

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**FORM F-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

Bionomics Limited

(Exact name of registrant as specified in its charter)

Not applicable
(Translation of registrant's name into English)

Australia
(State or other jurisdiction of
incorporation or organization)

2834
(Primary Standard Industrial
Classification Code Number)

98-1008557
(I.R.S. Employer
Identification No.)

200 Greenhill Road
Eastwood SA 5063
Australia
+618 8150 7400

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Errol De Souza, Ph.D.
Executive Chairman
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Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement is declared effective.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933.

Emerging growth company

If an emerging growth company that prepares its financial statements in accordance with U.S. GAAP, 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 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities To Be Registered(1)(2)	Proposed Maximum Aggregate Offering Price(3)	Amount of Registration Fee(4)
Ordinary Shares, no par value per share	\$25,000,000	\$2,317.50
(1) American depositary shares ("ADSs"), issuable upon deposit of the ordinary shares registered hereby will be registered under a separate registration statement on Form F-6. Each ADS represents ordinary shares.		
(2) Includes additional ordinary shares that are issuable upon the exercise of the underwriters' option to purchase additional ADSs.		
(3) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.		
(4) Calculated pursuant to Rule 457(o) based on an estimate of the proposed maximum aggregate offering price.		

The registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state or other jurisdiction where the offer or sale is not permitted.

Subject to completion dated _____, 2021

PRELIMINARY PROSPECTUS

AMERICAN DEPOSITARY SHARES REPRESENTING ORDINARY SHARES



US\$ _____ per ADS

This is the initial public offering of Bionomics Limited in the United States. Bionomics Limited is offering _____ American Depositary Shares (“ADSs”), each representing _____ ordinary shares.

Our ordinary shares are listed on the Australian Securities Exchange (“ASX”), under the symbol “BNO.”

On _____, 2021, the closing price of our ordinary shares on the ASX was A\$ _____ per ordinary share (US\$ _____ per share, based on an exchange rate of A\$1.00 to US\$ _____ as published by the Reserve Bank of Australia as of such date), equivalent to US\$ _____ per ADS based on an assumed exchange ratio of A\$1.00 to US\$ _____. We have applied to list our ADSs on the Nasdaq Global Market under the symbol “BNOX.” The initial public offering price of the ADSs will be determined through negotiations between us and the underwriters, and will be based on the trading price of our ordinary shares on the ASX prior to the pricing of the ADSs as well as prevailing market conditions and other factors described in the “Underwriting” section beginning on page 197 of this prospectus.

We are an “emerging growth company” as that term is used in the Jumpstart Our Business Startups Act of 2012 and, as such, are subject to reduced public company disclosure standards. See “Prospectus Summary—Implications of Being an Emerging Growth Company.”

Investing in our ADSs involves a high degree of risk. Before buying any ADSs, you should carefully read the discussion of material risks in “[Risk Factors](#)” beginning on page 12 of this prospectus.

	Per ADS	Total
Initial public offering price	US\$ _____	US\$ _____
Underwriting discounts and commissions ⁽¹⁾	US\$ _____	US\$ _____
Proceeds, before expenses, to us	US\$ _____	US\$ _____

(1) We have agreed to reimburse the underwriters for certain expenses in connection with this offering. See “Underwriting.”

We have granted the underwriters an option to purchase a maximum of _____ additional ADSs from us within 30 days following the date of this prospectus.

Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the ADSs to investors on or about _____, 2021.

**Evercore ISI
Berenberg**

William Blair

**Cantor
H.C. Wainwright & Co.**

The date of this prospectus is _____, 2021.

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We are incorporated under the laws of Australia. The majority of our directors and officers and certain other persons named in this prospectus are citizens and residents of countries other than the United States and all or a significant portion of the assets of the directors and officers and certain other persons named in this prospectus and substantially all of our assets are located outside of the United States. As a result, it may not be possible for you to effect service of process within the United States upon such persons or to enforce against them or against us in U.S. courts judgments predicated upon the civil liability provisions of the federal securities laws of the United States. There is doubt as to the enforceability in Australia, either in original actions or in actions for enforcement of judgments of U.S. courts, of civil liabilities predicated on U.S. federal securities laws.

Under the rules of the U.S. Securities and Exchange Commission ("SEC") we are currently eligible for treatment as a "foreign private issuer." As a foreign private issuer, we will not be required to file periodic reports and financial statements with the SEC as frequently or as promptly as domestic registrants whose securities are registered under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

You should rely only on the information contained in this prospectus or in any free writing prospectus we may authorize to be delivered or made available to you. We have not authorized anyone to provide you with different information. We are offering to sell, and seeking offers to buy, our ADSs only in jurisdictions where offers and sales are permitted. The information in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or of any sale of our ADSs. Our business, financial condition, results of operations and prospects may have changed since that date.

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For investors outside the United States: We have not and the underwriters have not done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the ADSs and the distribution of this prospectus outside the United States.

Unless otherwise indicated, information contained in this prospectus concerning our industry and the markets in which we operate, including our general expectations and market position, market opportunity and market share, is based on information from our own management estimates and research, as well as from industry and general publications and research, surveys and studies conducted by third parties. Management estimates are derived from publicly available information, our knowledge of our industry and assumptions based on such information and knowledge, which we believe to be reasonable. Our management estimates have not been verified by any independent source, and we have not independently verified any third-party information. In addition, assumptions and estimates of our and our industry's future performance are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in "Risk Factors." These and other factors could cause our future performance to differ materially from our assumptions and estimates. See "Special Note Regarding Forward-Looking Statements."

We use our registered and unregistered trademarks, including Bionomics™, in this prospectus. This prospectus also includes trademarks, tradenames and service marks that are the property of other organizations. Solely for convenience, trademarks and tradenames referred to in this prospectus appear without the ® and ™ symbols, but those references are not intended to indicate in any way that we will not assert, to the fullest extent under applicable law, our rights or that the applicable owner will not assert its rights, to these trademarks and tradenames.

Unless otherwise indicated, all amounts presented in this prospectus are presented in U.S. Dollars ("US\$"). Our reporting and functional currency is the Australian Dollar ("A\$"). Solely for the convenience of the reader, this prospectus contains translations of certain Australian Dollar amounts into U.S. Dollars at specified rates. Except as otherwise stated in this prospectus, all translations from Australian Dollars to U.S. Dollars are based on the exchange rate of A\$1.00 per US\$0.7518, as published by the Reserve Bank of Australia on June 30, 2021. No representation is made that Australian Dollar amounts referred to in this prospectus could have been or could be converted into U.S. Dollars at such rates or any other rates. Any discrepancies in any table between totals and sums of the amounts listed are due to rounding.

Our fiscal year end is June 30. References to a particular "fiscal year" are to our fiscal year ended June 30 of that calendar year.

Unless otherwise indicated, the audited consolidated financial statements and related notes included in this prospectus are presented in Australian Dollars and have been prepared in accordance with International Financial Reporting Standards ("IFRS"), and interpretations issued by the International Accounting Standards Board ("IASB").

Prospectus Summary

This summary highlights information contained elsewhere in this prospectus. This summary does not contain all of the information you should consider before investing in our ADSs. You should read this entire prospectus carefully, especially the section in this prospectus entitled “Risk Factors” beginning on page 12, “Business,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our financial statements and the related notes thereto included at the end of this prospectus, before making an investment decision. As used in this prospectus, unless the context otherwise requires, references to “we,” “us,” “our,” “our company” and “Bionomics” refer to Bionomics Limited and its consolidated subsidiaries.

Overview




We are a clinical-stage biopharmaceutical company developing novel, allosteric ion channel modulators designed to transform the lives of patients suffering from serious central nervous system (“CNS”) disorders with high unmet medical need. Ion channels serve as important mediators of physiological function in the CNS and the modulation of ion channels influences neurotransmission that leads to downstream signaling in the brain. The $\alpha 7$ nicotinic acetylcholine (“ACh”) receptor (“ $\alpha 7$ receptor”) is an ion channel that plays an important role in driving emotional responses and cognitive performance. Utilizing our expertise in ion channel biology and translational medicine, we are developing orally active small molecule negative allosteric modulators (“NAMs”) and positive allosteric modulators (“PAMs”) of the $\alpha 7$ receptor to treat anxiety and stressor-related disorders and cognitive dysfunction, respectively.

We are advancing our lead product candidate, BNC210, an oral proprietary selective NAM of the $\alpha 7$ receptor, for the acute treatment of Social Anxiety Disorder (“SAD”) and chronic treatment of Post-Traumatic Stress Disorder (“PTSD”). There remains a significant unmet medical need for the over 22 million patients in the United States alone suffering from SAD and PTSD. Current pharmacological treatments include certain antidepressants and benzodiazepines, and there have been no new FDA approved therapies in these indications in nearly two decades. These existing treatments have multiple shortcomings, such as a slow onset of action of antidepressants, and significant side effects of both classes of drugs. BNC210 has been observed in our clinical trials to have a fast onset of action and clinical activity without the limiting side effects seen with the current standard of care.

We expect to initiate our Phase 2 PREVAIL trial for BNC210 for the acute treatment of SAD by the end of 2021 and currently anticipate reporting topline data by the end of 2022. We have initiated our Phase 2b ATTUNE trial, a randomized, placebo-controlled study to evaluate BNC210 for the treatment of PTSD and we expect to report topline data in the first half of 2023. Our expertise and approach have been validated through our June 2014 research collaboration and license agreement (as amended, the “2014 Merck License Agreement”) with Merck Sharp & Dohme Corp., a wholly owned subsidiary of Merck & Co., Inc., Kenilworth NJ, USA (“Merck”) for our $\alpha 7$ receptor PAM program, which targets a receptor that has garnered significant attention for treating cognitive deficits. This partnership enables us to maximize the value of our ion channel and chemistry platforms and develop transformative medicines for patients suffering from cognitive disorders such as Alzheimer’s disease.

Our Portfolio

Below is a summary of our proprietary pipeline:

PROGRAM	PRECLINICAL	PHASE 1	PHASE 2	PHASE 3	EXPECTED TIMING
BNC210 α7 receptor NAM 	Post-Traumatic Stress Disorder (PTSD) 200 patients, ~25 centers in US 				Study underway Topline Data: 1H'23
	Social Anxiety Disorder (SAD) 150 patients, ~15 centers in US 				Starting Ph2: YE'21 Topline Data: YE'22
	+MDMA derivative EMP-01 (PTSD) Memorandum of Understanding to explore combination treatment regimen for PTSD				Ongoing

For information regarding additional programs in our portfolio, including programs under certain collaboration relationships, see “—Additional Programs”.

BNC210

We are initially focused on developing BNC210 for two distinct indications with high unmet medical need: (i) the acute treatment of SAD and (ii) chronic treatment of PTSD. In our clinical trials to-date, BNC210 has been observed to have a fast onset of action, and clinical activity, but without many of the limiting side effects observed with the current standards of care for SAD and PTSD, including benzodiazepines, selective serotonin reuptake inhibitors (“SSRIs”) and serotonin and norepinephrine reuptake inhibitors (“SNRIs”). Based on extensive preclinical data and clinical trials, we believe BNC210 may have a number of advantages over drugs currently used to treat anxiety, depression and PTSD, including:

- fast acting with the potential to be used in both acute and chronic settings;
- non-sedating;
- no addictive effect and a lack of discontinuation/withdrawal syndrome;
- no memory impairment; and
- no impairment of motor coordination.

We have administered BNC210 in approximately 400 subjects across 12 clinical trials, including healthy volunteers, elderly patients with agitation and patients with Generalized Anxiety Disorder (“GAD”) and PTSD. We have observed BNC210 to be generally well tolerated in the trials to date following both acute and chronic dosing. Further, in our clinical trials in GAD patients and in panic-induced healthy subjects, we have observed three key results:

- statistically significant reductions in hyperactivity in the amygdala, the region of the brain responsible for emotional control, when exposed to fear-inducing triggers;
- in a head-to-head study, showed a statistically significant reduction in the intensity of defensive behavior, while lorazepam, a widely prescribed benzodiazepine, did not; and
- a statistically significant reduction in the intensity and total number of panic symptoms as well as more rapid recovery from the panic state relative to placebo.

We have designed and developed a novel, proprietary tablet formulation of BNC210 which has shown differentiated pharmacokinetic properties in clinical trials. BNC210 has demonstrated rapid oral absorption characteristics in clinical trials making it ideal for acute, or on demand, treatment of SAD. Furthermore, the tablet formulation is intended to provide patients the convenience of taking BNC210 with or without food in the outpatient setting. In previous clinical trials, the tablet formulation achieved a target blood exposure ranging from 33-57 milligram hours per liter (“mg.h/L”), which exceeds the blood exposure of approximately 25 mg.h/L that our pharmacometric analysis predicted as likely to show clinically meaningful benefit for patients suffering from PTSD. We are using this tablet formulation in our ongoing Phase 2b ATTUNE clinical trial for patients with PTSD and intend to use it in our planned Phase 2 PREVAIL trial for patients with SAD. We anticipate topline data for our SAD trial by the end of 2022 and for our PTSD trial in the first half of 2023. We have also received Fast Track designation from the FDA for our PTSD program. The receipt of Fast Track designation may not result in a faster development process, review or approval compared to drugs considered for approval under conventional FDA procedures and does not assure ultimate approval by the FDA. In addition, we have a memorandum of understanding with EmpathBio to conduct preclinical feasibility studies to evaluate a combination of EMP-01, a 3,4-methylenedioxymethamphetamine (“MDMA”) derivative and BNC210 as an adjunct to behavioral therapy for the treatment of PTSD. Depending on the results of the feasibility studies, we intend to enter into a definitive agreement with EmpathBio, but there is no assurance we will do so. MDMA is classified as a Schedule I controlled substance by the U.S. Drug Enforcement Administration which may negatively impact EmpathBio’s ability to receive approval for the clinical development and marketing of EMP-01, which in turn could limit or prevent us from receiving revenue under this potential collaboration. See “Risk Factors—*We have a memorandum of understanding with EmpathBio to evaluate a combination of EMP-01, an MDMA derivative as an adjunct to behavioral therapy, and BNC210 for the treatment of PTSD which could be impacted by the risks associated with the development of psychedelic scheduled drugs.*”

Additional Programs

α7 Receptor PAM Program with Merck

In June 2014, we entered into the 2014 Merck License Agreement to develop α7 receptor PAMs targeting cognitive dysfunction associated with Alzheimer’s disease and other central nervous system conditions. Under the 2014 Merck License Agreement, Merck funded certain research and development activities on a full-time equivalent (“FTE”) basis pursuant to a research plan. Merck will fund future research and development activities, including clinical development and worldwide commercialization of any products developed from the collaboration. We received upfront payments totaling US\$20 million, which included funding for FTEs for the first twelve months, and another US\$10 million in February 2017 when the first compound from the collaboration initiated Phase 1 clinical trials, and we are eligible to receive up to an additional US\$465 million in milestone payments for achievement of certain development and commercial milestones. Further, Merck is obligated to pay us tiered royalties in the mid single digit to low sub-teen double digit percentage range on annual net sales of the licensed products, subject to customary royalty reductions upon certain events. The Merck collaboration currently includes two candidates which are PAMs of the α7 receptor that are in early-stage Phase 1 safety and biomarker clinical trials for treating cognitive impairment. The first compound has completed Phase 1 safety clinical trials in healthy subjects and there are ongoing plans for further biomarker studies. In 2020 a second molecule that showed an improved potency profile in preclinical animal models was advanced by Merck into Phase 1 clinical trials. Merck controls the clinical development and worldwide commercialization of any products developed from the collaboration and therefore we cannot predict whether or when we might achieve any milestone payments under the collaboration or estimate the full amount of such payments, and we may never receive any such payments. Further, we are subject to limited information rights under the 2014 Merck License Agreement. As such, we are dependent on Merck to provide us with any updates related to clinical trial results, serious adverse events and ongoing communications with FDA related to these programs, which Merck may provide or withhold in its sole discretion, and as a result we may not be able to provide material updates on a timely basis or at all with respect to these programs.

Our Early-Stage CNS Assets

Our CNS pipeline includes two earlier stage small molecule discovery programs targeting ion channels and represents additional opportunities for future clinical programs and partnering. These programs are at a similar stage to the stage at which the $\alpha 7$ receptor PAM program was licensed under the 2014 Merck License Agreement, although there is no assurance we will be able to enter into a license or collaboration agreement with respect to these programs. The first of these programs has developed two patented series of small molecule Kv3.1/3.2 potassium channel activators for the potential treatment of cognitive deficits and negative symptoms/social withdrawal in schizophrenia and autism spectrum disorders. The second program has developed three patented series of small molecule inhibitors with functional selectivity for Nav1.7 and Nav1.8 voltage gated sodium ion channels for the potential treatment of chronic pain without the liability of addiction associated with opioid treatment.

Legacy Oncology Programs

We have a portfolio of legacy clinical-stage oncology programs targeting cancer stem cells (BNC101) and tumor vasculature (BNC105) that we have progressed through external funding for clinical trials and out-licensing to capture future value for our shareholders. Our first legacy oncology program is BNC101, a novel humanized monoclonal antibody that targets LGR5, a cancer stem cell receptor highly overexpressed in most solid tumors. In November 2020, we exclusively licensed BNC101 to Carina Biotech PTY LTD (“Carina Biotech”) for the development of chimeric receptor antigen T-cell (“CAR-T”) therapeutics, which is currently in preclinical development, in return for milestones and royalties. See “Business—IP License Agreement with Carina Biotech.” Our second legacy oncology program, BNC105, is a novel vascular tubulin polymerization inhibitor agent for treatment of cancer, which disrupts the blood vessels that nourish tumors. We plan to advance these oncology programs only through existing and potentially new partnerships.

Our Team

We have assembled a strong management team of experts, complemented by an international board of directors, with deep scientific and clinical expertise in CNS drug discovery and development and expertise in strategy and business development. The management team is led by Errol B. De Souza, Ph.D., our Executive Chairman, who has over 30 years of substantive experience as an executive in the biopharmaceutical industry, having founded Neurocrine Biosciences, served as President and CEO of several U.S.-based public and private biopharmaceutical companies including Biodel, Synaptic Pharmaceutical Corp., Archemix, and Neuropore Therapeutics, and led large Research & Development organizations (Head of CNS Diseases at DuPont Merck and Head of US R&D at Aventis Pharmaceuticals) in global pharmaceutical companies. We have assembled an experienced management and scientific team with a track record of success in the field of CNS drug development. Members of our management team have held senior positions at Deloitte Touche Tohmatsu, New World Bio Limited, Apeiron Investment Group, Circumvent Pharmaceuticals and RBC Capital Markets. We believe that the breadth of experience and successful track record of our senior management, combined with our established relationships with leaders in the industry and medical community, provide us with unique insights into drug development for the treatment of CNS disorders. We have also been supported by a leading syndicate of investors, including BVF Partners L.P. and Apeiron Investment Group Ltd.

Our Strategy

Our goal is to be a leading biopharmaceutical company focused on the development and commercialization of novel treatments to transform the lives of patients with serious CNS disorders with high unmet medical need. The key elements of our strategy include:

- Advance our lead product candidate, BNC210, through clinical development and to commercialization, if approved, for the acute treatment of patients with SAD.

- Progress BNC210 through clinical development and to commercialization, if approved, for patients with PTSD.
- Expand indication potential for BNC210 to other acute and chronic anxiety and stressor-related disorders.
- Build a commercialization infrastructure in the United States for BNC210.
- Maximize the potential of our CNS programs and legacy oncology assets through selective partnerships and licensing.
- Continue to strategically expand our clinical pipeline through acquisitions, licenses, and/or collaborations.

Risks Factors

You should carefully consider the risks described in the section entitled “Risk Factors” immediately following this prospectus summary. These risks include, among others:

- We are a clinical-stage biopharmaceutical company with no approved products. We have incurred significant operating losses since our inception and expect to incur significant losses for the foreseeable future. We may never generate any revenue or become profitable or, if we achieve profitability, we may not be able to sustain it.
- Even if this offering is successful, we will require substantial additional financing to achieve our goals, and a failure to obtain this necessary capital when needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our product development programs, commercialization efforts or other operations.
- Preclinical and clinical drug development is a lengthy and expensive process, with an uncertain outcome. Our preclinical and clinical programs may experience delays or may never advance, which would adversely affect our ability to obtain regulatory approvals or commercialize our product candidates on a timely basis or at all, which could have an adverse effect on our business.
- If we experience delays or difficulties in the initiation, enrollment and/or retention of patients in clinical trials, our regulatory submissions or receipt of necessary regulatory approvals could be delayed or prevented.
- We have a memorandum of understanding with EmpathBio to evaluate a combination of EMP-01, an MDMA derivative as an adjunct to behavioral therapy, and BNC210 for the treatment of PTSD which could be impacted by the risks associated with the development of psychedelic scheduled drugs.
- The trading price of our ordinary shares has been volatile, and that of our ADSs may be volatile, and you may not be able to resell the ADSs at or above the price you paid.
- An active trading market for the ADSs may not develop or be liquid enough for you to sell your ADSs quickly or at market price.
- Your right as a holder of ADSs to participate in any future preferential subscription rights offering or to elect to receive dividends in ordinary shares may be limited, which may cause dilution to your holdings.
- Our current or future product candidates may cause adverse or other undesirable side effects that could delay or prevent their regulatory approval, limit the commercial profile of an approved label or result in significant negative consequences following marketing approval, if any.
- We may have difficulties in attracting and retaining key personnel, and if we fail to do so our business may suffer.

- We depend on collaboration partners to develop and commercialize our collaboration product candidates, including Merck. If our collaboration partners fail to perform as expected, fail to advance our collaboration product candidates or are unable to obtain the required regulatory approvals for our collaboration product candidates, the potential for us to generate future revenue from such product candidates would be significantly reduced and our business would be significantly harmed.
- We currently rely, and expect to continue to rely, on third parties to conduct some or all aspects of our product manufacturing, research and preclinical and clinical testing, and these third parties may not perform satisfactorily.
- We may not be able to protect our intellectual property rights throughout the world.

Corporate Information

Bionomics Limited is an Australian public company incorporated in 1996 and listed on the Australian Securities Exchange (“ASX”) since 1999. Our registered office is located at 200 Greenhill Road Eastwood SA 5063 Australia, and our telephone number is +61 8 8150 7400. Our agent for service of process in the United States is c/o CSC-Lawyers Incorporating Service, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833. Our website address is www.bionomics.com.au. The information contained in, or accessible through, our website does not constitute part of this prospectus.

Implications of Being an Emerging Growth Company and a Smaller Reporting Company

As a company with less than US\$1.07 billion in revenue during our last fiscal year, we qualify as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act (the “JOBS Act”), enacted in April 2012. An emerging growth company may take advantage of reduced reporting requirements that are otherwise applicable to public companies. These provisions include, but are not limited to:

- being permitted to present only two years of audited financial statements and only two years of related Management’s Discussion and Analysis of Financial Condition and Results of Operations in this prospectus;
- not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002, as amended (the “Sarbanes-Oxley Act”);
- reduced disclosure obligations regarding executive compensation in our periodic reports (if any), proxy statements (if any) and registration statements; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved.

We may take advantage of these provisions until the last day of our fiscal year following the fifth anniversary of the completion of this offering. However, if certain events occur prior to the end of such five-year period, including if we become a “large accelerated filer,” our annual gross revenues exceed US\$1.07 billion or we issue more than US\$1.0 billion of non-convertible debt in any three-year period, we will cease to be an emerging growth company prior to the end of such five-year period.

We have elected to take advantage of certain of the reduced disclosure obligations in this prospectus and in the registration statement of which this prospectus is a part and may elect to take advantage of other reduced reporting requirements in future filings. As a result, the information in this prospectus and that we provide to our stockholders in the future may be different than what you might receive from other public reporting companies in which you hold equity interests.

We are also a smaller reporting company as defined in the Exchange Act. We may continue to be a smaller reporting company even after we are no longer an emerging growth company. We may take advantage of certain of the scaled disclosures available to smaller reporting companies and will be able to take advantage of these scaled disclosures for so long as our voting and non-voting common stock held by non-affiliates is less than US\$250.0 million measured on the last business day of our second fiscal quarter, or our annual revenue is less than US\$100.0 million during the most recently completed fiscal year and our voting and non-voting common stock held by non-affiliates is less than US\$700.0 million measured on the last business day of our second fiscal quarter.

Implications of Being a Foreign Private Issuer

We are also considered a “foreign private issuer” as defined in Rule 405 under the Securities Act of 1933, as amended (the “Securities Act”). In our capacity as a foreign private issuer, we are exempt from certain rules under the Exchange Act that impose certain disclosure obligations and procedural requirements for proxy solicitations under Section 14 of the Exchange Act. In addition, our officers, directors and principal shareholders are exempt from the reporting and “short-swing” profit recovery provisions of Section 16 of the Exchange Act and the rules under the Exchange Act with respect to their purchases and sales of our ordinary shares. Moreover, we are not required to file periodic reports and financial statements with the SEC as frequently or as promptly as U.S. companies whose securities are registered under the Exchange Act. In addition, we are not required to comply with Regulation FD, which restricts the selective disclosure of material information.

We may take advantage of these exemptions until such time as we are no longer foreign private issuer. We would cease to be a foreign private issuer at such time as more than 50% of our outstanding voting securities are held by U.S. residents and any of the following three circumstances applies: (1) the majority of our executive officers or directors are U.S. citizens or residents, (2) more than 50% of our assets are located in the United States or (3) our business is administered principally in the United States.

As a foreign private issuer, we have taken advantage of certain reduced disclosure and other requirements in this prospectus and may elect to take advantage of other reduced reporting requirements in future filings. Accordingly, the information contained herein or that we provide shareholders may be different than the information you receive from other public companies in which you hold equity securities.

The Offering	
ADSs offered by us	ADSs
ADSs to be outstanding immediately after this offering	ADSs
Ordinary shares to be outstanding immediately after this offering, including shares underlying ADSs	ordinary shares
Option to purchase additional ADSs	The underwriters have an option for a period of 30 days to purchase up to additional ADSs.
The ADSs	<p>Each ADS represents ordinary shares.</p> <p>The depositary (as identified below) will be the holder of the ordinary shares underlying the ADSs and you will have the rights of an ADS holder as provided in the deposit agreement among us, the depositary and holders and beneficial owners of ADSs from time to time.</p> <p>You may surrender your ADSs to the depositary to withdraw the ordinary shares underlying your ADSs. The depositary will charge you a fee for such an exchange.</p> <p>We may amend or terminate the deposit agreement for any reason without your consent. Any amendment that imposes or increases fees or charges or which materially prejudices any substantial existing right you have as an ADS holder will not become effective as to outstanding ADSs until 30 days after notice of the amendment is given to ADS holders. If an amendment becomes effective, you will be bound by the deposit agreement as amended if you continue to hold your ADSs.</p> <p>To better understand the terms of the ADSs, you should carefully read the section in this prospectus entitled “Description of American Depositary Shares.” We also encourage you to read the deposit agreement, which will be filed as an exhibit to the registration statement to which this prospectus forms a part.</p>
Depositary	Citibank, N.A.
Shareholder approval of offering	Under ASX Listing Rules, certain steps necessary for the consummation of this offering require the approval of our shareholders voting at the general meeting of shareholders. We will need to receive all such required approvals from our shareholders prior to the completion of this offering. See “Description of Share Capital—Shareholder Approval of Offering”.
Use of proceeds	We estimate that the net proceeds from this offering, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us, will be approximately US\$

million, or approximately US\$ million if the underwriters exercise their option to purchase additional ADSs from us in full, assuming an initial public offering price of US\$ per ADS, which is the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ on , 2021 (based on an assumed exchange rate of A\$1.00 to \$). We intend to use the net proceeds from this offering along with our existing cash and cash equivalents (i) to advance BNC210 into a Phase 2 trial for the acute treatment of SAD, including the initiation and completion of the planned Phase 2 PREVAIL clinical trial; (ii) for the continued development of BNC210 for the treatment of PTSD, including completion of the ongoing Phase 2b ATTUNE clinical trial; (iii) for the completion of chemistry, manufacturing and controls, long term safety and non-clinical pharmacology studies necessary to support Phase 3 pivotal trials of BNC210 for the treatment of SAD and PTSD; and (iv) for working capital and other research and development and general corporate purposes. See “Use of Proceeds” for a more complete description of the intended use of proceeds from this offering.

Risk factors

You should read the “Risk Factors” section of this prospectus and the other information in this prospectus for a discussion of factors to consider carefully before deciding to invest in our ADSs.

Listing

We have applied for the listing of the ADSs on the Nasdaq Global Market under the symbol “BNOX.” Our ordinary shares are listed on the ASX under the symbol “BNO.”

The number of ordinary shares to be outstanding after this offering set forth above is based on 1,007,596,744 ordinary shares outstanding as of June 30, 2021, and excludes:

- 20,985,450 ordinary shares issuable upon exercise of options outstanding as of June 30, 2021, at a weighted average exercise price of A\$0.12 (US\$0.09) per share, of which options to purchase 20,056,550 ordinary shares were vested at a weighted average exercise price of A\$0.11 (US\$0.08) per share; and
- 166,082,988 ordinary shares issuable upon exercise of warrants outstanding as of June 30, 2021 at a weighted average exercise price of A\$0.11 (US\$0.08) per share, of which warrants to purchase 166,082,988 ordinary shares were vested at a weighted average exercise price of A\$0.11 (US\$0.08) per share.

In addition, the number of ordinary shares outstanding after this offering does not include shares issuable pursuant to future awards granted to our employees under our 2017 Employee Equity Plan — Plan Rules, as amended from time to time (the “2017 Plan”), or that might be granted to our directors. Under the ASX Listing Rules, we cannot, without the approval of our shareholders, subject to specified exceptions, issue, during any 12 month period, any equity securities, or other securities with rights to convert into equity, if the number of those securities exceeds 15% of the number of shares on issue at the commencement of that 12 month period (“Placement Capacity”). Under ASX Listing Rules, we can issue up to 10.0 million ordinary shares to employees under the 2017 Plan without reducing our Placement Capacity due to a shareholder approval obtained at our 2020 Annual General Meeting. Awards to our employees above such 10.0 million threshold under the 2017 Plan would reduce our Placement Capacity in the year in which such awards are granted.

Unless otherwise indicated, this prospectus reflects and assumes no exercise by the underwriters of their option to purchase additional ADSs.

Summary Consolidated Financial Data

The following tables set forth a summary of our consolidated historical financial data as of, and for the periods ended on, the dates indicated. We have derived the statement of profit or loss data for the years ended June 30, 2021 and 2020, and the statement of financial position data as of June 30, 2021, from our audited consolidated financial statements included elsewhere in this prospectus. We have derived the statement of financial position data as of June 30, 2020, from our audited consolidated financial statements not included in this prospectus. Our audited consolidated financial statements have been prepared in Australian Dollars and in accordance with International Financial Reporting Standards and interpretations issued by the International Accounting Standards Board. You should read these data together with our audited consolidated financial statements and related notes included elsewhere in this prospectus and the section in this prospectus entitled “Management’s Discussion and Analysis of Financial Condition and Results of Operations.” Our historical results for any prior period are not indicative of our future results.

Statement of Profit or Loss Data:

	Fiscal Year Ended June 30,		
	2021		2020
	US\$(1)	A\$	A\$
	(in thousands, except per share data)		
Continuing operations:			
Revenue	\$ —	\$ —	\$ 46
Other income	983	1,308	3,313
Other gains and losses	3,212	4,273	4,576
Expenses	(10,874)	(14,465)	(13,962)
Loss before tax from continuing operations	(6,679)	\$ (8,884)	\$ (6,027)
Income tax benefit (expense)	141	187	208
Loss after tax from continuing operations	(6,538)	\$ (8,697)	\$ (5,819)
Discontinued operations:			
Loss for the year from discontinued operations	—	—	(1,299)
Loss for the year	(6,538)	(8,697)	(7,118)
Other comprehensive income:			
Exchange differences on translation of foreign operations	(879)	(1,169)	531
Total comprehensive profit (loss) attributable to the owners of the company	(7,417)	(9,866)	(6,587)
Earnings per share from continuing operations attributable to the owners of the company:			
Earnings per share, basic and diluted(2)	\$ (0.01)	\$ (0.01)	\$ (0.01)

Statement of Financial Position Data:

	As of June 30,	
	2021	
	US\$(1)	A\$
	(in thousands)	
Cash and cash equivalents	\$21,426	\$28,499
Trade and other receivables	848	1,128
Other current assets	977	1,300
Total current assets	23,251	30,927
Intangible assets and goodwill	16,800	22,346
Other non-current assets	744	990
Total non-current assets	17,544	23,336
Total assets	40,795	54,263
Total current liabilities	1,775	2,361
Total non-current liabilities	3,237	4,305
Total liabilities	5,012	6,666
Total equity attributable to owners of the company	35,783	47,597

- (1) The amounts have been translated into U.S. Dollars from Australian Dollars based upon the exchange rate as published by the Reserve Bank of Australia as of June 30, 2021. These translations are merely for the convenience of the reader and should not be construed as representations that the Australian Dollar amounts actually represent such U.S. Dollar amounts or could be converted into U.S. Dollars at such rate.
- (2) See Note 2 to our audited consolidated financial statements appearing elsewhere in this prospectus for an explanation of the method used to compute basic and diluted earnings per share.

Preliminary Financial Information

As of September 30, 2021, we had approximately A\$22.2 million in cash and cash equivalents. For the three months ended September 30, 2021, we paid A\$5.3 million in operating activities, of which A\$3.3 million related to research and development activities, and paid A\$1.2 million in financing activities relating to transaction costs of the proposed initial public offering of the Company's ADSs in the United States. This preliminary financial information has not been audited. These results could change as a result of further review.

Risk Factors

Investing in our ADSs involves a high degree of risk. You should carefully consider the risks and uncertainties described below, together with all of the other information in this prospectus, including our financial statements and related notes included elsewhere in this prospectus, before making an investment decision. If any of the following risks is realized, our business, financial condition, results of operations and prospects could be materially and adversely affected. In that event, the trading price of our ADSs could decline and you could lose part or all of your investment. Additional risks and uncertainties not presently known to us or that we currently deem immaterial also may impair our business operations.

Risks Related to Our Financial Condition and Capital Requirements

We are a clinical-stage biopharmaceutical company with no approved products. We have incurred significant operating losses since our inception and expect to incur significant losses for the foreseeable future. We may never generate any revenue or become profitable or, if we achieve profitability, we may not be able to sustain it.

Biopharmaceutical product development is a highly speculative undertaking and involves a substantial degree of risk. We are a clinical-stage biopharmaceutical company and commenced operations in 1996. To date, we have focused primarily on performing research and development activities, establishing our intellectual property portfolio (including acquisitions, in-licensing and out-licensing), discovering potential product candidates, conducting preclinical studies and clinical trials and raising capital. Our approach to the discovery and development of product candidates is unproven, and we do not know whether we will be able to develop any products of commercial value. Our lead CNS product candidate, BNC210, is in clinical development, and our additional wholly owned CNS development programs remain in the preclinical or discovery stage. We have no products approved for commercial sale and we have not yet demonstrated an ability to successfully obtain regulatory approvals, manufacture a commercial scale product, or arrange for a third party to do so on our behalf or conduct sales and marketing activities necessary for successful product commercialization. Consequently, any predictions made about our future success or viability may not be as accurate as they could be if we had a history of successfully developing and commercializing biopharmaceutical products.

We have incurred significant operating losses since our inception. If our product candidates are not successfully developed and approved, we may never generate any revenue. Our total comprehensive losses were A\$7.1 million (US\$5.3 million) and A\$8.7 million (US\$6.5 million) for the fiscal years ended June 30, 2020 and 2021, respectively. As of June 30, 2021, we had an accumulated deficit of A\$154.0 million (US\$115.8 million). Substantially all of our losses have resulted from expenses incurred in connection with our research and development programs, preclinical studies, clinical trials and from general and administrative costs associated with our operations. All of our product candidates will require substantial additional development time and resources before we would be able to apply for or receive regulatory approvals and begin generating revenue from product sales. We expect to continue to incur losses for the foreseeable future, and we anticipate these losses will increase substantially as we conduct our ongoing and planned preclinical studies and clinical trials, initiate and scale our production capacity, seek regulatory approvals for our product candidates, hire additional personnel, obtain and protect our intellectual property, initiate further research and development and incur additional costs for commercialization or to expand our pipeline of product candidates.

To become and remain profitable, we must succeed in developing and eventually commercializing, licensing or acquiring products that generate significant revenue. This will require us to be successful in a range of challenging activities, including completing preclinical studies and clinical trials of our product candidates, obtaining regulatory approval for these product candidates and manufacturing, marketing and selling any products for which we may obtain regulatory approval. We are only in the preliminary stages of some of these activities. We may never succeed in these activities and, even if we do, may never generate revenues that are significant enough to achieve profitability. We may also encounter unforeseen expenses, difficulties,

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complications, delays and other unknown factors that may adversely affect our business. Even if we do achieve profitability, we may not be able to sustain or increase profitability on a quarterly or annual basis. Our failure to become and remain profitable would depress the value of our company and could impair our ability to raise capital, expand our business, maintain our research and development efforts, diversify our product candidates or continue our operations. A decline in the value of our company could also cause you to lose all or part of your investment.

Even if this offering is successful, we will require substantial additional financing to achieve our goals, and a failure to obtain this necessary capital when needed on acceptable terms, or at all, could force us to delay, limit, reduce or terminate our product development programs, commercialization efforts or other operations.

The development of biopharmaceutical product candidates is capital intensive. Since our inception, we have used substantial amounts of cash to fund our operations and we expect our expenses to increase in connection with our ongoing activities during the next several years, particularly as we conduct our ongoing and planned clinical trials of BNC210, continue research and development for and initiate clinical trials of our other development programs, and seek regulatory approval for our current product candidates and any future product candidates we may develop. In addition, if, following approval, we commercialize BNC210 or any other product candidates, we will need to make royalty payments to the licensors and other third parties from whom we have in-licensed or acquired our product candidates and from whom we have licensed certain patents and know-how relating to our ion channel and chemistry platforms. Further, in connection with the termination of our previous research and license agreement with Ironwood Pharmaceuticals, Inc. (“Ironwood”), we are obligated to pay Ironwood a low single digit royalty on the net sales of BNC210, if commercialized. Furthermore, if and to the extent we seek to acquire or in-license additional product candidates in the future, we may be required to make significant upfront payments, milestone payments, licensing payments, royalty payments and/or other types of payments. If we obtain regulatory approval for any of our product candidates, we also expect to incur significant commercialization expenses related to product manufacturing, marketing, sales and distribution. Because the outcome of any clinical trial or preclinical study is highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully complete the development and commercialization of our product candidates. Furthermore, following the completion of this offering, we expect to incur additional costs associated with operating as a U.S. public company. Accordingly, we will need to obtain substantial additional funding in connection with our continuing operations. If we are unable to raise capital when needed or on attractive terms, we could be forced to delay, reduce or eliminate our research and development programs or any future commercialization efforts.

We had cash and cash equivalents of A\$28.5 million (US\$21.4 million) as of June 30, 2021. We estimate that the net proceeds from this offering will be \$, based on the initial public offering price of \$ per ADS, after deducting underwriting discounts and commissions and offering expenses payable by us. We believe that our existing cash and cash equivalents and the net proceeds from this offering will be sufficient to meet our anticipated cash and capital expenditure requirements until . We have based these estimates on assumptions that may prove to be wrong, and we could use our capital resources sooner than we currently expect. Our operating plans and other demands on our cash resources may change as a result of many factors currently unknown to us, and we may need to seek additional funds sooner than planned, through public or private equity or debt financings or other capital sources, including potentially collaborations, licenses and other similar arrangements. In addition, we may seek additional capital due to favorable market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans. The impact of the COVID-19 pandemic on the capital markets may affect the availability, amount and type of financing available to us in the future. Attempting to secure additional financing may divert our management from our day-to-day activities, which may adversely affect our ability to develop our product candidates.

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Our future capital requirements will depend on many factors, including:

- the type, number, scope, progress, expansions, results, costs and timing of our clinical trials and preclinical studies of our product candidates which we are pursuing or may choose to pursue in the future;
- safety concerns related to the use of our product candidates;
- adverse findings regarding the efficacy of our product candidates as additional information is acquired;
- the costs and timing of manufacturing for our product candidates, including commercial manufacturing if any product candidate is approved;
- the costs, timing and outcome of regulatory review of our product candidates;
- the number of jurisdictions in which we plan to seek regulatory approvals;
- the costs of obtaining, maintaining, enforcing and defending our patents and other intellectual property and proprietary rights;
- our efforts to enhance operational systems and hire additional personnel to satisfy our obligations as a U.S. public company, including enhanced internal controls over financial reporting;
- the costs associated with hiring additional personnel and consultants as our clinical activities increase;
- the timing and amount of the royalty or other payments we must make to the licensors and other third parties from whom we have in-licensed or acquired our product candidates;
- the timing and amount of milestone or royalty payments we receive from out-licensees, such as Merck or Carina Biotech;
- the costs and timing of establishing or securing sales and marketing capabilities if any product candidate is approved;
- our ability to achieve sufficient market acceptance, coverage and adequate reimbursement from third-party payors and adequate market share and revenue for any approved products;
- the terms and timing of establishing and maintaining collaborations, licenses and other similar arrangements; and
- costs associated with any product candidates, products or technologies that we may in-license or acquire.

Conducting clinical trials and preclinical studies is a time consuming, expensive and uncertain process that takes years to complete, and we may never generate the necessary data or results required to obtain regulatory approval and achieve product sales. In addition, our product candidates, if approved, may not achieve commercial success. Our commercial revenues, if any, will be derived from sales of products that we do not expect to be commercially available for many years, if at all.

Accordingly, we will need to continue to rely on additional financing to achieve our business objectives. Adequate additional financing may not be available to us on acceptable terms, or at all. If we are unable to raise capital when needed or on attractive terms, we would be forced to delay, reduce or eliminate our research and development programs or future commercialization efforts.

Raising additional capital may cause dilution to our shareholders, including purchasers of the ADSs in this offering, restrict our operations or require us to relinquish rights to our technologies or product candidates.

Until such time, if ever, as we can generate substantial product revenues, we expect to finance our cash needs through equity offerings, debt financings or other capital sources, including potentially collaborations,

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licenses and other similar arrangements. To the extent that we raise additional capital through the sale of equity or convertible debt securities, your ownership interest will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect your rights as a holder of our ADSs. Debt financing and preferred equity 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 or declaring dividends.

If we raise funds through future collaborations, licenses and other similar arrangements, we may have to relinquish valuable rights to our future revenue streams, research programs or product candidates or grant licenses on terms that may not be favorable to us and/or that may reduce the value of our ADSs.

Our operating results have fluctuated significantly in the past and may continue to do so in the future, which makes our future operating results difficult to predict and could cause our operating results to fall below expectations or our guidance.

Our operating results have fluctuated significantly in the past and may continue to do so in the future. Fluctuations in our operating results may occur due to a variety of factors, many of which are out of our control and may be difficult to predict, including:

- the timing and cost of, and level of investment in, research and development activities relating to our product candidates;
- the timing of milestone payments, if any, under our license and collaboration agreements;
- the timing and magnitude of royalty payments, if any, under our license and collaboration agreements;
- the level of demand for our current or future product candidates, if approved, which may vary significantly;
- cost and reimbursement policies with respect to our product candidates, if approved, and existing and potential future drugs that compete with our product candidates;
- the timing and success or failure of clinical trials for our product candidates or competing product candidates, or any other change in the competitive landscape of our industry, including consolidation of our competitors;
- foreign currency fluctuations; and
- future accounting pronouncements or changes in our accounting policies.

The cumulative effect of these factors could result in large fluctuations and unpredictability in our operating results. As a result, comparisons of our operating results on a period-to-period basis may not be meaningful. Investors should not rely on our past results as an indication of future performance. This variability and unpredictability could also result in our failing to meet the expectations of industry or financial analysts or investors for any period. If our revenue or operating results fall below the expectations of analysts or investors or below any guidelines we may provide to the market, or if the guidelines we provide to the market is below the expectations of analysts or investors, this could adversely affect the trading price of our ADSs. Such a decline could occur even when we have met any previously publicly stated revenue or earnings guidance we may provide.

We are entitled to research and development incentives from the Australian Government. If we lose these research and development incentives, we may encounter difficulties in funding future research and development projects, which could harm our operating results.

We have historically received entitlements through the Australian Government's Research and Development Tax Incentive program, under which the Australian Government currently provides a refundable tax offset,

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payable as a cash incentive, of 43.5% of eligible approved research and development expenditures by Australian entities with an “aggregated turnover” of less than A\$20 million and an additional tax deduction of 8.5 to 16.5% of eligible approved research and development expenditures if “aggregated turnover” is greater than A\$20 million. For the fiscal years ended June 30, 2020 and 2021, we recognized a refundable tax offset of approximately A\$3.0 million and A\$0.9 million, respectively. Entitlement to tax offsets under the Research and Development Tax Incentive for eligible research and development purposes is based on an annual application to the Australian Government. For overseas activities that have a significant scientific link to the Australian activities, the expenditure in Australia needs to be greater than the expected overseas expenditure to be eligible.

Payments under this program are available for our research and development activities in Australia, as well as certain activities conducted overseas that are required to be approved by AusIndustry, a branch of the Australian Government. In June 2021, we submitted an application to AusIndustry to seek approval of our current overseas activities relating to BNC210 as eligible expenditure under this program. On September 8, 2021, AusIndustry informed us that they would not be approving our application for our current overseas activities relating to BNC210. On October 6, 2021, we lodged a request to AusIndustry for internal review of the findings decision on our application. In the event of our research and development expenditures being deemed “ineligible,” then our incentives would decrease, and our future cash flows would be negatively affected. In addition, the Australian Government may modify the requirements of, reduce the amounts of the tax offset entitlement under, or discontinue the Research and Development Tax Incentive program. If the Research and Development Tax Incentive program was discontinued, or if the tax incentive rate was reduced, it would have a negative effect on the size of future refundable tax offsets and our future cash flows.

We plan to use our tax losses to offset potential future taxable income from revenue generated from operations or corporate collaborations. However, our ability to utilize our tax losses and certain other tax attributes may be limited as a result of our failure to pass either the continuity of ownership or business continuity tests.

We have substantial carried forward tax losses, which may not be available to offset future gains, if any. In order for an Australian corporate tax payor to carry forward and utilize tax losses, the taxpayer must pass either the “continuity of ownership test” or, if it fails such test, the “business continuity test” in respect of relevant tax losses. We have not carried out any analysis as to whether we have met the continuity of ownership test or, failing such test, the business continuity test over relevant periods. In addition, shareholding changes, including changes resulting from this offering, may result in a significant ownership change for us under Australian tax law. It is therefore uncertain whether any of our losses carried forward as of June 30, 2021 will be available to be carried forward and available to offset our assessable income, if any, in future periods.

Risks Related to the Discovery, Development and Regulatory Approval of Our Product Candidates

Preclinical and clinical drug development is a lengthy and expensive process, with an uncertain outcome. Our preclinical and clinical programs may experience delays or may never advance, which would adversely affect our ability to obtain regulatory approvals or commercialize our product candidates on a timely basis or at all, which could have an adverse effect on our business.

In order to obtain FDA approval to market a new small molecule product, we must demonstrate the safety and efficacy of our product candidates in humans to the satisfaction of the FDA. To meet these requirements, we will have to conduct adequate and well-controlled clinical trials.

Conducting preclinical testing and clinical trials is a lengthy, time-consuming and expensive process and is subject to uncertainty. Despite promising preclinical or clinical results, any product candidate can unexpectedly fail at any stage of preclinical or clinical development. The historical failure rate for product candidates in our industry is high. The length of time may vary substantially according to the type, complexity and novelty of the program, and often can be several years or more per program. Delays associated with programs for which we are

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directly conducting preclinical studies and clinical trials may cause us to incur additional operating expenses. The commencement and rate of completion of preclinical studies and clinical trials for a product candidate may be delayed by many factors, including, for example:

- timely completion of preclinical laboratory tests, animal studies and formulation studies in accordance with FDA's good laboratory practice requirements and other applicable regulations;
- submission of an Investigational New Drug Application ("IND") to the FDA and clearance thereof by the FDA;
- approval by an independent Institutional Review Board ("IRB") or ethics committee at each clinical site before each trial may be initiated;
- delays in reaching a consensus with regulatory agencies on study design and obtaining regulatory authorization to commence clinical trials;
- delays in reaching agreement on acceptable terms with prospective clinical research organizations ("CROs"), and clinical trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and clinical trial sites;
- delays in identifying, contracting and training suitable clinical investigators;
- delays in manufacturing, testing, releasing, validating or importing/exporting sufficient stable quantities of our product candidates for use in clinical trials or the inability to do any of the foregoing;
- insufficient or inadequate supply or quality of product candidates or other materials necessary for use in clinical trials, or delays in sufficiently developing, characterizing or controlling a manufacturing process suitable for clinical trials;
- imposition of a temporary or permanent clinical hold by regulatory authorities;
- developments on trials conducted by competitors for related technology that raises FDA or foreign regulatory authority concerns about risk to patients of the technology broadly, or if the FDA or a foreign regulatory authority finds that the investigational protocol or plan is deficient to meet its stated objectives;
- delays in screening and enrolling patients and delays caused by patients withdrawing from clinical trials or failing to return for post-treatment follow-up, including as a result of delays or difficulties due to the COVID-19 pandemic;
- difficulties collaborating with patient groups and investigators;
- failure by our investigators and patients to adhere to clinical trial protocols;
- failure by our CROs to manage the clinical trials according to the contracted terms and timelines;
- failure to perform clinical trials in accordance with the FDA's good clinical practice requirements ("GCPs"), or applicable regulatory guidelines in other countries;
- occurrence of adverse events associated with the product candidate that are viewed to outweigh its potential benefits, or occurrence of adverse events in a trial of the same class of agents conducted by other companies;
- changes to the clinical trial protocols;
- clinical sites dropping out of a trial;
- changes in regulatory requirements and guidance that require amending or submitting new clinical protocols;
- changes in the standard of care on which a clinical development plan was based, which may require new or additional trials;

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- selection of clinical endpoints that require prolonged periods of observation or analyses of resulting data;
- the cost of clinical trials of our product candidates being greater than we anticipate;
- inability to generate sufficient preclinical or other *in vivo* or *in vitro* data to support the initiation of clinical studies;
- clinical trials of our product candidates producing negative or inconclusive results, which may result in our deciding, or regulators requiring us, to conduct additional clinical trials or abandon development of such product candidates;
- transfer of manufacturing processes to larger-scale facilities operated by a contract manufacturing organization (“CMO”), and delays or failure by our CMOs or us to make any necessary changes to such manufacturing process; and
- third parties being unwilling or unable to satisfy their contractual obligations to us.

Further, conducting clinical trials in foreign countries, as we may do for our product candidates, presents additional risks that may delay completion of our clinical trials. These risks include the failure of enrolled patients in foreign countries to adhere to the clinical protocol as a result of differences in healthcare services or cultural customs, managing additional administrative burdens associated with foreign regulatory schemes, as well as political and economic risks relevant to such foreign countries. Delays in the completion of any preclinical studies or clinical trials of our product candidates will increase our costs, slow down our product candidate development and approval process and delay or potentially jeopardize our ability to commence product sales and generate product revenue. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of regulatory approval of our product candidates. Any delays to our preclinical studies or clinical trials that occur as a result could shorten any period during which we may have the exclusive right to commercialize our product candidates and our competitors may be able to bring products to market before we do, and the commercial viability of our product candidates could be significantly reduced. Any of these occurrences may harm our business, financial condition and prospects significantly.

We are early in our development efforts. All of our product candidates are in preclinical and early clinical development. If we are unable to commercialize our product candidates or experience significant delays in doing so, our business will be materially harmed.

Our ability to become profitable depends upon our ability to generate revenue. To date we have not generated any sales revenue from our product candidates, and we do not expect to generate any revenue from the sale of drugs in the near future. We do not expect to generate revenue from product sales unless and until we complete the development of, obtain marketing approval for, and begin to sell, one or more of our product candidates. We are also unable to predict when, if ever, we will be able to generate revenue from such product candidates due to the numerous risks and uncertainties associated with drug development, including the uncertainty of:

- our ability to timely and successfully complete preclinical studies and clinical trials for BNC210 and other current or future product candidates;
- the ability of our existing or future licensees and collaborators to successfully develop and commercialize product candidates pursuant to collaboration agreements, including Merck with respect to its two product candidates and Carina Biotech with respect to BNC101;
- our successful initiation, enrollment in and completion of clinical trials, for BNC210 and other current or future product candidates, including our ability to generate positive data from any such clinical trials;

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- our ability to demonstrate to the satisfaction of the FDA and comparable regulatory authorities the safety, efficacy, consistent manufacturing quality and acceptable risk-benefit profile of our product candidates for their intended uses;
- our plans to submit New Drug applications (“NDA”) to the FDA for BNC210 and future product candidates;
- our ability to obtain in a timely manner necessary approvals or authorizations from applicable regulatory authorities;
- the costs associated with the development of any additional development programs we identify in-house or acquire through collaborations or other arrangements;
- our ability to establish manufacturing capabilities or make arrangements with third-party manufacturers for clinical supply and commercial manufacturing;
- our ability to advance our early-stage CNS assets into IND-enabling studies either on our own or through collaborations;
- obtaining and maintaining patent and trade secret protection or regulatory exclusivity for our current and future product candidates;
- launching commercial sales of our product candidates, if and when approved, whether alone or in collaboration with others;
- obtaining and maintaining acceptance of our product candidates, if and when approved, by patients, the medical community and third-party payors;
- effectively competing with other therapies;
- obtaining and maintaining healthcare coverage and adequate reimbursement;
- the terms and timing of any additional collaboration, license or other arrangement, including the terms and timing of any payments thereunder;
- our ability to enforce and defend intellectual property rights and claims; and
- our ability to maintain continued acceptable safety profiles of our product candidates following approval.

We expect to incur significant sales and marketing costs as we prepare to commercialize our current or future product candidates. Even if we initiate and successfully complete pivotal or registration-enabling clinical trials of our current or future product candidates, and our current or future product candidates are approved for commercial sale, and despite expending these costs, our current or future product candidates may not be commercially successful. We may not achieve profitability soon after generating drug sales, if ever. If we are unable to generate revenue, we will not become profitable and may be unable to continue operations without continued funding.

If we experience delays or difficulties in the initiation, enrollment and/or retention of patients in clinical trials, our regulatory submissions or receipt of necessary regulatory approvals could be delayed or prevented.

We may not be able to initiate or continue our ongoing or planned clinical trials on a timely basis or at all for our product candidates if we are unable to recruit and enroll a sufficient number of eligible patients to participate in these trials as required by the FDA or similar regulatory authorities outside the United States. Patient enrollment is a significant factor in the timing of clinical trials. Our ability to enroll eligible patients may be limited or may result in slower enrollment than we anticipate.

Moreover, some of our clinical trials will compete with other clinical trials that are in the same therapeutic areas as our current or future product candidates, and this competition reduces the number and types of patients

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available to us, as some patients who would otherwise be eligible for our clinical trials may instead enroll in clinical trials of our competitors' current or future product candidates. Because the number of qualified clinical investigators and clinical trial sites is limited, we expect to conduct some of our clinical trials at the same clinical trial sites that some of our competitors use, which will reduce the number of patients who are available for our clinical trials at such clinical trial sites. In addition, there may be limited patient pools from which to draw for clinical studies. In addition to the rarity of some diseases, the eligibility criteria of our clinical studies may further limit the pool of available study participants as we will require that patients have specific characteristics that we can measure or to assure their disease is either severe enough or not too advanced to include them in a study.

Patient enrollment for any of our current or future clinical trials may be affected by other factors including:

- the size and nature of the patient population;
- competition with other companies for clinical sites or patients;
- the willingness of participants to enroll in our clinical trials in our countries of interest;
- the severity of the disease under investigation;
- availability and efficacy of approved drugs for the disease under investigation;
- the eligibility criteria for the clinical trial in question as defined in the protocol;
- the availability of an appropriate screening tests for the indications we are pursuing;
- the perceived risks and benefits of the product candidate under study in relation to other available therapies, including any new products that may be approved for the indications we are investigating;
- the efforts to facilitate timely enrollment in and completion of clinical trials;
- delays in or temporary suspension of the enrollment of patients in our ongoing or future clinical trials due to the COVID-19 pandemic;
- ability to obtain and maintain patient consents;
- the patient referral practices of physicians;
- the ability to monitor patients adequately during and after treatment;
- the proximity and availability of clinical trial sites for prospective patients; and
- the risk that patients enrolled in clinical trials will drop out of the trials before completion.

These factors may make it difficult for us to enroll enough patients to complete our clinical trials in a timely and cost-effective manner. Our inability to enroll a sufficient number of patients for our clinical trials would result in significant delays or may require us to abandon one or more clinical trials altogether. Enrollment delays in our clinical trials may result in increased development costs for our product candidates and jeopardize our ability to obtain marketing approval for the sale of our product candidates. Furthermore, even if we are able to enroll a sufficient number of patients for our clinical trials, we may have difficulty maintaining participation in our clinical trials through the treatment and any follow-up periods.

Interim, topline and preliminary data from our preclinical studies and clinical trials that we announce or publish from time to time may change as more data become available and are subject to audit and verification procedures that could result in material changes in the final data.

From time to time, we may publicly disclose interim, topline or preliminary data from our preclinical studies and clinical trials, 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

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particular study or trial. We also make assumptions, estimations, calculations and conclusions as part of our analyses of data, and we may not have received or had the opportunity to fully and carefully evaluate all data. As a result, the interim, topline or preliminary results that we report may differ from future results of the same studies or clinical trials, or different conclusions or considerations may qualify such results, once additional data have been received and fully evaluated. Interim, topline and preliminary data also remain subject to audit and verification procedures that may result in the final data being materially different from the preliminary data we previously published. As a result, such data should be viewed with caution until the final data are available, as such interim, topline or preliminary data are subject to the risk that one or more of the clinical outcomes may materially change as participant enrollment continues and more participant data become available or as participants from our clinical trials continue other treatments for their disease. Adverse differences between preliminary, interim or topline data and final data could significantly harm our business prospects. Moreover, favorable results in earlier preclinical studies or clinical trials do not necessarily predict favorable results in subsequent studies or trials.

Further, others, including regulatory authorities, 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, and any information we determine not to disclose may ultimately be deemed significant with respect to future decisions, conclusions, views, activities or otherwise regarding a particular product, product candidate or our business. If the interim, topline or preliminary data that we report differ from actual results, or if others, including regulatory authorities, disagree with the conclusions reached, our ability to obtain approval for, and commercialize, our product candidates may be harmed, which could harm our business, operating results, prospects or financial condition.

If we are not able to obtain, or if there are delays in obtaining, required regulatory approvals for our current or future product candidates, we will not be able to commercialize, or will be delayed in commercializing, our current or future product candidates, and our ability to generate revenue will be materially impaired.

Our current or future product candidates and the activities associated with their development and commercialization, including their design, testing, manufacture, safety, efficacy, recordkeeping, labeling, storage, approval, advertising, promotion, sale, distribution, import and export, are subject to comprehensive regulation by the FDA and other regulatory agencies in the United States and by comparable authorities in other countries. Before we can commercialize any of our current or future product candidates, we must obtain marketing approval from the regulatory authorities in the relevant jurisdictions. We have not received approval to market any of our current or future product candidates from regulatory authorities in any jurisdiction, and it is possible that none of our current product candidates, nor any product candidates we may seek to develop in the future, will ever obtain regulatory approval. Securing regulatory approval requires the submission of extensive preclinical and clinical data and supporting information to the various regulatory authorities for each therapeutic indication to establish the product candidate's safety and efficacy. Securing regulatory approval also requires the submission of information about the drug manufacturing process to, and inspection of manufacturing facilities by, the relevant regulatory authority. Our current or future product candidates may not be effective, may be only moderately effective or may prove to have undesirable or unintended side effects, toxicities or other characteristics that may preclude our obtaining marketing approval or prevent or limit commercial use. In addition, even if we believe that our trials demonstrate the safety and/or effectiveness of a product candidate, regulatory authorities may not agree with our interpretation of the results of our trials and conclude that the data are not adequate to support approval.

In addition, even if we were to obtain approval, regulatory authorities may approve any of our current or future product candidates for fewer or more limited indications than we request, may not approve the price we

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intend to charge for our drugs, may grant approval contingent on the performance of costly post-marketing clinical trials, or may approve a product candidate with a label that does not include the labeling claims necessary or desirable for the successful commercialization of that product candidate. Any of the foregoing scenarios could materially harm the commercial prospects for our current or future product candidates.

If we experience delays in obtaining approval or if we fail to obtain approval of our current or future product candidates, the commercial prospects for our current or future product candidates may be harmed and our ability to generate revenues will be materially impaired.

Our current or future product candidates may cause adverse or other undesirable side effects that could delay or prevent their regulatory approval, limit the commercial profile of an approved label or result in significant negative consequences following marketing approval, if any.

Undesirable side effects caused by our current or future product candidates could cause us to interrupt, delay or halt preclinical studies or could cause us or regulatory authorities to interrupt, delay or halt clinical trials and could result in a more restrictive label or the delay or denial of regulatory approval by the FDA or other regulatory authorities. It is likely that there may be adverse side effects associated with the use of our product candidates. To date, patients treated with BNC210 have experienced drug-related side effects including headaches, somnolence and nausea. There is also the potential risk of delayed adverse events following treatment using any of our current or future product candidates.

If unacceptable side effects arise in the development of our product candidates, we, the FDA, the IRBs at the institutions in which our studies are conducted, or the data safety monitoring board, could suspend or terminate our clinical trials or the FDA or comparable regulatory authorities could order us to cease clinical trials or deny approval of our product candidates for any or all targeted indications. Treatment-related side effects could also affect patient recruitment or the ability of enrolled patients to complete the trial or result in potential drug liability claims. In addition, these side effects may not be appropriately recognized or managed by the treating medical staff. We expect to have to train medical personnel using our product candidates to understand the side effect profiles for our clinical trials and upon any commercialization of any of our product candidates. Inadequate training in recognizing or managing the potential side effects of our product candidates could result in patient injury or death. Any of these occurrences may harm our business, financial condition and prospects significantly.

Further, our current or future product candidates could cause undesirable side effects in clinical trials related to on-target toxicity. If on-target toxicity is observed, or if our current or future product candidates have characteristics that are unexpected, we may need to abandon their development or limit development to more narrow 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 early-stage testing have later been found to cause side effects that prevented further development of the compound.

In addition, clinical trials by their nature utilize a sample of the potential patient population. With a limited number of patients and limited duration of exposure, rare and severe side effects of our current or future product candidates may only be uncovered with a significantly larger number of patients exposed to the product candidate. In any such event, our studies could be suspended or terminated and the FDA or comparable foreign regulatory authorities could order us to cease further development of or deny approval of our product candidates for any or all targeted indications. The side effects experienced could affect patient recruitment or the ability of enrolled subjects to complete the study or result in potential product liability claims. Moreover, if we elect, or are required, not to initiate, or to delay, suspend or terminate any future clinical trial of any of our product candidates, the commercial prospects of such product candidates may be harmed and our ability to generate product revenues from any of these product candidates may be delayed or eliminated. Any of these occurrences may harm our ability to develop other product candidates, and may harm our business, financial condition and prospects significantly.

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In addition, if our current or future product candidates receive marketing approval and we or others identify undesirable side effects caused by such current or future product candidates after such approval, a number of potentially significant negative consequences could result, including:

- regulatory authorities may suspend, withdraw or limit approvals of such current or future product candidates, or seek an injunction against their manufacture or distribution;
- regulatory authorities may require the addition of labeling statements or warnings, such as a “boxed” warning or a contraindication;
- we may be required to create a medication guide outlining the risks of such side effects for distribution to patients;
- we may be required to change the way such current or future product candidates are distributed or administered, conduct additional clinical trials or change the labeling of the current or future product candidates;
- we may be required to conduct post-marketing studies or change the way the product is administered;
- regulatory authorities may require a Risk Evaluation and Mitigation Strategy (“REMS”) plan to mitigate risks, which could include medication guides, physician communication plans, or elements to assure safe use, such as restricted distribution methods, patient registries and other risk minimization tools;
- we may be subject to regulatory investigations and government enforcement actions;
- we may decide to remove such current or future product candidates from the market;
- we could be sued and held liable for injury caused to individuals exposed to or taking our current or future product candidates;
- we may be subject to fines, injunctions or imposition of criminal penalties; and
- our reputation may suffer.

These events could prevent us from achieving or maintaining market acceptance of the affected product candidates and could substantially increase the costs of commercializing our current or future product candidates, if approved, and significantly impact our ability to successfully commercialize our current or future product candidates and generate revenues.

We may seek and fail to obtain Breakthrough Therapy designation or Fast Track designation from the FDA for our current or future product candidates. Even if granted for any of our current or future product candidates, these programs may not lead to a faster development, regulatory review or approval process, and such designations do not increase the likelihood that any of our product candidates will receive marketing approval in the United States.

We have obtained a Fast Track designation for BNC210 for the treatment of PTSD and other trauma-related and stressor-related disorders and may seek a Breakthrough Therapy designation. We may also seek Fast Track designation or Breakthrough Therapy designation for BNC210 for other indications such as acute treatment of anxiety in SAD patients or for one or more of our other current or future product candidates.

The sponsor of a product candidate with Fast Track designation has opportunities for more frequent interactions with the applicable FDA review team during product development and, once an NDA is submitted, the product candidate may be eligible for priority review. Such product candidate may also be eligible for rolling review, where the FDA may consider for review sections of the NDA on a rolling basis before the complete application is submitted, if the sponsor provides a schedule for the submission of the sections of the NDA, the FDA agrees to accept sections of the NDA and determines that the schedule is acceptable, and the sponsor pays

any required user fees upon submission of the first section of the NDA. A breakthrough therapy is defined as a drug that is intended, alone or in combination with one or more other drugs, to treat a serious or life-threatening disease or condition, and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over existing therapies on one or more clinically significant endpoints, such as substantial treatment effects observed early in clinical development. For drugs that have been designated as breakthrough therapies, interaction and communication between the FDA and the sponsor of the trial can help to identify the most efficient path for clinical development while minimizing the number of patients placed in ineffective control regimens. Product candidates designated as breakthrough therapies by the FDA may also be eligible for priority review and accelerated approval. Designation as a breakthrough therapy is within the discretion of the FDA. Accordingly, even if we believe one of our current or future product candidates meets the criteria for designation as a Fast Track or Breakthrough Therapy designation, the FDA may disagree and instead determine not to make such designation. In any event, the receipt of a Fast Track or Breakthrough Therapy designation for a current or future product candidate may not result in a faster development process, review or approval compared to drugs considered for approval under conventional FDA procedures and does not assure ultimate approval by the FDA. In addition, even if one or more of our current or future product candidates qualify as breakthrough therapies, the FDA may later decide that such product candidates no longer meet the conditions for qualification and rescind the designation or decide that the time period for FDA review or approval will not be shortened.

The incidence and prevalence for target patient populations of our product candidates have not been established with precision. If the market opportunities for our product candidates in SAD, PTSD, or other indications we may pursue are smaller than we estimate or if any approval that we obtain is based on a narrower definition of the patient population, our revenue and ability to achieve profitability will be adversely affected, possibly materially.

The precise incidence and prevalence for the indications being pursued for our current and future product candidates is currently unknown. Our projections of both the number of people who have these diseases, as well as the subset of people with these diseases who have the potential to benefit from treatment with our product candidates, are based on estimates. The total addressable market opportunity for these product candidates and future product candidates will ultimately depend upon, among other things, each product candidate's proven safety and efficacy, the diagnosis criteria included in the final label for each, whether our product candidates are approved for sale for these indications, acceptance by the medical community and patient access, product pricing and reimbursement. The number of patients for our product candidates in the United States and elsewhere may turn out to be lower than expected, patients may not be otherwise amenable to treatment with our products, or new patients may become increasingly difficult to identify or gain access to, all of which would adversely affect our results of operations and our business.

Even if we receive marketing authorization for our product candidates, we will be subject to extensive ongoing regulatory obligations and continued regulatory review, which may result in significant additional expense and we may be subject to penalties if we fail to comply with regulatory requirements or experience unanticipated problems with our product candidates.

If the FDA or a comparable foreign regulatory authority approves any of our current or future product candidates, the manufacturing processes, labeling, packaging, distribution, adverse event reporting, storage, advertising, promotion and recordkeeping for the drug will be subject to extensive and ongoing regulatory requirements. These requirements include submissions of safety and other post-marketing information and reports, registration requirements, and continued compliance with cGMPs and GCPs for any clinical trials that we conduct post-approval. For certain commercial prescription drug products, manufacturers and other parties involved in the supply chain must also meet chain of distribution requirements and build electronic, interoperable systems for product tracking and tracing and for notifying the FDA of counterfeit, diverted, stolen and intentionally adulterated products or other products that are otherwise unfit for distribution in the United States. Any regulatory approvals that we receive for our current or future product candidates may also be subject to limitations on the approved indicated uses for which the drug may be marketed or to the conditions of approval,

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or contain requirements for potentially costly post-marketing testing, including Phase 4 clinical trials, and surveillance to monitor the safety and efficacy of the drug. Later discovery of previously unknown problems with a drug, including adverse events of unanticipated severity or frequency, or with our third-party manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may result in, among other things:

- restrictions on the marketing or manufacturing of our product candidates, withdrawal of the product from the market, or voluntary or mandatory product recalls;
- manufacturing delays and supply disruptions where regulatory inspections identify observations of noncompliance during remediation;
- revisions to the labeling, including limitation on approved uses or the addition of warnings, contraindications, or other safety information, including boxed warnings;
- imposition of a REMS, which may include distribution or use restrictions;
- requirements to conduct additional post-market clinical trials to assess the safety of the product;
- fines, warning or untitled letters or holds on clinical trials;
- refusal by the FDA to approve pending applications or supplements to approved applications filed by us, or suspension or withdrawal of approvals;
- product seizure or detention, or refusal to permit the import or export of drugs; and
- injunctions or the imposition of civil or criminal penalties.

The occurrence of any event or penalty described above may inhibit our ability to commercialize our product candidates and generate revenue and could require us to expend significant time and resources in response and could generate negative publicity

The FDA's and other regulatory authorities' policies may change and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our current or future product candidates. We also cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative action, either in the United States or abroad. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained, which would adversely affect our business, prospects and ability to achieve or sustain profitability.

Even if we receive marketing approval for our current or future product candidates in the United States, we may never receive regulatory approval to market our current or future product candidates outside of the United States.

We plan to seek regulatory approval of our current or future product candidates outside of the United States. Obtaining and maintaining regulatory approval of our product candidates in one jurisdiction does not guarantee that we will be able to obtain or maintain regulatory approval in any other jurisdiction.

For example, even if the FDA grants marketing approval of a product candidate, we may not obtain approvals in other jurisdictions, and comparable regulatory authorities in foreign jurisdictions must also approve the manufacturing, marketing and promotion and reimbursement of the product candidate in those countries. However, a failure or delay in obtaining marketing approval in one jurisdiction may have a negative effect on the regulatory approval process in others. Approval procedures vary among countries and can involve additional product candidate testing and administrative review periods different from those in the United States. The time required to obtain approvals in other countries might differ substantially from that required to obtain FDA approval. The marketing approval processes in other countries generally implicate all of the risks detailed above regarding FDA approval in the United States as well as other risks. In particular, in many countries outside of the

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United States, products must receive pricing and reimbursement approval before the product can be commercialized. Obtaining this approval can result in substantial delays in bringing products to market in such countries.

Obtaining foreign regulatory approvals and establishing and maintaining compliance with foreign regulatory requirements could result in significant delays, difficulties and costs for us and could delay or prevent the introduction of our products in certain countries. If we or any future collaborator fail to comply with regulatory requirements in international markets or fail to receive applicable marketing approvals, it would reduce the size of our potential market, which could have a material adverse impact on our business, results of operations and prospects.

Changes in funding or disruptions at the FDA, the SEC and other government agencies caused by funding shortages or global health concerns could hinder their ability to hire and retain key leadership and other personnel, or otherwise prevent new or modified products from being developed, approved or commercialized in a timely manner or at all, or otherwise prevent those agencies from performing normal business functions on which the operation of our business may rely, which could negatively impact our business.

The ability of the FDA to review and approve new products can be affected by a variety of factors, including government budget and funding levels, ability to hire and retain key personnel and accept the payment of user fees, and statutory, regulatory and policy changes and other events that may otherwise affect the FDA's ability to perform routine functions. Average review times at the agency FDA have fluctuated in recent years as a result. In addition, government funding of the SEC and other government agencies on which our operations may rely, including those that fund research and development activities is subject to the political process, which is inherently fluid and unpredictable.

Disruptions at the FDA and other agencies may also slow the time necessary for new drugs to be reviewed and/or approved by necessary government agencies, which would adversely affect our business. For example, in recent years, including for 35 days beginning on December 22, 2018, the U.S. government shut down several times and certain regulatory agencies, such as the FDA and the SEC, had to furlough critical employees and stop critical activities.

Separately, in response to the COVID-19 pandemic, on March 10, 2020 the FDA announced its intention to postpone most inspections of foreign manufacturing facilities and products, and on March 18, 2020 the FDA temporarily postponed routine surveillance inspections of domestic manufacturing facilities. Subsequently, on July 10, 2020, the FDA announced its intention to resume certain on-site inspections of domestic manufacturing facilities subject to a risk-based prioritization system. The FDA intends to use this risk-based assessment system to identify the categories of regulatory activity that can occur within a given geographic area, ranging from mission critical inspections to resumption of all regulatory activities. Regulatory authorities outside the United States may adopt similar restrictions or other policy measures in response to the COVID-19 pandemic. If a prolonged government shutdown occurs, or if global health concerns continue to prevent the FDA or other regulatory authorities from conducting their regular inspections, reviews or other regulatory activities, it could significantly impact the ability of the FDA to timely review and process our regulatory submissions, which could have a material adverse effect on our business. Further, upon completion of this offering and in our operations as a U.S. public company, future government shutdowns or delays could impact our ability to access the public markets and obtain necessary capital in order to properly capitalize and continue our operations.

