0 million of our common stock over a 36-month period commencing after the satisfaction of certain conditions, which are within our control, as set forth in the Purchase Agreement. The purchase price per share will be based on prevailing market prices; provided, however, that the prevailing market price is not below $1.00. We agreed to and issued 99,276 shares of our common stock to Lincoln Park for no cash consideration as an initial fee for its commitment to purchase shares of our common stock under the Purchase Agreement. We did not issue any shares of common stock for cash consideration to Lincoln Park under the Purchase Agreement in the nine months ended September 30, 2022. In the nine months ended September 30, 2021, we issued approximately 0.4 million shares of common stock to Lincoln Park under the 2018 Purchase Agreement and received $10.2 million in proceeds from issuance of these shares.

Rights Plan

On November 8, 2020, our Board of Directors (Board) approved and adopted a Rights Agreement, dated as of November 8, 2020, by and between the Company and Broadridge Corporate Issuer Solutions, Inc., as rights agent, pursuant to which the Board declared a dividend of one preferred share purchase right (each, a Right) for each outstanding share of the Company's common stock held by stockholders as of the close of business on November 23, 2020. When exercisable, each Right initially would represent the right to purchase from the Company one one-thousandth of a share of a newly-designated series of preferred stock, Series A Junior Participating Preferred Stock, par value $0.001 per share, of the Company, at an exercise price of $400.00 per one one-thousandth of a Series A Junior Participating Preferred Share, subject to adjustment. Subject to various exceptions, the Rights become exercisable in the event any person (excluding certain exempted or grandfathered persons) becomes the beneficial owner of ten percent (10%) or more of the Company's common stock without the approval of the Board. The Rights Agreement was amended on November 4, 2021 to extend the expiration date of such agreement from November 8, 2021 to November 5, 2022 and further amended on November 4, 2022 to extend the expiration of such agreement to November 4, 2023.

2016 Stock Incentive Plan

On August 1, 2016, the Company adopted the 2016 Stock Incentive Plan (2016 SIP). A total of 0.2 million shares of Aptevo common stock have been authorized for issuance under the 2016 SIP in the form of equity stock options.

On May 31, 2017, at the 2017 Annual Meeting of Stockholders, the Company's stockholders approved the amendment and restatement of the Company's 2016 SIP (Restated 2016 Plan) to, among other things, increase the number of authorized shares issuable by 0.1 million shares of Aptevo common stock. The Restated 2016 Plan was previously approved, subject to stockholder approval, by our Board.

2018 Stock Incentive Plan

On June 1, 2018, at the 2018 Annual Meeting of the Stockholders, the Company's stockholders approved a new 2018 Stock Incentive Plan (2018 SIP), which replaced the Restated 2016 Plan on a go-forward basis. All stock options, RSUs or other equity awards granted subsequent to June 1, 2018 have been and will be issued out of the 2018 SIP, which has 0.3 million shares of Aptevo common stock authorized for issuance. The 2018 Plan became effective immediately upon stockholder approval at the 2018 Annual Meeting of the Stockholders. Any shares subject to outstanding stock awards granted under the 2016 SIP that (a) expire or terminate for any reason prior to exercise or settlement; (b) are forfeited because of the failure to meet a contingency or condition required to vest such shares or otherwise return to the Company; or (c) otherwise would have returned to the 2016 SIP for future grant pursuant to the terms of the 2016 Plan (such shares, the "Returning Shares") will immediately be added to the share reserve under the 2018 SIP as and when such shares become Returning Shares, up to a maximum of 0.3 million shares.

On June 7, 2022, at the 2022 Annual Meeting of Stockholders, our stockholders approved the Amended and Restated 2018 SIP to increase the number of shares authorized for issuance under the 2018 SIP by 500,000 shares of common stock. As of September 30, 2022, there are approximately 0.4 million shares available to be granted under the 2018 SIP.

Stock options and RSUs under the Amended and Restated 2018 SIP generally vest pro rata over a one-year or three-year period. Stock options terminate ten years from the grant date, though the specific terms of each grant are determined individually. The Company's executive officers, members of our board of directors, and certain other employees and consultants may be awarded options and/or RSUs with different vesting criteria, and awards granted to non-employee directors will vest over a one-year period. Option exercise and RSU grant prices for new awards granted by the Company equal the closing price of the Company's common stock on the Nasdaq Capital Market on the date of grant.

Stock-Based Compensation Expense

Stock-based compensation expense includes amortization of stock options and RSUs granted to employees and non-employees and has been reported in our unaudited condensed consolidated statements of operations as follows:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
(in thousands)	2022	2021	2022	2021
Research and development	$ 51	$ 80	$ 128	$ 491
General and administrative	308	239	1,316	973
Total stock-based compensation expense	$ 359	$ 319	$ 1,444	$ 1,464

The Company accounts for stock-based compensation by measuring the cost of employee services received in exchange for all equity awards granted based on the fair value of the award as of the grant date. The Company recognizes the compensation expense over the vesting period. All assumptions used to calculate the grant date fair value of non-employee equity awards are generally consistent with the assumptions used for equity awards granted to employees. In the event the Company terminates any of its consulting agreements, the unvested equity underlying the agreements would also be cancelled.

Stock Options

Aptevo utilizes the Black-Scholes valuation model for estimating the fair value of all stock options granted. Set forth below are the assumptions used in valuing the stock options granted:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2022	2021	2022	2021
Expected dividend yield	—	—	—	—
Expected volatility	105.56%	97.59%	106.24%	99.30%
Risk-free interest rate	2.96%	0.96%	1.71%	2.73%
Expected average life of options	5 years	6 years	5 years	5 years

Management has applied an estimated forfeiture rate of 30% for the three and nine months ended September 30, 2022, and 20% and 22% for the three months and nine months ended September 30, 2021, respectively. Expected volatility increased as our stock price fluctuated from a low of $2.95 to a high of $4.59 for the three months ended September 30, 2022, compared to a low of $15.01 to a high of $22.16 for the three months ended September 30, 2021.

The following is a summary of option activity for the nine months ended September 30, 2022:

	Number of Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Term	Aggregate Intrinsic Value (in thousands)
Balance at December 31, 2021	334,412	$ 19.17	8.70	$ 43
Granted	69,588	5.61	—	—
Exercised	(85)	6.97	—	21
Forfeited	(37,945)	25.82	—	—
Outstanding at September 30, 2022	365,970	15.83	7.63	—
Exercisable at September 30, 2022	185,256	13.74	6.52	—
Vested and expected to vest at September 30, 2022	311,028	15.72	7.40	—

As of September 30, 2022, we had $2.1 million of unrecognized compensation expense related to options expected to vest over a weighted average remaining vesting period of 1.6 years. The weighted-average grant date fair value per share of options granted during the nine months ended September 30, 2022 and 2021 was $4.35 and $23.60, respectively. The aggregate intrinsic value of options exercised for the nine months ended September 30, 2022 and 2021 was $0 and $0.4 million, respectively. The total fair value of stock options vested for the nine months ended September 30, 2022 and 2021 was $1.3 million and $1.6 million, respectively.

The aggregate intrinsic value in the table above represents the total pretax intrinsic value (the difference between the closing stock price of Aptevo's common stock on the last trading day of September 2022 and the exercise price, multiplied by the number of in the money options) that would have been received by the option holders had all the option holders exercised their options on the last trading day of the quarter.

Restricted Stock Units

The following is a summary of RSU activity for the nine months ended September 30, 2022:

	Number of Units	Weighted Average Fair Value per Unit
Balance at December 31, 2021	56,810	$ 30.66
Granted	199,604	5.05
Vested	(15,699)	30.88
Forfeited	(13,276)	22.37
Outstanding and expected to vest at September 30, 2022	227,439	$ 8.65

As of September 30, 2022, there was $1.7 million unrecognized stock-based compensation expense related to unvested RSUs expected to vest over the weighted average period of 1.8 years. As of September 30, 2021, there was $1.7 million unrecognized stock-based compensation expense related to unvested RSUs expected to vest over the weighted average period of 2.4 years.

The fair value of each RSU has been determined to be the closing trading price of the Company's common stock on the date of grant as quoted on the Nasdaq Capital Market.

Warrants

In March 2019, as part of a public offering, we issued warrants to purchase up to 1,725,000 shares of our common stock, 1,571,429 of which have an exercise price of $18.20 per share and have a five-year life, and 153,571 of pre-funded warrants with an exercise price of $0.14 per share. The pre-funded warrants had a ten-year life and would have expired on March 11, 2029; however, all of the pre-funded warrants were exercised in March 2019. We determined the warrants do not meet liability classification pursuant to ASC 480 – *Distinguishing Liabilities from Equity*. These are therefore included within equity on our unaudited condensed consolidated balance sheet. For the three months ended September 30, 2022 and 2021, the Company did not have any of its warrants exercised. As of September 30, 2022 and 2021, there were warrants to purchase 350,589 shares of common stock outstanding.

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

This Quarterly Report on Form 10-Q includes "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the Exchange Act). All statements in this Quarterly Report on Form 10-Q other than statements of historical facts, including statements regarding our strategy, future operations, future financial position, future revenues, royalty payments, the achievement of milestones and receipt of future payments, projected costs, prospects, plans, intentions, expectations, clinical trial results, compliance with listing requirements, future macroeconomic conditions and objectives could be forward-looking statements. The words "anticipates," "believes," "could," "designed," "estimates," "expects," "goal," "intends," "may," "plans," "projects," "pursuing," "should", "will," "would" and similar expressions (including the negatives thereof) are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words.

We have based these forward-looking statements largely on our current assumptions, expectations, projections, intentions, objectives and/or beliefs about future events or occurrences and these forward-looking statements are subject to a number of risks, uncertainties and assumptions, including, but not limited to, those described in Part II, Item 1A, "Risk Factors" in this Quarterly Report on Form 10-Q and our other filings with the Securities and Exchange Commission. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. The timing of certain events and circumstances and known and unknown risks and uncertainties could cause actual results to differ materially from those anticipated or implied in the forward-looking statements that we make. Therefore, you should not place undue reliance on our forward-looking statements. Our forward-looking statements in this Quarterly Report on Form 10-Q are based on current information and we do not assume any obligation to update any forward-looking statements except as required by the federal securities laws.

You should read the following Management's Discussion and Analysis of Financial Condition and Results of Operations (this MD&A) together with the unaudited condensed consolidated financial statements and the related notes thereto included in this Quarterly Report on Form 10-Q. This MD&A contains forward-looking statements that are subject to risks and uncertainties, such as those set forth in the sections of this Quarterly Report on Form 10-Q, "Risk Factors" and elsewhere. As a result, our actual results may differ materially from those anticipated in these forward-looking statements.

Overview

We are a clinical-stage, research and development biotechnology company focused on developing novel immunotherapeutic candidates for the treatment of different forms of cancer. We have developed two versatile and enabling platform technologies for rational design of precision immune modulatory drugs. Our lead clinical candidate, APVO436, and preclinical candidates, ALG.APV-527 and APVO603, were developed using our ADAPTIR™ modular protein technology platform. Our preclinical candidate, APVO442, was developed using our ADAPTIR-FLEX™ modular protein technology platform. Currently, APVO436 is being evaluated in an open-label, multi-center, multi-cohort Phase 1b expansion trial in the U.S. We filed an IND with the FDA for ALG.APV-527 in the second half of 2022 and received a "may proceed" notification, allowing us and our partner, Alligator, to initiate a multi-center Phase 1 clinical trial.

The versatile and robust ADAPTIR and ADAPTIR-FLEX platforms are designed to generate monospecific, bispecific, and multi-specific antibody candidates that are capable of enhancing the human immune system against cancer cells. ADAPTIR and ADAPTIR-FLEX are both modular platforms, which gives us the flexibility to generate immunotherapeutic candidates with a variety of mechanisms of action. This flexibility in design allows us to potentially generate novel therapeutic candidates that may provide the foundation for the establishment of effective strategies against difficult to treat, as well as advanced forms of cancer. We have successfully designed and constructed numerous investigational-stage prototype product candidates based on our ADAPTIR platform. The ADAPTIR platform technology is designed to generate monospecific and bispecific immunotherapeutic proteins that specifically bind to one or more targets, for example, bispecific therapeutic molecules, which may have structural and functional advantages over monoclonal antibodies. The structural differences of ADAPTIR molecules over monoclonal antibodies allow for the development of ADAPTIR immunotherapeutics that are designed to engage immune effector cells and disease targets in a novel manner to produce unique signaling responses and ultimately kill tumors or modulate the immune system to kill tumors.

We are skilled at candidate generation, validation, and subsequent preclinical and clinical development using the ADAPTIR platform and have added the ADAPTIR-FLEX platform to generate multi-specific candidates or other candidates to our platform capabilities. We have developed a preclinical candidate based on the ADAPTIR-FLEX platform which is advancing in our pipeline. We are developing our ADAPTIR and ADAPTIR-FLEX molecules by way of our protein engineering, preclinical development, process development, and clinical development capabilities.

Recent Developments:

Announced acceptance of a poster presentation at 64th American Society of Hematology (ASH) Annual Meeting and Exposition being held December 10-13 in New Orleans, Louisiana. The poster, entitled "*Updated Results from a Phase 1 Study of APVO436, a Novel Bispecific Anti-CD123 x Anti-CD3 ADAPTIR™ Molecule, in Relapsed/Refractory Acute Myeloid Leukemia and Myelodysplastic Syndrome*" will be presented on Sunday, December 11, 2022 from 6:00 PM-8:00 PM Central Time.

We submitted an IND with the FDA for ALG.APV-527 and received a "may proceed" notification on September 19, 2022, allowing us to initiate a multi-center Phase 1 clinical trial evaluating the compound for the treatment of 5T4-expressing tumors in multiple solid tumor malignancies. We and our partner, Alligator, are working to initiate this trial in the US.

Continued dosing patients in our Phase 1b expansion program evaluating APVO436 for the treatment of acute myeloid leukemia in both combination therapy and monotherapy.

On August 30, 2022, we amended our Credit Agreement with MidCap Financial to replace the LIBOR benchmark with SOFR, which is regulated by Federal Reserve Bank of New York. We amended our Credit Agreement due to FCA's planned phase-out of one-month US Dollar LIBOR settings in 2023. Our Credit Agreement continues to bear base interest at a rate of 6.25% per annum plus SOFR, subject to a 1.50% SOFR floor and a 2.50% SOFR cap.

Results of Operations

Except as otherwise stated below, the following discussions of our results of operations reflect the results of our continuing operations, excluding the results related to Aptevo BioTherapeutics LLC (Aptevo BioTherapeutics), which was sold in February 2020 to Medexus and has been separated from continuing operations and reflected as a discontinued operation. See Note 2 – Discontinued Operations to the accompanying financial statements for additional information.

Comparison of the Three and Nine Months Ended September 30, 2022 and September 30, 2021

Royalty Revenue

For the three and nine months ended September 30, 2022, royalty revenue was $0 and $3.1 million, respectively. Royalty revenue for the period covered by this report reflects revenue recorded only in the first quarter of 2022 due to our Amendment to Royalty Purchase Agreement with HCR (see Note 7). As a result of the amendment, we ceased reporting as royalty revenue, royalties paid by Pfizer to HCR related to Pfizer's sales of RUXIENCE. For the three and nine month ended September 30, 2021, royalty revenue was $3.1 million and $8.6 million, respectively. The royalty revenue from Pfizer related to a Collaboration and License Agreement (Definitive Agreement) acquired by Aptevo as part of our spin-off from Emergent in 2016. The agreement was originally executed by Trubion Pharmaceuticals, which was subsequently acquired by Emergent, and Wyeth, a wholly owned subsidiary of Pfizer.

On March 30, 2021, we entered into and closed a Royalty Purchase Agreement with an entity managed by HCR pursuant to which we sold to HCR the right to receive royalty payments made by Pfizer in respect of net sales of RUXIENCE. Under the terms of the Royalty Purchase Agreement, the Company received $35 million at closing and we are eligible to receive additional payments in the aggregate of up to an additional $32.5 million based on the achievement of sales milestones in 2021, 2022 and 2023. We received the 2021 milestone payments in the collective amount of $10 million on March 8, 2022. The proceeds from these milestone payments, net of transaction costs, were recorded as an additional liability related to the sale of royalties on the consolidated balance sheet as of March 31, 2022.

Due to the nature of the transaction, which included a cap on HCR's rate of return, constituting continuing involvement under the Collaboration and License Agreement originally between Trubion and Wyeth, we recorded a liability related to the proceeds received from HCR of $35.0 million, net of transaction costs of $1.1 million. Further, we received proceeds related to the 2021 milestone of $10.0 million, net of transaction costs of $0.5 million, and recorded additional liability related to sale of royalties. We recognized royalty revenue on net sales of RUXIENCE and recorded the royalty payments to HCR as a reduction of the liability when paid.

In order to non-dilutively address a Nasdaq listing compliance matter, on June 7, 2022, we entered into and closed an amendment to the Royalty Purchase Agreement (the Amendment to Royalty Purchase Agreement), pursuant to which we agreed to forego our right to receive 50% of RUXIENCE royalty revenue if HCR received aggregate royalty payments totaling 190% of the Investment Amount plus Milestone Amounts to the extent paid by HCR. The Amendment to Royalty Purchase Agreement continues to include the opportunity to earn up to $22.5 million of additional Milestone Amounts (up to $12.5 million and $10 million for 2022 and 2023, respectively). The Amendment to Royalty Purchase Agreement eliminated all of our continuing involvement with the cash generating activities related to the royalties and removed all restrictions related to HCR's rate of return and therefore was accounted for under ASC 610-20, *Gains and Losses from Derecognition of Nonfinancial Assets* and ASC 405-20, *Liabilities – Extinguishment of Liabilities*, resulting in recognition of $37.2 million gain, which was the total balance of the liability related to the sale of royalties on the closing date.

Research and Development Expenses

We expense research and development costs as incurred. These expenses consist primarily of the costs associated with our research and development activities, including conducting non-clinical studies and clinical trials, fees to professional service providers for analytical testing, consulting costs, independent monitoring or other administration of our clinical trials and obtaining and evaluating data from our clinical trials and non-clinical studies, as well as costs of contract manufacturing services for clinical trial material, and costs of materials used in clinical trials and research and development. Our research and development expenses include:

- employee salaries and related expenses, including stock-based compensation and benefits for our employees involved in our drug discovery and development activities;
- consulting costs related to our clinical and pre-clinical programs;
- external research and development expense incurred under agreements with third-party contract research organizations (CRO's) and investigative sites;
- manufacturing material expense for third-party manufacturing; and,
- overhead costs such as rent, utilities and depreciation.

We expect our research and development spending will be dependent upon such factors as the results from our clinical trials, the availability of reimbursement of research and development spending, the number of product candidates under development, the size, structure and duration of any clinical programs that we may initiate, and the costs associated with manufacturing our product candidates on a large-scale basis for later stage clinical trials. We may experience interruption of key clinical trial activities, such as site initiation, patient enrollment and clinical trial site monitoring, and key non-clinical activities due to the ongoing COVID-19 pandemic. While a number of our programs are still in the preclinical trial phase, we do not provide a breakdown of the initial associated expenses as we are often evaluating multiple product candidates simultaneously. Costs are reported in preclinical research and discovery until the program enters the clinic.

Our research and development expenses by program for the three and nine months ended September 30, 2022 and 2021 are shown in the following table:

	For the Three Months Ended September 30,		
(in thousands)	**2022**	**2021**	**Change**
Clinical programs:			
APVO436	$ 1,730	$ 1,162	$ 568
Preclinical program, general research and discovery	2,747	3,205	(458)
Total	$ 4,477	$ 4,367	$ 110

	For the Nine Months Ended September 30,		
(in thousands)	**2022**	**2021**	**Change**
Clinical programs:			
APVO436	$ 4,532	$ 3,663	$ 869
Preclinical program, general research and discovery	8,676	10,788	(2,112)
Total	$ 13,208	$ 14,451	$ (1,243)

For the three months ended September 30, 2022, research and development expenses increased by $0.1 million, to $4.5 million from $4.4 million for September 30, 2021. The increase in the third quarter was primarily due to higher spending on our APVO436 clinical trial as we continue to advance that trial in our Phase 1b expansion program. For the nine months ended September 30, 2022, research and development expenses decreased by $1.2 million, to $13.2 million from $14.4 million for September 30, 2021. The decrease was primarily due to lower spending on preclinical projects and employee costs. The decrease was partially offset by higher spending on our APVO436 clinical trial as we continue to dose patients in our Phase 1b expansion program.

General and Administrative Expenses

General and administrative expenses consist primarily of personnel-related costs and professional fees in support of our executive, business development, finance, accounting, information technology, legal and human resource functions. Other costs include facility costs not otherwise included in research and development expenses.

For the three months ended September 30, 2022, general and administrative expenses decreased by $0.2 million, to $3.3 million from $3.5 million for September 30, 2021. The decrease in the third quarter is primarily due to lower employee and consulting costs. For the nine months ended September 30, 2022, general and administrative expenses decreased by $0.6 million, to $10.9 million from $11.5 million for September 30, 2021. The decrease is primarily due to lower employee costs and lower costs related to responding to stockholder activism matters.

Other Income (Expense), Net

Other income (expense), net consists primarily of gain on extinguishment of liabilities, costs related to debt extinguishment, accrued exit fees on debt, non-cash interest on financing agreements, and interest on debt.

Other Expense, Net

Other expense, net was $0.3 million and $4.0 million for the three and nine months ended September 30, 2022, respectively. Other expense, net was $2.3 million and $5.5 million for the three and nine months ended September 30, 2021, respectively. This decrease is primarily due to significant decrease of non-cash interest expenses recorded for the same periods in 2022. We no longer record non-cash interest expense due to our Amendment to the Royalty Purchase Agreement in the second quarter of 2022, which eliminated liability related to the sale of royalties. Additionally, interest expense on our MidCap Credit Agreement has decreased due to principal payments made in 2022.

Gain on Extinguishment of Liability Related to Royalties

We recorded $37.2 million in other income for the nine months ended September 30, 2022, due to our Amendment to Royalty Purchase Agreement (see Note 7). We did not have any such gain for the comparative period in the prior year.

Discontinued Operations

The accompanying unaudited condensed consolidated financial statements include discontinued operations from two separate transactions: the sale of hyperimmune business to Saol International Limited in September 2017, from which we received a payment in 2021 related to the collection of a certain accounts receivable, and the sale of Aptevo BioTherapeutics in 2020.

The following table represents the components attributable to income from discontinued operations in the unaudited condensed consolidated statements of operations (in thousands):

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2022	2021	2022	2021
Deferred payment from Medexus	165	80	492	399
Gain on contingent consideration from Saol	—	—	—	227
Income from discontinued operations	$ 165	$ 80	$ 492	$ 626

For the nine months ended September 30, 2022, we collected $0.5 million in deferred payments from Medexus related to IXINITY sales. For the nine months ended September 30, 2021, we collected $0.2 million related to the sale of the hyperimmune business to Saol as a result of the collection of certain accounts receivable and a deferred payment of $0.4 million received from Medexus related IXINITY sales. Pursuant to our LLC Purchase Agreement, the rate for deferred payments increased from 2% to 5% of net sales as of June 30, 2022.

Critical Accounting Policies and Significant Judgments and Estimates

The preparation of our unaudited condensed consolidated financial statements in conformity with accounting principles generally accepted in the United States (GAAP) requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. We base our estimates on historical experience and on various other factors. Although we believe that our judgments and estimates are appropriate, actual results may differ materially from our estimates and changes in these estimates are recorded when known. An accounting policy is considered critical if it is important to a company's financial condition and results of operations and if it requires the exercise of significant judgment and the use of estimates on the part of management in its application.

Refer to Note 1 for discussion of our accounting policies, significant judgments, and estimates.

Liquidity and Capital Resources

Cash Flows

The following table provides information regarding our cash flows for the nine months ended September 30, 2022 and 2021:

(in thousands)	For the Nine Months Ended September 30, 2022	2021
Net cash (used in) provided by:		
Operating activities	$ (15,083)	$ (17,799)
Investing activities	(29)	(595)
Financing activities	(8,614)	29,237
(Decrease) increase in cash, cash equivalents, and restricted cash	$ (23,726)	$ 10,843

Net cash used in operating activities of $15.1 million for the nine months ended September 30, 2022 was primarily due to changes in working capital accounts and our operating cash burn. Net cash used in operating activities of $17.8 million for the nine months ended September 30, 2021, was primarily due to our net loss of $22.2 million and changes in working capital accounts.

Net cash used in investing activities for the nine months ended September 30, 2022 and 2021, was due to purchases of property and equipment.

Net cash used in financing activities for the nine months ended September 30, 2022 was primarily due to the $11.8 million of repayments of the MidCap Financial term loan, and $6.8 million royalties received from Pfizer by HCR pursuant to our Royalty Purchase Agreement. This was offset by the $10 million milestone received by Aptevo from HCR related to the sale of royalties, net of $0.5 million transaction costs, and $0.4 million proceeds received from issuance of common stock pursuant to our Equity Distribution Agreement with Piper Sandler. Net cash provided by financing activities for the nine months ended September 30, 2021, was primarily due to the $35.0 million received from HCR related to the Royalty Purchase Agreement, net of $1.1 million transaction costs, $10.2 million received from the common stock sold to Lincoln Park, and $1.3 million proceeds received from exercise of warrants and stock options. This was offset by the $10.5 million repayment of the MidCap Financial term loan and $5.5 million royalties received from Pfizer by HCR pursuant to our Royalty Purchase Agreement.

Sources of Liquidity

Royalty Purchase Agreement and Milestone Payments

On March 30, 2021, we entered into Royalty Purchase Agreement with HCR pursuant to which we sold HCR the right to receive royalty payments made by Pfizer in respect to net sale of RUXIENCE. Under the Royalty Purchase Agreement, we received $35 million at closing and incurred $1.1 million in transaction costs. We are eligible to receive additional payments in aggregate of up to an additional $32.5 million based on achievement of sales milestones in 2021, 2022 and 2023. The Company received the 2021 milestone payments in the collective amount of $10 million in March, 2022 and is eligible to receive additional payments in aggregate of up to $22.5 million based on achievement of sales milestones in 2022 and 2023.

IXINITY Royalty Payments

On February 28, 2020, Aptevo entered into an LLC Purchase Agreement with Medexus, pursuant to which we sold all of the issued and outstanding limited liability company interests of Aptevo BioTherapeutics LLC, a wholly owned subsidiary of Aptevo. In addition to the payment received at closing, the Company receives deferred payments based on quarterly net sales of IXINITY and may also earn milestones from Medexus in the future. Pursuant to our LLC Purchase Agreement, the rate for deferred payments increased from 2% to 5% of net sales as of June 30, 2022. For the nine months ended September 30, 2022, Aptevo received $0.5 million in deferred payments from Medexus related to IXINITY sales.