We may in the future conduct clinical trials for current or future product candidates outside the United States, and the FDA and comparable foreign regulatory authorities may not accept data from such trials, which may subject us to delays and expenses.

We have conducted and may in the future choose to conduct one or more of our clinical trials outside the United States, including in Australia, New Zealand, Singapore, France and the United Kingdom. The acceptance

of study data from clinical trials conducted outside the United States or another jurisdiction 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 not approve the application on the basis of foreign data alone unless the following are true: (i) the data are applicable to the United States population and United States medical practice; (ii) the studies were performed by clinical investigators of recognized competence and pursuant to GCP regulations; and (iii) the data are 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. In addition, even where the foreign study data are not intended to serve as the sole basis for approval, the FDA will not accept the data as support for an application for marketing approval unless the study is well-designed and well-conducted in accordance with GCP and the FDA is able to validate the data from the study through an onsite inspection if deemed necessary. Many foreign regulatory bodies have similar requirements. In addition, such foreign studies would be subject to the applicable local laws of the foreign jurisdictions where the studies are conducted. There can be no assurance the FDA or applicable foreign regulatory authority will accept data from trials conducted outside of the United States or the applicable jurisdiction. If the FDA or any applicable foreign regulatory authority does not accept such data, it would result in the need for additional trials, which would be costly and time-consuming and delay aspects of our business plan, and which may result in our product candidates not receiving approval for commercialization in the applicable jurisdiction.

The use of BNC210 with EMP-01 may generate public controversy. Adverse publicity or public perception regarding MDMA may negatively influence the success of any such combination therapy.

Therapies containing controlled substances may generate public controversy. Opponents of these therapies may seek restrictions on marketing and withdrawal of any regulatory approvals. In addition, these opponents may seek to generate negative publicity in an effort to persuade the medical community to reject these therapies. For example, we may face media-communicated criticism directed at the use of BNC210 with an EMP-01, an MDMA derivative. Adverse publicity from MDMA misuse may adversely affect the commercial success or market penetration achievable by any combination therapy of BNC210 and EMP-01. Anti-psychedelic protests have historically occurred and may occur in the future and generate media coverage. Political pressures and adverse publicity could lead to delays in, and increased expenses for, and limit or restrict the introduction and marketing of any therapeutic candidates that are used in combination with MDMA or an MDMA derivative.

We may expend our limited resources to pursue a particular product candidate or indication and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.

The success of our business depends primarily on our ability to identify, develop and commercialize one or more product candidates. We have an ongoing Phase 2b clinical trial of BNC210 for PTSD and expect to initiate our Phase 2 PREVAIL trial for SAD by the end of 2021.

We must balance our limited financial and managerial resources between these and other product candidates and focus on clinical programs and product candidates for the indications that take advantage of our team's deep expertise and knowledge and that we believe are the most scientifically and commercially promising. Our resource allocation decisions may cause us to fail to capitalize on viable commercial drugs or profitable market opportunities. In addition, we may spend valuable time and managerial and financial resources on clinical programs and product candidates for specific indications that ultimately do not yield any clinically or commercially viable drugs. If we do not accurately evaluate the clinical and commercial potential or target market for a particular product candidate, we may relinquish valuable rights to that product candidate through collaboration, licensing or other royalty arrangements in situations where it would have been more advantageous for us to retain sole rights to development and commercialization or miss out on the commercial opportunity entirely. This would adversely impact our business strategy and our financial position.

We may have difficulties in attracting and retaining key personnel, and if we fail to do so our business may suffer.

We are highly dependent on the members of our senior management and scientific staff, particularly our Executive Chairman, Dr. Errol De Souza, who is critical across multiple functions of our company, the loss of whose services could adversely affect the achievement of planned development objectives. We will need to hire and retain qualified personnel and could experience difficulty attracting and retaining such employees in the future. Competition for qualified personnel in the biotechnology and pharmaceuticals fields is intense due to the limited number of individuals who possess the skills and experience required by our industry. As such, we could have difficulty attracting experienced personnel to our company and may be required to expend significant financial resources in our employee recruitment and retention efforts. Further, because we are located in Australia and may seek to retain employees in the United States, we may have additional difficulties attracting personnel to work intercontinentally.

For us to further expand our drug development plans, we will need to hire additional qualified personnel. We may not be able to attract and retain personnel on acceptable terms, given the competition for such personnel among biotechnology, pharmaceutical and healthcare companies, universities and non-profit research institutions. Although we may be successful in attracting and retaining suitably qualified scientific and medical personnel, there can be no assurance that we will be able to attract and retain such personnel on acceptable terms given the competition for experienced scientists and clinicians from numerous pharmaceutical and chemical companies, specialized biotechnology firms, universities and other research institutions. Our failure to do so could adversely affect our business, financial condition, results of operations and prospects, and the trading price of our ADSs may decline.

Our internal computer systems, or those of our third-party CROs or other contractors or consultants, may fail or suffer security breaches, which could result in a material disruption of our drug development programs and other critical business functions.

Our internal computer systems and those of our third-party CROs and other contractors and consultants are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. Attacks upon information technology systems are increasing in their frequency, levels of persistence, sophistication and intensity, and are being conducted by sophisticated and organized groups and individuals with a wide range of motives and expertise. As a result of the COVID-19 pandemic, we may also face increased cybersecurity risks due to our reliance on internet technology and the number of our employees who are working remotely, which may create additional opportunities for cybercriminals to exploit vulnerabilities. Furthermore, because the techniques used to obtain unauthorized access to, or to sabotage, systems change frequently and often are not recognized until launched against a target, we may be unable to anticipate these techniques or implement adequate preventative measures. We may also experience security breaches that may remain undetected for an extended period. While we do not believe we have experienced any such system failure, accident or security breach to date, if such an event were to occur, it could result in a material disruption of our programs. For example, the loss of clinical trial data from completed or ongoing clinical trials for any of our product candidates could result in delays in our regulatory approval efforts, and the loss of research data could result in delays of our research and development efforts and it would be expensive to recover or reproduce the data. We have also outsourced elements of our information technology infrastructure, and as a result a number of third-party vendors may or could have access to our confidential information. If our third-party vendors fail to protect their information technology systems and our confidential and proprietary information, we may be vulnerable to disruptions in service and unauthorized access to our confidential or proprietary information and we could incur liability and reputational damage. To the extent that any disruption or security breach results in a loss of or damage to our data or applications, or inappropriate disclosure of confidential or proprietary information, we could incur liability and the further development of our product candidates could be delayed.

Risks associated with our international operations, including seeking and obtaining approval to commercialize our product candidates in foreign jurisdictions, could harm our business.

We engage extensively in international operations, which include seeking regulatory approval for certain of our product candidates in foreign jurisdictions. We expect that we are or will be subject to additional risks related to entering into these international business markets and relationships, including:

- different regulatory requirements for product and biologics approvals in foreign countries;
- differing U.S. and non-U.S. drug import and export rules;
- reduced protection for intellectual property rights in foreign countries;
- unexpected changes in tariffs, trade barriers and regulatory requirements;
- different reimbursement systems, and different competitive drugs and biologics;
- economic weakness, including inflation, or political instability in particular foreign economies and markets;
- compliance with tax, employment, immigration and labor laws for employees living or traveling abroad;
- foreign taxes, including withholding of payroll taxes;
- foreign currency fluctuations, which could result in increased operating expenses and reduced revenues, and other obligations incident to doing business in another country;
- workforce uncertainty in countries where labor unrest is more common than in the United States;
- production shortages resulting from any events affecting raw material supply or manufacturing capabilities abroad;
- potential liability resulting from development work conducted by distributors; and
- business interruptions resulting from geopolitical actions, including war and terrorism, or natural disasters.

We may engage in strategic transactions that could impact our liquidity, increase our expenses and present significant distractions to our management.

From time to time, we may pursue strategic transactions, such as acquisitions of companies, asset purchases, and in-licensing or out-licensing of drugs, product candidates or technologies. For example, in September 2012, we acquired Eclipse Therapeutics, Inc., a private biotechnology company. Additional potential transactions that we may consider include spin-offs, strategic partnerships, joint ventures, restructurings, divestitures, business combinations and investments. Any such transaction may require us to incur non-recurring or other charges, may increase our near- and long-term expenditures and may pose significant integration challenges or distract our senior management or disrupt our business, which could adversely affect our operations and financial results. For example, these transactions may entail numerous operational and financial risks, including:

- upfront, milestone and royalty payments, equity investments and financial support of new research and development candidates including increase of personnel, all of which may be substantial;
- exposure to unknown liabilities, including potential indemnification claims from a potential spin-off or out-license of certain of our intellectual property rights;
- disruption of our business and diversion of our management's time and attention in order to develop acquired drugs, product candidates or technologies;
- incurrence of substantial debt or dilutive issuances of equity securities to pay for acquisitions;
- higher-than-expected acquisition and integration costs;

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- lower-than-expected benefits from out-licensing or selling our technology, intellectual property or any of our subsidiaries;
- write-downs of assets or goodwill or impairment charges;
- difficulty and cost in combining or separating the operations and personnel of any acquired or sold businesses with our existing operations and personnel;
- impairment of relationships with key suppliers or customers of any acquired or sold businesses due to changes in our senior management and ownership; and
- inability to retain key employees of any acquired businesses.

Accordingly, although we cannot be certain that we will undertake or successfully complete any transactions of the nature described above, any transactions that we do complete may be subject to the foregoing or other risks, and could harm our business, financial condition, results of operations and prospects.

Clinical drug development involves a lengthy and expensive process with uncertain timelines and uncertain outcomes. If clinical trials are prolonged or delayed, we, or our collaborators, may be unable to commercialize our product candidates on a timely basis.

Clinical testing of product candidates is expensive and can take a substantial period of time to complete. Clinical trial outcomes are inherently uncertain, and failure can occur at any time during the clinical development process. Success in preclinical studies and early clinical trials does not ensure that later clinical trials will be successful. A number of companies in the biotechnology and pharmaceutical industries have suffered significant setbacks in clinical trials even after promising results in earlier preclinical studies or clinical trials. These setbacks have been caused by, among other things, preclinical findings made while clinical trials were underway and safety or efficacy observations made in clinical trials, including previously unreported adverse events. The results of preclinical studies and early clinical trials of our product candidates may not be predictive of the results of later-stage clinical trials. Product candidates in later stages of clinical trials may fail to show the desired safety and efficacy traits despite having progressed through preclinical and initial clinical trials. Notwithstanding any potential promising results in earlier studies, we cannot be certain that we will not face similar setbacks. Even if our clinical trials are completed, the results may not be sufficient to obtain regulatory approval for our product candidates.

Clinical trials can be halted or delayed for a variety of reasons, including those related to:

- side effects or adverse events in study participants presenting an unacceptable safety risk;
- inability to reach agreements with prospective third-party CROs and clinical trial sites, or the breach of such agreements;
- failure of third-party contractors, such as third-party CROs, or investigators to comply with regulatory requirements;
- delay or failure in obtaining the necessary approvals from regulators or IRBs or ethics committees in order to commence a clinical trial at a prospective trial site, or their suspension or termination of a clinical trial once commenced;
- a requirement to undertake and complete additional preclinical studies to generate data required to support the submission of an NDA or a Biologics License Application (“BLA”);
- difficulty in having patients complete a trial or return for post-treatment follow-up;
- clinical sites deviating from trial protocol or dropping out of a trial;
- problems with Active Pharmaceutical Ingredient (“API”) or drug product stability or shelf-life, storage and distribution;

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- adding new clinical trial sites;
- our inability to manufacture, or obtain from third parties, adequate supply of API or drug product to complete our preclinical studies and clinical trials;
- the impact of the COVID-19 pandemic on our current or future clinical trials, including any enrollment delays; and
- governmental or regulatory delays and changes in regulatory requirements, policy and guidelines.

We could also encounter delays if a clinical trial is suspended or terminated by us, by our collaborators, by the IRBs of the institutions in which such trial is being conducted, by any data safety monitoring board for such trial, or by the ethics committees, FDA or other regulatory authorities. Such authorities may impose a suspension or termination due to a number of factors, including: failure to conduct the clinical trial in accordance with regulatory requirements, such as the current GCPs, or our clinical protocols, inspection of the clinical trial operations or trial site by the FDA or other regulatory authorities resulting in the imposition of a clinical hold, product candidate manufacturing problems, unforeseen safety issues or adverse side effects, failure to demonstrate a benefit from using a drug, changes in governmental regulations or administrative actions or lack of adequate funding to continue the clinical trial. In addition, delays can occur due to safety concerns arising from trials or other clinical data regarding another company's product candidate in the same compound class as one of ours.

Moreover, clinical investigators for our clinical trials may serve as scientific advisors or consultants to us from time to time and receive compensation in connection with such services. Under certain circumstances, we may be required to report some of these relationships to the FDA or comparable foreign regulatory authorities. The FDA or comparable foreign regulatory authorities may conclude that a financial relationship between us and a principal investigator has created a conflict of interest or otherwise affected interpretation of the study. The FDA or comparable foreign regulatory authorities may therefore question the integrity of the data generated at the applicable clinical trial site and the utility of the clinical trial itself may be jeopardized. This could result in a delay in approval, or rejection, of our marketing applications by the FDA or comparable foreign regulatory authorities, as the case may be, and may ultimately lead to the denial of marketing approval of one or more of our product candidates.

If we or our collaborators experience delays in the completion of, or termination of, any clinical trial of one of our product candidates, the commercial prospects of the product candidate will be harmed, the patent protection period during which we may have the exclusive right to commercialize our drugs could be shortened and our or our collaborators' ability to commence sales and generate revenue from the drug will be delayed. In addition, any delays in completing our clinical trials will increase our costs and slow down our product candidate development and approval process. Any of these occurrences may harm our business, financial condition, results of operations and prospects significantly. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of regulatory approval of our product candidates.

Risks Related to Our Dependence on Third Parties

We depend on collaboration partners to develop and commercialize our collaboration product candidates, including Merck. If our collaboration partners fail to perform as expected, fail to advance our collaboration product candidates, are unable to obtain the required regulatory approvals for our collaboration product candidates, or if the arrangements are terminated, the potential for us to generate future revenue from such product candidates would be significantly reduced and our business would be significantly harmed.

We have entered into a research collaboration and license agreement (as amended, the "2014 Merck License Agreement") with Merck Sharp & Dohme Corp., a wholly owned subsidiary of Merck & Co., Inc., Kenilworth NJ, USA ("Merck") to develop compounds targeting cognitive dysfunction associated with Alzheimer's disease and

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other central nervous system conditions. Under the 2014 Merck License Agreement, Merck is responsible for using commercially reasonable efforts to develop, file for marketing authorization for and, following receipt thereof, to commercialize at least one product thereunder. We are dependent on Merck to provide us with any updates related to clinical trial results, serious adverse events and ongoing communications with the FDA related to these programs, which Merck may provide or withhold in its sole discretion, and as a result we may not be able to provide material updates on a timely basis or at all with respect to these programs. In addition to our existing commercial and academic collaborations, we may also enter into collaboration agreements with other parties in the future relating to our other experimental drug candidates. Ultimately, if such drug candidates are successfully advanced through clinical trials and receive regulatory approval from the FDA, EMA or similar regulatory authorities, such collaboration partners will be responsible for commercialization of these collaboration drugs. The potential for us to obtain future development milestone payments and, ultimately, generate revenue from royalties on sales of such collaboration drugs depends entirely on successful development, regulatory approval, marketing and commercialization by our collaboration partners.

If our collaboration partners do not perform in the manner we expect or fulfil their responsibilities in a timely manner, or at all, if our agreements with them terminate or if the quality or accuracy of the clinical data they obtain is compromised, the clinical development, regulatory approval and commercialization of our collaboration product candidates could be delayed or terminated and it could become necessary, to the extent we have contractual rights to do so, for us to assume the responsibility at our own expense for these activities. In that event, we would likely be required to limit the size and scope of efforts for the development and commercialization of the affected product candidates, to seek additional financing to fund further development, or to identify alternative strategic collaboration partners, and our potential to generate future revenue from royalties and milestone payments from such product candidates would be significantly reduced or delayed and our business would be harmed. Additionally, under our current or future collaborations, our collaboration partners may not be required to disclose information regarding the status of the program, which may limit our ability to provide updates on the status of the program or input on the direction of the program.

Our existing collaborations and any future collaboration arrangements that we may enter into with third parties may not be scientifically or commercially successful. In addition to the risks inherent in the development of a product candidate, factors that may affect the success of our collaborations include the following:

- our collaboration partners have the unilateral ability to choose not to develop a collaboration drug for one or more indications for which such drug has been or is currently being evaluated, and our collaboration partners may choose to pursue an indication that is not in our strategic best interest or to forego an indication that they believe does not provide significant market potential even if clinical data are supportive of further development for such indication;
- our collaboration partners may choose not to develop and commercialize our collaboration product candidates in certain relevant markets;
- our collaboration partners may take considerably more time advancing our product candidates through the clinical and regulatory process than we currently anticipate, which could materially delay the achievement of milestones and, consequently the receipt of milestone payments from our collaboration partners;
- our collaboration partners may not inform us regarding the progress of compounds, including but not limited to whether a decision is made to advance certain compounds;
- our collaboration partners have substantial discretion under their respective agreements regarding how they structure their efforts and allocate resources to fulfil their obligations to diligently develop, manufacture, obtain regulatory approval for and commercialize our collaboration drugs;
- our collaboration partners control all aspects of commercialization efforts under their respective collaboration and license agreements and may change the focus of their development and commercialization efforts or pursue higher-priority programs and, accordingly, reduce the efforts and resources allocated to their collaborations with us;

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- our collaboration partners may not pursue all indications eligible for milestones;
- our collaboration partners are solely responsible for obtaining and maintaining all regulatory approvals and may fail to develop a commercially viable formulation or manufacturing process for our product candidates, and may fail to manufacture or supply sufficient drug product for commercial use, if approved, which could result in lost revenue;
- our collaboration partners may not comply with all applicable regulatory requirements or may fail to report safety data in accordance with all applicable regulatory requirements;
- if any of our agreements with our collaboration partners terminate, we will no longer have any rights to receive potential revenue under such agreement, in which case we would need to identify alternative means to continue the development, manufacture and commercialization of the affected product candidates, alone or with others;
- our collaboration may have to license other patents to enable marketing of compound, and our royalties may be reduced;
- our collaboration partners have the discretion to sublicense their rights with respect to our collaboration technology in connection with collaboration product candidates to one or more third parties without our consent;
- our collaboration partners may be pursuing alternative technologies or developing alternative drugs, either on their own or in collaboration with others, that may be competitive with drugs on which they are collaborating with us or which could affect our collaboration partners' commitment to the collaboration; and
- if our collaboration partners receive approval for any of the collaboration product candidates, reductions in marketing or sales efforts or a discontinuation of marketing or sales of our product candidates by our collaboration partners would reduce any milestones and royalties we could be entitled to receive.

In addition, the 2014 Merck License Agreement (see “Business—Research Collaboration and License Agreement with Merck”) and our other collaboration agreements provide Merck and our collaboration partners with rights to terminate such agreements and licenses under various conditions (including with respect to the 2014 Merck License Agreement, at Merck’s convenience), which if exercised would adversely affect our drug development efforts, make it difficult for us to attract new partners and adversely affect our reputation in the business and financial communities.

The timing and amount of any milestone and royalty payments we may receive under our agreements with our collaboration partners will depend on, among other things, the efforts, allocation of resources, and successful development and commercialization of our product candidates by our collaboration partners. Any payments we may receive in connection with certain milestones or royalties under the 2014 Merck License Agreement may differ materially from those described in this prospectus, and there can be no assurance that we will receive any such payments at all. We cannot be certain that any of the development and regulatory milestones will be achieved or that we will receive any future milestone payments under these agreements. In addition, in certain circumstances we may believe that we have achieved a particular milestone and the applicable collaboration partner may disagree with our belief. In that case, receipt of that milestone payment may be delayed or may never be received, which may require us to adjust our operating plans.

We may explore future collaborations with third parties for the development and commercialization of our current product candidates that are not partnered. If we are unable to form such collaborations or they are not successful, we may not be able to complete the development of these product candidates.

We may seek to advance the development and commercialization of our unpartnered product candidates through collaboration with third parties, including our early-stage CNS assets and oncology product candidates.

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If any such collaborations are established in the future, we may have limited control over the amount and timing of resources that our collaborators dedicate to the development of these product candidates. This is also likely to be true in any future collaborations with third parties once any of our product candidates are commercialized. Our ability to generate revenue from these arrangements will depend on our collaborators' abilities to successfully perform the functions assigned to them in these arrangements.

We face a number of challenges in seeking future collaborations. Collaborations are complex and any potential discussions may not result in a definitive agreement for many reasons. For example, whether we reach a definitive agreement for a collaboration will depend, among other things, upon our assessment of the collaborator's resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator's evaluation of a number of factors, such as the design or results of our clinical trials, the potential market for our product candidates, the costs and complexities of manufacturing and delivering our product candidates to patients, the potential of competing drugs or product candidates, the existence of uncertainty with respect to ownership or the coverage of our intellectual property and industry and market conditions generally. If we determine that additional collaborations for any product candidate are necessary and are unable to enter into such collaborations on acceptable terms, we might elect to delay or scale back the development or commercialization of our product candidates in order to preserve our financial resources or to allow us adequate time to develop the required resources and systems and expertise ourselves.

Collaboration agreements may not lead to development or commercialization of product candidates in the most efficient manner, or at all. In addition, there have been a significant number of recent business combinations among large biopharmaceutical companies that have resulted in a reduced number of potential future collaborators. If a future collaborator of ours were to be involved in a business combination, the continued pursuit and emphasis on our drug development or commercialization program could be delayed, diminished or terminated.

We have a memorandum of understanding with EmpathBio to evaluate a combination of EMP-01, an MDMA derivative as an adjunct to behavioral therapy, and BNC210 for the treatment of PTSD which could be impacted by the risks associated with the development of psychedelic scheduled drugs.

In the United States, MDMA is listed by the U.S. Drug Enforcement Administration ("DEA") as a Schedule I substance under the Controlled Substance Act ("CSA"). The DEA regulates chemical compounds as Schedule I, II, III, IV or V substances. Schedule I substances by definition have a high potential for abuse, have no currently accepted medical use in the United States, lack accepted safety for use under medical supervision, and may not be prescribed, marketed or sold in the United States. Pharmaceutical products approved for use in the United States may be listed as Schedule II, III, IV or V, with Schedule II substances considered to present the highest potential for abuse or dependence and Schedule V substances the lowest relative risk of abuse among such substances. Schedule I and II substances are subject to the strictest controls under the CSA, including manufacturing and procurement quotas, security requirements and criteria for importation. In addition, dispensing of Schedule II substances is further restricted. For example, they may not be refilled without a new prescription and may have a black box warning. Most, if not all, state laws in the United States classify MDMA as Schedule I controlled substance. For any product containing MDMA to be available for commercial marketing in the United States, MDMA must be rescheduled, or the product itself must be scheduled, by the DEA to Schedule II, III, IV or V. Commercial marketing in the United States will also require scheduling-related legislative or administrative action, which can further delay the path to market. Any clinical development of EMP-01 or the use of BNC210 in combination with EMP-01 will require FDA approval, and MDMA's controlled substance status may negatively impact the FDA's decision regarding whether to approve the clinical development.

Scheduling determinations by the DEA are dependent on FDA approval of a substance or a specific formulation of a substance. Therefore, while MDMA is a Schedule I controlled substances, products approved by the FDA for medical use in the United States that contain MDMA should be placed in Schedules II-V, since

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approval by the FDA satisfies the “accepted medical use” requirement. If EMP-01 receives FDA approval, we anticipate that the DEA will make a scheduling determination and place it in a schedule other than Schedule I in order for it to be prescribed to patients in the United States. This scheduling determination will be dependent on FDA approval and the FDA’s recommendation as to the appropriate schedule. During the review process, and prior to approval, the FDA may determine that it requires additional data, either from non-clinical or clinical studies, including with respect to whether, or to what extent, the substance has abuse potential. This may delay the approval process and any potential rescheduling process. That delay would be dependent on the quantity of additional data required by the FDA. This scheduling determination will require the DEA to conduct notice and comment rule making including issuing an interim final rule. Such action will be subject to public comment and requests for hearing which could affect the scheduling of these substances. There can be no assurance that the DEA will make a favorable scheduling decision. Even assuming categorization as a Schedule II or lower controlled substance (i.e., Schedule III, IV or V), at the federal level, such substances would also require scheduling determinations under state laws and regulations. Any failure by the DEA to make a favorable scheduling decision with respect to EMP-01 would delay clinical trials and potentially prevent the commercialization of any combination of BNC210 with EMP-01.

Individual U.S. states have also established controlled substance laws and regulations. Though state-controlled substances laws often mirror federal law, because the states are separate jurisdictions, they may separately schedule product candidates. While some states automatically schedule a drug based on federal action, other states schedule drugs through rule making or a legislative action. State scheduling may delay or prevent commercial sale of EMP-01 in certain states even if it obtains federal regulatory approval, which would in turn prevent the commercialization of any combination of BNC210 with EMP-01 in those states.

Combination-use products, including a potential combination of EMP-01 and BNC210, may present safety or supply issues that could delay or prevent development and approval of our product candidates.

We are exploring BNC210 in combination with EMP-01, and could potentially explore other combination therapies with future product candidates. We will not be able to market and sell BNC210 or any product candidate we develop in combination with any unapproved therapies that do not ultimately obtain marketing approval. There are risks similar to the ones described for our products currently in development and clinical trials that result from the fact that such therapies are unapproved, such as the potential for serious adverse effects, delay in their clinical trials and lack of FDA approval.

Furthermore, we cannot be certain that we will be able to obtain a steady supply of such therapies for use in developing combinations with our product candidates on commercially reasonable terms or at all. Any failure to obtain such therapies for use in clinical development, and the expense of purchasing therapies in the market, may delay our development timelines, increase our costs and jeopardize our ability to develop our product candidates as commercially viable therapies.

Even if any product candidate we develop were to receive marketing approval or be commercialized for use in combination with other existing therapies, we would continue to be subject to the risk that the FDA or similar regulatory authorities outside of the United States could revoke approval of the therapy used in combination with our product candidate, or that safety, efficacy, manufacturing or supply issues could arise with these existing therapies. Similarly, if the therapies we use in combination with our product candidates are replaced as the standard of care for the indications we choose for any of our product candidates, the FDA or similar regulatory authorities outside of the United States may require us to conduct additional clinical trials. The occurrence of any of these risks could result in our own products, if approved, being removed from the market or being less successful commercially.

If the FDA or similar regulatory authorities outside of the United States do not approve these other drugs or withdraw their approval, or if safety, efficacy, manufacturing, or supply issues arise with the drugs we choose to evaluate in combination with BNC210 or any product candidate we develop, we may be unable to obtain approval of, or market BNC210 or any product candidate we develop.

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We currently rely extensively, and expect to continue to rely, on third parties to conduct and support our preclinical studies and clinical trials. If these third parties do not properly and successfully carry out their contractual duties, comply with regulatory requirements or meet expected deadlines, we may not be able to obtain marketing authorizations for or commercialize our current and potential future product candidates and our business could be substantially harmed.

We utilize and depend upon independent investigators and collaborators, such as medical institutions, CROs, CMOs and strategic partners to help conduct our preclinical studies and clinical trials. We rely extensively, and expect to continue to rely, on medical institutions, clinical investigators, contract laboratories, and other third parties, including collaboration partners, to conduct or otherwise support preclinical studies and clinical trials for our current and future product candidates. We continue to rely heavily on these parties for execution of preclinical studies and clinical trials for our product candidates and control only certain aspects of their activities. Nevertheless, we are responsible for ensuring that each of our preclinical studies and clinical trials is conducted in accordance with the applicable protocol, legal and regulatory requirements and scientific standards, and our reliance on CROs will not relieve us of our regulatory responsibilities.

We and any third parties that we contract with are required to comply with regulations and requirements, including GCP requirements, which are regulations and guidelines enforced by the FDA and comparable foreign regulatory authorities for product candidates in clinical development, for conducting, monitoring, recording and reporting the results of clinical trials to ensure that the data and results are scientifically credible and accurate, and that the trial patients are adequately informed of the potential risks of participating in clinical trials and their rights are protected. These regulations are enforced by the FDA, the Competent Authorities of the Member States of the European Economic Area (“EEA”) and comparable foreign regulatory authorities for any drugs in clinical development. Regulatory authorities enforce these GCP requirements through periodic inspections of clinical trial sponsors, principal investigators and trial sites. If we or the third parties we contract with fail to comply with applicable GCP requirements, the clinical data generated in our clinical trials may be deemed unreliable and the FDA or comparable foreign regulatory authorities may require us to perform additional clinical trials before approving our marketing applications. We cannot assure you that, upon inspection, the FDA will determine that any of our current or future clinical trials will comply with GCP requirements. In addition, our clinical trials must be conducted with current or future product candidates produced under cGMP regulations and will require a large number of study subjects. Our failure or the failure of third parties that we may contract with to comply with these regulations or to recruit a sufficient number of subjects may require us to repeat some aspects of a specific, or an entire, clinical trial, which would delay the marketing approval process and could also subject us to enforcement action. We also are required to register certain ongoing clinical trials and provide certain information, including information relating to the trial’s protocol, on a government-sponsored database, such as ClinicalTrials.gov, within specific timeframes. Failure to do so can result in fines, adverse publicity and civil and criminal sanctions.

Although we have and will continue to design the preclinical studies and clinical trials for our current or future product candidates, or be involved in the design when other parties sponsor the studies or trials, we anticipate that third parties will conduct all of our preclinical studies and clinical trials. As a result, many important aspects of our preclinical and clinical development, including their conduct, timing and response to the ongoing COVID-19 pandemic, are and will be outside of our direct control. Our reliance on third parties to conduct future clinical trials also results in less direct control over the management of data developed through clinical trials than would be the case if we were relying entirely upon our own staff, and we cannot control whether or not they will devote sufficient time and resources to our product candidates. These third parties may also have relationships with other commercial entities, including our competitors, for whom they may also be conducting clinical trials or other product development activities, which could affect their performance on our behalf. Communicating with outside parties can also be challenging, potentially leading to mistakes as well as difficulties in coordinating activities. Outside parties may:

- have staffing difficulties;
- fail to comply with contractual obligations;

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- experience regulatory compliance issues; and
- form relationships with other entities, some of which may be our competitors.

These factors may materially adversely affect the willingness or ability of third parties to conduct our clinical trials and may subject us to unexpected cost increases that are beyond our control. If our CROs do not perform clinical trials in a satisfactory manner, breach their obligations to us or fail to comply with regulatory requirements, the development, marketing approval and commercialization of our current or future product candidates may be delayed, we may not be able to obtain marketing approval and commercialize our current or future product candidates, or our development programs may be materially and irreversibly harmed. If we are unable to rely on clinical data collected by our CROs, we could be required to repeat, extend the duration of, or increase the size of any clinical trials we conduct and this could significantly delay commercialization and require significantly greater expenditures.

If any of our relationships with these third-party CROs terminate, we may not be able to enter into arrangements with alternative CROs on commercially reasonable terms, or at all. If our CROs do not successfully carry out their contractual duties or obligations or meet expected deadlines, if they need to be replaced or if the quality or accuracy of the clinical data they obtain are compromised due to the failure to adhere to our clinical protocols, regulatory requirements or for other reasons, any clinical trials such CROs are associated with may be extended, delayed or terminated, and we may not be able to obtain marketing approval for or successfully commercialize our current or future product candidates. As a result, we believe that our financial results and the commercial prospects for our current or future product candidates in the subject indication would be harmed, our costs could increase and our ability to generate revenue could be delayed.

The third parties upon whom we rely for the supply drug product and starting materials used in our product candidates are limited in number, and the loss of any of these suppliers, or their noncompliance with regulatory requirements or our quality standards, could significantly harm our business.

The drug substance and drug product in our product candidates are supplied to us from a small number of suppliers, and in some cases sole source suppliers. Our ability to successfully develop our current or future product candidates, and to ultimately supply our commercial drugs in quantities sufficient to meet the market demand, depends in part on our ability to obtain the drug product and drug substance for these drugs in accordance with regulatory requirements and in sufficient quantities for commercialization and clinical testing.

The facilities used by our contract manufacturers to manufacture our product candidates will be subject to inspections that will be conducted after we submit any marketing application to the FDA or other comparable foreign regulatory authorities. We may not control the manufacturing process of, and may be completely dependent on, our contract manufacturing partners for compliance with cGMP requirements and any other regulatory requirements of the FDA or other regulatory authorities for the manufacture of our product candidates. Beyond periodic audits, we have no control over the ability of our contract manufacturers to maintain adequate quality control, quality assurance and qualified personnel. If the FDA or a comparable foreign regulatory authority does not approve our marketing applications identifying these facilities for the manufacture of our product candidates or if it withdraws any approval in the future, we may need to find alternative manufacturing facilities, which would require that we incur significant additional costs and materially adversely affect our ability to develop, obtain regulatory approval for or market our product candidates, if approved. Similarly, if any third-party manufacturers on which we will rely fail to manufacture quantities of our product candidates at quality levels necessary to meet regulatory requirements and at a scale sufficient to meet anticipated demand at a cost that allows us to achieve profitability, our business, financial condition and prospects could be materially and adversely affected.

Further, we do not currently have arrangements in place for a redundant or second-source supply of all drug product or drug substance in the event any of our current suppliers of such drug product and drug substance cease their operations for any reason. Any delays in the delivery of our drug substance, drug product or starting materials could have an adverse effect and potentially harm our business.

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For all of our current or future product candidates, we intend to identify and qualify additional manufacturers to provide drug product and drug substance prior to submission of an NDA to the FDA and/or an MAA to the EMA. We are not certain, however, that our single-source and dual source suppliers will be able to meet our demand for their products, either because of the nature of our agreements with those suppliers, our limited experience with those suppliers or our relative importance as a customer to those suppliers. It may be difficult for us to assess their ability to timely meet our demand in the future based on past performance. While our suppliers have generally met our demand for their products on a timely basis in the past, they may subordinate our needs in the future to their other customers.

Establishing additional or replacement suppliers for the drug product and drug substance used in our current or future product candidates, if required, may not be accomplished quickly. In some cases, the technical skills required to manufacture our products or product candidates may be unique or proprietary to the original supplier and we may have difficulty, or there may be contractual restrictions prohibiting us from, transferring such skills to a back-up or alternate supplier, or we may be unable to transfer such skills at all. If we are able to find a replacement supplier, such replacement supplier would need to be qualified and may require additional regulatory approval, which could result in further delay. In addition, changes in manufacturers often involve changes in manufacturing procedures and processes, which could require that we conduct bridging studies between our prior clinical supply used in our clinical trials and that of any new manufacturer. We may be unsuccessful in demonstrating the comparability of clinical supplies which could require the conduct of additional clinical trials.

While we seek to maintain adequate inventory of the drug product and drug substance used in our current or future product candidates, any interruption or delay in the supply of components or materials, or our inability to obtain drug product and drug substance from alternate sources at acceptable prices in a timely manner, could impede, delay, limit or prevent our development efforts, which could harm our business, results of operations, financial condition and prospects.

We rely and will continue to rely on outsourcing arrangements for many of our activities, including clinical development and supply of BNC210.

We have only seven full-time employees and three full-time consultants and, as a result, we rely on outsourcing arrangements for a significant portion of our activities, including clinical research, data collection and analysis and manufacturing. We may have limited control over these third parties and we cannot guarantee that they will perform their obligations in an effective and timely manner.

The manufacture of pharmaceutical products requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls. We do not own or operate manufacturing facilities for the production of any component of BNC210, nor do we have plans to develop our own manufacturing operations in the foreseeable future. We currently depend on third-party contract manufacturers for all of our required raw materials, drug substance and drug product for our clinical trials and to fill, label, package, store and distribute our investigational drug product. Although potential alternative suppliers and manufacturers for some components have been identified, we have not qualified these vendors to date. If we were required to change vendors, it could result in a failure to meet regulatory requirements or projected timelines and necessary quality standards for successful manufacturing of the various required lots of material for our development and commercialization efforts.

We do not have any current contractual relationships for the manufacture of commercial supplies of BNC210. If BNC210 is approved for sale by any regulatory agency, we intend to enter into agreements with third-party contract manufacturers for commercial production. The number of third-party manufacturers with the expertise, required regulatory approvals and facilities to manufacture bulk drug substance on a commercial scale is limited.

In addition, our reliance on third party CROs and CMOs entails further risks, including:

- non-compliance by third parties with regulatory and quality control standards;
- breach by third parties of our agreements with them;
- termination or non-renewal of an agreement with third parties; and
- sanctions imposed by regulatory authorities if compounds supplied or manufactured by a third party supplier or manufacturer fail to comply with applicable regulatory standards.

Our success is dependent on our executive management team's ability to successfully pursue business development, strategic partnerships and investment opportunities as our company matures. We may also form or seek strategic alliances or acquisitions or enter into additional collaboration and licensing arrangements in the future, and we may not realize the benefits of such collaborations, alliances, acquisitions or licensing arrangements.

We may in the future form or seek strategic alliances or acquisitions, create joint ventures, or enter into additional collaboration and licensing arrangements with third parties that we believe will complement or augment our development and commercialization efforts with respect to our current product candidates and any future product candidates that we may develop. Any of these relationships may require us to incur non-recurring and other charges, increase our near and long-term expenditures, issue securities that dilute our existing shareholders or disrupt our management and business.

In addition, we face significant competition in seeking appropriate strategic partners and the negotiation process is time-consuming and complex. Moreover, we may not be successful in our efforts to establish a strategic partnership or acquisition or other alternative arrangements for our current or future product candidates because they may be deemed to be at too early of a stage of development for collaborative effort and third parties may not view our current or future product candidates as having the requisite potential to demonstrate safety, potency, purity and efficacy and obtain marketing approval.

Further, collaborations involving our technologies or current or future product candidates are subject to numerous risks, which may include the following:

- collaborators have significant discretion in determining the efforts and resources that they will apply to a collaboration;
- collaborators may not pursue development and commercialization of our current or future product candidates or may elect not to continue or renew development or commercialization of our current or future product candidates based on clinical trial results, changes in their strategic focus due to the acquisition of competitive products, availability of funding or other external factors, such as a business combination that diverts resources or creates competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial, stop a clinical trial, abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing;
- collaborators could independently develop, or develop with third parties, products that compete directly or indirectly with our current or future product candidates;
- a collaborator with marketing and distribution rights to one or more products may not commit sufficient resources to their marketing and distribution;
- collaborators may not properly maintain or defend our intellectual property rights or may use our intellectual property or proprietary information in a way that gives rise to actual or threatened litigation that could jeopardize or invalidate our intellectual property or proprietary information or expose us to potential liability;

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- disputes may arise between us and a collaborator that cause the delay or termination of the research, development or commercialization of our current or future product candidates, or that result in costly litigation or arbitration that diverts management attention and resources;
- collaborations may be terminated and, if terminated, may result in a need for additional capital to pursue further development or commercialization of the applicable current or future product candidates;
- collaborators may own or co-own intellectual property covering our products that results from our collaborating with them, and in such cases, we would not have the exclusive right to commercialize such intellectual property; and
- collaborators may not pay milestones and royalties due to the company in a timely manner.

As a result, we may not be able to realize the benefit of our existing collaboration and licensing arrangements or any future strategic partnerships or acquisitions, collaborations or license arrangements we may enter into if we are unable to successfully integrate them with our existing operations and company culture, which could delay our timelines or otherwise adversely affect our business. We also cannot be certain that, following a strategic transaction, license, collaboration or other business development partnership, we will achieve the revenue or specific net income that justifies such transaction. Any delays in entering into new collaborations or strategic partnership agreements related to our current or future product candidates could delay the development and commercialization of our current or future product candidates in certain geographies or for certain indications, which would harm our business prospects, financial condition and results of operations.

Manufacturing our product candidates is complex and we may encounter difficulties in production. If we encounter such difficulties, our ability to provide supply of our current or future product candidates for preclinical studies and future clinical trials or for commercial purposes could be delayed or stopped.

We do not have our own manufacturing facilities or personnel and currently rely, and expect to continue to rely, on third parties for the manufacture of our current or future product candidates. These third-party manufacturing providers may not be able to provide adequate resources or capacity to meet our needs and may incorporate their own proprietary processes into our product candidate manufacturing processes. We have limited control and oversight of a third party's proprietary process, and a third party may elect to modify its process without our consent or knowledge. These modifications could negatively impact our manufacturing, including product loss or failure that requires additional manufacturing runs or a change in manufacturer, either of which could significantly increase the cost of and significantly delay the manufacture of our current or future product candidates.

Manufacturing of drug products is complex and requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls. Manufacturers of drug products often encounter difficulties in production, particularly in scaling up, validating the production process and assuring high reliability of the manufacturing process, including the absence of contamination. These problems include logistics and shipping, difficulties with production costs and yields, quality control, including lot consistency, stability of the product, product testing, operator error and availability of qualified personnel, as well as compliance with strictly enforced federal, state and foreign regulations. Furthermore, if contaminants are discovered in our supply of our product candidates or in the manufacturing facilities, such manufacturing facilities may need to be closed for an extended period of time to investigate and remedy the contamination. We cannot assure you that any stability failures or other issues relating to the manufacture of our product candidates will not occur in the future.

As our current or future product candidates progress through preclinical studies and clinical trials towards potential approval and commercialization, it is expected that various aspects of the manufacturing process will be altered in an effort to optimize processes and results. Such changes may require amendments to be made to

regulatory applications which may further delay the timeframes under which modified manufacturing processes can be used for any of our current or future product candidates and additional bridging studies or trials may be required and may not be successful. We may be unsuccessful in demonstrating the comparability of clinical supplies which could require the conduct of additional clinical trials. Any such delay could have a material adverse impact on our business, results of operations and prospects.

The COVID-19 pandemic has and could continue to materially and adversely impact our business, including our clinical trials, supply chain and business development activities.

In December 2019, a novel strain of coronavirus, SARS-CoV-2 which causes the disease COVID-19, was first reported in Wuhan, China and has since become a global pandemic. In an effort to contain the spread of COVID-19, many countries, including China, the United States and most other jurisdictions around the world, have imposed unprecedented restrictions on travel, business closures, quarantines and lock-downs, resulting in a substantial reduction in economic activity. On January 30, 2020, the World Health Organization (“WHO”), declared this COVID-19 outbreak a Public Health Emergency of International Concern. On February 28, 2020, the WHO increased the assessment of the risk of spread and the risk of impact of COVID-19 to “very high” at a global level. On March 11, 2020, the WHO declared the COVID-19 outbreak a pandemic.

As COVID-19 has evolved into a worldwide pandemic, it has resulted in adverse effects in the global economy and financial markets, such as significant declines in the global stock markets. We may experience limitations on employee resources in the future, including because of sickness of employees or their families. The effects of government actions and our own policies and those of third parties to reduce the spread of COVID-19 have and may continue to negatively impact productivity and slow down or delay our ongoing and future clinical trials, preclinical studies and research and development activities, and have caused, and may further cause, disruptions to our supply chain and may impair our ability to execute our business development strategy. For example, we may in the future experience enrollment delays in our clinical trials as a result of the impact of COVID-19. In the event that government authorities were to enhance current restrictions, our employees and those of our third party contractors who currently are not telecommuting may no longer be able to access our or their facilities, as applicable, and our operations may be limited or curtailed.

The COVID-19 pandemic is ongoing, in large part due to the prevalence of new variants of the SARS-CoV-2 virus, and, accordingly, we may continue to experience ongoing disruptions that could severely impact our business, preclinical studies and clinical trials, including:

- difficulties in enrolling and retaining patients in our Phase 2b ATTUNE clinical trial of BNC210 or our other planned clinical trials;
- delays in receiving authorizations from local regulatory authorities to initiate our planned clinical trials;
- risk that patients may withdraw from our clinical trials following enrollment as a result of contracting COVID-19 or other health conditions or being forced to quarantine, which could adversely influence the results of a clinical trial by increasing the number of adverse events or patients lost to follow-up;
- delays or difficulties in clinical site initiation or expansion, including difficulties in recruiting clinical site investigators and clinical site staff;
- delays in clinical sites receiving the supplies and materials needed to conduct our clinical trials, including interruptions in global shipping that may affect the transport of clinical trial materials;
- changes in regulations as part of a response to the COVID-19 outbreak which may require us to change the ways in which our clinical trials are conducted, which may result in unexpected costs, or to discontinue such clinical trials altogether;
- 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;

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- interruption of key clinical trial activities, such as clinical trial site monitoring, due to limitations on travel imposed or recommended by federal or state governments, employers and others, or interruption of clinical trial subject visits and study procedures, the occurrence of which could affect the integrity of clinical trial data;
- delays in necessary interactions with regulators, ethics committees and other agencies and contractors due to limitations in employee resources or forced furloughs of government or contractor personnel;
- interruption or delays in the operations of the FDA or other regulatory authorities, which may adversely affect review and approval timelines; and
- refusal of a regulatory authority to accept data from clinical trials in affected geographies outside its jurisdiction.

These and other disruptions in our operations and the global economy could negatively impact our business, operating results and financial condition.

Our clinical trials have been, and may in the future be, affected by the COVID-19 pandemic. For example, while it has not delayed our enrollment schedule, we have in the past experienced individual patients whose enrollment was delayed due to contracting COVID-19. We may in the future experience enrollment delays in our clinical trials as a result of the impact of COVID-19. Similarly, our ability to recruit and retain principal investigators and site staff who, as healthcare providers, may have heightened exposure to COVID-19, may be adversely impacted. We and our CROs have also made certain adjustments to the operation of our trials in an effort to ensure the monitoring and safety of patients and minimize risks to trial integrity during the pandemic in accordance with the guidance issued by the FDA on March 18, 2020 and most recently updated on January 27, 2021, and may need to make further adjustments in the future. Many of these adjustments are new and untested, may not be effective in mitigating risks, and may have unforeseen effects on the enrollment, progress and completion of these trials and the findings from these trials. These events could delay our clinical trials, increase the cost of completing our clinical trials and negatively impact the integrity, reliability or robustness of the data from our clinical trials.

In addition, quarantines, shelter-in-place and similar government orders related to COVID-19 or other infectious diseases, or the perception that such orders, shutdowns or other restrictions on the conduct of business operations could occur, could adversely affect personnel at third-party manufacturing facilities upon which we rely, or the availability or cost of materials, which could disrupt the supply chain for our product candidates. To the extent our suppliers and service providers are unable to comply with their obligations under our agreements with them or they are otherwise unable to deliver or are delayed in delivering goods and services to us due to the COVID-19 pandemic, our ability to continue meeting clinical supply demand for our product candidates or otherwise advancing development of our product candidates may become impaired.

The spread of COVID-19 and actions taken to reduce its spread may also materially affect us economically. While the potential economic impact brought by, and the duration of, the COVID-19 pandemic may be difficult to assess or predict, it has already caused, and could result in further, significant disruption of global financial markets, reducing our ability to access capital, which could in the future negatively affect our liquidity and financial position. In addition, the trading prices for other biopharmaceutical companies have been highly volatile as a result of the COVID-19 pandemic. As a result, we may face difficulties raising capital through sales of our ADSs or other securities and such sales may be on unfavorable terms.

COVID-19 and actions taken to reduce its spread continue to rapidly evolve. For example, one vaccine for COVID-19 was granted Emergency Use Authorization by the FDA in late 2020 and recently granted approval by the FDA and two others were granted Emergency Use Authorization by the FDA in late 2020 and early 2021, and more may be approved or authorized in the future. The resultant demand for vaccines and potential for manufacturing facilities and materials to be commandeered under the Defense Production Act of 1950, or

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equivalent foreign legislation, may make it more difficult to obtain materials or manufacturing slots for the products needed for our clinical trials, which could lead to delays in these trials. The extent to which COVID-19 may further impede the development of our product candidates, reduce the productivity of our employees, disrupt our supply chains, delay our clinical trials, reduce our access to capital or limit our business development activities, will depend on future developments, which are highly uncertain and cannot be predicted with confidence, such as the ultimate geographic spread of the disease, the duration of the outbreak, travel restrictions and social distancing in China, Australia, the United States and other countries, business closures or business disruptions and the effectiveness of actions taken in the United States and other countries to contain and treat the disease. To the extent the COVID-19 pandemic adversely affects our business and financial results, it may also have the effect of heightening many of the other risks described in this “Risk Factors” section, such as those relating to the timing and results of our clinical trials and our financing needs.

Business disruptions could seriously harm our future revenue and financial condition and increase our costs and expenses.

Our operations could be subject to earthquakes, power shortages, telecommunications failures, water shortages, floods, hurricanes, typhoons, fires, extreme weather conditions, medical epidemics and other natural or manmade disasters or business interruptions, for which we are predominantly self-insured. We rely on third-party manufacturers to produce our vaccine candidates. Our ability to obtain clinical supplies of our vaccine candidates could be disrupted if the operations of these suppliers were affected by a man-made or natural disaster or other business interruption. The occurrence of any of these business disruptions could seriously harm our operations and financial condition and increase our costs and expenses.

Risks Related to Commercialization

Even if we receive marketing approval for our current or future product candidates, our current or future product candidates may not achieve broad market acceptance, which would limit the revenue that we generate from their sales.

The commercial success of our current or future product candidates, if approved by the FDA or other applicable regulatory authorities, will depend upon the awareness and acceptance of our current or future product candidates among the medical community, including physicians, patients and healthcare payors. If our product candidates do not achieve an adequate level of acceptance, we may not generate significant revenue and we may not become profitable. Market acceptance of our current or future product candidates, if approved, will depend on a number of factors, including, among others:

- the efficacy of our current or future product candidates as demonstrated in clinical trials, and, if required by any applicable regulatory authority in connection with the approval for the applicable indications, to provide patients with incremental health benefits, as compared with other available medicines;
- the timing of market introduction of the product candidates and potential advantages to alternative treatments;
- limitations or warnings contained in the labeling approved for our current or future product candidates by the FDA or other applicable regulatory authorities;
- the clinical indications for which our current or future product candidates are approved;
- availability of alternative treatments already approved or expected to be commercially launched in the near future;
- the potential and perceived advantages of our current or future product candidates over current treatment options or alternative treatments, including future alternative treatments;
- the willingness of the target patient population to try new therapies or treatment methods and of physicians to prescribe these therapies or methods;

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- the need to dose such product candidates in combination with other therapeutic agents, and related costs;
- the strength of marketing and distribution support and timing of market introduction of competitive products;
- publicity concerning our products or competing products and treatments;
- pricing and cost effectiveness;
- the effectiveness of our sales and marketing strategies;
- our ability to increase awareness of our current or future product candidates;
- our ability to obtain sufficient third-party coverage or reimbursement; or
- the willingness of patients to pay out-of-pocket in the absence of third-party coverage.

If our current or future product candidates are approved but do not achieve an adequate level of acceptance by patients, physicians and payors, we may not generate sufficient revenue from our current or future product candidates to become or remain profitable. Before granting reimbursement approval, healthcare payors may require us to demonstrate that our current or future product candidates, in addition to treating these target indications, also provide incremental health benefits to patients. Our efforts to educate the medical community, patient organizations and third-party payors about the benefits of our current or future product candidates may require significant resources and may never be successful.

If we are unable to establish sales, marketing and distribution capabilities for any product candidate that may receive regulatory approval, we may not be successful in commercializing those product candidates if and when they are approved.

We do not have sales, marketing or distribution infrastructure. To achieve commercial success for any product candidate for which we may obtain marketing approval, we will need to establish a sales, marketing and distribution organization. In the future, we expect to build a focused sales and marketing infrastructure to market some of our product candidates in the United States, if and when they are approved. There are risks involved with establishing our own sales, marketing and distribution capabilities. For example, recruiting and training a sales force is expensive and time consuming and could delay any product launch. If the commercial launch of a product candidate for which we recruit a sales force and establish marketing capabilities is delayed or does not occur for any reason, we would have prematurely or unnecessarily incurred these commercialization expenses. This may be costly, and our investment would be lost if we cannot retain or reposition our sales and marketing personnel.

Factors that may inhibit our efforts to market our products on our own include:

- our inability to recruit, train and retain adequate numbers of effective sales and marketing personnel;
- the inability of sales personnel to obtain access to physicians in order to educate physicians about our product candidates, once approved;
- the lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive product lines; and
- unforeseen costs and expenses associated with creating an independent sales and marketing organization.

If we are unable to establish our own sales, marketing and distribution capabilities and are forced to enter into arrangements with, and rely on, third parties to perform these services, our revenue and our profitability, if any, are likely to be lower than if we had developed such capabilities ourselves. In addition, we may not be

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successful in entering into arrangements with third parties to sell, market and distribute our product candidates or may be unable to do so on terms that are favorable to us. We likely will have little control over such third parties, and any of them may fail to devote the necessary resources and attention to sell and market our products effectively.

There can be no assurance that we will be able to develop in-house sales, marketing and distribution capabilities or establish or maintain relationships with third parties to commercialize any product in the United States or overseas. If we do not establish sales, marketing and distribution capabilities successfully, either on our own or in collaboration with third parties, we will not be successful in commercializing our product candidates.

We face substantial competition, which may result in others discovering, developing or commercializing drugs before or more successfully than we do.

The development and commercialization of new drugs is highly competitive. We face and will continue to face competition from third parties that use drug technologies similar to ours and from companies focused on more traditional therapeutic modalities. Potential competitors also include academic institutions, government agencies and other public and private research organizations that conduct research, seek patent protection and establish collaborative arrangements for research, development, manufacturing and commercialization of new drugs.

There are currently no FDA-approved drugs for the acute treatment of SAD. There are four FDA-approved generic antidepressants for treatment of SAD that include paroxetine (Paxil), previously marketed by GlaxoSmithKline, sertraline (Zoloft) and venlafaxine (Effexor), both previously marketed by Pfizer, and fluvoxamine (Luvox), marketed by Jazz Pharmaceuticals. Although not FDA-approved for the acute treatment of SAD, generic benzodiazepines and beta blockers are used off-label as well. Additionally, we are aware of several product candidates in clinical development that are being developed for the acute treatment of SAD, by VistaGen Therapeutics and Vanda Pharmaceuticals, among others.

There are two FDA-approved generic antidepressants indicated to treat PTSD, sertraline (Zoloft) and paroxetine (Paxil). In addition, the most recent and relevant PTSD treatment guidelines from the American Psychological Association and the U.S. Department of Veteran Affairs and Department of Defense published in 2017 also recommend fluoxetine (Prozac) or venlafaxine (Effexor). We are aware of several other companies seeking to find improved therapeutics for PTSD by exploring mechanisms of action different from the approved SSRIs, including Otsuka, Lundbeck, Aptinyx, Acadia, BioXcel, Praxis, MAPS, Bionorica, Jazz Pharmaceuticals, VistaGen, Nobilis, and Azevan Pharmaceuticals Inc., among others.

Many of our current or future competitors have significantly greater financial resources and expertise in research and development, manufacturing, preclinical testing, conducting clinical trials, obtaining regulatory approvals and reimbursement and marketing approved drugs than we do. Mergers and acquisitions in the pharmaceutical, biotechnology and diagnostic industries may result in even more resources being concentrated among a smaller number of our competitors. Smaller or early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. These competitors also compete with us in recruiting and retaining qualified scientific, sales, marketing and management personnel and establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs.

Our commercial opportunity could be reduced or eliminated if our competitors develop and commercialize drugs that are safer, more effective, have fewer or less severe side effects, are more convenient or are less expensive than any drugs that we or our collaborators may develop. Our competitors also may obtain FDA or other regulatory approval for their drugs more rapidly than we may obtain approval for ours, which could result in our competitors establishing a strong market position before we or our collaborators are able to enter the market. The key competitive factors affecting the success of all of our current or future product candidates, if

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approved, are likely to be their efficacy, safety, convenience, price, the level of generic competition and the availability of reimbursement from government and other third-party payors.

Third-party payor coverage and reimbursement status of newly-approved drugs is uncertain. Failure to obtain or maintain adequate coverage and reimbursement for our product candidates, if approved, could limit our ability to market those drugs and decrease our ability to generate revenue.

In the United States and markets in other countries, patients generally rely on third-party payors to reimburse all, or part of the costs associated with their treatment. Adequate coverage and reimbursement from governmental healthcare programs, such as Medicare and Medicaid, and commercial payors is critical to new product acceptance. The availability and adequacy of coverage and reimbursement by governmental healthcare programs such as Medicare and Medicaid, private health insurers and other third-party payors are essential for most patients to be able to afford drugs such as our product candidates, assuming approval. Our ability to achieve acceptable levels of coverage and reimbursement for drugs by governmental authorities, private health insurers and other organizations will have an effect on our ability to successfully commercialize, and attract additional collaboration partners to invest in the development of our product candidates. We cannot provide any assurance that coverage and reimbursement in the United States, the European Union or elsewhere will be available for any drug that we may develop, and any reimbursement that may become available may be decreased or eliminated in the future. Third-party payors increasingly are challenging prices charged for pharmaceutical products and services. If reimbursement is not available or is available only at limited levels, we may not be able to successfully commercialize our product candidates, and may not be able to obtain a satisfactory financial return on drugs that we may develop.

There is significant uncertainty related to the insurance coverage and reimbursement of newly approved drugs. In the United States, third-party payors, including private and governmental payors, such as the Medicare and Medicaid programs, play an important role in determining the extent to which new drugs and biologics will be covered. The Medicare and Medicaid programs increasingly are used as models for how private payors and other governmental payors develop their coverage and reimbursement policies for drugs and biologics. It is difficult to predict at this time what third-party payors will decide with respect to the coverage and reimbursement for our product candidates.

Factors payors consider in determining reimbursement are based on whether the product is:

- a covered benefit under its health plan;
- safe, effective and medically necessary;
- appropriate for the specific patient;
- cost-effective; and
- neither experimental nor investigational.

Net prices for drugs may be reduced by mandatory discounts or rebates required by government healthcare programs or private payors and by any future relaxation of laws that presently restrict imports of drugs from countries where they may be sold at lower prices than in the United States.

Increasingly, third-party payors are requiring that drug companies provide them with predetermined discounts from list prices and are challenging the prices charged for medical products. We cannot be sure that reimbursement will be available for any product candidate that we commercialize and, if reimbursement is available, the level of reimbursement. In addition, many pharmaceutical manufacturers must calculate and report certain price reporting metrics to the government, such as average sales price (“ASP”) and best price. Penalties may apply in some cases when such metrics are not submitted accurately and timely. Further, these prices for drugs may be reduced by mandatory discounts or rebates required by government healthcare programs.

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Outside the United States, international operations are generally subject to extensive governmental price controls and other market regulations, and we believe the increasing emphasis on cost-containment initiatives in Europe, Canada, and other countries has and will continue to put pressure on the pricing and usage of our product candidates. In many countries, the prices of medical drugs are subject to varying price control mechanisms as part of national health systems. Other countries allow companies to fix their own prices for medical drugs, but monitor and control company profits. Additional foreign price controls or other changes in pricing regulation could restrict the amount that we are able to charge for our product candidates. Accordingly, in markets outside the United States, the reimbursement for our drugs may be reduced compared with the United States and may be insufficient to generate commercially reasonable revenue and profits.

Moreover, increasing efforts by governmental and third-party payors in the United States and abroad to cap or reduce healthcare costs may cause such organizations to limit both coverage and the level of reimbursement for newly approved drugs and, as a result, they may not cover or provide adequate payment for our product candidates. We expect to experience pricing pressures in connection with the sale of any of our product candidates due to the trend toward managed healthcare, the increasing influence of health maintenance organizations, and additional legislative changes. The downward pressure on healthcare costs in general, particularly prescription drugs and surgical procedures and other treatments, has become very intense. As a result, increasingly high barriers are being erected to the entry of new drugs.

We are exposed to potential product liability or similar claims, and insurance against these claims may not be available to us at a reasonable rate in the future or at all.

Our business exposes us to potential liability risks that are inherent in the testing, manufacturing and marketing of human therapeutic drugs. Clinical trials involve the testing of product candidates on human subjects or volunteers under a research plan, and carry a risk of liability for personal injury or death to patients due to unforeseen adverse side effects, improper administration of the product candidate or other factors. Many of these patients are already seriously ill and are therefore particularly vulnerable to further illness or death.

We currently carry clinical trial liability insurance in the amount of A\$20.0 million in the aggregate, but there can be no assurance that we will be able to maintain such insurance or that the amount of such insurance will be adequate to cover claims. We could be materially and adversely affected if we were required to pay damages or incur defense costs in connection with a claim outside the scope of indemnity or insurance coverage, if the indemnity is not performed or enforced in accordance with its terms or if our liability exceeds the amount of applicable insurance. In addition, there can be no assurance that insurance will continue to be available on terms acceptable to us, if at all, or that if obtained, the insurance coverage will be sufficient to cover any potential claims or liabilities. Similar risks would exist upon the commercialization or marketing of any drugs by us or our collaborators.

Regardless of their merit or eventual outcome, product liability claims may result in:

- decreased demand for any of our future drugs;
- injury to our reputation and significant negative media attention;
- withdrawal of clinical trial participants;
- costs of litigation;
- distraction of management; and
- substantial monetary awards to plaintiffs.

Should any of these events occur, they could have a material adverse effect on our business, results of operations and financial condition that could adversely affect the trading price of our ADSs.

Risks Relating to Regulation of Our Industry

The regulatory approval processes of the FDA, EMA and comparable authorities are lengthy, time consuming, and inherently unpredictable. If we are ultimately unable to obtain regulatory approval for our product candidates, our business will be substantially harmed.

The research, testing, manufacturing, labeling, approval, selling, import, export, marketing and distribution of drug and biologic products are subject to extensive regulation by the FDA, EMA and comparable regulatory authorities in other jurisdictions, which regulations differ from country to country. Neither we nor any of our collaboration partners is permitted to market any drug or biologic products in the United States until we receive regulatory approval from the FDA. Equally, neither we nor any of our collaboration partners is permitted to market any drug or biologic in the EEA, until we receive a marketing authorization from the EMA or EEA Member State Competent Authorities. We have not submitted an application or obtained regulatory approval for any of our product candidates anywhere in the world. Obtaining regulatory approval of an NDA, BLA or marketing authorization, can be a lengthy, expensive and uncertain process. In addition, failure to comply with FDA and other applicable U.S., EEA and other comparable regulatory requirements may subject us to administrative or judicially imposed sanctions or other actions, including:

- untitled or warning letters;
- civil and criminal penalties;
- injunctions;
- withdrawal of regulatory approval of drugs;
- drug seizure or detention;
- drug recalls;
- total or partial suspension of production; and
- refusal to approve pending NDAs, BLAs, marketing authorization applications, or supplements to approved NDAs, BLAs or extensions or variations to marketing authorizations.

Prior to obtaining approval to commercialize a product candidate in the United States, the EEA, or elsewhere, we or our collaboration partners must demonstrate with substantial evidence from well-controlled clinical trials, and to the satisfaction of the FDA, EMA or other similar regulatory authorities, that such product candidates are safe and effective for their intended uses. The number of preclinical studies and clinical trials that will be required for approval by the FDA, EMA or other regulatory authorities varies depending on the product candidate, the disease or condition that the product candidate is designed to address, and the regulations applicable to any particular product candidate. Results from preclinical studies and clinical trials can be interpreted in different ways. Even if we believe the preclinical or clinical data for our product candidates are promising, such data may not be sufficient to support approval by the FDA, EMA and other regulatory authorities. Administering product candidates to humans may produce undesirable side effects, which could interrupt, delay or halt clinical trials and result in the FDA, EMA or other regulatory authorities denying approval of a product candidate for any or all targeted indications.

The time required to obtain approval by the FDA, EMA and comparable authorities is unpredictable, typically takes many years following the commencement of clinical trials, and depends upon numerous factors. The FDA, EMA and comparable authorities have substantial discretion in the approval process and we may encounter matters with the FDA, EMA or such comparable authorities that requires us to expend additional time and resources and delay or prevent the approval of our product candidates. For example, the FDA or EMA may require us to conduct additional studies or trials for product candidates either prior to or post-approval, such as additional drug-drug interaction studies or safety or efficacy studies or trials, or it may object to elements of our clinical development program such as the number of subjects in our current clinical trials from the United States. In addition, approval policies, regulations or the type and amount of clinical data necessary to gain approval may

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change during the course of a product candidate's clinical development and may vary among jurisdictions, which may cause delays in the approval or result in a decision not to approve an application for regulatory approval. Despite the time and expense exerted, failure can occur at any stage. Applications for our product candidates could fail to receive regulatory approval for many reasons, including but not limited to the following:

- the FDA, EMA or other comparable regulatory authorities may disagree with the design or implementation of our, or our collaboration partners', clinical trials;
- the population studied in the clinical program may not be sufficiently broad or representative to assure safety in the full population for which approval is sought;
- the FDA, EMA or comparable regulatory authorities may disagree with the interpretation of data from preclinical studies or clinical trials;
- the data collected from clinical trials of our product candidates may not be sufficient to support the submission of an NDA, a BLA, marketing authorization application, or other submission or to obtain regulatory approval in the United States, the EEA, Australia or elsewhere;
- we, or our collaboration partners, may be unable to demonstrate to the FDA, EMA or comparable regulatory authorities that a product candidate's risk-benefit ratio for its proposed indication is acceptable;
- the FDA, EMA or comparable regulatory authorities may fail to approve the manufacturing processes, test procedures and specifications, or facilities of third-party manufacturers responsible for clinical and commercial supplies; and
- the approval policies or regulations of the FDA, EMA or comparable regulatory authorities may significantly change in a manner rendering our clinical data insufficient for approval.

This lengthy approval process, as well as the unpredictability of the results of clinical trials, may result in our failure to obtain regulatory approval to market any of our product candidates, which would significantly harm our business, financial condition, results of operations and prospects. Additionally, if the FDA, EMA or other regulatory authority requires that we conduct additional clinical trials, places limitations on our label, delays approval to market our product candidates or limits the use of our drugs, our business and results of operations may be harmed.

In addition, even if we were to obtain approval, regulatory authorities may approve any of our product candidates for fewer or more limited indications than we request, may not approve the price we intend to charge for our drugs, may grant approval contingent on the performance of costly post-marketing clinical trials, or may approve a product candidate with a label that does not include the labeling claims necessary or desirable for the successful commercialization of any future drug. Any of the foregoing scenarios could harm the commercial prospects for our drugs.

Our clinical trials may fail to demonstrate adequately the safety and efficacy of our product candidates, which could prevent or delay regulatory approval and commercialization.

We have not completed all the clinical trials necessary to support an application with the FDA, EMA or other regulatory authority for approval to market any of our product candidates. Before obtaining regulatory approvals for the commercial sale of our drugs, we must demonstrate through lengthy, complex and expensive preclinical studies and clinical trials that the product candidate is both safe and effective for use in each target indication. Clinical trials often fail to demonstrate safety and efficacy of the product candidate studied for the target indication. Most product candidates that commence clinical trials are never approved as drugs. If our product candidates are not shown to be both safe and effective in clinical trials, we will not be able to obtain regulatory approval or commercialize these product candidates. In such case, we would need to develop other compounds and conducting associated preclinical studies and clinical trials, as well as the potential need for additional financing, would have a material adverse effect on our business, financial condition, results of operations and prospects.

The results of any Phase 3 or other pivotal clinical trial may not be adequate to support marketing approval. These clinical trials are lengthy and, with respect to non-orphan indications, usually involve many hundreds to thousands of patients. In addition, if the FDA, EMA or another applicable regulator disagrees with our or our collaborator's choice of the key testing criteria or primary endpoint, or the results for the primary endpoint are not robust or significant relative to the control group of patients not receiving the experimental therapy, such regulator may refuse to approve our product candidate in the region in which it has jurisdiction. The FDA, EMA or other applicable regulators also may require additional clinical trials as a condition for approving any of these product candidates.

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

As product candidates are developed through preclinical to late stage clinical trials towards approval and commercialization, it is common that various aspects of the development program, such as manufacturing methods and formulation, are altered along the way in an effort to optimize processes and results. Such changes carry the risk that they will not achieve these intended objectives. Any of these changes could cause our product candidates to perform differently and affect the results of planned clinical trials or other future clinical trials conducted with the altered materials. This could delay completion of clinical trials, require the conduct of bridging clinical trials or the repetition of one or more clinical trials, increase clinical trial costs, delay approval of our product candidates or jeopardize our or our collaborators' ability to commence drug sales and generate revenue. For example, following our Phase 2 RESTORE clinical trial in patients diagnosed with PTSD, which did not meet its primary endpoint, we reformulated BNC210 to be in tablet form to address limitations of the liquid suspension formulation used in the RESTORE trial, including overcoming the food effect (i.e. the requirement to be given with food), improving patient compliance and providing rapid absorption, dose linear pharmacokinetics and ability to reach blood exposure predicted from the pharmacometric analysis as necessary to give us the highest probability of success in a subsequent PTSD trial. This has resulted in additional costs and delays in our clinical program such as the need to conduct trials to demonstrate the clinical safety, pharmacokinetic activity and stability of the tablet formulation. There can be no assurance we will not have to alter manufacturing methods or formulations in the future which may result in additional costs or delays and materially adversely affect our business.

Even if we obtain and maintain approval for our product candidates from one jurisdiction, we may never obtain approval for our product candidates in other jurisdictions, which would limit our market opportunities and adversely affect our business.

Sales of our approved drugs will be subject to U.S. and non-U.S. regulatory requirements governing clinical trials and regulatory approval, and we plan to seek regulatory approval to commercialize our product candidates in the United States, the EEA, and other countries. Clinical trials conducted in one country may not be accepted by regulatory authorities in other countries and regulatory approval in one country does not ensure approval in any other country, while a failure or delay in obtaining regulatory approval in one country may have a negative effect on the regulatory approval process in others. For example, approval in the United States by the FDA does not ensure approval by the regulatory authorities in other countries or jurisdictions, and similarly approval by a non-U.S. regulatory authority, such as the EMA, does not ensure approval by regulatory authorities in other countries, including by the FDA. However, the failure to obtain approval in one jurisdiction may have a negative impact on our ability to obtain approval elsewhere. Approval processes and regulatory requirements vary among countries and can involve additional drug testing and validation and additional administrative review periods. Even if a drug is approved, the FDA or EMA, as the case may be, may limit the indications for which the drug may be marketed, require extensive warnings on the drug labeling or require expensive and time-consuming clinical trials or reporting as conditions of approval. In many countries outside the United States, a product candidate must be approved for reimbursement before it can be approved for sale in that country. In some cases, the price that we intend to charge for a drug is also subject to approval. Regulatory authorities in other countries also have their own requirements for approval of product candidates with which we must comply prior to

marketing in those countries. Obtaining non-U.S. regulatory approvals and compliance with such non-U.S. regulatory requirements could result in significant delays, difficulties and costs for us and could delay or prevent the introduction of our current and any future drugs, in certain countries. If we fail to comply with regulatory requirements in international markets or to obtain and maintain required approvals, or if regulatory approvals in international markets are delayed, our target market will be reduced and our ability to realize the full market potential of our product candidates will be unrealized.

We may be subject to healthcare laws, regulation and enforcement and our failure to comply with these laws could harm our results of operations and financial conditions.

Our business operations and current and future arrangements with investigators, healthcare professionals, consultants, third-party payors, patient organizations and customers, may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations. These laws may constrain the business or financial arrangements and relationships through which we conduct our operations, including how we research, market, sell and distribute our product candidates, if approved. Such laws include:

- the U.S. federal Anti-Kickback Statute, which prohibits, among other things, persons or entities from knowingly and willfully soliciting, offering, receiving or paying any remuneration (including any kickback, bribe or certain rebate), directly or indirectly, overtly or covertly, in cash or in kind, to induce or reward either the referral of an individual for, or the purchase, lease, order or recommendation of, any good, facility, item or service, for which payment may be made, in whole or in part, under U.S. federal and state healthcare programs such as Medicare and Medicaid. 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. The U.S. Department of Health and Human Services (“HHS”), Office of Inspector General (“OIG”), heavily scrutinizes relationships between pharmaceutical companies and persons in a position to generate referrals for or the purchase of their products, such as physicians, other healthcare providers, and pharmacy benefit managers, among others;
- the federal civil monetary penalty laws and civil and criminal false claims laws and, such as the federal False Claims Act, which imposes criminal and civil penalties, including through civil whistleblower or *qui tam* actions, against individuals or entities for knowingly presenting, or causing to be presented, to the U.S. Federal Government, claims for payment or approval that are false or fraudulent or from knowingly making a false statement to avoid, decrease or conceal an obligation to pay money to the U.S. Federal Government. In addition, the Government may assert that a claim including items and services resulting from a violation of the U.S. federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the False Claims Act. Manufacturers can be held liable under the False Claims Act, even when they do not submit claims directly to government payors, if they are deemed to have “caused” the submission of the claim. The False Claims Act allows private individuals acting as “whistleblowers” to bring actions on the U.S. Federal Government’s behalf and to share in any recovery;
- the U.S. federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), which imposes criminal and civil liability for knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program, or knowingly and willfully falsifying, concealing or covering up 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;
- the U.S. Physician Payments Sunshine Act and its implementing regulations, which requires certain manufacturers of drugs, devices, biologics and medical supplies that are reimbursable under Medicare, Medicaid, or the Children’s Health Insurance Program, with specific exceptions, to report annually to the Centers for Medicare & Medicaid Services information related to certain payments and other transfers of value to physicians (as defined by statute), as well as teaching hospitals. Manufacturers are

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also required to disclose ownership and investment interests held by physicians and their immediate family members. Beginning in 2022, applicable manufacturers also will be required to report payments and transfers of value provided during the previous year to certain other healthcare providers, including nurse practitioners, certified nurse anesthetists, physician assistants, clinical nurse specialists, anesthesiology assistants and certified nurse midwives;

- federal government price reporting laws, which require us to calculate and report complex pricing metrics in an accurate and timely manner to government programs; and
- federal consumer protection and unfair competition laws, which broadly regulate marketplace activities and activities that potentially harm customers.

We are also subject to state and foreign equivalents of each of the healthcare laws and regulations described above, among others, some of which may be broader in scope and may apply regardless of the payor. Many U.S. states have adopted laws similar to the federal Anti-Kickback Statute and False Claims Act, and may apply to our business practices, including, but not limited to, research, distribution, sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental payors, including private insurers. In addition, some states have passed laws that require pharmaceutical companies to comply with the April 2003 OIG Compliance Program Guidance for Pharmaceutical Manufacturers and/or the Pharmaceutical Research and Manufacturers of America's Code on Interactions with Healthcare Professionals. Several states also impose other marketing restrictions or require pharmaceutical companies to make marketing or price disclosures to the state and require the registration of pharmaceutical sales representatives. There are ambiguities as to what is required to comply with these state requirements and if we fail to comply with an applicable state law requirement we could be subject to penalties.

The scope and enforcement of these laws is uncertain and subject to rapid change in the current environment of healthcare reform, especially in light of the lack of applicable precedent and regulations.

Ensuring that our future business arrangements with third parties comply with applicable healthcare laws and regulations could involve substantial costs. It is possible that governmental authorities will conclude that our business practices do not comply with current or future statutes, regulations or case law involving applicable fraud and abuse or other healthcare laws and regulations. If our operations are found to be in violation of any of the laws described above or any other governmental laws and regulations that may apply to us, we may be subject to significant penalties, including civil, criminal and administrative penalties, damages, fines, disgorgement, the exclusion from participation in federal and state government funded healthcare programs, such as Medicare and Medicaid, reputational harm, and the curtailment or restructuring of our operations. It may also subject us to additional reporting obligations and oversight, if we become subject to a corporate integrity agreement, deferred prosecution agreement, or other agreement to resolve allegations of non-compliance with these laws. If any of the physicians or other providers or entities with whom we expect to do business is found to be not in compliance with applicable laws, they may be subject to similar criminal, civil or administrative sanctions, including exclusions from government funded healthcare programs and imprisonment. If any of the above occur, it could adversely affect our ability to operate our business and our results of operations.

Our employees, independent contractors, principal investigators, CROs, consultants, vendors and collaboration partners 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 that our employees, independent contractors, principal investigators, CROs, consultants, vendors and collaboration partners may engage in fraudulent conduct or other illegal activities. Misconduct by these parties could include intentional, reckless and/or negligent conduct or unauthorized activities that violate: (i) the regulations of the FDA, EMA and other regulatory authorities, including those laws that require the reporting of true, complete and accurate information to such authorities; (ii) manufacturing standards; (iii) federal and state data privacy, security, fraud and abuse and other healthcare laws and regulations

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in the United States and abroad; or (iv) laws that require the reporting of true, complete and accurate financial information and data. In particular, sales, marketing and business arrangements in the healthcare industry are subject to extensive laws and regulations intended to prevent fraud, misconduct, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements.

Activities subject to these laws could also involve the improper use of information obtained in the course of clinical trials or creating fraudulent data in our preclinical studies or clinical trials, which could result in regulatory sanctions and cause serious harm to our reputation. It is not always possible to identify and deter misconduct by employees and other third parties, and the precautions we take to detect and prevent misconduct 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 comply with such laws or regulations.

Additionally, we are subject to the risk that a person could allege such fraud or other misconduct, even if none occurred. 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 and results of operations, including the imposition of significant civil, criminal and administrative penalties, damages, monetary fines, possible exclusion from participation in Medicare, Medicaid and other U.S. federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, and curtailment of our operations, any of which could adversely affect our ability to operate our business and our results of operations.

Healthcare legislative reform measures may have a material adverse effect on our business and results of operations.

In the United States and some foreign jurisdictions, there have been a number of legislative and regulatory changes to the healthcare system that could affect our future results of operations. In particular, there have been and continue to be a number of federal and state initiatives in the United States that seek to reduce healthcare costs. For example, in 2010, the Affordable Care Act (“ACA”) was enacted, which substantially changed the way healthcare is financed by both governmental and private insurers. Among the provisions of the ACA, those of greatest importance to the biotechnology and pharmaceutical industries are the following:

- an annual, non-deductible fee payable by any entity that manufactures or imports certain branded prescription drugs and biologic agents (other than those designated as orphan drugs), which is apportioned among these entities according to their market share in certain government healthcare programs;
- a new Medicare Part D coverage gap discount program, in which manufacturers must agree to offer 50% (increased to 70% pursuant to the Bipartisan Budget Act of 2018, effective as of January 1, 2019) point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer’s outpatient drugs to be covered under Medicare Part D;
- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program to 23.1% and 13.0% of the average manufacturer price for branded and generic drugs, respectively;
- a new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for drugs that are inhaled, infused, instilled, implanted or injected;
- extension of a manufacturer’s Medicaid rebate liability to covered drugs dispensed to individuals who are enrolled in Medicaid managed care organizations;
- expansion of eligibility criteria for Medicaid programs by, among other things, allowing states to offer Medicaid coverage to certain individuals with income at or below 133% of the federal poverty level, thereby potentially increasing a manufacturer’s Medicaid rebate liability;

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- a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research; and
- establishment of the Center for Medicare and Medicaid Innovation at the Centers for Medicare & Medicaid Services (“CMS”) to test innovative payment and service delivery models to lower Medicare and Medicaid spending, potentially including prescription drug spending.

Since its enactment, there have been judicial, Congressional and executive challenges to certain aspects of the ACA. On June 17, 2021, the U.S. Supreme Court dismissed the most recent judicial challenge to the ACA brought by several states without specifically ruling on the constitutionality of the ACA. Prior to the Supreme Court’s decision, President Biden issued an executive order to initiate a special enrollment period from February 15, 2021 through August 15, 2021 for purposes of obtaining health insurance coverage through the ACA marketplace. The executive order also instructed certain governmental agencies to review and reconsider their existing policies and rules that limit access to healthcare, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA. It is unclear how other healthcare reform measures of the Biden administration or other efforts, if any, to challenge, repeal or replace the ACA will impact our business.

In addition, other legislative and regulatory changes have been proposed and adopted in the United States since the ACA was enacted.

- On August 2, 2011, the U.S. 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 December 31, 2021, unless additional Congressional action is taken.
- On January 2, 2013, the U.S. American Taxpayer Relief Act of 2012 was signed into law, which, among other things, further reduced Medicare payments to several types of providers.
- On April 13, 2017, CMS published a final rule that gives states greater flexibility in setting benchmarks for insurers in the individual and small group marketplaces, which may have the effect of relaxing the essential health benefits required under the ACA for plans sold through such marketplaces.
- 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.
- On May 23, 2019, CMS published a final rule to allow Medicare Advantage Plans the option of using step therapy for Part B drugs beginning January 1, 2020.

Additionally, there has been increasing legislative and enforcement interest in the United States with respect to drug pricing practices. Specifically, there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several U.S. Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to drug pricing, reduce the cost of prescription drugs under Medicare, and review the relationship between pricing and manufacturer patient programs.

Although a number of these and other proposed measures may require authorization through additional legislation to become effective, and the Biden administration may reverse or otherwise change these measures, both the Biden administration and Congress have indicated that they will continue to seek new legislative measures to control drug costs.

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We expect that additional U.S. federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that the U.S. Federal Government will pay for healthcare drugs and services, which could result in reduced demand for our product candidates or additional pricing pressures.

Individual states in the United States have also become increasingly active in passing legislation and implementing regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain drug access and marketing cost disclosure and transparency measures, and designed to encourage importation from other countries and bulk purchasing. Legally mandated price controls on payment amounts by third-party payors or other restrictions could harm our business, financial condition, results of operations and prospects. In addition, regional healthcare authorities and individual hospitals are increasingly using bidding procedures to determine what pharmaceutical products and which suppliers will be included in their prescription drug and other healthcare programs. This could reduce the ultimate demand for our drugs or put pressure on our drug pricing, which could negatively affect our business, financial condition, results of operations and prospects.

In the EEA, similar political, economic and regulatory developments may affect our ability to profitably commercialize our current or any future drugs. In addition to continuing pressure on prices and cost containment measures, legislative developments at the EEA or member state level may result in significant additional requirements or obstacles that may increase our operating costs. In international markets, reimbursement and healthcare payment systems vary significantly by country, and many countries have instituted price ceilings on specific drugs and therapies.

We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative action, either in the United States or abroad. If we or our collaborators are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we or our collaborators are not able to maintain regulatory compliance, our product candidates may lose any regulatory approval that may have been obtained and we may not achieve or sustain profitability, which would adversely affect our business.

Actual or perceived failures to comply with applicable data protection, privacy and security laws, regulations, standards and other requirements could adversely affect our business, results of operations, and financial condition.

The global data protection landscape is rapidly evolving, and we are or may become subject to numerous state, federal and foreign laws, requirements and regulations governing the collection, use, disclosure, retention, and security of personal data, such as information that we may collect in connection with clinical trials in the United States and abroad. Implementation standards and enforcement practices are likely to remain uncertain for the foreseeable future, and we cannot yet determine the impact future laws, regulations, standards, or perception of their requirements may have on our business. This evolution may create uncertainty in our business, affect our ability to operate in certain jurisdictions or to collect, store, transfer use and share personal information, necessitate the acceptance of more onerous obligations in our contracts, result in liability or impose additional costs on us. The cost of compliance with these laws, regulations and standards is high and is likely to increase in the future. Any failure or perceived failure by us to comply with federal, state or foreign laws or regulation, our internal policies and procedures or our contracts governing our processing of personal information could result in negative publicity, government investigations and enforcement actions, claims by third parties and damage to our reputation, any of which could have a material adverse effect on our operations, financial performance and business.

As our operations and business grow, we may become subject to or affected by new or additional data protection laws and regulations and face increased scrutiny or attention from regulatory authorities. In Australia, Australia's Privacy Act 1988 (Cth), as amended, imposes mandatory data breach notification requirements providing that where personal information is lost or is subject to unauthorized access or disclosure, and that

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would be likely to lead to serious harm, then affected individuals and the Information Commissioner must be notified within 30 days. A failure to notify can result in penalties of up to A\$2.2 million. Further, the sending of commercial electronic messages without prior consent is prohibited under Australia's Spam Act 2003. Violations of this legislation are subject to penalties of up to A\$2.1 million for repeat offenders, and the regulator, the Australian Communications and Media Authority, is active in monitoring market behavior and prosecuting infringements. Obligations and restrictions imposed by current and future applicable laws, regulations, contracts, and industry standards may affect our ability to provide all the current features of our products and subscriptions and our customers' ability to use our products and subscriptions, and could require us to modify the features and functionality of our products and subscriptions.

In the United States, HIPAA imposes, among other things, certain standards relating to the privacy, security, transmission and breach reporting of individually identifiable health information. Certain states have also adopted comparable privacy and security laws and regulations, some of which may be more stringent than HIPAA. Such laws and regulations will be subject to interpretation by various courts and other governmental authorities, thus creating potentially complex compliance issues for us and our future customers and strategic partners. In addition, the California Consumer Privacy Act ("CCPA") went into effect on January 1, 2020. The CCPA creates individual privacy rights for California consumers and increases the privacy and security obligations of entities handling certain personal information. The CCPA provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation. The CCPA may increase our compliance costs and potential liability, and many similar laws have been proposed at the federal level and in other states. Further, the California Privacy Rights Act ("CPRA") recently passed in California. The CPRA will impose additional data protection obligations on covered businesses, including additional consumer rights processes, limitations on data uses, new audit requirements for higher risk data, and opt outs for certain uses of sensitive data. It will also create a new California data protection agency authorized to issue substantive regulations and could result in increased privacy and information security enforcement. The majority of the provisions will go into effect on January 1, 2023, and additional compliance investment and potential business process changes may be required. In the event that we are subject to or affected by HIPAA, the CCPA, the CPRA or other domestic privacy and data protection laws, any liability from failure to comply with the requirements of these laws could adversely affect our financial condition.

In Europe, the European General Data Protection Regulation ("GDPR") went into effect in May 2018 and imposes strict requirements for processing the personal data of individuals within the EEA. Companies that must comply with the GDPR face increased compliance obligations and risk, including more robust regulatory enforcement of data protection requirements and potential fines for noncompliance of up to €20 million or 4% of the annual global revenues of the noncompliant company, whichever is greater. Among other requirements, the GDPR regulates transfers of personal data subject to the GDPR to third countries that have not been found to provide adequate protection to such personal data, including the United States, and the efficacy and longevity of current transfer mechanisms between the EU and the United States remains uncertain. Further, following the withdrawal of the United Kingdom from the EU on January 31, 2020, and the expiration of the transition period, from January 1, 2021, from January 1, 2021, companies have had to comply with the GDPR and also the United Kingdom GDPR (the "UK GDPR") which, together with the amended UK Data Protection Act 2018, retains the GDPR in UK national law. The UK GDPR mirrors the fines under the GDPR, i.e., fines up to the greater of €20 million (£17.5 million) or 4% of global turnover. The relationship between the United Kingdom and the European Union in relation to certain aspects of data protection law remains unclear, and it is unclear how United Kingdom data protection laws and regulations will develop in the medium to longer term.

Although we work to comply with applicable laws, regulations and standards, our contractual obligations and other legal obligations, these requirements are evolving and may be modified, interpreted and applied in an inconsistent manner from one jurisdiction to another, and may conflict with one another or other legal obligations with which we must comply. Any failure or perceived failure by us or our employees, representatives, contractors, consultants, collaborators, or other third parties to comply with such requirements or adequately address privacy and security concerns, even if unfounded, could result in additional cost and liability to us, damage our reputation, and adversely affect our business and results of operations.

Risks Related to Our Intellectual Property

If we are unable to obtain and maintain sufficient patent and other intellectual property protection for our product candidates and technology, our competitors could develop and commercialize products and technology similar or identical to ours, and we may not be able to compete effectively in our market or successfully commercialize any product candidates we may develop.

We rely upon a combination of patents, trade secret protection and confidentiality agreements to protect the intellectual property related to our products and technologies and to prevent third parties from copying and surpassing our achievements, thus eroding our competitive position in our market. Our success depends in large part on our ability to obtain and maintain patent protection for our platform technologies, product candidates and their uses, as well as our ability to operate without infringing the proprietary rights of others. We seek to protect our proprietary position by filing patent applications in the United States and abroad related to our novel discoveries and technologies that are important to our business. Our pending and future patent applications may not result in patents being issued or that issued patents will afford sufficient protection of our product candidates or their intended uses against competitors, nor can there be any assurance that the patents issued will not be infringed, designed around, invalidated by third parties, or effectively prevent others from commercializing competitive technologies, products or product candidates.

Composition of matter patents for biological and pharmaceutical product candidates often provide a strong form of intellectual property protection for those types of products, as such patents provide protection without regard to any method of use. We cannot be certain that the claims in our pending patent applications directed to composition of matter of our product candidates will be considered patentable by the United States Patent and Trademark Office (“USPTO”) or by patent offices in foreign countries, or that the claims in any of our issued patents will be considered valid and enforceable by courts in the United States or foreign countries. Method of use patents protect the use of a product for the specified method. This type of patent does not prevent a competitor from making and marketing a product that is identical to our product for an indication that is outside the scope of the patented method.

The patenting process is expensive and time-consuming, and we may not be able to file and prosecute all necessary or desirable patent applications at a reasonable cost or in a timely manner. In addition, we may not pursue or obtain patent protection in all relevant markets. It is possible that defects of form in the preparation or filing of our patents or patent applications may exist, or may arise in the future, for example with respect to proper priority claims, inventorship, claim scope, or requests for patent term adjustments. It is also possible that we will fail to identify patentable aspects of our research and development output before it is too late to obtain patent protection. The patent position of pharmaceutical and biotechnology companies generally is highly uncertain and involves complex legal and factual questions for which many legal principles remain unresolved. Our pending and future patent applications may not result in patents being issued in the United States or in other jurisdictions which protect our technology or products or which effectively prevent others from commercializing competitive technologies and products. There is no assurance that all of the potentially relevant prior art relating to our patents and patent applications has been found, which can invalidate a patent or prevent a patent from issuing from a pending patent application. Even if our patent applications issue as patents, they may not issue in a form that will provide us with any meaningful protection, prevent competitors from competing with us or otherwise provide us with any competitive advantage. Our competitors may be able to circumvent our owned or licensed patents by developing similar or alternative technologies or products in a non-infringing manner.

The issuance of a patent is not conclusive as to its scope, validity or enforceability, and our owned and in-licensed patents may be challenged in the courts or patent offices in the United States and abroad. For example, our pending patent applications may be subject to third-party pre-issuance submissions of prior art to the USPTO or our issued patents may be subject to post-grant review proceedings, oppositions, derivations, reexaminations, or inter partes review proceedings, in the United States or elsewhere, challenging our patent rights or the patent rights of others. An adverse determination in any such challenges may result in loss of exclusivity or in patent claims being narrowed, invalidated, or held unenforceable, in whole or in part, which

could limit our ability to stop others from using or commercializing similar or identical technologies and products, or limit the duration of the patent protection of our technologies and products. As a result, the issuance, scope, validity, enforceability and commercial value of our patent rights are highly uncertain. If the breadth or strength of the claims of our patents and patent applications is threatened, regardless of the outcome, it could dissuade companies from collaborating with us to license, develop or commercialize our current product candidates or future product candidates, or could have a material adverse effect on our ability to raise funds necessary to continue our research programs or clinical trials.

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

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

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

Obtaining and maintaining our patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated if we fail to comply with these requirements.

Periodic maintenance fees, renewal fees, annuities fees and various other governmental fees on patents and/or patent applications are due to be paid to the USPTO and foreign patent agencies in several stages over the lifetime of the patent and/or patent application.

The USPTO and various foreign governmental patent agencies also require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. While an inadvertent lapse, including due to the effect of the COVID-19 pandemic on us or our patent maintenance vendors, can in many cases be cured by payment of a late fee or by other means in accordance with the applicable rules, there are situations in which noncompliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. Non-compliance events that could result in abandonment or lapse of a patent or patent application include, but are not limited to, failure to respond to official actions within prescribed time limits, non-payment of fees and failure to properly legalize and submit formal documents. If we fail to maintain the patents and patent applications covering our product candidates, our competitive position would be adversely affected.

Patent terms may be inadequate to protect our competitive position on our product candidates for an adequate amount of time.

Patents have a limited lifespan. In the United States, if all maintenance fees are timely paid, the natural expiration of a patent is generally 20 years from its earliest U.S. non-provisional filing date. Various extensions may be available, but the life of a patent, and the protection it affords, is limited. Even if patents covering our product candidates are obtained, once the patent life has expired for a product candidate, we may be open to competition. Given the amount of time required for the development, testing and regulatory review of new product candidates, patents protecting such product candidates might expire before or shortly after such product candidates are commercialized. As a result, our patent portfolio may not provide us with sufficient rights to exclude others from commercializing product candidates similar or identical to ours for a meaningful amount of time, or at all.

Depending upon the timing, duration and conditions of any FDA marketing approval of our product candidates, one or more of our U.S. patents may be eligible for limited patent term extension under the Drug Price Competition and Patent Term Restoration Act of 1984, referred to as the Hatch-Waxman Amendments, and similar legislation in the European Union and certain other countries. The Hatch-Waxman Amendments permit a patent term extension of up to five years for a patent covering an approved product as compensation for effective patent term lost during product development and the FDA regulatory review process. However, we may not receive an extension if we fail to exercise due diligence during the testing phase or regulatory review process, fail to apply within applicable deadlines, fail to apply prior to expiration of relevant patents or otherwise fail to satisfy applicable requirements. Moreover, the length of the extension could be less than we request. Only one patent per approved product can be extended, the extension cannot extend the total patent term beyond 14 years from approval and only those claims covering the approved drug, a method for using it or a method for manufacturing it may be extended. If we are unable to obtain patent term extension or the term of any such extension is less than we request, the period during which we can enforce our patent rights for the applicable product candidate will be shortened and our competitors may obtain approval to market competing products sooner. As a result, our revenue from applicable products could be reduced. Further, if this occurs, our competitors may take advantage of our investment in development and trials by referencing our clinical and preclinical data and launch their product earlier than might otherwise be expected, and our competitive position, business, financial condition, results of operations and prospects could be materially adversely affected.

Changes in U.S. patent laws, or laws in other countries, could diminish the value of patents in general and may limit our ability to obtain, defend, and/or enforce our patents.

Patent reform legislation in the United States and other countries, including the Leahy-Smith America Invents Act (the “Leahy-Smith Act”), signed into law on September 16, 2011, could increase those uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents. The Leahy-Smith Act includes a number of significant changes to U.S. patent law, including provisions that affect the way patent applications are prosecuted, redefine prior art and provide more efficient and cost-effective avenues for competitors to challenge the validity of patents. These include allowing third-party submission of prior art to the USPTO during patent prosecution and additional procedures to attack the validity of a patent by USPTO administered post-grant proceedings, including post-grant review, inter partes review, and derivation proceedings. Further, because of a lower evidentiary standard in these USPTO post-grant proceedings compared to the evidentiary standard in United States federal courts necessary to invalidate a patent claim, a third party could potentially provide evidence in a USPTO proceeding sufficient for the USPTO to hold a claim invalid even though the same evidence would be insufficient to invalidate the claim if first presented in a district court action. Accordingly, a third party may attempt to use the USPTO procedures to invalidate our patent claims that would not have been invalidated if first challenged by the third party as a defendant in a district court action. Thus, the Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

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After March 2013, under the Leahy-Smith Act, the United States transitioned to a first inventor to file system in which, assuming that the other statutory requirements are met, the first inventor to file a patent application will be entitled to the patent on an invention regardless of whether a third-party was the first to invent the claimed invention. A third party that files a patent application in the USPTO after March 2013, but before we file an application covering the same invention, could therefore be awarded a patent covering an invention of ours even if we had made the invention before it was made by such third party. This will require us to be cognizant going forward of the time from invention to filing of a patent application. Since patent applications in the United States and most other countries are confidential for a period of time after filing or until issuance, we cannot be certain that we or our licensors were the first to either (i) file any patent application related to our product candidates and other proprietary technologies we may develop or (ii) invent any of the inventions claimed in our or our licensor's patents or patent applications. Even where we have a valid and enforceable patent, we may not be able to exclude others from practicing the claimed invention where the other party can show that they used the invention in commerce before our filing date or the other party benefits from a compulsory license. However, the Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents, all of which could have a material adverse effect on our business, financial condition, results of operations and prospects.

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. In addition to increasing uncertainty with regard to our ability to obtain patents in the future, this combination of events has created uncertainty with respect to the value of patents, once obtained. Depending on actions 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 patents that we have licensed or that we might obtain in the future. Similarly, changes in patent law and regulations in other countries or jurisdictions or changes in the governmental bodies that enforce them or changes in how the relevant governmental authority enforces patent laws or regulations may weaken our ability to obtain new patents or to enforce patents that we have licensed or that we may obtain in the future.

Some of our intellectual property is licensed to us by a third party. If we fail to comply with our obligations in the agreement under which we license intellectual property rights from that third party, or otherwise experience disruptions to our business relationships with our licensor, we could lose license rights that are important to our business.

We are party to license agreements that enable us to utilize third party proprietary technologies in the development of our product candidates, and we may in the future enter into more license agreements with third parties under which we receive rights to intellectual property that are important to our business. These intellectual property license agreements may require us various development, regulatory and/or commercial diligence obligations, payment of milestones and/or royalties and other obligations. If we fail to comply with our obligations under these agreements (including as a result of COVID-19 impacting our operations), we use the licensed intellectual property in an unauthorized manner or we are subject to bankruptcy-related proceedings, the terms of the licenses may be materially modified, such as by rendering currently exclusive licenses non-exclusive, or it may give our licensors the right to terminate their respective agreement with us, which could limit our ability to implement our current business plan and materially adversely affect our business, financial condition, results of operations and prospects.

We may also in the future enter into license agreements with third parties under which we are a sublicensee. If our sublicensor fails to comply with its obligations under its upstream license agreement with its licensor, the licensor may have the right to terminate the upstream license, which may terminate our sublicense. If this were to occur, we would no longer have rights to the applicable intellectual property unless we are able to secure our own direct license with the owner of the relevant rights, which we may not be able to do on reasonable terms, or at all, which may impact our ability to continue to develop and commercialize our product candidates incorporating the relevant intellectual property.

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In addition, we may not have the right to control the preparation, filing, prosecution, maintenance, enforcement and/or defense of patents and patent applications that are licensed to us. Consequently, our success will depend, in part, on the ability of our licensors to obtain, maintain and enforce patent protection for our licensed intellectual property, in particular, those patents to which we have secured exclusive rights, and any such licensed patents and patent applications may not be prepared, filed, prosecuted, maintained, enforced, and defended in a manner consistent with the best interests of our business. For instance, we cannot be certain that such activities by licensors have been or will be conducted in compliance with applicable laws and regulations or will result in valid and enforceable patents and other intellectual property rights. Further, it is possible that the licensors' infringement proceeding or defense activities may be less vigorous than had we conducted them ourselves. If our current or future licensors, licensees or collaborators fail to prepare, file, prosecute, maintain, enforce, and defend licensed patents and other intellectual property rights, such rights may be reduced or eliminated, and our right to develop and commercialize our product candidates or technology that is the subject of such licensed rights could be adversely affected. In addition, our licensors may own or control intellectual property that has not been licensed to us and, as a result, we may be subject to claims, regardless of their merit, that we are infringing or otherwise violating the licensor's rights.

Licensing of intellectual property is important to our business and involves complex legal, business and scientific issues and certain provisions in intellectual property license agreements may be susceptible to multiple interpretations. Disputes may arise between us and our licensors regarding intellectual property subject to a license agreement, including:

- the scope of rights granted under the license agreement and other interpretation-related issues;
- whether and the extent to which our technology and processes infringe on intellectual property of the licensor that is not subject to the licensing agreement;
- our right to sublicense patents and other rights to third parties;
- our diligence obligations with respect to the use of the licensed technology in relation to our development and commercialization of our product candidates, and what activities satisfy those diligence obligations;
- our right to transfer or assign the license; and
- the ownership of inventions and know-how resulting from the joint creation or use of intellectual property by our licensors and us and our partners.

The resolution of any contract interpretation disagreement that may arise could narrow what we believe to be the scope of our rights to the relevant intellectual property or technology, or increase what we believe to be our financial or other obligations under the relevant agreement, either of which could harm our business, financial condition, results of operations and prospects. If disputes over intellectual property that we have licensed prevent or impair our ability to maintain our current licensing arrangements on acceptable terms or at all, we may be unable to successfully develop and commercialize our product candidates. Moreover, any dispute or disagreement with our licensing partners may result in the delay or termination of the research, development or commercialization of our product candidates or any future product candidates, and may result in costly litigation or arbitration that diverts management attention and resources away from our day-to-day activities, which may adversely affect our business, financial conditions, results of operations and prospectus.

In addition, certain of our future agreements with third parties may limit or delay our ability to consummate certain transactions, may impact the value of those transactions, or may limit our ability to pursue certain activities. For example, we may in the future enter into license agreements that are not assignable or transferable, or that require the licensor's express consent in order for an assignment or transfer to take place.

Our intellectual property licensed from third parties may be subject to retained rights.

Our current and future licensors may retain certain rights under their agreements with us, including the right to use the underlying technology for noncommercial academic and research use, to publish general scientific

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findings from research related to the technology, and to make customary scientific and scholarly disclosures of information relating to the technology. It is difficult to monitor whether our licensors limit their use of the technology to these uses, and we could incur substantial expenses to enforce our rights to our licensed technology in the event of misuse.

In addition, the United States federal government retains certain rights in inventions produced with its financial assistance under the Patent and Trademark Law Amendments Act (the “Bayh-Dole Act”). The federal government retains a “nonexclusive, nontransferable, irrevocable, paid-up license” for its own benefit. The Bayh-Dole Act also provides federal agencies with “march-in rights.” March-in rights allow the government, in specified circumstances, to require the contractor or successors in title to the patent to grant a “nonexclusive, partially exclusive, or exclusive license” to a “responsible applicant or applicants.” If the patent owner refuses to do so, the government may grant the license itself. If, in the future, we co-own or license in technology which is critical to our business that is developed in whole or in part with federal funds subject to the Bayh-Dole Act, our ability to enforce or otherwise exploit patents covering such technology may be adversely affected.

If we are unable to obtain intellectual property licenses from third parties on commercially reasonable terms or at all, our business could be harmed.

It may be necessary for us to use the patented or proprietary technology of third parties to commercialize our products, in which case we would be required to obtain a license from these third parties. The licensing of third-party intellectual property rights is a competitive area, and more established companies may pursue strategies to license or acquire third-party intellectual property rights that we may consider attractive or necessary. More established companies may have a competitive advantage over us due to their size, capital resources and greater clinical development and commercialization capabilities. In addition, companies that perceive us to be a competitor may be unwilling to assign or license rights to us. We also may be unable to license or acquire third party intellectual property rights on terms that would allow us to make an appropriate return on our investment or at all. If we are unable to license such technology, or if we are forced to license such technology on unfavorable terms, our business could be materially harmed. If we are unable to obtain a necessary license, we may be unable to develop or commercialize our product candidates, which could materially harm our business, and the third parties owning such intellectual property rights could seek either an injunction prohibiting our sales, or, with respect to our sales, an obligation on our part to pay royalties and/or other forms of compensation. Even if we are able to obtain a license, it may be or become non-exclusive, thereby giving our competitors access to the same technologies licensed to us.

Any issued patents we may own covering our product candidates could be narrowed or found invalid or unenforceable if challenged in court or before administrative bodies in the United States or abroad, including the USPTO.

Any of our intellectual property rights could be challenged or invalidated despite measures we take to obtain patent and other intellectual property protection with respect to our product candidates and proprietary technology. For example, if we were to initiate legal proceedings against a third party to enforce a patent covering one of our product candidates, the defendant could counterclaim that our patent is invalid and/or unenforceable. In patent litigation in the United States and in some other jurisdictions, defendant counterclaims alleging invalidity and/or unenforceability are commonplace. Grounds for a validity challenge could be an alleged failure to meet any of several statutory requirements, for example, lack of novelty, obviousness or non-enablement. Grounds for an unenforceability assertion could be an allegation that someone connected with prosecution of the patent withheld material information from the USPTO or the applicable foreign counterpart, or made a misleading statement, during prosecution. A litigant or the USPTO itself could challenge our patents on this basis even if we believe that we have conducted our patent prosecution in accordance with the duty of candor and in good faith. The outcome following such a challenge is unpredictable.

With respect to challenges to the validity of our patents, there might be invalidating prior art, of which we and the patent examiner were unaware during prosecution. If a defendant were to prevail on a legal assertion of

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invalidity and/or unenforceability, we would lose at least part, and perhaps all, of the patent protection on a product candidate. Even if a defendant does not prevail on a legal assertion of invalidity and/or unenforceability, our patent claims may be construed in a manner that would limit our ability to enforce such claims against the defendant and others. The cost of defending such a challenge, particularly in a foreign jurisdiction, and any resulting loss of patent protection could have a material adverse impact on one or more of our product candidates and our business. Enforcing our intellectual property rights against third parties may also cause such third parties to file other counterclaims against us, which could be costly to defend, particularly in a foreign jurisdiction, and could require us to pay substantial damages, cease the sale of certain products or enter into a license agreement and pay royalties, which may not be possible on commercially reasonable terms or at all. Any efforts to enforce our intellectual property rights are also likely to be costly and may divert the efforts of our scientific and management personnel.

Litigation or other proceedings or third-party claims of intellectual property infringement could require us to spend significant time and money and could prevent us from developing or selling our products.

Our commercial success will depend in part on not infringing the patents or violating the other proprietary rights of others. Significant litigation regarding patent rights occurs in our industry. Because the intellectual property landscape in the pharmaceutical and biotechnology industry is rapidly evolving and interdisciplinary, it is difficult to conclusively assess our freedom to operate without infringing on third party rights. Our competitors in both the United States and abroad, many of which have substantially greater resources and have made substantial investments in patent portfolios and competing technologies, may have applied for or obtained or may in the future apply for and obtain, patents that will prevent, limit or otherwise interfere with our ability to make, use and sell our products. We do not always conduct independent reviews of patents issued to third parties. In addition, patent applications in the United States and elsewhere can be pending for many years before issuance, or unintentionally abandoned patents or applications can be revived, so there may be applications of others now pending or recently revived patents of which we are unaware. These applications may later result in issued patents, or the revival of previously abandoned patents, that will prevent, limit or otherwise interfere with our ability to make, use or sell our products.

There is a substantial amount of litigation involving patent and other intellectual property rights in the biotechnology and pharmaceutical industries generally. Third parties may, in the future, assert claims that we are employing their proprietary technology without authorization, including claims from competitors or from non-practicing entities that have no relevant product revenue and against whom our own patent portfolio may have no deterrent effect. As we continue to commercialize our products in their current or updated forms, launch new products and enter new markets, we expect competitors may claim that one or more of our products infringe their intellectual property rights as part of business strategies designed to impede our successful commercialization and entry into new markets. The large number of patents, the rapid rate of new patent applications and issuances, the complexities of the technology involved, and the uncertainty of litigation may increase the risk of business resources and management's attention being diverted to patent litigation. We have, and we may in the future, receive letters or other threats or claims from third parties inviting us to take licenses under, or alleging that we infringe, their patents.

Moreover, we may become party to future adversarial proceedings regarding our patent portfolio or the patents of third parties. Such proceedings could include supplemental examination or contested post-grant proceedings such as review, reexamination, inter parties review, interference or derivation proceedings before the USPTO and challenges in U.S. District Court. Because of a lower evidentiary standard in USPTO proceedings compared to the evidentiary standard in United States federal courts necessary to invalidate a patent claim, a third party could potentially provide evidence in a USPTO proceeding sufficient for the USPTO to hold a claim invalid even though the same evidence would be insufficient to invalidate the claim if first presented in a district court action. Accordingly, a third party may attempt to use the USPTO procedures to invalidate our patent claims that would not have been invalidated if first challenged by the third party as a defendant in a district court action. Also, our patents may be subjected to opposition, post-grant review or comparable proceedings lodged in various foreign, both national and regional, patent offices.

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The legal threshold for initiating litigation or contested proceedings may be low, so that even lawsuits or proceedings with a low probability of success might be initiated. Litigation and contested proceedings can also be expensive and time-consuming, and our adversaries in these proceedings may have the ability to dedicate substantially greater resources to prosecuting these legal actions than we can. In addition, any uncertainties resulting from the initiation and continuation of any litigation could have a material adverse effect on our ability to raise the funds necessary to continue our operations or could otherwise have a material adverse effect on our business, results of operations, financial condition and prospects. We may also occasionally use these proceedings to challenge the patent rights of others. We cannot be certain that any particular challenge will be successful in limiting or eliminating the challenged patent rights of the third party.

Any lawsuits resulting from such allegations could subject us to significant liability for damages and invalidate our proprietary rights. Any potential intellectual property litigation also could force us to do one or more of the following:

- stop making, selling or using products or technologies that allegedly infringe the asserted intellectual property;
- lose the opportunity to license our technology to others or to collect royalty payments based upon successful protection and assertion of our intellectual property rights against others;
- incur significant legal expenses;
- pay substantial damages or royalties to the party whose intellectual property rights we may be found to be infringing;
- pay the attorney's fees and costs of litigation to the party whose intellectual property rights we may be found to be infringing;
- redesign those products that contain the allegedly infringing intellectual property, which could be costly, disruptive and infeasible; and
- attempt to obtain a license to the relevant intellectual property from third parties, which may not be available on reasonable terms or at all, or from third parties who may attempt to license rights that they do not have.

Any litigation or claim against us, even those without merit, may cause us to incur substantial costs, and could place a significant strain on our financial resources, divert the attention of management from our core business and harm our reputation.

If we are found to infringe the intellectual property rights of third parties, we could be required to pay substantial damages, which may be increased up to three times of awarded damages, and/or substantial royalties and could be prevented from selling our products unless we obtain a license or are able to redesign our products to avoid infringement. Any such license may not be available on reasonable terms, if at all, and there can be no assurance that we would be able to redesign our products in a way that would not infringe the intellectual property rights of others. We could encounter delays in product introductions while we attempt to develop alternative methods or products. If we fail to obtain any required licenses or make any necessary changes to our products or technologies, we may have to withdraw existing products from the market or may be unable to commercialize one or more of our products.

Further, competitors or third parties may infringe or otherwise violate our intellectual property. To counter infringement or other violations, we may be required to file claims, which can be expensive and time consuming. Any such claims could provoke these parties to assert counterclaims against us, including claims alleging that we infringe their patents or other intellectual property rights. In addition, in a patent infringement proceeding, a court may decide that one or more of the patents we assert is invalid or unenforceable, in whole or in part, construe the patent's claims narrowly or refuse to prevent the other party from using the technology at issue on the grounds

that our patents do not cover the technology. Similarly, if we assert trademark infringement claims, a court may determine that the marks we have asserted are invalid or unenforceable or that the party against whom we have asserted trademark infringement has superior rights to the marks in question. In such a case, we could ultimately be forced to cease use of such marks. In any intellectual property litigation, even if we are successful, any award of monetary damages or other remedy we receive may not be commercially valuable. If a defendant were to prevail on a legal assertion of invalidity and/or unenforceability, we would lose at least part, and perhaps all, of the patent protection on such product candidate. In addition, if the breadth or strength of protection provided by our patents and patent applications or those of our future licensors is threatened, it could dissuade other companies from collaborating with us to license, develop or commercialize current or future product candidates. Such a loss of patent protection would have a material adverse impact on our business.

Also, because of the substantial amount of discovery required in connection with intellectual property litigation or other legal proceedings relating to our intellectual property rights, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation or other proceedings.

In addition, if our current or future product candidates are found to infringe the intellectual property rights of third parties, these third parties may assert infringement claims against our licensees and other parties with whom we have business relationships, and we may be required to indemnify those parties for any damages they suffer as a result of these claims. Such claims may require us to initiate or defend protracted and costly litigation on behalf of licensees and other parties regardless of the merits of these claims. If any of these claims succeed, we may be forced to pay damages on behalf of those parties or may be required to obtain licenses for the products they use.

Intellectual property litigation may lead to unfavorable publicity that harms our reputation.

During the course of any intellectual property litigation, there could be public announcements of the initiation of the litigation as well as results of hearings, rulings on motions and other interim proceedings in the litigation. If securities analysts or investors regard these announcements as negative, the perceived value of our existing products, programs or intellectual property could be diminished.

Because of the expense and uncertainty of litigation, we may not be in a position to enforce our intellectual property rights against third parties.

Because of the expense and uncertainty of litigation, we may conclude that even if a third-party is infringing our issued patent, any patents that may be issued as a result of our pending or future patent applications or other intellectual property rights, the risk-adjusted cost of bringing and enforcing such a claim or action may be too high or not in the best interest of our company or our shareholders, or it may be otherwise impractical or undesirable to enforce our intellectual property against some third parties. Our competitors or other third parties may be able to sustain the costs of complex patent litigation or proceedings more effectively than we can because of their greater financial resources and more mature and developed intellectual property portfolios. In such cases, we may decide that the more prudent course of action is to simply monitor the situation or initiate or seek some other non-litigious action or solution. In addition, the uncertainties associated with litigation could compromise our ability to raise the funds necessary to continue our clinical trials, continue our internal research programs, in-license needed technologies or other product candidates, or enter into development partnerships that would help us bring our product candidates to market.

We may not identify relevant third-party patents or may incorrectly interpret the relevance, scope or expiration of a third-party patent, which might adversely affect our ability to develop and market our products.

We cannot guarantee that any of our patent searches or analyses, including the identification of relevant patents, the scope of patent claims or the expiration of relevant patents, are complete or thorough, nor can we be certain that we have identified each and every third-party patent and pending application in the United States and abroad that is relevant to or necessary for the commercialization of our product candidates in any jurisdiction.

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The scope of a patent claim is determined by an interpretation of the law, the written disclosure in a patent and the patent's prosecution history. Our interpretation of the relevance or the scope of a patent or a pending application may be incorrect. For example, we may incorrectly determine that our products are not covered by a third-party patent or may incorrectly predict whether a third-party's pending application will issue with claims of relevant scope. Our determination of the expiration date of any patent in the United States or abroad that we consider relevant may be incorrect. Our failure to identify and correctly interpret relevant patents may negatively impact our ability to develop and market our products.

We may be subject to claims challenging the inventorship of our patents and other intellectual property.

We may be subject to claims that former employees, collaborators or other third parties have an interest in our patents or other intellectual property as an inventor or co-inventor. The failure to name the proper inventors on a patent application can result in the patents issuing thereon being unenforceable. Inventorship disputes may arise from conflicting views regarding the contributions of different individuals named as inventors, the effects of foreign laws where foreign nationals are involved in the development of the subject matter of the patent, conflicting obligations of third parties involved in developing our product candidates or as a result of questions regarding co-ownership of potential joint inventions. Litigation may be necessary to resolve these and other claims challenging inventorship and/or ownership. Alternatively, or additionally, we may enter into agreements to clarify the scope of our rights in such intellectual property. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights, such as exclusive ownership of, or right to use, valuable intellectual property. Such an outcome could have a material adverse effect on our business. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees.

Our licensors may have relied on third-party consultants or collaborators or on funds from third parties, such as the U.S. government, such that our licensors are not the sole and exclusive owners of the patents we in-licensed. If other third parties have ownership rights or other rights to our in-licensed patents, they may be able to license such patents to our competitors, and our competitors could market competing products and technology. This could have a material adverse effect on our competitive position, business, financial conditions, results of operations, and prospects.

In addition, while it is our policy to require our employees and contractors who may be involved in the conception or development of intellectual property to execute agreements assigning such intellectual property to us, we may be unsuccessful in executing such an agreement with each party who, in fact, conceives or develops intellectual property that we regard as our own. The assignment of intellectual property rights may not be self-executing, or the assignment agreements may be breached, and we may be forced to bring claims against third parties, or defend claims that they may bring against us, to determine the ownership of what we regard as our intellectual property. Such claims could have a material adverse effect on our business, financial condition, results of operations, and prospects.

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

We also rely on trade secret protection and confidentiality agreements to protect proprietary know-how that is not patentable, processes for which patents are difficult to enforce and any other elements of our discovery and development processes that involve proprietary know-how, information or technology that is not covered by patents. Elements of our product candidates, including processes for their preparation and manufacture, may involve proprietary know-how, information, or technology that is not covered by patents, and thus for these aspects we may consider trade secrets and know-how to be our primary intellectual property. We may also rely on trade secret protection as temporary protection for concepts that may be included in a future patent filing. Any disclosure, either intentional or unintentional, by our employees, the employees of third parties with whom we share our facilities or third-party consultants and vendors that we engage to perform research, clinical trials or

manufacturing activities, or misappropriation by third parties (such as through a cybersecurity breach) of our trade secrets or proprietary information could enable competitors to duplicate or surpass our technological achievements, thus eroding our competitive position in our market. Because we expect to rely on third parties in the development and manufacture of our product candidates, we must, at times, share trade secrets with them. Our reliance on third parties requires us to share our trade secrets, which increases the possibility that a competitor will discover them or that our trade secrets will be misappropriated or disclosed.

Trade secrets and know-how can be difficult to protect. We require our employees to enter into written employment agreements containing provisions of confidentiality and non-disclosure obligations. We further seek to protect our potential trade secrets, proprietary know-how, and information in part, by entering into non-disclosure and confidentiality agreements with parties who are given access to them, such as our corporate collaborators, outside scientific collaborators, contract research organizations, contract manufacturers, consultants, advisors and other third parties. With our consultants, contractors, and outside scientific collaborators, these agreements typically include invention assignment obligations. We cannot guarantee that we have entered into such agreements with each party that may have or has had access to our trade secrets or proprietary technology and processes. We cannot be certain that our trade secrets and other confidential proprietary information will not be disclosed or that competitors will not otherwise gain access to our trade secrets or independently develop substantially equivalent information and techniques. Despite these efforts, any of these parties may breach the agreements and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts inside and outside the United States are less willing or unwilling to protect trade secrets. We may need to share our proprietary information, including trade secrets, with future business partners, collaborators, contractors and others located in countries at heightened risk of theft of trade secrets, including through direct intrusion by private parties or foreign actors, and those affiliated with or controlled by state actors. Further, if any of our trade secrets were to be lawfully obtained or independently developed by a competitor or other third-party, we would have no right to prevent them from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor or other third-party, our competitive position would be harmed.

We also seek to preserve the integrity and confidentiality of our data and trade secrets by maintaining physical security of our premises and physical and electronic security of our information technology systems. While we have confidence in these individuals, organizations and systems, agreements or security measures may be breached, and we may not have adequate remedies for any breach.

We may be subject to claims that our employees, consultants or independent contractors have wrongfully used or disclosed confidential information or alleged trade secrets of third parties or competitors or are in breach of non-competition or non-solicitation agreements with our competitors or their former employers.

As is common in the biotechnology and pharmaceutical industries, we employ individuals and engage the services of consultants who previously worked for other biotechnology or pharmaceutical companies, including our competitors or potential competitors. Although no claims against us are currently pending, 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, or that our consultants have used or disclosed trade secrets or other proprietary information of their former or current clients. Litigation may be necessary to defend against these claims. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Even if we are successful in defending against such claims, litigation or other legal proceedings relating to intellectual property claims may cause us to incur significant expenses, and could distract our technical and management personnel from their normal responsibilities.

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

Our trademarks or trade names may be challenged, opposed, infringed, circumvented, invalidated, cancelled, declared generic, determined to be not entitled to registration, or determined to be infringing on other marks. During trademark registration proceedings, we may receive rejections of our applications by the USPTO or in foreign jurisdictions. Although we would be given an opportunity to respond to those rejections, we may be unable to overcome such rejections. In addition, in the USPTO and in comparable agencies in many foreign jurisdictions, third parties are given an opportunity to oppose pending trademark applications and to seek to cancel registered trademarks. Opposition or cancellation proceedings may be filed against our trademarks, and our trademarks may not survive such proceedings. Any trademark litigation could be expensive. In addition, we could be found liable for significant monetary damages, including treble damages, disgorgement of profits and attorneys' fees, if we are found to have willfully infringed a trademark. We may not be able to protect our exclusive right to these trademarks and trade names or may be forced to stop using these names, which we need for name recognition by potential collaborators or customers in our markets of interest. If we are unable to establish name recognition based on our trademarks and trade names, we may not be able to compete effectively and our business may be adversely affected. We may license our trademarks and trade names to third parties, such as distributors. Though these license agreements may provide guidelines for how our trademarks and trade names may be used, a breach of these agreements or misuse of our trademarks and tradenames by our licensees may jeopardize our rights in or diminish the goodwill associated with our trademarks and trade names.

Moreover, any name we have proposed to use with our product candidates in the United States must be approved by the FDA, regardless of whether we have registered it, or applied to register it, as a trademark. Similar requirements exist in Europe. The FDA typically conducts a review of proposed product names, including an evaluation of potential for confusion with other product names. If the FDA (or an equivalent administrative body in a foreign jurisdiction) objects to any of our proposed proprietary product names, it may be required to expend significant additional resources in an effort to identify a suitable substitute name that would qualify under applicable trademark laws, not infringe the existing rights of third parties and be acceptable to the FDA. Furthermore, in many countries, owning and maintaining a trademark registration may not provide an adequate defense against a subsequent infringement claim asserted by the owner of a senior trademark.

Risks Related to this Offering and Our ADSs

The trading price of our ordinary shares has been volatile, and that of our ADSs may be volatile, and you may not be able to resell the ADSs at or above the price you paid.

The trading price of our ordinary shares have been volatile on the ASX market and the trading price of our ADSs following this offering could be highly volatile and could be subject to wide fluctuations in response to various factors, some of which are beyond our control. These factors include those discussed in this "Risk Factors" section of this prospectus and positive, negative or unexpected developments relating to:

- results from, or any delays in, clinical trial programs relating to our product candidates, including the ongoing and future clinical trials for BNC210, and Merck and Carina Biotech collaboration candidates;
- our ability to obtain regulatory approval for our product candidates, or delays in obtaining such approval;
- our ability to commercialize any future drugs, or delays in commercializing such drugs;
- announcements of regulatory approval or a complete response letter to our product candidates, or specific label indications or patient populations for its use, or changes or delays in the regulatory review process;
- announcements relating to future collaborations or our existing collaborations, including decisions regarding the exercise by our collaboration partners of their options, if any, or any termination by them of their collaborations with us;

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- the timing and amount of payments to us under our collaborations, if any;
- announcements of therapeutic innovations or new drugs by us or our competitors;
- announcements regarding the parent drugs that we use in developing our product candidates;
- actions taken by regulatory authorities with respect to our clinical trials, manufacturing supply chain or sales and marketing activities;
- changes or developments in laws or regulations applicable to our product candidates;
- any changes to our relationship with any manufacturers or suppliers;
- the success of our testing and clinical trials;
- the success of our efforts to acquire or license or discover additional product candidates;
- any intellectual property infringement actions in which we may become involved;
- announcements concerning our competitors or the pharmaceutical industry in general;
- achievement of expected drug sales and profitability;
- manufacture, supply or distribution shortages;
- actual or anticipated fluctuations in our operating results;
- the FDA, EMA or other similar regulatory actions affecting us or our industry or other healthcare reform measures in the United States or elsewhere;
- changes in financial estimates or recommendations by securities analysts;
- trading volume of the ADSs;
- trading prices and trading volume of our ordinary shares on the ASX;
- sales of our ordinary shares or ADSs by us, our senior management and directors or our shareholders in the future;
- general economic and market conditions and overall fluctuations in the United States and international equity markets; and
- the loss of any of our key scientific or senior management personnel.

In addition, the stock markets in general, and the markets for biotechnology and pharmaceutical stocks in particular, have experienced extreme volatility that may have been unrelated to the operating performance of the issuer. These broad market fluctuations may adversely affect the trading price or liquidity of our ordinary shares or ADSs. In the past, when the market price of a stock has been volatile, holders of that stock have sometimes instituted securities class action litigation against the issuer. If any of our shareholders were to bring such a lawsuit against us, we could incur substantial costs defending the lawsuit and the attention of our senior management would be diverted from the operation of our business, which could seriously harm our financial position. Any adverse determination in litigation could also subject us to significant liabilities.

Our financial condition and results of operations are subject to foreign currency fluctuation risks.

We expect that our ADSs will trade on Nasdaq in U.S. dollars. Although our financial results are reported in Australian Dollars, historically a portion of our operating expenses and a substantial portion of our revenue have been denominated in currencies other than the Australian Dollar. As a result, changes in the exchange rate between the Australian Dollar and other currencies, particularly the U.S. Dollar, could have a material adverse effect on our business, results of operations and financial condition that could adversely affect the trading price of our ADSs. Accordingly, volatility in foreign currency exchange rates may have a material adverse impact on

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our financial condition, results of operations and liquidity and distort period-to-period comparisons of our financial condition and operating results. We have not historically used foreign exchange contracts to help manage foreign exchange rate exposures.

Future sales of our ordinary shares or ADSs, or the perception that such sales may occur, could depress the trading price of our ordinary shares and ADSs.

After the completion of this offering, we expect to have ADSs outstanding and ordinary shares outstanding, including the shares underlying the ADSs we are selling in this offering, which may be resold in the public market immediately after this offering. We and all of our directors and executive officers have signed lock-up agreements for a period of 180 days following the date of this prospectus, subject to specified exceptions. See “Underwriting.” The underwriters may, in their sole discretion and without notice, release all or any portion of the ordinary shares or ADSs subject to lock-up agreements. As restrictions on resale end, the market price of our ADSs and ordinary shares could drop significantly if the holders of these ADSs or ordinary shares sell them or are perceived by the market as intending to sell them. These factors could also make it more difficult for us to raise additional funds through future offerings of our ordinary shares, ADSs or other securities.

Investors purchasing the ADSs will incur immediate and substantial dilution in the book value of their shares.

We expect the initial public offering price of our ADSs in this offering to be substantially higher than the net tangible book value per ADS prior to this offering. Therefore, if you purchase ADSs in this offering, you will pay a price per ADS that substantially exceeds our net tangible book value per ADS after this offering. To the extent outstanding options or warrants are exercised for ordinary shares, you may experience further dilution. Based on the assumed initial public offering price of \$ per ADS, which reflects the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ on , 2021 (based on an assumed exchange rate of \$1.00 to \$), you will experience immediate dilution of \$ per ADS, representing the difference between our net tangible book value per ADS and per ordinary share after giving effect to this and the assumed offering price. This dilution is due to our investors who purchased shares prior to this offering having paid substantially less when they purchased their ordinary shares than the price of the ADSs offered to the public in this offering. We may also issue additional ordinary shares, ADSs, performance rights, options, warrants and other securities in the future that may result in further dilution of your ADSs. As a result of the dilution to investors purchasing ADSs in this offering, investors may receive significantly less than the purchase price paid in this offering, if anything, in the event of our liquidation. See “Dilution” for a calculation of the extent to which your investment will be diluted.

We have broad discretion in the use of the net proceeds from this offering and may not use them effectively.

We will have broad discretion in the application of the net proceeds that we receive from this offering as well as of our existing cash and cash equivalents and non-current financial assets, and we may spend or invest these funds in a way with which our shareholders or holders of the ADSs disagree. Our failure to apply these funds effectively could harm our business and financial condition. Pending their use, we may invest the net proceeds from the offering in a manner that does not produce income or that loses value. These investments may not yield a favorable return to our investors.

Our executive officers, directors, principal shareholders and their affiliates will continue to exercise significant influence over our company after this offering, which will limit your ability to influence corporate matters and could delay or prevent a change in corporate control.

Immediately following the completion of this offering, the existing holdings of our executive officers, directors, principal shareholders and their affiliates will represent beneficial ownership, in the aggregate, of approximately % of our outstanding equity interests, assuming no exercise of the underwriters’ option to acquire additional ADSs in this offering, assuming we issue the number of ADSs as set forth on the cover page of

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this prospectus and without giving effect to any potential purchases by such persons in this offering. Assuming full exercise of all outstanding warrants held by our executive officers, directors, principal shareholders and their affiliates as of June 30, 2021, their beneficial ownership increase to approximately % of our outstanding equity interests. In addition, Apeiron Investment Group Ltd. (“Apeiron”) has a right to appoint two directors and BVF has a right to appoint one director provided such investor continues to hold a certain amount of beneficial interest of our ordinary shares. For additional information, see “Certain Relationships and Related Party Transactions.” As a result, these shareholders, if they act together, will be able to influence our management and affairs and the outcome of matters submitted to our shareholders for approval, including the election of directors and any merger, consolidation or sale of all or substantially all of our assets. These shareholders acquired their ordinary shares for substantially less than the price of the ADSs being acquired in this offering, and these shareholders may have interests with respect to their ordinary shares that are different from those of investors in this offering. The concentration of voting power among these shareholders may have an adverse effect on the price of our ADSs. In addition, this concentration of ownership might adversely affect the market price of our ADSs by:

- delaying, deferring or preventing a change of control of us;
- impeding a merger, consolidation, takeover or other business combination involving us; or
- discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us.

See the section of this prospectus titled “Principal Shareholders” for more information regarding the ownership of our outstanding ordinary shares by our executive officers, directors, principal shareholders and their affiliates.

An active trading market for the ADSs may not develop or be liquid enough for you to sell your ADSs quickly or at market price.

Prior to this offering, there has been no public market in the United States for the ADSs. If an active public market in the United States for the ADSs does not develop after this offering, the market price and liquidity of the ADSs may be adversely affected. While we have applied for the listing of the ADSs on The Nasdaq Global Market (“Nasdaq”), a liquid public market in the United States for the ADSs may not develop or be sustained after this offering. The initial public offering price for the ADSs will be determined by negotiation among us and the underwriters, and will be referenced to the prevailing price of our ordinary shares on the ASX, but will not be lower than 80% of the volume-weighted average price of our ordinary shares on the ASX over the five trading days preceding the day on which the offering price is determined. The price at which the ADSs are traded after this offering may decline below the initial public offering price, which means you may experience a decrease in the value of your ADSs regardless of our operating performance or prospects. In the past, following periods of volatility in the market price of a company’s securities, shareholders often instituted securities class action litigation against that company. If we were involved in a class action suit, it could divert the attention of senior management and the board of directors and, if adversely determined, could have cause us significant financial harm.

The dual listing of our ordinary shares and the ADSs following this offering may adversely affect the liquidity and value of the ADSs.

Following this offering and after the ADSs are listed on Nasdaq, our ordinary shares will continue to be listed on the ASX. We cannot predict the effect of this dual listing on the value of our ordinary shares and ADSs. However, the dual listing of our ordinary shares and ADSs may dilute the liquidity of these securities in one or both markets and may impair the development of an active trading market for the ADSs in the United States. The trading price of the ADSs could also be adversely affected by trading in our ordinary shares on the ASX.

Our securities will be traded on more than one market and this may result in price variations.

Our ordinary shares have been traded on the ASX since 1999, and we have applied to list our ADSs on Nasdaq. Trading in our securities on these markets will take place in different currencies (U.S. dollars on Nasdaq and Australian dollars on the ASX), and at different times (resulting from different time zones, trading days and public holidays in the United States and Australia). The trading prices of our securities on these two markets may differ due to these and other factors, including the fact that ASX and Nasdaq have different criteria for trading halts as well as different listing rules and disclosure requirements. Any decrease in the price of our ordinary shares on the ASX could cause a decrease in the trading price of our ADSs on Nasdaq.

ADS holders may be subject to additional risks related to holding ADSs rather than ordinary shares.

ADS holders do not hold ordinary shares directly and, as such, are subject to, among others, the following additional risks:

- as an ADS holder, we will not treat you as one of our shareholders and you will not be able to exercise shareholder rights, except through the American Depositary Receipt (“ADR”), depositary as permitted by the deposit agreement;
- distributions on the ordinary shares represented by your ADSs will be paid to the ADR depositary, and before the ADR depositary makes a distribution to you on behalf of your ADSs, any withholding taxes that must be paid will be deducted. Additionally, if the exchange rate fluctuates during a time when the ADR depositary cannot convert the foreign currency, you may lose some or all of the value of the distribution; and
- we and the ADR depositary may amend or terminate the deposit agreement without the ADS holders’ consent in a manner that could prejudice ADS holders.

Your right as a holder of ADSs to participate in any future preferential subscription rights offering or to elect to receive dividends in ordinary shares may be limited, which may cause dilution to your holdings.

The deposit agreement provides that the depositary will not make rights available to you unless the distribution to ADS holders of both the rights and any related securities are either registered under the Securities Act or exempted from registration under the Securities Act. If we offer holders of our ordinary shares the option to receive dividends in either cash or shares, under the deposit agreement the depositary may require satisfactory assurances from us that extending the offer to holders of ADSs does not require registration of any securities under the Securities Act before making the option available to holders of ADSs. We are under no obligation to file a registration statement with respect to any such rights or securities or to endeavor to cause such a registration statement to be declared effective. Moreover, we may not be able to establish an exemption from registration under the Securities Act. Accordingly, ADS holders may be unable to participate in our rights offerings or to elect to receive dividends in shares and may experience dilution in their holdings. In addition, if the depositary is unable to sell rights that are not exercised or not distributed or if the sale is not lawful or reasonably practicable, it will allow the rights to lapse, in which case you will receive no value for these rights.

You may be subject to limitations on the transfer of your ADSs and the withdrawal of the underlying ordinary shares.

Your ADSs are transferable on the books of the depositary. However, the depositary may close its books at any time or from time to time when it deems expedient in connection with the performance of its duties. The depositary may refuse to deliver, transfer or register transfers of your ADSs generally when our books or the books of the depositary are closed, or at any time if we or the depositary think it is advisable to do so because of any requirement of law, government or governmental body, or under any provision of the deposit agreement, or for any other reason subject to your right to cancel your ADSs and withdraw the underlying ordinary shares. Temporary delays in the surrendering of your ADSs and withdrawal of the underlying ordinary shares may arise

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because the depositary has closed its transfer books or we have closed our transfer books, the transfer of ordinary shares is blocked to permit voting at a shareholders' meeting or we are paying a dividend on our ordinary shares. In addition, you may not be able to cancel your ADSs and withdraw the underlying ordinary shares when you owe money for fees, taxes and similar charges and when it is necessary to prohibit withdrawals in order to comply with any laws or governmental regulations that apply to ADSs or to the withdrawal of ordinary shares or other deposited securities.

You must act through the ADR depositary to exercise your voting rights and, as a result, you may be unable to exercise your voting rights on a timely basis.

As a holder of ADSs (and not the ordinary shares underlying your ADSs), we will not treat you as one of our shareholders, and you will not be able to exercise shareholder rights directly. The ADR depositary will be the holder of the ordinary shares underlying your ADSs, and ADS holders will be able to exercise voting rights with respect to the ordinary shares represented by the ADSs only in accordance with the deposit agreement relating to the ADSs. There are practical limitations on the ability of ADS holders to exercise their voting rights due to the additional procedural steps involved in communicating with these holders. For example, holders of our ordinary shares will receive notice of shareholders' meetings by mail and will be able to exercise their voting rights by either attending the shareholders meeting in person or voting by proxy. ADS holders, by comparison, will not receive notice directly from us. Instead, in accordance with the deposit agreement, we will provide notice to the ADR depositary of any such shareholders meeting and details concerning the matters to be voted upon at least 30 days in advance of the meeting date. If we so instruct, the ADR depositary will mail to holders of ADSs the notice of the meeting and a statement as to the manner in which voting instructions may be given by holders as soon as practicable after receiving notice from us of any such meeting. To exercise their voting rights, ADS holders must then instruct the ADR depositary as to voting the ordinary shares represented by their ADSs. Due to these procedural steps involving the ADR depositary, the process for exercising voting rights may take longer for ADS holders than for holders of ordinary shares. The ordinary shares represented by ADSs for which the ADR depositary fails to receive timely voting instructions will not be voted.

Bionomics Limited may be classified as a passive foreign investment company for U.S. federal income tax purposes, which could result in adverse U.S. federal income tax consequences to U.S. investors in the ADSs or ordinary shares.

A non-U.S. corporation will be considered a "passive foreign investment company" ("PFIC") for any taxable year if (i) at least 75% of its gross income is passive income, or (ii) at least 50% of the value of its assets (generally based on an average of the quarterly values of the assets during a taxable year) is attributable to assets that produce or are held for the production of passive income. For purposes of the above calculations, a non-U.S. corporation that owns, directly or indirectly, at least 25% by value of the shares of another corporation is treated as if it held its proportionate share of the assets of the other corporation and received directly its proportionate share of the income of the other corporation. Passive income generally includes dividends, interest, certain rents or royalties, foreign currency or other investment gains and certain other categories of income.

Based on the value of Bionomics Limited's assets for its taxable year ending June 30, 2021, including the value of its goodwill, and the composition of its income and assets in such year, we do not believe Bionomics Limited was a "passive foreign investment company" ("PFIC") for its taxable year ending June 30, 2021. However, a separate determination must be made after the close of each taxable year as to whether Bionomics Limited is a PFIC for that year, based on its income for the entire year and the value of its assets throughout the year. Moreover, the application of the PFIC rules is subject to uncertainty in several respects. Accordingly, we cannot assure you that Bionomics Limited will not be a PFIC for its current taxable year or any future taxable year. In particular, until it starts generating revenue, Bionomics Limited's PFIC status may depend, in part, on the receipt and treatment of other sources of income (including government grants) and having active income from other sources in excess of passive income from investments. For purposes of the asset test described above, goodwill is generally characterized as an active asset to the extent it is associated with business activities that

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produce active income, and the value of Bionomics Limited's assets, including goodwill, generally is determined by reference to the market price of our ADSs or ordinary shares, which may fluctuate considerably. Cash is generally characterized as a passive asset for these purposes, so the composition of Bionomics Limited's income and assets will be affected by how, and how quickly, it spends the cash raised in any offering, including this offering. If Bionomics Limited were to be treated as a PFIC for any taxable year during which a U.S. Holder (as defined below under "Taxation—U.S. Federal Income Tax Considerations") holds an ADS or ordinary share, certain adverse U.S. federal income tax consequences could apply to such U.S. Holder. See "Taxation—U.S. Federal Income Tax Considerations—Passive Foreign Investment Company Considerations."

If a United States person is treated as owning at least 10% of Bionomic Limited's ordinary shares, such holder may be subject to adverse U.S. federal income tax consequences.

If a United States person is treated as owning, directly, indirectly or constructively, at least 10% of the value or voting power of Bionomic Limited's ordinary shares or ADSs, such person may be treated as a "United States shareholder" with respect to each "controlled foreign corporation" in our group, if any. If our group includes one or more U.S. subsidiaries (as is currently the case), certain of our non-U.S. subsidiaries could be treated as controlled foreign corporations (even if Bionomics Limited is not treated as a controlled foreign corporation). A United States shareholder of a controlled foreign corporation may be required to annually report and include in its U.S. taxable income its pro rata share of "Subpart F income," "global intangible low-taxed income" and investments in U.S. property by controlled foreign corporations, regardless of whether we make any distributions. An individual that is a United States shareholder with respect to a controlled foreign corporation generally would not be allowed certain tax deductions or foreign tax credits that would be allowed to a United States shareholder that is a U.S. corporation. Failure to comply with controlled foreign corporation reporting obligations may subject a United States shareholder to significant monetary penalties and may prevent the statute of limitations with respect to such United States shareholder's U.S. federal income tax return for the year for which reporting was due from starting. We cannot provide any assurances that we will assist investors in determining whether any of our non-U.S. subsidiaries is treated as a controlled foreign corporation or whether such investor is treated as a United States shareholder with respect to any of such controlled foreign corporations or that we will furnish to any investors information that may be necessary to comply with the reporting and tax paying obligations applicable under the controlled foreign corporation rules of the Internal Revenue Code of 1986, as amended (the "Code"). U.S. investors should consult their tax advisors regarding the potential application of these rules to their investment in our ordinary shares or ADSs.

You may not receive dividends on our ordinary shares represented by the ADSs or any value for such dividend if it is illegal or impractical to make them available to holders of ADSs.

While we do not anticipate paying any dividends on our ordinary shares in the foreseeable future, if such a dividend is declared, the depository for the ADSs has agreed to pay to you the cash dividends or other distributions it or the custodian receives on our ordinary shares or other deposited securities after deducting its fees and expenses. You will receive these dividends in proportion to the number of our ordinary shares your ADSs represent. However, in accordance with the limitations set forth in the deposit agreement, it may be unlawful or impractical to make a dividend available to holders of ADSs. We have no obligation to take any other action to permit the dividend of the ADSs, ordinary shares, rights or anything else to holders of the ADSs. This means that you may not receive the dividends we make on our ordinary shares or any value from them if it is unlawful or impractical to make them available to you. These restrictions may have a material adverse effect on the value of your ADSs. In addition, exchange rate fluctuations may affect the amount of Australian dollars that we are able to distribute, and the amount in U.S. dollars that our shareholders receive upon the payment of cash dividends or other distributions we declare and pay in Australian dollars, if any. These factors could harm the value of the ADSs, and, in turn, the U.S. dollar proceeds that holders receive from the sale of the ADSs.

We are an “emerging growth company,” as defined in the JOBS Act, and as a result of the reduced disclosure and governance requirements applicable to emerging growth companies, our ADSs may be less attractive to investors.

We are an “emerging growth company,” as defined in the JOBS Act, and we take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404, reduced disclosure obligations regarding executive compensation in our periodic reports and any proxy statements, exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved. We have also elected to rely on an exemption that permits an emerging growth company to include only two years of audited financial statements and only two years of related management’s discussion and analysis of financial condition and results of operations disclosure, and we have therefore only included two years of audited financial statements, selected financial data and management’s discussion and analysis of financial condition and results of operations in this prospectus. We cannot predict if investors will find our ADSs less attractive because we rely on these exemptions. If some investors find our ADSs less attractive as a result, there may be a less active trading market for our ADSs and the trading price of our ADSs may be more volatile. We may take advantage of these reporting exemptions until we are no longer an emerging growth company. We will remain an emerging growth company until the earlier of (1) the last day of the fiscal year (a) following the fifth anniversary of the closing of this offering, (b) in which we have total annual gross revenue of at least US\$1.07 billion or (c) in which we are deemed to be a large accelerated filer, which requires the market value of our ADSs that are held by non-affiliates to exceed US\$700 million as of the prior June 30th, and (2) the date on which we have issued more than US\$1 billion in non-convertible debt during the prior three-year period.

As a foreign private issuer, we are permitted to rely on exemptions from certain Nasdaq corporate governance standards applicable to domestic U.S. issuers. This may afford less protection to holders of our shares.

We are exempted from certain corporate governance requirements of Nasdaq by virtue of being a foreign private issuer. As a foreign private issuer, we are permitted to follow the governance practices of our home country, Australia, in lieu of certain corporate governance requirements of Nasdaq. As result, the standards applicable to us are considerably different than the standards applied to domestic U.S. issuers. For instance, we are not required to:

- have a majority of the board be independent (although all of the members of the audit committee must be independent under the Exchange Act);
- have a compensation committee and a nominating committee to be comprised solely of “independent directors”; or
- hold an annual meeting of shareholders no later than one year after the end of our fiscal year.

Although we do not currently intend to rely these “home country” exemptions, we may rely on some of these exemptions in the future. As a result, our shareholders may not be provided with the benefits of certain corporate governance requirements of Nasdaq.

As a “foreign private issuer” in the United States, we are exempt from certain rules under U.S. securities laws and are permitted to file less information with the SEC than U.S. companies.

As a “foreign private issuer,” we are exempt from certain rules under the Exchange Act, that impose certain disclosure obligations and procedural requirements for proxy solicitations under Section 14 of the Exchange Act. In addition, our officers, directors and principal shareholders are exempt from the reporting and “short-swing” profit recovery provisions of Section 16 of the Exchange Act and the rules under the Exchange Act that deal with purchases and sales of the ADSs or our ordinary shares. Moreover, we are not required to file periodic reports and financial statements with the SEC as frequently or as promptly as U.S. companies whose securities are

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registered under the Exchange Act. In addition, we are not required to comply with Regulation FD, which restricts the selective disclosure of material information. As a result of this classification, there may be less publicly available information concerning us than there is for U.S. public companies.

We may lose our foreign private issuer status in the future, which could result in significant additional costs and expenses.

As discussed above, we are a foreign private issuer, and therefore, we are not required to comply with all of the periodic disclosure and current reporting requirements of the Exchange Act. The determination of foreign private issuer status is made annually on the last business day of an issuer's most recently completed second fiscal quarter. We would lose our foreign private issuer status if, for example, more than 50% of our ordinary shares are directly or indirectly held by residents of the United States and we fail to meet additional requirements necessary to maintain our foreign private issuer status. If we lose our foreign private issuer status on this date, we will be required to file with the SEC periodic reports and registration statements on U.S. domestic issuer forms, which are more detailed and extensive than the forms available to a foreign private issuer. We will also have to mandatorily comply with U.S. federal proxy requirements, and our officers, directors and principal shareholders will become subject to the short-swing profit disclosure and recovery provisions of Section 16 of the Exchange Act. In addition, we will lose our ability to rely upon exemptions from certain corporate governance requirements under the Nasdaq listing rules. As a U.S. listed public company that is not a foreign private issuer, we will incur significant additional legal, accounting and other expenses that we will not incur as a foreign private issuer, and accounting, reporting and other expenses in order to maintain a listing on a U.S. securities exchange.

We currently report our financial results under IFRS, which differs in certain significant respect from U.S. generally accepted accounting principles ("U.S. GAAP").

Currently we report our financial statements under IFRS. There have been and there may in the future be certain significant differences between IFRS and U.S. GAAP, including differences related to revenue recognition, intangible assets, share-based compensation expense, income tax and earnings per share. As a result, our financial information and reported earnings for historical or future periods could be significantly different if they were prepared in accordance with U.S. GAAP. In addition, we do not intend to provide a reconciliation between IFRS and U.S. GAAP unless it is required under applicable law. As a result, you may not be able to meaningfully compare our financial statements under IFRS with those companies that prepare financial statements under U.S. GAAP.

Australian takeover laws may discourage takeover offers being made for us or may discourage the acquisition of a significant position in our ordinary shares or ADSs.

We are incorporated in Australia and are subject to the takeover laws of Australia. Among other things, we are subject to the *Corporations Act 2001* (Cth) (the "Corporations Act"). Subject to a range of exceptions, the Corporations Act prohibits the acquisition of a direct or indirect interest in our issued voting shares if the acquisition of that interest will lead to a person's voting power in us increasing to more than 20%, or increasing from a starting point that is above 20% and below 90%. Australian takeover laws may discourage takeover offers being made for us or may discourage the acquisition of a significant position in our outstanding ordinary shares. This may have the ancillary effect of entrenching our board of directors and depriving or limiting our shareholders' or ADS holders' opportunity to sell their ordinary shares or ADSs and may further restrict the ability of our shareholders and ADS holders to obtain a premium from such transactions. See "Description of Share Capital—Change of Control".

Our Constitution and Australian laws and regulations applicable to us may adversely affect our ability to take actions that could be beneficial to our shareholders and holders of our ADSs.

As an Australian company, we are subject to different corporate requirements than a corporation organized under the laws of the states of the United States. Our Constitution, as well as the Corporations Act and the ASX

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Listing Rules, set forth various rights and obligations that are applicable to us as an Australian company listed on the ASX. These requirements may operate differently than those of many U.S. companies. You should carefully review the summary of these matters set forth under the section entitled “Description of Share Capital,” as well as our Constitution, which is included as an exhibit to the registration statement to which this prospectus forms a part, prior to investing in the ADSs.

You will have limited ability to bring an action against us or against our directors and officers, or to enforce a judgment against us or them, because we are incorporated in Australia, we conduct a majority of our operations in Australia, and the majority of our directors and officers reside outside the United States.