Equity Distribution Agreement

On December 14, 2020, we entered into an Equity Distribution Agreement with Piper Sandler & Co (Piper Sandler). The Equity Distribution Agreement provides that, upon the terms and subject to the conditions set forth therein, we may issue and sell through Piper Sandler, acting as sales agent, shares of our common stock having an aggregate offering price of up to $50 million. We have no obligation to sell any such shares under the Equity Distribution Agreement. The sale of the shares of our common stock by Piper Sandler, if any, will be effected pursuant to a Registration Statement on Form S-3 which we filed on December 14, 2020. In the nine months ended September 30, 2022, the Company issued 78,285 shares of common stock under the Equity Distribution Agreement. We received $0.4 million in proceeds from issuance of these shares. We did not issue any shares under the Equity Distribution Agreement in the three or nine months ended September 30, 2021.

The Equity Distribution Agreement will terminate upon the issuance and sale of all shares under the Equity Distribution Agreement or upon the earlier termination thereof at any time by us or Piper Sandler upon notice to the other party.

Registration Statement

On December 14, 2020, we filed a Registration Statement on Form S-3 covering the offering, issuance, and sale of up to $200 million in common stock, preferred stock, and various series of debt securities and/or warrants to purchase any of such securities, which included the unsold securities from the Prior Registration Statement. On March 29, 2022, we filed an amendment to the prospectus supplement to the Registration Statement on Form S-3 filed on December 14, 2020 pursuant to General Instruction I.B.6 of Form S-3 (General Instruction I.B.6), which updates the amount of shares that we are eligible to sell under the Equity Distribution Agreement. So long as the aggregate market value of our common stock held by non-affiliates is less than $75 million, we will not sell shares under the Equity Distribution Agreement with a value of more than one-third of the aggregate market value of our common stock held by non-affiliates in any 12-month period due to the limitations of General Instruction I.B.6 of Form S-3 and the current public float of our common stock. If our public float increases such that we may sell additional amounts under the Equity Distribution Agreement and the prospectus, we will file another amendment to the prospectus supplement prior to making additional sales. The limitations of General Instruction I.B.6 do not apply to sales of our shares under our Purchase Agreement with Lincoln Park Financial LLC as those sales were committed prior to us being subject to the limitations of General Instruction I.B.6.

Lincoln Park Purchase Agreement

On February 16, 2022, we entered into a new Purchase Agreement and a Registration Rights Agreement with Lincoln Park. The 2022 Purchase Agreement and Registration Rights Agreement replaced our 2018 Purchase Agreement and Registration Rights Agreement with Lincoln Park. Under the 2022 Purchase Agreement, Lincoln Park committed to purchase up to $35.0 million worth of our common stock over a 36-month period commencing after the satisfaction of certain conditions, which are within our control, as set forth in the Purchase Agreement. The purchase price per share will be based on prevailing market price; provided, however, that the prevailing market price is not below $1.00. The Company issued 99,276 shares of our common stock to Lincoln Park for no cash consideration as an initial fee for its commitment to purchase shares of our common stock under the Purchase Agreement. The Company did not issue any shares of common stock for cash consideration to Lincoln Park under the Purchase Agreement in the nine months ended September 30, 2022.

Actual sales of shares of our common stock to Lincoln Park under the Purchase Agreement will occur at our discretion from time to time and depend on a variety of factors, including, among others, market conditions, the trading price of our common stock and additional determinations as to the appropriate sources of funding for our operations. Lincoln Park has no right to require any sales, but is obligated to make purchases as we direct, in accordance with the Purchase Agreement.

Warrants

On March 11, 2019, we completed a public offering of common stock and warrants, as follows:

- for a combined public offering price of $14.00 per share of common stock and related warrants, 1,417,857 shares of common stock and related warrants with a 5-year life to purchase up to 1,417,857 shares of common stock at an exercise price of $18.20 per share,
- for a combined public offering price of $13.86 per pre-funded warrant and related warrant, pre-funded warrants with a 10-year life to purchase up to 153,571 shares of common stock at an exercise price of $0.14 per share and related warrants with a 5-year life to purchase up to 153,571 shares of common stock at an exercise price of $18.20 per share. These pre-funded warrants were exercised on March 21, 2019.

For the nine months ended September 30, 2022, the Company did not have any of its warrants exercised. For the nine months ended September 30, 2021, certain holders of the Company's warrants exercised warrants with strike price of $18.20 per share, resulting in the issuance of 54,105 shares of the Company's common stock and aggregate proceeds to the Company of approximately $1.0 million. As of September 30, 2022 and 2021, there were warrants to purchase 350,589 shares of common stock outstanding.

Liquidity

We have financed our operations to date primarily through revenue generated from our commercial products, the Royalty Purchase Agreement with HCR, royalty payments from Pfizer, deferred payments from Medexus, the sale of our hyperimmune products business in September 2017, the sale of Aptevo BioTherapeutics on February 28, 2020, public offerings of our common stock, loan proceeds, milestone payments, research and development funding from strategic partners, and funds received at the date of our spin-off from Emergent. We had cash and cash equivalents of $22.1 million, restricted cash of $0.4 million and an accumulated deficit of $201.4 million as of September 30, 2022.

For the nine months ended September 30, 2022, net cash used in our operating activities was $15.1 million.

Our future success is dependent on our ability to develop our product candidates and ultimately upon our ability to attain profitable operations. We anticipate that we will continue to incur significant operating losses for the next several years as we incur expenses to continue to execute on our development strategy to advance our preclinical and clinical stage assets. We will not generate revenues from our development stage product candidates unless and/or until we or our collaborators successfully complete development and obtain regulatory approval for such product candidates, which we expect will take a number of years and is subject to significant uncertainty. If we obtain regulatory approval for one of our development stage product candidates, we expect to incur significant commercialization expenses related to sales, marketing, manufacturing and distribution, to the extent that such costs are not paid by collaborators. We do not have sufficient cash to complete the clinical development of any of our development stage product candidates and will require additional funding in order to complete the development activities required for regulatory approval of such product candidates. We will require substantial additional funds to continue our development programs and to fulfill our planned operating goals.

Due to the ongoing COVID-19 pandemic, including if any new variants emerge, and macroeconomic environment, we may experience delays in opportunities to partner our product candidates, due to financial and other impacts on potential partners. Additionally, we may experience potential impacts on our future deferred payments and milestones from Medexus due to effects of macroeconomic impacts, including, but not limited to, the ongoing COVID-19 pandemic, and rising inflation, which may impact Medexus' ability to continue to successfully commercialize the IXINITY businesses. Additionally, we may experience potential impacts on our future milestones, which are based on global net sales of RUXIENCE, from HCR due to the effects of the ongoing COVID-19 pandemic and macroeconomic environment, which may impact Pfizer's ability to continue to successfully commercialize the RUXIENCE business. We believe that our existing cash resources, milestone payments related to the Royalty Purchase Agreement with HCR, funds available under Purchase Agreement with Lincoln Park and the Equity Distribution Agreement with Piper Sandler, cash to be generated from future deferred payments and milestones related to IXINITY sales and approvals by Medexus, and release of restricted cash securing letters of credit, will be sufficient to meet our projected operating requirements and debt service for at least twelve months from the date of filing this Quarterly Report on Form 10-Q.

There are numerous risks and uncertainties associated with research, development, and commercialization of pharmaceutical products. Accordingly, our future funding requirements may vary from our current expectations and will depend on many factors, including, but not limited to:

- our ability to raise additional capital when needed or on acceptable terms;
- future profitability given our historical losses;
- our ability to attract, motivate and retain key personnel;
- the impact of the ongoing COVID-19 pandemic to our business, including clinical trials;
- the timing of, and the costs involved in, completing our clinical trials, and obtaining regulatory approvals for our product candidates;
- our ability to obtain regulatory clearance to commence clinical trials for product candidates;
- our ability to establish and maintain strategic partnerships, licensing or other arrangements and the financial terms of such agreements;
- the effects of macroeconomic conditions, including rising inflation, interest rates and supply chain constraints;
- our ability to successfully develop our ADAPTIR or ADAPTIR-FLEX platforms;
- the terms of our credit agreement and potential restrictions to our operations and availability of cash for investment in our business operations;
- the results of our current and planned preclinical studies and clinical trials;
- the scope, progress, results, and costs of researching and developing our product candidates, and of conducting preclinical and clinical trials, including whether clinical trial results will be consistent with the past data;
- our reliance on third parties to effectively conduct our clinical and non-clinical trials, and to effectively carry out their contractual duties, comply with regulatory requirements or meet expected deadlines;
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing patent claims, including litigation costs and the outcome of such litigation;
- the cost of commercialization activities if any of our product candidates are approved for sale, including marketing, sales, and distribution costs;
- whether and to what extent future milestones are received under our Royalty Purchase Agreement with HCR;

- the timing, receipt and amount of any milestone payments and deferred payments from Medexus with respect to IXINITY.

If we are unable to raise substantial additional capital in the next year, whether on terms that are acceptable to us or at all, then we may be required to:

- delay, limit, reduce or terminate our clinical trials or other development activities for one or more of our product candidates; and/or,
- delay, limit, reduce or terminate our establishment of other activities that may be necessary to commercialize our product candidates, if approved.

The sale of additional equity or convertible debt securities may result in additional dilution to our stockholders. If we raise additional funds through the issuance of debt securities or preferred stock or through credit facilities, these securities and/or the loans under credit facilities could provide for rights senior to those of our common stock and could contain covenants that would restrict our operations. Additional funds may not be available when we need them, on terms that are acceptable to us, or at all. We also expect to seek additional funds through arrangements with collaborators, licensees or other third parties. These arrangements would generally require us to relinquish or encumber rights to some of our technologies or drug candidates, and we may not be able to enter into such arrangements on acceptable terms, if at all. Due to the ongoing COVID-19 pandemic, including if any new variants emerge, and macroeconomic factors, we may experience delays in clinical trials and non-clinical work, and opportunities to partner our product candidates, due to financial and other impacts on potential partners.

Contractual Obligations

We have an operating lease related to our office and laboratory space in Seattle, Washington. This lease was amended in March 2019 to extend the term of the amended lease is through April 2030 and provided two options to extend the lease term, each by five years, as well as a one-time option to terminate the lease in April 2023, with nine months' notice, or by July 2022. On May 26, 2022, we further amended our office and laboratory lease to remove the one-time termination option in April 2023. In exchange for removing the termination option, we received six months of free rent. As a result, we recorded an additional $4.4 million of lease liability and right-of-use asset on the consolidated balance sheet on the date of the amendment.

On August 5, 2020, we entered into a new Credit Agreement, with MidCap Financial which was subsequently amended. The Credit Agreement provided us with up to $25 million of available borrowing capacity. The MidCap Financial loan has a 48 month term, is interest-only for the first 18 months, with straight-line amortization for the remaining 30 months and bears interest at a rate of one month LIBOR plus 6.25% per annum, subject to a 1.50% LIBOR floor and a 2.50% LIBOR cap. On March 30, 2021, we amended our Credit Agreement with MidCap Financial and used $10 million of the proceeds received from the Royalty Purchase Agreement with HCR to pay down the outstanding principal under this agreement from $25 million to $15 million. Additionally, the Company used the $10 million milestone payment received on March 8, 2022, pursuant to our Royalty Purchase Agreement with HCR to further pay down the outstanding principal down to $5 million.

On June 7, 2022, the Company further amended its Credit Agreement with MidCap Financial to obtain MidCap Financial's limited consent to amend its Royalty Purchase Agreement with HCR. The Limited Consent and Second Amendment to Credit Agreement did not change future cash flows or other terms of the Credit Agreement.

Additionally, on August 30, 2022, we amended our Credit Agreement with MidCap Financial to replace the LIBOR benchmark with SOFR, which is regulated by the Federal Reserve Bank of New York. Aptevo amended our Credit Agreement due to FCA's planned phase-out of one-month US Dollar LIBOR settings in 2023. Our Credit Agreement continues to bear base interest at a rate of 6.25% per annum plus SOFR, subject to a 1.50% SOFR floor and a 2.50% SOFR cap.

Our principal commitments include obligations under vendor contracts to purchase research services and other purchase commitments with our vendors. In the normal course of business, we enter into services agreements with contract research organizations, contract manufacturing organizations and other third parties. Generally, these agreements provide for termination upon notice, with specified amounts due upon termination based on the timing of termination and the terms of the agreement. The actual amounts and timing of payments under these agreements are uncertain and contingent upon the initiation and completion of the services to be provided.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

As of September 30, 2022, there were no material changes to the information provided under Item 7A, Quantitative and Qualitative Disclosures About Market Risk in our Annual Report on Form 10-K for the year ended December 31, 2021 filed on March 24, 2022.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

As of September 30, 2022, management, with the participation of our Chief Executive Officer and Chief Financial Officer, performed an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of September 30, 2022, the design and operation of our disclosure controls and procedures were effective to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms and to provide reasonable assurance that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the quarter ended September 30, 2022, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

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

PART II—OTHER INFORMATION

Item 1. Legal Proceedings.

We may from time to time be named as a party to legal claims, actions and complaints, including matters involving employment claims, our intellectual property or other third-party claims. Our management believes that there are currently no claims or actions pending against us, the ultimate disposition of which could have a material adverse effect on our results of operations, financial condition or cash flows.

Item 1A. Risk Factors.

We are subject to significant risks and uncertainties that could impact the Company's businesses, results of operations and financial condition, including by causing our actual results to differ materially from those projected in any forward-looking statements. Additional risks and uncertainties that are not currently known to the Company or management or that are not currently believed by the Company or management to be material may also harm the Company's business, financial condition and results of operation. You should carefully consider the following risks and other information in this Quarterly Report on Form 10-Q in evaluating us and our common stock.

RISK FACTOR SUMMARY

The following is a summary of the material risks to our business, operations, and ownership of our common stock:

- We will require additional capital and may be unable to raise capital when needed or on acceptable terms.
- We have a history of losses and may not be profitable in the future.
- Our success is dependent on our continued ability to attract, motivate and retain key personnel, and any failure to attract or retain key personnel may negatively affect our business.
- The ongoing COVID-19 pandemic, including the identification of new variants of the COVID-19 virus, could adversely impact our business, including our clinical trials.
- If we experience delays or difficulties in the commencement, site initiation, enrollment of patients or completion of our clinical trials, the time to reach critical trial data and receipt of any necessary regulatory approvals could be delayed.
- Our long-term success depends, in part, upon our ability to develop, receive regulatory approval for and commercialize our product candidates.
- We may not be successful in establishing and maintaining collaborations that leverage our capabilities in pursuit of developing and commercializing our product candidates.
- We face and will continue to face substantial competition and our failure to effectively compete may prevent us from achieving significant market penetration for our product candidates, if approved.
- Our business is affected by macroeconomic conditions, including rising inflation, interest rates, market volatility, economic uncertainty, and supply chain constraints.
- We may not be successful in our efforts to use and further develop our ADAPTIR or ADAPTIR-FLEX platforms.
- If we are unable to protect our intellectual proprietary rights, our business could be harmed.
- Actions of activist stockholders against us have been and could be disruptive and costly and may cause uncertainty about the strategic direction of our business.
- Our future cash flow will depend, in part, on the ability of Pfizer to successfully sell RUXIENCE and our receipt of milestone payments from HCR in connection therewith. If Pfizer is unable, or does not devote sufficient resources, to maintain or continue increasing sales of RUXIENCE, or if HCR does not comply with the Royalty Purchase Agreement, our results of operations will be adversely affected.
- The results of our current and planned preclinical studies and clinical trials may not satisfy the requirements of the FDA or non-U.S. regulatory authorities. Results from early-preclinical studies and clinical trials may not be predictive of results from later-stage or other trials and interim or top line data may be subject to change or qualification based on the complete analysis of data.
- Serious adverse events, undesirable side effects or other unexpected properties of our product candidates may be identified that could delay, prevent, or cause the withdrawal of regulatory approval, limit the commercial potential, or result in significant negative consequences following marketing approval.

- We depend on third parties to conduct our clinical and non-clinical trials. If these third parties do not effectively carry out their contractual duties, comply with regulatory requirements or meet expected deadlines, we may not be able to obtain regulatory approval for or commercialize our product candidates and our business could be substantially harmed.
- Our stock price may be volatile.
- Our common stock may be at risk for delisting from the Nasdaq Capital Market in the future if we do not maintain compliance with Nasdaq's continued listing requirements. Delisting could adversely affect the liquidity of our common stock and the market price of our common stock could decrease.
- We may be subject to periodic litigation, which could result in losses or unexpected expenditure of time and resources.
- Our future income will depend, in part, on the ability of Medexus to successfully further develop, market and commercialize IXINITY, resulting in milestone payments and deferred payments to the Company by Medexus.

RISKS RELATED TO OUR BUSINESS

Financial Risks

We have a history of losses and may not be profitable in the future.

We have experienced significant operating losses in the past. For the nine months ended September 30, 2022, we had net income of $12.2 million compared to $22.2 million net loss for the same period in 2021. The net income for the nine months ended September 30, 2022 was due to a one-time $37.2 million gain recognized as a result of Amendment to Royalty Purchase Agreement with HCR. As of September 30, 2022, we had an accumulated deficit of $201.4 million. We expect to continue to incur annual net operating losses for the foreseeable future, and will require substantial resources over the next several years as we expand our efforts to discover, develop and commercialize immunotherapeutic candidates. While we believe our existing cash and cash equivalents and the funding provided by our IXINITY deferred payment streams, the ability to receive Milestone Amounts under the Royalty Purchase Agreement with HCR, access to credit under the Credit Agreement with MidCap Financial, our ability to issue securities under the Equity Distribution Agreement with Piper Sandler and our Purchase Agreement with Lincoln Park Capital, and exercises of warrants will provide us with sufficient liquidity to meet our cash requirements through at least next twelve months, our future success and ability to attain profitability will depend upon our ability to develop and take to market our product candidates.

We will require additional capital and may be unable to raise capital when needed or on acceptable terms.

As of September 30, 2022, we had cash, cash equivalents, and restricted cash in the amount of $22.6 million. We will require additional funding to grow our business including to support the ongoing clinical development of APVO436, develop additional products, support commercial marketing activities or otherwise provide additional financial flexibility. If we are not able to secure adequate additional funding, we may need to make reductions in spending. This may include extending payment terms with suppliers, liquidating assets, and suspending or curtailing planned programs. We may also have to delay, reduce the scope of, suspend or eliminate one or more research and development programs. A failure to raise the additional funding or to effectively implement cost reductions could harm our business, results of operations and future prospects. Our future capital requirements will depend on many factors, including:

- the level, timing and receipt of any milestone or deferred payments under our agreement with Medexus with respect to the sales of IXINITY;
- whether and to what extent future milestone payments are received under our Amendment to Royalty Purchase Agreement with HCR;
- the extent to which we invest in products or technologies;
- the ability to satisfy the payment obligations and covenants under any future indebtedness;
- the ability to secure partnerships and/or collaborations that generate additional cash;
- capital improvements to our facilities;
- the scope, progress, results, and costs of our development activities;
- clinical development costs, timing, and other requirements to complete dosing of our Phase 1b clinical trial for APVO436, as well as future clinical trials; and
- the cost of preparing, filing and prosecuting patent applications, obtaining, maintaining, enforcing and protecting our intellectual property rights and defending intellectual property-related claims.

If our capital resources are insufficient to meet our future capital requirements, we will need to finance our cash needs through bank loans, public or private equity or debt offerings, collaboration and licensing arrangements, or other strategic transactions. Our ability to raise future capital on acceptable terms or at all will be impacted by the macroeconomic environment, including rising interest rates, economic uncertainty and volatility in the capital market. Future issuances of common stock may include, but not be limited to, (i) any sale of up to the remaining $50.0 million worth of shares of our common stock pursuant to our Equity Distribution Agreement with Piper Sandler, (ii) any sale of up to $35 million worth of shares of our common stock to issue from our Purchase Agreement with Lincoln Park, (iii) the issuance of up to 350,589 remaining outstanding shares of common stock upon the exercise of warrants issued in connection with our March 2019 public offering of common stock and warrants or (iv) the issuance of common stock in a firm commitment offering. Public or bank debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures, pursuing acquisition opportunities, or declaring dividends. If we raise funds by issuing equity securities, our stockholders will experience dilution. If we raise funds through collaboration and licensing arrangements with third parties or enter into other strategic transactions, it may be necessary to relinquish valuable rights to our technologies or product candidates or grant licenses on terms that may not be favorable to us. If financing is unavailable or lost, our business, results of operations, financial condition and financial prospects would be adversely affected and we could be forced to delay, reduce the scope of or eliminate many of our planned activities.

Further, SEC regulations limit the amount of funds we can raise during any 12-month period pursuant to our shelf registration statement on Form S-3. On March 29, 2022, we filed an amendment to the prospectus related to the Registration Statement on Form S-3 filed on December 14, 2020 pursuant to General Instruction I.B.6 of Form S-3 (General Instruction I.B.6), which updates the amount of shares that we are eligible to sell under the Equity Distribution Agreement. So long as the aggregate market value of our common stock held by non-affiliates is less than $75 million, we will not sell shares under the Equity Distribution Agreement with a value of more than one-third of the aggregate market value of our common stock held by non-affiliates in any 12-month period due to the limitations of General Instruction I.B.6 of Form S-3 and the current public float of our common stock. The limitations of General Instruction I.B.6 do not apply to sales of our shares under our Purchase Agreement with Lincoln Park Financial LLC as those sales were committed prior to us being subject to the limitations of General Instruction I.B.6. If we are required to file a new registration statement on another form, we may incur additional costs and be subject to delays in raising capital due to review by SEC staff.

Our business is affected by macroeconomic conditions, including rising inflation, interest rates, market volatility, economic uncertainty, and supply chain constraints.

Various macroeconomic factors could adversely affect our business and the results of our operations and financial condition, including changes in inflation, interest rates and overall economic conditions and uncertainties such as those resulting from the current and future conditions in the global financial markets. For instance, inflation has negatively impacted the Company by increasing our labor costs, through higher wages and higher interest rates, and operating costs. Supply chain constraints have led to higher inflation, which if sustained could have a negative impact on the Company's product development and operations. If inflation or other factors were to significantly increase our business costs, our ability to develop our current pipeline and new therapeutic products may be negatively affected. Interest rates, the liquidity of the credit markets and the volatility of the capital markets could also affect the operation of our business and our ability to raise capital on favorable terms, or at all, in order to fund our operations. Similarly, these macroeconomic factors could affect the ability of our third-party suppliers and manufacturers to manufacture clinical trial materials for our product candidates.

Actions of activist stockholders against us have been and could be disruptive and costly and may cause uncertainty about the strategic direction of our business.

Stockholders have in the past and may, from time to time, engage in proxy solicitations or advance stockholder proposals, or otherwise attempt to effect changes and assert influence on our board of directors and management. For example, on February 9, 2021, Tang Capital Partners LP, Tang Capital Management, LLC and Kevin Tang (collectively, “Tang”) submitted an advisory stockholder proposal for consideration at our 2021 annual meeting of stockholders to commence a process to sell Aptevo to the highest bidder. Activist campaigns that contest or conflict with our strategic direction or seek changes in the composition of our board of directors or management could have an adverse effect on our operating results and financial condition. A proxy contest would require us to incur significant legal and advisory fees, proxy solicitation expenses and administrative and associated costs and require significant time and attention by our board of directors and management, diverting their attention from the pursuit of our business strategy. Any perceived uncertainties as to our future direction and control, our ability to execute on our strategy, or changes to the composition of our board of directors or senior management team arising from a proxy contest could lead to the perception of a change in the direction of our business or instability which may result in the loss of potential business opportunities, make it more difficult to pursue our strategic initiatives, or limit our ability to attract and retain qualified personnel and business partners, any of which could adversely affect our business and operating results. If individuals are ultimately elected to our board of directors with a specific agenda, it may adversely affect our ability to effectively implement our business strategy and create additional value for our stockholders. We may choose to initiate, or may become subject to, litigation as a result of a proxy contest or matters arising from the proxy contest, which would serve as a further distraction to our board of directors and management and would require us to incur significant additional costs. In addition, actions such

as those described above could cause significant fluctuations in our stock price based upon temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our business.

Our future income will depend, in part, on the ability of Medexus to successfully further develop, market and commercialize IXINITY, resulting in milestone payments and deferred payments to the Company by Medexus.

On February 28, 2020, we entered into a Purchase Agreement with Medexus, pursuant to which we sold all of the issued and outstanding limited liability company interests of Aptevo BioTherapeutics, a subsidiary of Aptevo that wholly owns the IXINITY and related Hemophilia B business. We are entitled to receive future potential payments to the extent of the achievement of certain regulatory and commercial milestones and through deferred payments based on net sales of IXINITY. Royalties were earned at the rate of 2% of net revenue through June 2022. As of June 30, 2022, royalty rate on net revenue of IXINITY increased to 5%. We no longer control the development, marketing, and commercialization of IXINITY and are dependent on Medexus to successfully do so. Although Medexus has agreed to use commercially reasonable efforts to commercialize IXINITY in the ordinary course of business in good faith, Medexus may not commit adequate resources to the further development, marketing, and commercialization of IXINITY, may experience financial difficulties, may face competition, or may prioritize other products or initiatives. Due to the effect of the ongoing COVID-19 pandemic on the current and future environment for clinical development and regulatory approval, Medexus' ability to continue to successfully commercialize the IXINITY business may be affected, and we may experience potential impacts on our future deferred payments from Medexus due to the macroeconomic environment and ongoing COVID-19 pandemic. The failure of Medexus to successfully market and commercialize IXINITY, including because of factors outside of Medexus' control, could result in lower than expected milestone or deferred payments to us and negatively impact our future financial and operating results.

Our operating results are unpredictable and may fluctuate.

Our operating results are difficult to predict and will likely fluctuate from quarter to quarter and year to year, as a result of a variety of factors, including:

- the level and timing of any milestone or deferred payments with respect to sales of IXINITY by Medexus;
- whether and to what extent future milestone payments are received under our Amendment to Royalty Purchase Agreement with HCR;
- the extent of any payments received from collaboration arrangements and development funding as well as the achievement of development and clinical milestones under collaboration and license agreements that we may enter into from time to time and that may vary significantly from quarter to quarter; and,
- the timing, cost, and level of investment in our research and development and clinical activities as well as expenditures we will or may incur to acquire or develop additional technologies, products and product candidates.

Due to the ongoing COVID-19 pandemic and macroeconomic environment, we may experience delays in opportunities to partner our product candidates, due to financial and other impacts on potential partners. Additionally, we may experience potential impacts on our future milestone or deferred payments from Medexus, which may impact Medexus' ability to continue to successfully commercialize the IXINITY businesses. These and other factors may have a material adverse effect on our business, results of operations and financial condition.

Our future cash flow will depend, in part, on the ability of Pfizer to successfully sell RUXIENCE and our receipt of milestone payments from HCR in connection therewith. If Pfizer is unable, or does not devote sufficient resources, to maintain or continue increasing sales of RUXIENCE, or if HCR does not comply with the Royalty Purchase Agreement, our results of operations will be adversely affected.

On June 25, 2020, we announced that we will receive royalty payments from Pfizer related to sales of a rituximab biosimilar product, RUXIENCE (Rituximab-pvvr), which was approved by the U.S. Food and Drug Administration in July 2019 and launched by Pfizer in the United States and Japan in early 2020, and the European Union in the third quarter of 2020. The payments from Pfizer relate to a Collaboration and License Agreement acquired by us as part of our spin-off from Emergent in 2016, which applies a fixed royalty rate of 2.5% on global net sales. The agreement was originally executed by Trubion Pharmaceuticals (which was subsequently acquired by Emergent) and Wyeth (a wholly-owned subsidiary of Pfizer). The royalty term runs until the seventh anniversary of the first commercial sale of the biosimilar. Although the agreement was terminated in 2012, the royalty obligation thereunder survived.

On March 30, 2021, we entered into and closed a Royalty Purchase Agreement with HCR (Royalty Purchase Agreement) pursuant to which we sold to HCR the right to receive royalty payments made by Pfizer in respect of net sales of RUXIENCE. Under the terms of the Royalty Purchase Agreement, we received $35 million at closing and we are eligible to receive additional payments in aggregate of up to an additional $32.5 million based on the achievement of sales milestones in 2021, 2022 and 2023. The Company received the 2021 milestone payments in the collective amount of $10 million on March 8, 2022. The proceeds from these milestone payments, net of transaction costs, were recorded as an additional liability related to the sale of royalties on the consolidated balance sheet as of March 31, 2022. The Company is eligible to receive additional payments in the aggregate of up to $22.5 million based on achievement of sales

milestones in 2022 and 2023. In order to non-dilutively address a Nasdaq listing compliance matter, on June 7, 2022, we entered into and closed an amendment to the Royalty Purchase Agreement (the Amendment to Royalty Purchase Agreement), pursuant to which we agreed to forego our right to receive 50% of RUXIENCE royalty revenue if HCR received aggregate royalty payments totaling 190% of the Investment Amount plus Milestone Amounts to the extent paid by HCR. The Amendment to Royalty Purchase Agreement continues to include the opportunity to earn up to $22.5 million of additional Milestone Amounts (up to $12.5 million and $10 million for 2022 and 2023, respectively).

We have no control over the sales of RUXIENCE and are therefore dependent on the efforts and ability of Pfizer to generate net sales of RUXIENCE sufficient for us to receive Milestone Payments under the Royalty Purchase Agreement. The failure of Pfizer to successfully generate such net sales could negatively impact our future financial and operating results and our results of operations could therefore be adversely affected. Additionally, even if Pfizer is able to generate net sales of RUXIENCE sufficient for us to receive such payments, if HCR breaches the Royalty Purchase Agreement (for example, by not making required payments when due, or at all), disputes or litigation may arise. Such disputes or litigation could be time-consuming and expensive and could adversely affect our business.

We face product liability exposure, which could cause us to incur substantial liabilities and negatively affect our business, financial condition, and results of operations.

The nature of our business exposes us to potential liability inherent in pharmaceutical products, including with respect to the testing of our product candidates in clinical trials and any product candidates that we successfully develop. Product liability claims might be made by patients in clinical trials, consumers, health care providers or pharmaceutical companies or others that sell any products that we successfully develop. These claims may be made even with respect to those products that are manufactured in licensed and regulated facilities or otherwise receive regulatory approval for study or commercial sale. We cannot predict the frequency, outcome or cost to defend any such claims.

If we cannot successfully defend ourselves against future claims that our product candidates caused injuries, we may incur substantial liabilities. Regardless of merit or eventual outcome, product liability claims may result in:

- adverse publicity and/or injury to our reputation;
- withdrawal of clinical trial participants;
- costs to defend the related litigation;
- substantial monetary awards to trial participants or patients;
- decreased demand or withdrawal of an approved product;
- loss of revenue; and
- an inability to commercialize products that we may develop.

The amount of insurance that we currently hold may not be adequate to cover all liabilities that may occur. Further product liability insurance may be difficult and expensive to obtain. We may not be able to maintain insurance coverage at a reasonable cost and we may not be able to obtain insurance coverage that will be adequate to satisfy all potential liabilities. Claims or losses in excess of our product liability insurance coverage could have a material adverse effect on our business, financial condition, and results of operations. The cost of defending any product liability litigation or other proceeding, even if resolved in our favor, could be substantial. Uncertainties resulting from the initiation and continuation of product liability litigation or other proceedings could have a material adverse effect on our ability to compete in the marketplace. Product liability claims, regardless of merit or eventual outcome, may absorb significant management time and result in reputational harm, potential loss of revenue from decreased demand for any product candidates we successfully develop, withdrawal of clinical trial participants and potential termination of clinical trial sites or entire clinical programs, and could cause our stock price to fall.

Our success is dependent on our continued ability to attract, motivate and retain key personnel, and any failure to attract or retain key personnel may negatively affect our business.

Because of the specialized scientific nature of our business, our ability to develop products and to compete with our current and future competitors largely depends upon our ability to attract, retain and motivate highly qualified managerial and key scientific and technical personnel. If we are unable to retain the services of one or more of the principal members of senior management, including our Chief Executive Officer, Marvin L. White, our Chief Financial Officer, Jeffrey G. Lamothe, our General Counsel, SoYoung Kwon, our Senior Vice President of Finance, Daphne Taylor, or other key employees, our ability to implement our business strategy could be materially harmed. We face intense competition for qualified employees from biotechnology and pharmaceutical companies, research organizations and academic institutions. Moreover, we have experienced increased levels of attrition. Attracting, retaining or replacing these personnel on acceptable terms may be difficult and time-consuming given the high demand in our industry for similar personnel. We believe part of being able to attract, motivate and retain personnel is our ability to offer a competitive compensation package, including equity incentive awards. If we cannot offer a competitive compensation package or otherwise attract and retain the qualified personnel necessary for the continued development of our business, we may not be able to maintain our operations or grow our business. In addition, we have experienced and may experience an impact on the health of key personnel due to the ongoing COVID-19 pandemic.

The ongoing COVID-19 pandemic, including the identification of new variants of the COVID-19 virus, could adversely impact our business, including our clinical trials.

Since March of 2020, a novel strain of coronavirus, COVID-19, has spread through the world, including the United States. The COVID-19 pandemic has caused severe global economic and societal disruptions and uncertainties, and we have experienced disruptions that have impacted our business and clinical trials. Although nearly all of the restrictions placed to reduce the spread of COVID-19 have been lifted and COVID-19 vaccines are available, we may continue to experience disruptions in the future, or additional disruptions that could severely impact our business, such as delays or difficulties to the financing environment and raising capital due to economic uncertainty; delays in opportunities to partner our product candidates, due to financial and other impacts on potential partners; diversion of healthcare resources away from the conduct of clinical trials, including the diversion of hospitals serving as our clinical trial sites and hospital staff supporting the conduct of our clinical trials; potential impacts on our future deferred payments and milestones from Medexus due to the environment which may impact Medexus' ability to continue to successfully commercialize the IXINITY business or Pfizer to successfully commercialize RUXIENCE; and negative impacts on suppliers and licensees. In addition, global recovery has been inconsistent. For example, the People's Republic of China continues to have lock-downs which is impacting the macroeconomic environment.

The extent to which the direct and indirect effects of the ongoing COVID-19 pandemic may impact our business and clinical trials will depend on future developments, which are highly uncertain and cannot be predicted with confidence. For example, new variants may emerge and may result in the need to delay initiation of trial sites, suspend enrollment into studies, patient withdrawals, postponement of preclinical studies, study modification, suspension, or termination, the introduction of remote study procedures and modified informed consent procedures, study site changes, direct delivery of investigational products to patient homes requiring state licensing, study deviations or noncompliance, and changes or delays in site monitoring. The foregoing may require that we consult with relevant review and ethics committees and the FDA or comparable foreign regulatory authorities. The foregoing may also impact the integrity of our study data. The pandemic could further impact our ability to interact with the FDA or other regulatory authorities, and may result in delays in the conduct of inspections or review of pending submissions.

The ongoing COVID-19 pandemic may further impact our suppliers and manufacturers. If any of our suppliers or manufacturers are adversely impacted by the COVID-19 pandemic, if they cannot obtain the necessary supplies, or if such third parties need to prioritize other products or customers over us, including under the Defense Production Act, we may experience delays or disruptions in our supply chain, which could have a material and adverse impact on our business and development plans. Third party manufacturers may also need to implement measures and changes, or deviate from typical requirements, because of the COVID-19 pandemic that may otherwise adversely impact our supply chains or the quality of the resulting products or supplies. Depending on the change, we may need to obtain FDA pre-approval or otherwise provide FDA with a notification of the change.

The ongoing COVID-19 pandemic may result in changes in laws, policies, and regulations. By example, due to the potential impact of the COVID-19 pandemic on clinical trials, drug development, and manufacturing, FDA issued guidance several times concerning how sponsors and investigators may address these challenges. FDA's guidance is continually evolving. This and any future changes in law may require that we change our internal processes and procedures to ensure continued compliance.

The terms of our credit agreement may restrict the operation of our business and limit the cash available for investment in our business operations.

In August 2020, we entered into a Credit and Security Agreement (the Credit Agreement), by and among us and certain of our subsidiaries as borrowers, MidCap Financial, as agent, and the lenders from time to time party thereto. The terms of the Credit Agreement and borrowings we may make under the Credit Agreement in the future, could have significant adverse consequences for our business, including:

- requiring us to dedicate a substantial portion of any cash flow from operations to payment on our debt, which would reduce the amounts available to fund other corporate initiatives;
- increasing the amount of interest that we have to pay on borrowings under the Credit Agreement if market rates of interest increase;
- requiring compliance with restrictive covenants restricting, among other things, certain indebtedness, liens, dividends and other distributions, repayment of subordinated indebtedness, mergers, dispositions, investments, acquisitions, transactions with affiliates and modification of organizational documents or certain other agreements, subject to certain exceptions;
- requiring compliance with affirmative covenants including payment and reporting covenants; and
- placing us at a competitive disadvantage compared to our competitors that have less debt, better debt servicing options or stronger debt servicing capacity.

We may not have sufficient funds or be able to obtain additional financing to pay the amounts due under the Credit Agreement. In addition, failure to comply with the covenants under the Credit Agreement, including those outside of our control, could result in an event of default. An event of default could result in the acceleration of amounts due under the Credit Agreement, and we may not be able to obtain additional financing to make any accelerated payments. Under these circumstances, our lenders could seek to enforce security interests in our assets securing our indebtedness, including our intellectual property.

We completed a Section 382 study and have concluded that we experienced an "ownership change" as defined in Section 382 of the U.S. Internal Revenue Code of 1986, as amended (the Code), and thus the tax benefits of our pre-"ownership change" net operating loss carryforwards and certain other tax attributes will be subject to an annual limitation under Sections 382 and 383 of the Code.

In general, a corporation undergoes an "ownership change" under Section 382 of the Code if, among other things, the stockholders who own, directly or indirectly, 5% or more of the corporation's stock (by value), or are otherwise treated as "5% stockholders" under Section 382 of the Code and the Treasury regulations promulgated thereunder, increase their aggregate percentage ownership (by value) of the corporation's stock by more than 50 percentage points over the lowest percentage of stock owned by the 5% stockholders at any time during the applicable testing period, which is generally the rolling three-year period preceding the date of the potential ownership change testing event. Such potential ownership change testing events include changes involving a stockholder becoming a 5% stockholder or arising from a new issuance of capital stock or share repurchases by the corporation, subject to certain exceptions.

In the event of an "ownership change," Sections 382 and 383 of the Code impose an annual limitation on the amount of taxable income a corporation may offset with pre-change net operating loss carryforwards and certain other tax attributes. The annual limitation is generally equal to the value of the outstanding stock of the corporation immediately before the ownership change (excluding certain capital contributions), multiplied by the long-term tax-exempt rate as published by the IRS for the month in which the ownership change occurs (the long-term tax-exempt rate for November 2020 is 0.89%). Any unused annual limitation may generally be carried over to subsequent years until the pre-ownership change net operating loss carryforwards and certain other tax attributes expire or are fully utilized by the corporation. Similar provisions of state tax law may also apply to limit the use of state net operating loss carryforwards and certain other tax attributes.

Additionally, Section 382 of the Code includes special rules that apply to a corporation with a significant amount of net unrealized built-in gains or net unrealized built-in losses in its assets immediately prior to ownership change under Section 382 of the Code. In general, certain built-in gains recognized during the five-year period beginning on the date of the ownership change increases the corporation's annual limitation under Sections 382 and 383 of the Code in the taxable year that such built-in gains are recognized or deemed recognized (but only up to the amount of the net unrealized built-in gain), while certain built-in losses recognized during such five-year period are subject to the annual limitation under Section 382 of the Code (but only up to the amount of the net unrealized built-in loss).

As of December 31, 2021, we had approximately $159.6 million and $70.3 million of federal and state net operating loss carryforwards, respectively, available to reduce future taxable income that will begin to expire in 2037 for federal income tax purposes. These net operating loss carryforwards could expire unused and be unavailable to offset future income tax liabilities. Federal net operating loss carryforwards incurred in 2018 and in future years may be carried forward indefinitely, but the usage of such federal net operating loss carryforwards is limited. We completed an IRC Section 382 study on our federal tax attributes in connection to the ownership change in 2020 and determined that the annual utilization of federal net operating loss and certain other tax attribute

carryforwards is limited. It is not expected that the annual limitations will result in the expiration of tax attribute carryforwards prior to utilization assuming sufficient income.

We cannot predict or control the occurrence or timing of another ownership change under Section 382 of the Code in the future. In addition, it is possible that any offering of securities by us could result in an ownership change. If another ownership change were to occur, future limitations could apply to our net operating losses and certain other tax attributes, which could result in a material amount of our net operating loss carryforwards and certain other tax attributes becoming unavailable to offset future income tax liabilities.

The realization of all or a portion of our deferred income tax assets (including net operating loss carryforwards) is dependent upon the generation of future income during the statutory carryforward periods. Our inability to utilize our limited pre-ownership change net operating loss carryforwards and certain other tax attributes, or the occurrence of a future ownership change and resulting additional limitations to these tax attributes, could have a material adverse effect on our financial condition, results of operations and cash flows.

The change to the deductibility of our research and development expenditures enacted under the Tax Cuts and Jobs Act ("TCJA") could increase the amount of taxes to which we are subject and our effective tax rate.

Beginning in 2022, the TCJA eliminates the option to deduct research and development expenditures currently and requires taxpayers to capitalize and amortize these expenditures over five or fifteen years depending on the type of research and development expenditure pursuant to Section 174 of the Code. Although there is proposed legislation that would defer the capitalization requirement to later years, we have no assurance that the provision will be repealed or otherwise modified. Such change to the deductibility of our research and development expenditures could increase the amount of taxes to which we are subject and our effective tax rate.

Our investments are subject to market and credit risks that could diminish their value and these risks could be greater during periods of extreme volatility or disruption in the financial and credit markets, which could adversely impact our business, financial condition, results of operations, liquidity and cash flows.

Our investments are subject to risks of credit defaults and changes in market values. Periods of macroeconomic weakness or recession, heightened volatility or disruption in the financial and credit markets, such as the current macroeconomic environment, increases these risks, potentially resulting in other-than-temporary impairment of assets in our investment portfolio. The impact of geopolitical tension, such as a deterioration in the bilateral relationship between the US and China or Russia's invasion of Ukraine, including any additional sanctions, export controls or other restrictive actions that may be imposed by the US and/or other countries against governmental or other entities in, for example, Russia, also could lead to disruption, instability and volatility in the global markets, which may have an impact on our investments across negatively impacted sectors or geographies.

Product Development Risks

The results of our current and planned preclinical studies and clinical trials may not satisfy the requirements of the FDA or non-U.S. regulatory authorities. Results from early preclinical studies and clinical trials may not be predictive of results from later-stage or other trials and interim or top line data may be subject to change or qualification based on the complete analysis of data.

We are conducting our Phase 1b clinical trial with APVO436 and none of our other product candidates have entered clinical development. Clinical failure can occur at any stage of preclinical or clinical development. Preclinical studies and clinical trials may produce inconsistent, negative or inconclusive results. The FDA or a non-US regulatory authority may require us to conduct additional clinical or preclinical testing. Success in early preliminary data, preclinical studies and clinical trials does not mean that future larger registration clinical trials will be successful and interim results of a clinical trial do not necessarily predict final results. Product candidates in later-stage clinical trials may fail to demonstrate sufficient safety and efficacy to the satisfaction of the FDA and non-U.S. regulatory authorities despite having progressed through initial clinical trials. In some instances, there can be significant variability in safety or efficacy results between different clinical trials of the same product candidate due to numerous factors, including changes in trial procedures set forth in protocols, differences in the size and type of the patient populations, changes in adherence to the dosing regimen and other clinical trial protocols and the rate of dropout among clinical trial participants. In addition, preclinical and clinical data are often susceptible to various interpretations and analyses, and many companies whose product candidates performed satisfactorily in preclinical studies and clinical trials have nonetheless failed to obtain marketing approval. Product candidates in later stages of clinical trials may fail to show the desired safety and efficacy profile despite having progressed through preclinical studies and initial clinical trials. A number of companies in the pharmaceutical and biopharmaceutical industry have suffered significant setbacks in advanced clinical trials due to lack of efficacy or adverse safety profiles, notwithstanding promising results in earlier studies, and we cannot be certain that we will not face similar setbacks. Even if early-stage clinical trials are promising, we may need to conduct additional clinical trials of our product candidates in additional patient populations or under different treatment conditions before we are able to seek approvals from the FDA and regulatory authorities outside the United States to market and sell these product candidates. Any of these events could limit the commercial potential of our product candidates and have a material adverse effect on our business, prospects, financial condition and results of operations. A number of companies in the pharmaceutical industry, including those with greater resources and experience than us, have suffered significant setbacks in advanced clinical trials, even after obtaining promising results in earlier clinical trials.

In addition, our APVO436 clinical trial is an open-label study and is conducted at a limited number of clinical sites on a limited number of patients. An "open-label" clinical trial is one where both the patient and investigator know whether the patient is receiving the investigational product candidate or either an existing approved drug. Most typically, open-label clinical trials test only the investigational product candidate and sometimes may do so at different dose levels or in combination with other drugs. Open-label clinical trials are subject to various limitations that may exaggerate any therapeutic effect as patients in open-label clinical trials are aware when they are receiving treatment. Open-label clinical trials may be subject to a "patient bias" where patients perceive their symptoms to have improved merely due to their awareness of receiving an experimental treatment. In addition, open-label clinical trials may be subject to an "investigator bias" where those assessing and reviewing the physiological outcomes of the clinical trials are aware of which patients have received treatment and may interpret the information of the treated group more favorably given this knowledge. The results from these clinical trials may not be predictive of future clinical trial results with APVO436 or other product candidates.

We may publicly disclose top line or interim data from time to time, 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. The top line or interim 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. For example, we released preliminary data regarding our APVO436 Phase 1b clinical trial study which may change or be inconsistent with future results. Even in situations where a clinical stage candidate appears to be benefiting a patient, that benefit may not be of a permanent nature. Top line and interim 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. In addition, the achievement of one primary endpoint for a trial does not guarantee that additional co-primary endpoints or secondary endpoints will be achieved. 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 trial 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.

Our future clinical trials may not be successful. Moreover, should there be a flaw in a clinical trial, it may not become apparent until the clinical trial is well advanced. We may also experience numerous unforeseen events during, or as a result of, clinical trials that could delay or prevent our ability to receive marketing approval or commercialize our product candidates, including:

- regulators or Institutional Review Boards (IRBs) may not authorize us or our investigators to commence or continue a clinical trial, conduct a clinical trial at a prospective trial site, or amend trial protocols, or regulators or IRBs may require that we modify or amend our clinical trial protocols;
- we may experience delays in reaching, or fail to reach, agreement on acceptable clinical trial contracts or clinical trial protocols with prospective trial sites and our contract research organizations (CROs);
- regulators may require us to perform additional or unanticipated clinical trials to obtain approval or we may be subject to additional post-marketing testing, surveillance, or Risk Evaluation and Mitigation Strategy (REMS) requirements to maintain regulatory approval;
- clinical trials of our product candidates may produce negative or inconclusive results, or our studies may fail to reach the necessary level of statistical significance;
- changes in marketing approval policies, laws, regulations, or the regulatory review process during the development period rendering our data insufficient to obtain marketing approval;
- the cost of clinical trials of our product candidates may be greater than we anticipate or we may have insufficient funds for a clinical trial or to pay the substantial user fees required by the FDA upon the filing of a marketing application;
- the supply or quality of our product candidates or other materials necessary to conduct clinical trials of our product candidates may be insufficient or inadequate;
- we may fail to reach an agreement with regulators or IRBs regarding the scope, design, or implementation of our clinical trials;
- we may have delays in adding new investigators or clinical trial sites, or we may experience a withdrawal of clinical trial sites;
- there may be regulatory questions or disagreements regarding interpretations of data and results, or new information may emerge regarding our product candidates;

- the FDA or comparable foreign regulatory authorities may disagree with our study design, including endpoints, or our interpretation of data from non-clinical studies and clinical trials or find that a product candidate's benefits do not outweigh its safety risks;
- the FDA or comparable foreign regulatory authorities may not accept data from studies with clinical trial sites in foreign countries;
- the FDA or comparable regulatory authorities may disagree with our intended indications;
- the FDA or comparable foreign regulatory authorities may fail to approve or subsequently find fault with the manufacturing processes or our contract manufacturer's manufacturing facility for clinical and future commercial supplies; and
- we may not be able to demonstrate that a product candidate provides an advantage over current standards of care or current or future competitive therapies in development.

Further, our product candidates may not be approved even if they achieve their primary endpoints in Phase 3 clinical trials or registration trials. Regardless of any advisory committee recommendation, the FDA may decline to approve the BLA for a number of reasons including, if the clinical benefit, safety profile or effectiveness of the drug is not deemed by the FDA to warrant approval. The FDA or other non-U.S. regulatory authorities may disagree with our trial design, and our interpretation of data from non-clinical studies and clinical trials. In particular, the FDA may not view our data as being clinically meaningful or statistically persuasive. The regulatory authorities and policies governing the development of our product candidates may also change at any time. In addition, any of these regulatory authorities may change requirements for the approval of a product candidate even after reviewing and providing comments or advice on a protocol for a pivotal Phase 3 clinical trial. Any of these regulatory authorities may also approve a product candidate for fewer or more limited indications than we request or may grant approval contingent on the performance of costly post-marketing clinical trials. The FDA or other non-U.S. regulatory authorities may not approve the labeling claims that we believe would be necessary or desirable for the successful commercialization of our product candidates.

We may not be able to file investigational new drug applications, or INDs, or IND amendments to commence additional clinical trials on the timelines we expect, and even if we are able to, the FDA may not permit us to proceed.

We submitted an IND for ALG.APV-527 to the FDA in the second half of 2022 for which we received a "may proceed" notification from FDA. However, we may not be able to file future INDs for our product candidates on the timelines we expect. For example, we may experience manufacturing delays or other delays with IND-enabling studies. Moreover, we cannot be sure that submission of future INDs will result in the FDA allowing clinical trials to begin, or that, once begun, issues will not arise that suspend or terminate clinical trials. Additionally, even if such regulatory authorities agree with the design and implementation of the clinical trials set forth in an IND, we cannot guarantee that such regulatory authorities will not change their requirements in the future. These considerations also apply to new clinical trials we may submit as amendments to existing INDs or to a new IND. Any failure to file INDs on the timelines we expect or to obtain regulatory approvals for our trials may prevent us from completing our clinical trials or commercializing our products on a timely basis, if at all.

If we experience delays or difficulties in the commencement, site initiation, enrollment of patients or completion of our clinical trials, the time to reach critical trial data and receipt of any necessary regulatory approvals could be delayed.

We may not be able to initiate or continue clinical trials for our product candidates if we are unable to locate, enroll and maintain a sufficient number of eligible patients to participate in these trials as required by the FDA or similar regulatory authorities outside the United States. In addition, some of our competitors have ongoing clinical trials for product candidates that treat the same indications as our product candidates, and patients who would otherwise be eligible for our clinical trials may instead enroll in clinical trials of our competitors' product candidates. Furthermore, APVO436 has received orphan drug designation for AML and thus has a relatively small patient population. Also, the eligibility criteria of our clinical trials may further limit the pool of available study participants as we require that patients have specific characteristics that we can measure to assure their disease is either severe enough or not too advanced to include them in a study. In addition, the global spread of the COVID-19 pandemic makes it more difficult to initiate clinical trials and enroll patients and the process of finding and diagnosing eligible patients under these conditions may prove costly.

Patient enrollment is affected by other factors including:

- the severity of the disease under investigation;
- the design of the clinical trial, including the patient eligibility criteria for the study in question;
- the perceived risks and benefits of the product candidate under study;
- our payments for conducting clinical trials;
- the patient referral practices of physicians;

- our ability to recruit clinical trial investigators with the appropriate competencies and experiences;
- our ability to obtain and maintain patient consents;
- the ability to monitor patients adequately during and after treatment;
- reporting of preliminary results of any of our clinical trial sites;
- the proximity and availability of clinical trial sites for prospective patients; and
- factors we may not be able to control that may limit patients, principal investigators or staff or clinical site availability, such as the ongoing COVID-19 pandemic.

Our inability to enroll a sufficient number of patients for clinical trials could result in significant delays and could require us to abandon one or more clinical trials altogether. Site initiation and enrollment delays in our clinical trials may result in increased development costs for our product candidates, delays in the availability of preliminary or final results, and delays to commercially launching our product candidates, if approved, which may cause the value of our company to decline and limit our ability to obtain additional financing.

Serious adverse events, undesirable side effects or other unexpected properties of our product candidates may be identified that could delay, prevent, or cause the withdrawal of regulatory approval, limit the commercial potential, or result in significant negative consequences following marketing approval.

Serious adverse events or undesirable side effects caused by, or other unexpected properties of any of our product candidates, either when used alone or in combination with other approved or investigational therapies, could cause us or regulatory authorities to interrupt, delay or halt our development activities and manufacturing and distribution operations and could result in a more restrictive label, the imposition of a clinical hold, suspension, distribution or use restrictions or the delay or denial of regulatory approval by the FDA or comparable foreign regulatory authorities. If any of our product candidates are associated with serious adverse events or undesirable side effects or have properties that are unexpected, we may need to abandon their development or limit development to certain uses or subpopulations in which the undesirable side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective. Many compounds that initially showed promise in clinical or earlier stage testing have later been found to cause undesirable or unexpected side effects that prevented further development of the compound.