We are incorporated under the laws of Australia and conduct substantially all of our operations in Australia. The majority of our directors and officers and certain other persons named in this prospectus are citizens and residents of countries other than the United States and all or a significant portion of the assets of the directors and officers and certain other persons named in this prospectus and substantially all of our assets are located outside of the United States. As a result, it may not be possible or practicable for you to effect service of process within the United States upon such persons or to enforce against them or against us judgments obtained in U.S. courts predicated upon the civil liability provisions of the federal securities laws of the United States. Even if you are successful in bringing such an action, there is doubt as to whether Australian courts would enforce certain civil liabilities under U.S. securities laws in original actions or judgments of U.S. courts based upon these civil liability provisions. In addition, awards of punitive damages in actions brought in the United States or elsewhere may be unenforceable in Australia or elsewhere outside the United States. An award for monetary damages under U.S. securities laws would be considered punitive if it does not seek to compensate the claimant for loss or damage suffered and is intended to punish the defendant. The enforceability of any judgment in Australia will depend on the particular facts of the case as well as the laws and treaties in effect at the time. The United States and Australia do not currently have a treaty or statute providing for recognition and enforcement of the judgments of the other country (other than arbitration awards) in civil and commercial matters. As a result, our holders of our ADSs may have more difficulty in protecting their interests through actions against us, our management or our directors than would shareholders of a corporation incorporated in a jurisdiction in the United States.

In addition, as a company incorporated in Australia, the provisions of the Corporations Act regulate the circumstances in which shareholder derivative actions may be commenced, which may be different to the circumstances for companies incorporated in the United States.

General Risk Factors

We will incur significant increased costs as a result of operating as a U.S. listed public company, and our management will be required to devote substantial time and expense to various compliance issues.

After we become a U.S. publicly-traded company, and particularly after we cease to be an “emerging growth company” as defined in the JOBS Act, we will incur substantial additional legal, accounting and other expenses as a result of the reporting requirements of the Exchange Act. In addition, Sarbanes-Oxley Act, along with rules promulgated by the SEC, and Nasdaq, where our ADSs will trade, have significant requirements on public companies, including many changes involving corporate governance. Management and other company personnel will be required to devote a substantial amount of time to ensuring our compliance with these regulations. Accordingly, our legal, accounting and financial compliance expenses will significantly increase, and certain corporate actions will become more time-consuming and costly. For example, these regulations may make it more difficult to attract and retain qualified members of our board of directors and various corporate committees. Obtaining director and officer liability insurance will be significantly more expensive as a public company.

If securities or industry analysts do not publish research or reports about our business, or if they change their recommendations regarding our ADSs adversely, the trading price and volume of our ADSs could decline.

The trading market for our ADSs will be influenced by the research reports and opinions that securities or industry analysts publish about our business. Investors have numerous investment opportunities and may limit their investments to publicly traded companies that receive thorough research coverage. If no analysts commence coverage of us or if one or more analysts cease to cover us or fail to publish reports in a regular manner, we could lose visibility in the financial markets, which could cause a significant and prolonged decline in the trading price of our ADSs due to lack of investor awareness.

In the event that we do not obtain analyst coverage, or if one or more of the analysts downgrade our ADSs or comment negatively about our prospects or the prospects of other companies operating in our industry, the trading price of our ADSs could decline significantly. There is no guarantee that the equity research organizations affiliated with the underwriters of this offering will elect to initiate or sustain research coverage of us, nor whether such research, if initiated, will be positive towards the trading price of our ADSs or our business, financial condition, results of operations and prospects.

As a U.S. public reporting company, we will be required, among other obligations, to maintain effective internal control over financial reporting suitable to prepare our publicly reported financial statements in a timely and accurate manner.

Our management and independent registered public accounting firm did not perform an evaluation of our internal control over financial reporting during any period in accordance with the provisions of the Sarbanes-Oxley Act. The Sarbanes-Oxley Act requires, among other things, that public companies maintain effective internal controls for financial reporting and disclosure controls and procedures. Commencing with our second annual report after the completion of this offering, we will be required, under Section 404 of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting that results in more than a reasonable possibility that a material misstatement of annual or interim financial statements will not be prevented or detected on a timely basis.

Section 404 of the Sarbanes-Oxley Act also generally requires an attestation from our independent registered public accounting firm on the effectiveness of our internal control over financial reporting. For as long as we remain an emerging growth company, we intend to take advantage of the exemption permitting us not to comply with the independent registered public accounting firm attestation requirement.

We cannot be certain as to when we will be able to implement the requirements of Section 404 of the Sarbanes-Oxley Act. Any failure to implement these requirements in a timely manner or to maintain internal control over our financial reporting could severely inhibit our ability to accurately report our financial condition, results of operations or cash flows. If we are unable to conclude that our internal control over financial reporting is effective, or if our independent registered public accounting firm determines we have a material weakness or significant deficiency in our internal control over financial reporting once that firm begins its Section 404 reviews, we could lose investor confidence in the accuracy and completeness of our financial reports, the market price of our ADSs could decline, and we could be subject to sanctions or investigations by Nasdaq, the SEC or other regulatory authorities. Failure to remedy any material weakness in our internal control over financial reporting, or to implement or maintain other effective control systems required of public companies, could also restrict our future access to the capital markets.

We may become involved in securities class action litigation that could divert management's attention and adversely affect our business and could subject us to significant liabilities.

The stock markets have from time to time experienced significant price and volume fluctuations that have affected the market prices for the shares of biotechnology and pharmaceutical companies. These broad market fluctuations as well a broad range of other factors, including the realization of any of the risks described in this "Risk Factors" section of this prospectus, may cause the market price of our ADSs to decline. In the past, securities class action litigation has often been brought against a company following a decline in the market price of its securities. This risk is especially relevant for us because biotechnology and pharmaceutical companies generally experience significant share price volatility. We may become involved in this type of litigation in the future. Litigation often is expensive and diverts management's attention and resources, which could adversely affect our business. Any adverse determination in any such litigation or any amounts paid to settle any such actual or threatened litigation could require that we make significant payments.

Special Note Regarding Forward-Looking Statements

This prospectus contains forward-looking statements. All statements other than statements of historical facts contained in this prospectus, including statements regarding our future results of operations and financial position, business strategy, prospective drugs, ongoing and planned clinical trials, regulatory approvals, research and development costs, timing and likelihood of success, as well as plans and objectives of management for future operations are forward-looking statements. These statements involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements.

In some cases, you can identify forward-looking statements by terms such as “may,” “will,” “would,” “should,” “expect,” “plan,” “anticipate,” “could,” “intend,” “target,” “project,” “contemplates,” “believes,” “estimates,” “predicts,” “potential” or “continue” or the negative of these terms or other similar expressions, although not all forward-looking statements contain these words. Forward-looking statements contained in this prospectus include, but are not limited to, statements about:

- the ability of our clinical trials to demonstrate safety and efficacy of our product candidates, and other positive results;
- the timing and focus of our ongoing and future clinical trials and preclinical studies, and the reporting of data from those trials and studies;
- our plans relating to commercializing our product candidates, if approved, including the geographic areas of focus and sales strategy;
- the market opportunity and competitive landscape for our product candidates, including our estimates of the number of patients who suffer from the conditions we are targeting;
- the success of competing therapies that are or may become available;
- our estimates of the number of patients that we will enroll in our clinical trials;
- the beneficial characteristics, safety, efficacy and therapeutic effects of our product candidates;
- the timing of initiation and completion, and the progress of our drug discovery and research programs;
- the timing or likelihood of regulatory filings and approvals for our product candidates for various diseases;
- our ability to obtain and maintain regulatory approval of our product candidates;
- our plans relating to the further development of our product candidates, including additional indications we may pursue;
- existing regulations and regulatory developments in the United States, Australia, Europe and other jurisdictions;
- risks associated with the COVID-19 pandemic, which has and may continue to materially and adversely impact our business, preclinical studies and clinical trials;
- our plans and ability to obtain, maintain, protect and enforce our intellectual property rights and our proprietary technologies, including extensions of existing patent terms where available;
- our continued reliance on third parties to conduct additional clinical trials of our product candidates, and for the manufacture of our product candidates for preclinical studies and clinical trials;
- our plans regarding, and our ability to enter into, and negotiate favorable terms of, any collaboration, licensing or other arrangements that may be necessary or desirable to develop, manufacture or commercialize our product candidates;

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- the need to hire additional personnel and our ability to attract and retain such personnel;
- our estimates regarding expenses, future revenue, capital requirements and needs for additional financing;
- our financial performance;
- the period over which we estimate our existing cash and cash equivalents will be sufficient to fund our future operating expenses and capital expenditure requirements;
- our anticipated use of our existing resources and the proceeds from this offering.
- cyber security risks and any failure to maintain the confidentiality, integrity and availability of our computer hardware, software and internet applications and related tools and functions;
- our expectations regarding the period during which we will qualify as an emerging growth company under the JOBS Act; and
- our expectations regarding the period during which we will qualify as a foreign private issuer and be exempt from a number of rules under the U.S. securities laws and Nasdaq corporate governance rules and permitted to file less information with the SEC than U.S. companies.

We have based these forward-looking statements largely on our current expectations and projections about our business, the industry in which we operate and financial trends that we believe may affect our business, financial condition, results of operations and prospects, and these forward-looking statements are not guarantees of future performance or development. These forward-looking statements speak only as of the date of this prospectus and are subject to a number of risks, uncertainties and assumptions described under the sections in this prospectus entitled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and elsewhere in this prospectus. Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified and some of which are beyond our control, you should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Moreover, we operate in an evolving environment. New risk factors and uncertainties may emerge from time to time, and it is not possible for management to predict all risk factors and uncertainties. Except as required by applicable law, we do not plan to publicly update or revise any forward-looking statements contained herein, whether as a result of any new information, future events, changed circumstances or otherwise. The forward-looking statements contained in this prospectus are excluded from the safe harbor protection provided by the Private Securities Litigation Reform Act of 1995 and Section 27A of the Securities Act.

This prospectus also contains estimates and other statistical data made by independent parties and by us relating to market size and growth and other data about our industry. These data involve a number of assumptions and limitations, and you are cautioned not to give undue weight to such estimates. In addition, projections, assumptions and estimates of our future performance and the future performance of the markets in which we operate are necessarily subject to a high degree of uncertainty and risk.

In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this prospectus, and although we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted a thorough inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain, and investors are cautioned not to unduly rely upon these statements. Furthermore, if our forward-looking statements prove to be inaccurate, the inaccuracy may be material. In light of the significant uncertainties in these forward-looking statements, you should not regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified time frame, or at all. We undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law.

Use of Proceeds

We estimate that the net proceeds to us from the sale of the ADSs that we are offering will be approximately US\$ [redacted] million (or US\$ [redacted] million if the underwriters exercise their option to purchase additional ADSs in full), assuming an initial public offering price of US\$ [redacted] per ADS, the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ [redacted] on [redacted], 2021 (based on an assumed exchange rate of A\$1.00 to \$ [redacted]), and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Each US\$1.00 increase (decrease) in the assumed initial public offering price of US\$ [redacted] per ADS, the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ [redacted] on [redacted], 2021 (based on an assumed exchange rate of A\$1.00 to \$ [redacted]), would increase (decrease) the net proceeds to us from this offering by approximately US\$ [redacted] million, assuming that the number of ADSs offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and the estimated offering expenses payable by us. We may also increase or decrease the number of ADSs we are offering. Each increase (decrease) of 1.0 million in the number of ADSs we are offering would increase (decrease) the net proceeds to us from this offering by approximately US\$ [redacted] million, assuming that the assumed initial public offering price remains the same, and after deducting the estimated underwriting discounts and commissions and the estimated offering expenses payable by us. The information discussed above is illustrative only and will be adjusted based on the actual initial public offering price and other terms of our initial public offering determined at pricing.

The principal purposes of this offering are to create a public market for our ordinary shares in the United States and thereby facilitate future access to the public equity markets, increase our visibility in the marketplace and obtain additional capital.

We expect to use the net proceeds from this offering, together with our existing cash and cash equivalents, as follows:

- approximately US\$ [redacted] to advance BNC210 into a Phase 2 trial for the acute treatment of SAD, including the initiation and completion of the planned Phase 2 PREVAIL trial;
- approximately US\$ [redacted] for the continued development of BNC210 for the treatment of PTSD, including completion of the ongoing Phase 2b ATTUNE clinical trial;
- approximately US\$ [redacted] for the completion of chemistry, manufacturing and controls, long term safety and non-clinical pharmacology studies necessary to support Phase 3 pivotal trials of BNC210 for the treatment of SAD and PTSD; and
- the remainder for working capital, other research and development and general corporate purposes.

We believe, based on our current operating plan, that the net proceeds from this offering, together with our existing cash and cash equivalents, will be sufficient to fund our operations for at least the next [redacted] months. We have based this estimate on assumptions that may prove to be incorrect, and we could use our available capital resources sooner than we currently expect.

This expected use of the net proceeds from this offering represents our intentions based upon our current plans and business conditions. As of the date of this prospectus, we cannot predict with certainty all of the particular uses for the net proceeds to be received upon the closing of this offering or the amounts that we will actually spend on the uses set forth above. The amounts and timing of our actual expenditures and the extent of clinical development may vary significantly depending on numerous factors, including the progress of our development, the status of and results from preclinical studies or clinical trials we may commence in the future, as well as any collaborations that we may enter into with third parties for our product candidates, and any unforeseen cash needs. We may also use a portion of the net proceeds to in-license, acquire or invest in additional businesses, technologies, products or assets, although currently we have no specific agreements, commitments or understandings in this regard. As a result, our management will retain broad discretion over the allocation of the net proceeds from this offering.

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Pending our use of proceeds from this offering, we intend to invest the net proceeds in a variety of capital preservation instruments, including short-term, investment-grade, interest-bearing instruments and U.S. government securities.

Price Range and Trading Volume of Ordinary Shares

The following table presents, for the periods indicated, the high and low market prices and average daily trading volume for our ordinary shares reported on the ASX, under the symbol “BNO.” All prices are in Australian Dollars.

	<u>High</u> A\$	<u>Low</u> A\$	<u>Average</u> <u>Daily</u> <u>Volume</u>
Annual			
<i>Fiscal year ended June 30,</i>			
2021	0.3603	0.0523	1,544,864
2020	0.1176	0.0261	1,805,538
2019	0.4833	0.0279	2,102,682
2018	0.5487	0.3048	544,038
2017	0.4093	0.2047	842,860
Quarterly			
<i>Fiscal year ending June 30, 2022:</i>			
First quarter (through , 2021)	0.2050	0.1500	920,756
<i>Fiscal year ended June 30, 2021:</i>			
Fourth quarter	0.2500	0.1850	966,649
Third quarter	0.3603	0.1340	2,634,156
Second quarter	0.1432	0.0970	548,537
First quarter	0.1611	0.0523	2,054,042
<i>Fiscal year ended June 30, 2020:</i>			
Fourth quarter	0.0653	0.0305	1,286,669
Third quarter	0.0740	0.0261	688,445
Second quarter	0.1089	0.0644	2,102,012
First quarter	0.1176	0.0287	3,091,265
Most recent six months			
July 2021	0.2000	0.1500	862,325
June 2021	0.2400	0.1850	547,396
May 2021	0.2450	0.1900	631,870
April 2021	0.2500	0.1900	1,770,555
March 2021	0.3603	0.2050	2,356,392
February 2021	0.3603	0.1340	4,918,529

On , 2021, the closing price of our ordinary shares on the ASX was A\$ per ordinary share (US\$ per share, based on an exchange rate of A\$1.00 to US\$ as published by the Reserve Bank of Australia as of such date).

Dividend Policy

We have not paid cash dividends on our ordinary shares to date and we intend to retain all available funds and any future earnings for use in the operation of our business. We do not anticipate paying any cash dividends on our ordinary shares in the foreseeable future. Any future determination to declare cash dividends will be made at the discretion of our board of directors and will depend on our financial condition, results of operations, capital requirements, general business conditions and other factors that our board of directors may deem relevant.

Capitalization

The following table sets forth our cash and cash equivalents and our capitalization as of June 30, 2021, presented both in Australian and U.S. Dollars:

- on an actual basis; and
- on an as-adjusted basis to give further effect to the sale of ADSs in this offering at an assumed initial public offering price of US\$ per ADS, the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ on , 2021 (based on an assumed exchange rate of A\$1.00 to \$), after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

	As of June 30, 2021			
	Actual(1) US\$	Actual A\$	As Adjusted(1) US\$	As Adjusted A\$
Cash and cash equivalents	\$ 21,426	\$ 28,499		
Equity:				
Capital	\$ 142,985	190,190		
Share-based payments reserve	4,758	6,329		
Foreign currency translation reserve	3,848	5,119		
Accumulated losses	(115,808)	(154,041)		
Total equity	35,783	47,597		
Total capitalization	35,783	47,597		

- (1) The amounts have been translated into U.S. Dollars from Australian Dollars based upon the exchange rate as published by the Reserve Bank of Australia as of June 30, 2021. These translations are merely for the convenience of the reader and should not be construed as representations that the Australian Dollar amounts actually represent such U.S. Dollar amounts or could be converted into U.S. Dollars at such rate.

Each US\$1.00 increase (decrease) in the assumed initial public offering price of US\$ per ADS, the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ on , 2021 (based on an assumed exchange rate of A\$1.00 to \$), would increase (decrease) the as-adjusted amount of each of cash and cash equivalents, total equity attributable to owners of the company and total capitalization by approximately US\$ million, assuming that the number of ADSs offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and the estimated offering expenses payable by us. We may also increase or decrease the number of ADSs we are offering. Each increase (decrease) of 1.0 million in the number of ADSs we are offering would increase (decrease) the as-adjusted amount of each of cash and cash equivalents, total equity attributable to owners of the company and total capitalization by approximately (US\$ million), assuming that the assumed initial public offering price remains the same, and after deducting the estimated underwriting discounts and commissions and the estimated offering expenses payable by us. The as-adjusted information set forth above is illustrative only and our capitalization following the closing of this offering will be adjusted based on the actual initial public offering price and other terms of our initial public offering determined at pricing. You should read this information in conjunction with our financial statements and the related notes included in this prospectus and the “Management’s Discussion and Analysis of Financial Condition and Results of Operations” section and other financial information contained in this prospectus.

The number of ordinary shares in the table above is based on 1,007,596,744 ordinary shares outstanding as of June 30, 2021, and excludes:

- 20,985,450 ordinary shares issuable upon exercise of options outstanding as of June 30, 2021, at a weighted average exercise price of A\$0.12 (US\$0.09) per share, of which options to purchase

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20,056,550 ordinary shares were vested at a weighted average exercise price of A\$0.11 (US\$0.08) per share; and

- 166,082,988 ordinary shares issuable upon exercise of a warrant as of June 30, 2021 at a weighted average exercise price of A\$ 0.11 (US\$0.08) per share, of which warrants to purchase 166,082,988 ordinary shares were vested at a weighted average exercise price of A\$0.11 (US\$0.08) per share.

In addition, the number of ordinary shares in the table above excludes shares issuable pursuant to future awards granted to our employees under the 2017 Plan or that might be granted to our directors. Under the ASX Listing Rules, we cannot, without the approval of our shareholders, subject to specified exceptions, issue, during any 12 month period, any equity securities, or other securities with rights to convert into equity, if the number of those securities exceeds 15% of the number of shares on issue at the commencement of that 12 month period (“Placement Capacity”). Under ASX Listing Rules, we can issue up to 10.0 million ordinary shares to employees under the 2017 Plan without reducing our Placement Capacity due to a shareholder approval obtained at our 2020 Annual General Meeting. Awards to our employees above such 10.0 million threshold under the 2017 Plan would reduce our Placement Capacity in the year in which such awards are granted.

Dilution

If you invest in the ADSs in this offering, your ownership interest will be immediately diluted to the extent of the difference between the initial public offering price per ADS and the as-adjusted net tangible book value per ADS after this offering. Dilution results from the fact that the initial public offering price per ADS is substantially in excess of the net tangible book value per ordinary shares underlying the ADSs.

As of June 30, 2021, we had a historical net tangible book value of A\$25.3 million (US\$19.0 million), or A\$0.03 (US\$0.02) per ordinary share, equivalent to A\$ (US\$) per ADS. Net tangible book value per ADS represents total tangible assets less total liabilities, divided by the number of outstanding ordinary shares (including shares underlying the outstanding ADSs) multiplied by , the number of ordinary shares underlying each ADS.

After giving further effect to the sale of ADSs that we are offering at an assumed initial public offering price of US\$ per ADS, the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ on , 2021 (based on an assumed exchange rate of A\$1.00 to \$), and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us, our as-adjusted net tangible book value as of June 30, 2021 would have been approximately A\$ million (US\$ million), or approximately A\$ (US\$) per ADS. This amount represents an immediate increase in as-adjusted net tangible book value of US\$ per share to our existing shareholders and an immediate dilution in as-adjusted net tangible book value of approximately US\$ per ADS to new investors purchasing ADSs in this offering.

The following table illustrates this dilution (without giving effect to any exercise by the underwriters of their option to purchase additional ADSs):

Assumed initial public offering price per ADS		US\$
Historical net tangible book value per ADS as of June 30, 2021		US\$
Increase in as-adjusted net tangible book value per ADS attributable to this offering		
As-adjusted net tangible book value per ADS after this offering		
Dilution per ADS to new investors in this offering		US\$

Each US\$1.00 increase (decrease) in the assumed initial public offering price of US\$ per ADS, the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ on , 2021 (based on an assumed exchange rate of A\$1.00 to \$), would increase (decrease) the as-adjusted net tangible book value per ADS after this offering by approximately US\$, and dilution in as-adjusted net tangible book value per ADS to new investors by approximately US\$, assuming that the number of ADSs offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and the estimated offering expenses payable by us. We may also increase or decrease the number of ADSs we are offering. Each increase (decrease) of 1.0 million in the number of ADSs we are offering would increase (decrease) our as-adjusted net tangible book value per ADS after this offering by approximately US\$ per ADS and decrease (increase) the dilution to investors participating in this offering by approximately US\$ per ADS, assuming that the assumed initial public offering price remains the same, and after deducting the estimated underwriting discounts and commissions and the estimated offering expenses payable by us. The as-adjusted information discussed above is illustrative only and will be adjusted based on the actual initial public offering price and other terms of our initial public offering determined at pricing.

If the underwriters exercise their option to purchase additional ADSs in full in this offering, the as-adjusted net tangible book value after the offering would be US\$ per ADS, the increase in as-adjusted net tangible book value per share to existing shareholders would be US\$ per ADS and the dilution per ADS to new investors would be US\$ per ADS, in each case assuming an initial public offering price of

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US\$ _____ per ADS, the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ _____ on _____, 2021 (based on an assumed exchange rate of A\$1.00 to \$ _____).

The following table summarizes on the as-adjusted basis described above, as of June 30, 2021, the differences between the number of ADSs, or equivalent number of ordinary shares, purchased from us, the total consideration paid to us in cash and the average price per ADS, or the equivalent number of ordinary shares, paid by existing shareholders for ADSs, or the equivalent number of ordinary shares, issued prior to this offering and the price to be paid by new investors in this offering. The calculation below is based on the assumed initial public offering price of US\$ _____ per ADS, the U.S. dollar equivalent of the closing price of our ordinary shares on the ASX of A\$ _____ on _____, 2021 (based on an assumed exchange rate of A\$1.00 to \$ _____), before deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

	ADS or Equivalent Number of Shares Purchased ⁽¹⁾		Total Consideration		Average Price Per ADS or Equivalent Number of Shares
	Number	Percent	Amount	Percent	
Existing shareholders		%	US\$	%	US\$
New investors					
Total		100%		100%	

(1) Reflects _____ ordinary shares as equivalent to each ADS.

The foregoing tables and calculations are based on 1,007,596,744 ordinary shares outstanding as of June 30, 2021, and excludes:

- 20,985,450 ordinary shares issuable upon exercise of options outstanding as of June 30, 2021, at a weighted average exercise price of A\$0.12 (US\$0.09) per share, of which options to purchase 20,056,550 ordinary shares were vested at a weighted average exercise price of A\$0.11 (US\$0.08) per share; and
- 166,082,988 ordinary shares issuable upon exercise of a warrant as of June 30, 2021 at a weighted average exercise price of A\$ 0.11 (US\$0.08) per share, of which warrants to purchase 166,082,988 ordinary shares were vested at a weighted average exercise price of A\$0.11 (US\$0.08) per share.

In addition, the foregoing calculations excludes shares issuable pursuant to future awards granted to our employees under the 2017 Plan or that might be granted to our directors. Under the ASX Listing Rules, we cannot, without the approval of our shareholders, subject to specified exceptions, issue, during any 12 month period, any equity securities, or other securities with rights to convert into equity, if the number of those securities exceeds 15% of the number of shares on issue at the commencement of that 12 month period ("Placement Capacity"). Under ASX Listing Rules, we can issue up to 10.0 million ordinary shares to employees under the 2017 Plan without reducing our Placement Capacity due to a shareholder approval obtained at our 2020 Annual General Meeting. Awards to our employees above such 10.0 million threshold under the 2017 Plan would reduce our Placement Capacity in the year in which such awards are granted.

To the extent any outstanding options or warrants are exercised, there will be further dilution to new investors. If all of such outstanding options and warrants had been exercised as of June 30, 2021, the as-adjusted net tangible book value per share after this offering would be US\$ _____, and total dilution per share to new investors would be US\$ _____.

If the underwriters exercise their option to purchase additional ADSs in full:

- the percentage of ADS, or equivalent number of ordinary shares, held by existing shareholders will decrease to approximately _____ % of the total number of ADSs, or the equivalent number of ordinary shares outstanding after this offering; and
- the number of ADSs, or equivalent number of ordinary shares, held by new investors will increase to _____, or approximately _____ % of the total number of ADSs, or equivalent number of ordinary shares.

Exchange Rate Information

The Australian Dollar is convertible into U.S. Dollars at freely floating rates. There are no legal restrictions on the flow of Australian Dollars between Australia and the United States. For your convenience, we have translated some Australian Dollar amounts into U.S. Dollar amounts using the Reserve Bank of Australia rate (the “RBA rate”).

We make no representation that any Australian Dollar or U.S. Dollar amounts could have been, or could be, converted into U.S. Dollars or Australian Dollars, as the case may be, at any particular rate, the rates stated below, or at all.

The following table contains information for the RBA rate for the Australian Dollar into U.S. Dollars for the periods indicated.

	<u>At Period End (US\$)</u>	<u>Average Rate(1) (US\$)</u>	<u>High (US\$)</u>	<u>Low (US\$)</u>
Fiscal year ended June 30,				
2017	0.7692	0.7542	0.7724	0.7202
2018	0.7391	0.7736	0.8121	0.7353
2019	0.7013	0.7153	0.7467	0.6840
2020	0.6863	0.6715	0.7065	0.5571
2021	0.7518	0.7492	0.7970	0.6895
2022 (through , 2021)	0.7384	0.7368	0.7587	0.7133
Month ended				
July 31, 2021	0.7381	0.7425	0.7578	0.7298
August 31, 2021	0.7335	0.7301	0.7397	0.7133

(1) For the fiscal years, determined by averaging Reserve Bank of Australia rate at the end of each day of each month during the fiscal year.

Selected Consolidated Financial Data

The following tables set forth selected consolidated historical financial data as of, and for the periods ended on, the dates indicated. We have derived the statement of profit or loss data for the years ended June 30, 2021 and 2020, and the statement of financial position data as of June 30, 2021 and 2020, from our audited consolidated financial statements included elsewhere in this prospectus. Our audited consolidated financial statements have been prepared in Australian Dollars and in accordance with International Financial Reporting Standards and interpretations issued by the International Accounting Standards Board. You should read this data together with our audited consolidated financial statements and related notes included elsewhere in this prospectus and the section in this prospectus entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations." Our historical results for any prior period are not indicative of our future results.

Statement of Profit or Loss Data:

	Fiscal Year Ended June 30,		
	2021	2020	
	US\$(1)	A\$	A\$
	(in thousands, except per share data)		
Continuing Operations:			
Revenue	\$ —	\$ —	\$ 46
Other income	983	1,308	3,313
Other gains and losses	3,212	4,273	4,576
Expenses	<u>(10,874)</u>	<u>(14,465)</u>	<u>(13,962)</u>
Loss before tax from continuing operations	(6,679)	\$ (8,884)	\$ (6,027)
Income tax benefit (expense)	<u>141</u>	<u>187</u>	<u>208</u>
Loss after tax from continuing operations	<u>(6,538)</u>	<u>\$ (8,697)</u>	<u>\$ (5,819)</u>
Discontinued Operations			
Loss for the year from discontinued operations	<u>—</u>	<u>—</u>	<u>(1,299)</u>
Loss for the year	<u>(6,538)</u>	<u>(8,697)</u>	<u>(7,118)</u>
Other comprehensive income:			
Exchange differences on translation of foreign operations	<u>(879)</u>	<u>(1,169)</u>	<u>531</u>
Total comprehensive profit (loss) attributable to the owners of the company	<u>(7,417)</u>	<u>(9,866)</u>	<u>(6,587)</u>
Earnings per share from continuing operations attributable to the owners of the company:			
Earnings per share, basic and diluted ⁽²⁾	\$ (0.01)	\$ (0.01)	\$ (0.01)

Statement of Financial Position Data:

	As of June 30, 2021			
	2021		2020	
	US\$(1)	A\$	US\$(1)	A\$
	(in thousands)			
Cash and cash equivalents	\$21,426	\$28,499	\$ 3,442	\$ 4,578
Trade and other receivables	848	1,128	2,240	2,979
Other current assets	977	1,300	583	776
Total current assets	23,251	30,927	6,265	8,333
Intangible assets and goodwill	16,800	22,346	18,524	24,639
Other non-current assets	744	990	1,120	1,491
Total non-current assets	17,544	23,336	19,644	26,130
Total assets	40,795	54,263	25,909	34,463
Total current liabilities	1,775	2,361	6,219	8,272
Total non-current liabilities	3,237	4,305	10,156	13,509
Total liabilities	5,012	6,666	16,375	21,781
Total equity attributable to owners of the company	35,783	47,597	9,534	12,682

- (1) The amounts have been translated into U.S. Dollars from Australian Dollars based upon the RBA Rate as of June 30, 2021. These translations are merely for the convenience of the reader and should not be construed as representations that the Australian Dollar amounts actually represent such U.S. Dollar amounts or could be converted into U.S. Dollars at such rate.
- (2) See Note 2 to our audited consolidated financial statements appearing elsewhere in this prospectus for an explanation of the method used to compute basic and diluted earnings per share.

Management's Discussion and Analysis of Financial Condition and Results of Operations

You should read the following discussion and analysis of our financial condition and results of operations, presented in Australian Dollars (A\$), together with our audited consolidated financial statements and the related notes and other financial information included elsewhere in this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategy for our business, includes forward-looking statements that involve risks and uncertainties.

You should review the "Risk Factors" section of this prospectus for a discussion of important factors that could cause our actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

We are a clinical-stage biopharmaceutical company developing a pipeline of novel, allosteric ion channel modulators focused on transforming the lives of patients suffering from serious and underserved central nervous system ("CNS") disorders. Ion channels serve as important mediators of physiological function in the CNS and the modulation of ion channels influences neurotransmission that leads to downstream signaling in the brain. The $\alpha 7$ nicotinic acetylcholine ("ACh") receptor (" $\alpha 7$ receptor") is an important ion channel that serves as a key driver of emotional response and cognitive performance and its well-understood biology has garnered significant attention as a pharmacological target for cognitive deficits. Utilizing our ion channel expertise, we are developing orally active small molecule negative allosteric modulators ("NAMs") and positive allosteric modulators ("PAMs") of the $\alpha 7$ receptor to treat anxiety-related and cognitive disorders, respectively.

We are advancing our lead product candidate, BNC210, an oral proprietary selective NAM of the $\alpha 7$ receptor, for the acute treatment of Social Anxiety Disorder ("SAD") and chronic treatment of Post-Traumatic Stress Disorder ("PTSD"). We expect to initiate our Phase 2 PREVAIL trial for BNC210 for the acute treatment of SAD by the end of 2021 and currently anticipate reporting topline data by the end of 2022. We have initiated our Phase 2b ATTUNE trial, a randomized, placebo-controlled study to evaluate BNC210 for the treatment of PTSD and we expect to report topline data in the first half of 2023. Our expertise and approach have been validated through our June 2014 research collaboration and license agreement (as amended, the "2014 Merck License Agreement") with Merck Sharp & Dohme Corp., a wholly owned subsidiary of Merck & Co., Inc., Kenilworth NJ, USA ("Merck") for our $\alpha 7$ receptor Positive Allosteric Modulator (PAM) program, which targets a receptor that has garnered significant attention for treating cognitive deficits. This partnership enables us to maximize the value of our ion channel and chemistry platforms and develop transformative medicines for patients suffering from cognitive disorders such as Alzheimer's disease.

We were incorporated in 1996 and completed our initial public offering and listing of ordinary shares on the ASX in 1999. Our ability to generate revenue from product sales sufficient to achieve profitability will depend heavily on the successful development and eventual commercialization of one or more of our product candidates. Our operations to date have been financed primarily by aggregate net proceeds of A\$172.6 million from the sale and issuances of our equity, A\$22.6 million of borrowings, A\$34.1 million in the form of an upfront payment, research funding and a milestone payment from the 2014 Merck License Agreement, and A\$77.5 million from Australian research and development credits and government grants and assistance. Since inception, we have had significant operating losses. Our net loss after tax from continuing operations was A\$8.7 million and A\$5.8 million for the years ended June 30, 2021 and 2020, respectively. As of June 30, 2021, we had an accumulated deficit of A\$154.0 million and cash and cash equivalents of A\$28.5 million.

Cash used to fund operating expenses is impacted by the timing of when we pay these expenses, as reflected in the change in our trade and other payables. We expect to continue to incur net losses for the foreseeable future, and we expect our research and development expenses, and our administrative and other expenses will continue to increase. In particular, we expect our expenses to increase as we continue our development of, and seek regulatory approvals for, our product candidates, as well as hire additional personnel, pay fees to outside

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consultants, lawyers and accountants, and incur other increased costs associated with being a U.S. public company following the closing of this offering. In addition, if and when we seek and obtain regulatory approval to commercialize any product candidate, we will also incur increased expenses in connection with commercialization and marketing of any such product. Our net losses may fluctuate significantly from quarter-to-quarter and year-to-year, depending on the timing of our clinical trials and our expenditures on other research and development activities.

Based upon our current operating plan, we believe that the net proceeds from this offering together with our existing cash and cash equivalents, will be sufficient to continue funding our development activities through . We have based this estimate on assumptions that may prove to be wrong, and we could exhaust our available capital resources sooner than we expect. To finance our operations beyond that point we will need to raise additional capital, which cannot be assured.

Impact of COVID-19

In March 2020, the WHO declared the COVID-19 outbreak a pandemic. In order to mitigate the spread of COVID-19, governments have imposed unprecedented restrictions on business operations, travel and gatherings, resulting in a global economic downturn and other adverse economic and societal impacts. We have considered the impact of COVID-19 on our operations and financial performance. Operations for the fiscal years ended June 30, 2021 and 2020 were not materially affected by the COVID-19 pandemic, other than the receipt of A\$0.2 million and A\$0.1 million, respectively, in Australian government assistance, which has been recognized as Other Income. Our Phase 2b ATTUNE clinical trial for BNC210 in patients with PTSD started on time in the United States during July 2021 and to date has not been affected by the COVID-19 pandemic except for postponing screening and enrolment of one potential participant into the trial.

However, the impact of related responses and disruptions caused by the COVID-19 pandemic may result in difficulties or delays in completing our Phase 2b ATTUNE clinical trial in patients with PTSD due to difficulties in enrolling patients, resulting in the incurrence of unforeseen costs as a result of delays in completing the trial. We are continuing to work closely with our clinical partners and have taken steps as necessary to allow for adjustments in the clinical trial protocol, should they be required due to restrictions that may be imposed during the COVID-19 pandemic.

The COVID-19 pandemic and its impacts continue to evolve. We cannot predict the scope and severity of any further disruptions as a result of COVID-19 or their impacts on us, but business disruptions for us or any of the third parties with whom we engage, including the collaborators, contract organizations, manufacturers, suppliers, clinical trial sites, regulators and other third parties with whom we conduct business could materially and negatively impact our ability to conduct our business in the manner and on the timelines presently planned. The extent to which the COVID-19 pandemic may continue to impact our business and financial performance will depend on future developments, which are highly uncertain and cannot be predicted with confidence, including the scope and duration of the pandemic, the extent and effectiveness of government restrictions and other actions, including relief measures, implemented to address the impact of the pandemic, and resulting economic impacts. We are unable to determine the extent of the impact of the pandemic on our clinical trials, operations and financial condition going forward. These developments are highly uncertain and unpredictable and may materially adversely affect our financial position and results of operations.

Licenses and Collaborations

In June 2014, we entered the 2014 Merck License Agreement to develop compounds targeting cognitive dysfunction associated with Alzheimer's disease and other central nervous system conditions. Pursuant to the 2014 Merck License Agreement, we received upfront payments totaling US\$20 million, and another US\$10 million in February 2017 when the first compound from the collaboration entered Phase 1 clinical trials and we are eligible to receive up to an additional US\$465 million in milestone payments for achievement of certain development and commercial milestones. Further, Merck is obligated to pay us tiered royalties in the mid single digit to low

sub-teen double digit percentage range on net sales of the licensed products, subject to reduction upon certain events.

In November 2020, we entered into an IP license agreement (the “Carina Biotech License”) with Carina Biotech. Pursuant to the Carina Biotech License, we are eligible to receive up to A\$118 million in certain development, regulatory and commercial milestone payments if Carina Biotech fully develops and markets the new therapy. Carina Biotech is also obligated to pay us royalties on its net sales of licensed products, on a country-by-country and product-by-product basis, ranging from the low single digits to the mid-single digits, subject to certain specified deductions. Royalties are payable until the later of expiration of all licensed patents covering the licensed products, or expiration of all data exclusivity with respect to the licensed product. If Carina Biotech enters into one or more sublicensing agreements relating to the licensed product, we are eligible to receive a percentage of sublicensing revenues. To date, no payments have been made pursuant to the Carina Biotech License.

In January 2012, we entered into a research and license agreement with Ironwood Pharmaceuticals, Inc. (“Ironwood”), pursuant to which Ironwood was granted worldwide development and commercialization rights for BNC210. In November 2014, the parties mutually agreed to terminate this license agreement, reverting all rights to BNC210 back to us. The sole obligation to Ironwood is to pay Ironwood low single digit royalties on the net sales of BNC210, if commercialized.

Components of Operating Results from Continuing Operations

Income

Our income consists of revenue, other income and other gains and losses.

Revenue

Our primary source of revenue historically has been upfront and milestone payments with respect to out-licensing payments and research funding from Merck. To date, we have not had any products approved for sale and, therefore, have not generated any product revenue.

Other Income

Our other income includes (i) income related to the Australian Government’s Research and Development Tax Incentive program; (ii) interest income earned on our bank accounts; (iii) sub-lease income on part of our prior leased office facility in Adelaide, Australia, which concluded June 2021; and (iv) Australian Government assistance in relation to COVID-19.

The Australian Government’s Research and Development Tax Incentive program provides a refundable tax offset for up to 43.5% of eligible research and development expenditures by Australian companies with an “aggregated turnover” of less than A\$20.0 million. Grants under the program have been available for our research and development activities in Australia, as well as certain activities conducted overseas that are approved by the Australian Government. Grants are calculated at the end of the fiscal year to which they relate, based on the expenses incurred in such fiscal year and included in such fiscal year’s Australian income tax return after registration of the research and development activities with the relevant authorities.

Other Gains and Losses

Other gains and losses include the changes in the fair value of our contingent consideration liability, and net realized and unrealized foreign exchange gains and losses.

Expense

Our expenses since inception have consisted primarily of research and development expenses, administrative expenses and other costs.

Research and Development Expenses

Our research and development expenses represent costs incurred to conduct discovery and development of our proprietary drug candidates and consist primarily of:

- personnel costs, which include salaries, benefits and share-based compensation;
- expenses incurred under agreements with outside consultants and advisors, including their fees and related travel expenses;
- expenses incurred under agreements with third parties, including CROs that conduct research, preclinical activities and clinical trials on our behalf as well as CMOs that manufacture our product candidates for use in our preclinical studies and clinical trials and perform CMC activities;
- laboratory and vendor expenses related to the execution of preclinical studies and planned and ongoing clinical trials; and
- filing and maintenance of patents and intellectual property rights, including payment to third parties for assignment of patent rights and licensing fees and milestone payments incurred under product license agreements where no alternative future use exists.

We expense all research and development costs as they are incurred, with development expenses being expensed to the extent they do not meet the criteria for capitalization. To date, we have not capitalized any of our research and development costs and manage our research and development costs on a consolidated basis. Our collaboration partners typically carry the majority of the research and development expenses for out-licensed product candidates at amounts that are not known or made available to us. Therefore, our research and development expenses do not reflect a complete picture of all financial resources devoted to our product candidates, nor do historical research and development expenses necessarily reflect the stage of development for particular product candidates or development projects.

Substantially all of our direct research and development expenses in the years ended June 30, 2021 and 2020 were on BNC210 and consisted primarily of external costs, such as consultants, third-party contract organizations that conduct research and development activities on our behalf, costs related to production of preclinical and clinical materials, including fees paid to contract manufacturers, and laboratory and vendor expenses related to the execution of our ongoing and planned preclinical studies and clinical trials. We deploy our personnel resources across all of our research and development activities.

Because of the numerous risks and uncertainties associated with product development and the current stage of development of our product candidates, we cannot reasonably estimate or know the nature, timing and estimated costs necessary to complete the remainder of the development of our product candidates. We are also unable to predict if, when, or to what extent we will obtain approval and generate revenues from the commercialization and sale of our product candidates. The duration, costs and timing of preclinical studies and clinical trials and development of our product candidates will depend on a variety of factors, including:

- successful enrollment and completion of our ongoing Phase 2b ATTUNE clinical trial for BNC210 in patients with PTSD and our planned Phase 2 PREVAIL trial for BNC210 for the acute treatment of SAD, and any clinical trials for BNC210 or future product candidates;
- successful completion of preclinical studies and of clinical trials for BNC210 and our other current product candidates and any future product candidates;
- data from our clinical programs that support an acceptable risk-benefit profile of our product candidates in the intended patient populations;

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- acceptance by the FDA in the United States, regulatory authorities in Europe, or other regulatory agencies, of the IND applications, clinical trial applications and/or other regulatory filings for BNC210, our other current product candidates and any future product candidates;
- expansion and maintenance of a workforce of experienced scientists and others to continue to develop our product candidates;
- successful application for and receipt of marketing approvals from applicable regulatory authorities;
- obtainment and maintenance of regulatory exclusivity for our product candidates;
- arrangements with third-party manufacturers for, or establishment of, commercial manufacturing capabilities;
- establishment of sales, marketing and distribution capabilities and successful launch of commercial sales of our products, if and when approved, whether alone or in collaboration with others;
- acceptance of our products, if and when approved, by patients, the medical community and third-party payors;
- effective competition with other therapies;
- obtainment and maintenance of coverage, adequate pricing and adequate reimbursement from third-party payors, including government payors;
- obtainment, maintenance, enforcement, defense and protection of our rights in our intellectual property portfolio;
- avoidance of infringement, misappropriation or other violations with respect to others' intellectual property or proprietary rights; and
- maintenance of a continued acceptable safety profile of our products following receipt of any marketing approvals.

We may never succeed in achieving regulatory approval for any of our product candidates. We may obtain unexpected results from our preclinical studies and clinical trials. We may elect to discontinue, delay or modify clinical trials of some product candidates or focus on others. A change in the outcome of any of these factors could mean a significant change in the costs and timing associated with the development of our current and future preclinical and clinical product candidates. For example, if the FDA or another regulatory authority were to require us to conduct clinical trials beyond those that we currently anticipate will be required for the completion of clinical development, or if we experience significant delays in execution of or enrollment in any of our preclinical studies or clinical trials, we could be required to expend significant additional financial resources and time on the completion of preclinical and clinical development.

Research and development activities account for a significant portion of our operating expenses. We expect our research and development expenses to increase substantially for the foreseeable future as we continue to implement our business strategy, which includes advancing BNC210 through clinical development and other product candidates into clinical development, expanding our research and development efforts, including hiring additional personnel to support our research and development efforts, and seeking regulatory approvals for our product candidates that successfully complete clinical trials. In addition, product candidates in later stages of clinical development generally incur higher development costs than those in earlier stages of clinical development, primarily due to the increased size and duration of later-stage clinical trials. As a result, we expect our research and development expenses to increase as our product candidates advance into later stages of clinical development. However, we do not believe that it is possible at this time to accurately project total program-specific expenses through commercialization. There are numerous factors associated with the successful commercialization of any of our product candidates, including future trial design and various regulatory requirements, many of which cannot be determined with accuracy at this time based on our stage of development. The process of conducting the necessary clinical development to obtain regulatory approval is costly and time-consuming, and the successful development of our product candidates is highly uncertain.

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Administration Expenses

Our administration expenses consist primarily of personnel costs, consultancy fees and director fees. We expect our administration expenses to increase over the next several years to support expanded research and development activities and operating as a U.S. public company following the closing of this offering, including costs of additional personnel and increased costs related to additional investor relations activities.

Occupancy Expenses

Our occupancy expenses include the costs relating to our headquarters in Adelaide, Australia, including lease depreciation, maintenance and incidental costs. In June 2021, we moved to a new smaller leased office space in Adelaide and, as a result, our near-term, future occupancy expenses are expected to decline.

Compliance Expenses

Our compliance expenses include costs relating to audit, tax and regulatory compliance, legal fees and insurance. We expect our compliance expenses to increase going forward in connection with being a public company in the United States, with increased fees to outside consultants, lawyers and accountants, and increased costs associated with being a U.S. public company, such as expenses related to services associated with maintaining compliance with Nasdaq listing rules and SEC requirements, director and officer insurance premiums and investor relations costs.

Finance Expenses

Our finance expenses on an ongoing basis consist primarily of interest expense on the finance lease liability relating to the lease of our headquarters in Adelaide, Australia. In April 2021 we repaid in full our U.S.-dollar denominated borrowings, and our equipment mortgage loans.

Foreign Currency Exchange

Our financial results are reported in Australian Dollars. A substantial portion of our operating expenses and revenues are denominated in the U.S. dollar. During the years ended June 30, 2021 and 2020, we have managed our exchange rate exposure principally by purchasing currencies and maintaining foreign currency cash accounts and managing our payments from the most appropriate accounts. From time to time, we may additionally use forward exchange contracts in an effort to manage certain foreign exchange rate exposures when appropriate. See “Quantitative and Qualitative Disclosures about Market Risk” for more information.

Results of Operations

Comparison of Fiscal Years ended June 30, 2021 and 2020

	Fiscal Year ended June 30, 2021	Fiscal Year ended June 30, 2020 (in thousands)	Increase (Decrease) Amount	Increase (Decrease) Percent
	A\$	A\$	A\$	%
Continuing Operations				
Revenue	—	46	(46)	(100.0)
Other income	1,308	3,313	(2,005)	(60.5)
Other gains and losses	4,273	4,576	(303)	(6.6)
Expenses				
Research and development expenses	(5,762)	(5,828)	(66)	(1.1)
Administration expenses	(4,374)	(3,671)	703	19.2
Occupancy expenses	(1,271)	(1,180)	91	7.7
Compliance expenses	(1,614)	(1,436)	178	12.4
Finance expenses	(1,444)	(1,847)	(403)	(21.8)
Loss before tax	(8,884)	(6,027)	2,857	47.4

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Revenue

We recognized license revenue in the fiscal year ended June 30, 2020 which did not recur in the fiscal year ended June 30, 2021.

Other Income

The decrease of A\$2.0 million, or 60.5%, to A\$1.3 million in our other income for the fiscal year ended June 30, 2021 as compared to the fiscal year ended June 30, 2020 was due to a decrease in government research and development incentives as a result of a decrease in qualifying research and development expenses for the Australian research and development credits. Our other income for the years ended June 30, 2021 and 2020 also includes sub-lease income of A\$0.2 million for each year on part of our prior leased office facility in Adelaide, Australia which concluded July 2021.

Other Gains and Losses

Other gains and losses include the changes in the fair value of our contingent consideration liability, and net realized and unrealized foreign exchange gains and losses. The decrease of A\$0.3 million, or 6.6%, to A\$4.3 million for the fiscal year ended June 30, 2021 as compared to the fiscal year ended June 30, 2020, was due to a A\$1.6 million decrease in net gains arising from the change in the fair value of contingent consideration liability, a A\$0.2 million decrease in net gain on modification of borrowings, and a A\$0.2 million decrease in net gains/losses on disposals of equipment, offset by a A\$1.7 million increase in realized net foreign exchange gains and losses.

Research and Development Expenses

Our research and development activities in the years ended June 30, 2021 and 2020, were principally focused on the advancement of BNC210. The decrease in the fiscal year ended June 30, 2021 of A\$0.7 million, or 1.1%, to A\$5.8 million, as compared to the fiscal year ended June 30, 2020 was primarily due to A\$1.1 million increase expense with respect to BNC210 research and development offset by A\$0.6 million net decrease in employee salaries and benefits costs as a result of the closure of our CNS research group in December 2020, a A\$0.4 million decrease in amortization of intangible assets and a A\$0.1 million decrease in patent costs. We are now solely developing BNC210 for clinical trials, with the Phase 2b ATTUNE PTSD trial initiated in the United States in July 2021.

Administration Expenses

The increase in administration expenses in the fiscal year ended June 30, 2021 of A\$0.7 million, or 19.2%, to A\$4.4 million, as compared to the fiscal year ended June 30, 2020 was due to a A\$1.3 million increase in share-based compensation expense and a A\$0.6 million increase in director compensation and travel expenses, offset by a A\$0.7 million decrease in employee salary and benefits and a A\$0.5 million net decrease in other general and administrative expenses.

Occupancy Expenses

The increase in occupancy expenses in the fiscal year ended June 30, 2021 of A\$0.1 million, or 7.7%, to A\$1.3 million, as compared to the fiscal year ended June 30, 2020 was primarily due to an increase in maintenance expenses on our prior leased office facility.

Compliance Expenses

The increase in compliance expenses in the fiscal year ended June 30, 2021 of A\$0.2 million, or 12.4%, to A\$1.6 million, as compared to the fiscal year ended June 30, 2020 was primarily due to an increase in director and officer insurance and costs associated with an additional shareholder meeting.

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Finance Expenses

The decrease in finance expenses in the fiscal year ended June 30, 2021 of A\$0.4 million, or 21.8%, to A\$1.4 million, as compared to the fiscal year ended June 30, 2020 reflects a A\$0.6 million decrease due to the repayment in full of U.S.-dollar denominated borrowings and an equipment mortgage loan in April 2021, offset by a A\$0.2 million increase in the amortization of transaction costs.

Liquidity and Capital Resources

We have incurred significant operating losses and negative cash flows from operations since our inception, and we anticipate that we will incur net losses for the next several fiscal years. As of June 30, 2021, we had cash and cash equivalents of A\$28.5 million and an accumulated deficit of A\$154.0 million.

The following table sets forth the primary sources and uses of cash for each of the periods presented:

Comparison of Fiscal Years ended June 30, 2021 and 2020

	Fiscal Year ended June 30,	
	2021	2020
	(in thousands)	
	A\$	A\$
Net cash used by operating activities	(7,539)	(3,903)
Net cash used by investing activities	(80)	(195)
Net cash generated (used by) financing activities	31,554	(5,357)
Net increase (decrease) in cash and cash equivalents	<u>23,935</u>	<u>(9,455)</u>

Operating Activities

The A\$3.6 million increase in net cash used in operating activities from A\$3.9 million for fiscal year ended June 30, 2020 to A\$7.5 million for the fiscal year ended June 30, 2021 reflects a A\$4.1 million increase in net cash used in continuing operating activities partially offset by a A\$0.5 million decrease in funds used from the discontinuation of contract research business in France. The A\$4.1 million increase in net cash used in continuing operating activities for the fiscal year ended June 30, 2021 compared to the fiscal year ended June 30, 2020 reflects A\$4.6 million less in Australian Government research and development incentives, offset by a A\$0.5 million decrease in interest and bank fees paid. See note 33 to our consolidated financial statements included elsewhere in this prospectus for additional information on our discontinued operations.

Investing Activities

Investing activities in the fiscal year ended June 30, 2021 included A\$0.1 million of payment to secure a bank guarantee that was required for our new office lease, offset by A\$35,000 of proceeds from disposals of plant and equipment. Investing activities in the fiscal year ended June 30, 2020 included A\$1.0 million of net cash outflows from the discontinuation of contract research business in France, offset by A\$0.8 million of proceeds from disposals of other financial assets, plant and equipment. See note 33 to our consolidated financial statements included elsewhere in this prospectus for additional information on our discontinued operations.

Financing Activities

Financing activities in the fiscal year ended June 30, 2021 included net proceeds of A\$43.4 million from the sale and issuance of shares and A\$11.9 million of repayment of borrowings and principal elements of lease payments. Notably, in April 2021 we repaid in full our outstanding U.S. dollar denominated borrowings and equipment mortgage loans. Financing activities in the fiscal year ended June 30, 2020 included A\$3.2 million of net proceeds from the sale and issuance of shares and A\$8.3 million of repayment of borrowings and principal elements of lease payments.

Funding Requirements

Any product candidates we may develop may never achieve commercialization and we anticipate that we will continue to incur losses for the foreseeable future. We expect that our research and development expenses and our general and administrative expenses will continue to increase. As a result, until such time, if ever, as we can generate substantial product revenue, we expect to finance our cash needs through a combination of equity offerings, debt financings or other capital sources, including potentially collaborations, licenses and other similar arrangements. Our primary uses of capital are, and we expect will continue to be, compensation and related expenses (including share based compensation); costs related to third-party clinical research, nonclinical research, manufacturing and development services; costs relating to the build-out of our headquarters and other offices; license payments or milestone obligations that may arise; legal and other regulatory expenses and general overhead costs.

Based on our current operating plan, we believe that the net proceeds from this offering, together with our existing cash and cash equivalents, will be sufficient to fund our current operations through . To finance our operations beyond that point we will need to raise additional capital, which cannot be assured. We have based this estimate on assumptions that may prove to be wrong, and we could utilize our available capital resources sooner than we currently expect. We will continue to require additional financing to advance our current product candidates through clinical development, to develop, acquire or in-license other potential product candidates and to fund operations for the foreseeable future. We will continue to seek funds through equity offerings, debt financings or other capital sources, including potential collaborations, licenses and other similar arrangements. However, we may be unable to raise additional funds or enter into such other arrangements when needed on favorable terms or at all. If we do raise additional capital through public or private equity offerings, the ownership interest of our existing stockholders, including investors in this offering, will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect our stockholders' rights. If we raise additional capital through debt financing, we may be subject to covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. Any failure to raise capital as and when needed could have a negative impact on our financial condition and on our ability to pursue our business plans and strategies. If we are unable to raise capital, we will need to delay, reduce or terminate planned activities to reduce costs.

Because of the numerous risks and uncertainties associated with research, development and commercialization of pharmaceutical products, we are unable to estimate the exact amount of our operating capital requirements. Our future capital requirements depend on many factors, including but not limited to:

- the scope, progress, results and costs of independently researching and developing any of our product candidates and conducting preclinical studies and clinical trials;
- the timing, receipt and amount of milestone payments, if any, from Merck under the 2014 Merck License Agreement to develop and commercialize compounds targeting cognitive dysfunction associated with Alzheimer's disease and other central nervous system conditions;
- the timing and receipt of proceeds on the exercise of warrants and share options;
- the number, indications and characteristics of the product candidates we pursue;
- the cost of manufacturing our approved drugs, if any;
- the cost of commercialization activities;
- our ability to maintain existing collaborations and to establish new collaborations, licensing or other arrangements and the financial terms of such agreements; and
- the costs involved in preparing, filing, prosecuting, maintaining, defending and enforcing patents, including litigation costs and the outcome of such litigation.

Further, our operating plans may change, and we may need additional funds to meet operational needs and capital requirements for clinical trials and other research and development activities. Because of the numerous risks and uncertainties associated with the development and commercialization of our product candidates, we are unable to estimate the amounts of increased capital outlays and operating expenditures associated with our current and anticipated product development programs.

The net proceeds from this offering will not be sufficient to fund our operations through successful development and commercialization of all our potential product candidates. If we were unable to obtain additional financing, we may be required to reduce the scope of, delay, or terminate some or all of our planned development and commercialization activities, which could harm our business. For more information as to the risks associated with our future funding requirements, see “Risk Factors.”

Critical Accounting Policies and Significant Management Estimates

Our management’s discussion and analysis of our financial condition and results of operations is based on our financial statements, which have been prepared in accordance with IFRS. The preparation of our consolidated financial statements requires us to make estimates and judgments that can affect the reported amounts of assets, liabilities, revenues and expenses, as well as the disclosure of contingent assets and liabilities at the date of our financial statements. We analyze our estimates and judgments, and we base our estimates and judgments on historical experience and various other assumptions that we believe to be reasonable under the circumstances. Actual results may vary from our estimates under different assumptions or conditions. We believe that the accounting policies discussed below are critical to understanding our historical and future performance, as these policies relate to the more significant areas involving management’s judgments and estimates.

Impairment of Goodwill and Other Intangible Asset

We assess annually, or whenever there is a change in circumstances, whether goodwill or other intangible assets may be impaired. Determining whether goodwill and other intangible assets are impaired requires an estimation of the value in use of the cash generating unit (drug discovery and development) to which goodwill and other intangible assets have been allocated. The value in use calculation is judgmental in nature and requires us to make a number of estimates including the future cash flows expected to arise from the cash generating unit based on observable market comparables for products and product candidates within the cash generating unit and over a period covering drug discovery, development, approval and marketing as well as a suitable discount rate in order to calculate present value. The cash flow projections are further weighted based on the observable market comparable probability of realizing projected milestone and royalty payments. When the carrying value of the cash generating unit exceeds its recoverable amount, the cash generating unit is considered impaired and is written down to its recoverable amount, with the impairment loss recognized in the consolidated statement of profit or loss and other comprehensive income. A detailed valuation was performed as of June 30, 2021, and 2020 and each computed fair value of our cash generating unit was in excess of the carrying amount. As a result of this evaluation, we determined that no impairment of goodwill or other intangible assets existed at June 30, 2021 and 2020.

Fair Value Recognized on Business Combinations—Contingent Consideration

Part of the consideration for a past acquisition of Eclipse Therapeutics Inc. (“Eclipse”) which included the acquisition of BNC101, a legacy oncology asset, included potential cash earn-outs based on achieving late-stage development success or partnering outcomes if the company is acquired. This liability is recorded at fair value and includes a number of significant estimates including adjusted revenue projections, probability of such projections and a suitable discount rate to calculate present value. Due to changes in the projected inputs, being the timing and quantum of expected cash outflow (based on the recent licensing agreement with Carina Biotech that was entered into during November 2020) at June 30, 2021, the liability has decreased by A\$3.2 million to A\$1.8 million, with the decrease being recognized in Other Gains and Losses in the Consolidated Statement of

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Profit or Loss and Other Comprehensive income for the fiscal year ended June 30, 2021. International Financial Reporting Standards required that in a “business combination” (e.g. the our acquisition of Eclipse) any contingent consideration liability at acquisition date needs to be recorded at the fair value and subsequent changes in the fair value are recognized in profit or loss, but any contingent assets at acquisition date are not allowed to be recorded. We have a contingent asset (the expected payments to be received from Carina Biotech) at June 30, 2021 which is greater than the contingent consideration liability.

Recent Accounting Pronouncements

Refer to Note 2, “Summary of Significant Accounting Policies,” in the accompanying notes to our financial statements for the years ended June 30, 2021, and 2020 appearing elsewhere in this prospectus for a discussion of recent accounting pronouncements.

Off-Balance Sheet Arrangements

During the periods presented, we did not have, nor do we currently have, any off-balance sheet arrangements as defined under SEC rules.

Quantitative and Qualitative Disclosures about Market Risk

Foreign Currency Risk

Although our financial results are reported in Australian dollars, a portion of our operating expenses and any future milestone payments under the 2014 Merck License Agreement will be denominated in the U.S. dollar.

The following table summarizes our exposure to foreign currency risk, expressed in Australian dollars as at June 30, 2021 and 2020:

	June 30,	
	2021	2020
	(in thousands)	(in thousands)
	A\$	A\$
Monetary items		
Cash and cash equivalents	625	164
Trade and other payables	(672)	(225)
Borrowings	—	(11,446)
Contingent consideration liability	(1,762)	(4,975)
Total monetary items	<u>(1,810)</u>	<u>(16,482)</u>
Non-monetary items		
Goodwill	5,454	5,925
Other intangible assets	9,946	11,766
Deferred income liability	(1,842)	(2,203)
Total non-monetary items	<u>13,557</u>	<u>15,488</u>
Total Monetary and Non-Monetary Items	<u>11,746</u>	<u>(993)</u>

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The following table sets forth a sensitivity analysis of our exposure to a 10% increase and decrease in the Australian dollar against the U.S. dollar. We use 10% for the sensitivity rate used when reporting foreign currency risk internally to key management personnel, which represents management's assessment of the reasonably possible change in foreign currency rates. The sensitivity analysis below includes only outstanding foreign currency denominated monetary items and adjusts their translation at the year-end for a 10% change in foreign currency rates. A positive number below indicates an increase in profit or equity where the Australian dollar strengthens 10% against the U.S. dollar. For a 10% weakening of the Australian dollar against the U.S. dollar, there would be a comparable impact on the profit or equity with the balances being the opposite.

	Fiscal Year ended June 30,	
	2021	2020
	(in thousands)	
	A\$	A\$
Profit or loss(i)	(223)	(2,182)
Equity(ii)	3	10

(i) This is attributable to the exposure to outstanding U.S. dollar net monetary assets at the end of the fiscal year.

(ii) This is attributable to the exposure to outstanding U.S. dollar net monetary assets at the end of the reporting period in the subsidiaries which are denominated in the U.S. dollar and reflected in the foreign currency translation reserve.

Our sensitivity to foreign currency has decreased mainly due to repayment in full during April 2021 of our U.S.-dollar denominated borrowing and a lower contingent consideration liability.

Credit Risk

Credit risk refers to the risk that a counterparty will default on its contractual obligations resulting in a financial loss to us. We have adopted a policy of only dealing with creditworthy counterparties and obtaining sufficient collateral, where appropriate, as a means of mitigating the risk of financial loss from defaults. We consider all of our material counterparties to be creditworthy.

Due to the size of potential milestone payments under our license and collaboration agreement with Merck, in fiscal years when we record receivables under this agreement, Merck is likely to represent a large percentage of our trade and other receivable balance and our revenue in such fiscal years.

Liquidity Risk

Ultimate responsibility for liquidity risk management rests with our board of directors, which has approved a liquidity risk management framework for management of our short, medium and long term funding. We manage liquidity risk by continuously monitoring forecast and actual cash flows and matching maturity profiles of financial assets and liabilities.

Inflation

We do not believe that inflation has had a material effect on our business, financial condition, or results of operations. If our costs become subject to significant inflationary pressures, this could harm our business, financial condition, and operating results.

Implication of Being an Emerging Growth Company and Smaller Reporting Company

We expect to be an "emerging growth company," ("EGC") as defined in the JOBS Act. As an EGC under the JOBS Act, we may delay the adoption of certain accounting standards until such time as those standards apply to private companies. Other exemptions and reduced reporting requirements under the JOBS Act for EGCs

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include presentation of only two years of audited financial statements in a registration statement for an initial public offering, an exemption from the requirement to provide an auditor's report on internal controls over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act, an exemption from any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation, and less extensive disclosure about our executive compensation arrangements.

We may remain classified as an EGC until the end of the fiscal year following the fifth anniversary of this offering, although if the market value of our common stock that is held by non-affiliates exceeds US\$700.0 million as of June 30 of any year before that time, or if we have annual gross revenues of \$1.07 billion or more in any fiscal year, we would cease to be an EGC as of December 31 of the applicable year. We would also cease to be an EGC if we issue more than US\$1.0 billion of non-convertible debt over a three-year period.

We are also a smaller reporting company as defined in the Exchange Act. We may continue to be a smaller reporting company even after we are no longer an emerging growth company. We may take advantage of certain of the scaled disclosures available to smaller reporting companies and will be able to take advantage of these scaled disclosures for so long as our voting and non-voting common stock held by non-affiliates is less than US\$250.0 million measured on the last business day of our second fiscal quarter, or our annual revenue is less than US\$100.0 million during the most recently completed fiscal year and our voting and non-voting common stock held by non-affiliates is less than US\$700.0 million measured on the last business day of our second fiscal quarter.

Implications of Being a Foreign Private Issuer

We are also considered a "foreign private issuer," as defined in Rule 405 under the Securities Act of 1933, as amended. In our capacity as a foreign private issuer, we are exempt from certain rules under the Exchange Act, that impose certain disclosure obligations and procedural requirements for proxy solicitations under Section 14 of the Exchange Act. In addition, our officers, directors and principal shareholders are exempt from the reporting and "short-swing" profit recovery provisions of Section 16 of the Exchange Act and the rules under the Exchange Act with respect to their purchases and sales of our ordinary shares or the ADSs. Moreover, we are not required to file periodic reports and financial statements with the SEC as frequently or as promptly as U.S. companies whose securities are registered under the Exchange Act. In addition, we are not required to comply with Regulation FD, which restricts the selective disclosure of material information.

We may take advantage of these exemptions until such time as we are no longer a foreign private issuer. We would cease to be a foreign private issuer at such time as more than 50% of our outstanding voting securities are held by U.S. residents and any of the following three circumstances applies: (1) the majority of our executive officers or directors are U.S. citizens or residents, (2) more than 50% of our assets are located in the United States or (3) our business is administered principally in the United States.

As both an emerging growth company and a foreign private issuer, we have taken advantage of certain reduced disclosure and other requirements in this prospectus and may elect to take advantage of other reduced reporting requirements in future filings. Accordingly, the information contained herein or that we provide shareholders may be different than the information you receive from other public companies in which you hold equity securities.

Business



Overview

We are a clinical-stage biopharmaceutical company developing novel, allosteric ion channel modulators designed to transform the lives of patients suffering from serious central nervous system (“CNS”) disorders with high unmet medical need. Ion channels serve as important mediators of physiological function in the CNS and the modulation of ion channels influences neurotransmission that leads to downstream signaling in the brain. The $\alpha 7$ nicotinic acetylcholine (“ACh”) receptor (“ $\alpha 7$ receptor”) is an ion channel that plays an important role in driving emotional responses and cognitive performance. Utilizing our expertise in ion channel biology and translational medicine, we are developing orally active small molecule negative allosteric modulators (“NAMs”) and positive allosteric modulators (“PAMs”) of the $\alpha 7$ receptor to treat anxiety and stressor-related disorders and cognitive dysfunction, respectively.




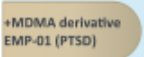
We are advancing our lead product candidate, BNC210, an oral, proprietary, selective NAM of the $\alpha 7$ receptor, for the acute treatment of Social Anxiety Disorder (“SAD”) and chronic treatment of Post-Traumatic Stress Disorder (“PTSD”). There remains a significant unmet medical need for the over 22 million patients in the United States alone suffering from SAD and PTSD. Current pharmacological treatments include certain antidepressants and benzodiazepines, and there have been no new FDA approved therapies in these indications in nearly two decades. These existing treatments have multiple shortcomings, such as a slow onset of action of antidepressants, and significant side effects of both classes of drugs. BNC210 has been observed in our clinical trials to have a fast onset of action and clinical activity without the limiting side effects seen with the current standard of care.

We expect to initiate our Phase 2 PREVAIL trial for BNC210 for the acute treatment of SAD by the end of 2021 and currently anticipate reporting topline data by the end of 2022. We have initiated our Phase 2b ATTUNE trial, a randomized, placebo-controlled study to evaluate BNC210 for the treatment of PTSD and we expect to report topline data in the first half of 2023. Our expertise and approach have been validated through our June 2014 research collaboration and license agreement (as amended, the “2014 Merck License Agreement”) with Merck Sharp & Dohme Corp., a wholly owned subsidiary of Merck & Co., Inc., Kenilworth NJ, USA (“Merck”) for our $\alpha 7$ receptor PAM program, which targets a receptor that has garnered significant attention for treating cognitive deficits. This partnership enables us to maximize the value of our ion channel and chemistry platforms and develop transformative medicines for patients suffering from cognitive disorders such as Alzheimer’s disease.

Below is a summary of our non-partnered pipeline:

	PROGRAM	PRECLINICAL	PHASE 1	PHASE 2	PHASE 3	EXPECTED TIMING	
WHOLLY-OWNED	BNC210 $\alpha 7$ receptor NAM	Post-Traumatic Stress Disorder (PTSD) 200 patients, ~25 centers in US 					Study underway Topline Data: 1H'23
		Social Anxiety Disorder (SAD) 150 patients, ~15 centers in US 					Starting Ph2: YE'21 Topline Data: YE'22

Below is a summary of the status of the programs under our collaboration relationships:

	PROGRAM	PRECLINICAL	PHASE 1	PHASE 2	PHASE 3	EXPECTED TIMING	
COLLABORATIONS	 MERCK COLLABORATION $\alpha 7$ receptor PAM	2 candidates for cognitive deficits in Alzheimer's Disease 					Ph1 Safety & biomarker studies ongoing
	 EmpathBio & BNC210	+MDMA derivative EMP-01 (PTSD) 			Memorandum of Understanding to explore combination treatment regimen for PTSD		Ongoing

BNC210

We are initially focused on developing BNC210 for two distinct indications with high unmet medical need: (i) the acute treatment of SAD and (ii) chronic treatment of PTSD. In our clinical trials to-date, BNC210 has been observed to have a fast onset of action, and demonstrated clinical activity, but without many of the limiting side effects observed with the current standards of care for SAD and PTSD, including benzodiazepines, selective serotonin reuptake inhibitors (“SSRIs”) and serotonin and norepinephrine reuptake inhibitors (“SNRIs”). Based on extensive preclinical data and clinical trials, we believe BNC210 may have a number of advantages over drugs currently used to treat anxiety, depression and PTSD, including:

- fast acting with the potential to be used in both acute and chronic settings;
- non-sedating;
- no addictive effect and a lack of discontinuation/withdrawal syndrome;
- no memory impairment; and
- no impairment of motor coordination.

We have administered BNC210 in approximately 400 subjects across 12 clinical trials, including healthy volunteers, elderly patients with agitation and patients with Generalized Anxiety Disorder (“GAD”) and PTSD. We have observed BNC210 to be generally well tolerated in the trials to date following both acute and chronic dosing. Further, in our clinical trials in GAD patients and in panic-induced healthy subjects, we have observed three key results:

- statistically significant reductions in hyperactivity in the amygdala, the region of the brain responsible for emotional control, when exposed to fear-inducing triggers;
- in a head-to-head study, showed a statistically significant reduction in the intensity of defensive behavior, while lorazepam, a widely prescribed benzodiazepine did not; and
- a statistically significant reduction in the intensity and total number of panic symptoms as well as more rapid recovery from the panic state relative to placebo.

We have designed and developed a novel, proprietary tablet formulation of BNC210 which has shown differentiated pharmacokinetic properties in clinical trials. BNC210 has demonstrated rapid oral absorption characteristics in clinical trials making it ideal for acute, or on demand, treatment of SAD. Furthermore, the tablet formulation is intended to provide patients the convenience of taking BNC210 with or without food in the outpatient setting. In previous clinical trials, the tablet formulation achieved a target blood exposure ranging from 33-57 mg.h/L, which exceeds the blood exposure of approximately 25 mg.h/L which our pharmacometric analysis predicted as likely to show clinically meaningful benefit for patients suffering from PTSD. We are using this tablet formulation in our ongoing Phase 2b ATTUNE clinical trial for patients with PTSD and intend to use it in our planned Phase 2 PREVAIL trial for patients with SAD. We anticipate topline data for our SAD trial by the end of 2022 and for our PTSD trial in the first half of 2023. We have also received Fast Track designation from the FDA for our PTSD program. In addition, we have a memorandum of understanding with EmpathBio for preclinical feasibility studies to evaluate a combination of EMP-01, a 3,4-methylenedioxymethamphetamine (“MDMA”) derivative and BNC210 as an adjunct to behavioral therapy for the treatment of PTSD.

Additional Programs

α7 Receptor PAM Program with Merck

In June 2014, we entered into the 2014 Merck License Agreement to develop α7 receptor PAMs targeting cognitive dysfunction associated with Alzheimer’s disease and other central nervous system conditions. Under the 2014 Merck License Agreement, Merck funded certain research and development activities on a full-time equivalent (“FTE”) basis pursuant to a research plan. Merck will fund future research and development activities, including clinical development and worldwide commercialization of any products developed from the collaboration. We received upfront payments totaling US\$20 million, which included funding

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for FTEs for the first twelve months, and another US\$10 million in February 2017 when the first compound from the collaboration initiated Phase 1 clinical trials, and we are eligible to receive up to an additional US\$465 million in milestone payments for achievement of certain development and commercial milestones. The Merck collaboration currently includes two candidates which are PAMs of the $\alpha 7$ receptor that are in early-stage Phase 1 safety and biomarker clinical trials for treating cognitive impairment. The first compound has completed Phase 1 safety clinical trials in healthy subjects and there are ongoing plans for further biomarker studies. In 2020 a second molecule that showed an improved potency profile in preclinical animal models was advanced by Merck into Phase 1 clinical trials. Merck controls the clinical development and worldwide commercialization of any products developed from the collaboration and therefore we cannot predict whether or when we might achieve any milestone payments under the collaboration or estimate the full amount of such payments, and we may never receive any such payments. Further, we are subject to limited information rights under the 2014 Merck License Agreement. As such, we are dependent on Merck to provide us with any updates related to clinical trial results, serious adverse events and ongoing communications with FDA related to these programs, which Merck may provide or withhold in its sole discretion, and as a result we may not be able to provide material updates on a timely basis or at all with respect to these programs.