As we continue developing our product candidates and conduct clinical trials of our product candidates, serious adverse events, or SAEs, undesirable side effects, relapse of disease or unexpected characteristics may emerge causing us to abandon these product candidates or limit their development to more narrow uses or subpopulations in which the SAEs or undesirable side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective or in which efficacy is more pronounced or durable. Undesirable side effects, or other unexpected adverse events or properties of any of our product candidates, could arise or become known either during clinical development or, if approved, after the approved product has been marketed. If such an event occurs during development, the FDA or comparable foreign regulatory authorities could suspend or terminate a clinical trial or deny approval of our product candidates. Furthermore, we may need to evaluate our product candidates in combination with approved and/or experimental therapies. These combinations may have additional or more severe side effects than caused by our product candidate as monotherapies. The uncertainty resulting from the use of our product candidate in combination with other therapies may make it difficult to accurately predict side effects or efficacy in potential future clinical trials. If our product candidates receive marketing approval and we or others later identify undesirable side effects caused by such products, a number of potentially significant negative consequences may result, including:

- regulatory authorities may require us to conduct additional clinical trials or abandon our research efforts for our other product candidates;
- regulatory authorities may require additional warnings on the label or impose distribution or use restrictions;
- regulatory authorities may require one or more post-market studies;
- we may be required to create a medication guide outlining the risks of such side effects for distribution to patients;
- regulatory authorities may require implementation of a REMS, Field Safety Corrective Actions or equivalent, which may include safety surveillance, restricted distribution and use, patient education, enhanced labeling, special packaging or labeling, expedited reporting of certain adverse events, preapproval of promotional materials and restrictions on direct-to-consumer advertising;
- 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 approval and acceptance of the affected product candidate, or could substantially increase commercialization costs and expenses, which could delay or prevent us from generating revenue from the sale of our products and materially harm our business and results of operations.

We depend on third parties to conduct our clinical and non-clinical trials. If these third parties do not effectively carry out their contractual duties, comply with regulatory requirements or meet expected deadlines, we may not be able to obtain regulatory approval for or commercialize our product candidates and our business could be substantially harmed.

We do not have the ability to independently conduct the clinical and preclinical trials required to obtain regulatory approval for our product candidates. We depend on third parties, such as independent clinical investigators, contract research organizations, or CROs, and other third-party service providers to conduct the clinical and preclinical trials of our product candidates, and we expect to continue to do so. For example, Dr. Dirk Huebner, Consultant and Chief Medical Officer, is providing clinical trial and medical affairs oversight duties as an independent consultant. We rely heavily on Dr. Huebner and these other third parties for successful execution and oversight of our clinical and non-clinical trials, but we do not exercise day to day control over their activities.

While we have agreements governing the activities of third parties, we have limited influence and control over their actual performance and activities. For instance, our third-party service providers are not our employees, and except for remedies available to us under our agreements with such third parties we cannot control whether or not they devote sufficient time and resources to our ongoing clinical, and non-clinical programs. Our third-party service providers may also have relationships with other entities, some of which may be our competitors, for whom they may also be conducting trials or other therapeutic development activities that could harm our competitive position. If these third parties do not successfully carry out their contractual duties, meet expected deadlines or conduct our non-clinical studies or clinical trials in accordance with regulatory requirements or our stated protocols, if they need to be replaced or if the quality or accuracy of the data they obtain is compromised due to the failure to adhere to our protocols, regulatory requirements or for other reasons, our trials may be repeated, extended, delayed, or terminated, we may not be able to obtain, or may be delayed in obtaining, marketing approvals for our product candidates, we may not be able to, or may be delayed in our efforts to, successfully commercialize our product candidates, or we or they may be subject to regulatory enforcement actions.

Our reliance on third-party service providers does not relieve us of our regulatory responsibilities, including ensuring that our trials are conducted in accordance with the FDA-approved good clinical practices, or GCPs, and the plans and protocols contained in the relevant regulatory application. In addition, these organizations and individuals may not complete these activities on our anticipated or desired timeframe. We also may experience unexpected cost increases that are beyond our control. Problems with the timeliness or quality of the work of a contract research organization may lead us to seek to terminate the relationship and use an alternative service provider, which may prove difficult and/or costly and result in a delay of our trials. In addition, business disruptions arising from the ongoing COVID-19 pandemic could negatively affect the ability of some of the independent clinical investigators, contract research organizations and other third-party service providers that conduct our clinical and preclinical trials of our product candidates. Any delay in or inability to complete our trials could delay or prevent the development, approval, and commercialization of our product candidates.

If CROs or other third parties assisting us or our study sites fail to comply with applicable GCPs, the clinical data generated in our clinical trials may be deemed unreliable and the FDA or its non-U.S. counterparts may require us to perform additional clinical trials before approving our marketing applications. We or they may also face regulatory enforcement action. We cannot assure you that, upon inspection, the FDA or non-U.S. regulatory agencies will determine that any of our clinical trials comply with GCPs. In addition, our clinical trials must be conducted with product produced under GMPs and similar regulations outside of the United States. Our failure, or the failure of our product candidate manufacturers, to comply with these regulations may require us to repeat or redesign clinical trials, or conduct additional trials, which would increase our development costs and delay or impact the conduct of our preclinical studies, clinical trials, and the likelihood of regulatory approval.

If third parties do not carry out their duties under their agreements with us, if the quality or accuracy of the data they obtain is compromised due to the failure to adhere to our clinical protocols, including dosing requirements, or regulatory requirements, or if they otherwise fail to comply with clinical trial protocols or meet expected deadlines, our clinical trials may not meet regulatory requirements. If our clinical trials do not meet regulatory requirements or if these third parties need to be replaced, our clinical trials may be extended, delayed, suspended or terminated.

Agreements with third parties conducting or otherwise assisting with our clinical or non-clinical studies might terminate for a variety of reasons, including a failure to perform by the third parties. If any of our relationships with these third parties terminate, we may not be able to enter into arrangements with alternative providers or to do so on commercially reasonable terms. Switching or adding additional third parties involves additional cost and requires management time and focus. In addition, there is a natural transition period when a new third party commences work. As a result, if we need to enter into alternative arrangements, it could delay our product development activities and adversely affect our business. Though we carefully manage our relationships with our third parties, there can be no assurance that we will not encounter challenges or delays in the future or that these delays or challenges will not have a material adverse impact on our business, financial condition and prospects, and results of operations.

If any of these events occur, we may not be able to obtain regulatory approval of our product candidates or succeed in our efforts to create approved line extensions for certain of our existing products or generate additional useful clinical data in support of these products. Moreover, if we are unable to obtain any necessary third-party services on acceptable terms or if these service providers do not successfully carry out their contractual duties or meet expected deadlines, our efforts to obtain regulatory approvals for our product candidates may be delayed or prevented.

Manufacture of our product candidates, especially in large quantities, is complex and time consuming. The loss of any of our third-party manufacturers, or delays or problems in the manufacture of our product candidates, could result in product shortages and/or delays in clinical development.

We do not have manufacturing capabilities and do not plan to develop such capacity in the foreseeable future. We depend on a limited number of third-party suppliers for the production of our product candidates. Accordingly, our ability to develop and deliver product candidates in a timely and competitive manner and to enable us to conduct our development programs depends on our third-party manufacturers being able to continue to meet our ongoing clinical trial needs and perform their contractual obligations. In order to successfully develop and commercialize our product candidates in a timely manner, we and our third-party manufacturers must be able to develop and execute on manufacturing processes and reach agreement on contract terms.

Our current and anticipated future dependence upon others for the manufacture of our product candidates or any product that we develop may adversely affect our future profit margins and our ability to commercialize any products that receive marketing approval on a timely and competitive basis. In addition, any performance failure on the part of our existing or future manufacturers could delay clinical development or marketing approval.

If these third-party manufacturers do not successfully carry out their contractual duties, meet expected deadlines or manufacture our product candidates in accordance with regulatory requirements, if there are disagreements between us and such parties, or if such parties are unable to expand capacities to support commercialization of any of our product candidates for which we obtain marketing approval, we may not be able to produce, or may be delayed in producing sufficient product candidates to meet our supply requirements. Any delays in obtaining adequate supplies with respect to our product candidates and components may delay the development or commercialization of our product candidates.

We may not succeed in our efforts to establish manufacturing relationships or other alternative arrangements for any of our product candidates, components, and programs. Our product candidates may compete with other products and product candidates for access to manufacturing facilities. There are a limited number of manufacturers that operate under GMP regulations and that are both capable of manufacturing for us and willing to do so.

If our existing third-party manufacturers, or the third parties that we engage in the future to manufacture a product or component for commercial sale or for our clinical trials should cease to continue to do so for any reason, we likely would experience delays in obtaining sufficient quantities of our product candidates for us to meet commercial demand or to advance our clinical trials while we identify and qualify replacement suppliers. These third-party facilities may also be affected by natural disasters, such as floods or fire, or such facilities could face manufacturing issues, such as contamination or regulatory findings following a regulatory inspection of such facility. In such instances, we may need to locate an appropriate replacement third-party relationship, which may not be readily available or on acceptable terms, which would cause additional delay and increased expense. In some cases, the technical skills required to manufacture our products or product candidates may be unique or proprietary to the original manufacturer and we may have difficulty, or there may be contractual restrictions prohibiting us from, transferring such skills to an alternate supplier in a timely fashion if at all. The addition of a new or alternative manufacturer may also require FDA approvals and may have a material adverse effect on our business.

If for any reason we are unable to obtain adequate supplies of our product candidates or the components used to manufacture them, it will be more difficult for us to develop our product candidates and compete effectively. Further, even if we do establish such collaborations or arrangements, our third-party manufacturers may breach, terminate, or not renew these agreements.

We or our third-party manufacturers may also encounter shortages in the raw materials or therapeutic substances necessary to produce our product candidates in the quantities needed for our clinical trials or, if our product candidates are approved, in sufficient quantities for commercialization or to meet an increase in demand. Such shortages may occur for a variety of reasons, including capacity constraints, delays or disruptions in the market, and shortages caused by the purchase of such materials by our competitors or others. We may also not be able to obtain such materials on favorable terms as a result of global trade policies. Our third-party manufacturers' failure to obtain the raw materials, therapeutic substances, or active pharmaceutical ingredients necessary to manufacture sufficient quantities of our product candidates may have a material adverse effect on our business.

All of our current product candidates are biologics. Our product candidates must be made consistently and in compliance with a clearly defined manufacturing process. Problems may arise during manufacturing for a variety of reasons, including problems with raw materials, equipment malfunction or replacement and failure to follow specific protocols and procedures. Slight deviations anywhere in the manufacturing process, including obtaining materials, maintaining master seed or cell banks and preventing genetic drift, seed or cell growth, fermentation and contamination including from, among other things, particulates, filtration, filling, labeling, packaging, storage and shipping, and quality control testing, may result in lot failures or manufacturing shut-down, delays in the release of lots, product recalls, spoilage or regulatory action. Due to the ongoing COVID-19 pandemic, our third-party manufacturers may experience difficulties, such as supply shortages, that impact our product candidates and production timelines.

Additionally, our development and commercialization strategy involves entering into arrangements with corporate and academic collaborators, contract research organizations, distributors, third-party manufacturers, licensors, licensees and others to conduct development work, manage or conduct our clinical trials, manufacture our product candidates and market and sell our products outside of the United States and maintaining our existing arrangements with respect to the commercialization or manufacture of our products. We may not have the expertise or the resources to conduct all of these activities for all products and product candidates on our own and, as a result, are particularly dependent on third parties in many areas. Any current or future arrangements for development and commercialization may not be successful, as the amount and timing of resources that third parties devote to developing, manufacturing, and commercializing our products candidates are not within our control. If we are not able to establish or maintain agreements relating to our product candidates in development, our results of operations and prospects would be materially and adversely affected.

Any loss of a third-party manufacturer, any delays, or problems in the manufacture of our products, or termination of any arrangements for development and commercialization of our products could have a material adverse effect on our business, operations, results of operations and financial condition. We may be required to replace our manufacturer and if this were to occur, we may incur added costs and delays in identifying and qualifying any such replacements. We may also not be able to enter into such arrangements on favorable commercial terms.

Changes in product candidate manufacturing or formulation may result in additional costs or delay.

As product candidates are developed through preclinical studies to late-stage clinical trials toward approval and commercialization, it is common that various aspects of the development program, such as manufacturing methods, manufacturing sites, and formulation, are altered along the way in an effort to optimize processes and results. Any of these changes could cause our product candidates to perform differently and affect the results of planned clinical trials or other future clinical trials conducted with the altered materials. Such changes may also require additional testing, clinical trials, FDA notification, or FDA approval. Any of the foregoing could limit our future revenues and growth.

Failure of our third-party manufacturers to successfully manufacture material that conforms to our specifications and the FDA's or foreign regulatory authorities' strict regulatory requirements, may prevent regulatory approval of those manufacturing facilities.

We rely on third parties to manufacture all clinical trial materials for our product candidates, and we will rely on third parties to manufacture commercial supplies, if any such product candidates are ultimately approved for commercial sale. Manufacturers of our product candidates and therapeutic substances must comply with GMP requirements enforced by the FDA that are applicable to both finished products and their active components used both for clinical and commercial supply. The FDA enforces these requirements through its facilities inspection program. Our product candidates, including APVO436 and ALG.APV-527 will not be approved for marketing by the FDA or other foreign regulatory authorities unless the FDA or their foreign equivalents also approve the facilities used by our third-party manufacturers to produce them for commercialization. If our third-party manufacturers cannot successfully manufacture material that conforms to our specifications and the FDA's or foreign regulatory authorities' strict regulatory requirements, the FDA or their foreign counterparts will not approve their manufacturing facilities, which would result in significant delays in obtaining FDA or foreign marketing approvals for our product candidates. If this were to occur, we may also never receive marketing approval, we may need to repeat clinical trials, we may need to undertake costly corrective actions, including product recalls, we may risk harm to subjects or patients, and we may face enforcement actions.

While we are ultimately responsible for the manufacture of our product candidates, other than through our contractual arrangements, we have little control over our manufacturers' compliance with these regulations and standards. If the FDA or a comparable foreign regulatory authority does not approve these facilities for the manufacture of our product candidates or if it withdraws any such approval in the future, we may need to find alternative manufacturing facilities, which would significantly impact our ability to develop, obtain and maintain regulatory approval for or market our product candidates, if approved. Any new manufacturers would need to either obtain or develop the necessary manufacturing know-how, and obtain the necessary equipment and materials, which may take substantial time and investment. We must also receive FDA approval for the use of any new manufacturers for commercial supply.

We and our third-party manufacturers may not be able to meet these manufacturing process requirements for any of our current product candidates, all of which have complex manufacturing processes, which make meeting these requirements even more challenging. Due to the direct and indirect effects of the ongoing COVID-19 pandemic, our third-party manufacturers may experience difficulties that impact our product candidates. If we are unable to develop manufacturing processes for our clinical product candidates that satisfy these requirements, we will not be able to supply sufficient quantities of test material to conduct our clinical trials in a timely or cost-effective manner, and as a result, our development programs will be delayed, our financial performance will be adversely impacted and we will be unable to meet our long-term goals.

Certain of our product candidates have received orphan drug designation from the FDA. However, there is no guarantee that we will be able to maintain this designation, receive this designation for any of our other product candidates, or receive or maintain any corresponding benefits, including periods of exclusivity.

Certain of our product candidates have received orphan drug designation. We may also seek orphan drug designation for our other product candidates, as appropriate. While orphan drug designation does provide us with certain advantages, it neither shortens the development time or regulatory review time of a product candidate nor gives the product candidate any advantage in the regulatory review or approval process.

Generally, if a product candidate with orphan drug designation subsequently receives marketing approval before another product considered by the FDA to be the same for the same orphan indication, the product is entitled to a period of marketing exclusivity, which precludes the FDA from approving another marketing application for the same drug or biologic for the same indication for a period of seven years in the United States.

We may not be able to obtain any future orphan drug designations that we apply for. Orphan drug designations do not guarantee that we will be able to successfully develop our product candidates, and there is no guarantee that we will be able to maintain any orphan drug designations that we receive. For instance, orphan drug designations may be revoked if the FDA finds that the request for designation contained an untrue statement of material fact or omitted material information, or if the FDA finds that the product candidate was not eligible for designation at the time of the submission of the request.

Moreover, even if we are able to receive and maintain orphan drug designations, we may ultimately not receive any period of regulatory exclusivity if our product candidates are approved. For instance, we may not receive orphan product regulatory exclusivity if the indication for which we receive FDA approval is broader than the orphan drug designation. Orphan exclusivity may also be lost for the same reasons that orphan drug designation may be lost. Orphan exclusivity may further be lost if we are unable to assure a sufficient quantity of the product to meet the needs of patients with the rare disease or condition.

Even if we obtain orphan exclusivity for any of our current or future product candidates, that exclusivity may not effectively protect the product from competition as different products can be approved for the same condition or products that are the same as ours can be approved for different conditions. Even after an orphan product is approved, the FDA can also subsequently approve a product containing the same principal molecular features for the same condition if the FDA concludes that the later product is clinically superior. The FDA may further grant orphan drug designation to multiple sponsors for the same compound or active molecule and for the same indication. If another sponsor receives FDA approval for such product before we do, we would be prevented from launching our product in the United States for the orphan indication for a period of at least seven years, unless we can demonstrate clinical superiority. Moreover, third-party payors may reimburse for products off-label even if not indicated for the orphan condition.

We have in the past and may in the future conduct clinical trials for our product candidates outside the United States, and the FDA or non-U.S. regulatory authorities may not accept data from such trials in the development or approval of our product candidates in those jurisdictions.

We have in the past and may in the future conduct clinical trials outside the U.S. and the FDA and foreign regulatory authorities may not accept those data in support of the further development or approval of our product candidates. The acceptance of trial data from clinical trials conducted outside the United States by the FDA or applicable foreign regulatory authority may be subject to certain conditions. In cases where data from foreign clinical trials are intended to serve as the basis for marketing approval in the United States, the FDA will generally not approve the application on the basis of foreign data alone unless (i) the data are applicable to the United States population and United States medical practice; (ii) the trials were performed by clinical investigators of recognized competence; and (iii) the data may be considered valid without the need for an on-site inspection by the FDA, or if the FDA considers such an inspection to be necessary, the FDA is able to validate the data through an on-site inspection or other appropriate means. Additionally, the FDA's clinical trial requirements, including sufficient size of patient populations and statistical powering, must be met. Many foreign regulatory bodies have similar approval requirements.

In addition, such foreign trials will be subject to the applicable local laws of the foreign jurisdictions where the trials are conducted. There can be no assurance that the FDA or any applicable foreign regulatory authority will accept data from trials conducted outside of the United States. If the FDA or any applicable foreign regulatory authority does not accept such data, it would result in the need to conduct additional trials beyond those we have planned, which would be costly and time-consuming and delay aspects of our business

plan, and which may result in our product candidates not receiving marketing approval for commercialization in the applicable jurisdiction.

Commercialization Risks

Our ability to grow revenues and execute on our long-term strategy depends heavily on our ability to discover, develop, and obtain marketing approval for our product candidates.

We currently have no products approved for commercial distribution. We have invested a significant portion of our efforts and financial resources in the development of our product candidates. Our business depends on the successful development and commercialization of our product candidates, which will require additional clinical and preclinical development, regulatory approval, commercial manufacturing arrangements, establishment of a commercial organization, significant marketing efforts, and further investment, which may never occur. Our ability to generate revenues is substantially dependent on our ability to develop, obtain regulatory approval for, and then successfully commercialize our product candidates. Except for the revenues from previously sold products, we currently generate no revenues from sales of any products, and we may never be able to develop or commercialize a marketable product.

In order for us to achieve our long-term business objectives, we will need to successfully discover and/or develop and commercialize our product candidates. Although we have made, and expect to continue to make, significant investments in research and development, we have had only a limited number of our internally-discovered product candidates reach the clinical development stage. We currently have one clinical-stage candidate, APVO436, which is built on the ADAPTIR platform. Drug discovery and development is a complex, time-consuming and expensive process that is fraught with risk and a high rate of failure. Our product candidates are susceptible to the risks of failure inherent at any stage of product development, including the appearance of unexpected or unacceptable adverse events or failure to demonstrate efficacy in clinical trials. For example, in 2018, we announced the discontinuation of development of APVO414 and otlertuzumab as a result of clinical trial results. In addition, in October 2019, we announced our decision to discontinue development of APVO210, a novel investigational bispecific antibody candidate under development for the treatment of autoimmune diseases. The decision followed the review of data from Phase 1 multiple ascending dose (MAD) clinical study of APVO210 in healthy volunteers that suggests that APVO210 would not meet the desired target product profile for future commercialization. Specifically, the clinical data showed evidence of increasing titers of ADA with repeated doses of APVO210, which had varying impact on APVO210 drug levels in subjects' blood. Failure to successfully discover and/or develop, obtain marketing approval for and commercialize additional products and product candidates would likely have a material adverse effect on our ability to grow revenues and improve our financial condition. If we are required to conduct additional clinical trials or other testing of our product candidates that we develop beyond those that we currently expect, if we are unable to successfully complete clinical trials of our product candidates or other testing, if the results of these trials or tests are not positive or are only modestly positive, or if there are safety concerns, we may be delayed in obtaining marketing approval for our product candidates, not obtain marketing approval at all, obtain approval for limited indications or patient populations, with a label without claims necessary for us to successfully market our products, or with significant labeled warnings. We may also be subject to additional post-marketing testing requirements, surveillance requirements, or REMS. To the extent any of the foregoing should occur, our business may be materially harmed.

We may not be successful in our efforts to use and further develop our ADAPTIR or ADAPTIR-FLEX platforms.

A key element of our strategy is to expand our product pipeline of immunotherapeutics based on our ADAPTIR and ADAPTIR-FLEX platform technologies. We plan to select and create product candidates for early development, potentially with other collaborative partners. We expect to continue to develop the platform to address unmet medical needs through directed cytokine delivery via monospecifics and bispecifics in areas including oncology, and multi-specific molecules in oncology and other therapeutic areas. Our goal is to leverage this technology to make targeted investment in monospecific, bispecific, and multi-specific ADAPTIR and ADAPTIR-FLEX therapeutics. Even if we are successful in continuing to build our pipeline, the potential product candidates that we identify may not be suitable for clinical development, including as a result of being shown to have harmful side effects or other characteristics that indicate that they are unlikely to be products that will receive marketing approval and achieve market acceptance. If we do not successfully develop and commercialize product candidates based on our ADAPTIR and ADAPTIR-FLEX platform technologies, our ability to obtain product revenues in future periods may be adversely affected, which likely would result in harm to our financial position and our financial prospects, and adversely affect our stock price.

We face and will continue to face substantial competition and our failure to effectively compete may prevent us from achieving significant market penetration for our product candidates, if approved.

The development and commercialization of new biotechnology products is highly competitive and subject to rapid technological advances. We may face future competition with respect to our current product candidates and any product candidates we may seek to develop or commercialize in the future obtained from other companies and governments, universities, and other non-profit research organizations. Our competitors may develop products that are safer, more effective, more convenient, or less costly than any products that we may develop or market, or may obtain marketing approval for their products from the FDA, or equivalent foreign regulatory

bodies more rapidly than we may obtain approval for our product candidates. Our competitors may have greater resources and may devote greater resources to research and develop their products, research and development capabilities, adapt more quickly to new technologies, scientific advances or patient preferences and needs, initiate or withstand substantial price competition or macroeconomic impacts more successfully, or more effectively negotiate third-party licensing and collaborative arrangements.

We believe that our most significant competitors in the oncology market include: AbbVie Inc., Affimed, Amgen Inc., AnaptysBio, Inc., Astellas Pharma Inc., Bayer AG, Biogen Idec Inc., Boehringer Ingelheim GmbH, Bristol Myers Squibb, Cellectis, Chinook Therapeutics, F-Star Biotechnology Ltd., Genentech Inc. (a subsidiary of F. Hoffmann-La Roche Ltd.), Genmab A/S, Gilead Sciences, Inc., GlaxoSmithKline plc, Grifols USA LLC, Harpoon Therapeutics, ImmunoGen, Inc., Immunomedics, Inc., Inhibrx Inc., Janssen BioTech Inc., Johnson & Johnson, Macrogenics, Inc., Pieris Pharmaceuticals, Inc., ProMab Biotechnologies, Sanofi-Aventis US LLC, Strike Pharma, Takeda Pharmaceuticals U.S.A., Inc., Xencor, Inc., Y-mAbs Therapeutics, Inc., and Zymeworks Biopharmaceuticals, Inc. We expect to compete on the basis of product efficacy, safety, ease of administration, price and economic value compared to drugs used in current practice or currently being developed. If we are not successful in demonstrating these attributes, physicians and other key healthcare decision makers may choose other products over any products we successfully develop, switch from our products to new products or choose to use our products only in limited circumstances, which could adversely affect our business, financial condition and results of operations.

Any of our product candidates, if approved, may become subject to unfavorable pricing regulations or third-party coverage and reimbursement policies, which would harm our business.

The success of our product candidates, if approved, will depend upon, among other things, their acceptance by physicians, patients, third-party payors, and other members of the medical community as a therapeutic and cost-effective alternative to competing products and treatments. If any of our product candidates do not achieve and maintain an adequate level of acceptance, we may not generate material revenues from sales of these products. The degree of market acceptance of our products will depend on a number of factors, including: our ability to provide acceptable evidence of safety and efficacy; the prevalence and severity of any side effects; availability, relative cost and relative efficacy of alternative and competing treatments; the ability to offer our products for sale at competitive prices; our ability to continuously supply the market without interruption; the relative convenience and ease of administration; the willingness of the target patient population to try new products and of physicians to prescribe these products; the strength of marketing and distribution support; publicity concerning our products or competing products and treatments; and the sufficiency of coverage or reimbursement by third parties.

Legislative or healthcare reform measures may have a material adverse effect on our business and results of operations.

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, the ACA was enacted, which substantially changed the way health care is financed by both governmental and private insurers, and significantly impacted the U.S. pharmaceutical industry. However, some provisions of the ACA have yet to be fully implemented and certain provisions have been subject to legal and political challenges, as well as efforts to repeal, replace delay, circumvent, or loosen certain aspects of the ACA or mandates required thereby. Additionally, Congress has considered legislation that would repeal or repeal and replace all or part of the ACA. While Congress has not passed comprehensive repeal legislation, it has enacted laws that modify certain provisions of the ACA, such as removing penalties as of January 1, 2019 for not complying with the ACA's individual mandate to carry health insurance, delaying the implementation of certain ACA-mandated fees, and increasing the point-of-sale discount that is owed by pharmaceutical manufacturers who participate in Medicare Part D. 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. It is unclear how other healthcare reform measures of the Biden administration or other efforts, if any, to challenge, repeal or replace the ACA will impact our business. In addition, other legislative changes have been proposed and adopted in the United States since the ACA was enacted:

- On August 2, 2011, the Budget Control Act of 2011 among other things, included aggregate reductions of Medicare payments to providers of 2% per fiscal year. These reductions went into effect on April 1, 2013 and, due to subsequent legislative amendments to the statute, will remain in effect through 2030, with the exception of a temporary suspension from May 1, 2020 through March 31, 2022 due to the COVID-19 pandemic. Following the temporary suspension, a 1% payment reduction occurred beginning April 1, 2022 through June 30, 2022, and the 2% payment reduction will resume on July 1, 2022.
- On May 30, 2018, the Right to Try Act, was signed into law. The law, among other things, provides a federal framework for certain patients to access certain investigational new drug products that have completed a Phase 1 clinical trial and that are undergoing investigation for FDA approval. Under certain circumstances, eligible patients can seek treatment without enrolling in clinical trials and without obtaining FDA permission under the FDA expanded access program. There is no

obligation for a pharmaceutical manufacturer to make its drug products available to eligible patients as a result of the Right to Try Act.

In addition, other legislative changes have been proposed and adopted in the United States since the ACA was enacted. On August 2, 2011, the Budget Control Act of 2011 among other things, created measures for spending reductions by Congress. A Joint Select Committee on Deficit Reduction, tasked with recommending a targeted deficit reduction of at least $1.2 trillion for the years 2013 through 2021, was unable to reach required goals, thereby triggering the legislation's automatic reduction to several government programs. This includes aggregate reductions of Medicare payments to providers of 2 percent per fiscal year. These reductions went into effect on April 1, 2013 and, due to subsequent legislative amendments to the statute, will remain in effect through 2030 unless additional Congressional action is taken.

Additionally, there has been heightened governmental scrutiny recently over the manner in which manufacturers set prices for their marketed products. For example, there have been several recent Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drug products, including by tying reimbursement to the price of products in other developed countries. For example, proposals have been made to increase drug manufacturer competition, increase the negotiating power of certain federal healthcare programs, incentivize manufacturers to lower the list price of their products, and reduce the out-of-pocket costs of drug products paid by consumers. Individual states in the United States have also become increasingly active in passing legislation and implementing regulations designed to control pharmaceutical product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. After Joe Biden was sworn in as the U.S. president, and the Democratic Party obtained an equal number of seats in the U.S. Senate as the Republican Party, as well as maintained control of the U.S. House of Representatives, many expect that the Biden administration will pursue stronger healthcare consumer protections, and overturn some of the prior Trump administration initiatives. However, the legislative and regulatory agendas, as they relate to the healthcare and pharmaceutical industries and the economy as a whole, of the Biden administration and the U.S. Congress currently remain uncertain. One example of President Biden's priorities came via an executive order that he issued on July 9, 2021 directing the FDA to, among other things, continue to clarify and improve the approval framework for biosimilars, including the standards for interchangeability of biological products, facilitate the development and approval of biosimilar and interchangeable products, clarify existing requirements and procedures related to the review and submission of BLAs, and identify and address any efforts to impede biosimilar competition. Any new laws and initiatives may result in additional reductions in Medicare and other healthcare funding or impose additional regulatory requirements on drug development or approval, which could have a material adverse effect on our future customers and accordingly, our financial operations.

We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that federal and state governments will pay for healthcare products and services, which could result in reduced demand for any product candidates we successfully develop or additional pricing pressures.

Regulatory and Compliance Risks

Our long-term success depends, in part, upon our ability to develop, receive regulatory approval for and commercialize our product candidates.

Our product candidates and the activities associated with their development, including testing, manufacture, recordkeeping, storage, and approval, are subject to comprehensive regulation by the FDA and other regulatory agencies in the United States and by comparable authorities in other countries. Failure to obtain regulatory approval for a product candidate will prevent us from commercializing the product candidate. We have limited resources for use in preparing, filing, and supporting the applications necessary to gain regulatory approvals and expect to rely on third-party contract research organizations and consultants to assist us in this process.

The FDA and other comparable regulatory agencies in foreign countries impose substantial and rigorous requirements for the development, production, marketing authorization and commercial introduction of drug products. These requirements include non-clinical, laboratory and clinical testing procedures, sampling activities, clinical trials, and other costly and time-consuming procedures. In addition, regulation is not static, and regulatory authorities, including the FDA evolve in their staff interpretations and practices and may impose more stringent or different requirements than currently in effect, which may adversely affect our planned and ongoing drug development and/or our sales and marketing efforts.

In the United States, to obtain approval from the FDA to market any of our future biologic products, we will be required to submit a BLA to the FDA. Ordinarily, the FDA requires a sponsor to support a BLA with substantial evidence of the product's safety, purity, and potency in treating the targeted indication based on data derived from adequate and well-controlled clinical trials, including Phase 3 safety and efficacy trials conducted in patients with the disease or condition being targeted.

Developing and obtaining regulatory approval for product candidates is a lengthy process, often taking a number of years, is uncertain and expensive. All of the product candidates that we are developing, or may develop in the future, require research and development, non-clinical studies, non-clinical testing, and clinical trials prior to seeking regulatory approval, and commencing

commercial sales. In addition, we may need to address a number of technological challenges in order to complete development of our product candidates. As a result, the development of product candidates may take longer than anticipated or not be successful at all.

Our product candidate development costs will also increase if we experience delays in testing or approvals, and we may not have sufficient funding to complete the testing and approval process for any of our product candidates. We may be required to obtain additional funds to complete clinical trials and prepare for possible commercialization of our product candidates. We do not know whether any non-clinical tests or clinical trials above what we currently have planned will be required, will begin as planned, will need to be restructured, or will be completed on schedule, or at all. Significant delays relating to any preclinical or clinical trials also could shorten any periods during which we may have the exclusive right to commercialize our product candidates or allow our competitors to bring products to market before we do. This may prevent us from receiving marketing approvals and impair our ability to successfully commercialize our product candidates and may harm our business and results of operations. In addition, many of the factors that cause, or lead to, delays in clinical trials may ultimately lead to the denial of marketing approval of any of our product candidates. If any of this occurs, our business, financial condition, results of operations, and prospects will be materially harmed.

Generally, no product can receive FDA approval, marketing authorization from the European Commission or the competent authorities of the EU Member States, or approval from comparable regulatory agencies in foreign countries unless data generated in human clinical trials demonstrates both safety and efficacy for each target indication in accordance with such authority's standards.

The large majority of product candidates that begin human clinical trials fail to demonstrate the required safety and efficacy characteristics necessary for marketing approval. Failure to demonstrate the safety and efficacy of any of our product candidates for each target indication in clinical trials would prevent us from obtaining required approvals from regulatory authorities, which would prevent us from commercializing those product candidates. Negative or inconclusive results from the clinical trials or adverse medical events during the trials could lead to requirements that trials be repeated or extended, or that additional trials be conducted, any of which may not be clinically feasible or financially practicable, that the conduct of trials be suspended, or that a program be terminated.

Any regulatory approval we ultimately obtain may limit the indicated uses for the product or subject the product to restrictions or post-approval commitments that render the product commercially non-viable. Securing regulatory approval requires the submission of extensive non-clinical and clinical data, information about product manufacturing processes and inspection of facilities and supporting information to the regulatory authorities for each therapeutic indication to establish the product's safety and efficacy. If we are unable to submit the necessary data and information, for example, because the results of clinical trials are not favorable, or if the applicable regulatory authority delays reviewing or does not approve our applications, we will be unable to obtain regulatory approval.

Delays in obtaining or failure to obtain regulatory approvals may delay or prevent the successful commercialization of any of the products or product candidates in the jurisdiction for which approval is sought; diminish our competitive advantage; and defer or decrease our receipt of revenue.

Some of our product candidates previously in development experienced regulatory and/or clinical setbacks. Clinical development has been discontinued for product candidates otlertuzumab, APVO414, and APVO210. Both APVO414 and APVO210 were discontinued after patients developed ADA. Most recently, in 2019, we elected to discontinue the APVO210 development program following the review of data from the Phase 1 multiple ascending dose (MAD) clinical study of APVO210 in healthy volunteers that suggests that APVO210 would not meet the desired target product profile for future commercialization. Specifically, the clinical data showed evidence of increasing titers of ADA with repeated doses of APVO210, which had varying impact on APVO210 drug levels in subjects' blood. The cause of the ADA is uncertain; however, we believe that appearance of ADA is related to the mechanism of action of APVO210, and not due to the structure, or sequences characteristic of the ADAPTIR platform. Although we have re-designed certain components of the ADAPTIR platform based on what we have learned in prior clinical trials, there is no guarantee that the occurrence of ADA or other clinical setbacks will not occur in the development of our existing and future ADAPTIR product candidates.

The procedures to obtain marketing approvals vary among countries and can involve additional clinical trials or other pre-filing requirements. The time required to obtain foreign regulatory approval may differ from that required to obtain FDA approval. The foreign regulatory approval process may include all the risks associated with obtaining FDA approval, or different or additional risks. Regulatory agencies may have varying interpretations of the same data, and approval by one regulatory authority does not ensure approval by regulatory authorities in other jurisdictions. Accordingly, approval by the FDA does not ensure approval by the regulatory authorities in other countries, and approval by one foreign regulatory authority does not ensure approval by the FDA or regulatory authorities in other foreign countries. Failure to obtain regulatory approval in one jurisdiction, however, may impact the decision of other jurisdictions. We may not be able to file for regulatory approvals and may not receive necessary approvals to commercialize our products and products in development in any market on a timely basis, if at all.

Our product candidates are and will continue to be subject to ongoing obligations and continued regulatory review, which may result in significant additional expense. We may be subject to penalties if we fail to comply with regulatory requirements or experience unanticipated problems with our products.

We and our product candidates are subject to extensive and ongoing requirements of and review by the FDA and other regulatory authorities, including requirements related to the conduct of clinical and non-clinical studies, manufacturing processes, post-approval clinical data, labeling, packaging, distribution, adverse event reporting, storage, recordkeeping, export, import, advertising, marketing, and promotional activities for such products. These requirements further include submissions of safety and other post-marketing information, including manufacturing deviations and reports, registration and listing requirements, the payment of annual fees, continued compliance with GMP-requirements relating to manufacturing, quality control, quality assurance, and corresponding maintenance of records and documents, and requirements regarding the distribution of samples to physicians. Manufacturers and manufacturers' facilities are required to comply with extensive FDA, and comparable foreign regulatory authority requirements, including ensuring that quality control and manufacturing procedures conform to GMP requirements and applicable product tracking and tracing requirements.

FDA and comparable foreign regulatory authorities will continue to closely monitor the safety profile of any product even after approval. If the FDA or comparable foreign regulatory authorities become aware of new safety information after approval of any of our product candidates, they may, among other actions, withdraw approval, require labeling changes or establishment of a REMS or similar strategy, impose significant restrictions on a product's indicated uses or marketing, or impose ongoing requirements for potentially costly post-approval studies or post-market surveillance. Any such restrictions could limit sales of the product.

We and any of our collaborators could be subject to periodic unannounced inspections by the FDA to monitor and ensure compliance with GMPs and other FDA regulatory requirements. Application holders must further notify the FDA, and depending on the nature of the change, obtain FDA pre-approval for product and manufacturing changes. In addition, later discovery of previously unknown adverse events or that the product is less effective than previously thought or other problems with our products, manufacturers or manufacturing processes, or failure to comply with regulatory requirements both before and after approval, may yield various results, including:

- restrictions on manufacturing or distribution, or marketing of such products;
- modifications to promotional pieces and product labels;
- issuance of corrective information;
- requirements to conduct post-marketing studies or other clinical trials;
- clinical holds or termination of clinical trials;
- requirements to establish or modify a REMS or a similar strategy;
- changes to the way the product is administered;
- liability for harm caused to patients or subjects;
- reputational harm;
- the product becoming less competitive;
- warning, untitled, or cyber letters;
- suspension of marketing or withdrawal of the products from the market;
- regulatory authority issuance of safety alerts, Dear Healthcare Provider letters, press releases, or other communications containing warnings or other safety information about the product;
- refusal to approve pending applications or supplements to approved applications that we submit;
- recalls of products;
- fines, restitution or disgorgement of profits or revenues;
- suspension or withdrawal of marketing approvals;
- refusal to permit the import or export of our products;
- product seizure or detention;
- FDA debarment, suspension and debarment from government contracts, and refusal of orders under existing government contracts, exclusion from federal healthcare programs, consent decrees, or corporate integrity agreements; or

- injunctions or the imposition of civil or criminal penalties, including imprisonment.

Any of these events could prevent us from achieving or maintaining product approval and market acceptance of the particular product candidate, if approved, or could substantially increase the costs and expenses of developing and commercializing such product, which in turn could delay or prevent us from generating significant revenues from its sale. Any of these events could further have other material and adverse effects on our operations and business and could adversely impact our stock price and could significantly harm our business, financial condition, results of operations, and prospects.

The FDA's policies may change and additional government laws and regulations may be enacted that could prevent, limit, or delay regulatory approval of our product candidates, that could limit the marketability of our product candidates, or that could impose additional regulatory obligations on us. By example the change in the U.S. administration that occurred on January 20, 2021 may result in new or revised laws, regulatory requirements, and associated compliance obligations, as well as postponed or frozen regulatory requirements. Changes in medical practice and standard of care may also impact the marketability of our product candidates. If we are slow or unable to adapt to changes in existing requirements, standards of care, or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained and be subject to regulatory enforcement action.

Should any of the above actions take place, they could adversely affect our ability to achieve or sustain profitability. Further, the cost of compliance with post-approval regulations may have a negative effect on our operating results and financial condition.

If we fail to comply with foreign, federal, state, and local healthcare laws, including fraud and abuse and health information privacy and security laws, we could face substantial penalties and our business, results of operations, financial condition and prospects could be adversely affected.

As a biotechnology company, even though we do not provide healthcare services or receive payments directly from or bill directly to Medicare, Medicaid, or other third-party payors for our products, certain federal, state, local and foreign healthcare laws and regulations pertaining to fraud and abuse and patients' rights are applicable to our business. We are subject to healthcare fraud and abuse and patient privacy regulation by both the federal government and the states in which we conduct our business. The laws that may affect our ability to operate include:

- the federal Anti-Kickback Statute makes it illegal for any person or entity, including a prescription drug manufacturer (or a party acting on its behalf) to knowingly and willfully solicit, receive, offer or pay remuneration, directly or indirectly, overtly or covertly, to induce, or in return for, either the referral of an individual, or the purchase, lease, prescribing or recommendation of an item, good, facility or service reimbursable by a federally funded healthcare program, such as the Medicare or Medicaid program. The term "remuneration" has been interpreted broadly and may constrain our marketing practices, educational programs, pricing policies and relationships with healthcare providers or other entities, among other activities;
- federal civil and criminal false claims, including the federal False Claims Act, and false statement laws and civil monetary penalty laws, which impose criminal and civil penalties, including through civil whistleblower or qui tam actions, on individuals or entities for, among other things, knowingly presenting, or causing to be presented, claims for payment or approval from Medicare, Medicaid or other federal health care programs that are false or fraudulent or knowingly making any materially false statement in connection with the delivery or payment for healthcare benefits, items or services;
- the U.S. federal Health Insurance Portability and Accountability Act of 1996, as amended, or HIPAA, which imposes criminal and civil liability for, among other things, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program or obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any healthcare benefit program, regardless of the payor (e.g., public or private) and knowingly and willfully falsifying, concealing or covering up by any trick or device a material fact or making any materially false statement, in connection with the delivery of, or payment for, healthcare benefits, items or services. Similar to the U.S. federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health, or HITECH, and their respective implementing regulations mandates, among other things, the adoption of uniform standards for the electronic exchange of information in common healthcare transactions, as well as standards relating to the privacy, security and transmission of individually identifiable health information, which require the adoption of administrative, physical and technical safeguards to protect such information. Among other things, HITECH makes HIPAA's security standards directly applicable to "business associates", or independent contractors or agents of covered entities that create, receive or obtain protected health information in connection with providing a service for or on behalf of a covered entity;

- the Physician Payments Sunshine Act and its implementing regulations, which requires certain manufacturers of drugs, biologics, medical devices and medical supplies for which payment is available under Medicare, Medicaid or the CMS, certain payments and transfers of value made to physicians and teaching hospitals, and ownership or investment interests held by physicians and their immediate family members. Effective January 1, 2022, applicable manufacturers are required to report information regarding payments and transfers of value provided to physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, and certified nurse-midwives; and,
- state law equivalents of each of the above federal laws, such as anti-kickback and false claims laws, which may apply to items or services reimbursed by any third-party payor, including commercial insurers; state and foreign laws governing the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts; state, local and foreign 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, obtain pharmaceutical agent licensure, and/or otherwise restrict payments that may be made to healthcare providers and entities; and state, local and foreign laws and industry codes that require drug manufacturers to report information related to payments and other transfers of value to healthcare providers or entities, or marketing expenditures.

Because of the breadth of these laws and the narrowness of the statutory exceptions and safe harbors available under the U.S. federal Anti-Kickback Statute, it is possible that some of our business activities could be subject to challenge under one or more of such laws. Moreover, recent health care reform legislation has strengthened these laws. For example, the ACA, among other things, amends the intent requirement of the federal Anti-Kickback Statute and criminal health care fraud statutes, so that a person or entity no longer needs to have actual knowledge of the statute or specific intent to violate it. In addition, the ACA provides that 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 False Claims Act.

Recently, several pharmaceutical and other healthcare companies have been prosecuted under the federal false claims laws for allegedly inflating drug prices they report to pricing services, which in turn are used by the government to set Medicare and Medicaid reimbursement rates, and for allegedly providing free product to customers with the expectation that the customers would bill federal programs for the product. In addition, certain marketing practices, including off-label promotion, interactions with specialty pharmacies, and patient assistance programs may also violate fraud and abuse laws. To the extent that any product we make is sold in a foreign country, we may be subject to similar foreign laws and regulations.

In addition, certain state and local laws mandate that we comply with a state code of conduct, adopt a company code of conduct under state criteria, disclose marketing payments made to health care professionals and entities, disclose drug pricing information and/or report compliance information to the state authorities. The shifting compliance environment and the need to build and maintain robust and expandable systems to comply in multiple jurisdictions with different compliance and reporting requirements increase the possibility that a pharmaceutical company may violate one or more of the requirements. Any failure to comply with these reporting requirements could result in significant fines and penalties.

The risks of complying with these laws cannot be entirely eliminated. The risk of violation of such laws is also increased because many of them have not been fully interpreted by the regulatory authorities or the courts, and their provisions are open to a variety of interpretations. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. Moreover, achieving and sustaining compliance with applicable federal, state, local and foreign privacy, security, fraud and transparency laws may prove costly. If our past or present operations, or those of our distributors are found to be in violation of any of the laws described above or any other governmental regulations that apply to us, we may be subject to sanctions, including civil and administrative penalties, criminal fines, damages, disgorgement, exclusion from participation in U.S. federal or state health care programs, individual imprisonment, integrity obligations, and the curtailment or restructuring of our operations, any of which could materially adversely affect our ability to operate our business and our financial results. Similarly, if healthcare providers, distributors or other entities with whom we do business are found to be out of compliance with applicable laws and regulations, they may be subject to sanctions, which could also have a negative impact on us.

Our employees, independent contractors, consultants, commercial partners, principal investigators, or CROs may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements, which could have a material adverse effect on our business.

We are exposed to the risk of employee fraud or other misconduct. Misconduct by employees, independent contractors, consultants, commercial partners, manufacturers, investigators, or CROs could include intentional, reckless, negligent, or unintentional failures to comply with FDA regulations or applicable fraud and abuse laws, provide accurate information to the FDA, properly calculate pricing information required by federal programs, comply with federal procurement rules or contract terms, report financial information or data accurately or disclose unauthorized activities to us. This misconduct could also involve the improper use or misrepresentation of information obtained in the course of clinical trials, which could result in regulatory sanctions and serious harm to our reputation. It is

not always possible to identify and deter this type of misconduct, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. Moreover, it is possible for a whistleblower to pursue a False Claims Act case against us even if the government considers the claim unmeritorious and declines to intervene, which could require us to incur costs defending against such a claim. Further, due to the risk that a judgment in a False Claims Act case could result in exclusion from federal health programs or debarment from government contracts, whistleblower cases often result in large settlements. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, financial condition, and results of operations, including the imposition of significant fines or other sanctions.

Our operations, including our use of hazardous materials, chemicals, bacteria, and viruses, require us to comply with regulatory requirements and expose us to significant potential liabilities.

Our operations involve the use of hazardous materials, including chemicals, and may produce dangerous waste products. Accordingly, we, along with the third parties that conduct clinical trials and manufacture our products and product candidates on our behalf, are subject to federal, state, local and foreign laws and regulations that govern the use, manufacture, distribution, storage, handling, exposure, disposal and recordkeeping with respect to these materials. We are also subject to a variety of environmental and occupational health and safety laws. Compliance with current or future laws and regulations can require significant costs and we could be subject to substantial fines and penalties in the event of noncompliance. In addition, the risk of contamination or injury from these materials cannot be completely eliminated. In such event, we could be held liable for substantial civil damages or costs associated with the cleanup of hazardous materials.

Intellectual Property Risks

If we are unable to protect our intellectual proprietary rights, our business could be harmed.

Our commercial success will depend, in large part, on our ability to obtain and maintain protection in the United States and other countries for the intellectual property covering or incorporated into our technology, products and product candidates. Obtaining and maintaining this protection is very costly. The patentability of technology in the biotechnology field generally is highly uncertain and involves complex legal and scientific questions. We cannot be certain that our patents and patent applications, including our own and those that we have rights through licenses from third parties, will adequately protect our intellectual property. Our success in protecting our intellectual property depends significantly on our ability to:

- obtain and maintain U.S. and foreign patents, that are meaningful to our products, including defending those patents against adverse claims;
- secure patent term extension for the patents covering our approved products;
- protect trade secrets;
- operate without infringing the proprietary rights of others; and,
- prevent others from infringing our proprietary rights.

We may not be able to obtain issued patents relating to our technology or product candidates. Even if issued, patents may inadvertently lapse or be challenged, narrowed, invalidated, or circumvented, which could limit our ability to stop competitors from marketing similar products or limit the duration of patent protection we may have for our product candidates. Further, patents may lapse prior to the regulatory approval of the underlying product in one or more territories. In the past, we have abandoned the prosecution and/or maintenance of patent applications related to patent families in the ordinary course of business. In the future, we may choose to abandon such prosecution and/or maintenance in a similar fashion. If these patent rights are later determined to be valuable or necessary to our business, our competitive position may be adversely affected. Changes in patent laws or administrative patent office rules or changes in interpretations of patent laws in the United States and in other countries may diminish the value of our intellectual property or narrow the scope of our patent protection, or result in costly defensive measures.

Patent and other intellectual property laws outside the United States are even more uncertain than in the United States and are continually undergoing review and revisions in many countries. Further, the laws of some foreign countries may not protect our intellectual property rights to the same extent as the laws of the United States. For example, certain countries do not grant patent claims that are directed to business methods and processes. In addition, we may have to participate in additional opposition proceedings, like the proceedings described above, to determine the validity of our foreign patents or our competitors' foreign patents, which could result in substantial costs and diversion of our efforts.

Our collaborative partners and licensors may not adequately protect our intellectual property rights. These third parties may have the first right to maintain or defend intellectual property rights in which we have an interest and, although we may have the right to

assume the maintenance and defense of such intellectual property rights if these third parties do not do so, our ability to maintain and defend such intellectual property rights may be compromised by the acts or omissions of these third parties.

The cost of litigation to uphold the validity of patents, once obtained, to prevent infringement or to otherwise protect or enforce our proprietary rights could be substantial and, from time to time, our patents are subject to patent office proceedings. Some of our competitors may be better able to sustain the costs of complex patent litigation because they may have substantially greater financial resources. Intellectual property lawsuits are expensive and unpredictable and would consume management's time and attention and other resources, even if the outcome were successful. In addition, there is a risk that a court would decide that our patents are not valid and that we do not have the right to stop the other party from using the inventions covered by or incorporating them. There is also a risk that, even if the validity of a patent were upheld, a court would refuse to stop the other party from using the invention(s), including on the grounds that its activities do not infringe the patent. If any of these events were to occur, our business, financial condition and operating results could be materially and adversely affected.

In addition to patent litigation, we may be a party to adversarial proceedings before the Patent Trial and Appeal Board (PTAB) of the US Patent and Trademark Office (USPTO), or the Opposition Division of the European Patent Office (EPO). Potential proceedings before the PTAB include inter partes review proceedings, post-grant review proceedings and interference proceedings. Depending on our level of success at the PTAB and Opposition Division of the EPO, these proceedings could adversely impact our intellectual property rights with respect to our products and technology.

In addition, the U.S. Supreme Court has ruled on several patent cases in recent years, either narrowing the scope of patent protection available in certain circumstances or weakening the rights of patent owners in certain situations. This combination of events has created uncertainty with respect to the value of patents, once obtained, and with regard to our ability to obtain patents in the future. Depending on decisions by the U.S. Congress, the federal courts, and the USPTO, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce our existing patents and patents that we might obtain in the future. Patent and intellectual property laws outside of the United States may also change and be uncertain.

Our patents, once obtained, also may not afford us protection against competitors with similar technology. Because patent applications in the United States and many foreign jurisdictions are typically not published until eighteen months after filing, or in some cases not at all, and because publications of discoveries in the scientific literature often lag behind actual discoveries, neither we nor our licensors can be certain that others have not filed or maintained patent applications for technology used by us or covered by our pending patent applications without our being aware of these applications.

We also will rely on current and future trademarks to establish and maintain recognized brands, including APTEVO THERAPEUTICS, APTEVO BIOTHERAPEUTICS, APTEVO RESEARCH AND DEVELOPMENT, the Aptevo logo, ADAPTIR, and ADAPTIR-FLEX in relevant jurisdictions. If we fail to acquire and protect such trademarks, our ability to market and sell our products, if approved for marketing, will be harmed. In addition, our current and future trademarks may be challenged, infringed, circumvented, declared generic, lapsed or determined to be infringing on or dilutive of other marks and we may not be able to protect our rights in these trademarks, which we need in order to build name recognition. Any of the foregoing could have a material and adverse effect on our business, financial condition and operating results.

If approved, our products regulated as biologics may face competition from biosimilars approved through an abbreviated regulatory pathway.