Our Early-Stage CNS Assets

Our CNS pipeline includes two earlier stage small molecule discovery programs targeting ion channels and represents additional opportunities for future clinical programs and partnering. These programs are at a similar stage to the stage at which the $\alpha 7$ receptor PAM program was licensed under the 2014 Merck License Agreement, although there is no assurance we will be able to enter into a license or collaboration agreement with respect to these programs. The first of these programs has developed two patented series of small molecule Kv3.1/3.2 potassium channel activators for the potential treatment of cognitive deficits and negative symptoms/social withdrawal in schizophrenia and autism spectrum disorders. The second program has developed three patented series of small molecule inhibitors with functional selectivity for Nav1.7 and Nav1.8 voltage gated sodium ion channels for the potential treatment of chronic pain without the liability of addiction associated with opioid treatment.

Legacy Oncology Programs

We have a portfolio of legacy clinical-stage oncology programs targeting cancer stem cells (BNC101) and tumor vasculature (BNC105) that we have progressed through external funding for clinical trials and out-licensing to capture future value for our shareholders. Our first legacy oncology program is BNC101, a novel humanized monoclonal antibody that targets LGR5, a cancer stem cell receptor highly overexpressed in most solid tumors. In November 2020, we exclusively licensed BNC101 to Carina Biotech for the development of chimeric receptor antigen T-cell (“CAR-T”) therapeutics in return for milestones and royalties. Our second legacy oncology program, BNC105, is a novel vascular tubulin polymerization inhibitor agent for treatment of cancer, which disrupts the blood vessels that nourish tumors. We plan to advance these oncology programs only through existing and potentially new partnerships.

Our Team

We have assembled a strong management team of experts complemented by an international board of directors with deep scientific and clinical expertise in CNS drug discovery and development and expertise in strategy and business development. The management team is led by Errol B. De Souza, Ph.D., our Executive Chairman, who has over 30 years of substantive experience as an executive in the biopharmaceutical industry, having founded Neurocrine Biosciences, served as President and CEO of several U.S.-based public and private biopharmaceutical companies including Biodel, Synaptic Pharmaceutical Corp., Archemix and Neuropore Therapeutics, and led large Research & Development organizations (Head of CNS Diseases at DuPont Merck and Head of US R&D at Aventis Pharmaceuticals) in global pharmaceutical companies. We have assembled an experienced management and scientific team with a track record of success in the field of CNS drug development. Members of our management team have held senior positions at Deloitte Touche Tohmatsu,

New World Bio Limited, Apeiron Investment Group, Circumvent Pharmaceuticals and RBC Capital Markets. We believe that the breadth of experience and successful track record of our senior management, combined with our established relationships with leaders in the industry and medical community, provide us with unique insights into drug development for the treatment of CNS disorders. We have also been supported by a leading syndicate of investors, including BVF Partners L.P. (“BVF”) and Apeiron Investment Group Ltd.

Our Strategy

Our goal is to be a leading biopharmaceutical company focused on the development and commercialization of novel treatments to transform the lives of patients with serious CNS disorders with high unmet medical need. The key elements of our strategy include:

- **Advance our lead product candidate, BNC210, through clinical development and to commercialization, if approved, for the acute treatment of patients with SAD.** Our lead product candidate, BNC210, is an oral, proprietary, selective NAM of the $\alpha 7$ receptor designed to normalize the neurotransmitter imbalance and address anxiety and stressor-related disorders. Based on the favorable rapid absorption profile of our novel tablet formulation and evidence of anti-anxiety effect from our prior Phase 2 GAD trial, we believe there is a strong clinical and translational rationale to advance BNC210 for the acute treatment of patients with SAD, which we believe now has a defined clinical and regulatory pathway based on the FDA’s prior support of using a public speaking challenge as a registrational endpoint. In October 2021, we received FDA clearance for our investigational new drug application (“IND”) to conduct our Phase 2 PREVAIL trial with BNC210 for the acute treatment of SAD. We anticipate starting the clinical trial by the end of 2021, and we currently expect to report topline data by the end of 2022.
- **Progress BNC210 through clinical development and to commercialization, if approved, in patients with PTSD.** Supported by data observed in our previous Phase 2 RESTORE trial for PTSD using a liquid suspension formulation of BNC210, we have recently initiated our Phase 2b ATTUNE clinical trial with the novel tablet formulation of BNC210. Our Phase 2b ATTUNE trial is a randomized, double-blind, placebo-controlled clinical trial evaluating BNC210 monotherapy treatment in approximately 200 PTSD patients over a 12-week treatment period. We have received Fast Track designation from the FDA for our PTSD program and expect to report topline data in the first half of 2023.
- **Expand indication potential for BNC210 to other acute and chronic anxiety and stressor-related disorders.** Based on what we believe is the novel mechanism of action of BNC210, data observed in approximately 400 subjects to date in 12 clinical trials that BNC210 has been generally well tolerated and the broad utility of negative allosteric modulators of the $\alpha 7$ receptor, we believe BNC210 has the potential to address a wide-range of anxiety and stressor-related CNS disorders beyond acute treatment of SAD and chronic treatment of PTSD. We intend to continue evaluating BNC210’s potential for acute and chronic treatment of additional anxiety indications such as GAD, panic disorder and chronic treatment of SAD.
- **Build a commercialization infrastructure in the United States for BNC210.** We have retained global development and commercialization rights to BNC210 and intend to maximize its commercial opportunity across global markets. We currently intend to build a focused commercial organization in the United States to market BNC210, if approved. Outside the United States, we will evaluate strategic opportunities to maximize the commercial potential of BNC210 with collaborators whose development and commercial capabilities complement our own.
- **Maximize the potential of our CNS programs and legacy oncology assets through selective partnerships and licensing.** We have generated a series of product candidates that may have transformative potential across a range of CNS indications through our expertise in ion channels and, specifically, $\alpha 7$ receptors. We have an ongoing collaboration with Merck for our $\alpha 7$ receptor PAM program to treat patients with cognitive impairment associated with Alzheimer’s disease and other CNS conditions. In addition, we have a memorandum of understanding with EmpathBio to conduct preclinical feasibility studies to evaluate

a combination of EMP-01, an MDMA derivative, and BNC210 as an adjunct to behavioral therapy, for the treatment of PTSD. We have also used our expertise in ion channel biology to identify multiple series of Nav1.7/1.8 inhibitors and Kv3.1/3.2 activators with transformative potential for patients suffering from pain and cognitive disorders, respectively, which we plan to leverage for future partnerships or licensing. In addition, we expect to continue to advance our legacy oncology programs through existing and future external funding and out-licensing to capture potential value for our shareholders.

- **Continue to strategically expand our clinical pipeline through acquisitions, licenses, and/or collaborations.** We intend to take advantage of our management team's substantial expertise in translational medicine and clinical development of drugs for psychiatric and neurological disorders to opportunistically identify and in-license or acquire additional clinical-stage innovative therapies for diseases within CNS.

Background and Rationale on Targeting Ion Channels for CNS Disorders

Overview of Ion Channels as a Drug Class

Ion channels facilitate the movement of charged molecules across cellular membranes and are responsible for electrical signaling, serving as important mediators of physiological functions in the CNS. Modulation of ion channels influences neurotransmission that leads to downstream signaling in the brain. While ion channels are commonly implicated in disease, due to the complexity of ion channels and limitations in drug discovery, only a small percentage of the ion channels implicated in these diseases have drugs available to treat the disorders. Therefore, we believe that ion channels represent a significant untapped domain for future drug development across a variety of neuropsychiatric and neurological disorders.

$\alpha 7$ Nicotinic Acetylcholine Receptor as a Target

The $\alpha 7$ receptor is a member of the cys-loop, ligand-gated, ion channel superfamily, which includes several other nicotinic receptor subtypes as well as GABA-A, glycine and 5-HT₃ receptors. The $\alpha 7$ receptor is unique because of its high calcium ion ("Ca²⁺") permeability and rapid desensitization. It is highly expressed in brain regions associated with cognitive performance, such as the basal forebrain, hippocampus and prefrontal cortex, as well as regions associated with emotional control, such as the amygdala and hippocampus. When the ACh neurotransmitter binds to the $\alpha 7$ receptor, the ion channel opens and preferentially allows calcium ions to flow into the cell. These calcium ions act as secondary messengers and trigger signaling cascades, including release of additional neurotransmitters, that contribute to the important CNS modulatory role of this receptor.

Dysfunction of the $\alpha 7$ receptor and altered levels of ACh have been associated with a broad array of neuropsychiatric and neurologic disorders such as SAD, GAD, PTSD, Cognitive Impairment Associated with Schizophrenia ("CIAS"), ADHD and Alzheimer's disease. Excess levels of ACh in brain regions involved in emotional control, such as the amygdala and the neocortex, can cause symptoms of anxiety and depression. While stress-induced ACh release can facilitate normal adaptive responses to environmental stimuli, known as fight or flight, chronic elevations of ACh signaling may produce maladaptive behaviors culminating in anxiety and stressor-related disorders such as SAD, GAD and PTSD. Conversely, low levels of ACh resulting from loss of cholinergic neurons in brain regions such as the basal forebrain and hippocampus contribute to cognitive deficits in Alzheimer's disease.

Our Approach: Allosteric Modulation of the $\alpha 7$ Receptor and Clinical Biomarkers

We are focused on developing both NAMs and PAMs of the $\alpha 7$ receptor to treat anxiety-related and cognitive disorders, respectively. Allosteric sites found on ion channels are distinct from orthosteric sites where active substrates, such as ACh, choline and nicotine bind. The $\alpha 7$ receptor is made up of five identical alpha subunits spanning the neuronal membrane, providing five orthosteric agonist binding sites. In response to ACh, the opening and closing of the ion channel allows the preferential flow of Ca²⁺ into the cell, which governs neuronal function and neurotransmission, as seen in the figure below.

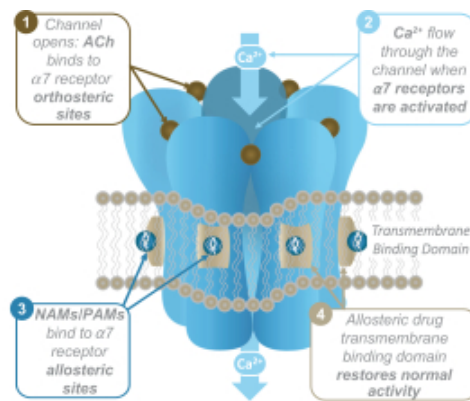


Figure 1: Structure of the $\alpha 7$ receptor showing the orthosteric and allosteric binding sites.

The $\alpha 7$ receptor has garnered significant attention, in particular, as a target for cognitive deficits based on receptor localization, and because of robust effects observed in preclinical studies and genetic implication of its involvement in cognitive disorders. Historically, therapeutics that modulate the $\alpha 7$ receptor have either targeted the orthosteric agonist sites or blocked the channel. These conventional orthosteric $\alpha 7$ receptor agonists have suffered from off-target activity, receptor desensitization, and a narrow therapeutic window that have limited their clinical utility. Allosteric modulators of the $\alpha 7$ receptor bind at the transmembrane region (see Figure 1 above) at sites distinct from the orthosteric sites. Allosteric modulators on their own have no effect on the receptor and act only when agonists, such as ACh, nicotine or choline, are bound to the orthosteric site. Binding to allosteric sites on the $\alpha 7$ receptor can diminish or enhance the effects of orthosteric agonist binding. Through the dynamic interaction between the molecules bound to each site, allosteric modulators serve to “normalize” function of the ion channel by mitigating hypercholinergic and hypocholinergic disease states (see Figure 2 below). As such, allosteric modulators have several potential key advantages, including potentially improved safety profiles and lower likelihood of desensitization, resulting in potentially greater efficacy, as compared to historically used orthosteric agonists or channel blockers.

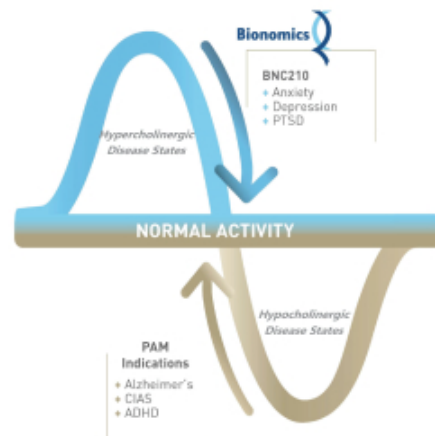


Figure 2: CNS conditions with acetylcholine imbalance benefit from the normalizing effect of allosteric modulation.

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We have utilized our expertise in ion channel biology to identify orally active, highly selective small molecule $\alpha 7$ receptor allosteric modulators designed to penetrate the blood-brain barrier and overcome the limitations associated with orthosteric agonists or channel blockers.

Beyond the discovery phase, our clinical development strategy is strengthened by using an array of established and well-defined translational tools, including well-established biomarkers. We leverage biomarkers, functional magnetic resonance imaging (“fMRI”), electroencephalographic activity (“EEG”) and behavioral paradigms to demonstrate early proof of mechanism and biology in clinical studies in healthy volunteers and patients. In addition, we utilize robust pharmacokinetic and pharmacometric exposure-response relationship modeling in our translational and Phase 2 clinical trials to assess the target blood exposure and define the doses of the drug to be evaluated in our clinical trials, which we believe will result in an increased probability of success in the clinic.

Our Lead Product Candidate

BNC210 for the Treatment of Social Anxiety Disorder and Post-Traumatic Stress Disorder

We are developing our lead product candidate, BNC210, a novel, orally administered small molecule, for the acute treatment of SAD and chronic treatment of PTSD. BNC210 is a NAM of the $\alpha 7$ receptor and does not exert its effect on the $\alpha 7$ receptor unless in the presence of an agonist, such as ACh. When BNC210 binds to the $\alpha 7$ receptor in the presence of ACh, it normalizes the effect of enhanced ACh signaling, thereby decreasing the flow of Ca^{2+} through the channel and the subsequent downstream neurotransmitter modulation, as seen in the figure below. We believe that inhibition by BNC210 of $\alpha 7$ receptor dependent neurotransmission in the amygdala is key to its anti-anxiety potential. BNC210 has demonstrated clinical proof-of-concept of acute anti-anxiety activity in a prior Phase 2 clinical trial in GAD patients as well as a statistically significant reduction in panic symptoms in a clinical trial of healthy volunteers who had received cholecystokinin-4 (“CCK-4”), a peptide that induces anxiety and panic symptoms. We expect to initiate our Phase 2 PREVAIL trial for the acute treatment of SAD by the end of 2021 and anticipate reporting topline data by the end of 2022. We have initiated our Phase 2b ATTUNE clinical trial for the treatment of PTSD and we expect to report topline data from the trial in the first half of 2023.

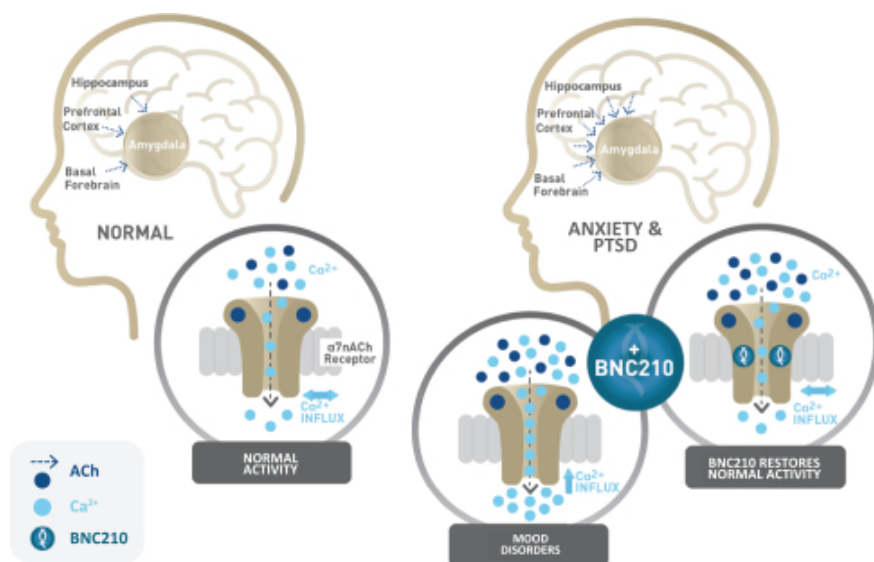


Figure 3: Action of BNC210 depends on ACh neurotransmission and allosteric modulation of $\alpha 7$ receptor.

Disease Background and Key Disease Drivers

Social Anxiety Disorder

Social Anxiety Disorder is a serious anxiety condition characterized by the persistent, intense fear of social or performance-related situations in which an individual is exposed to unfamiliar people or to possible scrutiny by others. SAD can also manifest from specific triggers such as a fear of public speaking or be induced by social interactions across any variety of situations. Those suffering from SAD often fear that they will act in a way or show anxiety symptoms that will be embarrassing and humiliating, thus further inducing anxiety. This fear can affect work, school, and other day-to-day activities and can even make it hard to develop and maintain friendships. Most cases of SAD develop in adolescence or early adulthood and without treatment it can last for many years or a lifetime and can prevent individuals from reaching their full potential.

According to the U.S. National Institute of Mental Health, the 12-month prevalence of SAD among adults age 18 years or older in the United States is 7.1% and it is estimated that 12.1% will experience SAD in their lifetime. Currently, SAD affects approximately 15 million adults in the United States, making it the second most-commonly diagnosed anxiety disorder after phobias. The prevalence is slightly higher for females at 8.0% than males at 6.1%. SAD typically begins around age 13 and it is estimated that 9.1% of adolescents will experience SAD, similarly with higher prevalence rates for females at 11.2% than males at 7.0%. According to the Anxiety and Depression Association of America, 36% of people with SAD report experiencing symptoms for ten or more years before seeking help. Based on the early age of onset of SAD and the shortcomings of currently approved therapeutics, we believe SAD is underdiagnosed and the size of the potential patient population could be considerably underestimated.

Post-Traumatic Stress Disorder

Post-Traumatic Stress Disorder is a serious, chronic mental health condition triggered by a trauma such as experiencing or witnessing actual or threatened death, serious injury or sexual violence. While historically misunderstood as stemming primarily from traumatic experiences of military personnel in combat, PTSD can also stem from a broad range of other experiences such as a natural disaster, a car accident, repeated exposure to traumatic events as a first responder, childhood trauma and sexual assault. Trauma exposure can trigger a distinctive pattern of persistent, disabling behavioral and physiological symptoms, which include intrusive memories and nightmares of the trauma, severe anxiety, irritability, hypervigilance, depression, difficulty sleeping, poor concentration and emotional withdrawal.

PTSD significantly impacts all aspects of life and the day-to-day functioning of people with this debilitating disorder. In addition, PTSD severity is often worsened by co-occurring disorders that result from PTSD itself such as major depression, substance abuse, and mood and anxiety disorders. PTSD also substantially contributes to suicide risk, further underscoring the severity and unmet need in this patient population. The Clinician-Administered PTSD Scale (“CAPS”) is considered to be the gold-standard criterion measure to diagnose and assess the severity of PTSD symptoms in patients in clinical trials. CAPS is routinely updated to reflect the current DSM criteria, the latest of which is the CAPS-5. This scale measures the frequency and intensity of PTSD symptoms, which can be broadly classified into four clusters: intrusion, avoidance, negative mood and thinking, and arousal and reactivity.

Approximately 7.7 million people currently suffer from PTSD in the United States, a figure which is on the rise due to the impact of the COVID-19 pandemic that has contributed to higher rates of symptoms associated with anxiety, depression and PTSD. Approximately 8% of the U.S. population will experience PTSD within their lifetimes, making PTSD the fifth most prevalent mental health disorder in the United States. In addition, when adjusted for the frequency of traumatic event exposure, women are four times more likely to develop PTSD than men. PTSD is a complex, chronic disorder, with many symptoms and co-morbidities that make it difficult to treat.

Current Treatments for SAD and PTSD and Their Limitations

There remains a significant unmet medical need for over 22 million patients suffering from SAD and PTSD. Current approved pharmacological treatments include SSRIs and SNRIs, with some off-label use of benzodiazepines and beta blockers (only used for SAD). These existing treatments have multiple shortcomings, such as a slow onset of action of antidepressants, and significant side effects of these classes of drugs.

- *Antidepressants.* Antidepressants, including SSRIs and SNRIs, currently serve as first-line pharmacotherapies for SAD and PTSD. The efficacy shortcomings of these antidepressants are well-known and many patients do not achieve clinical remission, resulting in high discontinuation of therapy. For example, current estimates indicate that only 20 to 30% of PTSD patients achieve clinical remission on SSRI therapies. SSRIs/SNRIs also have tolerability issues, including gastrointestinal side effects, CNS side effects (agitation, anxiety, insomnia, dizziness and drowsiness), sexual dysfunction and sweating and also carry a black-box label warning for increased risk of suicidality in adolescents. Apart from limited or no efficacy, many patients discontinue treatment as a result of the fear of related side effects. Furthermore, SSRIs/SNRIs typically require several weeks of chronic administration before onset of efficacy, making them inadequate for the treatment of acute anxiety episodes in anxiety disorders such as SAD and as often seen in PTSD. Patients on these antidepressants often need co-administration of acute anti-anxiety medications, such as benzodiazepines.
- *Benzodiazepines.* While not FDA approved for SAD or PTSD, benzodiazepines may be prescribed off-label along with approved medications such as SSRIs/SNRIs. In addition to their distinctive sedative effects, benzodiazepines have other significant safety risks, including memory and motor impairment, serious risk of abuse, addiction, physical dependence, and withdrawal reactions, as highlighted in the FDA's Drug Safety Communication in September 2020. Furthermore, emerging evidence indicates that benzodiazepines may inhibit brain areas involved in fear learning, including the amygdala, further delaying recovery and counteracting the effects of the treatment.
- *Beta Blockers.* Beta blockers are a class of blood pressure lowering medications that are commonly used off-label for patients with SAD to help reduce some of the physical symptoms of anxiety, such as an increased heart rate, sweating, or tremors. However, these therapies have not been effective in reducing overall anxiety.

Due to the shortcomings of existing therapies, there remains a significant unmet medical need for improved therapeutics for SAD and PTSD with improved efficacy and response rates, fewer side effects and a faster onset of action, which we believe may be met by targeting a different mechanism of action.

Potential Advantages of BNC210 for the Treatment of Anxiety and Stressor-Related Disorders

In early clinical trials, BNC210 has demonstrated a faster onset of action compared to antidepressants and the potential for similar benefits without many of the limiting side effects observed with benzodiazepines, SSRIs and SNRIs. Based on extensive data from preclinical studies and clinical trials, we believe BNC210 could have a number of potential advantages over drugs currently used to treat anxiety, depression and PTSD, including:

- fast acting with the potential to be used in acute and chronic settings;
- non-sedating;
- no addictive effect and lack of discontinuation/withdrawal syndrome;
- no memory impairment; and
- no impairment of motor coordination.

CURRENT THERAPIES FOR THE TREATMENT OF ANXIETY AND STRESSOR-RELATED DISORDERS

DRUG	FAST ACTING	NO SEDATION	NO WITHDRAWAL SYNDROME	NO MEMORY IMPAIRMENT	NO MOTOR IMPAIRMENT
Benzodiazepines ¹	☑	✗	✗	✗	✗
SSRIs / SNRIs ²	✗	☑	✗	☑	☑

1. Includes Valium and certain other benzodiazepines.

2. Includes Prozac and certain other SSRIs / SNRIs.

Clinical Development of BNC210

To date, we have studied BNC210 in approximately 400 subjects across 12 completed clinical trials, including in healthy volunteers, elderly patients suffering from agitation and patients with GAD and PTSD. BNC210 has not demonstrated the severe side effects commonly associated with SSRIs/SNRIs and benzodiazepines. We believe that the tolerability data that we have observed to date supports both acute and chronic dosing.

In addition, BNC210 has demonstrated clinical proof-of-concept of acute anti-anxiety activity in a prior Phase 2 clinical trial in GAD patients as well as a statistically significant reduction in panic symptoms in a CCK-4 induced panic attack clinical trial of healthy volunteers. The table below summarizes our clinical trials for BNC210.

Summary of BNC210 Clinical Trials

Phase	Description	Participants / Setting	Subjects Enrolled / Administered BNC210*	BNC210 Formulation and Doses	Location
1	Single Ascending Dose Safety and PK	Healthy volunteers / In-clinic	32/24	Suspension; single doses (5 to 2000 mg)	Australia
1	Single Ascending Dose Safety and PK; Food Effect	Healthy volunteers / In-clinic	4/3	Suspension; single doses (300 to 2000 mg)	Australia
1	Single Ascending Dose Safety and PK; Food Effect	Healthy volunteers / In-clinic	47/40	Capsule; single doses (300 to 3000 mg)	US
1b	Lorazepam Comparison	Healthy volunteers / In-clinic	24/22	Suspension; single doses (300 and 2000 mg)	France
1b	CCK-4 Panic Attack Model	Healthy volunteers / In-clinic	60/59	Suspension; single doses (2000 mg)	France
1b	Multiple Ascending Dose Safety and PK; Expanded Cohort for EEG Target Engagement	Healthy volunteers / In-clinic	56/44	Suspension; multiple doses (150 to 1000 mg twice daily for 8 days)	France
1	Suspension and Tablet Formulation PK Comparison	Healthy volunteers / In-clinic	6/6	Suspension and tablet; single doses (300 mg)	Australia
1	Single Ascending Dose Safety and PK	Healthy volunteers / In-clinic	5/5	Tablet; single doses (600 to 1200 mg)	Australia
1	Multiple Dosing Safety and PK	Healthy volunteers / In-clinic	10/10	Tablet; multiple doses (900 mg twice daily for 7 days)	Australia
2a	Imaging and Behavioral Study in Generalized Anxiety Disorder	Generalized anxiety disorder patients / In-clinic	27/25	Suspension; single doses (300 and 2000 mg)	UK

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Phase	Description	Participants / Setting	Subjects Enrolled / Administered BNC210*	BNC210 Formulation and Doses	Location
2a	Agitation in the Elderly in Hospital Setting	Agitated elderly patients / Hospital	38/18	Suspension; multiple doses (300 mg twice daily for 5 days)	Australia
2	RESTORE PTSD	PTSD patients / Out-patient	193/143	Suspension; multiple doses (150, 300 or 600 mg twice daily for 12 weeks)	Australia US
2b	ATTUNE PTSD	PTSD patients / Out-patient	Ongoing	Tablet; multiple doses (900 mg twice daily for 12 weeks)	US
2	PREVAIL	SAD patients / In-Clinic	Planned	Tablet; single dose	US

CCK-4 = cholecystokinin tetrapeptide; EEG = electroencephalography; PK = pharmacokinetic.

* The number of enrolled subjects who were administered BNC210; other enrolled subjects were administered placebo only.

There have been no apparent BNC210 dose-related trends in the type or severity of adverse events reported, or dose-related trends in the laboratory safety data, vital signs, physical examinations or electrocardiogram (“ECG”) measurements. Across all 12 completed clinical trials, including a 12-week Phase 2 PTSD trial, the most commonly reported adverse events were headache (18%), somnolence (6%) and nausea (5%). The majority of these adverse events have been graded as mild, and there have been no apparent dose-related trends in the adverse event reporting. There have been two serious adverse events (“SAEs”) that were deemed by the investigators to be at least possibly related to BNC210: one SAE reported for hypotension (with alternative causality of dehydration) for an elderly patient was deemed possibly related to study drug by the independent investigator, however, after a saline infusion, blood pressure returned to within normal limits within 45 minutes and the subject continued on the study; and one SAE for elevated liver function tests reported 14 days after last treatment dose for a PTSD subject who remained asymptomatic throughout the study and in follow up was deemed probably related to study drug by the independent investigator. For the SAE related to elevated liver function, it was subsequently noted in a safety report to the FDA that the Independent Safety Monitoring Board for the RESTORE study did not believe that this adverse event met the criterion for an SAE. In addition, we evaluated the abuse potential of BNC210 in three healthy volunteer studies at doses up to 2000 mg per day for eight days using the Addiction Research Center Inventory 49 item questionnaire (“ARCI49”), which showed no significant effects in addiction potential across the five abuse-potential categories evaluated.

Phase 1 Safety, Tolerability and Pharmacokinetic Clinical Trials in Healthy Subjects Using a Liquid Suspension Formulation

We conducted two Phase 1 clinical trials with BNC210 in 36 healthy subjects to examine the safety and pharmacokinetics of the our product candidate using a liquid suspension formulation. Subjects in the double-blind, placebo-controlled trials were administered a single dose of BNC210 ranging from 5 to 2000 mg in the presence and absence of food. BNC210 was observed to be generally well tolerated with no clinically significant findings observed in vital signs, ECG, clinical chemistry, hematology or urinalysis. The pharmacokinetic analysis indicated that BNC210 drug levels were substantially higher in subjects when taken with food.

We conducted a subsequent Phase 1 double-blind, placebo-controlled, four-way crossover clinical trial in 24 healthy subjects to further evaluate safety and tolerability of BNC210. These subjects were administered four different treatments in a randomized sequence with a wash-out period of at least seven days between each treatment. The four different treatments consisted of a single dose of placebo, lorazepam, 300 mg BNC210 and 2000 mg BNC210. The primary endpoint of the trial was change in attention and the secondary endpoints were changes in visual-motor coordination, emotion, sedation, cognition, ARCI49 and EEG activity. BNC210 had no observed effect on measures of attention, visual-motor coordination, addiction, emotion, sedation or cognition. In contrast, lorazepam demonstrated impairment of all parameters.

Phase 1 Clinical Trial Demonstrating Target Engagement in Brain at Nicotinic Receptor in Healthy Subjects

We conducted a Phase 1 clinical trial to demonstrate BNC210 target engagement at brain nicotinic receptors measured by EEG activity. On Day -1, one day prior to administration of BNC210, 24 healthy volunteers were administered oral doses of nicotine ranging from 0.5 to 2.0 mg. We then measured the change in the power in the $\alpha 2$ EEG band, a measure of nicotine response in the brain. We observed a dose-dependent increase in power in the $\alpha 2$ EEG band following nicotine administration, which we believe is primarily attributable to the activation of two key nicotinic receptors: $\alpha 4\beta 2$ and $\alpha 7$. Subjects were then dosed orally with the 2000 mg BNC210 liquid suspension with food for seven days and were re-challenged on Day 7 with the same doses of nicotine used on Day -1. BNC210 demonstrated a statistically significant reduction in the power in the $\alpha 2$ EEG band following nicotine administration, which we believe demonstrates target engagement and negative modulation of the $\alpha 7$ receptor. A result is considered to be statistically significant when the probability of the result occurring by random chance, rather than from the efficacy of the treatment, is sufficiently low. The conventional method for determining the statistical significance of a result is known as the “p-value,” which represents the probability that random chance caused the result (e.g., a p-value of 0.01 means there is a 1% probability that the difference between the control group and the treatment group is purely due to random chance). Generally, a p-value of less than 0.05 is considered statistically significant. We believe the residual nicotine-induced EEG responses of subjects treated with BNC210 is primarily attributable to the activation of the $\alpha 4\beta 2$ nicotinic receptor, which BNC210 is not designed to engage.

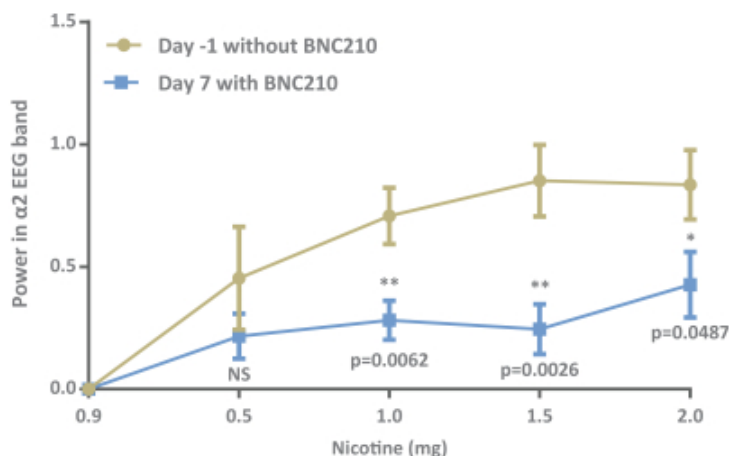


Figure 4: Demonstration of BNC210 brain penetration and target engagement of $\alpha 7$ receptor in humans.

Phase 1 and 2 Clinical Trials Demonstrating Anti-Anxiety Effects in Healthy Subjects and Anxiety Patients

We conducted a randomized, placebo-controlled, double-blind Phase 1 clinical trial in 60 healthy subjects to evaluate the anti-anxiety effects of BNC210. These subjects were administered CCK-4, a peptide that induces anxiety and panic symptoms. CCK-4 induced panic symptoms in 15 subjects, or approximately 25% of the subjects, which is consistent with the CCK-4 induced panic attack rate in other trials. Subjects in a supervised in-clinic setting received a single dose of 2000 mg of BNC210 liquid suspension formulation with food seven hours prior to the CCK-4 challenge. BNC210 met its primary endpoint, demonstrating statistically significant reduction in both the number and intensity of panic symptoms on the Panic Symptoms Scale (“PSS”) compared to placebo 10 minutes after the CCK-4 injection, as seen in the figure below ($p=0.048$ and $p=0.041$, respectively). This clinical trial also demonstrated that the emotional stability of BNC210-treated subjects returned to baseline within 10 minutes compared to 60 minutes for placebo treated subjects. These findings were consistent with our prior preclinical studies in rodents where BNC210 overcame the effects of a CCK-4 challenge and enhanced fear extinction, as well as demonstrated similar activity to benzodiazepines without the narrow dose response common to that class of drugs.

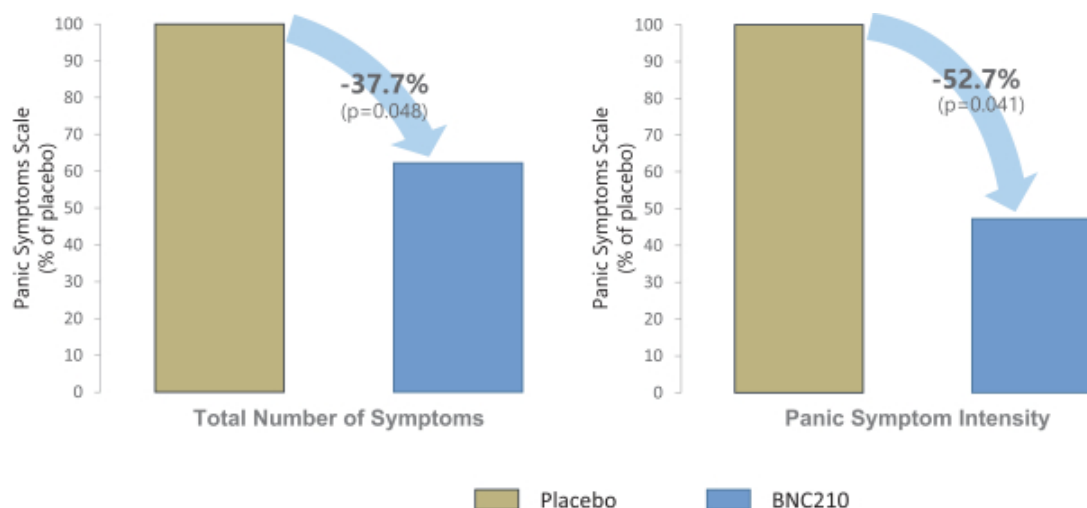


Figure 5: Results from BNC210 in human CCK-4 challenge panic disorder model.

We also conducted a Phase 2a randomized, double-blind, placebo-controlled, four-way crossover clinical trial in 24 newly diagnosed, treatment-naive GAD patients in the in-clinic setting evaluating the neural imaging response of patients exposed to “fearful faces” and their behavioral response to threat avoidance. Each subject was treated with a single dose of 300 mg BNC210, 2000 mg BNC210, 1.5 mg lorazepam and placebo with a washout period of at least five days. The primary endpoints were changes in cerebral perfusion using functional MRI in the resting state and changes in activation of the region of the brain responsible for emotional control, the amygdala, during the performance of an emotional task. Secondary endpoints were changes in defensive behavior (Flight Intensity) using the Joystick Operated Runway Task (“JORT”) and changes in affective self-report, which are measures of anxiety. BNC210 300 mg, similarly to lorazepam, statistically significantly reduced amygdala reactivity to “fearful faces” relative to placebo (BNC210 300 mg left amygdala $p=0.011$; BNC210 300 mg right amygdala $p=0.006$; lorazepam right amygdala $p=0.047$) (Figure 6). BNC210 300 mg also statistically significantly reduced connectivity between the amygdala and the anterior cingulate cortex (“ACC”), a network involved in regulating anxious responses to aversive stimuli ($p=0.012$) (Figure 7). Furthermore, in this head-to-head study, BNC210 300 mg and 2000 mg statistically significantly reduced the intensity of defensive behavior compared to placebo, while lorazepam did not (BNC210 300

mg $p=0.007$; BNC210 2000 mg $p=0.033$) (Figure 8). In addition, the 300 mg dose of BNC210 significantly reduced self-reported anxiety ($p=0.003$).

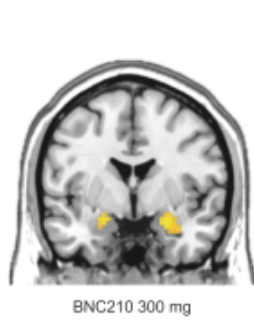


Figure 6: BNC210 300 mg significantly reduced activation of left and right amygdala while viewing fearful faces compared to placebo (L: $p=0.011$; R: $p=0.006$).

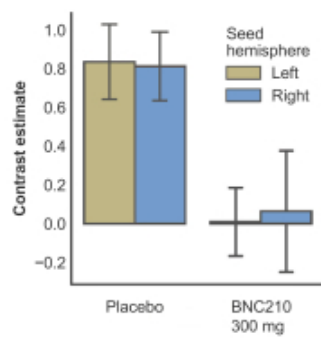


Figure 7: BNC210 300 mg significantly reduced connectivity between the amygdala and ACC while viewing fearful faces compared to placebo ($p=0.012$).

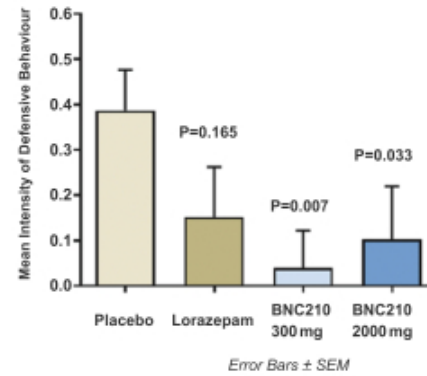


Figure 8: BNC210 significantly reduced threat avoidance behavior of anxious subjects in the JORT behavioral task compared to placebo.

Phase 2 RESTORE PTSD Clinical Trial Using Liquid Suspension Formulation: Summary, Pharmacokinetic Modeling and Pharmacometric Analysis

Our RESTORE trial was a randomized, double-blind, placebo-controlled Phase 2 clinical trial in the outpatient setting that enrolled 193 adult patients diagnosed with PTSD across 20 sites in the United States and six sites in Australia. There were four treatment groups, including a placebo arm and three BNC210 dose arms (150 mg, 300 mg, 600 mg) of the liquid suspension formulation given twice daily with food. The primary endpoint of this study was a decrease in PTSD symptom severity between placebo and BNC210 treatment groups as measured by the CAPS-5 at 12 weeks, a validated clinical endpoint. Secondary endpoints included measurement of effects on components of the CAPS-5 PTSD symptom clusters, measures of anxiety and depression, well-being, sleep, and safety. While the trial did not meet the primary endpoint, we observed evidence of anti-depressant effects and trends for anti-anxiety activity in the CAPS-5 symptom clusters in the study primarily in the high dose BNC210 600 mg group (CAPS-5 Criterion D Negative Alterations in Cognitions and Mood at Week 1 $p=0.037$). Furthermore, the overall safety analysis showed adverse event reporting and other safety parameters such as laboratory analyses, vital signs, physical examinations, and ECG were similar for placebo and each of the three BNC210 treatment groups, indicating that BNC210 was well tolerated in this patient population over the 12-week dosing period.

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Subsequently, we performed extensive population pharmacokinetic modeling and pharmacometric analysis on the RESTORE trial. Population pharmacokinetics indicated that the plasma exposure achieved in the patients in the RESTORE trial, which was an outpatient trial, was substantially (approximately 50%) less than projected from the in-clinic multiple ascending dose (“MAD”) pharmacokinetic study in healthy volunteers.

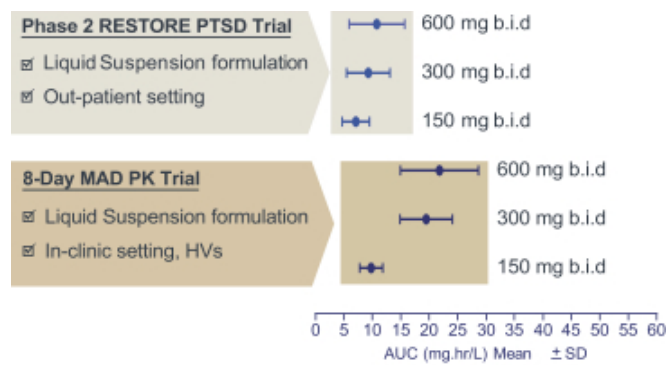


Figure 9: Out-patient Phase 2 PTSD RESTORE trial did not achieve exposure projected from in-clinic MAD study in healthy volunteers.

Furthermore, a pharmacometric blood exposure-response relationship was modeled which showed potential for BNC210 to have clinical benefit in PTSD provided that adequate exposures of 25 mg.hr/L and above are achieved ($p < 0.01$), as seen in the figure below. These data were shared with the FDA at a meeting and provided guidance for the Phase 2b ATTUNE PTSD clinical trial.

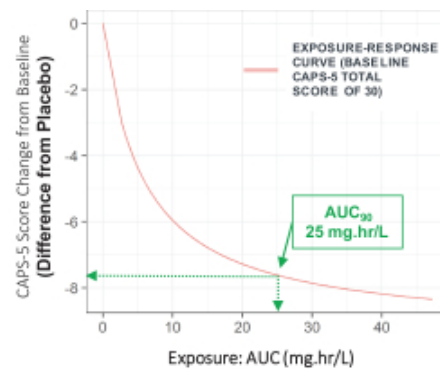


Figure 10: Pharmacometric model predicted BNC210 effect in a PTSD patient with a baseline CAPS-5 score of 30.

Novel, Proprietary Tablet Reformulation Effort

The initial in-clinic trials and the Phase 2 PTSD RESTORE outpatient clinical trial discussed above were carried out with a liquid suspension formulation of BNC210. The liquid suspension formulation was required to be given (in-clinic) or taken (outpatient) with food to provide optimal absorption of the drug candidate. While the liquid suspension formulation of BNC210 performed well in the in-clinic supervised setting, we believe it was inadequate for outpatient studies due to substantially lower blood exposure, higher variability and/or lower compliance. To overcome the limitations of the liquid suspension formulation in providing adequate exposure in

the outpatient setting, we developed a novel, proprietary tablet formulation to use in subsequent studies with the goals of overcoming the food effect (i.e. the requirement to be given with food), improving patient compliance and providing rapid absorption and dose linear pharmacokinetics. We have conducted three clinical trials to evaluate the pharmacokinetics of the tablet formulation including a comparison with the liquid suspension formulation, a single ascending dose study and a seven-day multi-dosing study. We plan to use the tablet formulation in all our ongoing and planned studies.

We conducted a Phase 1 clinical trial to compare a single BNC210 300 mg dose of the liquid suspension formulation to the tablet formulation in six fasted and fed healthy subjects in a cross-over design in which each subject received three treatments with a wash-out period of at least five days in between: (i) fasted subjects who received the liquid suspension formulation; (ii) fasted subjects who received the tablet formulation and (iii) fed subjects who received the tablet formulation. As can be seen in the figure below, fasted subjects that were administered liquid suspension formulation resulted in substantially lower BNC210 blood levels and exposure in comparison to fed subjects from a prior study. By contrast, administration of the new tablet formulation in fasted or fed subjects resulted in similar blood concentrations and exposure (i.e. area under the curve (“AUC”)) with a delay in time to maximal concentration (“ t_{max} ”) in fed individuals as would be expected with delayed absorption of the drug. More importantly, the exposure in fasted or fed subjects administered the tablet formulation of BNC210 was comparable to the exposure seen in subjects given the liquid suspension formulation with food (based on data from the 300 mg suspension dose in the earlier pharmacokinetic study described above). Based on the results of this trial, we believe the new tablet formulation can overcome the food effect, which has simplified dosing in the ongoing Phase 2b ATTUNE PTSD clinical trial and has allowed subjects to dose the medication with or without food.

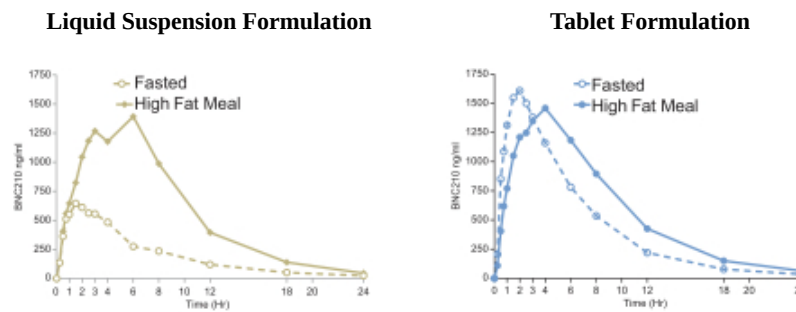


Figure 11: New tablet formulation overcomes food effect in healthy subjects.

We carried out a second Phase 1 single ascending dose pharmacokinetic clinical trial in five healthy subjects in which each subject, in a fasted state, was dosed with 600 mg, 900 mg, and 1200 mg of BNC210 tablet formulation with a wash-out period of at least five days between treatments. For comparison, the results of the 300 mg dose in fasted subjects from a previous study using the tablet formulation is included in the dataset. The plasma concentrations and exposures measured in fasted healthy volunteers increased in a dose proportional manner, demonstrating improved dose linearity with the tablet formulation compared to the liquid suspension. Furthermore, the data show that the tablet formulation of BNC210 at doses of 900 mg or higher can reach blood levels required to achieve exposures (25 mg.hr/L), which the pharmacometric analysis predicts will give statistically significant changes from placebo on total CAPS-5 scores in PTSD patients. Finally, the BNC210 tablet formulation had a rapid absorption profile reaching maximal concentrations in the blood between 45 to 105 minutes, potentially making it a well-suited formulation for treatment of acute anxiety in SAD patients in the proposed Phase 2 PREVAIL trial. BNC210 was observed in this study to be well tolerated at all dose levels tested.

We also carried out a multi-dose seven-day dosing pharmacokinetic study in ten healthy volunteers (five females and five males) to evaluate the dosing regimen (900 mg given twice daily) proposed for the Phase 2b ATTUNE PTSD clinical trial. The tablet formulation of BNC210 given at 900 mg twice daily had 12-hourly exposure levels ranging from 33-57 mg.h/L, which exceed the 12-hourly blood exposure of approximately 25 mg.h/L, which our pharmacometric analysis predicted as necessary to meet the primary endpoints for effectiveness for treating PTSD patients in future clinical trials. Furthermore, the results showed that with twice daily dosing there was no gender-based difference in exposure and that BNC210 continued to be well-tolerated, even at the higher exposure levels achieved after seven days of dosing in the healthy volunteers.

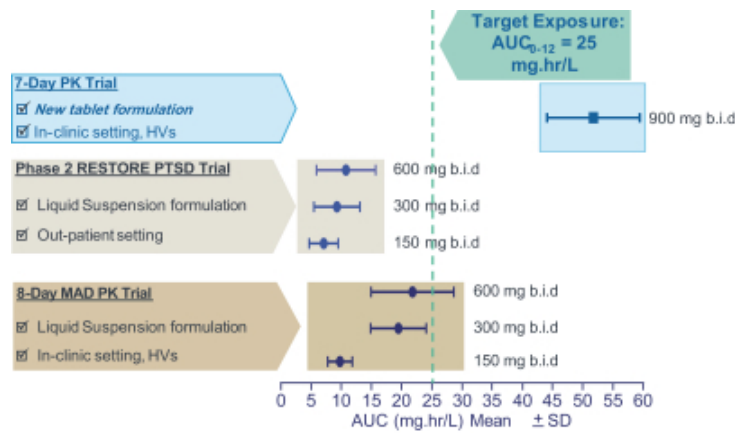


Figure 12: Pharmacokinetic (PK) study of tablet formulation in healthy volunteers achieved target exposure.

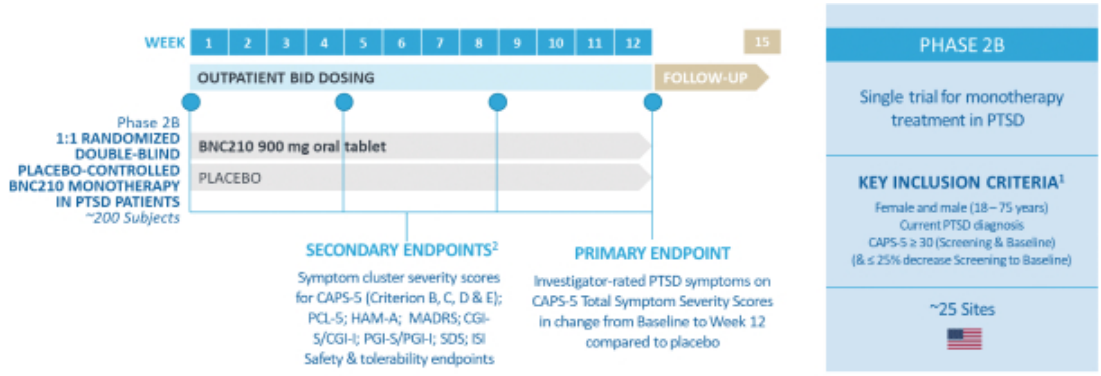
BNC210 Clinical Development in SAD

We plan to initiate an SAD trial, which we refer to as the PREVAIL Study, evaluating the effects of acute dosing of BNC210 on performance anxiety, using a standardized public speaking challenge. We are building on the favorable attributes of our novel tablet formulation with a rapid absorption profile reaching maximal concentrations in the blood between 45 to 105 minutes, providing the potential for on demand use to treat symptoms of social anxiety which result from often predictable anxiety-provoking stressors. Furthermore, FDA’s prior support of using a public speaking challenge as a Phase 3 registrational endpoint for approval makes SAD an attractive, potentially more rapid path-to-market indication to further explore in clinical development.

In October 2021, we received IND clearance from the FDA to evaluate BNC210 for the acute treatment of SAD. We expect to initiate our Phase 2 PREVAIL trial of BNC210 for the acute treatment of SAD by the end of 2021, targeting the large unmet medical need for this patient population. The PREVAIL Study is a randomized, double-blind, multi-center Phase 2 clinical trial which will compare the tablet formulation of BNC210 to placebo on anxiety levels in patients with SAD during an anxiety-provoking behavioral task such as being asked to speak on a topic. Participants will be orally administered a single dose of study treatment approximately one hour prior to the behavioral task. The primary endpoint of the PREVAIL Study is to compare BNC210 to placebo on self-reported anxiety levels using the Subjective Units of Distress Scale (SUDS) during the behavioral task. Secondary endpoints include other scales measuring participants’ anxiety levels, in anticipation of, and during the behavioral task, as well as an evaluation of the safety and tolerability of BNC210 in this population. The PREVAIL Study will be conducted at approximately 15 sites in the U.S. and will enroll approximately 150 adult patients suffering with SAD. The study participants must score at least 70 on the Liebowitz Social Anxiety Scale (i.e., marked to severe social anxiety), which is a scale that assesses a patient’s reported level of social phobia in a range of social interactions and performance situations during the past week. We expect to report topline data by the end of 2022.

BNC210 Clinical Development in PTSD

We have an ongoing Phase 2b clinical trial, which we refer to as the ATTUNE trial, evaluating BNC210 monotherapy treatment in approximately 200 PTSD patients and we expect results in the first half of 2023. The ongoing trial is a one-to-one randomized, double-blind, placebo-controlled, parallel two-arm (placebo or BNC210 900 mg twice daily) 12-week treatment study that will assess the efficacy and safety of our newly developed tablet formulation of BNC210. The primary efficacy endpoint of this trial is the effect of BNC210 compared to placebo on baseline to endpoint change in CAPS-5 total symptom severity scores after 12 weeks of treatment. In addition, several investigator and self-reported secondary efficacy endpoints related to CAPS-5 symptom cluster severity scores and anxiety and depression measures along with safety and tolerability endpoints will be reported.



1. Eligibility Criteria = CAPS-5 Total Symptom Severity Score ≥ 30 at Screening and Baseline (and $\leq 25\%$ decrease in score from Screening to Baseline)
2. BID = Twice daily dosing; CAPS-5 = Clinician-Administered PTSD Scale for the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5); PCL-5 = PTSD Checklist for DSM-5; HAM-A = Hamilton Anxiety Rating Scale; MADRS = Montgomery-Asberg Depression Rating Scale; CGI = Clinical Global Impressions; PGI = Patient Global Impressions; SDS = Sheehan Disability Scale; ISI = Insomnia Severity Index

Figure 13: Phase 2b ATTUNE clinical trial design.

We also have a memorandum of understanding with EmpathBio to explore the feasibility of combination treatment of an MDMA derivative EMP-01 and BNC210 which could have the potential to further expand the market for BNC210 for the treatment of PTSD. Depending on the results of the preclinical feasibility studies, we intend to enter into a definitive agreement with EmpathBio, but there is no assurance we will do so. We intend to determine the feasibility of behavioral therapy with MDMA/EMP-01 followed by treatment with BNC210 which may have the potential to reduce the intensive in-clinic treatment sessions that are currently used with MDMA treatment. Under the proposed collaboration, it is anticipated that EmpathBio would be primarily responsible for such trials and we would be responsible for supplying any and all amounts of BNC210 required for such trials. We and EmpathBio have agreed to reasonably update each other of significant events relevant to intended timing of preclinical and clinical studies related to the proposed collaboration. Under the proposed collaboration, we and EmpathBio would each retain all rights in relation to our or their own intellectual property, respectively. Ownership of any intellectual property resulting from the proposed collaboration is expected to be determined in accordance with U.S. patent law, unless otherwise agreed to by us and EmpathBio; provided that EmpathBio would own any intellectual property specific to EMP-01 and/or which employs or is derived from EmpathBio’s intellectual property and, subject to the foregoing, we would own any intellectual property specific to BNC210 and/or which employs or is derived from our intellectual property.

Future Indication Expansion Opportunities for BNC210

We believe BNC210 has broad potential across acute and chronic anxiety and stressor-related disorders with high unmet medical need. Our clinical, regulatory and commercial strategy is to initially develop BNC210 in an acute indication with a high unmet medical need for which there is no FDA-approved treatment, such as SAD and a chronic indication with a high unmet medical need, such as PTSD, for which there are limited treatment options. Assessment of BNC210 in these two distinct settings of anxiety and stressor-related disorders will also allow us to define the dosing paradigm which may be applicable to other indications across both acute and chronic settings. BNC210 has already demonstrated the potential for acute treatment of GAD patients in a Phase 2 clinical trial and would represent a logical treatment paradigm for the chronic treatment of this indication along with chronic treatment of SAD and adjustment disorders with anxiety. Our clinical and regulatory strategy would be similar to that used for the oral calcitonin gene-related peptide (“cGRP”) antagonists for the treatment of migraine in which the first indications seeking approval were for the acute treatment of a migraine episode followed by chronic treatment for a decrease in the monthly migraine episodes.

Other Pipeline Programs

α7 Receptor Positive Allosteric Modulator Program for the Treatment of Cognitive Impairment

Treatments for cognitive deficits associated with CNS disorders such as Alzheimer disease and schizophrenia remain significant unmet medical needs that incur substantial pressure on the healthcare system. The α7 receptor has garnered substantial attention as a target for cognitive deficits based on receptor localization, robust preclinical effects, genetics implicating its involvement in cognitive disorders, and encouraging, albeit mixed, clinical data with α7 receptor orthosteric agonists. Importantly, previous orthosteric agonists at this receptor suffered from off-target activity, receptor desensitization, and an inverted U-shaped dose-effect curve in preclinical assays that limit their clinical utility.

To overcome the challenges with orthosteric agonists, we embarked on an α7 PAM discovery program which led to the identification of BNC375, a novel α7 PAM which is selective over related receptors and potentiates ACh-evoked α7 currents with no observed effect on receptor desensitization kinetics. In June 2014, we entered into a strategic collaboration with Merck to develop novel PAMs, including our BNC375 research program, for the treatment of cognitive dysfunction associated with Alzheimer’s disease and other central nervous system conditions. Under the collaboration, BNC375 was further characterized showing that it enhanced long-term potentiation of electrically evoked synaptic responses in rat hippocampal slices and *in vivo*, which is an established preclinical surrogate for memory enhancement. Systemic administration of BNC375 reversed scopolamine-induced cognitive deficits in rat novel object recognition and rhesus monkey object retrieval detour (“ORD”) tasks over a wide range of exposures, showing no evidence of an inverted U-shaped dose-effect curve. The compound also improved performance in the ORD task in aged African green monkeys. African green monkeys display pathological hallmarks of Alzheimer’s disease such as amyloid plaques and constitute a valuable translational model to assist in the development of drug candidates for Alzheimer’s disease. Moreover, *ex vivo* ¹³C-NMR analysis indicated that BNC375 treatment enhanced neurotransmitter release in rat medial prefrontal cortex. These findings suggest that α7 receptor PAMs may have multiple advantages over orthosteric α7 receptor agonists for the treatment of cognitive dysfunction associated with CNS diseases.

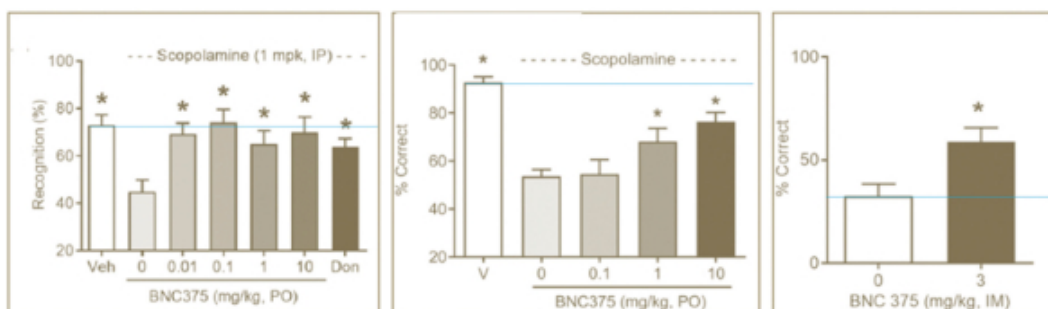


Figure 14: BNC375 in the Rat Novel Object Recognition memory test. Scopolamine is used to impair memory which is represented below the dotted Scopolamine line. Donepezil ("Don") (Aricept), a marketed drug for the treatment of cognitive impairment, is used as the positive control. BNC210 treatment was effective over a broad dosing range (1000-fold) and out-performed Donepezil by reversing the memory impairment back to the level of control animals (blue line). Veh = 30% Captisol in water; * = p<0.05.

Figure 15: BNC375 in the Rhesus Object Retrieval Detour (ORD) memory test. Scopolamine was used to impair memory which is represented below the dotted Scopolamine line. BNC375 dose dependently reversed this impairment back towards the level of the control animals (blue line). V = 30% Captisol in water; * = p<0.05.

Figure 16: BNC375 statistically significantly reversed memory impairment (blue line) in African green monkeys in the ORD model. * = p<0.05.

Our collaboration with Merck currently includes two candidates which are PAMs of the $\alpha 7$ receptor that are in early-stage Phase 1 safety and biomarker clinical trials for treating cognitive impairment. The first compound has completed Phase 1 safety clinical trials in healthy subjects and there are ongoing plans for further biomarker studies. In 2020 a second molecule that showed an improved potency profile in preclinical animal models was advanced by Merck into Phase 1 clinical trials.

Emerging CNS Programs

We have an emerging CNS pipeline with two small molecule programs targeting ion channels at a similar stage of discovery to when we entered into the 2014 Merck License Agreement with Merck that may be available for future partnering.

Kv3.1/Kv3.2 voltage gated potassium channels are pivotal in generating high frequency firing of parvalbumin positive GABAergic interneurons in the prefrontal cerebral cortex involved in regulating cognitive function and social interaction. Pharmacological activation of Kv3.1/Kv3.2 channels may possess therapeutic potential for treatment of schizophrenia, social withdrawal and cognitive impairments. We have patented two series of small molecule Kv3.1/3.2 potassium channel activators for the potential treatment of cognitive deficits and negative symptoms in schizophrenia and for the treatment of autism spectrum disorders including those arising from Fragile X syndrome. Representative molecules from each series have been associated with the reversal of pharmacologically induced cognitive deficits in mouse and rat models with at a rate equivalent to risperidone, an antipsychotic drug used to treat schizophrenia, used as the positive control.

Voltage gated sodium channels ("Navs") are responsible for the generation and conduction of action potentials in peripheral pain pathways. Gain and loss of function mutations in selective sodium channel subtypes, Nav1.7 and Nav1.8, are associated with human pain syndromes where extreme pain or no pain respectively, is experienced. We have patented two series of small molecule inhibitors with functional selectivity for Nav1.7 and Nav1.8 voltage gated sodium channels for the treatment of chronic pain without the potential for addiction and sedation associated with opioid treatments and pregabalin, respectively. Representative molecules from each series have been observed to reverse pain in the formalin paw model in mice.

Legacy Oncology Programs

We have a portfolio of legacy clinical-stage oncology programs targeting cancer stem cells (BNC101) and tumor vasculature (BNC105) that we have progressed through external funding for clinical trials and out-licensing to capture future value for our shareholders. Cancer stem cells are the seeds that give rise to initial tumor formation and if left unchecked, give rise to tumor recurrence and metastasis. Our first legacy oncology program is BNC101, a novel humanized monoclonal antibody that targets LGR5, a cancer stem cell receptor highly overexpressed in most solid tumors, including colorectal, breast, pancreatic, ovarian, lung, liver and skin cancers. In preclinical studies, BNC101 was associated with a reduction in the frequency of cancer stem cells derived from primary patient colorectal tumors both *in vitro* and *in vivo*. BNC101 has completed a Phase 1 clinical trial in patients with colorectal cancer and shown target engagement. In preclinical studies, BNC101 has shown good potential for the treatment of gastrointestinal tumors in combination with an antibody drug conjugate or CAR-T therapy. In November 2020, we exclusively licensed BNC101 to Carina Biotech for the development of CAR-T therapeutics, which is currently in preclinical development, in return for milestones and royalties or a percentage of the out-licensed revenues. In September 2021, Carina Biotech announced that it plans to initiate a clinical trial of BNC101 for the treatment of advanced colorectal (bowel) cancer in late 2022. See “Business—IP License Agreement with Carina Biotech.” Our second legacy oncology program, BNC105, is a novel vascular tubulin polymerization inhibitor agent for treatment of cancer, which disrupts the blood vessels that nourish tumors. BNC105 has been evaluated in six prior clinical trials. We plan to advance these oncology programs only through existing and potentially new partnerships.

Competition

The biopharmaceutical industry is highly competitive and subject to rapid and significant technological change. Our potential competitors include large pharmaceutical and biotechnology companies, specialty pharmaceutical and generic drug companies, academic institutions, government agencies and research institutions.

Key competitive factors affecting the commercial success of our drug candidates, if approved, are likely to be efficacy, safety and tolerability profile, reliability, convenience of dosing, the level of branded and generic competition, price, reimbursement and intellectual property protection.

Our competitors may have substantially greater financial, technical and human resources than we do and significantly greater experience in the discovery and development of drug candidates, obtaining FDA, European Medicines Agency (“EMA”) or Australian Therapeutic Goods Administration (“TGA”) approvals of comparable products and the commercialization of those products. Mergers and acquisitions in the pharmaceutical and biotechnology industries may result in even more resources being concentrated among a small number of competitors. Accordingly, our competitors may be more successful in obtaining regulatory approval for drugs and achieving widespread market acceptance. Our competitors’ products may be more effective, or more effectively marketed and sold, than any drug candidate we may commercialize and may render our therapies obsolete or non-competitive before we can recover development and commercialization expenses.

If competitor companies develop technologies or drug candidates more rapidly than we do, or their technologies are more effective, our ability to develop and successfully commercialize drug candidates may be adversely affected. Our competitors may also obtain FDA, EMA, TGA or other regulatory approval for their products more rapidly than we may obtain approval for ours. We anticipate that we will face intense and increasing competition as new drugs enter the market and advanced technologies become available.

Our competitors fall primarily into the following categories:

- **SAD:** There are currently no FDA-approved drugs for the acute treatment of SAD. There are four FDA-approved generic antidepressants for treatment of SAD that include paroxetine (Paxil), previously marketed by GlaxoSmithKline, sertraline (Zoloft) and venlafaxine (Effexor), both previously marketed

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by Pfizer, and fluvoxamine (Luvox), marketed by Jazz Pharmaceuticals. Although not FDA-approved for the acute treatment of SAD, generic benzodiazepines and beta blockers are used off-label use as well. Additionally, we are aware of several product candidates in clinical development that are being developed for the acute treatment of SAD, by VistaGen Therapeutics and Vanda Pharmaceuticals, among others.

- **PTSD:** There are two FDA-approved generic antidepressants indicated to treat PTSD, sertraline (Zoloft) and paroxetine (Paxil). In addition, the most recent and relevant PTSD treatment guidelines from the American Psychological Association and the U.S. Department of Veteran Affairs and Department of Defense published in 2017 also recommend fluoxetine (Prozac) or venlafaxine (Effexor). We are aware of several other companies seeking to find improved therapeutics for PTSD by exploring mechanisms of action different from the approved SSRIs, including Otsuka, Lundbeck, Aptinyx, Acadia, BioXcel, Praxis, MAPS, Bionorica, Jazz Pharmaceuticals, VistaGen, Nobilis, and Azevan Pharmaceuticals Inc., among others.

Manufacturing

We do not have any manufacturing facilities or personnel. We currently rely, and expect to continue to rely, on third parties for the manufacturing of our product candidates for preclinical and clinical testing, as well as for commercial manufacturing if our product candidates receive marketing approval. We use additional contract manufacturers to fill, label, package, store and distribute our investigational drug products and currently expect to continue to do so for commercial supplies of our product candidates, if approved. It is our intent to identify and qualify additional manufacturers to provide active pharmaceutical ingredient and formulate drug product, as well as fill-and-finish services prior to submission of an NDA to the FDA for any product candidates that complete clinical development.

All of our CNS product candidates are small molecules and are manufactured in reliable and reproducible synthetic processes from readily available starting materials. The chemistry does not require highly specialized equipment in the manufacturing process. We expect to continue to develop product candidates that can be produced cost-effectively at contract manufacturing facilities.

Commercialization

Given our stage of development, we have not yet established a commercial organization or distribution capabilities, nor have we entered into any partnership or co-promotion arrangements with an established pharmaceutical company. We intend to develop and, if approved by the FDA, to commercialize our product candidates in the United States. For PTSD or the acute treatment of SAD, we intend to commercialize our product candidates, if approved, independently or enter into co-promotion arrangement in the United States. For other psychiatry indications, we may work in combination with one or more large pharmaceutical partners, where specialist capabilities are needed. With respect to countries outside the United States, we plan on establishing partnerships following demonstration of proof-of-concept for our product candidates and work with our ex-U.S. partners to develop an integrated global clinical development and registration plan if the opportunity presents itself.

Research Collaboration and License Agreement with Merck

In June 2014, we entered into a research collaboration and license agreement (as amended, the “2014 Merck License Agreement”) with Merck Sharp & Dohme Corp., a wholly owned subsidiary of Merck & Co., Inc., Kenilworth NJ, USA (“Merck”) to develop compounds targeting cognitive dysfunction associated with Alzheimer’s disease and other central nervous system conditions. Pursuant to the 2014 Merck License Agreement, we granted Merck (i) an exclusive (even as to us and our affiliates), worldwide, sublicensable license under certain of our patent rights and know-how to research, develop, make, have made, use, offer to sell, sell,

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import and/or otherwise exploit certain $\alpha 7$ activator compounds and products containing such compounds for any and all uses in humans and animals, including any prophylactic, therapeutic and/or diagnostic uses, subject to certain of our retained rights and (ii) an exclusive (even as to us and our affiliates), worldwide, sublicensable, perpetual, irrevocable, fully-paid license under certain of our patent rights and know-how to research, develop, make, have made, use, offer to sell, sell, import and/or otherwise exploit certain $\alpha 7$ PET ligands and products containing such ligands for any and all uses in humans and animals, including any prophylactic, therapeutic and/or diagnostic uses. Additionally, in the event that the research, development, making, having made, use, offer for sale, sale, import and/or other exploitation by Merck of the licensed compounds and licensed products would infringe, during the term of the 2014 Merck License Agreement, any of our additional patent rights owned or controlled by us that is not part of the foregoing licenses granted, we granted Merck a non-exclusive, worldwide, sublicensable, royalty-free license under such additional patent rights to research, develop, make, have made, use, offer for sale, sale, import and/or otherwise exploit such licensed compounds and licensed products. Furthermore, we granted Merck a covenant not to sue or otherwise enforce any patent rights, know-how, or other intellectual property rights related to the $\alpha 7$ activator compounds and products.

We are subject to limited information rights under the 2014 Merck License Agreement. As such, we are dependent on Merck to provide us with any updates related to clinical trial results, serious adverse events and ongoing communications with FDA related to these programs, which Merck may provide or withhold in its sole discretion, and as a result we may not be able to provide material updates on a timely basis or at all with respect to these programs.

Under the 2014 Merck License Agreement, Merck funded certain research and development activities on an FTE basis pursuant to a research plan. Merck will fund future research and development activities, including clinical development, and worldwide commercialization of any products development from the collaboration. We received upfront payments totaling US\$20 million, which included funding for FTEs for the first twelve months, and another US\$10 million in February 2017 when the first compound from the collaboration initiated Phase 1 clinical trials and we are eligible to receive up to an additional US\$465 million in milestone payments for achievement of certain development and commercial milestones. Further, Merck is obligated to pay us tiered royalties in the mid single digit to low sub-teen double digit percentage range on annual net sales of the licensed products, subject to customary royalty reductions upon certain events. Merck's royalty obligations will continue on a licensed product-by-licensed product and country-by-country basis until the later of (i) the last-to-expire valid patent claim claiming the applicable licensed compound contained in such licensed product as a composition of matter in such country or (ii) 10 years after the first commercial sale of such licensed product in such country.

The 2014 Merck License Agreement will expire upon the expiration, if not otherwise terminated earlier pursuant to the terms thereof, of all royalty obligations of Merck, and upon such expiration, licenses granted to Merck with respect to the licensed compounds and licensed products will become fully paid-up, irrevocable, perpetual licenses. Merck has the right to terminate the 2014 Merck License Agreement for convenience upon advance written notice to us. Further, Merck may terminate the 2014 Merck License Agreement with immediate effect if we undergo change of control. Additionally, either party may terminate the Merck Agreement for (i) the other party's material breach that is not remedied within the specified time period and (ii) the other party's bankruptcy or other insolvency events. If Merck terminates the 2014 Merck License Agreement because of our uncured material breach or bankruptcy (or other insolvency events), licenses granted to Merck with respect to the licensed compounds and licensed products will become fully paid-up, irrevocable, perpetual licenses.

IP License Agreement with Carina Biotech

In November 2020, we entered into an IP license agreement (the "Carina Biotech License") with Carina Biotech PTY LTD ("Carina Biotech"). Pursuant to the Carina Biotech License, we granted Carina Biotech an exclusive, worldwide license, with the right to grant sublicenses (subject to certain restrictions), under certain of our patents and know-how to research, develop, make, have made, use, sell, offer for sale, supply, cause to be

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supplied, import and otherwise exploit products applying the licensed patents and/or licensed know-how for research, commercial and development applications, and related fields, with respect to CAR T cells, adaptor CARs and other adoptive cell therapies.

Under the Carina Biotech License, Carina Biotech is obligated to use commercially reasonable efforts to commercially develop and exploit licensed products in each country in which Carina Biotech obtains regulatory approval for the licensed products. Carina Biotech is responsible for conducting all regulatory activities for the licensed products. We are obligated to assist Carina Biotech as reasonably requested from time to time in connection with its regulatory filings. We are also obligated to provide technology transfer to Carina Biotech, at Carina Biotech's request, of know-how and technical information that is useful or necessary for Carina Biotech to fully exercise the rights licensed to it under the agreement.

Pursuant to the Carina Biotech License, we are eligible to receive up to A\$118 million in certain development, regulatory and commercial milestone payments if Carina Biotech fully develops and markets the new therapy. Carina Biotech is also obligated to pay us royalties on its net sales of licensed products, on a country-by-country and product-by-product basis, ranging from the low single digits to the mid-single digits, subject to certain specified deductions. Royalties are payable until the later of expiration of all licensed patents covering the licensed products, or expiration of all data exclusivity with respect to the licensed product. If Carina Biotech enters into one or more sublicensing agreements relating to the licensed product, we are eligible to receive a percentage of sublicensing revenues.

The Carina Biotech License expires upon the last to occur of expiration of all licensed patents having a valid claim covering licensed products, and expiration of all data exclusivity relating to the licensed products. Carina Biotech may terminate this agreement without cause on 90 days' written notice. Either party may terminate the agreement for cause in the event of the other party's insolvency or on 30 days' notice in the event of the other party's material breach of the agreement. In the event that a party terminates the agreement, the license granted to Carina Biotech will be terminated, and Carina Biotech will cease its development and exploitation of the licensed products except that Carina Biotech will have the right for 18 months to sell any inventory of licensed products existing as of the termination date.

Research and License Agreement with Ironwood Pharmaceuticals

In January 2012, we entered into a research and license agreement with Ironwood Pharmaceuticals, Inc. ("Ironwood"), pursuant to which Ironwood was granted worldwide development and commercialization rights for BNC210. In November 2014, the parties mutually agreed to terminate this license agreement, reverting all rights to BNC210 back to us. The sole obligation to Ironwood is to pay Ironwood low single digit royalties on the net sales of BNC210, if commercialized.

Intellectual Property

Central Nervous System

As of July 25, 2021, we owned over 15 issued U.S. patents, two pending U.S. patent applications, two pending Patent Cooperation Treaty ("PCT") applications, over 65 granted foreign patents, and over 15 pending foreign patent applications in our central nervous system intellectual property portfolio.

In regards to our BNC210 product candidate, we own:

- one patent family which includes eight issued U.S. patents and 15 foreign patents granted in Australia, Canada, France, Germany, the United Kingdom, and Japan, with claims directed to the composition of matter of BNC210, methods of preparing BNC210, and methods of treating anxiety and depressive disorders using BNC210, which are expected to expire in October, 2027, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable;

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- one patent family which includes one issued U.S. patent and six foreign patents granted in Australia, Canada, the United Kingdom, Germany, and Japan, with claims directed to the manufacture and method of preparing BNC210, which are expected to expire in May, 2032, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable;
- one patent family which includes one issued U.S. patent and eight foreign patents granted in Australia, Canada, the United Kingdom, Germany, France, Mexico, New Zealand and Hong Kong, with claims directed to the crystalline form of BNC210, which are expected to expire in May, 2033, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable; and
- one patent family which includes a pending PCT application with claims directed to solid form formulations of BNC210, where patent applications claiming priority to this PCT application, if issued, are expected to expire in February, 2040, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable.

Oncology

As of July 25, 2021, we owned over 15 issued U.S. patents, over five pending U.S. patent applications, three pending PCT applications, over 35 granted foreign patents, and over 50 pending foreign patent applications in our oncology intellectual property portfolio.

In regards to our BNC101 product candidate, we own:

- one patent family which includes one granted U.S. patent and 4 foreign patents granted in Australia, France, Germany, and United Kingdom, with claims directed to the methods of blocking cancer stem cell growth using BNC101, which are expected to expire in October 2033, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable;
- one patent family which includes two issued U.S. patents and two foreign patents granted in Australia, with claims directed to the methods of treating cancer using BNC101, which are expected to expire in October 2033, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable;
- one patent family which includes two issued U.S. patents and eight foreign patents granted in Australia, Japan, China, France, Germany, United Kingdom, New Zealand, and Hong Kong with claims disclosing the humanized anti-LGR5 antibodies for the treatment of cancer, which are expected to expire in October 2035, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable; and
- one patent family which includes one issued U.S. patent with claims disclosed the method of administration of an anti-LGR5 monoclonal antibody to treat certain cancers, which are expected to expire in March 2037, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable.

In regards to our BNC105 product candidate, we own:

- one patent family which includes five granted U.S. patents and seven foreign patents granted in Australia, Canada, France, Germany, the United Kingdom, Japan, and New Zealand, with claims directed to the composition of matter of BNC105 and methods of treatment cancer using BNC105, which are expected to expire in February, 2027, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable;

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- one patent family which includes one issued U.S. patent and seven foreign patents granted in Australia, Canada, Hong Kong, China, France, Germany, and the United Kingdom, with claims directed to the manufacture of BNC105, which are expected to expire in July, 2031, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable;
- one patent family which includes one issued U.S. patent, one foreign patent granted in China, and 5 foreign patent applications pending in Australia, Canada, Europe, New Zealand, and Hong Kong, with claims directed to the combination of BNC105 and ibrutinib in CLL, where the granted patents and the patent applications, if issued, are expected to expire in March, 2036, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable; and
- one patent family which includes one pending U.S. patent application and 3 foreign patent applications pending in Australia, China and Europe, with claims directed to using BNC105 in the treatment of acute myeloid leukemia, where the patent applications, if issued, are expected to expire in October, 2038, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable.

In addition to the above described patent families, we have two pending PCT applications, WO 2019218025 and WO 2019218024, with claims directed to modulators of ion channels and their uses in treating chronic pain, and have submitted national phase filings in the United States, Europe, Hong Kong and Australia. Patents issuing from such applications, if any, are expected to expire in May, 2039, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable. We also have two pending PCT applications, WO 2020000065 and WO 2019218024, with claims directed to the composition of matter and their uses for the treatment of cognitive deficits and negative symptoms in schizophrenia and for the treatment of autism spectrum disorders, and have submitted national phase filings in the United States, Europe, Australia, Japan, Canada, and New Zealand. Patents issuing from such applications, if any, are expected to expire in October, 2039, excluding any possible patent term adjustments or extensions and assuming payment of all appropriate maintenance, renewal, annuity or other governmental fees, as applicable.

We strive to protect the proprietary technology that we believe is important to our business, including our drug candidates and our processes. We seek patent protection in the United States and internationally for our drug candidates, their methods of use and processes of manufacture and any other technology to which we have rights, where available and when appropriate. We also rely on trade secrets that may be important to the development of our business.

Our success will depend on the ability to obtain and maintain patent and other proprietary rights in commercially important technology, inventions and know-how related to our business, the validity and enforceability of our patents, the continued confidentiality of our trade secrets as well as our ability to operate without infringing the patents and proprietary rights of third parties. We rely on continuing technological innovation and in-licensing opportunities to develop and maintain our proprietary position.

We cannot be sure that patents will be granted with respect to any of our pending patent applications or with respect to any patent applications we may own or license in the future, nor can we be sure that any of our existing patents or any patents we may own or license in the future will be useful in protecting our technology. For this and more comprehensive risks related to our intellectual property, please see “Risk Factors—Risks Relating to Protecting Our Intellectual Property.” The term of an individual patent depends upon the legal term of the patent in the country in which it is obtained. In most countries in which we file, the patent term is 20 years from the date of filing the non-provisional priority application. Because any regulatory approval for a drug often occurs several years after the related patent application is filed, the resulting market exclusivity afforded by any patent on our drug candidates and technologies will likely be substantially less than 20 years. In the United States, a patent’s

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term may be lengthened by patent term adjustment, which compensates a patentee for administrative delays by the United States Patent and Trademark Office (“USPTO”) in granting a patent, or may be shortened if a patent is terminally disclaimed over an earlier-filed patent. The term of a U.S. patent that covers an FDA-approved drug may also be eligible for patent term extension, which permits patent term restoration as compensation for the patent term lost during the FDA regulatory review process. A patent term extension of up to five years may be granted beyond the expiration of the patent. This period is generally one-half of the time between the effective date of an IND (falling after issuance of the patent), and the submission date of an NDA, or BLA, plus the time between the submission date of an NDA and the approval of that application, provided the sponsor acted with diligence. A patent term extension cannot extend the remaining term of a patent beyond a total of 14 years from the date of drug approval and only one patent applicable to an approved drug may be extended. The application for patent term extension is subject to approval by the USPTO in conjunction with the FDA. Due to the specific requirements for obtaining these adjustments and extensions, there is no assurance that our patents will be afforded adjustments or extensions even if we encounter significant delays in patent office proceedings or marketing and regulatory approval.

Government Regulation

The FDA and other regulatory authorities at federal, state and local levels, as well as in foreign countries and local jurisdictions, extensively regulate, and impose substantial and burdensome requirements upon companies involved in, among other things, the research, development, testing, manufacture, quality control, sampling, import, export, safety, effectiveness, labeling, packaging, storage, distribution, record keeping, approval, advertising, promotion, marketing, post-approval monitoring and post-approval reporting of our product candidates. Any drug candidates that we develop must be approved by the FDA before they may be legally marketed in the United States and by the appropriate foreign regulatory agency before they may be legally marketed in those foreign countries. Generally, our activities in other countries will be subject to regulation that is similar in nature and scope as that imposed in the United States, although there can be important differences. We, along with our vendors, contract research organizations and contract manufacturers, will be required to navigate the various preclinical, clinical, manufacturing and commercial approval requirements of the governing regulatory agencies of the countries in which we wish to conduct studies or seek approval of our product candidates. The process of obtaining regulatory approvals of drugs and ensuring subsequent compliance with appropriate federal, state, local and foreign statutes and regulations requires the expenditure of substantial time and financial resources.

In the United States, the FDA regulates drug products under the Federal Food, Drug, and Cosmetic Act (“FD&C Act”), as amended, its implementing regulations and other laws. If we fail to comply with applicable FDA or other requirements at any time with respect to product development, clinical testing, approval or any other legal requirements relating to product manufacture, processing, handling, storage, quality control, safety, marketing, advertising, promotion, packaging, labeling, export, import, distribution, or sale, we may become subject to administrative or judicial sanctions or other legal consequences. These sanctions or consequences could include, among other things, the FDA’s refusal to approve pending applications, issuance of clinical holds for ongoing studies, withdrawal of approvals, warning or untitled letters, product withdrawals or recalls, product seizures, relabeling or repackaging, total or partial suspensions of manufacturing or distribution, injunctions, fines, civil penalties or criminal prosecution.

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

- completion of extensive preclinical laboratory tests, animal studies and formulation studies in accordance with good laboratory practice (“GLP”), requirements and other applicable regulations;
- submission to the FDA of an IND application, which must become effective before clinical trials may begin;

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- approval by an institutional review board (“IRB”), or independent ethics committee at each clinical trial site before each trial may be initiated;
- performance of adequate and well-controlled clinical trials in accordance with applicable IND regulations, good clinical practice (“GCP”), requirements and other regulations, to establish the safety and efficacy of the investigational product for its intended use;
- submission to the FDA of an NDA, after completion of all pivotal trials;
- a determination by the FDA within 60 days of its receipt of an NDA, to accept the filing for review;
- satisfactory completion of an FDA advisory committee review, if applicable;
- satisfactory completion of one or more FDA pre-approval inspections of the manufacturing facility or facilities where the drug will be produced to assess compliance with current Good Manufacturing Practices (“cGMP”) requirements to assure that the facilities, methods and controls are adequate to preserve the drug’s identity, strength, quality and purity;
- potential FDA audit of the clinical trial sites that generated the data in support of the NDA;
- payment of user fees for FDA review of the NDA; and
- FDA review and approval of the NDA to permit commercial marketing or sale of the drug for particular indications for use in the United States.

Preclinical Studies and Clinical Trials for Drugs

Before testing any drug in humans, the product candidate must undergo rigorous preclinical testing. Preclinical studies include laboratory evaluations of drug chemistry, formulation and stability, as well as *in vitro* and animal studies to assess safety and in some cases to establish the rationale for therapeutic use. The conduct of preclinical studies is subject to federal and state regulations and requirements, including GLP requirements for safety/toxicology studies. The results of the preclinical studies, together with manufacturing information and analytical data must be submitted to the FDA as part of an IND. An IND is a request for authorization from the FDA to administer an investigational product to humans and must become effective before clinical trials may begin. Some long-term preclinical testing may continue even after the IND is submitted. The IND also includes results of animal and *in vitro* studies assessing the toxicology, pharmacokinetics, pharmacology, and pharmacodynamic characteristics of the product; chemistry, manufacturing, and controls information; and any available human data or literature to support the use of the investigational product. The IND automatically becomes effective 30 days after receipt by the FDA, unless the FDA, within the 30-day time period, raises concerns or questions about the conduct of the clinical trial, including concerns that human research patients will be exposed to unreasonable health risks, and imposes a clinical hold. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before the clinical trial can begin. Submission of an IND therefore may or may not result in FDA authorization to begin a clinical trial or to commence a clinical trial with the investigational plan originally specified in the IND.

Clinical trials involve the administration of the product candidate to human subjects under the supervision of qualified investigators, generally physicians not employed by or under the trial sponsor’s control, in accordance with GCP requirements, which include the requirements that all research subjects provide their informed consent for their participation in any clinical trial. Clinical trials are conducted under protocols detailing, among other things, the objectives of the clinical trial, dosing procedures, subject selection and exclusion criteria and the parameters and criteria to be used in monitoring safety and evaluating effectiveness. A separate submission to the existing IND must be made for each successive clinical trial conducted during product development, and for any subsequent amendments to the protocol. Furthermore, an IRB for each institution at which the clinical trial will be conducted must review and approve the plan for any clinical trial and its informed consent form before the trial begins at that site and must monitor the study until completed. An IRB is charged with protecting the welfare and rights of trial participants and considers such items as whether the risks to

individuals participating in the clinical trials are minimized and are reasonable in relation to the anticipated benefits. Regulatory authorities, including the FDA, as well as the IRB or the sponsor may suspend or discontinue a clinical trial at any time on various grounds, including a finding that the patients are being exposed to an unacceptable health risk or that the trial is unlikely to meet its stated objectives. Some studies also include oversight by an independent group of qualified experts organized by the clinical study sponsor, known as a data safety monitoring board, which provides authorization for whether or not a study may move forward at designated check points based on access to certain data from the study and may halt the clinical trial if it determines that there is an unacceptable safety risk for subjects or other grounds, such as no demonstration of efficacy. There also are requirements governing the reporting of ongoing clinical trials and completed clinical trials to public registries. Information about applicable clinical trials, including clinical trial results, must be submitted within specific timeframes for publication on the www.clinicaltrials.gov website.

A sponsor who wishes to conduct a clinical trial outside of the United States may, but need not, obtain FDA authorization to conduct the clinical trial under an IND. The FDA will accept a well-designed and well-conducted foreign clinical trial not conducted under an IND if the trial was conducted in accordance with GCP requirements, and the FDA is able to validate the data through an onsite inspection if deemed necessary.

Human clinical trials are typically conducted in three sequential phases, which may overlap or be combined.

- Phase 1—Phase 1 clinical trials involve initial introduction of the investigational product into healthy human volunteers or patients with the target disease or condition. These studies are typically designed to test the safety, dosage tolerance, absorption, metabolism and distribution of the investigational product in humans, the side effects associated with increasing doses, and, if possible, to gain early evidence on effectiveness. In the case of some products for severe or life-threatening diseases, such as cancer, especially when the product may be too inherently toxic to ethically administer to healthy volunteers, the initial human testing is often conducted in patients.
- Phase 2—Phase 2 clinical trials typically involve administration of the investigational product to a limited patient population with a specified disease or condition to evaluate the preliminary efficacy, optimal dosages, dose tolerance and dosing schedule and to identify possible adverse side effects and safety risks. Multiple Phase 2 clinical trials may be conducted to obtain information prior to beginning larger and more expensive Phase 3 clinical trials.
- Phase 3—Phase 3 clinical trials typically involve administration of the investigational product to an expanded patient population to further evaluate dosage, to provide statistically significant evidence of clinical efficacy and to further test for safety, generally at multiple geographically dispersed clinical trial sites. These clinical trials are intended to establish the overall risk/benefit ratio of the investigational product and to provide an adequate basis for product approval. Generally, two adequate and well-controlled Phase 3 clinical trials are required by the FDA for approval of an NDA.

Post-approval trials, sometimes referred to as Phase 4 clinical trials, may be conducted after initial marketing approval. These trials are used to gain additional experience from the treatment of patients in the approved indication. In certain instances, such as with accelerated approval drugs, FDA may mandate the performance of Phase 4 clinical trials as a condition of approval of an NDA.

During the development of a new drug, sponsors are given opportunities to meet with the FDA at certain points. These points are generally prior to submission of an IND, at the end of Phase 2, and before an NDA is submitted. Meetings at other times may be requested. These meetings can provide an opportunity for the sponsor to share information about the data gathered to date, for the FDA to provide advice, and for the sponsor to obtain the FDA's feedback on the next phase of development. Sponsors typically use the meetings at the end of the Phase 2 trial to discuss Phase 2 clinical results and present plans for the pivotal Phase 3 clinical trials that they believe will support approval of the new drug.

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Concurrent with clinical trials, companies usually complete additional animal studies and must also develop additional information about the chemistry and physical characteristics of the product candidate and finalize a process for manufacturing the product in commercial quantities in accordance with cGMP requirements. The manufacturing process must be capable of consistently producing quality batches of the product candidate and, among other things, manufacturers must develop methods for testing the identity, strength, quality and purity of the final drug product. Additionally, appropriate packaging must be selected and tested, and stability studies must be conducted to demonstrate that the product candidate does not undergo unacceptable deterioration over its shelf life.

While the IND is active and before approval, progress reports summarizing the results of the clinical trials and nonclinical studies performed since the last progress report must be submitted at least annually to the FDA. Written IND safety reports must be submitted to the FDA and the investigators fifteen days after the trial sponsor determines the information qualifies for reporting for serious and unexpected suspected adverse events, findings from other studies or animal or *in vitro* testing that suggest a significant risk for human volunteers and any clinically important increase in the rate of a serious suspected adverse reaction over that listed in the protocol or investigator brochure. The sponsor must also notify the FDA of any unexpected fatal or life-threatening suspected adverse reaction as soon as possible but in no case later than seven calendar days after the sponsor's initial receipt of the information.

DEA Regulation

The Controlled Substances Act (CSA) establishes registration, security, recordkeeping, reporting, storage, distribution and other requirements that are administered by the Drug Enforcement Administration (DEA). DEA regulates the handlers of controlled substances, as well as the equipment and raw materials used in their manufacture and packaging, to prevent loss and diversion into illicit channels of commerce.

DEA regulates controlled substances as Schedule I, II, III, IV or V substances. Schedule I substances by definition have no currently accepted medicinal use, a high potential for abuse, and may not be marketed or sold in the United States. A pharmaceutical product may be listed as Schedule II, III, IV or V, with Schedule II substances considered to present the highest risk of abuse and Schedule V substances the lowest relative risk of abuse among such substances.

Annual registration is required for any facility that manufactures, distributes, dispenses, imports or exports any controlled substance. The registration is specific to the particular facility, the activities conducted at the facilities, and relevant controlled substance schedules. For example, separate registrations are required for a facility that both imports and manufactures a controlled substance, and each registration will specify which schedules of controlled substances are authorized.

DEA may inspect a facility to review its security measures prior to issuing a registration and may also conduct periodic inspections of registered establishments that handle controlled substances. Security requirements vary by controlled substance schedule, with the most stringent requirements applying to Schedule I and Schedule II substances. Records must be maintained for the handling of all controlled substances, and periodic reports made to DEA, for example distribution reports for Schedule I and II controlled substances, Schedule III substances that are narcotics, and other designated substances. Reports must also be made for thefts or losses of any controlled substance, and to obtain authorization to destroy any controlled substance. In addition, authorization and notification requirements apply to imports and exports.

A DEA quota system controls and limits the availability and production of controlled substances in Schedules I and II. Distributions of any Schedule I or II controlled substance must also be accompanied by order forms, with copies provided to DEA. DEA may adjust aggregate production quotas and individual production and procurement quotas from time to time during the year, although DEA has substantial discretion in whether or not to make such adjustments.

Individual states also regulate controlled substances.

U.S. Review and Approval Process for Drugs

Assuming successful completion of the required clinical testing, the results of the preclinical studies and clinical trials, together with detailed information relating to the product's chemistry, manufacture, controls and proposed labeling and other relevant information are submitted to the FDA as part of an NDA requesting approval to market the product for one or more indications. Data may come from company-sponsored clinical trials intended to test the safety and efficacy of a product's use or from a number of alternative sources, including studies initiated by investigators. To support marketing approval, the data submitted must be sufficient in quality and quantity to establish the safety and efficacy of the investigational product to the satisfaction of the FDA. FDA approval of an NDA must be obtained before a drug may be marketed in the United States. The submission of an NDA is subject to the payment of substantial user fees. The FDA adjusts the Prescription Drug User Fee Act ("PDUFA") user fees on an annual basis. Fee waivers or reductions are available in certain circumstances, including a waiver of the application fee for the first application filed by a small business. Additionally, no user fees are assessed on NDAs for products designated as orphan drugs, unless the product also includes a non-orphan indication.

The FDA reviews an NDA to determine, among other things, whether the drug is safe and effective for its intended use and whether its manufacturing is cGMP-compliant to assure the product's continued safety, quality and purity. Under the goals and policies agreed to by the FDA under the PDUFA, the FDA has a goal of ten months from the date of "filing" of a standard NDA for a new molecular entity to review and act on the submission (and a goal of six months for a priority review). This review typically takes twelve months for a standard NDA and eight months for a priority NDA from the date the NDA is submitted to FDA because the FDA has approximately two months to make a "filing" decision after the application is submitted. Specifically, the FDA conducts a preliminary review of all submitted NDAs within 60 days of receipt to determine whether they are sufficiently complete to permit substantive review. The FDA may request additional information rather than accept an NDA for filing. In this event, the NDA must be resubmitted with the additional information. The resubmitted application is also subject to review before the FDA accepts it for filing. The FDA does not always meet its PDUFA goal dates for standard or priority NDAs, and the review process is often extended by FDA requests for additional information or clarification.

The FDA may refer an application for a novel drug to an advisory committee. An advisory committee is a panel of independent experts, including clinicians and other scientific experts, which reviews, evaluates and provides a recommendation as to whether the application should be approved and under what conditions. The FDA is not bound by the recommendations of an advisory committee, but it considers such recommendations carefully when making decisions.

Before approving an NDA, the FDA typically will inspect the facility or facilities where the product is manufactured. The FDA will not approve an application unless it determines that the manufacturing processes and facilities are in compliance with cGMP requirements and adequate to assure consistent production of the product within required specifications. Additionally, before approving an NDA, the FDA may inspect one or more clinical trial sites to assure compliance with GCP and other requirements and the integrity of the clinical data submitted to the FDA.

If the FDA determines the application, manufacturing process or manufacturing facilities are not acceptable, it will outline the deficiencies in the submission and often will request additional testing or information. Notwithstanding the submission of any requested additional information, the FDA ultimately may decide that the application does not satisfy the regulatory criteria for approval.

After the FDA evaluates an NDA, it may issue an approval letter or a complete response letter. An approval letter authorizes commercial marketing of the drug with specific prescribing information for specific indications. A complete response letter indicates that the review cycle of the application is complete, and the application will not be approved in its present form. A complete response letter generally describes the specific deficiencies in the NDA identified by the FDA and may require additional clinical data, such as an additional pivotal Phase 3 trial or

other significant and time-consuming requirements related to clinical trials, nonclinical studies or manufacturing. If a Complete Response Letter is issued, the sponsor must resubmit the NDA, addressing all of the deficiencies identified in the letter, or withdraw the application. Even if such data and information are submitted, the FDA may decide that the NDA does not satisfy the criteria for approval.

If regulatory approval of a product is granted, such approval will be granted for particular indications and may contain limitations on the indicated uses for which such product may be marketed. For example, the FDA may approve the NDA with a Risk Evaluation and Mitigation Strategy (“REMS”) to ensure that the benefits of the drug outweigh its risks. A REMS is a safety strategy to manage a known or potential serious risk associated with a medicine and to enable patients to have continued access to such medicines by managing their safe use, and could include medication guides, physician communication plans, assessment plans and/or elements to assure safe use, such as restricted distribution methods, patient registries or other risk-minimization tools. The FDA also may condition approval on, among other things, changes to proposed labeling or the development of adequate controls and specifications. Once approved, the FDA may withdraw the product approval if compliance with pre- and post-marketing requirements is not maintained or if problems occur after the product reaches the marketplace. The FDA may also require one or more post-approval studies and surveillance, including Phase 4 clinical trials, be conducted to further assess and monitor the product’s safety and effectiveness after marketing, and may prevent or limit further marketing of a product based on the results of post-marketing studies or surveillance programs. After approval, some types of changes to the approved product, such as adding new indications, manufacturing changes and additional labeling claims, are subject to further testing requirements and FDA review and approval. In addition, new government requirements, including those resulting from new legislation, may be established, or the FDA’s policies may change, which could impact the timeline for regulatory approval or otherwise impact ongoing development programs.

Orphan Drug Designation and Exclusivity

Under the Orphan Drug Act, the FDA may grant orphan designation to a drug intended to treat a rare disease or condition, which is a disease or condition that affects fewer than 200,000 individuals in the United States, or if it affects 200,000 or more individuals in the United States, there is no reasonable expectation that the cost of developing and making the product available in the United States for the disease or condition will be recovered from sales of the product. Orphan designation must be requested before submitting an NDA. After the FDA grants orphan designation, the identity of the therapeutic agent and its potential orphan use are disclosed publicly by the FDA. Orphan designation does not convey any advantage in or shorten the duration of the regulatory review and approval process, though companies developing orphan products are eligible for certain incentives, including tax credits for qualified clinical testing and waiver of application fees.

In addition, if a product that has orphan designation subsequently receives the first FDA approval for the disease or condition for which it has such designation, the product is entitled to orphan product exclusivity during which the FDA may not approve any other applications to market the same therapeutic agent for the same indication for seven years, except in limited circumstances, such as a subsequent product’s showing of clinical superiority over the product with orphan exclusivity or where the original applicant cannot produce sufficient quantities of product. Competitors, however, may receive approval of different products for the indication for which the orphan product has exclusivity or obtain approval for the same product but for a different indication than that for which the orphan product has exclusivity. Orphan product exclusivity could also block the approval of one of our products for seven years if a competitor obtains approval for the same therapeutic agent for the same indication before we do, unless we are able to demonstrate that our product is clinically superior. If an orphan designated product receives marketing approval for an indication broader than what is designated, it may not be entitled to orphan exclusivity. Further, orphan drug exclusive marketing rights in the United States may be lost if the FDA later determines that the request for designation was materially defective or the manufacturer of the approved product is unable to assure sufficient quantities of the product to meet the needs of patients with the rare disease or condition.

Expedited Development and Review Programs for Drugs

The FDA has a number of programs intended to expedite the development or review of products that meet certain criteria.

For example, new drugs are eligible for Fast Track designation if they are intended to treat a serious or life-threatening disease or condition and demonstrate the potential to address unmet medical needs for such disease or condition. Fast Track designation applies to the combination of the product and the specific indication for which it is being studied. The sponsor of a Fast Track designated product has opportunities for more frequent sponsor interactions with the FDA review team during preclinical and clinical development, in addition to the potential for rolling review once a marketing application is filed, meaning that the agency may review portions of the marketing application before the sponsor submits the complete application, if the sponsor provides a schedule for the submission of the sections of the NDA, the FDA agrees to accept sections of the NDA and determines that the schedule is acceptable, and the sponsor pays any required user fees upon submission of the first section of the NDA.

In addition, a sponsor may seek FDA designation of a product candidate as a “breakthrough therapy” if the product candidate is intended, alone or in combination with one or more other products, to treat a serious or life-threatening disease or condition and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over existing therapies on one or more clinically significant endpoints, such as substantial treatment effects observed early in clinical development. Breakthrough Therapy designation provides all the features of Fast Track designation in addition to more intensive FDA interaction and guidance. If a product is designated as Breakthrough Therapy, the FDA will work to expedite the development and review of such drug through FDA organizational commitment to expedited development, including involvement of senior managers and experienced review staff in a cross-disciplinary review, where appropriate.

Any product submitted to the FDA for approval, including a product with Fast Track or Breakthrough Therapy designation, may also be eligible for other types of FDA programs intended to expedite development and review, including Priority Review designation and Accelerated Approval. A product is eligible for Priority Review if it has the potential to provide a significant improvement in safety or effectiveness in the treatment, diagnosis or prevention of a serious disease or condition. Under priority review, the FDA targets reviewing an application in six months after filing compared to ten months after filing for a standard review.

Additionally, products may be eligible for Accelerated Approval if they are intended to treat serious or life-threatening diseases or conditions and are determined to have an effect on a surrogate endpoint that is reasonably likely to predict clinical benefit, or an effect on a clinical endpoint that can be measured earlier than an effect on irreversible morbidity or mortality which is reasonably likely to predict an effect on irreversible morbidity or mortality or other clinical benefit, taking into account the severity, rarity or prevalence of the condition and the availability or lack of alternative treatments. As a condition of approval, the FDA may require that a sponsor of a drug receiving Accelerated Approval conduct additional post-approval studies to verify and describe the product’s clinical benefit. The FDA may withdraw approval of a drug or indication approved under Accelerated Approval if, for example, the confirmatory trial fails to verify the predicted clinical benefit of the product. In addition, for products reviewed under Accelerated Approval, unless otherwise informed by the FDA, the FDA requires that all advertising and promotional materials that are intended for dissemination or publication within 120 days following marketing approval be submitted to the agency for review during the pre-approval review period, and that after 120 days following marketing approval, all advertising and promotional materials must be submitted at least 30 days prior to the intended time of initial dissemination or publication.

Even if a product qualifies for one or more of these programs, the FDA may later decide that the product no longer meets the conditions for qualification or the time period for FDA review or approval may not be shortened. Furthermore, Fast Track designation, Breakthrough Therapy designation, Priority Review and Accelerated Approval do not change the standards for approval but may expedite the development or review process. We may explore some of these opportunities for our product candidates as appropriate.

Pediatric Information and Pediatric Exclusivity

Under the Pediatric Research Equity Act (“PREA”), as amended, certain NDAs and certain supplements to an NDA must contain data to assess the safety and efficacy of the drug for the claimed indications in all relevant pediatric subpopulations and to support dosing and administration for each pediatric subpopulation for which the product is safe and effective. The FDA may grant deferrals for submission of pediatric data or full or partial waivers. The FD&C Act requires that a sponsor who is planning to submit a marketing application for a drug that includes a new active ingredient, new indication, new dosage form, new dosing regimen or new route of administration submit an initial Pediatric Study Plan (“PSP”), within 60 days of an end-of-Phase 2 meeting or, if there is no such meeting, as early as practicable before the initiation of the Phase 3 or Phase 2/3 trial. The FDA and the sponsor must reach an agreement on the PSP. A sponsor can submit amendments to an agreed-upon initial PSP at any time if changes to the pediatric plan need to be considered based on data collected from preclinical studies, early phase clinical trials and/or other clinical development programs.

A drug can also obtain pediatric market exclusivity in the U.S. Pediatric exclusivity, if granted, adds six months to existing exclusivity periods and patent terms. This six-month exclusivity, which runs from the end of other exclusivity protection or patent term, may be granted based on the voluntary completion of a pediatric trial or of multiple pediatric trials in accordance with an FDA-issued “Written Request” for such trials.

U.S. Post-Approval Requirements for Drugs

Drugs manufactured or distributed pursuant to FDA approvals are subject to pervasive and continuing regulation by the FDA, including, among other things, requirements relating to recordkeeping, periodic reporting, product sampling and distribution, reporting of adverse experiences with the product, complying with promotion and advertising requirements, which include restrictions on promoting products for unapproved uses or patient populations (known as “off-label use”) and limitations on industry-sponsored scientific and educational activities. After approval, most changes to the approved product, such as adding new indications or other labeling claims, are subject to prior FDA review and approval. There also are continuing, annual program fees for any marketed products.

In addition, drug manufacturers and their subcontractors involved in the manufacture and distribution of approved drugs are required to register their establishments with the FDA and certain state agencies and are subject to periodic unannounced inspections by the FDA and certain state agencies for compliance with ongoing regulatory requirements, including cGMP, which impose certain procedural and documentation requirements upon us and our contract manufacturers. Changes to the manufacturing process are strictly regulated, and, depending on the significance of the change, may require prior FDA approval before being implemented. FDA regulations also require investigation and correction of any deviations from cGMP and impose reporting requirements upon us and any third-party manufacturers that we may decide to use. Accordingly, manufacturers must continue to expend time, money and effort in the area of production and quality control to maintain compliance with cGMP and other aspects of regulatory compliance. Failure to comply with statutory and regulatory requirements can subject a manufacturer to possible legal or regulatory action, such as warning letters, suspension of manufacturing, product seizures, injunctions, civil penalties or criminal prosecution.

The FDA may withdraw approval if compliance with regulatory requirements and standards is not maintained or if problems occur after the product reaches the market. Later discovery of previously unknown problems with a product, including adverse events of unanticipated severity or frequency, or with manufacturing processes, or failure to comply with regulatory requirements, may result in revisions to the approved labeling to add new safety information, requirements for post-market studies or clinical trials to assess new safety risks, or imposition of distribution or other restrictions under a REMS. Other potential consequences include, among other things:

- restrictions on the marketing or manufacturing of the product, complete withdrawal of the product from the market or product recalls;
- the issuance of safety alerts, Dear Healthcare Provider letters, press releases or other communications containing warnings or other safety information about the product;

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- fines, warning letters or untitled letters or holds on post-approval clinical trials;
- refusal of the FDA to approve applications or supplements to approved applications, or suspension or withdrawal of product approvals;
- product seizure or detention, or refusal to permit the import or export of products;
- consent decrees, corporate integrity agreements, debarment or exclusion from federal healthcare programs;
- mandated modification of promotional materials and labeling and issuance of corrective information; and
- injunctions or the imposition of civil or criminal penalties.

The FDA may also require post-market testing, including Phase 4 clinical trials, and surveillance to further assess and monitor the product's safety and effectiveness after commercialization. The FDA closely regulates the marketing, labeling, advertising and promotion of drug products. A company can make only those claims relating to safety and efficacy that are approved by the FDA and in accordance with the provisions of the approved label. The FDA and other agencies actively enforce the laws and regulations prohibiting the promotion of off-label uses. Failure to comply with these requirements can result in, among other things, adverse publicity, warning letters, corrective advertising and potential civil and criminal penalties. Physicians may prescribe, in their independent professional medical judgment, legally available products for uses that are not described in the product's labeling and that differ from those tested by us and approved by the FDA. Physicians may believe that such off-label uses are the best treatment for many patients in varied circumstances. The FDA does not regulate the behavior of physicians in their choice of treatments. The FDA does, however, restrict manufacturer's communications on the subject of off-label use of their products. The federal government has levied large civil and criminal fines against companies for alleged improper promotion of off-label use and has enjoined companies from engaging in off-label promotion. The FDA and other regulatory agencies have also required that companies enter into consent decrees or permanent injunctions under which specified promotional conduct is changed or curtailed. However, companies may share truthful and not misleading information that is otherwise consistent with a product's FDA-approved labeling.

In addition, the distribution of prescription pharmaceutical products is subject to the Prescription Drug Marketing Act ("PDMA"), which regulates the distribution of drugs and drug samples at the federal level, and sets minimum standards for the registration and regulation of drug distributors by the states. Both the PDMA and state laws limit the distribution of prescription pharmaceutical product samples and impose requirements to ensure accountability in distribution.

Marketing Exclusivity

Market exclusivity provisions under the FD&C Act can delay the submission or the approval of certain marketing applications. The FD&C Act provides a five-year period of non-patent exclusivity within the United States to the first applicant to obtain approval of an NDA for a new chemical entity. A drug is a new chemical entity if the FDA has not previously approved any other new drug containing the same active moiety, which is the molecule or ion responsible for the action of the drug substance. During the exclusivity period, the FDA may not approve or even accept for review an abbreviated new drug application ("ANDA"), or an NDA submitted under Section 505(b)(2), or 505(b)(2) NDA, submitted by another company for another drug based on the same active moiety, regardless of whether the drug is intended for the same indication as the original innovative drug or for another indication. However, such an application may be submitted after four years if it contains a certification of patent invalidity or non-infringement to one of the patents listed with the FDA by the innovator NDA holder.

The FD&C Act alternatively provides three years of marketing exclusivity for an NDA, or supplement to an existing NDA, if new clinical investigations, other than bioavailability studies, that were conducted or sponsored by the applicant are deemed by the FDA to be essential to the approval of the application, for example new indications, dosages or strengths of an existing drug. This three-year exclusivity covers only the modification for

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which the drug received approval on the basis of the new clinical investigations and does not prohibit the FDA from approving ANDAs or 505(b)(2) NDAs for drugs containing the active agent for the original indication or condition of use. Five-year and three-year exclusivity will not delay the submission or approval of a full NDA. However, an applicant submitting a full NDA would be required to conduct or obtain a right of reference to any preclinical studies and adequate and well-controlled clinical trials necessary to demonstrate safety and effectiveness.

Other Regulatory Matters

Manufacturing, sales, promotion and other activities of product candidates following product approval, where applicable, or commercialization are also subject to regulation by numerous regulatory authorities in the United States in addition to the FDA, which may include the Centers for Medicare & Medicaid Services other divisions of the HHS, the Department of Justice, the DEA, the Consumer Product Safety Commission, the Federal Trade Commission (“FTC”), the Occupational Safety & Health Administration, the Environmental Protection Agency and state and local governments and governmental agencies.

Other Healthcare Laws

Pharmaceutical companies are subject to additional healthcare regulation and enforcement by the federal government and by authorities in the states and foreign jurisdictions in which they conduct their business and may constrain the financial arrangements and relationships through which we research, as well as, sell, market and distribute any products for which we obtain marketing approval. Such laws include, without limitation, federal and state anti-kickback, fraud and abuse, false claims, and transparency laws and regulations with respect to drug pricing and payments and other transfers of value made to physicians and other health care providers. Violations of any of such laws or any other governmental regulations that apply may result in significant penalties, including, without limitation, administrative, civil and criminal penalties, damages, fines, disgorgement, the curtailment or restructuring of operations, integrity oversight and reporting obligations to resolve allegations of noncompliance, exclusion from participation in federal and state healthcare programs and imprisonment for any responsible individuals.

Coverage and Reimbursement

Our ability to successfully commercialize any pharmaceutical product candidate depends, in part, on (1) the extent to which the product will be covered by third-party payors, such as federal, state, and foreign government healthcare programs, commercial insurance and managed healthcare organizations, and (2) the level of reimbursement for such product by third-party payors. Decisions regarding the extent of coverage and amount of reimbursement to be provided are made on a plan-by-plan basis. Even if coverage is provided, the approved reimbursement amount may not be high enough to allow us to establish or maintain pricing sufficient to realize a sufficient return on our investment.

Third-party payors are increasingly reducing coverage and reimbursement for medical products, drugs and services. There is significant uncertainty related to the insurance coverage and reimbursement of newly approved products; and coverage may be more limited than the purposes for which the medicine is approved by the FDA or comparable foreign regulatory authorities. In the United States, no uniform policy of coverage and reimbursement for drug products exists among third-party payors. Third-party payors often rely upon Medicare coverage policy and payment limitations in setting their own reimbursement rates, but also have their own methods and approval process apart from Medicare determinations. Therefore, coverage and reimbursement for drug products can differ significantly from payor to payor. As a result, the coverage determination process is often a time-consuming and costly process that will require us to provide scientific and clinical support for the use of our product candidates to each payor separately, with no assurance that coverage and adequate reimbursement will be obtained.

In addition, the U.S. government, state legislatures and foreign governments have continued implementing cost-containment programs, including price controls, restrictions on coverage and reimbursement and

requirements for substitution of generic products. Adoption of price controls and cost-containment measures, adoption of more restrictive policies in jurisdictions with existing controls and measures, could further limit sales of any product.

We cannot be sure that reimbursement will be available for any product candidate that we commercialize and, if reimbursement is available, the level of reimbursement. Decreases in third-party reimbursement for any product or a decision by a third-party payor not to cover a product could reduce physician usage and patient demand for the product and also have a material adverse effect on sales.

Healthcare Reform

In the United States, in 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, as amended, collectively known as the ACA, was enacted, which substantially changed the way healthcare is financed by both governmental and private insurers, and significantly affected the pharmaceutical industry. The ACA contained a number of provisions, including those governing enrollment in federal healthcare programs, reimbursement adjustments and changes to fraud and abuse laws. For example, the ACA:

- increased the minimum level of Medicaid rebates payable by manufacturers of brand name drugs from 15.1% to 23.1% of the average manufacturer price;
- required collection of rebates for drugs paid by Medicaid managed care organizations;
- required manufacturers to participate in a coverage gap discount program, under which they must agree to offer 50% (increased to 70% pursuant to the Bipartisan Budget Act of 2018, effective as of January 1, 2019) point-of-sale discounts off negotiated prices of applicable brand drugs to eligible beneficiaries during their coverage gap period, as a condition for the manufacturer's outpatient drugs to be covered under Medicare Part D; and
- imposed a non-deductible annual fee on pharmaceutical manufacturers or importers who sell "branded prescription drugs" to specified federal government programs.

Since its enactment, there have been judicial, executive and Congressional challenges to certain aspects of the ACA. On June 17, 2021, the U.S. Supreme Court dismissed the most recent judicial challenge to the ACA brought by several states without specifically ruling on the constitutionality of the ACA. Prior to the Supreme Court's decision, President Biden issued an executive order to initiate a special enrollment period from February 15, 2021 through August 15, 2021 for purposes of obtaining health insurance coverage through the ACA marketplace. The executive order also instructed certain governmental agencies to review and reconsider their existing policies and rules that limit access to healthcare, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA. It is unclear how other healthcare reform measures of the Biden administration or other efforts, if any, to challenge, repeal or replace the ACA will impact our business.

Other legislative changes have been proposed and adopted since the ACA was enacted. For example, on March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 into law, which eliminates the statutory Medicaid drug rebate cap, currently set at 100% of a drug's average manufacturer price, for single source and innovator multiple source drugs, beginning January 1, 2024. Further, in August 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 in April 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 December 31, 2021, unless additional action is taken by Congress.

Further, 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

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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.

Moreover, there has recently been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several Congressional inquiries, proposed and enacted legislation and executive orders designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drug products. For example, at a federal level, President Biden signed an Executive Order on July 9, 2021 affirming the administration's policy to (i) support legislative reforms that would lower the prices of prescription drugs and biologics, including by allowing Medicare to negotiate drug prices, by imposing inflation caps, and, by supporting the development and market entry of lower-cost generic drugs and biosimilars; and (ii) support the enactment of a public health insurance option. Among other things, the Executive Order also directs the HHS to provide a report on actions to combat excessive pricing of prescription drugs, enhance the domestic drug supply chain, reduce the price that the Federal government pays for drugs, and address price gouging in the industry; and directs the FDA to work with states and Indian Tribes that propose to develop section 804 Importation Programs in accordance with the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and the FDA's implementing regulations. It is also possible that additional governmental action is taken in response to the COVID-19 pandemic. Individual states in the United States have also become increasingly active in 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.

We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which could impact the amounts that federal and state governments and other third-party payors will pay for healthcare products and services.

Data Privacy and Security Laws

Numerous state, federal and foreign laws, including consumer protection laws and regulations, govern the collection, dissemination, use, access to, confidentiality, and security of personal information, including health-related information. In the United States, numerous federal and state laws and regulations, including data breach notification laws, health information privacy and security laws, including Health Insurance Portability and Accountability Act ("HIPAA") and federal and state consumer protection laws and regulations (e.g., Section 5 of the Federal Trade Commission Act) that govern the collection, use, disclosure, and protection of health-related and other personal information could apply to our operations or the operations of our partners. In addition, certain state and non-U.S. laws, such as the California Consumer Privacy Act ("CCPA"), the California Privacy Rights Act ("CPRA"), Australia's Privacy Act 1988, as amended, and the General Data Protection Regulation ("GDPR") govern the privacy and security of personal information, including health-related information in certain circumstances, some of which are more stringent than HIPAA and many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts. Failure to comply with these laws, where applicable, can result in the imposition of significant civil and/or criminal penalties and private litigation. Privacy and security laws, regulations, and other obligations are constantly evolving, may conflict with each other to make compliance efforts more challenging, and can result in investigations, proceedings, or actions that lead to significant penalties and restrictions on data processing.

Facilities

Our headquarters are located at 200 Greenhill Road, Eastwood, South Australia 5063, Australia, where we lease approximately 435 square meters of office space. The lease for our headquarters expires in May 31, 2026.

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We believe that our existing facilities are adequate for our near-term needs. We believe that suitable additional or alternative space would be available if required in the future on commercially reasonable terms.

Legal Proceedings

We are not currently a party to any legal proceedings. We are from time to time subject to claims and litigation arising in the ordinary course of business. We intend to defend vigorously against any future claims and litigation.

Human Capital

As of June 30, 2021, we had a total of seven full time employees who were all based within Australia and three full time consultants, two of whom were based in Australia. None of our employees are represented by any collective bargaining agreements. We believe that we maintain good relations with our employees. Our human capital resources objectives include, as applicable, identifying, recruiting, retaining, incentivizing and integrating our existing and additional employees. The principal purposes of our equity incentive plans are to attract, retain and motivate selected employees, consultants and directors through the granting of share-based compensation awards and cash-based performance bonus awards.

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Management

Executive Officers and Directors

The following table sets forth the name, age and position of each of our executive officers and directors as of the date of this prospectus.

Name	Age	Position
<i>Executive Officers</i>		
Errol De Souza, Ph.D.	68	Executive Chairman
Adrian Hinton	69	Acting Chief Financial Officer
Liz Doolin	56	Vice President Clinical Development
Connor Bernstein	34	Vice President of Strategy & Corporate Development
<i>Non-Employee Directors</i>		
Miles Davies	40	Director
Alan Fisher	68	Director
Mitchell Kaye	53	Director
Jane Ryan, Ph.D.	62	Director
Aaron Weaver	40	Director
David Wilson	58	Director

Executive Officers

Errol De Souza, Ph.D., has served as a member of our board of directors since February 2008, as our Chairman since November 2016 and as our Executive Chairman since November 2018. From January 2017 to December 2019, Dr. De Souza served as the President and CEO of Neuropore Therapies, a private biopharmaceutical company focused on the discovery and development of novel small therapeutics for the treatment of neurodegenerative diseases. Prior to that, Dr. De Souza served as the President and CEO of Bidel Inc., a biopharmaceutical company traded on Nasdaq that focused on treatments for endocrine disorders. From March 2009 until March 2010, Dr. De Souza was a pharmaceutical and biotechnology consultant. From April 2003 to March 2009, Dr. De Souza was President and CEO of Archemix Corporation, a private biopharmaceutical company. From September 2002 to March 2003, Dr. De Souza was President and CEO of Synaptic Pharmaceuticals, a biopharmaceutical company traded on Nasdaq which was sold to Lundbeck Pharmaceuticals. Over Dr. De Souza's career, he has served in a number of high-ranking R&D roles, including Senior Vice President and U.S. Head of R&D for Aventis from 1998 to 2002, co-founder and EVP of R&D at Neurocrine from 1992 to 1998 and Head of CNS at DuPont Merck from 1990 to 1992. Dr. De Souza currently serves on the board of several publicly-traded companies, including Catalyst Biosciences, a biopharmaceutical company, since August 2014; Cycleron Therapeutics, a biopharmaceutical company, since April 2021; and Royalty Pharma, a company that acquires pharmaceutical royalties across the life sciences industry, since October 2008. He has also previously served on the board of directors of IDEXX Laboratories, Inc., a publicly-traded diagnostic company and Palatin Technologies and Neurocrine Biosciences, two publicly-traded biopharmaceutical companies. Dr. De Souza received his Bachelor's degree in physiology and his Ph.D. in neuroendocrinology from the University of Toronto, Canada and he received his postdoctoral fellowship in neuroscience from The Johns Hopkins University School of Medicine. Dr. De Souza's knowledge of our business and significant experience as a biopharmaceutical executive and board member contributed to our board of directors' conclusion that he should serve as a director of our company.

Adrian Hinton has served as our acting Chief Financial Officer since May 2019. Mr. Hinton has served as an accounting consultant for various companies since July 2018. Prior to that, Mr. Hinton worked at Deloitte from January 1975 to July 2018, retiring in July 2018 as Principal in the Audit and Assurance Group. Mr. Hinton has served on the board of the Multiple Sclerosis Society of South Australia and Northern Territory Inc. since November 2016, Carers Association of SA Inc. since May 2019 and Australian PNG Alliance Group Pty Ltd. since October 2018. Mr. Hinton also served on the Audit and Risk Committee of the University of South

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Australia from February 2019 to February 2021. Mr. Hinton received his Bachelor's degree in economics from the University of Adelaide, Australia and is a Fellow of the Chartered Accounts Australia and New Zealand.

Liz Doolin has served at Bionomics Limited since 2008 and as our Vice President of Clinical Development since 2018. Prior to joining Bionomics, Ms. Doolin served as the Project Manager of Drug Development at New World Bio Limited, an Australian private biotechnology company developing lipid-based therapeutics. Ms. Doolin was previously a research scientist in New Zealand specializing in immunology and protein biotechnology, and a bioprocess development scientist for a biopharmaceutical company in the United Kingdom. Ms. Doolin received her B.Sc. and M.Sc. from the University of Waikato, New Zealand.

Connor Bernstein has served as our Vice President of Strategy and Corporate Development since April 2021. Mr. Bernstein has also served as a Principal (Healthcare) of Apeiron Investment Group since January 2021 and a Corporate Development Advisor of Link Immunotherapeutics, a private biotechnology company focused on developing immune engaging combination oncology therapies, since November 2019. From January 2020 to October 2020, Mr. Bernstein was a Corporate Development Advisor of Circumvent Pharmaceuticals, a private pharmaceutical company focused on developing treatments for the significant unmet need of neurodegenerative disease patients. Prior to that, Mr. Bernstein was a Vice President of Investment Banking at RBC Capital Markets from January 2018 to October 2019 and a Senior Associate of Investment Banking from June 2017 to December 2017. Mr. Bernstein has also served as an Investment Banking Associate at Perella Weinberg Partners from July 2016 to March 2017 and Guggenheim Partners, from August 2015 to July 2016, and an Investment Banking Analyst at Piper Jaffray (now Piper Sandler) from June 2013 to August 2015. Mr. Bernstein received his B.A. from the University of California, Santa Cruz, and his B.S. and M.Sc. from the University of Southern California.

Non-Employee Directors

Peter Miles Davies has served as a member of our board of directors since July 2021. Mr. Davies has served as the Managing Director (Healthcare) of Apeiron Investment Group Ltd. since February 2021. Prior to that, Mr. Davies was a director of Rothschild & Co. from 2006 to February 2021. Mr. Davies received his Master's Degree from The University of Edinburgh, Scotland. Mr. Davies' experience in the healthcare industry includes mergers and acquisitions, strategic advisory, capital raisings and restructuring transactions, which all contributed to our board of directors' conclusion that he should serve as a director of our company.

Alan Fisher has served as a member of our board of directors since August 2016. He is also Chair of the Audit and Risk Management Committee and a member of the Nomination and Remuneration Committee. Mr. Fisher has served as the Managing Director of Fisher Corporate Advisory Pty Ltd. since 1997, where he advises public and private companies on mergers and acquisitions, public and private equity raisings, business restructuring and strategic advice. He currently serves on the board of several ASX-listed companies, including Centrepoint, Alliance Limited (Chair), a financial licensee, funds management and advice services provider since 2015; IDT Australia Limited (Chair), a developer and manufacturer of pharmaceutical products, since 2015; Thorney Technologies Limited (Non-Executive Director – Chair of Audit and Risk Management Committee), an investment company, since 2016; and Simavita Limited, a medical technology company focused on the development of platform technologies, since 2019. Mr. Fisher served as a Corporate Finance Partner of Coopers & Lybrand from 1974 to 1997. Mr. Fisher received his B.Com., Accounting from the University of Melbourne, Australia and is a Fellow of the Australian and New Zealand Institute of Chartered Accountants. Mr. Fisher's experience as a biopharmaceutical board member and with financing and related transactions across industries contributed to our board of directors' conclusion that he should serve as a director of our company.

Mitchell Kaye has served as a member of our board of directors since November 2018. Mr. Kaye has served as the head of business strategy and investor relations for Deep Track Capital, a biotechnology investment fund, since January 2021. Prior to that, Mr. Kaye was the COO of BVF, a biotechnology fund, from September 2013 to December 2019. Mr. Kaye served as the founding member of Xmark Opportunity Partners, LLC, an investment fund focused on investments in publicly traded life sciences companies, from 2001 to 2008, and of Brown Simpson Asset Management, LLC, an investment fund, from 1996 to 2001. Mr. Kaye was also the Founder of MedClaims Liaison, LLC, a consumer advocacy business, and served as its CEO from its inception in

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2010 until he joined BVF in 2013. From 2008 to 2010, Mr. Kaye was a Managing Director with Navigant Capital Advisors, a financial and strategic advisory services firm, and head of Navigant's Financial Institutions Restructuring Solutions Team. He has also served on the board of the New York Alzheimer's Association. Mr. Kaye received his B.A. from Wesleyan University, and his J.D. from Northwestern University School of Law. Mr. Kaye's experience as a biopharmaceutical board member and knowledge of the healthcare industry contributed to our board of directors' conclusion that he should serve as a director of our company.

Jane Ryan, Ph.D. has served as a member of our board of directors since October 2020. Dr. Ryan is a member of the Audit and Risk Management Committee and a member of the Nomination and Remuneration Committee. Since January 2014, Dr. Ryan has provided executive level advisory services to biotechnology companies in connection with capital raising, business development, and mergers and acquisitions. In this capacity, she has served as a commercial and product development advisor to BCAL Diagnostics, a cancer diagnostics company listed on the ASX, since March 2021. From 2014 to 2017, Dr. Ryan served as the CEO of Sementis Ltd., a public company (unlisted) developing vaccine technology. Prior to that, Dr. Ryan was an executive and division leader of product development at Biota Holdings, a biotechnology company listed on the ASX, where she provided oversight to Biota Holdings' development portfolio and programs. Dr. Ryan has served as a director of Anatara Lifesciences, an ASX listed company, since August 2018 and she is also a member of the Australian Institute of Directors. She received her B.Sc. from the Australia National University, her Ph.D. from Macquarie University and was a Postdoctoral Fellow at Columbia University. Dr. Ryan's knowledge of our business and experience as a biopharmaceutical executive and board member contributed to our board of directors' conclusion that she should serve as a director of our company.

Aaron Weaver has served as a member of our board of directors since July 2020. Mr. Weaver served as a Principal and Head of Capital Markets at Apeiron Investments since June 2021 and May 2019, respectively, where he has focused on the life sciences sector. Prior to that, he served as Senior General Counsel and Lead, Investor Relations, at atai Life Sciences AG, a clinical-stage biopharmaceutical company focused on the development of therapeutics for the treatment of mood disorders, addiction and anxiety, from May 2019 to June 2021. He is a Chartered Financial Analyst and a registered solicitor in the United Kingdom. From June 2013 to August 2017, he was an investment banker at Credit Suisse in London within the Capital Markets Solutions team. He was a capital markets solicitor at Allen & Overy LLP, London from June 2007 to June 2013. Mr. Weaver received his Masters of Law from the Queensland University of Technology and a Bachelor's of Business Administration and Bachelors of Laws from the University of Queensland. Mr. Weaver's experience in capital markets and corporate governance and experience in the healthcare industry contributed to our board of directors' conclusion that he should serve as a director of our company.

David Wilson has served as a member of our board of directors since June 2016. He is also Chair of the Nomination and Remuneration Committee and a member of the Audit and Risk Management Committee. He has served as the Chairman and CEO of WG Partners LLP, an investment banking boutique advising life sciences companies on corporate finance, mergers and acquisitions, and capital raising, since November 2011. Prior to WG Partners LLP, Mr. Wilson worked at Piper Jeffrey in various roles from 2001 to 2011, including CEO of European Operations, Chairman of the Global Healthcare Team and a Member of the Global Operating Board. He was also a Managing Director of ING Investment Banking from 1999 to 2001 and the Head of Small Companies Corporate Finance at Deutsche Bank from 1998 to 1999. He is currently on the board of directors of several privately held companies, including CS Pharmaceuticals Limited, a pharmaceutical company based in the United Kingdom, since July 2021. Mr. Wilson received his Bachelor's degree from the University of Cambridge. Mr. Wilson's experience in corporate finance and capital raising in the healthcare industry contributed to our board of directors' conclusion that he should serve as a director of our company.

Board Composition and Election of Directors

Our board of directors currently consists of seven members, including Dr. De Souza, our Executive Chair. Our board of directors may fix the number of directors, provided that there must be at least three and no more than twelve. In accordance with our Constitution, at each annual general meeting, one-third of our directors (other than the Executive Chair, who in substance fulfils the role of Managing Director) must retire from office

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and their positions be open to election. The retiring directors are eligible for re-election to our board of directors. If the number of directors subject to retirement is not equal to three, or a multiple of three, then the number nearest to, but not exceeding, one-third must retire from office. The directors who retire in this manner are required to be the directors longest in office since last being elected. In addition, each director (other than the Executive Chair) must retire at the later of the third annual general meeting after his or her election or three years after such director was last appointed.

The table below shows the year in which each of our non-executive directors was most recently re-elected and the year he or she must retire from our board of directors, with his or her position up for re-election (with retiring directors eligible for re-election).

	Year Most Recently Elected	Year Required to Retire
Miles Davies ⁽¹⁾	N/A	2021
Alan Fisher	2019	2022
Mitchell Kaye	2019	2022
Jane Ryan, Ph.D.	2020	2023
Aaron Weaver	2020	2023
David Wilson	2018	2021

- (1) Miles Davis was appointed to our board of directors on July 1, 2021. In accordance with the terms of our Constitution, Mr. Davis must retire as a director and stand for re-election by shareholders at the Company's 2021 Annual General Meeting on December 2, 2021.

On July 1, 2021, we entered into an employment agreement with Dr. De Souza with a three year term expiring June 30, 2024. On expiry of the initial three-year term and on each yearly anniversary thereof, the employment agreement will automatically renew for an additional one-year period, unless terminated earlier in accordance with the provisions of the agreement or by notice of non-renewal given at least 120 days prior to the end of the initial three-year term. Dr. De Souza does not stand for re-election by our shareholders.

Board Leadership Structure

Our board of directors is currently led by our Executive Chairman, Dr. De Souza.

Our board of directors has concluded that our current leadership structure is appropriate at this time. However, our board of directors will continue to periodically review our leadership structure and may make such changes in the future as it deems appropriate.

Director Independence

As a foreign private issuer, under the listing requirements and rules of Nasdaq, we are not required to have independent directors on our board of directors, except to the extent that our Audit and Risk Management Committee is required to consist of independent directors, subject to certain phase-in schedules. However, our board of directors has determined that all of our directors, other than Dr. De Souza, are independent directors in accordance with the listing requirements of the Nasdaq. The Nasdaq independence definition includes a series of objective tests, including that the director is not, and has not for at least three years, been one of our employees, or has engaged in, or have had a family member engage in, a number of different transactions with us. In making these determinations, our board of directors reviewed and discussed information provided by the directors and us with regard to each director's business and personal activities and relationships as they may relate to us and our management.

In addition, our board of directors has determined that three of our non-executive directors satisfy the independence criteria recommended by the ASX Corporate Governance Principles and Recommendations. These Principles and Recommendations suggest that a director of a listed entity should only be characterized and described as an independent director if he or she is free of any interest, position or relationship that might influence, or

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reasonably be perceived to influence, in a material respect their capacity to bring an independent judgment to bear on issues before the board and to act in the best interests of the entity as a whole rather than in the interests of an individual security holder or other party. Directors are also required to comply with the general duties of a director imposed under Australian law by the Corporations Act and the common law applicable in Australia.

Board Responsibilities

The board of directors is our governing body, responsible for overseeing our executive leadership team in the competent and ethical operation on a day-to-day basis and assuring that the long-term interests of our shareholders are being served. Our board of directors has established delegated limits of authority, which define the matters that are delegated to management and those that require Board approval.

The responsibilities of our board of directors include:

- charting our strategic direction, approving corporate objectives in line with that strategic direction and monitoring progress towards Board approved objectives;
- approving our statement of core values and Code of Business Conduct to underpin the desired culture within the company;
- overseeing management in its implementation of our strategic objectives and instilling our values and performance generally;
- ensuring that our remuneration policies are aligned with our purpose, values, strategic objectives and risk appetite;
- monitoring compliance with regulatory requirements and ethical standards; and
- appointing and reviewing the performance and remuneration of the Executive Chair.

Our board of directors seeks to ensure that it is cognizant of our state of development such that at any point in time its membership as a group has expertise in areas of current and future importance to us as we grow.

At least annually, our board of directors undertakes a performance evaluation of itself that:

- compares the performance of our board of directors with the requirements of our Board Charter;
- involves the Executive Chair meeting individually with each member of our board of directors to assess how Board performance may be improved; and
- effects any improvements to the Board Charter deemed necessary or desirable.

The board of directors has also typically undertaken a strategic review process once per year to review the corporate strategy and the role of our board of directors within that strategy.

Board Committees

Our board of directors currently has two committees, the Audit and Risk Management Committee and the Nomination and Remuneration Committee. Each of the existing members of the Audit and Risk Management Committee and Nomination and Remuneration Committee satisfy the independence requirements under Nasdaq rules and the independence recommendations set out in the ASX Corporate Governance Council's Principles and Recommendations.

Audit and Risk Management Committee

The Audit and Risk Management Committee is not a policy-making body but assists our board of directors by implementing board policy. The role of the Audit and Risk Management Committee includes assisting our board of directors with our governance and exercising of due care, diligence and skill in relation to:

- the reporting of financial information to users of financial reports;

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- the application of accounting policies;
- financial management;
- the internal control system;
- the risk management system;
- the performance management system;
- business policies and practices;
- protection of our assets; and
- compliance with applicable laws, regulations, standards and best practice guidelines.

In addition, the Audit and Risk Management Committee will review whether management is adopting systems and processes for the above matters that are sufficient for a company of our size and stage of development.

The members of our Audit and Risk Management Committee are currently Mr. Alan Fisher (Chair), Mr. David Wilson and Dr. Jane Ryan. All members of our Audit and Risk Management Committee meet the requirements for financial literacy under the applicable rules and regulations of the SEC and Nasdaq. Our board of directors has determined that Mr. Alan Fisher and Mr. David Wilson both qualify as an “audit committee financial expert” as defined by applicable SEC rules and have the requisite financial sophistication as defined under the applicable Nasdaq rules and regulations.

Nomination and Remuneration Committee

The primary purpose of the Nomination and Remuneration Committee is to support and advise our board of directors by:

- establishing and assisting in carrying out any processes it considers appropriate for the identification of suitable candidates for appointment to our board of directors and its committees;
- providing recommendations to our board of directors on director appointments and re-elections;
- providing recommendations to our board of directors on appointments to each of its committees;
- making recommendations to our board of directors with respect to our remuneration philosophy, the remuneration of our directors and executive officers, the administration of our equity-based plans and such other matters relating thereto as shall be delegated from time to time by our board of directors; and
- in association with the Executive Chair, providing a talent and succession plan for executives.

The members of our Nomination and Remuneration Committee are currently Mr. David Wilson (Chair), Mr. Alan Fisher and Dr. Jane Ryan. Our board of directors has determined that each of the committee members is independent under the applicable Nasdaq rules, is a “non-employee director” as defined in Rule 16b-3 promulgated under the Exchange Act and is an “outside director” as defined in Section 162(m) of the Code. The Nomination and Remuneration Committee operates under a written charter, which provides that it will undertake an annual review and evaluation of the performance of our board of directors and its committees and present to our board of directors the results of its review.

Compensation Committee Interlocks

None of the members of the Nomination and Remuneration Committee has ever been one of our officers or employees. Except for our Executive Chair, Dr. De Souza, none of our executive officers currently serves, or has served, as a member of the board of directors or compensation committee of any entity that has one or more executive officers serving as a member of our board of directors.

Code of Business Conduct

We have adopted a written Code of Business Conduct Policy that applies to our directors, managers, employees and agents acting on our behalf, including our Executive Chair, Chief Financial Officer, or persons performing similar functions. Our Code of Business Conduct Policy is available under the Corporate Governance section of our website at www.bionomics.com.au. In addition, we intend to post on our website all disclosures that are required by law or Nasdaq listing standards concerning any amendments to, or waivers from, any provision of our Code of Business Conduct Policy. The reference to our website address does not constitute incorporation by reference of the information contained at or available through our website, and you should not consider it to be a part of this prospectus.

Remuneration

Our remuneration policy aims to align director and executive objectives with shareholder and business objectives by providing a fixed remuneration component and typically offering long-term incentives based on key performance areas. Our board of directors believes the remuneration policy to be appropriate and effective in its ability to attract and retain the best executives and directors to run and manage the consolidated entity, as well as create goal congruence between directors, executives, and shareholders. Our board of directors reviews and approves remuneration package for our executives, including our Executive Chairman, recommended by the Nomination and Remuneration Committee.

Director Compensation

Non-executive directors' fees are determined within a shareholder approved aggregate non-executive directors' fee pool limit. The non-executive directors' fee pool is reviewed by our board of directors and submitted to shareholders for approval from time to time, taking into account comparable remuneration data for the biotechnology sector provided by an independent remuneration consultancy. The current aggregate non-executive directors' fee pool limit is A\$750,000 per annum and was approved by shareholders at the Extraordinary General Meeting on August 26, 2020. This amount (or a portion thereof) is to be divided among the non-executive directors as determined by our board of directors and reflecting the time and responsibility related to our board of directors and its committees.

For the fiscal year ending June 30, 2021, the Executive Chairman and other non-executive directors' fees were A\$154,000 per annum and A\$77,000 per annum, respectively, inclusive of any statutory Australian superannuation contributions. The Chair of each committee received an additional A\$10,000 per annum, inclusive of any statutory Australian superannuation contributions, for services relating to such Chair duties.

In addition to an annual fee, non-executive directors may receive share options at the time of their initial appointment to our board of directors or at other times, as approved by shareholders. Any value attributable to options issued to non-executive directors is not counted towards the non-executive directors' fee pool limit.

In addition to other remuneration provided, all of our directors are entitled to reimbursement for travel accommodations and other expenses reasonably incurred by the directors in attending general meetings, board meetings, committee meetings or otherwise in connection with our business. Other than any statutory Australian superannuation contributions, we do not provide retirement allowances to our non-executive directors.

The aggregate cash remuneration paid to non-executive directors for the fiscal year ending June 30, 2021 was A\$458,410 plus an additional aggregate superannuation retirement contribution of A\$15,129.

Executive Compensation

The objective of our executive remuneration policy and framework is to ensure that we can attract and retain high caliber executives capable of managing our operations and achieving our strategic objectives and focus

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these executives on outcomes necessary for success. The executives' total remuneration package framework is comprised of a combination of:

- base pay and benefits, including for Australian employees a superannuation retirement contribution and other entitlements;
- short-term performance incentives that may be paid as shares, share options, cash or a combination thereof; and
- long-term performance incentives through participation in our employee equity plans.

Upon recommendation by the Nomination and Remuneration Committee, our board of directors reviews and approves the base pay, benefits, incentive payments and equity awards of the Executive Chair and other executives who report directly to the Executive Chair.

Executives receive their base pay and benefits structured as a Total Fixed Remuneration ("TFR") package which may be delivered as a combination of cash and prescribed nonfinancial benefits at the executives' discretion. Superannuation (or local equivalent) is included in TFR. There are no guaranteed base pay increases in any executive contract.

Base pay and benefit levels are reviewed annually by the Nomination and Remuneration Committee, and includes an assessment made against market comparable positions. Factors taken into account in determining an executive's remuneration include remuneration paid to executives with comparable responsibilities, duties and experience to the executive under review by competitive biotechnology companies, the executive's demonstrated record of performance, internal relativities, and the company's capacity to pay. An executive's base pay and benefit levels may also be reviewed if the position's accountabilities increase in scope and impact.

Other than for our Executive Chairman, executive positions have no pre-determined bonus or equity opportunity; however, performance incentives may be awarded at the end of the performance review cycle upon achievement of specific board of directors approved individual and company-related key performance indicators ("KPIs"), with a weighting of 50% each. Following a performance evaluation against these KPIs, the amount of possible incentive payable to each executive is determined by our board of directors based on the Executive Chair's recommendation. Our board of directors determines whether the incentive award should be in share options, shares and/or cash.

Key Terms of Executive Employment Agreements

Remuneration and other terms of employment for the Executive Chairman and the other executives are formalized in the form of an executive employment contract or consultancy agreement. No transaction or other bonuses or amounts will be triggered by the consummation of this offering. Major provisions of the agreements relating to remuneration are set out below:

Dr. Errol De Souza, Executive Chairman

In addition to the annual Executive Chairman's director fee of A\$154,000, the company entered into a Consultancy Agreement with Dr. Errol De Souza to perform the duties of Executive Chairman, effective as of June 22, 2020. Our board of directors took advice on the Executive Chair's remuneration from an independent remuneration consultancy prior to entering into the Consultancy Agreement. Under the Consultancy Agreement in effect with Dr. De Souza through June 30, 2021, Dr. De Souza received fixed remuneration of US\$21,000 per month (plus reimbursement of annual health care benefits of up to US\$18,000) for the provision of executive services as determined by our board of directors, plus a short-term incentive/bonus potential of 70% of the fixed remuneration as assessed by the independent non-executive directors against agreed financial, strategic and operational targets. Dr. De Souza also received an ex-gratia bonus payment during the fiscal year ended June 30,

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2021 of US\$88,200. He was also eligible for a grant of 12,000,000 options at an exercise price of A\$0.04, 50% to vest upon our share price being equal to or in excess of A\$0.14 and 50% to vest upon our share price being equal to or in excess of A\$0.24, which was approved by shareholders on August 26, 2020. The exercise price of Dr. De Souza's option award was subsequently adjusted from A\$0.04 to A\$0.0136 as a result of the rights issued during the fiscal year ending on June 30, 2021. Dr. De Souza's 12,000,000 option award fully vested during the fiscal year ending June 30, 2021, upon the company achieving both sets of vesting criteria.

Effective July 1, 2021, we entered into a new Executive Employment Agreement with Dr. De Souza for the position of Executive Chairman, replacing all prior arrangements. The Executive Employment Agreement became effective on July 1, 2021, and has a term ending on June 30, 2024. Under this agreement, Dr. De Souza receives fixed remuneration of US\$43,750 base salary per month (plus reimbursement of health care benefits of up to US\$22,000 for the first year of employment, and subsequently adjusted based on documented increases) for the provision of executive services as determined by our board of directors, plus a short-term incentive/bonus potential of 60% of the base salary upon meeting the applicable performance criteria established by the Nomination and Remuneration Committee against agreed financial, strategic and operational targets. For performance exceeding such applicable performance criteria, the Nomination and Remuneration Committee, in its sole discretion, may increase the short-term incentive/bonus up to 100% of the base salary. In addition, effective July 1, 2021, Dr. De Souza received a grant of 47,786,607 options with an exercise price per share equal to A\$0.2014, which award will vest on a quarterly basis over a four-year period commencing on July 1, 2021 (with acceleration in the event of a change in control and also on termination as described below). The award is subject to shareholder approval and, to the extent such shareholder approval is not obtained, will be forfeited automatically.

The Executive Employment Agreement with Dr. De Souza may be terminated by either party on one month's notice. In the event of a termination of the agreement by the company for cause, the company will pay earned but unpaid base salary and annual bonus with one month's written notice. In the event of Dr. De Souza's voluntary resignation without good reason, he will provide six months' notice. In the event of a termination without cause, redundancy or resignation for good reason, the company will (a) pay severance of 12 months of base salary plus a pro rata amount of the target bonus potential to be paid in equal instalments over the following 12-month period; (b) any outstanding equity compensation awards will fully and immediately vest with respect to any amounts that would have vested as if remaining employed for an additional 24 months; and (c) any termination benefits in excess of the limits in the Corporations Act are subject to shareholder approval.

In connection with this offering, and subject to shareholder approval and completion the offering, Dr. De Souza is eligible to receive a grant of options (the "IPO Options"), with an exercise price to be determined based on (i) the initial price to the public of each ADS in this offering divided by (ii) the number of shares represented by each ADS. The number of options under the IPO Options will be equal to 4.00% of the number of fully paid shares in the share capital of the Company that are represented by the ADSs issued under this offering (calculated after giving effect to the total number of shares to be issued to the public in this offering, assuming the full exercise of any underwriters' overallotment option). Subject to Dr. De Souza's continued service with the company, the IPO Options will vest in 16 substantially equal installments on the last day of each calendar quarter over the 4-year period commencing on 1 January 2022, with the first such installment to vest on 31 March 2022, provided that, the completion of the offering occurs within 3 months of the Company's annual general meeting. The IPO Options are further subject to acceleration in the event of a change in control and also on termination, as described in the section describing his Executive Employment Agreement and above.

On the date that is 31 days after the effective date of this offering (the "Adjustment Date"), to the extent the number of shares subject to the IPO Options granted on the effective date of this offering exceeds 4.00% of the total number of fully paid shares in the share capital of the Company that are represented by the ADSs ultimately issued under this offering (calculated after giving effect to the total number of shares actually issued to the public in such offering, including pursuant to the exercise of any underwriters' overallotment option), such excess IPO Options shall be immediately forfeited as of the Adjustment Date (and, if any IPO Options have vested prior to such forfeiture, the forfeited IPO Options shall be taken pro-rata from the vested and unvested portion of the IPO Options).

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The following table presents the value and number of the IPO Options after subtracting the proportion thereof subject to forfeiture on the Adjustment Date, in each case, based on (a) the midpoint of the price range of the ADS set forth on the cover page of the prospectus (\$ per share), as well as the low and high points of the range and (b) the exercise of half, as well as the exercise of none and all, of the underwriters' overallotment option.

Number of ADSs Issued In Offering	Number of IPO Options	Dr. Errol De Souza's IPO Options Value		
		Price Per Share - A\$	Price Per Shares - A\$	Price Per Share - A\$

Mr. Adrian Hinton, Acting Chief Financial Officer

The company entered into a Consultancy Agreement with Adrian Hinton to perform the duties of Acting Chief Financial Officer, which agreement had a term ending June 30, 2021. Under the agreement, Mr. Hinton received a consulting fee of A\$1,500 (plus goods and services tax) per day. The Consultancy Agreement is subject to termination by either party on one month's notice. By a letter agreement dated June 28, 2021, Mr. Hinton's fees payable under the Consultancy Agreement were changed to A\$20,000 (plus goods and services tax) per month for the period commencing July 1, 2021 until March 25, 2022, and the term of the agreement was extended through such date. All other terms of the Consultancy Agreement remain the same.