The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, or collectively the ACA, includes a subtitle called the Biologics Price Competition and Innovation Act of 2009, or BPCIA, which created an abbreviated approval pathway for biological products that are biosimilar to or interchangeable with an FDA-licensed reference biological product. Under the BPCIA, an application for a biosimilar product may not be submitted to the FDA until four years following the date that the reference product was first licensed by the FDA. In addition, the approval of a biosimilar product may not be made effective by the FDA until 12 years from the date on which the reference product was first licensed. During this 12-year period of exclusivity, another company may still market a competing version of the reference product if the FDA approves a BLA for the competing product containing the sponsor's own preclinical data and data from adequate and well-controlled clinical trials to demonstrate the safety, purity, and potency of the other company's product. The law is complex and is still being interpreted and implemented by the FDA. As a result, its ultimate impact, implementation, and meaning are subject to uncertainty. We believe that any of our product candidates approved as a biological product under a BLA should qualify for the 12-year period of exclusivity. However, there is a risk that this exclusivity could be shortened due to congressional action or otherwise, or that the FDA will not consider our investigational medicines to be reference products for competing products, potentially creating the opportunity for generic competition sooner than anticipated. Other aspects of the BPCIA, some of which may impact the BPCIA exclusivity provisions, have also been the subject of recent litigation.

There is a similar abbreviated pathway for the approval of biosimilar products in the EU. Reference products in the EU benefit from an eight year data exclusivity period during which the data included in the dossier for the reference product may not be referenced for the purposes of an abbreviated biosimilar application. Following the expiration of the data exclusivity period, there is an additional two year period of market exclusivity during which a biosimilar marketing authorization application can be submitted, and the innovator's data may be referenced, but no product can be placed on the market until the expiration of such period. The overall 10-year period can be extended to a maximum of 11 years in certain circumstances. As in the U.S., there is no guarantee that a product will qualify for the prescribed period of exclusivity and, even if a product does qualify, another company may market a competing version of the reference product if such company obtained a marketing authorization with a complete independent data package of pharmaceutical tests, preclinical tests and clinical trials.

Moreover, the extent to which a biosimilar, once licensed, will be substituted for any one of our reference products in a way that is similar to traditional generic substitution for non-biological products, and will depend on a number of marketplace and regulatory factors that are still developing. If competitors are able to obtain marketing approval for biosimilars referencing any of our products, if approved, our products may become subject to competition from such biosimilars, which would impair our ability to successfully commercialize and generate revenues from sales of such products.

Third parties may choose to file patent infringement claims against us.

Our development and commercialization activities, as well as any product candidates or products resulting from these activities, may infringe or be claimed to infringe patents and other intellectual property rights of third parties under which we do not hold sufficient licenses or other rights. Third parties may be successful in obtaining patent protection for technologies that cover development and commercialization activities in which we are already engaged. These third parties may have substantially greater financial resources than us and could bring claims against us that could cause us to incur substantial expenses to defend against these claims and, if successful against us, could cause us to pay substantial damages. If a patent infringement or other similar suit were brought against us, we could be forced to stop or delay development, manufacturing or sales of the product or product candidate that is the subject of the suit. Intellectual property litigation in the biotechnology industry is common, and we expect this trend to continue.

As a result of patent infringement or other similar claims, or to avoid potential claims, we may choose or be required to seek a license from the third party and be required to pay license fees or royalties or both. These licenses may not be available on acceptable terms, or at all. Even if we were able to obtain a license, the rights may be non-exclusive, which could result in our competitors gaining access to the same intellectual property. Ultimately, we could be prevented from commercializing a product, or be forced to cease some aspect of our business operations, if, as a result of actual or threatened patent infringement claims, we are unable to enter into licenses on acceptable terms, if at all, or if an injunction is granted against us, which could harm our business significantly.

There has been substantial litigation and other proceedings regarding patent and other intellectual property rights in the pharmaceutical and biotechnology industries. In addition to infringement claims against us, we may become a party to other patent litigation and other adversarial proceedings such as proceedings before the Patent Trial Appeals Board and opposition proceedings in the European Patent Office, regarding intellectual property rights that could impact our products and technology.

Patent litigation and other proceedings may also absorb significant management time. The cost to us of any patent litigation or other proceeding, even if resolved in our favor, could be substantial. Some of our competitors may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their substantially greater financial resources. Uncertainties resulting

from the initiation and continuation of patent litigation or other proceedings could have a material adverse effect on our ability to compete in the marketplace. Patent litigation and other proceedings may also absorb significant management time.

Our Aptevo trademarks may be opposed which could have a material and adverse effect on our business.

We have an application pending that covers the APTEVO THERAPEUTICS trademark and received a notice of allowance from the USPTO for the APTEVO BIOTHERAPEUTICS and APTEVO RESEARCH AND DEVELOPMENT trademarks in August 2022. We refer to these trademarks as our house marks. If a third party opposes any of these house marks and we are unable to reach settlement prior to the commencement of an opposition proceeding, we may incur significant expense in the course of participating in the opposition process, which can be expensive and lengthy. Any settlement with a third party may result in our agreeing to be subject to restrictions on our use of the relevant house mark. In addition, if we are unsuccessful in an opposition against a house mark, we would lose the ability to obtain trademark registration for one or more uses of the relevant mark both in the United States and in other territories which could have a material and adverse effect on our business.

We may be subject to claims that our employees have wrongfully used or disclosed alleged trade secrets of their former employers.

As is common in the biotechnology and pharmaceutical industry, we employ individuals who were previously employed at other biotechnology or pharmaceutical companies, including our competitors or potential competitors. We may be subject to claims that these employees or we have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of their former employers. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management.

Failure to comply with our obligations in our intellectual property licenses with third parties, could result in loss of license rights or other damages.

We are a party to a number of license agreements and expect to enter into additional license agreements in the future. Our existing licenses impose, and we expect future licenses will impose, various diligence, milestone payment, royalty, insurance, and other obligations on us. If we fail to comply with these obligations, the licensor may have the right to terminate the license in whole or in part, terminate the exclusive nature of the license and/or sue us for breach, which could cause us to not be able to market any product that is covered by the licensed patents and may be subject to damages.

If we are unable to protect the confidentiality of our proprietary information and know-how, the value of our technology and product candidates could be adversely affected.

In addition to patented technology, we rely upon unpatented proprietary technology, information processes and know-how. These types of trade secrets can be difficult to protect. We seek to protect this confidential information, in part, through agreements with our employees, consultants and third parties as well as confidentiality policies and audits, although these may not be successful in protecting our trade secrets and confidential information. These agreements may be breached, and we may not have adequate remedies for any such breach. In addition, our trade secrets may otherwise become known, including through a potential cyber security breach, or may be independently developed by competitors. If we are unable to protect the confidentiality of our proprietary information and know-how, competitors may be able to use this information to develop products that compete with our products, which could adversely impact our business.

Risks Related to Collaborations and Other Transactions

We may not be successful in establishing and maintaining collaborations and entering into other transactions that leverage our capabilities in pursuit of developing and commercializing our product candidates and any such collaborations and transactions, if any, could result in financial results that differ from market expectations.

For each of our product candidates we plan to evaluate the merits of entering into collaboration arrangements with third parties, including leading biotechnology companies or non-governmental organizations. In July 2017, we entered into a collaboration agreement with Alligator pursuant to which Aptevo R&D and Alligator will collaboratively develop ALG.APV-527, a lead bispecific antibody candidate simultaneously targeting 4-1BB (CD137), a member of the TNFR superfamily of a costimulatory receptor found on activated T-cells, and 5T4, a tumor antigen widely overexpressed in a number of different types of cancer. We intend to pursue collaboration arrangements with third parties that have particular technology, expertise or resources for the development or commercialization of our product candidates or for accessing particular markets. We face, and will continue to face, significant competition in seeking appropriate partners for our product candidates. If we are unable to identify partners whose capabilities complement and integrate well with ours and reach collaboration arrangements with such partners on a timely basis, on acceptable terms or at all, or if the arrangements we establish are unproductive for us, we may fail to meet our business objectives for the particular product candidate. Our ability to enter into such arrangements with respect to products in development that are subject to licenses may be limited by the terms of those licenses.

Our collaboration agreement with Alligator, or any collaboration agreement we may consider entering into, may not be successful and the success of our collaboration arrangements will depend heavily on the efforts and activities of our collaborative partners. It is likely that our collaborative partners will have significant discretion in determining the efforts and resources that they will apply to these collaborations.

The risks that we are subject to in any of our collaborations include, among others:

- our collaborative partners may not commit adequate resources to the development, marketing and distribution of any collaboration products, limiting our potential revenues from these products;
- our collaborative partners may experience financial difficulties and may therefore be unable to meet their commitments to us;
- our collaborative partners may pursue a competing product candidate developed either independently or in collaboration with others, including our competitors; and,
- our collaborative partners may terminate our relationship.

The failure of any of our current or future collaboration partners to perform as expected could place us at a competitive disadvantage and adversely affect us financially, including delay and increased costs of development, loss of market opportunities, lower than expected revenues and impairment of the value of the related product candidate. A loss of our collaboration agreement with Alligator would result in a burden of locating a replacement partner under potentially less favorable terms at an additional cost. Collaborations are a critical part of our business strategy, and any inability on our part to establish and successfully maintain such arrangements on terms favorable to us or to work successfully with our collaborative partners could have an adverse effect on our operations and financial performance. Due to the ongoing COVID-19 pandemic and macroeconomic factors, we may experience delays in opportunities to develop our product candidates, due to financial and other impacts on potential partners.

In addition, in the normal course of business, the Company engages in discussions with third parties regarding possible strategic alliances, joint ventures, acquisitions, divestitures and business combinations to further develop or commercialize our product candidates. As a result of such transactions, our financial results may differ from our own or the investment community's expectations in a given fiscal quarter or over the long term. Furthermore, efforts to engage in such transactions require varying levels of management resources, which may divert the Company’s attention from other business operations. Any transactions we engage in could result in our financial results differing materially from market expectations.

In connection with our separation from Emergent, we and Emergent agreed to indemnify the other party for certain liabilities. The Emergent indemnity may not be sufficient to hold us harmless from the full amount of liabilities for which Emergent will be allocated responsibility, and Emergent may not be able to satisfy its indemnification obligations in the future.

Pursuant to the separation agreement and certain other agreements with Emergent, Emergent has agreed to indemnify us for certain liabilities, and we agreed to indemnify Emergent for certain liabilities. Indemnities that we may be required to provide Emergent are not subject to any cap, may be significant and could negatively impact our business, particularly indemnities relating to our actions that could impact the tax-free nature of the distribution. Third parties could also seek to hold us responsible for any of the liabilities that Emergent has agreed to retain. Any amounts we are required to pay pursuant to these indemnification obligations and other liabilities could require us to divert cash that would otherwise have been used in furtherance of our operating business. Further, the indemnity from Emergent may not be sufficient to protect us against the full amount of such liabilities, and Emergent may not be able to fully satisfy its indemnification obligations. Moreover, even if we ultimately succeed in recovering from Emergent any amounts for which

we are held liable, we may be temporarily required to bear these losses ourselves. Each of these risks could negatively affect our business, results of operations and financial condition.

Risks Related to Our Common Stock and General Risks

Our stock price may be volatile.

Our stock price has fluctuated in the past and is likely to be volatile in the future. Since August 1, 2016 and up to September 30, 2022, the reported closing price of our common stock has fluctuated between $2.95 and $83.16 per share (as adjusted to reflect our 1-for-14 reverse stock split of our outstanding common stock that was effective on March 26, 2020). The stock market in general, and the market for biotechnology companies in particular, have experienced extreme volatility that has often been unrelated to the operating performance of particular companies. In particular, the stock market has experienced extreme volatility in recent months as a result of the geopolitical climate, including the war in Ukraine, and macroeconomic conditions, including rising inflation and interest rates and reduced consumer confidence. The market price of our common stock may fluctuate significantly due to a number of factors, some of which may be beyond our control or unrelated to our operations, including, among others:

- changes in earnings estimated by securities analysts or management, or our ability to meet those estimates;
- investor perceptions or negative announcements by our competitors, suppliers, or partners regarding their own performance;
- the success of competitive products or technologies;
- the timing, expenses, and results of clinical and preclinical trials of our product candidates;
- announcements regarding clinical trial results and product introductions by us or our competitors;
- announcements of acquisitions, collaborations, financings or other transactions by us or our competitors;
- public concern as to the safety of our product candidates;
- termination or delay of a development program;
- the recruitment or departure of key personnel;
- estimated or actual sales of IXINITY by Medexus;
- whether and to what extent future milestone payments are received under our Amendment to Royalty Purchase Agreement with HCR;
- actual or anticipated variations in our cash flows or results of operations;
- the operating and stock price performance of comparable companies;
- the impact of the ongoing COVID-19 pandemic or similar global health challenges;
- general industry conditions and domestic and global financial, economic, and geopolitical instability; and,
- the other factors described in this “Risk Factors” section.

Biotechnology company stock prices have declined significantly in certain instances where companies have failed to obtain FDA or foreign regulatory authority approval of a product candidate or if the timing of FDA or foreign regulatory authority approval is delayed. If the FDA’s or any foreign regulatory authority’s response to any application for approval is delayed or not favorable for any of our product candidates, our stock price could decline significantly.

In addition, when the market price of a company’s common stock drops significantly, stockholders often institute securities class action lawsuits against the company. A lawsuit against us could cause us to incur substantial costs and could divert the time and attention of our management and other resources.

In the event that coverage under our directors’ and officers’ liability insurance is reduced or terminated as a result of an ownership change or otherwise, our indemnification obligations and limitations of our directors’ and officers’ liability insurance may have a material adverse effect on our financial condition, results of operations and cash flows.

Under Delaware law, our certificate of incorporation, and our by-laws and certain indemnification agreements to which we are a party, we have an obligation to indemnify, or we have otherwise agreed to indemnify, certain of our current and former directors and officers with respect to past, current, and future investigations and litigation. In order to reduce the risk of expense of these obligations, we maintain directors’ and officers’ liability insurance. A significant change in the Company’s risk profile, such as the Tang Ownership Change, could increase the cost to us of our directors’ and officers’ liability insurance coverage or the coverage thereunder may be reduced or terminated in full. In the event that the coverage under our directors’ and officers’ liability insurance is reduced or terminated,

we will be required to pay the expenses of indemnifying our current and former directors and officers in their defense of current and future investigations and litigation, which expenses may be significant. The increased costs to us of our directors' and officers' liability insurance coverage, or our indemnification obligations if our directors' and officers' liability insurance coverage is reduced or terminated, could result in the diversion of our financial resources, and may have a material adverse effect on our financial condition, results of operations and cash flows.

If we do not maintain effective internal controls, we may not be able to accurately report our financial results and our business could be harmed.

The Sarbanes-Oxley Act requires, among other things, that we assess the effectiveness of our internal control over financial reporting annually and the effectiveness of our disclosure controls and procedures quarterly. In particular, Section 404 of the Sarbanes-Oxley Act, or Section 404, requires us to perform system and process evaluation and testing of our internal control over financial reporting to allow management to report on, and our independent registered public accounting firm potentially to attest to, the effectiveness of our internal control over financial reporting. In the past, we were an emerging growth company and availed ourselves of the exemption from the requirement that our independent registered public accounting firm attest to the effectiveness of our internal control over financial reporting under Section 404. However, we will no longer avail ourselves of this exemption since we ceased to be an emerging growth company since August 2021. When our independent registered public accounting firm is required to undertake an assessment of our internal control over financial reporting, the cost of our compliance with Section 404 will correspondingly increase. Our compliance with applicable provisions of Section 404 will require that we incur substantial accounting expense and expend significant management time on compliance-related issues as we implement additional corporate governance practices and comply with reporting requirements. Moreover, if we are not able to comply with the requirements of Section 404 applicable to us in a timely manner, or if we or our independent registered public accounting firm identifies deficiencies in our internal control over financial reporting that are deemed to be material weaknesses, the market price of our stock could decline and we could be subject to sanctions or investigations by the SEC or other regulatory authorities, which would require additional financial and management resources.

Investor perceptions of our company may suffer if material weaknesses are found, and this could cause a decline in the market price of our common stock. Irrespective of compliance with Section 404, any failure of our internal control over financial reporting could harm our operating results and reputation. If we are unable to implement these requirements effectively or efficiently, it could harm our operations, financial reporting, or financial results and could result in an adverse opinion on our internal controls from our independent registered public accounting firm.

The public announcement of data from clinical trials or news of any developments related to our product pipeline may cause significant volatility in our stock price.

The announcement of data from clinical trials by us or our collaborative partners or news of any developments related to our key pipeline product candidates may cause significant volatility in our stock price. Furthermore, the announcement of any negative or unexpected data or the discontinuation of development of any of our key pipeline product candidates, or any delay in our anticipated timelines for filing for regulatory approval, could cause our stock price to decline significantly. There can be no assurance that data from clinical trials will support a filing for regulatory approval or even if approved, that any of our key pipeline products will become commercially successful.

Our common stock may be at risk for delisting from the Nasdaq Capital Market in the future if we do not maintain compliance with Nasdaq's continued listing requirements. Delisting could adversely affect the liquidity of our common stock and the market price of our common stock could decrease.

Our common stock is currently listed on the Nasdaq Capital Market LLC ("Nasdaq"). The Nasdaq Stock Market LLC has minimum requirements that a company must meet in order to remain listed on Nasdaq, including corporate governance standards and a requirement that we maintain a minimum closing bid price of $1.00 per share.

On April 1, 2022, the Company received a letter from Nasdaq indicating that it was not in compliance with Nasdaq Listing Rule 5550(b)(1), which requires companies listed on The Nasdaq Capital Market to maintain a minimum of $2,500,000 in stockholders' equity for continued listing. On its annual report for the year ended December 31, 2021, the Company reported stockholders' equity of $1,216,000, and, as a result, did not satisfy Listing Rule 5550(b)(1). In the second quarter of 2022, the Company regained compliance with the Nasdaq Listing Rule.

In the future, if we fail to maintain such minimum requirements and a final determination is made by Nasdaq that our common stock must be delisted, the liquidity of our common stock would be adversely affected and the market price of our common stock could decrease. In addition, if delisted, we would no longer be subject to Nasdaq rules, including rules requiring us to have a certain number of independent directors and to meet other corporate governance standards. Our failure to be listed on Nasdaq or another established securities market would have a material adverse effect on the value of your investment in us.

If our common stock is not listed on Nasdaq or another national exchange, the trading price of our common stock is below $5.00 per share and we have net tangible assets of $6,000,000 or less, the open-market trading of our common stock will be subject to the "penny stock" rules promulgated under the Securities Exchange Act of 1934, as amended. If our shares become subject to the "penny stock" rules, broker-dealers may find it difficult to effectuate customer transactions and trading activity in our securities may be adversely affected.

Your percentage of ownership in Aptevo may be diluted in the future.

In the future, your percentage ownership in Aptevo may be diluted because of equity issuances for acquisitions, capital market transactions or otherwise, including, but not limited to, equity issuances under our existing Purchase Agreement with Lincoln Park, under our Equity Distribution Agreement with Piper Sandler, under our Rights Plan with Broadridge Corporate Issuer Solutions, Inc., upon the exercise of warrants issued in connection with our March 2019 public offering, and equity awards to our directors, officers and employees. Our employees have options to purchase shares of our common stock and from time to time, we expect to issue additional options, restricted stock units, or other stock-based awards to our employees under our employee benefits plans.

In addition, our restated certificate of incorporation authorizes us to issue, without the approval of our stockholders, one or more classes or series of preferred stock having such designation, powers, preferences and relative, participating, optional and other special rights, including preferences over our common stock respecting dividends and distributions, as our board of directors generally may determine. The terms of one or more classes or series of preferred stock could dilute the voting power or reduce the value of our common stock. For example, we could grant the holders of preferred stock the right to elect some number of our directors in all events or on the happening of specified events or the right to veto specified transactions. Similarly, the repurchase or redemption rights or liquidation preferences we could assign to holders of preferred stock could affect the residual value of the common stock.

Provisions under Delaware law and in our restated certificate of incorporation, amended and restated by-laws and rights agreement may discourage acquisition proposals, delay a change in control or prevent transactions that stockholders may consider favorable.

Certain provisions in our restated certificate of incorporation and amended and restated by-laws, and under Delaware law, may discourage, delay, or prevent a merger, acquisition or other changes in control that stockholders may consider favorable, including transactions in which stockholders might otherwise receive a premium for their shares. These provisions may also prevent or frustrate attempts by our stockholders to replace or remove our incumbent directors and management.

These provisions include:

- the classification of our directors;
- limitations on the removal of directors;
- limitations on filling vacancies on the board;
- advance notice requirements for stockholder nominations of candidates for election to the Board of Directors and other proposals;
- the inability of stockholders to act by written consent;
- the inability of stockholders to call special meetings; and,
- the ability of our Board of Directors to designate the terms of and issue a new series of preferred stock without stockholder approval.

The affirmative vote of holders of our capital stock representing at least 75% of the voting power of all outstanding stock entitled to vote is required to amend or repeal the above provisions of our certificate of incorporation. The affirmative vote of either a majority of the directors present at a meeting of our Board of Directors or holders of our capital stock representing at least 75% of the voting power of all outstanding stock entitled to vote is required to amend or repeal our by-laws.

In addition, Section 203 of the General Corporation Law of Delaware prohibits a corporation from engaging in a business combination with an interested stockholder, generally a person which, together with its affiliates, owns or within the last three years has owned 15% or more of the corporation's voting stock, for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner. Accordingly, Section 203 may discourage, delay or prevent a change in control of us. Tang is an interested stockholder for purposes of Section 203.

Moreover, we currently have a short-term stockholder rights agreement in effect. This rights agreement was amended on November 4, 2021 to extend the expiration date of such agreement from November 8, 2021 to November 5, 2022 and further amended on November 4, 2022 to extend the expiration of such agreement to November 4, 2023. This rights agreement could render more difficult, or discourage a merger, tender offer, or assumption of control of the Company that is not approved by our Board that some stockholders may consider favorable. The rights agreement, however, should not interfere with any merger, tender or exchange offer or

other business combination approved by our Board. Nor does the rights agreement prevent our Board from considering any offer that it considers to be in the best interest of our stockholders.

Our by-laws include a forum selection clause, which may impact your ability to bring actions against us.

Subject to certain limitations, our bylaws provide that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery in the State of Delaware will be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring: (a) any derivative action or proceeding brought on our behalf; (b) any action asserting a claim of breach of fiduciary duty owed by any of our directors, officers or other employees or our stockholders; (c) any action asserting a claim arising pursuant to any provision of the DGCL or our certificate of incorporation or by-laws; or (d) any action asserting a claim governed by the internal affairs doctrine. In addition, our bylaws provide that unless we consent in writing to the selection of an alternative forum, 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 federal securities laws of the United States against us, our officers, directors, employees or underwriters. These limitations on the forum in which stockholders may initiate action against us could create costs, inconvenience or otherwise adversely affect your ability to seek legal redress.

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. As a result, a court may decline to enforce these exclusive forum provisions with respect to suits brought to enforce any duty or liability created by the Securities Act or any other claim for which the federal and state courts have concurrent jurisdiction, and our stockholders may not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder. If a court were to find the exclusive forum provisions to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions.

We may be subject to periodic litigation, which could result in losses or unexpected expenditure of time and resources.

From time to time, we may be called upon to defend ourselves against lawsuits relating to our business. Any litigation, regardless of its merits, could result in substantial costs and a diversion of management's attention and resources that are needed to successfully run our business. Due to the inherent uncertainties of litigation, we cannot accurately predict the ultimate outcome of any such proceedings. An unfavorable outcome in any such proceedings could have an adverse impact on our business, financial condition and results of operations. If our stock price is volatile, we may become involved in securities class action lawsuits in the future.

Our failure to comply with data protection laws and regulations could lead to government enforcement actions and significant penalties against us, and adversely impact our operating results.

EU Member States, Switzerland and other countries have adopted data protection laws and regulations, which impose significant compliance obligations. For example, European Union, or EU, member states and other foreign jurisdictions, including Switzerland, have adopted data protection laws and regulations which impose significant compliance obligations. Moreover, the collection and use of personal health data in the EU is now governed under the EU General Data Protection Regulation, or the GDPR, effective in May 2018. The GDPR, which is wide-ranging in scope, imposed several requirements relating to the consent of the individuals to whom the personal data relates, the information provided to the individuals, the security and confidentiality of the personal data, data breach notification and the use of third-party processors in connection with the processing of personal data. The GDPR also imposes strict rules on the transfer of personal data out of the EU to the U.S., provides an enforcement authority and imposes large penalties for noncompliance, including the potential for fines of up to €20 million or 4% of the annual global revenues of the noncompliant company, whichever is greater. The GDPR requirements apply not only to third-party transactions, but also to transfers of information between us and our subsidiaries, including employee information. The GDPR increases our responsibility and liability in relation to personal data that we process, including in clinical trials, and we may be required to put in place additional mechanisms to ensure compliance with the GDPR, which could divert management's attention and increase our cost of doing business. In addition, new regulation or legislative actions regarding data privacy and security (together with applicable industry standards) may increase our costs of doing business. However, despite our ongoing efforts, we may not be successful either due to various factors within our control, such as limited financial or human resources, or other factors outside our control. It is also possible that local data protection authorities may have different interpretations of the GDPR, leading to potential inconsistencies amongst various EU member states. Any failure or alleged failure (including as a result of deficiencies in our policies, procedures, or measures relating to privacy, data security, marketing, or communications) by us to comply with laws, regulations, policies, legal or contractual obligations, industry standards, or regulatory guidance relating to privacy or data security, may result in governmental investigations and enforcement actions, litigation, fines and penalties or adverse publicity. In addition, we expect that there will continue to be new proposed laws, regulations and industry standards relating to privacy and data protection in the United States, the EU and other jurisdictions, such as the California Consumer Privacy Act of 2018, which has been characterized as the first "GDPR-like" privacy statute to be enacted in the United States, and we cannot determine the impact such future laws, regulations and standards may have on our business.

If we experience a significant disruption in our information technology systems or breaches of data security, including due to a cyber-security incident, our business could be adversely affected.

We rely on information technology systems to keep financial records, capture laboratory data, maintain clinical trial data and corporate records, communicate with staff and external parties and operate other critical functions. Our information technology systems are potentially vulnerable to disruption due to breakdown, malicious intrusion and computer viruses or other disruptive events including but not limited to natural disaster. The impact of the ongoing COVID-19 pandemic also poses an increased security risk, due to the remote working environment.

We also face the challenge of promptly detecting and remediating any cyber-security breaches. Our information technology systems security measures are focused on the prevention, detection and remediation of damage from computer viruses, unauthorized access, cyber-attack and other similar disruptions. However, our information technology systems protection measures may not be successful in preventing unauthorized access, intrusion and damage. Threats to our systems can derive from human error, fraud or malice on the part of employees or third parties, including computer hackers, encryption by ransomware, or may result from technological failure.

If we were to experience a prolonged system disruption in our information technology systems or those of certain of our vendors, it could delay or negatively impact our development and commercialization of our product candidates, which could adversely impact our business. If operations at our facilities were disrupted, it may cause a material disruption in our business if we are not capable of restoring function on an acceptable timeframe.