Ms. Liz Doolin, Vice President Clinical Development

The company has entered into a services agreement with Liz Doolin to perform the duties of Vice President, Clinical Development. The agreement does not have a specified term. Ms. Doolin's total remuneration package is reviewed annually by the Executive Chairman and Managing Director and approved by the Board. The agreement is subject to termination by either party on one month's notice. By a letter dated July 1, 2020, Ms. Doolin's salary was increased to A\$220,000 per year and Ms. Doolin was granted a one-time bonus of A\$31,500, paid to her 50% in cash and 50% in company shares. Pursuant to the July 1, 2020 letter, Ms. Doolin also became eligible for a grant of 1,000,000 options at an exercise price of A\$0.04, 50% of which vest upon the company's share price being equal to or in excess of A\$0.14 and 50% of which vest upon the company's share price being equal to or in excess of A\$0.24. The exercise price of Ms. Doolin's option award was subsequently adjusted from A\$0.04 to A\$0.0136 as a result of the rights issued during the fiscal year ending on June 30, 2021. Ms. Doolin's 1,000,000 option award fully vested during the fiscal year ending June 30, 2021, upon the company achieving both sets of vesting criteria. By a letter dated July 1, 2021, Ms. Doolin's salary was further increased to A\$230,000 per year and Ms. Doolin was granted a one-time bonus of A\$45,000 paid in cash.

Mr. Connor Bernstein, Vice President Strategy and Corporate Development

The company has entered into a Consultancy Agreement with Connor Bernstein, of JB Strategy Partners LLC, to perform the duties of Vice President, Strategy and Corporate Development, which agreement had a term commencing April 1, 2021 and ending March 31, 2022. Under the agreement, Mr. Bernstein receives a consulting fee of US\$15,000 per month. The Consultancy Agreement is subject to termination by either party on one month's notice.

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The following table indicates the remuneration received by our non-executive directors and executive officers during the fiscal year ending June 30, 2021:

	<u>Cash Salary and Fees (A\$)</u>	<u>Bonus (A\$)(1)</u>	<u>Superannuation (A\$)</u>	<u>Annual and Long Service Leave (A\$)</u>	<u>Options(2) (3) (A\$)</u>	<u>Total (A\$)</u>
Non-Executive Directors(4)						
Peter Turner(5)	27,056	—	2,570	—	4,872	34,498
Alan Fisher	79,452	—	7,548	—	8,700	95,700
David Wilson	87,412	—	—	—	8,431	95,843
Jane Ryan, Ph.D.(6)	52,740	—	5,010	—	13,921	71,671
Aaron Weaver(7)	77,000	—	—	—	—	77,000
Mitchell Kaye	77,000	—	—	—	—	77,000
Srinivas Rao, Ph.D.(8)	57,750	—	—	—	—	57,750
Executive Officers						
Errol De Souza, Ph.D.	515,240(11)	352,564	—	—	884,700	1,752,504
Adrian Hinton	285,000	—	—	—	—	285,000
Liz Doolin	200,913	45,000	20,583	31,492	125,500	423,488
Connor Bernstein(9)	58,302	26,679	—	—	—	84,981
Jack Moschakis(10)	245,922	81,000	16,271	(22,012)	252,084	573,265
	<u>1,763,787</u>	<u>505,243</u>	<u>51,982</u>	<u>9,480</u>	<u>1,298,208</u>	<u>3,628,700</u>

- (1) Dr. De Souza and Mr. Moschakis's bonus amounts were awarded under our annual incentive program during the year ended June 30, 2021. Ms. Doolin's bonus amount was paid in July 2021.
- (2) Share options do not represent cash payments to directors and other key management personnel. Share options granted may or may not be exercised by directors and other key management personnel.
- (3) The amounts relate to amortization of share options granted over the vesting period.
- (4) Mr. Davis is not included in the table, as he commenced service after the end of the fiscal year ended June 30, 2021.
- (5) Mr. Turner retired on November 20, 2020.
- (6) Dr. Ryan was appointed on October 1, 2020.
- (7) Mr. Weaver was appointed on July 6, 2020.
- (8) Dr. Rao was appointed on October 1, 2020.
- (9) Mr. Connor Bernstein was appointed on April 1, 2021.
- (10) Mr. Moschakis passed away on March 23, 2021.
- (11) Comprises Chair's fee of A\$154,000, Executive Chair's consultancy fee of A\$337,338 and reimbursement of health insurance of A\$23,902.

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The following table sets forth the number of options granted in the fiscal year ending June 30, 2021, their vesting conditions, their exercise price and the applicable expiration date:

<u>Name</u>	<u>Number of Ordinary Share Options</u>	<u>Vesting Conditions</u>	<u>Exercise Price(1)</u>	<u>Expiration Date</u>
Errol De Souza, Ph.D.	6,000,000	Company's share price reaching A\$0.24 per share	A\$0.0136	August 28, 2025
Errol De Souza, Ph.D.	6,000,000	Company's share price reaching A\$0.14 per share	A\$0.0136	August 28, 2025
Liz Doolin	500,000	Company's share price reaching A\$0.24 per share	A\$0.0136	August 28, 2025
Liz Doolin	500,000	Company's share price reaching A\$0.14 per share	A\$0.0136	August 28, 2025
Jane Ryan, Ph.D	100,000	Vesting date of October 20, 2021	A\$0.1519	October 20, 2026
Jane Ryan, Ph.D	100,000	Vesting date of October 20, 2022	A\$0.1519	October 20, 2027
Jane Ryan, Ph.D	100,000	Vesting date of October 20, 2023	A\$0.1519	October 20, 2028
Jane Ryan, Ph.D	100,000	Vesting date of October 20, 2024	A\$0.1519	October 20, 2029
Jane Ryan, Ph.D	100,000	Vesting date of October 20, 2025	A\$0.1519	October 20, 2030
Jack Moschakis	1,000,000	Company's share price reaching A\$0.24 per share	A\$0.0136	August 28, 2025
Jack Moschakis	1,000,000	Company's share price reaching A\$0.14 per share	A\$0.0136	August 28, 2025

(1) Reflects exercised adjustment as a result of the rights issued during the year ended June 30, 2021.

Equity Awards

Equity awards for executives and employees are provided by a combination of equity plans and include the:

- Employee Share Plan (A\$1,000 Plan);
- Employee Share Option Plan; and
- Employee Equity Plan.

Participation in these plans is at our board of directors' discretion and no individual has an ongoing contractual right to participate in a plan or to receive any guaranteed benefits. For key appointments, an initial allocation of equity may be offered as a component of their initial employment agreement. The structure of equity awards is under the active review of the Nomination & Remuneration Committee to ensure it meets good corporate practice for a company of our size, nature and company lifecycle.

The following describes the material terms of each of the plans.

Employee Share Plan ("A\$1,000 Plan")

The objective of the A\$1,000 Plan is to assist us in the attraction and retention of employees, and to provide encouragement to become shareholders. An annual allocation of up to A\$1,000 of shares may be granted and taxed on a concessional basis. No shares were issued to employees under the A\$1,000 Plan during the financial year to June 30, 2021.

Eligibility All our full-time employees or part-time employees or a related body corporate who have been employed for a period of not less than 12 months (or such shorter period as our board of directors may determine) or directors may participate in the A\$1,000 Plan, referred to as A\$1,000 Plan Eligible Employees.

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Administration of A\$1,000 Plan	The A\$1,000 Plan is managed by our board of directors, which has the power to determine the appropriate procedures for the administration of the A\$1,000 Plan.
Invitation	Our board of directors may make an invitation to an A\$1,000 Plan Eligible Employee to apply for ordinary shares under the A\$1,000 Plan on such terms and conditions as our board of directors determines from time to time, including (i) the date at which the value of shares will be used to determine the number of shares to be issued to the A\$1,000 Plan Eligible Employee (up to the value of A\$1,000); (ii) the last date for acceptance of the invitation; (iii) the manner in which the invitation may be accepted; and (iv) any conditions which must be satisfied or circumstances which must exist before all or any of the shares are issued.
Issue price	No consideration is payable by an A\$1,000 Plan Eligible Employee to subscribe for shares offered under the A\$1,000 Plan.
Holding lock	Subject to the ASX Listing Rules, we will procure our share registry to apply a holding lock on a participant's shares for the period of three years from the date the shares are issued ("Holding Period"). Without the consent of the Board, a participant must not assign, transfer or otherwise deal with their shares for the duration of the Holding Period.
Rights attaching to shares	<p><i>Ranking.</i> Shares issued under the A\$1,000 Plan rank equally with all our other fully paid ordinary shares at the time of issue.</p> <p><i>Dividends.</i> Holders of shares granted under the A\$1,000 Plan are entitled to participate in dividends declared and paid by us.</p> <p><i>Voting rights.</i> Holders of shares granted under the A\$1,000 Plan are entitled to exercise all voting rights attached to the shares in accordance with our Constitution.</p> <p><i>New and bonus issues.</i> Holders of shares granted under the A\$1,000 Plan have the same right to participate in new and bonus issues of shares as conferred on other shareholders.</p>
Amendments to the A\$1,000 Plan	Our board of directors may at any time by resolution amend any provision of the A\$1,000 Plan. However, no amendment may be made if the amendment materially prejudices the rights of any participant as they existed before the date of the relevant amendment.
Termination or suspension of A\$1,000 Plan	Our board of directors may terminate or suspend the operation of the A\$1,000 Plan at any time. Termination or suspension of the A\$1,000 Plan will not prejudice the accrued rights of participants.

Employee Share Option Plan ("ESOP")

The ESOP was approved by our board of directors in 2014 and last approved by shareholders at the 2014 Annual General Meeting. The ESOP has now been superseded by the Employee Equity Plan (see below). No options were issued under the ESOP during the financial year to June 30, 2021.

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Eligibility	All our full or part-time employees who have been employed for a period of not less than six months (or such shorter period as our board of directors may determine) and all directors are eligible to participate in the ESOP, referred to as ESOP Eligible Participants.
Administration of ESOP	The ESOP is administered by our board of directors which may, subject to the Corporations Act and the ASX Listing Rules, revoke or amend the terms of the ESOP and suspend or terminate the ESOP.
Invitation	Our board of directors may invite ESOP Eligible Participants to take up share options under the ESOP for no consideration. The Board has the sole discretion to determine which ESOP Eligible Participants will receive invitations and when those invitations will be made.
Exercise price	Unless our board of directors determines otherwise, the exercise price of share options granted under the ESOP will be the volume weighted average closing price of our ordinary shares traded on the ASX for the seven trading days immediately preceding the date on which the invitation is made.
Exercise period	Unless the Board determines otherwise, share options will become exercisable as to 1/5 of the share options each year over a five year period on each anniversary of acceptance of the invitation relating to those share options.
Lapse of share options	The share options will have a term of five years from the date they first become exercisable, and if not then exercised will lapse at the end of the applicable exercise period. However, if the ESOP Eligible Participant ceases to be an ESOP Eligible Participant for any reason, other than by death, retrenchment or retirement, then (i) any share options held by that participant for which the exercise period has commenced will lapse 30 days after the date the participant ceased to be an ESOP Eligible Participant; and (ii) any share options held by that participant for which the exercise period has not commenced will lapse on the date the participant ceased to be an ESOP Eligible Participant.
Shares issued	Upon the exercise of a share option, we will issue a fully paid ordinary share ranking equally with, and having the same rights and entitlements as, our other ordinary shares on issue at the date of allotment of the option share (other than rights and entitlements accrued prior to the date of allotment of the option share).
Restrictions on transfer of share options	An ESOP Eligible Participant must not assign or transfer his or her share options (without our consent), other than a transfer of share options to a legal personal representative in the event that an ESOP Eligible Participant has died or become subject to mental health legislation.
Share options must be exercised before participation in new share issues	An ESOP Eligible Participant cannot participate in new issues of our shares without first exercising his or her share options. We must give notice of new share issues to each ESOP Eligible Participant who holds share options, other than issues pursuant to the ESOP, the ESP, a private placement, a dividend reinvestment plan, a share purchase plan or a

bonus share plan, a rights issue or any other employee share or options plan designated by the Board, applying from time to time.

Employee Equity Plan (“EEP”)

The EEP replaces the ESOP. The EEP was last approved by shareholders at the 2020 Annual General Meeting and was drafted to reflect changes to the income tax legislation governing employee share schemes, governance changes in respect of the type of equity instruments that are granted to employees and directors, the circumstances in which they are granted, and to provide administrative flexibility.

The underlying purpose of the EEP is to align employees’ and directors’ interests with shareholders’ interests by providing them with equity as part of their remuneration arrangements. This is designed to enable us to attract and retain top-level employees and directors. The procurement and retention of first-class executives and employees capable of managing our operations and achieving our strategic objectives is always a difficult task for a relatively small company, without an earnings history, such as us. In order to compete with well-established companies, our board of directors considers that we essentially have one of two choices: either offer higher cash remuneration or issue equity under a plan such as the EEP.

The EEP enables our board of directors to award different types of equity instruments tailored to specific application. These can include rights to acquire shares contingent on meeting specified performance metrics, options to acquire shares on payment of an exercise price, rights and/or options that are contingent on remaining in employment, among others.

The EEP was last amended on October 31, 2021 to provide the Company with increased flexibility to settle EEP awards offered or granted to non-Australian employees and directors by enabling the Company to offer and grant EEP awards that may be settled in ADS (at a number of ADS that represents the appropriate number of Ordinary Shares offered or granted under the award). In addition, the amendment permits the Company to (i) determine any monetary amounts and accept payments related to the EEP or awards issued thereunder in United States dollars (or any other currency the Board deems acceptable), (ii) impose terms and conditions on the EEP or awards issued thereunder to comply with the securities and tax laws of the United States (or any other jurisdiction the Board deems appropriate), and (iii) take any other steps the Board deems necessary or desirable to settle EEP awards in ADS.

Eligibility	Our board of directors may determine which of our full-time employees, part-time employees or directors who holds a salaried employment or office may participate in the EEP, referred to as EEP Eligible Employees.
Administration of EEP	The EEP is managed by our board of directors, which has the power to determine the appropriate procedures for the administration of the EEP.
Invitation	Our board of directors may make an invitation to an EEP Eligible Employee to apply for ordinary shares under the EEP on such terms and conditions as our board of directors determines from time to time, including (i) the date of allocation of the shares; (ii) the total number of shares to be allocated; (iii) the issue price per share; (iv) the terms of any loan in relation to the shares; (v) any vesting conditions in relation to the shares; (vi) any events that will require the participant to compulsorily divest the shares; (vii) the effect on the shares and any loan in respect of the shares in the event of any takeover offer or scheme of arrangement in respect of the company; and (viii) any other terms and conditions that, in

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the opinion of our board of directors, are fair and reasonable and not inconsistent with the EEP.

Issue price	The issue price per share granted under the EEP is determined by our board of directors in its sole discretion.
Cap on number of Ordinary Shares to be issued under the EEP	The number of shares offered to participants under the EEP must not, when aggregated with the number of shares issued (and outstanding offers to issue under any employee share scheme) over the prior five years under the EEP or any other employee share scheme extended only to EEP Eligible Employees, exceed 5% of our total number of issued shares at the time the offer is made, excluding certain offers. Examples of excluded offers include those made under a disclosure document or not requiring disclosure due to Section 708 of the Corporations Act of Australia. Our board of directors retains the discretion to increase the cap on the number of the shares to be issued under the EEP, so long as the increase complies with applicable law.
Loan	The EEP provides our board of directors with the discretion to invite EEP Eligible Employees to apply for a loan (on terms and conditions determined by the Board) to fund the acquisition of the shares. However, no loans will be made to executive officers in violation of Section 404 of the Sarbanes-Oxley Act.
Company's security interest	Where a loan is entered into, we will be granted a security interest over a participant's right, title and interest in their shares, the proceeds of their shares, and any marketable securities resulting from the conversion, consolidation or subdivision of any share. The security interest will remain in place until the loan has been repaid in full.
Vesting conditions	Shares may be subject to any vesting condition as the Board determines. Shares will vest in the participant upon all the vesting conditions being satisfied. Our board of directors has discretion to attach individual vesting conditions to the shares at the time they are issued. One or more vesting conditions may be attached to a portion of the shares. Our board of directors may in its absolute discretion waive any or all of the vesting conditions.
Holding lock	Subject to the ASX Listing Rules, we will procure our share registry to apply a holding lock on a participant's shares for the period during which any amount of a loan remains outstanding or for the period during which their shares remain unvested. A participant must not dispose of or grant any mortgage, charge, pledge, lien, encumbrance or other third party interest over any shares during such holding lock period, other than a charge given in our favor as security for a loan.
Rights attaching to shares	<p><i>Ranking.</i> Shares issued under the EEP rank equally with all our other fully paid ordinary shares at the time of issue.</p> <p><i>Dividends.</i> Holders of shares granted under the EEP are entitled to participate in dividends declared and paid by us.</p>

Voting rights. Holders of shares granted under the EEP are entitled to exercise all voting rights attached to the shares in accordance with our Constitution.

Amendments to the EEP

Subject to the exceptions listed below, our board of directors may at any time by resolution amend any provision of the EEP. However, no amendment may be made if the amendment materially prejudices the rights of any participant as they existed before the date of the relevant amendment.

The exceptions are: (i) amendments agreed to in writing by all participants; and (ii) amendments introduced primarily (a) for compliance with new laws or regulations; (b) to correct any manifest error or mistake; (c) to allow the implementation of an employee share trust arrangement in relation to the holding of the shares granted under the EEP; (d) to enable us to comply with our Constitution and any other applicable law or regulation; and/or (e) to take into consideration possible adverse taxation implications in relation to the EEP.

Termination or suspension of EEP

Our board of directors may terminate or suspend the operation of the EEP at any time. Termination or suspension of the EEP will not prejudice the accrued rights of participants.

The following table sets forth the number of options held by non-executive directors and executive officers as of June 30, 2021.

Name	Balance at June 30, 2020 Number	Granted as compensation Number	Exercised Number	Net other change Number	Balance at June 30, 2021 Number	Balance vested and exercisable at June 30, 2021 Number	Options vested during year Number
Non-Executive Directors							
David Wilson	500,000	—	—	—	500,000	400,000	100,000
Peter Turner ⁽¹⁾	400,000	—	—	(400,000)	—	—	—
Alan Fisher	500,000	—	—	—	500,000	400,000	100,000
Mitchell Kaye	—	—	—	—	—	—	—
Jane Ryan Ph.D. ⁽²⁾	—	500,000	—	—	500,000	—	—
Srinivas Rao Ph.D. ⁽³⁾	—	—	—	—	—	—	—
Aaron Weaver ⁽⁴⁾	—	—	—	—	—	—	—
Executive Officers							
Errol De Souza, Ph.D.	500,000	12,000,000 ⁽⁷⁾	—	—	12,500,000	12,400,000	12,100,000
Jack Moschakis ⁽⁵⁾	291,750	2,000,000 ⁽⁷⁾	—	(2,291,750)	—	—	2,050,000
Adrian Hinton	—	—	—	—	—	—	—
Liz Doolin	40,000	1,000,000 ⁽⁷⁾	—	—	1,040,000	—	1,000,000
Connor Bernstein ⁽⁶⁾	—	—	—	—	—	—	—

(1) Mr. Turner retired on November 20, 2020.

(2) Dr. Ryan was appointed on October 1, 2020.

(3) Dr. Rao was appointed on October 1, 2020.

(4) Mr. Weaver was appointed on July 6, 2020.

(5) Represents options held by Mr. Moschakis' estate. Mr. Moschakis passed away on March 23, 2021.

(6) Mr. Bernstein was appointed on April 1, 2021.

(7) Share options were granted on August 28, 2020 as part of their bonus awarded under our annual incentive program for the year ended June 30, 2020.

Family Relationships

There are no family relationships among any of our directors or executive officers.

Certain Relationships and Related Party Transactions

The following is a summary of each transaction or series of similar transactions since July 1, 2018, or any currently proposed transaction, to which we were or are a party in which:

- the amount involved exceeded or exceeds US\$120,000; and
- any of our directors or executive officers, any holder of 5% of any class of our voting capital stock or any member of his or her immediate family had or will have a direct or indirect material interest.

Beneficial ownership is determined in accordance with the rules of the SEC and generally includes voting or investment power with respect to such securities.

Related Person Transactions

We comply with Australian law (including the Corporations Act) and the ASX Listing Rules regarding approval of transactions with related parties. Our Audit and Risk Management Committee is responsible for reviewing and monitoring the propriety of related party transactions, as set out in the Audit & Risk Management Committee Charter.

Financings

In November 2018, we entered into a placement agreement (the “BVF Placement Agreement”) with BVF pursuant to which we issued 60,169,738 ordinary shares to BVF for an issue price of A\$0.1637 on November 16, 2018. BVF purchased an aggregate of 46,977,899 ordinary shares in subsequent entitlement offers to existing stockholders.

In June 2020, we entered into a subscription agreement (the “Apeiron Subscription Agreement”) with Apeiron Investment Group Ltd. (“Apeiron”) pursuant to which Apeiron agreed to subscribe or procure subscriptions for 135,833,000 ordinary shares at an issue price of A\$0.04 per ordinary share to raise A\$5,433,320, to proceed in two tranches of 81,500,000 Shares (“First Placement”) and 54,333,000 ordinary shares (“Second Placement”), the Second Placement being subject to shareholder approval. The First Placement was completed in June 2020, and the Second Placement was completed in September 2020.

Following completion of the Second Placement, we conducted a pro rata entitlement offer in favor of eligible shareholders (including eligible retail shareholders) and 54,304,446 ordinary shares at A\$0.04 per ordinary share (being the same price as the First Placement and Second Placement (“Entitlement Offer”), were issued.

Following completion of the Second Placement, we were also able to issue 272,349,194 ordinary shares pursuant to one or more offers of a nature to be determined by us in our discretion (after consultation in good faith with Apeiron), provided that one of the offers was a pro rata issue (such as an entitlement offer) or security purchase plan offer (“Further Offers”).

Apeiron agreed, subject to shareholder and Foreign Investment Review Board (“FIRB”) approvals, to underwrite the issue of ordinary shares under any Further Offers (“Underwritten Shares”) provided that the price at which ordinary shares are offered under the Further Offer is equal to or greater than A\$0.06 per ordinary share and that the total amount of funds raised by us under Further Offers will not exceed A\$15,000,000 (“Underwriting Obligation”). On March 3, 2021, we issued 150,000,000 warrants (“Warrants”) to Apeiron. Every one Warrant grants Apeiron the right to be issued one further ordinary share at an exercise price of A\$0.06. The Warrants expire on August 26, 2023.

On March 2, 2021 we completed a placement of 110,287,131 ordinary shares at an issue price of A\$0.145 per share, to raise a total of A\$15,991,634 in satisfaction of the Underwriting Obligations. As FIRB had granted Apeiron approval to acquire up to a 52% interest in the Company following the Second Placement in September 2020, and in accordance with the terms of the Subscription Agreement, we issued the Warrants to Apeiron on March 2, 2021.

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On March 8, 2021 we announced we were undertaking a 1 for 6 pro rata non-renounceable Entitlement Offer (“Subsequent Entitlement Offer”). On March 17, 2021, we announced we had invited certain investors who participated in our share placement on March 2, 2021, to apply for further new shares, concurrently with the Subsequent Entitlement Offer (“Concurrent Placement”). On April 8, 2021 we issued 140,924,683 ordinary shares at an issue price of A\$0.145 under the Subsequent Entitlement Offer to raise a total of A\$20,434,079 and issued a further 17,228,346 ordinary shares under the Concurrent Placement, at an issue price of A\$0.145, raising A\$2,498,110. There was also an additional share placement on June 4, 2021 of 3,909,034 shares at A\$0.145, raising A\$566,810.

As of June 30, 2021, we raised an aggregate of A\$47.1 million in aggregate across the above fundraising activities.

The following table sets forth the aggregate number of securities held by Apeiron and BVF based on the Company’s records as of 2021. Apeiron and BVF may from time to time purchase and sell shares in open market transactions on the ASX.

<u>5% or Greater Shareholders(1)</u>	<u>Ordinary Shares</u>	<u>Warrants</u>
Apeiron Investment Group Ltd.(2)	131,699,367	142,000,000
BVF Partners L.P.(3)	155,515,105	4,020,747

- (1) Additional details regarding these shareholders and their equity holdings are provided in this prospectus under the caption “Principal Shareholders.”
- (2) Based on the Company’s records as of , 2021.
- (3) Based on the Company’s records as of , 2021.

Board Nomination Rights

Some of our directors are associated with our principal shareholders as indicated in the table below:

<u>Director</u>	<u>Principal Shareholder</u>
Aaron Weaver	Apeiron Investment Group Ltd.
Miles Davies	Apeiron Investment Group Ltd.
Mitchell Kaye	BVF Partners L.P.

Under the Apeiron Subscription Agreement, on and from completion of the First Placement, Apeiron may from time to time nominate one person (“First Apeiron Nominee”) to be appointed as a director of our board of directors (the “Board”). Where Apeiron has nominated the First Apeiron Nominee, the Board must resolve to appoint the First Apeiron Nominee as a director as well as supporting the nomination and reelection or appointment of the First Apeiron Nominee at our first general meeting following such appointment. We appointed Aaron Weaver to be the First Apeiron Nominee in July 2020 and his appointment was confirmed by our shareholders at the general meeting in August 2020.

Under the Apeiron Subscription Agreement, if a First Apeiron Nominee fails to be re-elected or appointed as a director at the Meeting or is otherwise removed by our board of directors, Apeiron may repeat the process set out above until there is a First Apeiron Nominee appointed to the board of directors. If Apeiron (and any subscribers it procures) fails to continue to hold a beneficial interest in at least 10% of the Shares, Apeiron’s right to have a First Apeiron Nominee on the board of directors shall cease, and if the First Apeiron Nominee is a director, Apeiron must procure that they retire immediately. We have entered into a protocol with Apeiron and the First Apeiron Nominee which sets out principles governing the provision of confidential information to the First Apeiron Nominee, and certain other customary matters for nominee director appointments (“Nominee Protocols”).

Under the Apeiron Subscription Agreement, on and from completion of the Second Placement, Apeiron may from time to time nominate a further person (“Second Apeiron Nominee”) to be appointed as a director of our board of directors. The Second Apeiron Nominee is to be nominated and appointed to the Board in the same

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manner as the First Apeiron Nominee as described above. If Apeiron (and any subscribers it procures) ceases to hold to a beneficial interest in at least: (1) 17.5% of the ordinary shares after the completion of the Second Placement until the date set out in (2) below; and (2) 20% of the ordinary shares on and from the date that is 15 months and 40 business days the date of the Meeting, then Apeiron's right to have the Second Apeiron Nominee on the board of directors will cease and Apeiron must procure that any Second Apeiron Nominee on the Board retires immediately. In July 2021, we appointed Miles Davies as the Second Apeiron Nominee who replaces Dr. Srinivas Rao who previously served as the Second Apeiron Nominee.

Under the terms of the BVF Placement Agreement, BVF may from time to time nominate one person to be to be appointed as a director our Board ("BVF Nominee"). Where BVF has nominated the BVF Nominee, the Board must resolve to appoint the BVF Nominee as a director as well as supporting the nomination and reelection or appointment of the BVF Nominee at our first general meeting following such appointment. We appointed Mr. Mitchell Kaye to be the BVF Nominee in November 2018 and his appointment was confirmed by our shareholders at the general meeting in November 2019.

Under the Placement Agreement, if a BVF Nominee fails to be re-elected or appointed as a director at general meeting or is otherwise removed by our Board, BVF may repeat the process set out above until there is a BVF Nominee appointed to the Board. If BVF (and any subscribers it procures) fails to continue to hold a beneficial interest in at least 15% of the Shares, BVF's right to have a BVF Nominee on the Board shall cease, and if the BVF Nominee is a director, BVF must procure that they retire immediately. We have entered into a protocol with BVF and the BVF Nominee which sets out principles governing the provision of confidential information to the BVF Nominee, and certain other customary matters for nominee director appointments.

Director and Senior Management Compensation

See "Management—Remuneration" for information regarding compensation of our senior management and directors.

Indemnification Agreements

Our Constitution provides that, except to the extent prohibited by law (including under the Corporations Act) and, to the extent that a director or an officer is not otherwise indemnified by us pursuant to any director and officer liability insurance policy, we will indemnify every person who is or has been a director or an officer against any liability incurred by that person as a director or an officer, unless the liability arises out of conduct on the part of the person which involves a lack of good faith or is contrary to our express instructions. To the extent that the person is not indemnified by us pursuant to any director and officer liability insurance policy, we will indemnify that person against any liability for costs and expenses incurred by the person in their capacity as director or officer in defending any legal proceedings in which judgment is given in favor of the person, or in which they were acquitted, or in connection with an application in relation to such a proceeding in which the court grants relief.

While we have obtained insurance for our directors and executive officers, we have not entered into any Deeds of Indemnity, Insurance and Access, or Indemnity Deeds, with our directors or officers.

Principal Shareholders

The following table sets forth information known to us with respect to the beneficial ownership of our ordinary shares as of November 11, 2021, and as adjusted to reflect the sale of ADSs in this offering, by

- each of our named executive officers;
- each of our directors;
- all of our executive officers and directors as a group; and
- each person or group of affiliated persons known by us to beneficially own more than 5% of our ordinary shares.

The number of shares beneficially owned by each shareholder is determined under rules issued by the SEC. Under these rules, beneficial ownership includes any shares as to which a person has sole or shared voting power or investment power. Applicable percentage ownership is based on 1,017,596,744 ordinary shares outstanding on November 11, 2021. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, ordinary shares subject to options, warrants or other rights held by such person that are currently exercisable or will become exercisable within 60 days of November 11, 2021, are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other person.

Unless otherwise indicated, the address of each beneficial owner listed below is c/o Bionomics Limited, 200 Greenhill Road, Eastwood SA, 5063, Australia. We believe, based on information provided to us, that each of the shareholders listed below has sole voting and investment power with respect to the shares beneficially owned by the shareholder unless noted otherwise, subject to community property laws where applicable.

Name of Beneficial Owner	Shares Beneficially Owned Prior to Offering		Shares Beneficially Owned After Offering	
	Number	Percentage	Number	Percentage(1)
5% or Greater Shareholders				
BVF Partners L.P.(2)	159,535,852	15.6%	159,535,852	
Apeiron Investment Group Ltd(3)	273,699,367	23.6%	273,699,367	
Named Executive Officers and Directors				
Errol De Souza, Ph.D.(4)	12,866,698	1.2%	12,866,698	
Adrian Hinton	0	*	0	
Liz Doolin(5)	1,157,629	*	1,157,629	
Connor Bernstein	0	*	0	
Miles Davies	0	*	0	
Alan Fisher(6)	500,000	*	500,000	
Mitchell Kaye	0	*	0	
Jane Ryan, Ph.D.(7)	100,000	*	100,000	
Aaron Weaver	0	*	0	
David Wilson (8)	751,939	*	751,939	
All executive officers and directors as a group (10 persons)	15,376,266	1.5%		

* Less than 1%.

(1) Assumes that the underwriters will not exercise their option to purchase additional ADSs.

(2) Includes (i) 77,527,212 shares and 1,655,549 warrants held by Biotechnology Fund, L.P., (ii) 57,944,002 shares and 965,277 warrants held by Biotechnology Value Fund II, L.P., (iii) 10,134,688 shares and 460,990 warrants held by Biotechnology Value Trading Fund OS, L.P., (iv) 1,382,160 shares and 304,235 warrants held by Investment 10, L.L.C. and (v) 8,527,043 shares and 634,696 warrants held by MSI BVF SPV L.L.C. BVF Inc. as the General Partner of BVF Partners LP and Mark Lampert as a director and officer of

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BVF Inc., share voting and investment power over the shares beneficially owned by Biotechnology Value Fund, L.P., Biotechnology Value Fund II, L.P., Biotechnology Value Trading Fund OS, L.P., Investment 10, L.L.C. and MSI BVF SPV L.L.C. Each of BVF I GP LLC, BVF II GP LLC, BVF GP Holdings, LLC, BVF Partners OS Ltd, BVF Partners LP, BVF Inc and Mark Lampert disclaims beneficial ownership of the shares beneficially owned by Biotechnology Value Fund, L.P., Biotechnology Value Fund II, L.P., Biotechnology Value Trading Fund OS, L.P., Investment 10, L.L.C. and MSI BVF SPV L.L.C.

- (3) Includes 131,699,367 shares and 142,000,000 warrants held by Apeiron Investment Group Ltd. Apeiron Investment Group Ltd. is owned and controlled by Christian Angermayer. Mr. Angermayer may be deemed to have beneficial ownership over the shares held by Apeiron Investment Group Ltd.
- (4) Includes (i) 366,698 shares and (ii) 12,500,000 shares that Dr. De Souza has the right to acquire pursuant to options that are exercisable as of November 11, 2021 or will become exercisable within 60 days of such date.
- (5) Includes (i) 127,629 shares and (ii) 1,030,000 shares that Ms. Doolin has the right to acquire pursuant to options that are exercisable as of November 11, 2021 or will become exercisable within 60 days of such date.
- (6) Includes 500,000 shares that Mr. Fisher has the right to acquire pursuant to options that are exercisable as of November 11, 2021 or will become exercisable within 60 days of such date.
- (7) Includes 100,000 shares that Dr. Ryan has the right to acquire pursuant to options that are exercisable as of November 11, 2021 or will become exercisable within 60 days of such date.
- (8) Includes (i) 251,939 shares and (ii) 500,000 shares that Mr. Wilson has the right to acquire pursuant to options that are exercisable as of November 11, 2021 or will become exercisable within 60 days of such date.

Description of Share Capital

General

The following description of our ordinary shares is only a summary. We encourage you to read our Constitution which was adopted at our Annual General Meeting held on December 2, 2021, and which is included as an exhibit to the registration statement of which this prospectus forms a part.

We are an Australian public company limited by shares registered under the Corporations Act by the Australian Securities and Investments Commission (“ASIC”). Our corporate affairs are principally governed by our Constitution, the Corporations Act and the ASX Listing Rules. Our ordinary shares trade on the ASX, and we are applying to list the ADSs on the Nasdaq Global Market.

The Australian law applicable to our Constitution is not significantly different from a U.S. company’s charter documents except we do not have a limit on our authorized share capital and our shares have no par value because the concept of par value is not recognized under Australian law. Further differences are discussed under “—Our Constitution.”

Subject to restrictions on the issue of securities in our Constitution, the Corporations Act and the ASX Listing Rules and any other applicable law, we may at any time issue shares and grant options or warrants on any terms, with the rights and restrictions and for the consideration that our board of directors determine.

The rights and restrictions attaching to ordinary shares are derived through a combination of our Constitution, the common law applicable in Australia, the ASX Listing Rules, the Corporations Act and other applicable law. A general summary of some of the rights and restrictions attaching to our ordinary shares are summarized below. Each ordinary shareholder is entitled to receive notice of, and to be present, vote and speak at, general meetings.

Changes to Our Share Capital

As of June 30, 2021, we had (i) 1,007,596,744 fully paid ordinary shares issued on the ASX, (ii) 20,985,450 ordinary shares issuable upon exercise of outstanding options at a weighted average exercise price of A\$0.12 (US\$0.09) per share, of which options to purchase 20,056,550 ordinary shares were vested at a weighted average exercise price of A\$0.11 (US\$0.08) per share, and (iii) 166,082,988 ordinary shares issuable upon exercise of warrants of which 150,000,000 were issued to Apeiron at an exercise price of A\$0.06 (US\$0.045) per share and an aggregate of 16,082,988 were issued to four U.S. institutional investors at an exercise price of A\$0.5674 (US\$0.4266) per share.

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During the last three years, the following changes have been made to our ordinary share capital:

During the year ended 30 June 2021, we issued the following securities:

<u>Date</u>	<u>Details</u>	<u>No.</u>	<u>Issue Price A\$</u>	<u>Total Value A\$</u>
June 4, 2021	Share issue—placement to institutional investors	3,909,034	0.145	566,810
April 8, 2021	Share issue—placement to institutional investors	17,228,346	0.145	2,498,110
April 8, 2021	Share issue—entitlement offer	140,924,683	0.145	20,434,079
March 2, 2021	Share issue—placement to institutional investors	110,287,131	0.145	15,991,634
October 22, 2020	Share issue—entitlement offer (retail component)	31,973,571	0.04	1,278,943
October 6, 2020	Share issue—entitlement offer (institutional component)	22,330,875	0.04	893,235
September 21, 2020	Share issue—placement to Apeiron and four nominees	54,333,000	0.04	2,173,320
August 28, 2020	Share issue—issue to employees pursuant to Employee Equity Plan	424,232	0.1432	60,750
Total FY2021 Movement		381,410,872		43,896,881

During the year ended 30 June 2020, we issued the following securities:

<u>Date</u>	<u>Details</u>	<u>No.</u>	<u>Issue Price A\$</u>	<u>Total Value A\$</u>
June 30, 2020	Share issue—placement to nominee of Apeiron	81,500,000	0.04	3,260,000
Total FY2020 Movement		81,500,000		3,260,000

During the year ended 30 June 2019, we issued the following securities:

<u>Date</u>	<u>Details</u>	<u>No.</u>	<u>Issue Price A\$</u>	<u>Total Value A\$</u>
December 13, 2018	Share issue—share purchase plan	1,612,942	0.155	250,006
November 16, 2018	Share issue—placement to BVF Partners L.P. (and its affiliates)	60,169,738	0.1637	9,849,786
August 24, 2018	Share issue—issue to employees pursuant to Employee Equity Plan	111,756	0.473	52,860
Total FY2019 Movement		61,894,436		10,152,652

In addition, we issued the following ordinary shares upon exercise of options over the past three fiscal years:

- on September 1, 2021, the Company issued 2,000,000 fully paid ordinary shares as a result of 2,000,000 share options being exercised at their exercise price of \$0.0136 per share;
- no ordinary shares in the fiscal year ended June 30, 2021; and
- no ordinary shares in fiscal year ended June 30, 2020.

Our Constitution

Our Constitution is similar in nature to the bylaws of a U.S. corporation. It does not provide for or prescribe any specific objectives or purposes of the company. Our Constitution is subject to the terms of the ASX Listing Rules and the Corporations Act. It may be amended or repealed and replaced by special resolution of shareholders, which is a resolution passed by at least 75% of the votes cast by shareholders entitled to vote on the resolution who vote at the relevant meeting, in person, by proxy, by attorney or by representative.

Under Australian law, a company has the legal capacity and powers of an individual both within and outside Australia. The material provisions of our Constitution are summarized below. This summary is not intended to be complete nor to constitute a definitive statement of the rights and liabilities of our shareholders. Our Constitution is filed as an exhibit to the registration statement of which this prospectus forms a part.

Interested Directors

According to our Constitution and the Corporations Act, a director may not vote in respect of any matter in which the director has, directly or indirectly, any material personal interest, must not be counted in a quorum and must not be present at the meeting while the matter is being considered (unless the other directors, not having a material personal interest, resolve to the contrary, or if they are so entitled under a declaration or order made by ASIC in accordance with the Corporations Act). Subject to certain exceptions, each director must disclose to us particulars of: (1) any material contract in which the director is interested, including the names of the parties to the contract, particulars of the contract, and the director's interest in the contract; and (2) any material personal interest in a matter that is being considered at a meeting of our board of directors.

Provided that a director makes disclosure as required by our Constitution and the Corporations Act, the director and any firm, body or entity in which a director has a direct or indirect interest may, in any capacity, execute or otherwise act in respect of a contract or arrangement with us notwithstanding any material personal interest and may receive and retain for his or her benefit any remuneration, profits or benefits so received as if he or she were not a director.

The Corporations Act and the ASX Listing Rules require shareholder approval of any provision of related party benefits to our directors, subject to certain exceptions.

Directors' Compensation

Our directors are paid remuneration for their services as directors. The maximum aggregate amount of fees that can be paid to non-executive directors is subject to approval by shareholders at a general meeting of shareholders. The aggregate fixed sum for directors' remuneration is divided among the directors in such proportion as the directors themselves agree and in accordance with our Constitution. The aggregate fixed sum remuneration for directors may not be increased except at a general meeting of shareholders and the particulars of the proposed increase are required to have been provided to shareholders in the notice convening the meeting. Fees for non-executive directors are not linked to our performance. However, to align directors' interests with shareholder interests, the directors are encouraged to hold our ordinary shares. Employees of our company who also serve as directors do not receive additional compensation for their performance of services as directors.

Pursuant to our Constitution, any non-executive director who performs services that, in the opinion of our board of directors, are outside the scope of the ordinary duties of a director may be paid extra remuneration by way of a fixed sum, which is determined by our board of directors, provided such payment does not result in the aggregate of all remuneration paid to non-executive directors exceeding the maximum sum approved at the general meeting of shareholders.

Executive directors may be paid remuneration as employees of the company and such remuneration may from time to time be fixed by our board of directors. Subject to the ASX Listing Rules, the remuneration may be

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by way of salary, commission, participation in profits, by the issue or allotment of shares or options over unissued shares or by all or any of these modes, but must not be by commission on, or a percentage of, operating revenue.

In addition to other remuneration provided in our Constitution, all of our directors are entitled to be paid by us for travel accommodation and other expenses properly incurred by the directors in attending general meetings, Board meetings, committee meetings or otherwise in connection with our business.

We may also pay a premium in respect of a contract insuring a person who is or has been a director against liability incurred by the person as a director, except in circumstances prohibited by the Corporations Act or other applicable laws.

In accordance with our Constitution, a director may also be paid a retirement benefit as determined by our board of directors, subject to the limits set out in the Corporations Act and the ASX Listing Rules which broadly restrict our ability to pay our officers a termination benefit in the event of a change of control of Bionomics or of our subsidiaries as well as impose requirements for shareholder approval to be obtained to pay certain retirement benefits to our officers.

Borrowing Powers Exercisable by Directors

Pursuant to our Constitution, the management and control of our business affairs are vested in our board of directors. Our board of directors has the power to raise or borrow money, and charge any of our property or business or any uncalled capital, and may issue debentures or give any other security for any of our debts, liabilities or obligations or of any other person, or guarantee or become liable for the payment of money or the performance of any obligation by or for any other person, in each case, in the manner and on terms it deems fit.

Retirement of Directors

In accordance with our Constitution and the ASX Listing Rules, at each annual general meeting, one-third of our directors (other than the Executive Chairman (who in substance fulfils the role of Managing Director)) must retire from office and their positions be open to election. The retiring directors are eligible for re-election to our board of directors. If the number of directors subject to retirement is not equal to three, or a multiple of three, then the number nearest to, but not exceeding, one-third must retire from office. The directors who retire in this manner are required to be the directors longest in office since last being elected (and in the case where more than one director was elected on the same day, they may agree amongst themselves or determine by lot which of them is subject to retirement). In addition, each director (other than the Executive Chairman) must retire at the later of the third annual general meeting after his or her election or three years after such director was last appointed.

Rights and Restrictions on Classes of Shares

The rights attaching to our ordinary shares are detailed in our Constitution. Our Constitution provides that our directors may issue shares with preferred or other special rights, whether in relation to dividends, voting, return of share capital, or otherwise as our board of directors may determine. Subject to any approval which is required from our shareholders under the Corporations Act and the ASX Listing Rules (see “—Exemptions from Certain Nasdaq Corporate Governance Rules” and “—Change of Control”), and any rights and restrictions attached to a class of shares, we may issue further shares on such terms and conditions as our board of directors resolve. Currently, our outstanding share capital consists of only one class of ordinary shares.

Dividend Rights

Our board of directors may from time to time determine to pay dividends to shareholders. All dividends unclaimed for 11 months after having been declared may be invested or otherwise made use of by our board of directors for our benefit until claimed or otherwise disposed of in accordance with our Constitution and any applicable laws.

Voting Rights

Under our Constitution, and subject to any voting exclusions imposed under the ASX Listing Rules (which typically exclude parties from voting on resolutions proposed for the purposes of the ASX Listing Rules in which they have an interest), the rights and restrictions attaching to a class of shares, each shareholder has one vote on a show of hands at a meeting of the shareholders unless a poll is demanded under the Constitution or the Corporations Act. On a poll vote, each shareholder shall have one vote for each fully paid share and a fractional vote for each share held by that shareholder that is not fully paid, such fraction being equivalent to the proportion of the amount that has been paid to such date on that share. Shareholders may vote in person or by proxy, attorney or representative. The Corporations Act does not provide for shareholders of a public company to approve corporate matters by written consent. Our Constitution does not provide for cumulative voting.

Note that ADS holders may not directly vote at a meeting of the shareholders but may instruct the depositary to vote the number of deposited ordinary shares their ADSs represent.

Right to Share in Our Profits

Pursuant to our Constitution, our shareholders are entitled to participate in our profits only by payment of dividends. Our board of directors may from time to time determine to pay dividends to the shareholders; however, no dividend is payable except in accordance with the thresholds set out in the Corporations Act.

Rights to Share in the Surplus in the Event of Liquidation

Our Constitution provides for the right of shareholders to participate equally in a surplus in the event of our liquidation, subject to the rights attaching to a class of shares and any amounts unpaid on the share.

No Redemption Provision for Ordinary Shares

There are no redemption provisions in our Constitution in relation to ordinary shares. Under our Constitution, any preferred shares may be issued on the terms that they are, or may at our option be, liable to be redeemed.

Variation or Cancellation of Share Rights

Subject to the terms of issue of shares of that class, the rights attached to shares in a class of shares may only be varied or cancelled with either:

- a special resolution passed at a separate meeting of the members holding shares in that class; or
- the written consent of members with at least 75% of the issued shares in that class.

Directors May Make Calls

Our Constitution provides that subject to the terms on which partly paid shares have been issued directors may make calls on a shareholder for amounts unpaid on those shares held by that shareholder, other than monies payable at fixed times under the conditions of allotment. Shares represented by the ADSs issued in this offering will be fully paid and will not be subject to calls by directors.

General Meetings of Shareholders

General meetings of shareholders may be called by our board of directors. Except as permitted under the Corporations Act, shareholders may not convene a meeting. The Corporations Act requires the directors to call and arrange to hold a general meeting on the request of shareholders with at least 5% of the votes that may be

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cast at a general meeting. The Corporations Act also allows shareholders with at least 5% of the votes that may be cast at a general meeting to convene a general meeting. Notice of the proposed meeting of our shareholders is required at least 28 days prior to such meeting under the Corporations Act. We must hold an annual general meeting at least once in each calendar year, and within five months after the end of each fiscal year.

Foreign Ownership Regulation

There are no limitations on the rights to own securities imposed by our Constitution. However, acquisitions and proposed acquisitions of securities in Australian companies may be subject to review and approval by the Australian Federal Treasurer under the Australian Foreign Acquisitions and Takeovers Act 1975 (as amended) (the “FATA”), which generally applies to acquisitions or proposed acquisitions:

- by a foreign person (as defined in the FATA) or associated foreign persons that would result in such persons having an interest in 20% or more of the issued shares of, or control of 20% or more of the voting power or potential voting power in, an Australian company; and
- by foreign persons (and their associates) that would result in such foreign persons (and their associates) having an interest in 40% or more of the issued shares of, or control of 40% or more of the voting power or potential voting power in, an Australian company, where the Australian company is valued above the monetary thresholds prescribed by FATA.

However, no such review or approval under the FATA is required if the foreign acquirer is a private U.S. entity (but not including overseas subsidiaries of U.S. entities) and the value of the Australian company is less than A\$1,216 million.

The Australian Federal Treasurer may prevent a proposed acquisition in the above categories or impose conditions on such acquisition if the Treasurer is satisfied that the acquisition would be contrary to the national interest. If a foreign person acquires shares or an interest in shares in an Australian company that is subject to review and approval under FATA, but such approval is not obtained, the Australian Federal Treasurer may order the divestiture of such person’s shares or interest in shares in that Australian company.

In addition, under FATA, all foreign government investors must notify the Australian Government and get prior approval before making a direct investment in Australia, regardless of the value of the investment. What constitutes a foreign government investor is defined broadly in FATA.

Ownership Threshold

There are no provisions in our Constitution that require a shareholder to disclose ownership above a certain threshold. The Corporations Act, however, requires a shareholder to notify us and the ASX once it, together with its associates, acquires an interest of 5% or more in our ordinary shares (or voting power (as defined in the Corporations Act) of 5% or more of the votes in our ordinary shares), at which point the shareholder will be considered to be a “substantial” shareholder. Further, once a shareholder (alone or together with its associates) owns an interest of 5% or more in us, such shareholder must notify us and the ASX of any increase or decrease of 1% or more in its holding of our ordinary shares, and must also notify us and the ASX on its ceasing to be a “substantial” shareholder. In most cases, such notice must be given to us and the ASX within two business days after the relevant shareholder becomes aware of the information. Upon becoming a U.S. public company, our shareholders will also be subject to disclosure requirements under U.S. securities laws.

Shareholder Approval of Offering

Under the ASX Listing Rules, a company must not, subject to specified exceptions, without the approval of its shareholders, issue or agree to issue, during any 12 month period, any equity securities, or other securities with rights to convert into equity, if the number of those securities exceeds 15% of the number of shares on issue at the commencement of that 12 month period (“Placement Capacity”).

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New shares to be issued in connection with this offering do not fall within any of the specified exceptions and there is currently insufficient headroom in our Placement Capacity for us to issue all of the new shares proposed to be issued in connection with this offering. Accordingly, we intend to seek the approval of our shareholders voting at an extraordinary general meeting of shareholders to issue the new shares proposed to be issued in connection with this offering for the purposes of the ASX Listing Rules. We will need to receive this approval from our shareholders prior to the completion of this offering

Issues of Shares and Change in Capital

Subject to our Constitution, the Corporations Act, the ASX Listing Rules and any other applicable law, we may at any time issue shares and grant options or warrants on any terms, with preferred or other special rights and restrictions and for the consideration and other terms that the directors determine.

Subject to the requirements of our Constitution, the Corporations Act, the ASX Listing Rules and any other applicable law, including relevant shareholder approvals, we may consolidate or divide our share capital into a larger or smaller number by resolution, reduce our share capital (provided that the reduction is fair and reasonable to our shareholders as a whole and does not materially prejudice our ability to pay creditors) or buy back our ordinary shares whether under an equal access buy-back or on a selective basis.

The Corporations Act and the ASX Listing Rules permit a company to convert its securities into a larger or smaller number by resolution passed by shareholders at a general meeting. Prior to completion of this offering, we are proposing to seek shareholder approval of the consolidation of our shares, options and warrants on issue on a yet to be determined basis (“Consolidation”). The purpose of the Consolidation is to implement a more appropriate capital structure, and to ensure a more appropriate share price, option exercise price and warrant exercise price for our investors.

Change of Control

Takeovers of listed Australian public companies are regulated by the Corporations Act, which prohibits the acquisition of a “relevant interest” in issued voting shares in a listed company if the acquisition will lead to that person’s or someone else’s voting power (as defined in the Corporations Act) increasing from 20% or below to more than 20% or increasing from a starting point that is above 20% and below 90%, subject to a range of exceptions.

Generally, a person will have a relevant interest in securities if the person:

- is the holder of the securities;
- has power to exercise, or control the exercise of, a right to vote attached to the securities; or
- has the power to dispose of, or control the exercise of a power to dispose of, the securities, including any indirect or direct power or control.

If, at a particular time, a person has a relevant interest in issued securities and the person:

- has entered or enters into an agreement with another person with respect to the securities; or
- has given or gives another person an enforceable right, or has been or is given an enforceable right by another person, in relation to the securities (whether the right is enforceable presently or in the future and whether or not on the fulfillment of a condition); or
- has granted or grants an option to, or has been or is granted an option by, another person with respect to the securities; and
- the other person would have a relevant interest in the securities if the agreement were performed, the right enforced or the option exercised,

then the other person is deemed to already have a relevant interest in the securities.

There are a number of exceptions to the above prohibition on acquiring a relevant interest in issued voting shares above 20%. In general terms, some of the more significant exceptions include:

- when the acquisition results from the acceptance of an offer under a takeover bid that complies with the Corporations Act;
- when the acquisition is conducted on market by or on behalf of the bidder under a takeover bid that complies with the Corporations Act, the acquisition occurs during the bid period, the bid is for all the voting shares in a bid class and the bid is unconditional or only conditioned on prescribed matters set out in the Corporations Act;
- when shareholders (other than the persons making the acquisitions and their associates) approve the acquisition by resolution passed at general meeting;
- an acquisition by a person if, throughout the six months before the acquisition, that person or any other relevant person has had voting power of at least 19% and, as a result of the acquisition, none of the relevant persons would have voting power more than three percentage points higher than they had six months before the acquisition;
- when the acquisition results from the issue of securities under a rights issue (subject, in certain cases, to compliance with conditions);
- when the acquisition results from the issue of securities under dividend reinvestment schemes;
- when the acquisition results from the issue of securities to an underwriter or sub-underwriter under underwriting arrangements;
- when the acquisition results from the issue of securities through a will or through operation of law;
- an acquisition that arises through the acquisition of a relevant interest in another listed company which is listed on a prescribed financial market or a financial market approved by ASIC;
- an acquisition arising from an auction of forfeited shares conducted on-market; or
- an acquisition arising through a compromise, arrangement, liquidation or buy-back.

Breaches of the takeovers provisions of the Corporations Act are criminal offenses. Australian courts and the Australian Takeovers Panel have a wide range of powers relating to breaches of takeover provisions, including the ability to make orders canceling contracts, freezing transfers of, and rights attached to, securities, and forcing a party to dispose of securities. There are certain defenses to breaches of the takeover provisions provided in the Corporations Act.

Access to and Inspection of Documents

Inspection of our records is governed by the Corporations Act. Any member of the public has the right to inspect or obtain copies of our registers on the payment of a prescribed fee (provided that the purpose to obtain copies is not a “prescribed purpose” for the purposes of the Corporations Act). Shareholders are not required to pay a fee for inspection of our registers or minute books of the meetings of shareholders. Other corporate records, including minutes of directors’ meetings, financial records and other documents, are not open for inspection by shareholders. Where a shareholder is acting in good faith and an inspection is deemed to be made for a proper purpose, a shareholder may apply to the court to make an order for inspection of our books.

Exemptions from Certain Nasdaq Corporate Governance Rules

The Nasdaq Listing Rules allow for a foreign private issuer, such as Bionomics, to follow its home country practices in lieu of certain of the Nasdaq’s corporate governance standards. In connection with our Nasdaq

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Listing Application, we expect to rely on exemptions from certain corporate governance standards that are contrary to the laws, rules, regulations or generally accepted business practices in the United States. These exemptions being sought are described below:

- We expect to rely on an exemption from the independence requirements for a majority of our board of directors as prescribed by Nasdaq Listing Rules. The ASX Listing Rules do not require us to have a majority of independent directors although ASX Corporate Governance Principles and Recommendations do recommend a majority of independent directors. During the fiscal year ended June 30, 2021, three of our seven directors were “independent” as defined in the ASX Corporate Governance Principles and Recommendations, which definition differs from Nasdaq’s definition. Accordingly, because Australian law and generally accepted business practices in Australia regarding director independence differ to the independence requirements under Nasdaq Listing Rules, we seek to claim this exemption.
- We expect to rely on an exemption from the requirement that our independent directors meet regularly in executive sessions under Nasdaq Listing Rules. The ASX Listing Rules and the Corporations Act do not require the independent directors of an Australian company to have such executive sessions and, accordingly, we seek to claim this exemption.
- We expect to rely on an exemption from the quorum requirements applicable to meetings of shareholders under Nasdaq Listing Rules. In compliance with Australian law, our Constitution provides that five shareholders present holding not less than 5% of the issued capital of a company, in person or by proxy, attorney or a representative, shall constitute a quorum for a general meeting. Nasdaq Listing Rules require that an issuer provide for a quorum as specified in its bylaws for any meeting of the holders of ordinary shares, which quorum may not be less than 33-1/3% of the outstanding shares of an issuer’s voting ordinary shares. Accordingly, because applicable Australian law and rules governing quorums at shareholder meetings differ from Nasdaq’s quorum requirements, we seek to claim this exemption.
- We expect to rely on an exemption from the requirement prescribed by Nasdaq Listing Rules that issuers obtain shareholder approval prior to the issuance of securities in connection with certain acquisitions, private placements of securities, or the establishment or amendment of certain equity option, purchase or other compensation plans. Applicable Australian law and the ASX Listing Rules differ from Nasdaq requirements, with the ASX Listing Rules providing generally for prior shareholder approval in numerous circumstances, including (i) issuance of equity securities exceeding 15% of our issued share capital in any 12-month period (but, in determining the 15% limit, securities issued under an exception to the rule or with shareholder approval are not counted), (ii) issuance of equity securities to related parties (as defined in the ASX Listing Rules) and (iii) issuances of securities to directors or their associates under an employee incentive plan. Due to differences between Australian law and rules and the Nasdaq shareholder approval requirements, we seek to claim this exemption.

Description of American Depositary Shares

Citibank, N.A. has agreed to act as the depository bank for the American Depositary Shares. Citibank's depository offices are located at 388 Greenwich Street, New York, New York 10013. American Depositary Shares are frequently referred to as "ADSs" and represent ownership interests in securities that are on deposit with the depository bank. ADSs may be represented by certificates that are commonly known as "American Depositary Receipts" or "ADRs." The depository bank typically appoints a custodian to safekeep the securities on deposit. In this case, the custodian is Citicorp Nominees PTY Limited, located at Level 15, 120 Collins Street, Melbourne VIC 3000.

We have appointed Citibank as depository bank pursuant to a deposit agreement. A copy of the deposit agreement is on file with the SEC under cover of a Registration Statement on Form F-6. You may obtain a copy of the deposit agreement from the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549 and from the SEC's website (www.sec.gov).

We are providing you with a summary description of the material terms of the ADSs and of your material rights as an owner of ADSs. Please remember that summaries by their nature lack the precision of the information summarized and that the rights and obligations of an owner of ADSs will be determined by reference to the terms of the deposit agreement and not by this summary. We urge you to review the deposit agreement in its entirety. The portions of this summary description that are italicized describe matters that may be relevant to the ownership of ADSs but that may not be contained in the deposit agreement.

Each ADS represents the right to receive, and to exercise the beneficial ownership interests in, ordinary shares that are on deposit with the depository bank and/or custodian. An ADS also represents the right to receive, and to exercise the beneficial interests in, any other property received by the depository bank or the custodian on behalf of the owner of the ADS but that has not been distributed to the owners of ADSs because of legal restrictions or practical considerations. We and the depository bank may agree to change the ADS-to-ordinary shares ratio by amending the deposit agreement. This amendment may give rise to, or change, the depository fees payable by ADS owners. The custodian, the depository bank and their respective nominees will hold all deposited property for the benefit of the holders and beneficial owners of ADSs. The deposited property does not constitute the proprietary assets of the depository bank, the custodian or their nominees. Beneficial ownership in the deposited property will under the terms of the deposit agreement be vested in the beneficial owners of the ADSs. The depository bank, the custodian and their respective nominees will be the record holders of the deposited property represented by the ADSs for the benefit of the holders and beneficial owners of the corresponding ADSs. A beneficial owner of ADSs may or may not be the holder of ADSs. Beneficial owners of ADSs will be able to receive, and to exercise beneficial ownership interests in, the deposited property only through the registered holders of the ADSs, the registered holders of the ADSs (on behalf of the applicable ADS owners) only through the depository bank, and the depository bank (on behalf of the owners of the corresponding ADSs) directly, or indirectly, through the custodian or their respective nominees, in each case upon the terms of the deposit agreement.

If you become an owner of ADSs, you will become a party to the deposit agreement and therefore will be bound to its terms and to the terms of any ADR that represents your ADSs. The deposit agreement and the ADR specify our rights and obligations as well as your rights and obligations as an owner of ADSs and those of the depository bank. As an ADS holder you appoint the depository bank to act on your behalf in certain circumstances. The deposit agreement and the ADRs are governed by New York law. However, our obligations to the holders of ordinary shares will continue to be governed by the laws of Australia, which may be different from the laws in the United States.

In addition, applicable laws and regulations may require you to satisfy reporting requirements and obtain regulatory approvals in certain circumstances. You are solely responsible for complying with such reporting requirements and obtaining such approvals. Neither the depository bank, the custodian, us or any of their or our respective agents or affiliates shall be required to take any actions whatsoever on your behalf to satisfy such reporting requirements or obtain such regulatory approvals under applicable laws and regulations.

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As an owner of ADSs, we will not treat you as one of our shareholders and you will not have direct shareholder rights. The depositary bank will hold on your behalf the shareholder rights attached to the ordinary shares underlying your ADSs. As an owner of ADSs you will be able to exercise the shareholders rights for the ordinary shares represented by your ADSs through the depositary bank only to the extent contemplated in the deposit agreement. To exercise any shareholder rights not contemplated in the deposit agreement you will, as an ADS owner, need to arrange for the cancellation of your ADSs and become a direct shareholder.

The manner in which you own the ADSs (e.g., in a brokerage account vs. as registered holder, or as holder of certificated vs. uncertificated ADSs) may affect your rights and obligations, and the manner in which, and extent to which, the depositary bank's services are made available to you. As an owner of ADSs, you may hold your ADSs either by means of an ADR registered in your name, through a brokerage or safekeeping account, or through an account established by the depositary bank in your name reflecting the registration of uncertificated ADSs directly on the books of the depositary bank (commonly referred to as the "direct registration system" or "DRS"). The direct registration system reflects the uncertificated (book-entry) registration of ownership of ADSs by the depositary bank. Under the direct registration system, ownership of ADSs is evidenced by periodic statements issued by the depositary bank to the holders of the ADSs. The direct registration system includes automated transfers between the depositary bank and The Depository Trust Company ("DTC"), the central book-entry clearing and settlement system for equity securities in the United States. If you decide to hold your ADSs through your brokerage or safekeeping account, you must rely on the procedures of your broker or bank to assert your rights as ADS owner. Banks and brokers typically hold securities such as the ADSs through clearing and settlement systems such as DTC. The procedures of such clearing and settlement systems may limit your ability to exercise your rights as an owner of ADSs. Please consult with your broker or bank if you have any questions concerning these limitations and procedures. All ADSs held through DTC will be registered in the name of a nominee of DTC. This summary description assumes you have opted to own the ADSs directly by means of an ADS registered in your name and, as such, we will refer to you as the "holder." When we refer to "you," we assume the reader owns ADSs and will own ADSs at the relevant time.

The registration of the ordinary shares in the name of the depositary bank or the custodian shall, to the maximum extent permitted by applicable law, vest in the depositary bank or the custodian the record ownership in the applicable ordinary shares with the beneficial ownership rights and interests in such ordinary shares being at all times vested with the beneficial owners of the ADSs representing the ordinary shares. The depositary bank or the custodian shall at all times be entitled to exercise the beneficial ownership rights in all deposited property, in each case only on behalf of the holders and beneficial owners of the ADSs representing the deposited property.

Dividends and Distributions

As a holder of ADSs, you generally have the right to receive the distributions we make on the securities deposited with the custodian. Your receipt of these distributions may be limited, however, by practical considerations and legal limitations. Holders of ADSs will receive such distributions under the terms of the deposit agreement in proportion to the number of ADSs held as of the specified record date, after deduction of the applicable fees, taxes and expenses.

Distributions of Cash

Whenever we make a cash distribution for the securities on deposit with the custodian, we will deposit the funds with the custodian. Upon receipt of confirmation of the deposit of the requisite funds, the depositary bank will arrange for the funds received in a currency other than U.S. dollars to be converted into U.S. dollars and for the distribution of the U.S. dollars to the holders, subject to the laws and regulations of Australia.

The conversion into U.S. dollars will take place only if practicable and if the U.S. dollars are transferable to the United States. The depositary bank will apply the same method for distributing the proceeds of the sale of any property (such as undistributed rights) held by the custodian in respect of securities on deposit.

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The distribution of cash will be made net of the fees, expenses, taxes and governmental charges payable by holders under the terms of the deposit agreement. The depositary bank will hold any cash amounts it is unable to distribute in a non-interest bearing account for the benefit of the applicable holders and beneficial owners of ADSs until the distribution can be effected or the funds that the depositary bank holds must be escheated as unclaimed property in accordance with the laws of the relevant states of the United States.

Distributions of Ordinary Shares

Whenever we make a free distribution of ordinary shares for the securities on deposit with the custodian, we will deposit the applicable number of ordinary shares with the custodian. Upon receipt of confirmation of such deposit, the depositary bank will either distribute to holders new ADSs representing the ordinary shares deposited or modify the ADS-to-ordinary shares ratio, in which case each ADS you hold will represent rights and interests in the additional ordinary shares so deposited. Only whole new ADSs will be distributed. Fractional entitlements will be sold and the proceeds of such sale will be distributed as in the case of a cash distribution.

The distribution of new ADSs or the modification of the ADS-to-ordinary shares ratio upon a distribution of ordinary shares will be made net of the fees, expenses, taxes and governmental charges payable by holders under the terms of the deposit agreement. In order to pay such taxes or governmental charges, the depositary bank may sell all or a portion of the new ordinary shares so distributed.

No such distribution of new ADSs will be made if it would violate a law (*e.g.*, the U.S. securities laws) or if it is not operationally practicable. If the depositary bank does not distribute new ADSs as described above, it may sell the ordinary shares received upon the terms described in the deposit agreement and will distribute the proceeds of the sale as in the case of a distribution of cash.

Distributions of Rights

Whenever we intend to distribute rights to subscribe for additional ordinary shares, we will give prior notice to the depositary bank and we will assist the depositary bank in determining whether it is lawful and reasonably practicable to distribute rights to subscribe for additional ADSs to holders.

The depositary bank will establish procedures to distribute rights to subscribe for additional ADSs to holders and to enable such holders to exercise such rights if we request such rights be made available to holders of ADSs, it is lawful and reasonably practicable to make the rights available to holders of ADSs, and if we provide all of the documentation contemplated in the deposit agreement (such as opinions to address the lawfulness of the transaction). You may have to pay fees, expenses, taxes and other governmental charges to subscribe for the new ADSs upon the exercise of your rights. The depositary bank is not obligated to establish procedures to facilitate the distribution and exercise by holders of rights to subscribe for new ordinary shares other than in the form of ADSs.

The depositary bank will *not* distribute the rights to you if:

- We do not timely request that the rights be distributed to you or we request that the rights not be distributed to you; or
- We fail to deliver satisfactory documents to the depositary bank; or
- It is not reasonably practicable to distribute the rights.

The depositary bank will sell the rights that are not exercised or not distributed if such sale is lawful and reasonably practicable. The proceeds of such sale will be distributed to holders as in the case of a cash distribution. If the depositary bank is unable to sell the rights, it will allow the rights to lapse.

Elective Distributions

Whenever we intend to distribute a dividend payable at the election of shareholders either in cash or in additional shares, we will give prior notice thereof to the depositary bank and will indicate whether we wish the elective distribution to be made available to you. In such case, we will assist the depositary bank in determining whether such distribution is lawful and reasonably practicable.

The depositary bank will make the election available to you only if we request and it is reasonably practicable and if we have provided all of the documentation contemplated in the deposit agreement. In such case, the depositary bank will establish procedures to enable you to elect to receive either cash or additional ADSs, in each case as described in the deposit agreement.

If the election is not made available to you, you will receive either cash or additional ADSs, depending on what a shareholder in Australia would receive upon failing to make an election, as more fully described in the deposit agreement.

Other Distributions

Whenever we intend to distribute property other than cash, ordinary shares or rights to subscribe for additional ordinary shares, we will notify the depositary bank in advance and will indicate whether we wish such distribution to be made to you. If so, we will assist the depositary bank in determining whether such distribution to holders is lawful and reasonably practicable.

If it is reasonably practicable to distribute such property to you and if we request such rights be made available to you and provide to the depositary bank all of the documentation contemplated in the deposit agreement, the depositary bank will distribute the property to the holders in a manner it deems practicable.

The distribution will be made net of fees, expenses, taxes and governmental charges payable by holders under the terms of the deposit agreement. In order to pay such taxes and governmental charges, the depositary bank may sell all or a portion of the property received.

The depositary bank will *not* distribute the property to you and will sell the property if:

- We do not request that the property be distributed to you or if we request that the property not be distributed to you; or
- We do not deliver satisfactory documents to the depositary bank; or
- The depositary bank determines that all or a portion of the distribution to you is not reasonably practicable.

The proceeds of such a sale will be distributed to holders as in the case of a cash distribution.

Redemption

Whenever we decide to redeem any of the securities on deposit with the custodian, we will notify the depositary bank in advance. If it is practicable and if we provide all of the documentation contemplated in the deposit agreement, the depositary bank will provide notice of the redemption to the holders.

The custodian will be instructed to surrender the shares being redeemed against payment of the applicable redemption price. The depositary bank will convert into U.S. dollars upon the terms of the deposit agreement the redemption funds received in a currency other than U.S. dollars and will establish procedures to enable holders to receive the net proceeds from the redemption upon surrender of their ADSs to the depositary bank. You may have to pay fees, expenses, taxes and other governmental charges upon the redemption of your ADSs. If less than all ADSs are being redeemed, the ADSs to be retired will be selected by lot or on a *pro rata* basis, as the depositary bank may determine.

Changes Affecting Ordinary Shares

The ordinary shares held on deposit for your ADSs may change from time to time. For example, there may be a change in nominal or par value, split-up, cancellation, consolidation or any other reclassification of such ordinary shares or a recapitalization, reorganization, merger, consolidation or sale of assets of the Company.

If any such change were to occur, your ADSs would, to the extent permitted by law and the deposit agreement, represent the right to receive the property received or exchanged in respect of the ordinary shares held on deposit. The depositary bank may in such circumstances deliver new ADSs to you, amend the deposit agreement, the ADRs and the applicable Registration Statement(s) on Form F-6, call for the exchange of your existing ADSs for new ADSs and take any other actions that are appropriate to reflect as to the ADSs the change affecting the Shares. If the depositary bank may not lawfully distribute such property to you, the depositary bank may sell such property and distribute the net proceeds to you as in the case of a cash distribution.

Issuance of ADSs upon Deposit of Ordinary Shares

Upon completion of the offering, the ordinary shares being offered hereby will be deposited by us with the custodian. Upon receipt of confirmation of such deposit, the depositary bank will issue ADSs to the underwriters named herein.

After the closing of the offering, the depositary bank may create ADSs on your behalf if you or your broker deposit ordinary shares with the custodian and provide the certifications and documentation required by the deposit agreement. The depositary bank will deliver these ADSs to the person you indicate only after you pay any applicable issuance fees and any charges and taxes payable for the transfer of the ordinary shares to the custodian. Your ability to deposit ordinary shares and receive ADSs may be limited by U.S. and Australian legal considerations applicable at the time of deposit.

The issuance of ADSs may be delayed until the depositary bank or the custodian receives confirmation that all required approvals have been given and that the ordinary shares have been duly transferred to the custodian. The depositary bank will only issue ADSs in whole numbers.

When you make a deposit of ordinary shares, you will be responsible for transferring good and valid title to the depositary bank. As such, you will be deemed to represent and warrant that:

- The ordinary shares are duly authorized, validly issued, fully paid, non-assessable and legally obtained.
- All preemptive (and similar) rights, if any, with respect to such ordinary shares have been validly waived or exercised.
- You are duly authorized to deposit the ordinary shares.
- The ordinary shares presented for deposit are free and clear of any lien, encumbrance, security interest, charge, mortgage or adverse claim, and are not, and the ADSs issuable upon such deposit will not be, “restricted securities” (as defined in the deposit agreement).
- The ordinary shares presented for deposit have not been stripped of any rights or entitlements.

If any of the representations or warranties are incorrect in any way, we and the depositary bank may, at your cost and expense, take any and all actions necessary to correct the consequences of the misrepresentations.

Transfer, Combination and Split Up of ADRs

As an ADR holder, you will be entitled to transfer, combine or split up your ADRs and the ADSs evidenced thereby. For transfers of ADRs, you will have to surrender the ADRs to be transferred to the depositary bank and also must:

- ensure that the surrendered ADR is properly endorsed or otherwise in proper form for transfer;

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- provide such proof of identity and genuineness of signatures as the depositary bank deems appropriate;
- provide any transfer stamps required by the State of New York or the United States; and
- pay all applicable fees, charges, expenses, taxes and other government charges payable by ADR holders pursuant to the terms of the deposit agreement, upon the transfer of ADRs.

To have your ADRs either combined or split up, you must surrender the ADRs in question to the depositary bank with your request to have them combined or split up, and you must pay all applicable fees, charges and expenses payable by ADR holders, pursuant to the terms of the deposit agreement, upon a combination or split up of ADRs.

Withdrawal of Ordinary Shares Upon Cancellation of ADSs

As a holder, you will be entitled to present your ADSs to the depositary bank for cancellation and then receive the corresponding number of underlying ordinary shares at the custodian's offices. Your ability to withdraw the ordinary shares held in respect of the ADSs may be limited by U.S. and Australian law considerations applicable at the time of withdrawal. In order to withdraw the ordinary shares represented by your ADSs, you will be required to pay to the depositary bank the fees for cancellation of ADSs and any charges and taxes payable upon the transfer of the ordinary shares. You assume the risk for delivery of all funds and securities upon withdrawal. Once canceled, the ADSs will not have any rights under the deposit agreement.

If you hold ADSs registered in your name, the depositary bank may ask you to provide proof of identity and genuineness of any signature and such other documents as the depositary bank may deem appropriate before it will cancel your ADSs. The withdrawal of the ordinary shares represented by your ADSs may be delayed until the depositary bank receives satisfactory evidence of compliance with all applicable laws and regulations. Please keep in mind that the depositary bank will only accept ADSs for cancellation that represent a whole number of securities on deposit.

You will have the right to withdraw the securities represented by your ADSs at any time except for:

- temporary delays that may arise because (i) the transfer books for the ordinary shares or ADSs are closed, or (ii) ordinary shares are immobilized on account of a shareholders' meeting or a payment of dividends;
- obligations to pay fees, taxes and similar charges; and/or
- restrictions imposed because of laws or regulations applicable to ADSs or the withdrawal of securities on deposit.

The deposit agreement may not be modified to impair your right to withdraw the securities represented by your ADSs except to comply with mandatory provisions of law.

Voting Rights

As a holder, you generally have the right under the deposit agreement to instruct the depositary bank to exercise the voting rights for the ordinary shares represented by your ADSs. The voting rights of holders of ordinary shares are described in "Description of Share Capital."