In addition, as discussed above, our information technology systems are potentially vulnerable to data security breaches—whether by employees or others, intentionally or unintentionally—which may expose sensitive or personal data to unauthorized persons. Such data security breaches could lead to the loss of trade secrets or other intellectual property, or could lead to the public exposure of personal information (including sensitive personal information) of our employees, customers and others, any of which could have a material adverse effect on our business, financial condition and results of operations.

Moreover, a security breach or privacy violation that leads to destruction, loss, alteration, unauthorized use or access, disclosure or modification of, personally identifiable information or personal data, could harm our reputation, compel us to comply with federal, state and/or international breach notification laws, subject us to mandatory corrective or regulatory action, require us to verify the correctness of database contents and otherwise subject us to liability under laws and regulations that protect personal data, including the GDPR and the California Consumer Privacy Act of 2018, which could disrupt our business, result in increased costs or loss, and/or result in significant legal and financial exposure. In addition, a data security breach could result in loss of clinical trial data or damage to the integrity of that data.

If we are unable to implement and maintain adequate organizational and technical measures to prevent such security breaches or privacy violations, or to respond adequately in the event of a breach, our operations could be disrupted, and we may suffer loss of reputation, problems with regulatory authorities, financial loss and other negative consequences. In addition, these breaches and other inappropriate access can be difficult to detect, and any delay in identifying them may lead to increased harm of the type described above.

If a breach of our information technology systems occurs, we may incur additional costs related to repairing or rebuilding our internal systems, complying with breach notification laws, defending legal claims or proceedings, responding to regulatory actions, incurring penalties, and paying damages. Moreover, it may be determined that as a result of such a breach there was a material weakness or significant deficiency in our internal controls or other failure of our control environment. If such a breach occurs, it may have a material adverse effect on our business, results of operations, and financial condition, and it may also negatively impact our reputation.

A significant portion of our shares may be sold into the market at any time which could depress our stock price.

If our stockholders sell a substantial number of shares of our common stock in the public market, our market price could decline. In connection with the transaction with Lincoln Park, we have agreed to register under the Securities Act of 1933, as amended, the resale of shares of common stock that have been and may be issued under the Purchase Agreement with Lincoln Park. Any perception that such sales may occur, whether under the Lincoln Park Purchase Agreement or otherwise, could decrease the market price of our common stock.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

Not applicable.

Item 3. Defaults Upon Senior Securities.

Not applicable.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

The following disclosure is intended to satisfy any obligation to provide disclosures pursuant to Item 5.03 of Form 8-K.

On November 8, 2022, in connection with the new Securities and Exchange Commission rules and changes to the Securities Exchange Act of 1934, as amended (the "Exchange Act") regarding universal proxy cards, certain recent changes to the Delaware General Corporation Law (the "DGCL"), the discontinuation of the practice of discretionary broker voting of uninstructed shares by several major brokerage firms and the Company's increased levels of retail ownership, the Board of Directors (the "Board") of Aptevo Therapeutics Inc. (the "Company") approved amendments to the Company's Amended and Restated By-laws (the "By-laws"), effective immediately.

The amendments to the By-laws, among other things:

- Modify the provisions relating to adjournment procedures and availability of lists of stockholders entitled to vote at stockholder meetings, in each case, to reflect recent amendments to the DGCL;
- Modify the provisions for determining the presence of a quorum at all meetings of stockholders, to provide that: (i) the presence, in person, by remote communication, if applicable, or by proxy, of the holders of one-third of the voting power of the capital stock issued and outstanding and entitled to vote on one or more matters to be voted on at the meeting shall constitute a quorum; and (ii) where a separate vote by a class or classes or series is required, except where otherwise provided by law or by the Company's Restated Certificate of Incorporation or the By-laws, the presence, in person, by remote communication, if applicable, or represented by proxy duly authorized of one-third of the voting power of the outstanding shares of such class or classes or series, shall constitute a quorum entitled to take action with respect to that vote on that matter;
- Address matters relating to Rule 14a-19 under the Exchange Act (the "Universal Proxy Rules"), including providing the Company a remedy if a stockholder fails to satisfy the Universal Proxy Rule requirements and adding a requirement to notify the Company as to whether the stockholder intends to solicit proxies for at least 67% of the voting power of the Company's capital stock;
- Enhance informational and procedural requirements in connection with stockholder nominations of directors at stockholder meetings, including (i) implementing the requirement that proposed nominees complete a questionnaire with respect to their background and qualifications and (ii) mandating that the number of nominees a shareholder may nominate for election at the annual meeting of the stockholders may not exceed the number of directors to be elected at such annual meeting; and
- Provide that any proxies received for disqualified or withdrawn Board nominees will be treated as abstentions.

The foregoing description of the Company's amended By-laws is qualified in its entirety by the full text of the By-laws, as amended, filed as Exhibit 3.1 hereto and incorporated herein by reference

Item 6. Exhibits

Exhibit Index

Exhibit Number	Description
3.1*	Amended and Restated By-laws of the Company, as amended and restated on November 8, 2022.
10.1*	Third Amendment to Credit and Security Agreement dated August 30, 2022.
31.1*	Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes Oxley Act of 2002.
31.2*	Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes Oxley Act of 2002.
32.1*	Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2*	Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS*	Inline XBRL Instance Document
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104*	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Filed herewith.

SIGNATURES

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

APTEVO THERAPEUTICS INC.

Date: November 10, 2022 By: /s/ Marvin L. White

Marvin L. White
President and Chief Executive Officer

Date: November 10, 2022 By: /s/ Jeffrey G. Lamothe

Jeffrey G. Lamothe
Executive Vice President and Chief Financial Officer

EXHIBIT 3.1

AMENDED AND RESTATED BY-LAWS

OF

APTEVO THERAPEUTICS INC.

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ARTICLE I

STOCKHOLDERS

1.1 Place of Meetings. All meetings of stockholders shall be held at such place as may be designated from time to time by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President or, if not so designated, at the principal office of the corporation.

1.2 Annual Meeting. The annual meeting of stockholders for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly be brought before the meeting shall be held on a date and at a time designated by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President. The corporation may postpone, reschedule or cancel any previously scheduled annual meeting of stockholders.

1.3 Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by only the Board of Directors, the Chairman of the Board, the Chief Executive Officer or, if no person then holds the title Chief Executive Officer, the President, and may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting. The corporation may postpone, reschedule or cancel any previously scheduled special meeting of stockholders.

1.4 Notice of Meetings. Except as otherwise provided by law, the Certificate of Incorporation or these By-laws, notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the General Corporation Law of the State of Delaware) by the stockholder to whom the notice is given. The notices of all meetings shall state the place, date and time of the meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. If notice is given by electronic transmission, such notice shall be deemed given at the time specified in Section 232 of the General Corporation Law of the State of Delaware.

1.5 Stockholder List. The Secretary shall prepare, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least 10 days, ending on the date before the meeting date: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or

(b) during ordinary business hours, at the principal place of business of the corporation. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 1.5 or to vote in person or by proxy at any meeting of stockholders.

1.6 Quorum. Except as otherwise provided by law, the Certificate of Incorporation or these By-laws, the holders of shares of capital stock representing one-third of the voting power of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at the meeting, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, shall constitute a quorum for the transaction of business; provided, however, that where a separate vote by a class or classes or series of capital stock is required by law or the Certificate of Incorporation, the holders of shares of capital stock representing one-third of the voting power of the shares of such class or classes or series of the capital stock of the corporation issued and outstanding and entitled to vote on such matter, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, shall constitute a quorum entitled to take action with respect to the vote on such matter. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

1.7 Adjournments. Any meeting of stockholders may be adjourned from time to time to any other time and to any other place at which a meeting of stockholders may be held under these By-laws by the chairman of the meeting or by the stockholders present or represented at the meeting and entitled to vote, although less than a quorum. It shall not be necessary to notify any stockholder of any adjournment of less than 30 days (including an adjournment taken to address a technical failure to convene or continue a meeting using remote communication) if the time and place of the adjourned meeting, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, are (i) announced at the meeting at which adjournment is taken, (ii) displayed during the time scheduled for the meeting, on the same electronic network used to enable stockholders and proxy holders to participate in the meeting by means of remote communication, or (iii) set forth in the notice of meeting given in accordance with Section 1.4, unless after the adjournment a new record date is fixed for the adjourned meeting. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting.

1.8 Voting and Proxies. Each stockholder shall have one vote for each share of stock entitled to vote and held of record by such stockholder and a proportionate vote for each fractional share so held, unless otherwise provided by law or the Certificate of Incorporation. Each stockholder of record entitled to vote at a meeting of stockholders may vote in person (including by means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting) or may authorize another person or persons to vote for such stockholder by a proxy executed or transmitted in a manner permitted by the General Corporation Law of the State of Delaware by the stockholder or such stockholder's authorized agent and delivered (including by electronic transmission) to the Secretary of the corporation. No such proxy shall be voted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period. In the event the corporation receives proxies for

disqualified or withdrawn nominees for the Board of Directors, such votes for such disqualified or withdrawn nominees in the proxies will be treated as abstentions.

1.9 Action at Meeting. When a quorum is present at any meeting, any matter other than the election of directors to be voted upon by the stockholders at such meeting shall be decided by the vote of the holders of shares of capital stock representing a majority in voting power of the votes cast by the holders of all of the shares of capital stock present or represented at the meeting and voting affirmatively or negatively on such matter (or if there are two or more classes or series of capital stock entitled to vote as separate classes, then in the case of each such class or series, the holders of shares of capital stock representing a majority in voting power of the votes cast by the holders of all of the shares of capital stock of that class or series present or represented at the meeting and voting affirmatively or negatively on such matter), except when a different vote is required by law, the Certificate of Incorporation or these By-laws. When a quorum is present at any meeting, any election by stockholders of directors shall be determined by a plurality of the votes cast by the stockholders entitled to vote on the election.

1.10 Nomination of Directors.

(a)Except for (1) any directors entitled to be elected by the holders of preferred stock, (2) any directors elected in accordance with Section 2.9 hereof by the Board of Directors to fill a vacancy or newly-created directorship or (3) as otherwise required by applicable law or stock exchange regulation, at any meeting of stockholders, only persons who are nominated in accordance with the procedures in this Section 1.10 shall be eligible for election as directors. Nomination for election to the Board of Directors at a meeting of stockholders may be made (i) by or at the direction of the Board of Directors or (ii) by any stockholder of the corporation who (x) timely complies with the notice procedures in Section 1.10(b), (y) is a stockholder of record on the date of the giving of such notice and on the record date for the determination of stockholders entitled to vote at such meeting and (z) is entitled to vote at such meeting.

(b)To be timely, a stockholder's notice must be received in writing by the Secretary at the principal executive offices of the corporation as follows: (i) in the case of an election of directors at an annual meeting of stockholders, not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 20 days, or delayed by more than 60 days, from the first anniversary of the preceding year's annual meeting, or if no annual meeting was held in the preceding year, a stockholder's notice must be so received not earlier than the 120th day prior to such annual meeting and not later than the close of business on the later of (A) the 90th day prior to such annual meeting and (B) the tenth day following the day on which notice of the date of such annual meeting was mailed or public disclosure of the date of such annual meeting was made, whichever first occurs; or (ii) in the case of an election of directors at a special meeting of stockholders, provided that the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President has determined, in accordance with Section 1.3, that directors shall be elected at such special meeting and provided further that the nomination made by the stockholder is for one of the director positions that the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President, as the case may be, has determined will be filled at such special meeting, not earlier than the 120th day prior to such special meeting and not later than the close of business on the later of (x) the 90th day

prior to such special meeting and (y) the tenth day following the day on which notice of the date of such special meeting was mailed or public disclosure of the date of such special meeting was made, whichever first occurs. In no event shall the adjournment or postponement of a meeting (or the public disclosure thereof) commence a new time period (or extend any time period) for the giving of a stockholder's notice.

The stockholder's notice to the Secretary shall set forth: (A) as to each proposed nominee (1) such person's name, age, business address and, if known, residence address, (2) such person's principal occupation or employment, (3) the class and series and number of shares of stock of the corporation that are, directly or indirectly, owned, beneficially or of record, by such person, (4) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among (x) the stockholder, the beneficial owner, if any, on whose behalf the nomination is being made and the respective affiliates and associates of, or others acting in concert with, such stockholder and such beneficial owner, on the one hand, and (y) each proposed nominee, and his or her respective affiliates and associates, or others acting in concert with such nominee(s), on the other hand, including all information that would be required to be disclosed pursuant to Item 404 of Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made or any affiliate or associate thereof or person acting in concert therewith were the "registrant" for purposes of such Item and the proposed nominee were a director or executive officer of such registrant, (5) a questionnaire with respect to the background and qualifications of the proposed nominee completed by the nominee in the form required by the corporation (which questionnaire shall be provided by the Secretary upon written request), and (6) any other information concerning such person that must be disclosed as to nominees in proxy solicitations pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and (B) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is being made (1) the name and address of such stockholder, as they appear on the corporation's books, and of such beneficial owner, (2) the class or series and number of shares of stock of the corporation that are, directly or indirectly, owned, beneficially or of record, by such stockholder and such beneficial owner, (3) a description of any agreement, arrangement or understanding between or among such stockholder and/or such beneficial owner and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are being made or who may participate in the solicitation of proxies in favor of electing such nominee(s), (4) a description of any agreement, arrangement or understanding (including any derivative or short positions, swaps, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into by, or on behalf of, such stockholder or such beneficial owner, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner with respect to shares of stock of the corporation, (5) any other information relating to such stockholder and such beneficial owner that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (6) a representation that such stockholder intends to appear in person or by proxy at the meeting to nominate the person(s) named in its notice (7) a representation as to whether such stockholder intends to solicit proxies in support of director nominees other than the corporation's

director nominees in accordance with Rule 14a-19 promulgated under the Exchange Act and (8) a representation whether such stockholder and/or such beneficial owner intends or is part of a group which intends (x) to deliver a proxy statement and/or form of proxy to holders of shares of capital stock representing at least 67% of voting power of all of the shares of capital stock of the corporation outstanding and entitled to vote on the election of directors as of the record date of the meeting (and such representation shall be included in any such proxy statement and form of proxy) and/or (y) otherwise to solicit proxies or votes from stockholders in support of such nomination (and such representation shall be included in any such solicitation materials). Not later than 10 days after the record date for the meeting, the information required by Items (A)(1)-(5) and (B)(1)-(5) of the prior sentence shall be supplemented by the stockholder giving the notice to provide updated information as of the record date. In addition, to be effective, the stockholder's notice must be accompanied by the written consent of the proposed nominee to serve as a director if elected. The corporation may require any proposed nominee to furnish such other information as the corporation may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the corporation or whether such nominee would be independent under applicable Securities and Exchange Commission and stock exchange rules and the corporation's publicly disclosed corporate governance guidelines. A stockholder shall not have complied with this Section 1.10(b) if the stockholder (or beneficial owner, if any, on whose behalf the nomination is made) solicits or does not solicit, as the case may be, proxies or votes in support of such stockholder's nominee in contravention of the representations with respect thereto required by this Section 1.10.

(c)The chairman of any meeting shall have the power and duty to determine whether a nomination was made in accordance with the provisions of this Section 1.10 (including whether the stockholder or beneficial owner, if any, on whose behalf the nomination is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder's nominee in compliance with the representations with respect thereto required by this Section 1.10), and if the chairman should determine that a nomination was not made in accordance with the provisions of this Section 1.10, the chairman shall so declare to the meeting and such nomination shall not be brought before the meeting. Further, if a stockholder fails to comply with any applicable requirements of the Exchange Act, including, but not limited to, Rule 14a-19 promulgated thereunder, such stockholder's proposed nomination shall be deemed to have not been made in compliance with these By-laws and shall be disregarded.

(d)Except as otherwise required by law, nothing in this Section 1.10 shall obligate the corporation or the Board of Directors to include in any proxy statement or other stockholder communication distributed on behalf of the corporation or the Board of Directors information with respect to any nominee for director submitted by a stockholder.

(e)Notwithstanding the foregoing provisions of this Section 1.10, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the meeting to present a nomination, such nomination shall not be brought before the meeting, notwithstanding that proxies in respect of such nominee may have been received by the corporation. For purposes of this Section 1.10, to be considered a "qualified representative of the stockholder", a person must be authorized by a written instrument executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such written instrument or

electronic transmission, or a reliable reproduction of the written instrument or electronic transmission, at the meeting of stockholders.

(f)For purposes of this Section 1.10, "public disclosure" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(g) Notwithstanding the foregoing provisions of these By-laws, unless otherwise required by law, if (A) the stockholder provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act in connection with a stockholder notice provided under this Section 1.10 and (B) (i) such stockholder subsequently either (x) notifies the corporation that such stockholder no longer intends to solicit proxies in support of the election of the proposed stockholder nominee in accordance with Rule 14a-19(b) under the Exchange Act or (y) fails to comply with the requirements of Rule 14a-19(a)(2) or Rule 14a-19(a)(3) promulgated under the Exchange Act, and (ii) no other stockholder that has provided notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act with respect to such proposed stockholder nominee (x) intends to solicit proxies in support of the election of such proposed stockholder nominee in accordance with Rule 14a-19(b) promulgated under the Exchange Act and (y) has complied with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act. then the nomination of such proposed stockholder nominee shall be disregarded and no vote on the election of such proposed stockholder nominee shall occur (notwithstanding that proxies in respect of such vote may have been received by the corporation). Upon request of the corporation, if any such stockholder provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act in connection with a stockholder notice provided under this Section 1.10, such stockholder shall deliver to the corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

(h) The number of nominees a stockholder may nominate for election at the annual meeting of stockholders (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the annual meeting of stockholders on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting.

1.11 Notice of Business at Annual Meetings.

(a)At any annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (1) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (2) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (3) properly brought before the meeting by a stockholder. For business to be properly brought before an annual meeting by a stockholder, (i) if such business relates to the nomination of a person for election as a director of the corporation, the procedures in Section 1.10 must be complied with and (ii) if such business relates to any other matter, the business must constitute a proper matter under Delaware law for stockholder action and the stockholder must (x) have given timely notice thereof in writing to the

Secretary in accordance with the procedures set forth in Section 1.11(b), (y) be a stockholder of record on the date of the giving of such notice and on the record date for the determination of stockholders entitled to vote at such annual meeting and (z) be entitled to vote at such annual meeting.

(b)To be timely, a stockholder's notice must be received in writing by the Secretary at the principal executive offices of the corporation not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 20 days, or delayed by more than 60 days, from the first anniversary of the preceding year's annual meeting, or if no annual meeting was held in the preceding year, a stockholder's notice must be so received not earlier than the 120th day prior to such annual meeting and not later than the close of business on the later of (A) the 90th day prior to such annual meeting and (B) the tenth day following the day on which notice of the date of such annual meeting was mailed or public disclosure of the date of such annual meeting was made, whichever first occurs. In no event shall the adjournment or postponement of an annual meeting (or the public disclosure thereof) commence a new time period (or extend any time period) for the giving of a stockholder's notice.

The stockholder's notice to the Secretary shall set forth: (A) as to each matter the stockholder proposes to bring before the annual meeting (1) a brief description of the business desired to be brought before the annual meeting, (2) the text of the proposal (including the exact text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the By-laws, the exact text of the proposed amendment), and (3) the reasons for conducting such business at the annual meeting, and (B) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is being made (1) the name and address of such stockholder, as they appear on the corporation's books, and of such beneficial owner, (2) the class or series and number of shares of stock of the corporation that are, directly or indirectly, owned, beneficially or of record, by such stockholder and such beneficial owner, (3) a description of any material interest of such stockholder or such beneficial owner and the respective affiliates and associates of, or others acting in concert with, such stockholder or such beneficial owner in such business, (4) a description of any agreement, arrangement or understanding between or among such stockholder and/or such beneficial owner and any other person or persons (including their names) in connection with the proposal of such business or who may participate in the solicitation of proxies in favor of such proposal, (5) a description of any agreement, arrangement or understanding (including any derivative or short positions, swaps, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into by, or on behalf of, such stockholder or such beneficial owner, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner with respect to shares of stock of the corporation, (6) any other information relating to such stockholder and such beneficial owner that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the business proposed pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (7) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting and (8) a representation whether such stockholder and/or such beneficial owner intends or is part of a group which intends (x) to deliver a proxy statement

and/or form of proxy to holders of shares of capital stock representing at least the percentage of voting power of all of the shares of the capital stock of the corporation outstanding as of the record date of the meeting required to approve or adopt the proposal (and such representation shall be included in any such proxy statement and form of proxy) and/or (y) otherwise to solicit proxies or votes from stockholders in support of such proposal (and such representation shall be included in any such solicitation materials). Not later than 10 days after the record date for the meeting, the information required by Items (A)(3) and (B)(1)-(6) of the prior sentence shall be supplemented by the stockholder giving the notice to provide updated information as of the record date. Notwithstanding anything in these By-laws to the contrary, no business shall be conducted at any annual meeting of stockholders except in accordance with the procedures in this Section 1.11; provided that any stockholder proposal which complies with Rule 14a-8 of the proxy rules (or any successor provision) promulgated under the Exchange Act and is to be included in the corporation's proxy statement for an annual meeting of stockholders shall be deemed to comply with the notice requirements of this Section 1.11. A stockholder shall not have complied with this Section 1.11(b) if the stockholder (or beneficial owner, if any, on whose behalf the proposal is made) solicits or does not solicit, as the case may be, proxies in support of such stockholder's proposal in contravention of the representations with respect thereto required by this Section 1.11.

(c)The chairman of any annual meeting shall have the power and duty to determine whether business was properly brought before the annual meeting in accordance with the provisions of this Section 1.11 (including whether the stockholder or beneficial owner, if any, on whose behalf the proposal is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies or votes in support of such stockholder's proposal in compliance with the representation with respect thereto required by this Section 1.11), and if the chairman should determine that business was not properly brought before the annual meeting in accordance with the provisions of this Section 1.11, the chairman shall so declare to the meeting and such business shall not be brought before the annual meeting.

(d)Except as otherwise required by law, nothing in this Section 1.11 shall obligate the corporation or the Board of Directors to include in any proxy statement or other stockholder communication distributed on behalf of the corporation or the Board of Directors information with respect to any proposal submitted by a stockholder.

(e)Notwithstanding the foregoing provisions of this Section 1.11, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting to present business, such business shall not be considered, notwithstanding that proxies in respect of such business may have been received by the corporation.

(f)For purposes of this Section 1.11, the terms "qualified representative of the stockholder" and "public disclosure" shall have the same meaning as in Section 1.10.

1.12 Conduct of Meetings.

(a)Meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the Chairman's absence by the Vice Chairman of the Board, if any, or in the Vice Chairman's absence by the Chief Executive Officer, or in the Chief Executive Officer's absence, by the

President, or in the President's absence by a Vice President, or in the absence of all of the foregoing persons by a chairman designated by the Board of Directors. The Secretary shall act as secretary of the meeting, but in the Secretary's absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

(b)The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chairman of any meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting and prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as shall be determined; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

(c)The chairman of the meeting shall announce at the meeting when the polls for each matter to be voted upon at the meeting will be opened and closed. After the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted.

(d)In advance of any meeting of stockholders, the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President shall appoint one or more inspectors of election to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is present, ready and willing to act at a meeting of stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by law, inspectors may be officers, employees or agents of the corporation. Each inspector, before entering upon the discharge of such inspector's duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and shall take charge of the polls and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by law. Every vote taken by ballots shall be counted by a duly appointed inspector or duly appointed inspectors.

1.13 Action by Consent in Lieu of a Meeting. Stockholders of the corporation may not take any action by written consent in lieu of a meeting; provided, however, that, notwithstanding the foregoing and only for so long as Emergent BioSolutions Inc., a Delaware corporation, and its wholly owned subsidiaries, collectively, own capital stock representing a majority of the votes

which all the stockholders would be entitled to cast in any annual election of directors or class of directors, any action required or permitted to be taken by the stockholders of the corporation may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action to be taken, are signed by the holders of shares of outstanding capital stock having at least the minimum number of votes necessary to authorize such action.

ARTICLE II

DIRECTORS

2.1 General Powers. The business and affairs of the corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the corporation except as otherwise provided by law or the Certificate of Incorporation.

2.2 Number, Election and Qualification. Subject to the rights of holders of any series of Preferred Stock to elect directors, the number of directors of the corporation shall be established by the Board of Directors. Election of directors need not be by written ballot. Directors need not be stockholders of the corporation.

2.3 Chairman of the Board; Vice Chairman of the Board. The Board of Directors may appoint from its members a Chairman of the Board and a Vice Chairman of the Board, neither of whom need be an employee or officer of the corporation. If the Board of Directors appoints a Chairman of the Board, such Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors and, if the Chairman of the Board is also designated as the corporation's Chief Executive Officer, shall have the powers and duties of the Chief Executive Officer prescribed in Section 3.7 of these By-laws. If the Board of Directors appoints a Vice Chairman of the Board, such Vice Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors. Unless otherwise provided by the Board of Directors, the Chairman of the Board or, in the Chairman's absence, the Vice Chairman of the Board, if any, shall preside at all meetings of the Board of Directors.

2.4 Classes of Directors. Subject to the rights of holders of any series of Preferred Stock to elect directors, the Board of Directors shall be and is divided into three classes: Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire Board of Directors. The allocation of directors among classes shall be determined by resolution of the Board of Directors.

2.5 Terms of Office. Subject to the rights of holders of any series of Preferred Stock to elect directors, each director shall serve for a term ending on the date of the third annual meeting of stockholders following the annual meeting of stockholders at which such director was elected; provided that each director initially assigned to Class I shall serve for a term expiring at the corporation's first annual meeting of stockholders held after the effectiveness of these Amended and Restated By-laws; each director initially assigned to Class II shall serve for a term expiring at the corporation's second annual meeting of stockholders held after the effectiveness of these Amended and Restated By-laws; and each director initially assigned to Class III shall serve for a term expiring at the corporation's third annual meeting of stockholders held after the effectiveness of these Amended and Restated By-laws; provided further, that the term of each

director shall continue until the election and qualification of his or her successor and be subject to his or her earlier death, resignation or removal.

2.6 Quorum. The greater of (a) a majority of the directors at any time in office and (b) one-third of the number of directors established by the Board of Directors pursuant to Section 2.2 of these By-laws shall constitute a quorum of the Board of Directors. If at any meeting of the Board of Directors there shall be less than such a quorum, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

2.7 Action at Meeting. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, unless a greater number is required by law or by the Certificate of Incorporation.

2.8 Removal. Subject to the rights of holders of any series of Preferred Stock, directors of the corporation may be removed only for cause and only by the affirmative vote of the holders of shares of capital stock representing at least 75% of the votes which all the stockholders would be entitled to cast in any annual election of directors or class of directors.

2.9 Vacancies. Subject to the rights of holders of any series of Preferred Stock, any vacancy or newly-created directorship on the Board of Directors, however occurring, shall be filled only by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director and shall not be filled by the stockholders. A director elected to fill a vacancy shall hold office until the next election of the class for which such director shall have been chosen, subject to the election and qualification of a successor or until such director's earlier death, resignation or removal.

2.10 Resignation. Any director may resign by delivering a resignation in writing or by electronic transmission to the corporation at its principal office or to the Chairman of the Board, the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event.

2.11 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall be determined from time to time by the Board of Directors; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders.

2.12 Special Meetings. Special meetings of the Board of Directors may be held at any time and place designated in a call by the Chairman of the Board, the Chief Executive Officer, the President, two or more directors, or by one director in the event that there is only a single director in office.

2.13 Notice of Special Meetings. Notice of the date, place and time of any special meeting of directors shall be given to each director by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director (a) in person or by telephone at least 24 hours in advance of the meeting, (b) by sending an electronic transmission, or delivering written notice by hand, to such director's last known business, home or electronic transmission

address at least 48 hours in advance of the meeting, or (c) by sending written notice by first-class mail to such director's last known business or home address at least 72 hours in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.

2.14 Meetings by Conference Communications Equipment. Directors may participate in meetings of the Board of Directors or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

2.15 Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent to the action in writing or by electronic transmission, and the written consents or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

2.16 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation with such lawfully delegable powers and duties as the Board of Directors thereby confers, to serve at the pleasure of the Board of Directors. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these By-laws for the Board of Directors. Except as otherwise provided in the Certificate of Incorporation, these By-laws, or the resolution of the Board of Directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

2.17 Compensation of Directors. Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the corporation or any of its parent or subsidiary entities in any other capacity and receiving compensation for such service.

ARTICLE III

OFFICERS

3.1 Titles. The officers of the corporation shall consist of a Chief Executive Officer, a President, a Secretary, a Treasurer and such other officers with such other titles as the Board of Directors shall determine, including one or more Vice Presidents, Assistant Treasurers and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate.

3.2 Election. The Chief Executive Officer, President, Treasurer and Secretary shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Other officers may be appointed by the Board of Directors at such meeting or at any other meeting.

3.3 Qualification. No officer need be a stockholder. Any two or more offices may be held by the same person.

3.4 Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these By-laws, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the resolution electing or appointing such officer, or until such officer's earlier death, resignation or removal.

3.5 Resignation and Removal. Any officer may resign by delivering a resignation in writing or by electronic transmission to the corporation at its principal office or to the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event. Any officer may be removed at any time, with or without cause, by vote of a majority of the directors then in office. Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following such officer's resignation or removal, or any right to damages on account of such removal, whether such officer's compensation be by the month or by the year or otherwise, unless such compensation is expressly provided for in a duly authorized written agreement with the corporation.

3.6 Vacancies. The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any offices other than those of Chief Executive Officer, President, Treasurer and Secretary. Each such successor shall hold office for the unexpired term of such officer's predecessor and until a successor is elected and qualified, or until such officer's earlier death, resignation or removal.

3.7 President; Chief Executive Officer. Unless the Board of Directors has designated another person as the corporation's Chief Executive Officer, the President shall be the Chief Executive Officer of the corporation. The Chief Executive Officer shall have general charge and supervision of the business of the corporation subject to the direction of the Board of Directors, and shall perform all duties and have all powers that are commonly incident to the office of chief executive or that are delegated to such officer by the Board of Directors. The President shall perform such other duties and shall have such other powers as the Board of Directors or the

Chief Executive Officer (if the President is not the Chief Executive Officer) may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer or the President (if the President is not the Chief Executive Officer), the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors) shall perform the duties of the Chief Executive Officer and when so performing such duties shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer.

3.8 Vice Presidents. Each Vice President shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

3.9 Secretary and Assistant Secretaries. The Secretary shall perform such duties and shall have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the secretary, including without limitation the duty and power to give notices of all meetings of stockholders and special meetings of the Board of Directors, to attend all meetings of stockholders and the Board of Directors and keep a record of the proceedings, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the chairman of the meeting shall designate a temporary secretary to keep a record of the meeting.

3.10 Treasurer and Assistant Treasurers. The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned by the Board of Directors or the Chief Executive Officer. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation the duty and power to keep and be responsible for all funds and securities of the corporation, to deposit funds of the corporation in depositories selected in accordance with these By-laws, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the corporation.

The Assistant Treasurers shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if

there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

3.11 Salaries. Officers of the corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

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

ARTICLE IV

CAPITAL STOCK

4.1 Issuance of Stock. Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the corporation or the whole or any part of any shares of the authorized capital stock of the corporation held in the corporation's treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such lawful consideration and on such terms as the Board of Directors may determine.

4.2 Stock Certificates; Uncertificated Shares. The shares of the corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the corporation's stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock of the corporation represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board of Directors, representing the number of shares held by such holder registered in certificate form. Each such certificate shall be signed in a manner that complies with Section 158 of the General Corporation Law of the State of Delaware.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, these By-laws, applicable securities laws or any agreement among any number of stockholders or among such holders and the corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

If the corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of each certificate representing shares of such class or series of stock, provided that in lieu of the foregoing requirements there may be set forth on the face or back of each certificate representing shares of such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests a copy of the full text of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Within a reasonable time after the issuance or transfer of uncertificated shares, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to Sections 151, 202(a) or 218(a) of the General Corporation Law of the State of Delaware or, with respect to Section 151 of General Corporation Law of the State of Delaware, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

4.3 Transfers. Shares of stock of the corporation shall be transferable in the manner prescribed by law and in these By-laws. Transfers of shares of stock of the corporation shall be made only on the books of the corporation or by transfer agents designated to transfer shares of stock of the corporation. Subject to applicable law, shares of stock represented by certificates shall be transferred only on the books of the corporation by the surrender to the corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the corporation or its transfer agent may reasonably require. Uncertificated shares may be transferred by delivery of a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the corporation or its transfer agent may reasonably require. Except as may be otherwise required by law, by the Certificate of Incorporation or by these By-laws, the corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock until the shares have been transferred on the books of the corporation in accordance with the requirements of these By-laws.

4.4 Lost, Stolen or Destroyed Certificates. The corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen or destroyed, upon such terms and conditions as the corporation may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity and posting of such bond as the corporation may require for the protection of the corporation or any transfer agent or registrar.

4.5 Record Date. The Board of Directors may fix in advance a date as a record date for the determination of the stockholders entitled to notice of or to vote at any meeting of stockholders, or entitled to receive payment of any dividend or other distribution or allotment of any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action. Such record date shall not precede the date on which the resolution fixing the record date is adopted, and such record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action to which such record date relates.

If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held. If no record date is fixed, the record date for determining

stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

4.6 Regulations. The issue, transfer, conversion and registration of shares of stock of the corporation shall be governed by such other regulations as the Board of Directors may establish.

ARTICLE V

GENERAL PROVISIONS

5.1 Fiscal Year. Except as from time to time otherwise designated by the Board of Directors, the fiscal year of the corporation shall begin on the first day of January of each year and end on the last day of December in each year.

5.2 Corporate Seal. The corporate seal shall be in such form as shall be approved by the Board of Directors.

5.3 Waiver of Notice. Whenever notice is required to be given by law, by the Certificate of Incorporation or by these By-laws, a written waiver signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before, at or after the time of the event for which notice is to be given, shall be deemed equivalent to notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in any such waiver. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

5.4 Voting of Securities. Except as the Board of Directors may otherwise designate, the Chief Executive Officer, the President or the Treasurer may waive notice of, vote, or appoint any person or persons to vote, on behalf of the corporation at, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for this corporation (with or without power of substitution) at, any meeting of stockholders or securityholders of any other entity, the securities of which may be held by this corporation.

5.5 Evidence of Authority. A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the corporation shall as to all persons who rely on the certificate in good faith be conclusive evidence of such action.

5.6 Certificate of Incorporation. All references in these By-laws to the Certificate of Incorporation shall be deemed to refer to the Restated Certificate of Incorporation of the corporation, as amended and/or restated and in effect from time to time.

5.7 Severability. Any determination that any provision of these By-laws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these By-laws.

5.8 Pronouns. All pronouns used in these By-laws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

5.9 Exclusive Forum. Unless the corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of the corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, other employee or stockholder of the corporation to the corporation or the corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the General Corporation Law of the State of Delaware or as to which the General Corporation Law of the State of Delaware confers jurisdiction on the Court of Chancery of the State of Delaware, or (iv) any action asserting a claim arising pursuant to any provision of the Certificate of Incorporation or these By-laws (in each case, as they may be amended from time to time) or governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the corporation shall be deemed to have notice of and consented to the provisions of this Section 5.9.

ARTICLE VI

AMENDMENTS

These By-laws may be altered, amended or repealed, in whole or in part, or new By-laws may be adopted by the Board of Directors or by the stockholders as provided in the Certificate of Incorporation.

EXHIBIT 10.1

THIRD AMENDMENT TO CREDIT AND SECURITY AGREEMENT

This THIRD AMENDMENT TO CREDIT AND SECURITY AGREEMENT (this "**Agreement**") is made as of August 30, 2022, by and among **APTEVO THERAPEUTICS INC.**, a Delaware corporation ("**Aptevo Therapeutics**"), and **APTEVO RESEARCH AND DEVELOPMENT LLC**, a Delaware limited liability company ("**Aptevo R&D**", and together with Aptevo Therapeutics, each individually, a "**Borrower**" and collectively, the "**Borrowers**"), **MIDCAP FINANCIAL TRUST**, a Delaware statutory trust, as Agent (in such capacity, together with its successors and assigns, "**Agent**") and the financial institutions or other entities from time to time parties to the Credit Agreement referenced below, each as a Lender.

RECITALS

A. Agent, Lenders and Borrowers have entered into that certain Credit and Security Agreement, dated as of August 5, 2020 (as amended, modified, supplemented and restated prior to the date hereof, the "**Existing Credit Agreement**" and as the same is amended hereby and as it may be further amended, modified, supplemented and restated from time to time, the "**Credit Agreement**"), pursuant to which the Lenders have agreed to make certain advances of money and to extend certain financial accommodations to Borrowers in the amounts and manner set forth in the Credit Agreement.

B. Borrowers have requested, and Agent and Lenders have agreed, to amend certain provisions of the Existing Credit Agreement, in each case, in accordance with the terms and subject to the conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the terms and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Agent, Lenders and Borrowers hereby agree as follows:

1. **Recitals**. This Agreement shall constitute a Financing Document and each reference to the Credit Agreement, unless otherwise expressly noted, will be deemed to reference the Credit Agreement as amended hereby. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement (including those capitalized terms used in the Recitals hereto).

2. **Amendment to the Existing Credit Agreement**. Subject to the satisfaction of the conditions to effectiveness set forth in Section 3 below, the Existing Credit Agreement is hereby amended as follows, which amendments to the Credit Agreement are effective as of the first day after the end of the Interest Period during which this Agreement becomes effective in accordance with Section 3 below:

(a) Section 1.1 of the Existing Credit Agreement is hereby amended by adding the following new defined terms in the appropriate alphabetical order therein:

> "**Available Tenor**" means, as of any date of determination with respect to the then-current Benchmark, (a) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (b) otherwise, any

payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" or similar term pursuant to Section 2.2(h).

"**Benchmark**" means, initially, Term SOFR; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to Term SOFR or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.2(h).

"**Benchmark Replacement**" means, with respect to any Benchmark Transition Event, the sum of: (a) the alternate benchmark rate that has been selected by Agent in consultation with the Borrowers giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Financing Documents; and *provided*, *further* that in no event shall the Benchmark Replacement be higher than two and one-half of one percent (2.50%).

"**Benchmark Replacement Adjustment**" means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Available Tenor, the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by Agent in consultation with the Borrowers giving due consideration to any selection or recommendation by the Relevant Governmental Body, or any evolving or then-prevailing market convention at the time of determination, for determining a spread adjustment, or method for calculating or determining such spread adjustment, for such type of replacement for U.S. dollar-denominated syndicated credit facilities.

"**Benchmark Replacement Date**" means the earlier to occur of the following events with respect to the then-current Benchmark: (a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event", the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or (b) in the case of clause (c) of the definition of "Benchmark Transition Event", the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in

such clause (c) even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date. For the avoidance of doubt, the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"**Benchmark Transition Event**" means the occurrence of one or more of the following events with respect to the then-current Benchmark: (a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); (b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official or resolution authority with jurisdiction over the administrator for such Benchmark (or such component), or a court or an entity with similar insolvency or resolution authority, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or (c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative. For the avoidance of doubt, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"**Benchmark Transition Start Date**" means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

"**Benchmark Unavailability Period**" means the period (if any) (a) beginning at the time that a Benchmark Replacement Date pursuant to clauses (a) or (b) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Financing Document in accordance with Section 2.2(h) and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all

purposes hereunder and under any Financing Document in accordance with Section 2.2(h).

"**Conforming Changes**" means, with respect to Term SOFR or any Benchmark Replacement, any technical, administrative or operational changes (including (a) changes to the definition of "Business Day", "Reference Time" or other definitions, (b) the addition of concepts such as "interest period", (c) changes to timing and/or frequency of determining rates, making interest payments, giving borrowing requests, prepayment, conversion or continuation notices, or length of lookback periods, (d) the applicability of Section 2.8 (*Taxes; Capital Adequacy; Increased Costs; Inability to Determine Rates; Illegality*) and (e) other technical, administrative or operational matters) that Agent decides, in consultation with the Borrowers. may be appropriate to reflect the adoption and implementation of Term SOFR or such Benchmark Replacement and to permit the administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or determines that no such market practice exists, in such other manner as Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Financing Documents).

"**Connection Income Taxes**" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"**Floor**" means the rate per annum of interest equal to one and one half percent (1.50%).

"**Reference Time**" means, for any Interest Period, the day that is two (2) SOFR Business Days prior to the first day of such Interest Period. If by 5:00 pm (New York City time) on any such day, Term SOFR in respect of such day has not been published on the SOFR Administrator's Website and a Benchmark Replacement Date with respect to the SOFR has not occurred, then Term SOFR for such date will be Term SOFR as published in respect of the first preceding SOFR Business Day for which Term SOFR was published on the SOFR Administrator's Website; provided that such first preceding SOFR Business Day is not more than three (3) SOFR Business Days prior to such interest lookback day.

"**Relevant Governmental Body**" means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

"**SOFR**" means, with respect to any SOFR Business Day, a rate per annum equal to the secured overnight financing rate for such SOFR Business Day, as administered by the SOFR Administrator.

"**SOFR Administrator**" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"**SOFR Administrator's Website**" means the website of the SOFR Administrator, currently at https://www.cmegroup.com/market-data/cme-group-

benchmark-administration/term-sofr.html, or any successor source for Term SOFR identified by the SOFR Administrator from time to time.

"**SOFR Business Day**" means any day other than a Saturday or Sunday or a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"**SOFR Implementation Date**" means the first day after the end of the Interest Period during which the Third Amendment shall become effective in accordance with its terms.

"**SOFR Interest Rate**" means, with respect to each day during which interest accrues on a Loan, the rate per annum (expressed as a percentage) equal to (a) Term SOFR for the applicable Interest Period for such day; or (b) if the then-current Benchmark has been replaced with a Benchmark Replacement pursuant to Section 2.2(h), such Benchmark Replacement for such day. Notwithstanding the foregoing, the SOFR Interest Rate shall not at any time (x) be less the Floor or (y) higher than two and one-half of one percent (2.50%).

"**SOFR Loan**" means a Loan that bears interest at a rate based on Term SOFR.

"**Term SOFR**" means the greater of (a) the forward-looking term rate for a period comparable to such Interest Period based on SOFR that is published by the SOFR Administrator and is displayed on the SOFR Administrator's Website at approximately the Reference Time for such Interest Period plus 0.10% and (b) the Floor; *provided* that in no event shall Term SOFR be higher than two and one-half of one percent (2.50%). Unless otherwise specified in any amendment to this Agreement entered into in accordance with Section 2.2(h), in the event that a Benchmark Replacement with respect to Term SOFR is implemented, then all references herein to Term SOFR shall be deemed references to such Benchmark Replacement.

"**Third Amendment**" means that certain Third Amendment to Credit and Security Agreement, dated as of August 30, 2022, by and among Borrowers, Agent and the Lenders party thereto.

"**Unadjusted Benchmark Replacement**" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment."

(b) Section 1.1 of the Existing Credit Agreement is hereby amended by deleting the definition of "Business Day" where it appears therein and replacing it with the following:

"**Business Day**" means any day except a Saturday, Sunday or other day on which either the New York Stock Exchange is closed, or on which commercial banks in Washington, DC and New York City are authorized by law to close; *provided*, *however*, that when used in the context of a SOFR Loan, the term "Business Day" shall also exclude any day that is not also a SOFR Business Day.

(c) Section 1.1 of the Existing Credit Agreement is hereby amended by deleting the definitions of "Base LIBOR Rate" and "LIBOR Rate" in their entirety.

(d) The Existing Credit Agreement is hereby amended by deleting Section 2.1(a)(iv) in its entirety.

(e) Section 2.2(a) of the Existing Credit Agreement is hereby amended by deleting such subsection in its entirety and replacing it with the following:

"(a) Interest.

(i) From and following the SOFR Implementation Date, except as expressly set forth in this Agreement, Loans and the other Obligations shall bear interest at the sum of the SOFR Interest Rate plus the Applicable Margin. Interest on the Loans shall be paid in arrears on the first (1st) day of each month and on the maturity of such Loans, whether by acceleration or otherwise. Interest on all other Obligations shall be payable upon demand.

(ii) In connection with Term SOFR, Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Financing Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Financing Document. Agent will promptly notify Borrower Representative and the Lenders of the effectiveness of any Conforming Changes."

(f) A new subsection (h) is hereby added to Section 2.2 of the Existing Credit Agreement in the appropriate alphabetical order therein to read as follows:

"(h) Benchmark Replacement Setting; Conforming Changes.

(i) Upon the occurrence of a Benchmark Transition Event, Agent and Borrowers may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after Agent has posted such proposed amendment to all Lenders and Borrower so long as Agent has not received, by such time, written notice of objection thereto from Lenders comprising the Required Lenders. No such replacement will occur prior to the applicable Benchmark Transition Start Date. In connection with the implementation of a Benchmark Replacement, Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Financing Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Financing Document. Agent will promptly notify Borrower Representative and the Lenders of the implementation of any Benchmark Replacement and the effectiveness of any Conforming Changes.

(ii) Any determination, decision or election that may be made by Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Financing Document, except, in each case, as expressly required pursuant to this Section. Notwithstanding anything to the contrary herein or in any other Financing Document, at any time, (a) if the then-current Benchmark is a term

rate (including Term SOFR) and either (i) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by Agent in its reasonable discretion or (ii) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor, and (b) if a tenor that was removed pursuant to clause (a) above either (i) is subsequently displayed on a screen or information service for a Benchmark or (ii) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark, then Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor. Agent will promptly notify Borrower Representative of the removal or reinstatement of any tenor of a Benchmark pursuant to this Section.

(iii) Upon Borrower Representative's receipt of notice of the commencement of a Benchmark Unavailability Period, any outstanding affected Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period."

(g) Section 2.8 of the Existing Credit Agreement is hereby amended by:

(i) deleting the name of such Section in its entirety and restating it as follows:

"Section 2.8 Taxes; Capital Adequacy; Increased Costs; Inability to Determine Rates; Illegality."

(ii) deleting subsection (g) thereof in its entirety;

(iii) renumbering the existing clause (h) as new clause (g) therein;

(iv) adding the following new clause (h) in the appropriate alphabetical ordering therein:

"(h) If any Lender shall reasonably determine that the adoption or taking effect of, or any change in, any applicable Law shall (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender, (ii) subject any Lender to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, (C) Connection Income Taxes and (D) other Taxes separately covered by this Section 2.8) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or (iii) impose on any Lender any other condition, cost or expense (other than Taxes) affecting this Agreement or SOFR Loans made by such Lender, and the result, in each case of the foregoing clauses (i) through (iii), shall be to increase the cost to such Lender of making or maintaining any Loan the interest on which is determined by reference to Term SOFR (or of maintaining its obligation to make any such Loan), or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrowers will pay to such Lender such additional amount or

amounts as will compensate such Lender for such additional costs actually incurred or reduction actually suffered."

(v) in subsection (i) thereof, deleting the reference to "either Section 2.1(a)(iv) or Section 2.8(h)" in its entirety and replacing it with "the clauses in this Section 2.8"; and

(vi) adding the following new clauses (j), (k) and (l) in the appropriate alphabetical order therein:

"(j) Subject to Section 2.2(h), if Agent determines (which determination shall be conclusive and binding absent manifest error) that Term SOFR cannot be determined pursuant to the definition thereof on or prior to the first day of any Interest Period, Agent will promptly so notify the Borrowers and each Lender. Upon notice thereof by Agent to Borrowers, any obligation of the Lenders to make SOFR Loans shall be suspended until Agent revokes such notice. Upon receipt of such notice, any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period. Upon any such conversion, Borrower shall also pay any additional amounts required pursuant to this Agreement.

(k) If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make, maintain or fund SOFR Loans, or to determine or charge interest rates based upon Term SOFR, then, upon notice thereof by such Lender to Borrowers (through Agent), any obligation of such Lender to make SOFR Loans shall be suspended, in each case until such Lender notifies Agent and Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, all SOFR Loans shall become Base Rate Loans. Upon any such conversion, Borrower shall also pay any additional amounts required pursuant to this Agreement.

(l) Each party's obligations under this Section 2.8 shall survive the resignation or replacement of Agent or any assignment of rights by, or the replacement of, a Lender, and the repayment, satisfaction or discharge of all Obligations hereunder."

3. **Conditions to Effectiveness.** This Agreement shall become effective as of the date on which Agent shall have received (including by way of facsimile or other electronic transmission) a duly authorized, executed and delivered counterpart of the signature page to this Agreement from Borrowers, Agent and Lenders.

4. **No Waiver or Novation.** The execution, delivery and effectiveness of this Agreement shall not, except as expressly provided in this Agreement, operate as a waiver of any right, power or remedy of Agent, nor constitute a waiver of any provision of the Credit Agreement, the Financing Documents or any other documents, instruments and agreements executed or delivered in connection with any of the foregoing. Nothing herein is intended or shall be construed as a waiver of any existing Defaults or Events of Default under the Credit Agreement or the other Financing Documents or any of Agent's rights and remedies in respect of such Defaults or Events of Default. This Agreement (together with any other document executed in connection herewith) is not intended to be, nor shall it be construed as, a novation of the Credit Agreement.

5. **Miscellaneous**.

(a) Reference to the Effect on the Credit Agreement. Upon the effectiveness of this Agreement, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof," "herein,"

or words of similar import shall mean and be a reference to the Credit Agreement, as amended by this Agreement.

(b) Incorporation of Credit Agreement Provisions. The provisions contained in Section 11.6 (Indemnification) of the Credit Agreement are incorporated herein by reference to the same extent as if reproduced herein in their entirety.

(c) Governing Law. THIS AGREEMENT AND ALL DISPUTES AND OTHER MATTERS RELATING HERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

(d) Submission to Jurisdiction. EACH BORROWER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN THE STATE OF NEW YORK IN THE CITY OF NEW YORK, BOROUGH OF MANHATTAN, AND IRREVOCABLY AGREES THAT, SUBJECT TO AGENT'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE LITIGATED IN SUCH COURTS. EACH BORROWER EXPRESSLY SUBMITS AND CONSENTS TO THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. EACH BORROWER HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON SUCH BORROWER BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO SUCH BORROWER AT THE ADDRESS SET FORTH IN THIS AGREEMENT AND SERVICE SO MADE SHALL BE COMPLETE TEN (10) DAYS AFTER THE SAME HAS BEEN POSTED.

(e) Jury Trial Waiver. EACH BORROWER, AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH BORROWER, AGENT AND EACH LENDER ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH BORROWER, AGENT AND EACH LENDER WARRANTS AND REPRESENTS THAT IT HAS HAD THE OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

(f) Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

(g) Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(h) Entire Agreement. This Agreement constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

(i) Severability. In case any provision of or obligation under this Agreement shall be invalid, illegal or unenforceable in any applicable jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(j) Successors/Assigns. This Agreement shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the parties hereto, subject to the provisions of the Credit Agreement and the other Financing Documents.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, intending to be legally bound, the undersigned have executed this Agreement as of the day and year first hereinabove set forth.

AGENT:

MIDCAP FINANCIAL TRUST,
as Agent

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem
Name: Maurice Amsellem
Title: Authorized Signatory

LENDER:

MIDCAP FUNDING XIII TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem
Name: Maurice Amsellem
Title: Authorized Signatory

LENDER:

ELM 2020-3 TRUST

By: MidCap Financial Services Capital Management, LLC, as Servicer

By: /s/ John O'Dea
Name: John O'Dea
Title: Authorized Signatory

LENDER:

ELM 2020-4 TRUST

By: MidCap Financial Services Capital Management, LLC, as Servicer

By: /s/ John O'Dea
Name: John O'Dea
Title: Authorized Signatory

BORROWERS:

APTEVO THERAPEUTICS INC.

By: /s/ Jeff Lamothe
Name: Jeff Lamothe
Title: Executive Vice President and Chief Financial Officer

APTEVO RESEARCH AND DEVELOPMENT LLC

By: /s/ Jeff Lamothe
Name: Jeff Lamothe
Title: Executive Vice President and Chief Financial Officer

Exhibit 31.1

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Marvin White, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Aptevo Therapeutics Inc.;

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

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

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 10, 2022

By: /s/ Marvin White

Marvin White
President and Chief Executive Officer

Exhibit 31.2

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Jeff Lamothe, certify that:

1. I have reviewed this Quarterly Report on form 10-Q of Aptevo Therapeutics Inc.;

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

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

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 10, 2022

By: /s/ Jeffrey G. Lamothe

Jeffrey G. Lamothe
Executive Vice President and Chief Financial Officer

Exhibit 32.1

CERTIFICATION PURSUANT TO
RULE 13a-14(b) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED AND
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Aptevo Therapeutics Inc. on Form 10-Q for the period ending September 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

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

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

Date: November 10, 2022

By: /s/ Marvin White

Marvin White
President and Chief Executive Officer

"This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Aptevo Therapeutics Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form-K), irrespective of any general incorporation language contained in such filing."

Exhibit 32.2

CERTIFICATION PURSUANT TO
RULE 13a-14(b) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED AND
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Aptevo Inc. on Form 10-Q for the period ending September 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

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

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

Date: November 10, 2022

By: /s/ Jeffrey G. Lamothe

Jeffrey G. Lamothe
Executive Vice President and Chief Financial Officer

"This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Aptevo Therapeutics Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form-K), irrespective of any general incorporation language contained in such filing."