At our request, the depositary bank will distribute to you any notice of shareholders' meeting received from us together with information explaining how to instruct the depositary bank to exercise the voting rights of the securities represented by ADSs. In lieu of distributing such materials, the depositary bank may distribute to holders of ADSs instructions on how to retrieve such materials upon request.

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If the depositary bank timely receives voting instructions from a holder of ADSs, it will endeavor to vote the securities (in person or by proxy) represented by the holder's ADSs as follows:

- *In the event of voting by show of hands*, the depositary bank will vote (or cause the custodian to vote) all ordinary shares held on deposit at that time in accordance with the voting instructions received from a majority of holders of ADSs who provide timely voting instructions.
- *In the event of voting by poll*, the depositary bank will vote (or cause the Custodian to vote) the ordinary shares held on deposit in accordance with the voting instructions received from the holders of ADSs.

Securities for which no voting instructions have been received will not be voted (except as set forth above in the case voting is by show of hands and as otherwise contemplated in the deposit agreement). Please note that the ability of the depositary bank to carry out voting instructions may be limited by practical and legal limitations and the terms of the securities on deposit. We cannot assure you that you will receive voting materials in time to enable you to return voting instructions to the depositary bank in a timely manner.

Fees and Charges

As an ADS holder, you will be required to pay the following fees under the terms of the deposit agreement:

<u>Service</u>	<u>Fees</u>
• Issuance of ADSs (e.g., an issuance of ADS upon a deposit of ordinary shares, upon a change in the ADS(s)-to-ordinary share(s) ratio, or for any other reason), excluding ADS issuances as a result of distributions of ordinary shares)	Up to U.S. 5¢ per ADS issued
• Cancellation of ADSs (e.g., a cancellation of ADSs for delivery of deposited property, upon a change in the ADS(s)-to-ordinary share(s) ratio, or for any other reason)	Up to U.S. 5¢ per ADS cancelled
• Distribution of cash dividends or other cash distributions (e.g., upon a sale of rights and other entitlements)	Up to U.S. 5¢ per ADS held
• Distribution of ADSs pursuant to (i) stock dividends or other free stock distributions, or (ii) exercise of rights to purchase additional ADSs	Up to U.S. 5¢ per ADS held
• Distribution of securities other than ADSs or rights to purchase additional ADSs (e.g., upon a spin-off)	Up to U.S. 5¢ per ADS held
• ADS Services	Up to U.S. 5¢ per ADS held on the applicable record date(s) established by the depositary bank
• Registration of ADS transfers (e.g., upon a registration of the transfer of registered ownership of ADSs, upon a transfer of ADSs into DTC and <i>vice versa</i> , or for any other reason)	Up to U.S. 5¢ per ADS (or fraction thereof) transferred
• Conversion of ADSs of one series for ADSs of another series (e.g., upon conversion of Partial Entitlement ADSs for Full Entitlement ADSs, or upon conversion of Restricted ADSs (each as defined in the Deposit Agreement) into freely transferable ADSs, and <i>vice versa</i>).	Up to U.S. 5¢ per ADS (or fraction thereof) converted

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As an ADS holder you will also be responsible to pay certain charges such as:

- taxes (including applicable interest and penalties) and other governmental charges;
- the registration fees as may from time to time be in effect for the registration of ordinary shares on the share register and applicable to transfers of ordinary shares to or from the name of the custodian, the depositary bank or any nominees upon the making of deposits and withdrawals, respectively;
- certain cable, telex and facsimile transmission and delivery expenses;
- the fees, expenses, spreads, taxes and other charges of the depositary bank and/or service providers (which may be a division, branch or affiliate of the depositary bank) in the conversion of foreign currency;
- the reasonable and customary out-of-pocket expenses incurred by the depositary bank in connection with compliance with exchange control regulations and other regulatory requirements applicable to ordinary shares, ADSs and ADRs; and
- the fees, charges, costs and expenses incurred by the depositary bank, the custodian, or any nominee in connection with the ADR program.

ADS fees and charges for (i) the issuance of ADSs, and (ii) the cancellation of ADSs are charged to the person for whom the ADSs are issued (in the case of ADS issuances) and to the person for whom ADSs are cancelled (in the case of ADS cancellations). In the case of ADSs issued by the depositary bank into DTC, the ADS issuance and cancellation fees and charges may be deducted from distributions made through DTC, and may be charged to the DTC participant(s) receiving the ADSs being issued or the DTC participant(s) holding the ADSs being cancelled, as the case may be, on behalf of the beneficial owner(s) and will be charged by the DTC participant(s) to the account of the applicable beneficial owner(s) in accordance with the procedures and practices of the DTC participants as in effect at the time. ADS fees and charges in respect of distributions and the ADS service fee are charged to the holders as of the applicable ADS record date. In the case of distributions of cash, the amount of the applicable ADS fees and charges is deducted from the funds being distributed. In the case of (i) distributions other than cash and (ii) the ADS service fee, holders as of the ADS record date will be invoiced for the amount of the ADS fees and charges and such ADS fees and charges may be deducted from distributions made to holders of ADSs. For ADSs held through DTC, the ADS fees and charges for distributions other than cash and the ADS service fee may be deducted from distributions made through DTC, and may be charged to the DTC participants in accordance with the procedures and practices prescribed by DTC and the DTC participants in turn charge the amount of such ADS fees and charges to the beneficial owners for whom they hold ADSs. In the case of (i) registration of ADS transfers, the ADS transfer fee will be payable by the ADS Holder whose ADSs are being transferred or by the person to whom the ADSs are transferred, and (ii) conversion of ADSs of one series for ADSs of another series, the ADS conversion fee will be payable by the Holder whose ADSs are converted or by the person to whom the converted ADSs are delivered.

In the event of refusal to pay the depositary bank fees, the depositary bank may, under the terms of the deposit agreement, refuse the requested service until payment is received or may set off the amount of the depositary bank fees from any distribution to be made to the ADS holder. Certain depositary fees and charges (such as the ADS services fee) may become payable shortly after the closing of the ADS offering. Note that the fees and charges you may be required to pay may vary over time and may be changed by us and by the depositary bank. You will receive prior notice of such changes. The depositary bank may reimburse us for certain expenses incurred by us in respect of the ADR program, by making available a portion of the ADS fees charged in respect of the ADR program or otherwise, upon such terms and conditions as we and the depositary bank agree from time to time.

Amendments and Termination

We may agree with the depositary bank to modify the deposit agreement at any time without your consent. We undertake to give holders 30 days' prior notice of any modifications that would materially prejudice any of their substantial rights under the deposit agreement. We will not consider to be materially prejudicial to your

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substantial rights any modifications or supplements that are reasonably necessary for the ADSs to be registered under the Securities Act or to be eligible for book-entry settlement, in each case without imposing or increasing the fees and charges you are required to pay. In addition, we may not be able to provide you with prior notice of any modifications or supplements that are required to accommodate compliance with applicable provisions of law.

You will be bound by the modifications to the deposit agreement if you continue to hold your ADSs after the modifications to the deposit agreement become effective. The deposit agreement cannot be amended to prevent you from withdrawing the ordinary shares represented by your ADSs (except as permitted by law).

We have the right to direct the depository bank to terminate the deposit agreement. Similarly, the depository bank may in certain circumstances on its own initiative terminate the deposit agreement. In either case, the depository bank must give notice to the holders at least 30 days before termination. Until termination, your rights under the deposit agreement will be unaffected.

After termination, the depository bank will continue to collect distributions received (but will not distribute any such property until you request the cancellation of your ADSs) and may sell the securities held on deposit. After the sale, the depository bank will hold the proceeds from such sale and any other funds then held for the holders of ADSs in a non-interest bearing account. At that point, the depository bank will have no further obligations to holders other than to account for the funds then held for the holders of ADSs still outstanding (after deduction of applicable fees, taxes and expenses).

In connection with any termination of the deposit agreement, the depository bank may make available to owners of ADSs a means to withdraw the ordinary shares represented by ADSs and to direct the depository of such ordinary shares into an unsponsored American depository share program established by the depository bank. The ability to receive unsponsored American depository shares upon termination of the deposit agreement would be subject to satisfaction of certain U.S. regulatory requirements applicable to the creation of unsponsored American depository shares and the payment of applicable depository fees.

Books of Depository

The depository bank will maintain ADS holder records at its depository office. You may inspect such records at such office during regular business hours but solely for the purpose of communicating with other holders in the interest of business matters relating to the ADSs and the deposit agreement.

The depository bank will maintain in New York facilities to record and process the issuance, cancellation, combination, split-up and transfer of ADSs. These facilities may be closed from time to time, to the extent not prohibited by law.

Limitations on Obligations and Liabilities

The deposit agreement limits our obligations and the depository bank's obligations to you. Please note the following:

- We and the depository bank are obligated only to take the actions specifically stated in the deposit agreement without negligence or bad faith.
- The depository bank disclaims any liability for any failure to carry out voting instructions, for any manner in which a vote is cast or for the effect of any vote, provided it acts in good faith and in accordance with the terms of the deposit agreement.
- The depository bank disclaims any liability for any failure to determine the lawfulness or practicality of any action, for the content of any document forwarded to you on our behalf or for the accuracy of any

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translation of such a document, for the investment risks associated with investing in ordinary shares, for the validity or worth of the ordinary shares, for any tax consequences that result from the ownership of ADSs, for the credit-worthiness of any third party, for allowing any rights to lapse under the terms of the deposit agreement, for the timeliness of any of our notices or for our failure to give notice.

- We and the depositary bank also disclaim any liability for any action or inaction of any clearing or settlement system (and any participant thereof) for the ADSs or securities on deposit.
- We and the depositary bank will not be obligated to perform any act that is inconsistent with the terms of the deposit agreement.
- We and the depositary bank disclaim any liability if we or the depositary bank are prevented or forbidden from or subject to any civil or criminal penalty or restraint on account of, or delayed in, doing or performing any act or thing required by the terms of the deposit agreement, by reason of any provision, present or future of any law or regulation, or by reason of present or future provision of any provision of our Constitution, or any provision of or governing the securities on deposit, or by reason of any act of God or war or other circumstances beyond our control.
- We and the depositary bank disclaim any liability by reason of any exercise of, or failure to exercise, any discretion provided for in the deposit agreement or in our Constitution or in any provisions of or governing the securities on deposit.
- We and the depositary bank further disclaim any liability for any action or inaction in reliance on the advice or information received from legal counsel, accountants, any person presenting Shares for deposit, any holder of ADSs or authorized representatives thereof, or any other person believed by either of us in good faith to be competent to give such advice or information.
- We and the depositary bank also disclaim liability for the inability by a holder to benefit from any distribution, offering, right or other benefit that is made available to holders of ordinary shares but is not, under the terms of the deposit agreement, made available to you.
- We and the depositary bank may rely without any liability upon any written notice, request or other document believed to be genuine and to have been signed or presented by the proper parties.
- We and the depositary bank also disclaim liability for any consequential or punitive damages for any breach of the terms of the deposit agreement.
- No disclaimer of any Securities Act liability is intended by any provision of the deposit agreement.
- Nothing in the deposit agreement gives rise to a partnership or joint venture, or establishes a fiduciary relationship, among us, the depositary bank and you as ADS holder.
- Nothing in the deposit agreement precludes Citibank (or its affiliates) from engaging in transactions in which parties adverse to us or the ADS owners have interests, and nothing in the deposit agreement obligates Citibank to disclose those transactions, or any information obtained in the course of those transactions, to us or to the ADS owners, or to account for any payment received as part of those transactions.

Taxes

You will be responsible for the taxes and other governmental charges payable on the ADSs and the securities represented by the ADSs. We, the depositary bank and the custodian may deduct from any distribution the taxes and governmental charges payable by holders and may sell any and all property on deposit to pay the taxes and governmental charges payable by holders. You will be liable for any deficiency if the sale proceeds do not cover the taxes that are due.

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The depositary bank may refuse to issue ADSs, to deliver, transfer, split and combine ADRs or to release securities on deposit until all taxes and charges are paid by the applicable holder. The depositary bank and the custodian may take reasonable administrative actions to obtain tax refunds and reduced tax withholding for any distributions on your behalf. However, you may be required to provide to the depositary bank and to the custodian proof of taxpayer status and residence and such other information as the depositary bank and the custodian may require to fulfill legal obligations. You are required to indemnify us, the depositary bank and the custodian for any claims with respect to taxes based on any tax benefit obtained for you.

Foreign Currency Conversion

The depositary bank will arrange for the conversion of all foreign currency received into U.S. dollars if such conversion is practical, and it will distribute the U.S. dollars in accordance with the terms of the deposit agreement. You may have to pay fees and expenses incurred in converting foreign currency, such as fees and expenses incurred in complying with currency exchange controls and other governmental requirements.

If the conversion of foreign currency is not practical or lawful, or if any required approvals are denied or not obtainable at a reasonable cost or within a reasonable period, the depositary bank may take the following actions in its discretion:

- Convert the foreign currency to the extent practical and lawful and distribute the U.S. dollars to the holders for whom the conversion and distribution is lawful and practical.
- Distribute the foreign currency to holders for whom the distribution is lawful and practical.
- Hold the foreign currency (without liability for interest) for the applicable holders.

Governing Law/Waiver of Jury Trial

The deposit agreement, the ADRs and the ADSs will be interpreted in accordance with the laws of the State of New York. The rights of holders of ordinary shares (including ordinary shares represented by ADSs) are governed by the laws of Australia.

As an owner of ADSs or holder of an interest therein, you irrevocably agree that any suit, action or proceeding arising out of the Deposit Agreement, the ADSs, the ADRs or the transactions contemplated thereby, involving the Company or the Depositary, may only be instituted in a state or federal court in the city of New York, and by holding an ADS or an interest therein, you irrevocably waive any objection which you may now or hereafter have to the laying of venue of any such suit, action or proceeding in, and irrevocably submit to the exclusive jurisdiction of, such courts in any such suit, action or proceeding. The deposit agreement also provides that the foregoing agreement and waiver shall survive your ownership of the ADSs or interests therein.

AS A PARTY TO THE DEPOSIT AGREEMENT, YOU IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOUR RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT, OR RELATING TO, OF THE DEPOSIT AGREEMENT, THE ADRs OR ANY TRANSACTION CONTEMPLATED THEREIN.

Such waiver of your right to trial by jury would apply to any claim under U.S. federal securities laws. The waiver continues to apply to claims that arise during the period when a holder holds the ADSs, whether the ADS holder purchased the ADSs in this offering or in secondary transactions, even if the ADS holder subsequently withdraws the underlying ordinary shares. If we or the depositary opposed a jury trial demand based on the waiver, the court would determine whether the waiver was enforceable based on the facts and circumstances of the applicable case in accordance with applicable case law. However, you will not be deemed, by agreeing to the terms of the deposit agreement, to have waived our or the depositary's compliance with U.S. federal securities laws and the rules and regulations promulgated thereunder.

Shares Eligible for Future Sale

Upon completion of this offering, there will be outstanding _____ ordinary shares, including shares underlying the ADSs, and ADSs, representing approximately _____ % of our outstanding ordinary shares.

Future sales of substantial amounts of our ordinary shares or ADSs in the public market in the United States or in Australia, including ordinary shares issued upon exercise of outstanding options, or the possibility of such sales, could negatively affect the market price in the United States of the ADSs and our ability to raise equity capital in the future.

All of the ADSs sold in the offering will be freely transferable in the United States by persons other than our “affiliates,” as that term is defined in Rule 144 under the Securities Act. As defined in Rule 144, an “affiliate” of an issuer is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the issuer. ADSs purchased by one of our affiliates may not be resold, except pursuant to an effective registration statement or an exemption from registration, including Rule 144 under the Securities Act (as described below).

Lock-up Agreements

We and each of our executive officers and directors have agreed to a 180-day “lock up” with respect to ordinary shares and ADSs that they beneficially own, including securities that are convertible into ordinary shares and ADSs and securities that are exchangeable or exercisable for ordinary shares and ADSs. This means that, subject to certain exceptions, for a period of 180 days following the date of this prospectus, we and such persons may not offer, sell, pledge or otherwise dispose of these securities without the prior written consent of Evercore Group L.L.C. and William Blair & Company, L.L.C. For more detail on the lock-up agreements, see “Underwriting.”

Rule 144

In general, under Rule 144 of the Securities Act and beginning 90 days after the date of this prospectus, a person who is not deemed to have been our affiliate at any time during the three months preceding a sale and who has beneficially owned “restricted securities” within the meaning of Rule 144 for more than six months would be entitled to sell an unlimited number of shares, subject only to the availability of current public information about us. A non-affiliate who has beneficially owned “restricted securities” for at least one year from the later of the date these shares were acquired from us or from our affiliate would be entitled to freely sell those shares.

A person who is deemed to be an affiliate of ours and who has beneficially owned “restricted securities” for at least six months would be entitled to sell, within any three-month period, a number of shares that is not more than the greater of:

- 1.0% of the number of our ordinary shares then outstanding; or
- the average weekly reported trading volume of our ordinary shares on Nasdaq during the four calendar weeks preceding the date on which a notice of the sale on Form 144 is filed with the SEC by such person.

Sales under Rule 144 of the Securities Act by persons who are deemed to be our affiliates are also subject to manner-of-sale provisions, notice requirements and the availability of current public information about us as specified in Rule 144. In addition, in each case, these shares would remain subject to lock-up arrangements and would only become eligible for sale when the lock-up period expires.

Regulation S

Regulation S provides generally that sales made in offshore transactions are not subject to the registration or prospectus delivery requirements of the Securities Act.

Rule 701

In general, under Rule 701 of the Securities Act, each of our employees, consultants or advisors who purchases our ordinary shares from us in connection with a compensatory stock plan or other written agreement executed prior to the completion of this offering is eligible to resell such ordinary shares in reliance on Rule 144, but without compliance with some of the restrictions, including the holding period, contained in Rule 144.

Taxation

The following is a summary of material U.S. federal and Australian income tax considerations to U.S. Holders, as defined below, of the acquisition, ownership and disposition of our ordinary shares and ADSs. This discussion is based on the laws in force as of the date of this prospectus, and is subject to changes in the relevant income tax law, including changes that could have retrospective effect. The following summary does not take into account or discuss the tax laws of any country or other taxing jurisdiction other than the United States and Australia. Holders are advised to consult their tax advisors concerning the overall tax consequences of the acquisition, ownership and disposition of ordinary shares and ADSs in their particular circumstances. This discussion is not intended, and should not be construed, as legal or professional tax advice.

U.S. Federal Income Tax Considerations

The following discussion describes certain material U.S. federal income tax consequences to U.S. Holders (defined below) associated with the purchase, ownership and disposition of our ADSs or ordinary shares as of the date hereof. This summary applies only to investors that hold our ADSs or ordinary shares as capital assets within the meaning of Section 1221 of the Code, (generally, property held for investment) and that have the U.S. Dollar as their functional currency. This discussion is based on the Code, and on U.S. Treasury Regulations (including proposed U.S. Treasury Regulations), as well as judicial and administrative interpretations thereof, as of the date hereof. All of the foregoing authorities are subject to change, which change could apply retroactively and could affect the tax consequences described below. This summary does not discuss the alternative minimum tax, the Medicare tax on net investment income, any estate or gift tax consequences or the tax consequences of an investment in our ADSs or ordinary shares under the tax laws of any state of the United States or the District of Columbia or any political subdivision respectively thereof. No ruling will be requested from the U.S. Internal Revenue Service (“IRS”) regarding the tax consequences of the purchase, ownership or disposition of our ADSs or ordinary shares, and there can be no assurance that the IRS will agree with the discussion set out below.

The following discussion does not address the tax consequences to any particular investor or to persons subject to special tax rules such as:

- banks, financial institutions or insurance companies;
- real estate investment trusts or regulated investment companies;
- brokers, dealers or traders in securities, commodities or currencies;
- tax-exempt entities, “individual retirement accounts” or “Roth IRAs” or governmental organizations;
- persons that received our ADSs or ordinary shares pursuant to the exercise of any employee stock option or otherwise as compensation for the performance of services;
- persons that will hold our ADSs or ordinary shares as part of a hedging, wash sale or conversion transaction or as part of a synthetic security or a position in a straddle for U.S. federal income tax purposes;
- U.S. expatriates;
- partnerships or other pass-through entities for U.S. federal income tax purposes, and persons that will hold our ADSs or ordinary shares through partnerships or other pass-through entities;
- holders that own or are deemed to own (directly, indirectly or by attribution) 10% or more, by voting power or value, of our outstanding ordinary shares; or
- persons that will hold the ADSs or ordinary shares in connection with a trade or business outside the United States.

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For purposes of this discussion, a “U.S. Holder” is a beneficial owner of ADSs or ordinary shares that, for U.S. federal income tax purposes, is:

- an individual who is a citizen or resident of the United States;
- a corporation (or other entity taxable as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust that (1) is subject to the primary supervision of a court within the United States and the control of one or more United States persons for all substantial decisions or (2) has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a United States person.

If you are a partner in an entity treated as a partnership for U.S. federal income tax purposes that holds our ADSs or ordinary shares, your U.S. federal income tax treatment will generally depend on your status and the activities of the partnership. If you are a partner in such a partnership, you should consult your tax advisor.

The discussion below assumes the representations contained in the deposit agreement are true and that the obligations in the deposit agreement and any related agreement have been and will be complied with in accordance with their terms. For U.S. federal income tax purposes, a U.S. Holder of ADSs will generally be treated as the beneficial owner of the underlying ordinary shares represented by the ADSs. Assuming such treatment is respected, no gain or loss will be recognized upon an exchange of ADSs for ordinary shares. However, the creditability of any foreign taxes paid and the availability of the reduced tax rate for dividends received by certain non-corporate U.S. Holders, including individual U.S. Holders (as discussed below), could be affected by actions taken by intermediaries in the chain of ownership between the holders of ADSs and us if, as a result of such actions, the holders of ADSs are not properly treated as beneficial owners of underlying ordinary shares.

PROSPECTIVE PURCHASERS ARE URGED TO CONSULT THEIR TAX ADVISORS REGARDING THE APPLICATION OF THE U.S. FEDERAL INCOME TAX RULES TO THEIR PARTICULAR CIRCUMSTANCES AS WELL AS THE STATE, LOCAL, AND NON-U.S. TAX CONSEQUENCES TO THEM OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF THE ADSs OR ORDINARY SHARES.

Dividends and Other Distributions on ADSs or ordinary shares

Subject to the discussion below under “—Passive Foreign Investment Company Considerations,” for U.S. federal income tax purposes, the gross amount of any distribution actually or constructively received with respect to your ADSs or ordinary shares, without reduction for any Australian taxes withheld therefrom, generally will be a foreign source dividend includible in your income as ordinary income to the extent such distributions are paid out of our current or accumulated earnings and profits as determined under U.S. federal income tax principles. To the extent that the amount of the distribution exceeds our current and accumulated earnings and profits, it will be treated first as a tax-free return of your tax basis in your ADSs or ordinary shares, and to the extent the amount of the distribution exceeds your tax basis, the excess will be taxed as capital gain. We do not currently, and we do not intend to, calculate our earnings and profits under U.S. federal income tax principles. Therefore, a U.S. Holder should expect that a distribution will be reported as a dividend even if that distribution would otherwise be treated as a return of capital or as a capital gain under the rules described above. Dividends will not be eligible for the dividends-received deduction allowed to corporations in respect of dividends received from other U.S. corporations.

Subject to applicable limitations, with respect to certain non-corporate U.S. Holders (including individual U.S. Holders), dividends will generally constitute “qualified dividend income” that is taxed at the lower applicable capital gains rate, provided that (1) we are eligible for the benefits of the income tax treaty between the United States and Australia (“Treaty”) or the ADSs or ordinary shares are readily tradable on an established

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securities market in the United States, including the Nasdaq, (2) we are not a PFIC for either the taxable year in which the dividend was paid or the preceding taxable year, and (3) certain holding period requirements are met. You should consult your tax advisor regarding the availability of the lower rate for dividends with respect to our ADSs or ordinary shares.

The amount of any distribution paid in Australian Dollars that will be included in your gross income will be equal to the U.S. Dollar value of the distribution, calculated using the exchange rate in effect on the date you receive the dividend, regardless of whether the payment is actually converted into U.S. Dollars. Any gain or loss resulting from foreign currency exchange rate fluctuations during the period from the date the dividend is received to the date the Australian Dollars are converted into U.S. Dollars will be treated as ordinary income or loss, and generally will be income or loss from sources within the United States for U.S. foreign tax credit purposes. If the Australian Dollars are converted into U.S. Dollars on the date of receipt, you generally should not be required to recognize foreign currency gain or loss in respect of the dividend. The amount of any distribution of property other than cash generally will be the fair market value of such property on the date of distribution.

Subject to certain conditions and limitations, any Australian taxes withheld from a distribution to you may be eligible for credit against your U.S. federal income tax liability. If the dividends are qualified dividend income (as discussed above), the amount of the dividend taken into account for purposes of calculating the U.S. foreign tax credit limitation generally will be limited to the gross amount of the dividend, multiplied by the reduced rate divided by the highest rate of tax normally applicable to dividends. The limitation on foreign taxes eligible for credit is calculated separately with respect to specific classes of income. For this purpose, dividends that we distribute generally will constitute “passive category income” but could, in the case of certain U.S. Holders, constitute “general category income.” The rules relating to the determination of the U.S. foreign tax credit are complex, and you should consult your tax advisors to determine whether and to what extent a credit would be available in your particular circumstances, including the effects of any applicable income tax treaty. A U.S. Holder that does not elect to claim a foreign tax credit with respect to any foreign taxes for a given taxable year may instead claim an itemized deduction for all foreign taxes paid or accrued in that taxable year.

Sale, Exchange or Other Taxable Disposition of ADSs or Ordinary Shares

Subject to the discussion below under “—Passive Foreign Investment Company Considerations,” you will recognize capital gain or loss on a sale, exchange or other taxable disposition of your ADSs or ordinary shares equal to the difference between the amount realized (in U.S. Dollars) on such disposition and your adjusted tax basis (in U.S. Dollars) in your ADSs or ordinary shares. If you are a non-corporate U.S. Holder (including an individual U.S. Holder) who has held ADSs or ordinary shares for more than one year, capital gain on a disposition of ADSs or ordinary shares generally will be eligible for reduced U.S. federal income tax rates. Any gain or loss that you recognize generally will be treated as U.S. source income or loss for U.S. foreign tax credit purposes. The deductibility of capital losses is subject to limitations.

If you receive foreign currency on the disposition of ADSs or ordinary shares, the amount realized generally will be the U.S. Dollar value of the payment received determined on the date of the disposition. If the ADSs or ordinary shares are treated as traded on an “established securities market,” a cash basis U.S. Holder (or an accrual basis U.S. Holder that makes a special election that must be applied consistently from year to year and cannot be changed without the consent of the IRS) will determine the U.S. Dollar value of the amount realized in foreign currency by translating the amount received at the spot rate of exchange on the settlement date of the disposition. If you are an accrual basis taxpayer that is not eligible to or does not elect to determine the amount realized using the spot rate on the settlement date, you will recognize foreign currency gain or loss to the extent of any difference between the U.S. Dollar amount realized on the date of disposition and the U.S. Dollar value of the currency received at the spot rate on the settlement date. Your initial tax basis in your ADSs or ordinary shares will be your U.S. Dollar cost of your ADSs or ordinary shares determined on the date of purchase. However, if the ADSs or ordinary shares are treated as traded on an established securities market and you are

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either a cash basis U.S. Holder or an accrual basis taxpayer who has made the special election described above, you will use the U.S. Dollar cost determined on the settlement date of the purchase.

Passive Foreign Investment Company Considerations

A non-U.S. corporation will be classified as a PFIC for any taxable year in which, after applying certain look-through rules, either:

- at least 75% of its gross income is passive income; or
- at least 50% of its assets (generally based on an average of the quarterly values of the assets during a taxable year) is attributable to assets that produce or are held for the production of passive income.

For purposes of the above calculations, a non-U.S. corporation will be treated as owning its proportionate share of the assets and earning its proportionate share of the income of any other corporation in which it owns, directly or indirectly, 25% or more (by value) of the equity. Passive income generally includes dividends, interest, certain rents or royalties, foreign currency or other investment gains and certain other categories of income.

Based on the value of our assets for our taxable year ending June 30, 2021, including the value of our goodwill, and the composition of our income and assets in such year, we do not believe that we were a PFIC for our taxable year ending June 30, 2021. However, a separate determination must be made after the close of each taxable year as to whether we are a PFIC for that year, based on our income for the entire year and the value of our assets throughout the year. Moreover, the application of the PFIC rules is subject to uncertainty in several respects. Accordingly, we cannot assure you that we will not be a PFIC for our current taxable year or any future taxable year. In particular, until we start generating revenue, our PFIC status may depend, in part, on the receipt and treatment of other sources of income (including government grants) and having active income from other sources in excess of passive income from investments. For purposes of the asset test described above, goodwill is generally characterized as an active asset to the extent it is associated with business activities that produce active income, and the value of our assets, including goodwill, generally will be calculated using the market price of our ADSs or ordinary shares, which may fluctuate considerably. Accordingly, fluctuations in the market price of our ADSs or ordinary shares may affect our PFIC status for any taxable year. In addition, cash is generally characterized as a passive asset for these purposes, so the composition of our income and assets will be affected by how, and how quickly, we spend the cash raised in any offering, including this offering.

If we are classified as a PFIC in any taxable year with respect to which a U.S. Holder owns the ADSs or ordinary shares, we will continue to be treated as a PFIC with respect to such U.S. Holder in all succeeding years during which the U.S. Holder owns the ADSs or ordinary shares, regardless of whether we continue to meet the tests described above unless (1) we cease to be a PFIC and (2) the U.S. Holder has made a “deemed sale” election under the PFIC rules.

If we are a PFIC for any taxable year during which you hold ADSs or ordinary shares and you do not make one of the elections described above or below, you will be subject to special tax rules with respect to any “excess distribution” that you receive and any gain you realize from a sale or other disposition (including a pledge) of ADSs or ordinary shares. Distributions you receive in a taxable year that are greater than 125% of the average annual distributions you received during the shorter of the three preceding taxable years or your holding period for the ADSs or ordinary shares will be treated as an excess distribution. Under these special tax rules:

- the excess distribution or gain will be allocated ratably over your holding period for the ADSs or ordinary shares;
- the amount allocated to the current taxable year, and any taxable year prior to the first taxable year in which we became a PFIC, will be treated as ordinary income; and

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- the amount allocated to each other year will be subject to the highest tax rate in effect for that year and the interest charge generally applicable to underpayments of tax will be imposed on the resulting tax attributable to each such year.

The tax liability for amounts allocated to years prior to the year of disposition or “excess distribution” cannot be offset by any net operating losses for such years, and gains (but not losses) realized on the sale of the ADSs or ordinary shares cannot be treated as capital, even if you hold the ADSs or ordinary shares as capital assets.

Certain elections may be available that would result in alternative treatments (such as mark-to-market treatment of the ADSs or ordinary shares). There can be no assurance that we will provide the information necessary for U.S. Holders of our ADSs or ordinary shares to make qualified electing fund elections, which, if available, would result in tax treatment different from the general tax treatment for an investment in a PFIC described above.

If we are treated as a PFIC with respect to you for any taxable year, to the extent any of our subsidiaries are also PFICs, you may be deemed to own shares in such lower-tier PFICs that are directly or indirectly owned by us in that proportion which the value of the ADSs or ordinary shares you own bears to the value of all of our ADSs or ordinary shares, and you may be subject to the adverse tax consequences described above with respect to the shares of such lower-tier PFICs that you would be deemed to own. However, an election for mark-to-market treatment would likely not be available with respect to any such subsidiaries. You should consult your tax advisors regarding the availability and desirability of a mark-to-market election as well as the impact of such election on interests in any lower-tier PFICs.

If we are considered a PFIC, a U.S. Holder will also be subject to information reporting requirements on an annual basis. If we are or become a PFIC, you should consult your tax advisor regarding any reporting requirements that may apply to you.

U.S. Holders are urged to consult their tax advisors regarding the application of the PFIC rules to the ownership and disposition of the ADSs or ordinary shares.

Backup Withholding Tax and Information Reporting Requirements

Dividends on and the proceeds of a sale or other taxable disposition of ADSs or ordinary shares may be subject to information reporting to the IRS and possible U.S. backup withholding. Backup withholding will not apply to a U.S. Holder who furnishes a correct taxpayer identification number and makes any other required certification or who is otherwise exempt from backup withholding. U.S. Holders who are required to establish their exempt status can provide such certification on IRS Form W-9. U.S. Holders should consult their tax advisors regarding the application of the U.S. information reporting and backup withholding rules.

Backup withholding is not an additional tax. Amounts withheld as backup withholding may be credited against a U.S. Holder’s U.S. federal income tax liability, and a U.S. Holder may obtain a refund of any excess amounts withheld under the backup withholding rules by timely filing the appropriate claim for refund with the IRS and furnishing any required information.

Additional Reporting Requirements

Individuals (and certain entities) that own “specified foreign financial assets” with an aggregate value in excess of certain thresholds on the last day of the taxable year (or with an aggregate value in excess of certain thresholds at any time during the taxable year) are generally required to file an information report on IRS Form 8938 with respect to such assets with their U.S. federal income tax returns. “Specified foreign financial assets” include any financial accounts maintained by foreign financial institutions, as well as any of the following, but only if they are not held in accounts maintained by certain financial institutions: (1) stocks and securities issued

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by non-U.S. persons, (2) financial instruments and contracts held for investment that have non-U.S. issuers or counterparties, and (3) interests in foreign entities. The ADSs or ordinary shares may be subject to these rules. U.S. Holders are urged to consult their tax advisors regarding the application of these rules to their ownership of the ADSs or ordinary shares.

Australian Tax Considerations

In this section, we discuss the material Australian income tax, stamp duty and goods and services tax considerations related to the acquisition, ownership and disposal by the absolute beneficial owners of the ordinary shares or ADSs. This discussion represents the opinion of Johnson Winter & Slattery, Australian counsel to Bionomics.

This summary only discusses the tax considerations for Non-Australian Shareholders (as defined below). It is based upon existing Australian tax law, case law and administrative practice of various revenue authorities as of the date of this registration statement, which is subject to change, possibly retrospectively. This discussion does not address all aspects of Australian tax law which may be important to particular investors in light of their individual investment circumstances, such as shares held by investors subject to special tax rules (for example, financial institutions, insurance companies or tax exempt organizations). In addition, this summary does not discuss any foreign or state tax considerations, other than stamp duty.

Prospective investors are urged to consult their tax advisors regarding the Australian and foreign income and other tax considerations of the acquisition, ownership and disposition of the shares. As used in this summary a “Non-Australian Shareholder” is a holder that is not an Australian tax resident and is not carrying on business in Australia through a permanent establishment.

Nature of ADSs for Australian Taxation Purposes

Ordinary shares represented by ADSs held by a U.S. holder will be treated for Australian taxation purposes as held under a “bare trust” for such holder. Consequently, the underlying ordinary shares will be regarded as owned by the ADS holder for Australian income tax and capital gains tax purposes. Dividends paid on the underlying ordinary shares will also be treated as dividends paid to the ADS holder, as the person beneficially entitled to those dividends. Therefore, in the following analysis we discuss the tax consequences to Non-Australian Shareholders owning ordinary shares for Australian taxation purposes. We note that the holder of an ADS will be treated for Australian tax purposes as the owner of the underlying ordinary shares that are represented by such ADSs.

Taxation of Dividends

Australia operates a dividend imputation system under which dividends may be declared to be “franked” to the extent of tax paid on company profits from which the dividend is sourced. Fully franked dividends are not subject to dividend withholding tax when paid to Non-Australian Shareholders. An exemption for dividend withholding tax can also apply to unfranked dividends that are declared to be conduit foreign income (“CFI”) and paid to Non-Australian Shareholders. Dividend withholding tax will be imposed at 30%, unless a shareholder is a resident of a country with which Australia has a double taxation agreement and qualifies for the benefits of the treaty. Under the provisions of the current Double Taxation Convention between Australia and the United States, the Australian tax withheld on unfranked dividends that are not declared to be CFI paid by us to a resident of the United States which is beneficially entitled to that dividend is limited to 15% where that resident is a qualified person for the purposes of the Double Taxation Convention between Australia and the United States.

If a Non-Australian Shareholder is a company that is a qualified person for the purposes of the Double Taxation Convention between Australia and the United States and owns a 10% or more interest, the Australian tax withheld on dividends paid by us to which a resident of the United States is beneficially entitled is limited to 5%. In limited circumstances the rate of withholding can be reduced to zero.

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Tax on Sales or other Dispositions of Shares—Capital gains tax

Non-Australian Shareholders will not be subject to Australian capital gains tax on the gain made on a sale or other disposal of ordinary shares, unless they, together with their associates, hold 10% or more of our issued capital, at the time of disposal or for 12 months of the last 2 years prior to disposal and more than 50% of our direct or indirect assets, determined by reference to market value, consists of Australian land, leasehold interests or Australian mining, quarrying or prospecting rights. The Double Taxation Convention between the United States and Australia does not limit Australia's right to tax any gain in these circumstances. Net capital gains are calculated after reduction for capital losses, which may only be offset against capital gains.

Tax on Sales or other Dispositions of Shares—Shareholders Holding Shares on Revenue Account

Some Non-Australian Shareholders may hold shares on revenue rather than on capital account for example, share traders. These shareholders may have the gains made on the sale or other disposal of the shares included in their assessable income under the ordinary income taxing provisions of the income tax law, if the gains are sourced in Australia.

Non-Australian Shareholders assessable under these ordinary income provisions in respect of gains made on shares held on revenue account would be assessed for such gains at the Australian tax rates for non-Australian residents, which start at a marginal rate of 32.5% for individuals. A Temporary Budget Repair Levy of 2% that may also apply in certain circumstances. Some relief from Australian income tax may be available to Non-Australian Shareholders under the Double Taxation Convention between the United States and Australia.

To the extent an amount would be included in a Non-Australian Shareholder's assessable income under both the capital gains tax provisions and the ordinary income provisions, the capital gain amount would generally be reduced, so that the shareholder would not be subject to double tax on any part of the income gain or capital gain.

Dual Residency

If a shareholder is a resident of both Australia and the United States under those countries' domestic taxation laws, that shareholder may be subject to tax as an Australian resident. If, however, the shareholder is deemed to be a U.S. resident for the purposes of the Double Taxation Convention between the United States and Australia, the Australian tax would be subject to limitation by the Double Taxation Convention. Shareholders should obtain specialist taxation advice in these circumstances.

Stamp Duty

In general terms, no stamp duty is payable on the issue and trading of shares that are quoted on the ASX or Nasdaq. However, stamp duty may be payable if there is an acquisition of 90% or more of all of our issued shares in certain circumstances.

Australian Estate Taxes / Death Duty

Australia does not have any form of estate tax or death duty. As a general rule, no capital gains tax liability is realized upon the inheritance of a deceased person's shares. The disposal of inherited shares by beneficiaries may, however, give rise to a capital gains tax liability if the gain falls within the scope of Australia's jurisdiction to tax.

Goods and Services Tax

The issue or transfer of shares to a non-Australian resident investor will not incur Australian goods and services tax.

Underwriting

Evercore Group L.L.C. and William Blair & Company L.L.C. are acting as the representatives of the underwriters of the offering. Subject to the terms and conditions stated in the underwriting agreement dated the date of this prospectus, each underwriter named below has severally agreed to purchase, and we have agreed to sell to that underwriter, the number of ADSs set forth opposite the underwriter's name.

<u>Underwriters</u>	<u>Number of ADSs</u>
Evercore Group L.L.C.	
William Blair & Company, L.L.C.	
Cantor Fitzgerald & Co.	
Berenberg Capital Markets LLC	
H.C. Wainwright & Co., LLC	
Total	

The underwriting agreement provides that the obligations of the underwriters to purchase the ADSs included in this offering is subject to approval of legal matters by counsel and to other conditions. The underwriters are obligated to purchase all of the ADSs (other than those covered by the over-allotment option described below) if they purchase any of the ADSs. The obligations of the underwriters may be terminated upon the occurrence of certain events specified in the underwriting agreement. Furthermore, the underwriting agreement provides that the obligations of the underwriters to pay for and accept delivery of the ADSs offered by us in this prospectus are subject to various representations and warranties and other customary conditions specified in the underwriting agreement.

ADSs sold by the underwriters to the public will initially be offered at the initial public offering price set forth on the cover of this prospectus. If all of the ADSs are not sold at the initial offering price, the underwriters may change the offering price and the other selling terms. The representatives have advised us that the underwriters do not intend to make sales to discretionary accounts.

We have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus, to purchase up to additional ADSs at the initial public offering price less the underwriting discount. To the extent the option is exercised, each underwriter must purchase a number of additional ADSs approximately proportionate to that underwriter's initial purchase commitment. Any ADSs issued or sold under the option will be issued and sold on the same terms and conditions as the other ADSs that are the subject of this offering.

We, our executive officers and directors, and certain shareholders have agreed that, for a period of 180 days from the date of this prospectus, we and they will not, without the prior written consent of the representatives, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of any ADSs or ordinary shares or any securities convertible into or exercisable or exchangeable for ADSs or ordinary shares, subject to certain exceptions. Evercore Group L.L.C. and William Blair & Company, L.L.C. in their sole discretion may release any of the securities subject to these lock-up agreements at any time, which in the case of our executive officers and directors, shall be with notice.

Prior to this offering, there has been no public market for the ADSs in the United States. Our ordinary shares have been trading on the Australian Securities Exchange, or the ASX, since December 1999 under the symbol "BNO." The initial public offering price for the ADSs will be determined by negotiations between us and the representatives and will be referenced to the prevailing price of our ordinary shares on the ASX but will not be lower than 80% of the volume-weighted average price of our ordinary shares on the ASX over the five trading days preceding the day on which the offering price is determined. Each ADS will represent ordinary shares. Among other factors considered in determining the initial public offering price will be our stage of

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development, our current financial condition, our future prospects, our markets, the economic conditions in and future prospects for the industry in which we compete, our management, and currently prevailing general conditions in the equity securities markets, including current market valuations of publicly traded companies considered comparable to our company. We cannot assure you, however, that the price at which the ADSs will sell in the public market after this offering will not be lower than the initial public offering price or that an active trading market in our shares of ADSs will develop and continue after this offering.

We have applied for listing of the ADSs on the Nasdaq Global Market under the symbol “BNOX.”

ADSs sold by the underwriters to the public will initially be offered at the initial public offering price set forth on the cover page of this prospectus. The underwriters may offer ADSs to securities dealers at that price less a concession of not more than \$ _____ per ADS. After the initial offering to the public, the public offering price and other selling terms may be changed by the representatives.

The following table shows the underwriting discounts and commissions that we are to pay to the underwriters in connection with this offering (which represent _____ % of total offering proceeds).

	<u>Per ADS</u>	<u>No Exercise</u>	<u>Full Exercise</u>
Public offering price			
Underwriting discounts and commissions			
Proceeds to us, before expenses			
Total			

These amounts are shown assuming both no exercise and full exercise of the underwriters’ option to purchase additional ADSs.

In connection with the offering, the underwriters may purchase and sell ADSs in the open market. Purchases and sales in the open market may include short sales and purchases to cover short positions, which may include purchases pursuant to the underwriters’ option to purchase additional ADSs.

- Short sales involve secondary market sales by the underwriters of a greater number of ADSs than they are required to purchase in the offering.
- “Covered” short sales are sales of ADSs in an amount up to the number of ADSs represented by the underwriters’ option.
- “Naked” short sales are sales of ADSs in an amount in excess of the number of ADSs represented by the underwriters’ option.
- Covering transactions involve purchases of ADSs either pursuant to the option or in the open market after the distribution has been completed in order to cover short positions.
- To close a naked short position, the underwriters must purchase ADSs in the open market after the distribution has been completed. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the ADSs in the open market after pricing that could adversely affect investors who purchase in the offering.
- To close a covered short position, the underwriters must purchase ADSs in the open market after the distribution has been completed or must exercise the option. In determining the source of ADSs to close the covered short position, the underwriters will consider, among other things, the price of ADSs available for purchase in the open market as compared to the price at which they may purchase ADSs through the option.

The underwriters may conduct these transactions in the over-the-counter market or otherwise. If the underwriters commence any of these transactions, they may discontinue them at any time.

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We estimate that the total expenses of this offering payable by us will be \$ _____, excluding underwriting discounts and commissions. We have also agreed to pay the FINRA-related fees and expenses of the underwriters' legal counsel, not to exceed \$ _____.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act, or to contribute to payments the underwriters may be required to make because of any of those liabilities.

The underwriters are full-service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, principal investment, hedging, financial and brokerage activities. The underwriters and their affiliates may in the future engage in investment banking and other commercial dealings in the ordinary course of business with us or our affiliates. They may in the future receive customary fees and commissions for these transactions.

In addition, in the ordinary course of their business activities, the underwriters and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of ours or our affiliates.

The underwriters and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

A prospectus in electronic format may be made available on the websites maintained by one or more of the underwriters or selling group members. The representatives may agree to allocate a number of ADSs to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the underwriters and selling group members that will make internet distributions on the same basis as other allocations. Other than the prospectus in electronic format, the information on these websites is not part of, nor incorporated by reference into, this prospectus, has not been approved or endorsed by us, and should not be relied upon by investors.

Notice to Prospective Investors in Australia

This prospectus is not a disclosure document for the purposes of Australia's Corporations Act 2001 (Cth) of Australia (the Australian Corporations Act), has not been lodged with the Australian Securities & Investments Commission and is only directed to the categories of exempt persons set out below. Accordingly, if you receive this prospectus in Australia:

You confirm and warrant that you are either:

- a "sophisticated investor" under section 708(8)(a) or (b) of the Australian Corporations Act;
- a "sophisticated investor" under section 708(8)(c) or (d) of the Australian Corporations Act and that you have provided an accountant's certificate to us which complies with the requirements of section 708(8)(c)(i) or (ii) of the Australian Corporations Act and related regulations before the offer has been made;
- a person associated with us under section 708(12) of the Australian Corporations Act; or
- a "professional investor" within the meaning of section 708(11)(a) or (b) of the Australian Corporations Act.

To the extent that you are unable to confirm or warrant that you are an exempt sophisticated investor, associated person or professional investor under the Australian Corporations Act any offer made to you under this prospectus is void and incapable of acceptance.

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You warrant and agree that you will not offer any of the securities issued to you pursuant to this prospectus for resale in Australia within 12 months of those securities being issued unless any such resale offer is exempt from the requirement to issue a disclosure document under section 708 of the Australian Corporations Act.

Notice to Prospective Investors in Canada

(A) Resale Restrictions

The distribution of ADSs in Canada is being made only in the provinces of Ontario, Quebec, Alberta, British Columbia, Manitoba, New Brunswick and Nova Scotia on a private placement basis exempt from the requirement that we prepare and file a prospectus with the securities regulatory authorities in each province where trades of these securities are made. Any resale of our ADSs in Canada must be made under applicable securities laws which may vary depending on the relevant jurisdiction, and which may require resales to be made under available statutory exemptions or under a discretionary exemption granted by the applicable Canadian securities regulatory authority. Purchasers are advised to seek legal advice prior to any resale of the ADSs.

(B) Representations of Canadian Purchasers

By purchasing our ADSs in Canada and accepting delivery of a purchase confirmation, a purchaser is representing to us and the dealer from whom the purchase confirmation is received that:

- the purchaser is entitled under applicable provincial securities laws to purchase our ADSs without the benefit of a prospectus qualified under those securities laws as it is an “accredited investor” as defined under National Instrument 45-106-Prospectus Exemptions or Section 73.3(1) of the Securities Act (Ontario), as applicable,
- the purchaser is a “permitted client” as defined in National Instrument 31-103-Registration Requirements, Exemptions and Ongoing Registrant Obligations,
- where required by law, the purchaser is purchasing as principal and not as agent, and
- the purchaser has reviewed the text above under Resale Restrictions.

(C) Conflicts of Interest

Canadian purchasers are hereby notified that certain of the underwriters are relying on the exemption set out in section 3A.3 or 3A.4, if applicable, of National Instrument 33-105-Underwriting Conflicts from having to provide certain conflict of interest disclosure in this document.

(D) Statutory Rights of Action

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if the prospectus (including any amendment thereto) such as this document contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser’s province or territory. The purchaser of these securities in Canada should refer to any applicable provisions of the securities legislation of the purchaser’s province or territory for particulars of these rights or consult with a legal advisor.

(E) Enforcement of Legal Rights

All of our directors and officers as well as the experts named herein may be located outside of Canada and, as a result, it may not be possible for Canadian purchasers to effect service of process within Canada upon us or those persons. All or a substantial portion of our assets and the assets of those persons may be located outside of Canada and, as a result, it may not be possible to satisfy a judgment against us or those persons in Canada or to enforce a judgment obtained in Canadian courts against us or those persons outside of Canada.

(F) Taxation and Eligibility for Investment

Canadian purchasers of ADSs should consult their own legal and tax advisors with respect to the tax consequences of an investment in our ADSs in their particular circumstances and about the eligibility of our ADSs for investment by the purchaser under relevant Canadian legislation.

Notice to Prospective Investors in the European Economic Area

In relation to each Member State of the European Economic Area (each, a Relevant State), no ADSs have been offered or will be offered pursuant to the offering to the public in that Relevant State prior to the publication of a prospectus in relation to the ADSs which have been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, all in accordance with the Prospectus Regulation, except that the ADSs may be offered to the public in that Relevant State at any time:

- to any legal entity which is a “qualified investor” as defined under Article 2 of the Prospectus Regulation;
- to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the Prospectus Regulation), subject to obtaining the prior consent of the underwriters or the underwriters nominated by us for any such offer; or
- in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of ADSs shall require us or any of the representatives to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision, the expression an “offer ADSs to the public” in relation to the ADSs in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the offer and the ADSs to be offered so as to enable an investor to decide to purchase or subscribe to the ADSs, and the expression “Prospectus Regulation” means Regulation (EU) 2017/1129.

Notice to Prospective Investors in Hong Kong

No securities have been offered or sold, and no securities may be offered or sold, in Hong Kong, by means of any document, other than to persons whose ordinary business is to buy or sell shares or debentures, whether as principal or agent; or to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong (SFO) and any rules made under that Ordinance; or in other circumstances which do not result in the document being a “prospectus” as defined in the Companies Ordinance (Cap. 32) of Hong Kong (CO) or which do not constitute an offer or invitation to the public for the purpose of the CO or the SFO. No document, invitation or advertisement relating to the securities has been issued or may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted under the securities laws of Hong Kong) other than with respect to securities which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the SFO and any rules made under that Ordinance.

This prospectus has not been registered with the Registrar of Companies in Hong Kong. Accordingly, this prospectus may not be issued, circulated or distributed in Hong Kong, and the securities may not be offered for subscription to members of the public in Hong Kong. Each person acquiring the securities will be required, and is deemed by the acquisition of the securities, to confirm that he is aware of the restriction on offers of the securities described in this prospectus and the relevant offering documents and that he is not acquiring, and has not been offered any securities in circumstances that contravene any such restrictions.

Notice to Prospective Investors in Israel

This document does not constitute a prospectus under the Israeli Securities Law, 5728-1968 (the Israeli Securities Law) and has not been filed with or approved by the Israel Securities Authority. In Israel, this prospectus is being distributed only to, and is directed only at, and any offer of the ADSs is directed only at, (i) a limited number of persons in accordance with the Israeli Securities Law and (ii) investors listed in the first addendum to the Israeli Securities Law (the Israeli Addendum), consisting primarily of joint investment in trust funds, provident funds, insurance companies, banks, portfolio managers, investment advisors, members of the Tel Aviv Stock Exchange, underwriters, venture capital funds, entities with equity in excess of NIS 50 million and “qualified individuals,” each as defined in the Israeli Addendum (as it may be amended from time to time), collectively referred to as qualified investors (in each case, purchasing for their own account or, where permitted under the Israeli Addendum, for the accounts of their clients who are investors listed in the Israeli Addendum). Qualified investors are required to submit written confirmation that they fall within the scope of the Israeli Addendum, are aware of the meaning of same and agree to it.

Notice to Prospective Investors in Japan

The offering has not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948 of Japan, as amended) (FIEL), and the underwriters will not offer or sell any securities, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the FIEL and any other applicable laws, regulations and ministerial guidelines of Japan.

Notice to Prospective Investors in Singapore

This prospectus has not been and will not be lodged or registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the ADSs may not be circulated or distributed, nor may the ADSs be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the SFA), (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the notes pursuant to an offer made under Section 275 of the SFA except:

- to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- where no consideration is or will be given for the transfer;

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- where the transfer is by operation of law;
- as specified in Section 276(7) of the SFA; or
- as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

Notice to Prospective Investors in Switzerland

The securities may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange (SIX) or on any other stock exchange or regulated trading facility in Switzerland. This prospectus has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this prospectus nor any other offering or marketing material relating to the securities or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this prospectus nor any other offering or marketing material relating to the offering, the Company or the securities have been or will be filed with or approved by any Swiss regulatory authority. In particular, this prospectus will not be filed with, and the offer of securities will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA, and the offer of securities has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes (CISA). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of securities.

Notice to Prospective Investors in the United Kingdom

No ADSs have been offered or will be offered pursuant to the offering to the public in the United Kingdom prior to the publication of a prospectus in relation to the ADSs which has been approved by the Financial Conduct Authority, except that the ADSs may be offered to the public in the United Kingdom at any time:

- (a) to any legal entity which is a qualified investor as defined under Article 2 of the UK Prospectus Regulation;
- (b) to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the UK Prospectus Regulation), subject to obtaining the prior consent of the representatives for any such offer; or
- (c) in any other circumstances falling within Section 86 of the Financial Services and Markets Act of 2002 (the FSMA).

provided that no such offer of the ADSs shall require the Issuer or any Manager to publish a prospectus pursuant to Section 85 of the FSMA or supplement a prospectus pursuant to Article 23 of the UK Prospectus Regulation.

For the purposes of this provision, the expression an “offer to the public” in relation to the ADSs in the United Kingdom means the communication in any form and by any means of sufficient information on the terms of the offer and any ADSs to be offered so as to enable an investor to decide to purchase or subscribe for any ADSs and the expression “UK Prospectus Regulation” means Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018.

Expenses of this Offering

The following table sets forth the costs and expenses, other than the underwriting commissions, payable by us in connection with the sale of ADSs being registered. All amounts are estimates except for the SEC, registration fee, the Financial Industry Regulatory Authority (“FINRA”) filing fee and the Nasdaq Global Market listing fee.

	<u>Amount</u>	
Securities and Exchange Commission registration fee	US\$	*
FINRA filing fee		*
Nasdaq Global Market listing fee		*
Accountants’ fees and expenses		*
Legal fees and expenses		*
Blue Sky fees and expenses		*
Transfer Agent’s fees and expenses		*
Printing and engraving expenses		*
Miscellaneous		*
Total expenses	<u>US\$</u>	<u>*</u>

* To be provided by amendment.

Legal Matters

The validity of the ordinary shares represented by the ADSs and certain other matters under Australian law will be passed upon for us by Johnson Winter & Slattery, our Australian counsel. Certain matters of U.S. law will be passed upon for us by Latham & Watkins LLP. The underwriters are being represented by Goodwin Procter LLP, New York, New York with respect to U.S. law and Herbert Smith Freehills LLP with respect to Australian law.

Experts

The consolidated financial statements of Bionomics Limited at June 30, 2021 and 2020, and for the years then ended, appearing in this Prospectus and Registration Statement have been audited by Ernst & Young, independent registered public accounting firm, as set forth in their report thereon appearing elsewhere herein, and are included in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

Change in Accountants

On February 12, 2021, the resignation of Deloitte Touche Tohmatsu from its role as our independent accountants became effective.

The report of Deloitte Touche Tohmatsu on our June 30, 2020 consolidated financial statements did not contain any adverse opinion or disclaimer of opinion, nor was such report qualified or modified as to uncertainty, audit scope or accounting principles. During the year ended June 30, 2020 and through the subsequent interim period through February 12, 2021, there were no disagreements between us and Deloitte Touche Tohmatsu on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, which disagreement, if not resolved to the satisfaction of Deloitte Touche Tohmatsu, would have caused them to make reference to the subject matter of the disagreement in connection with their reports on the financial statements for such years. During the year ended June 30, 2020 and the subsequent interim period through February 12, 2021, there were no reportable events (as defined in Regulation S-K Item 304(a)(1)(v)).

On December 11, 2020, our Board approved, subject to the effective date of the resignation of Deloitte Touche Tohmatsu as auditors for Australian financial reporting purposes, the engagement of Ernst & Young as our independent registered public accounting firm for Australian reporting purposes for the year ended June 30, 2021. Ernst & Young were subsequently appointed to perform the re-audit of our consolidated financial statements as of and for the year ended June 30, 2020 in connection with this offering.

During the years ended June 30, 2020 and June 30, 2021, and in the subsequent interim period through February 12, 2021, neither we nor anyone on our behalf consulted with Ernst & Young regarding either: (i) the application of accounting principles to a specified transaction, either completed or proposed, or the type of audit opinion that might be rendered on our financial statements, and neither was a written report provided to us nor was oral advice provided to us that Ernst & Young concluded was an important factor considered by us in reaching a decision as to the accounting, auditing or financial reporting issue; or (ii) any matter that was either the subject of a disagreement or reportable event as defined in Regulation S-K, Item 304(a)(1)(iv) and Item 304(a)(1)(v), respectively.

We delivered a copy of this disclosure to Deloitte Touche Tohmatsu and requested that they furnish us a letter addressed to the SEC stating whether they agree with the above statements. In their letter to the SEC dated _____, 2021, attached as Exhibit 16.1 to the registration statement of which this prospectus forms a part, Deloitte Touche Tohmatsu states that they agree with the statements above concerning their firm.

Enforceability of Civil Liabilities

We are a public company incorporated under the laws of Australia. A majority of our directors and executive officers are non-residents of the United States, and all or substantially all of the assets of such persons are located outside the United States. As a result, it may not be possible for you to:

- effect service of process within the United States upon our non-U.S. resident directors and executive officers or on us;
- enforce in U.S. courts judgments obtained against our non-U.S. resident directors and executive officers or us in U.S. courts in any action, including actions under the civil liability provisions of U.S. securities laws;
- enforce in U.S. courts judgments obtained against any of our non-U.S. resident directors and executive officers or us in courts of jurisdictions outside the United States in any action, including actions under the civil liability provisions of U.S. securities laws; or
- to bring an original action in an Australian court to enforce liabilities against any of our non-U.S. resident directors and executive officers or us based solely upon U.S. securities laws.

You may also have difficulties enforcing in courts outside the United States judgments obtained in U.S. courts against any of our non-U.S. resident directors and executive officers or us, including actions under the civil liability provisions of U.S. securities laws.

With that noted, there are no treaties between Australia and the United States that would affect the recognition or enforcement of foreign judgments in Australia. We also note that investors may not be able to bring an original action in an Australian court against us to enforce liabilities based in part upon U.S. federal securities laws.

We have appointed CSC-Lawyers Incorporating Service, as our agent to receive service of process with respect to any action brought against us in the United States under U.S. federal securities laws or any action brought against us under U.S. state laws.

Where You Can Find More Information

We have filed with the SEC a registration statement on Form F-1 under the Securities Act with respect to the ordinary shares represented by the ADSs offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits and schedules filed therewith. For further information about us and the ordinary shares represented by the ADSs offered hereby, we refer you to the registration statement and the exhibits and schedules filed thereto. Statements contained in this prospectus regarding the contents of any contract or any other document that is filed as an exhibit to the registration statement are not necessarily complete, and each such statement is qualified in all respects by reference to the full text of such contract or other document filed as an exhibit to the registration statement. All information we file with the SEC is available through the SEC's Electronic Data Gathering, Analysis and Retrieval system, which may be accessed through the SEC's website at www.sec.gov. In addition, our public filings with the ASX may be accessed through the ASX's website at www.asx.com.au.

Upon the closing of this offering, we will become subject to periodic reporting and other informational requirements of the Exchange Act as applicable to foreign private issuers. Our annual reports on Form 20-F for the year ending June 30, 2022 and subsequent years will be due within four months following the fiscal year end. We are not required to disclose certain other information that is required from U.S. domestic issuers. In our capacity as a foreign private issuer, we are exempt from certain rules under the Exchange Act that impose certain disclosure obligations and procedural requirements for proxy solicitations under Section 14 of the Exchange Act.

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In addition, our officers, directors and principal shareholders are exempt from the reporting and 'short-swing' profit recovery provisions of Section 16 of the Exchange Act and the rules under the Exchange Act with respect to their purchases and sales of our ordinary shares or the ADSs. Moreover, we are not required to file periodic reports and financial statements with the SEC as frequently or as promptly as U.S. companies whose securities are registered under the Exchange Act. In addition, we are not required to comply with Regulation FD, which restricts the selective disclosure of material information.

We are, however, still subject to the anti-fraud and anti-manipulation rules of the SEC, such as Rule 10b-5. Since many of the disclosure obligations required of us as a foreign private issuer are different than those required by companies filing as a domestic issuer, our shareholders, potential shareholders and the investing public in general should not expect to receive information about us in the same amount and at the same time as information is received from, or provided by, companies filing as a domestic issuer. We are liable for violations of the rules and regulations of the SEC, which apply to us as a foreign private issuer.

BIONOMICS LIMITED

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Bionomics Limited

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Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of Bionomics Limited

Opinion on the Financial Statements

We have audited the accompanying consolidated statements of financial position of Bionomics Limited (the Company) as of June 30, 2021, and 2020, the related consolidated statements of profit or loss and other comprehensive income, changes in equity, and cash flows for the years then ended, and the related notes (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of June 30, 2021 and 2020, and the results of its operations and its cash flows for the years then ended, in conformity with International Financial Reporting Standards as issued by the International Accounting Standards Board.

Basis for Opinion

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the US federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Ernst & Young

We have served as the Company’s auditor since 2021.

Adelaide, Australia

September 10, 2021, except for Note 34, as to which the date is November 22, 2021

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Bionomics Limited
Consolidated Statement of Profit or Loss and Other Comprehensive Income
for the financial year ended June 30, 2021

	Note	2021 A\$	2020 A\$
Continuing Operations			
Revenue	5	—	46,662
Other income	5	1,308,343	3,312,753
Other gains and losses	5	4,272,931	4,575,881
Expenses	6		
Research and development expenses		(5,762,303)	(5,827,844)
Administration expenses		(4,372,823)	(3,670,647)
Occupancy expenses		(1,272,414)	(1,180,482)
Compliance expenses		(1,614,313)	(1,436,443)
Finance expenses		(1,443,885)	(1,846,467)
Loss before tax		<u>(8,884,464)</u>	<u>(6,026,587)</u>
Income tax benefit	7	187,427	207,612
Loss after tax from continuing operations		<u>(8,697,037)</u>	<u>(5,818,975)</u>
Discontinued Operations			
Loss for the year from discontinued operations	33(d)	—	(1,299,313)
Loss for the year		<u>(8,697,037)</u>	<u>(7,118,288)</u>
Other Comprehensive Income, Net of Income Tax			
Items that may be reclassified subsequently to profit or loss:			
Exchange differences on translating foreign operations		(1,169,171)	530,915
Total Comprehensive Loss for the Year		<u>(9,866,208)</u>	<u>(6,587,373)</u>
LOSS PER SHARE			
<i>From continuing and discontinuing operations</i>			
Basic loss per share	28	(A\$0.01) (1 cent)	(A\$0.01) (1 cent)
Diluted loss per share	28	(A\$0.01) (1 cent)	(A\$0.01) (1 cent)
<i>From continuing operations</i>			
Basic loss per share	28	(A\$0.01) (1 cent)	(A\$0.01) (1 cent)
Diluted loss per share	28	(A\$0.01) (1 cent)	(A\$0.01) (1 cent)

The above Consolidated Statement of Profit or Loss and Other Comprehensive Income should be read in conjunction with the accompanying notes.

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Consolidated Statement of Financial Position
for the financial year ended June 30, 2021

	Note	2021 A\$	2020 A\$
CURRENT ASSETS			
Cash and cash equivalents	8	28,499,449	4,577,747
Other financial assets	9	435,640	—
Trade and other receivables	10	200,212	59,290
Research and development incentives receivable		928,073	2,919,541
Other assets	11	863,630	776,320
TOTAL CURRENT ASSETS		<u>30,927,004</u>	<u>8,332,898</u>
NON-CURRENT ASSETS			
Property, plant and equipment	13	8,227	283,956
Right-to-use asset – rented property	14	862,716	771,029
Goodwill	15	12,400,743	12,872,387
Other intangible assets	16	9,945,755	11,766,412
Other financial assets	9	119,000	436,174
TOTAL NON-CURRENT ASSETS		<u>23,336,441</u>	<u>26,129,958</u>
TOTAL ASSETS		<u>54,263,445</u>	<u>34,462,856</u>
CURRENT LIABILITIES			
Trade and other payables	17	1,814,390	1,930,432
Borrowings	18	—	5,185,136
Lease liability – rented property	19	174,218	767,711
Provisions	20	371,936	388,827
TOTAL CURRENT LIABILITIES		<u>2,360,544</u>	<u>8,272,106</u>
NON-CURRENT LIABILITIES			
Borrowings	18	—	6,258,993
Lease liability – rented property	19	693,623	25,437
Provisions	20	6,782	45,814
Deferred tax liability	7(c)	1,842,303	2,203,340
Contingent consideration	31	1,762,656	4,975,159
TOTAL NON-CURRENT LIABILITIES		<u>4,305,364</u>	<u>13,508,743</u>
TOTAL LIABILITIES		<u>6,665,908</u>	<u>21,780,849</u>
NET ASSETS		<u>47,597,537</u>	<u>12,682,007</u>
EQUITY			
Issued capital	21	190,190,147	148,156,005
Reserves	22	11,447,891	13,413,784
Accumulated losses		(154,040,501)	(148,887,782)
TOTAL EQUITY		<u>47,597,537</u>	<u>12,682,007</u>

The above Consolidated Statement of Financial Position should be read in conjunction with the accompanying notes.

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Bionomics Limited
Consolidated Statement of Changes in Equity
for the financial year ended June 30, 2021

	Issued capital A\$	Foreign currency translation reserve A\$	Share-based payments reserve A\$	Accumulated losses A\$	Total Equity A\$
Balance at June 30, 2019	144,944,233	6,254,267	7,365,270	(142,064,706)	16,499,064
Loss for the period	—	—	—	(7,118,288)	(7,118,288)
Exchange differences on translation of foreign operations	—	530,915	—	—	530,915
Total comprehensive income	—	530,915	—	(7,118,288)	(6,587,373)
Recognition of share-based payments	—	—	55,355	—	55,355
Recycled on disposal of subsidiaries	—	(496,811)	—	—	(496,811)
Transfer of expired options	—	—	(295,212)	295,212	—
Issue of ordinary shares under a share placement	3,260,000	—	—	—	3,260,000
Share issue costs	(48,228)	—	—	—	(48,228)
Balance at June 30, 2020	148,156,005	6,288,371	7,125,413	(148,887,782)	12,682,007
Loss for the period	—	—	—	(8,697,037)	(8,697,037)
Exchange differences on translation of foreign operations	—	(1,169,171)	—	—	(1,169,171)
Total comprehensive income	—	(1,169,171)	—	(8,697,037)	(9,866,208)
Recognition of share-based payments	—	—	1,308,349	—	1,308,349
Transfer of forfeited and expired options and warrants	—	—	(3,544,318)	3,544,318	—
Issue of ordinary shares under share placements	21,229,874	—	—	—	21,229,874
Issue of ordinary shares under rights issues	22,606,257	—	—	—	22,606,257
Issue of ordinary shares to employees	60,750	—	—	—	60,750
Share issue costs	(1,862,739)	—	1,439,247	—	(423,492)
Balance at June 30, 2021	<u>190,190,147</u>	<u>5,119,200</u>	<u>6,328,691</u>	<u>(154,040,501)</u>	<u>47,597,537</u>

The above Consolidated Statement of Changes in Equity should be read in conjunction with the accompanying notes.

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Consolidated Statement of Cash Flows
for the financial year ended June 30, 2021

	Note	2021 A\$	2020 A\$
Cash Flows from Operating Activities			
Research and development incentives received		2,919,541	7,482,764
Receipts from customers		394,815	4,883,858
Payments to suppliers and employees		(10,126,660)	(14,933,981)
Interest and bank fees paid		(726,420)	(1,335,834)
Net Cash used by Operating Activities	27(b)	(7,538,724)	(3,903,193)
Cash Flows from Investing Activities			
Interest received		4,094	58,369
Payments for other financial assets		(118,466)	(52,174)
Proceeds from disposal of other financial assets		—	550,000
Payments for purchases of property, plant and equipment		(1,468)	(7,704)
Proceeds from disposals of property, plant and equipment		35,634	264,370
Net cash out flow from disposal of subsidiaries	33(c)	—	(1,007,992)
Net Cash used by Investing Activities		(80,206)	(195,131)
Cash Flows from Financing Activities			
Repayment of borrowings		(11,087,139)	(7,460,180)
Payments for transaction costs		—	(281,668)
Principal elements of lease payments		(779,807)	(826,942)
Proceeds from share issues		43,836,131	3,260,000
Payments for share issue costs		(415,479)	(48,228)
Net Cash provided /(used) by Financing Activities		31,553,706	(5,357,018)
Net Increase/(Decrease) in Cash and Cash Equivalents		23,934,776	(9,455,342)
Cash and cash equivalents at the beginning of the financial year		4,577,747	13,985,477
Effects of exchange rate changes on the balance of cash held in foreign currencies		(13,074)	47,612
Cash and Cash Equivalents at the End of the Year	27(a)	28,499,449	4,577,747

The above Consolidated Statement of Cash Flows should be read in conjunction with the accompanying notes.

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NOTE 1: GENERAL INFORMATION

Bionomics Limited (“the Company”) is a listed public company incorporated in Australia. The address of its registered office and principal place of business is as follows:

200 Greenhill Road
Eastwood, South Australia, 5063
Tel: 08 8150 7400

Principal Activities

The principal activities of the Company and its controlled entities (“the Group”) during the period include the development of novel drug candidates focused on the treatment of serious central nervous system disorders.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

This financial report includes the consolidated financial statements and notes of the Group.

(i) Statement of Compliance

These financial statements comply with International Financial Reporting Standards (“IFRS”) as issued by the International Accounting Standards Board (“IASB”).

For the purposes of preparing the consolidated financial statements, the Company is a for-profit entity.

(ii) Basis of Preparation

The consolidated financial statements have been prepared on the basis of historical cost, except for certain non-current assets and financial instruments that are measured at revalued amounts or fair values at the end of each reporting period, as explained in the accounting policies below. Historical cost is generally based on the fair values of the consideration given in exchange for assets. All amounts are presented in Australian dollars unless otherwise noted.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, regardless of whether that price is directly observable or estimated using another valuation technique. In estimating the fair value of an asset or a liability, the Group takes into account the characteristics of the asset or liability if market participants would take those characteristics into account when pricing the asset or liability at measurement date. Fair value for measurement and/or disclosure purposes in these consolidated financial statements is determined on such a basis, except for share-based payment transactions that are within the scope of IFRS 2, leasing transactions that are within the scope of IFRS 16, and measurements that have some similarities to fair value but are not fair value, such as net realizable value in IFRS 2 or value in use in International Accounting Standards (“IAS”) 36.

In addition, for financial reporting purposes, fair value measurements are categorized into Level 1, 2 or 3 based on the degree to which inputs to the fair value measurements are observable and the significance of the inputs to the fair value measurement in its entirety, which are described as follows:

- Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at measurement date;
- Level 2 inputs are inputs, other than quoted prices included within Level 1, that are observable for that asset or liability, either directly or indirectly; and

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- Level 3 inputs are unobservable inputs for the asset or liability.

(iii) Application of New and Revised Accounting Standards

The Group has adopted all the new and revised Standards and Interpretations issued by the IASB that are relevant to its operations and effective for an accounting period that begins on or after July 1, 2020. The adoption of these new and revised Standards and Interpretations has resulted in no significant changes to the consolidated entity's accounting policies. Standards and Interpretations issued by the IASB that are relevant to its operations from July 1, 2021 are not expected to result in significant changes to the consolidated entity's accounting policies.

(iv) Accounting Policies

The following significant accounting policies have been adopted in the preparation and presentation of the financial report.

(a) Basis of Consolidation

The consolidated financial statements incorporate the financial statements of the Company and entities controlled by the Company and its subsidiaries. Control is achieved when the Company:

- Has power over the investee;
- Is exposed, or has rights, to variable returns from its involvement with the investee; and
- Has the ability to use its power to affect its returns.

Consolidation of a subsidiary begins when the Company obtains control over the subsidiary and ceases when the Company loses control of the subsidiary. Specifically, income and expenses of a subsidiary acquired or disposed of during the year are included in the consolidated statement of profit or loss and other comprehensive income from the date the Company gains control until the date when the Company ceases to control the subsidiary.

When necessary, adjustments are made to the financial statements of subsidiaries to bring their accounting policies into line with the Group's accounting policies.

All intragroup assets and liabilities, equity, income, expenses and cash flows relating to transactions between members of the Group are eliminated in full on consolidation.

(b) Borrowings (Other Financial Liabilities)

(i) Other Borrowings

Borrowings are initially recognized at fair value, net of transaction costs incurred. Borrowings are subsequently measured at amortized cost. Any difference between the proceeds (net of transaction costs) and the redemption amount is recognized in profit or loss over the period of the borrowings using the effective interest method.

(ii) Classification

Borrowings are classified as current liabilities unless the Group has an unconditional right to defer settlement of the liability for at least 12 months after the balance sheet date.

(c) Borrowing Costs

All borrowing costs (other than transaction costs) are recognized in profit or loss in the period in which they are incurred. Borrowing costs consist of interest and other costs that an entity incurs in connection with the borrowing of funds

(d) Business Combinations

Acquisitions of businesses are accounted for using the acquisition method. The consideration transferred in a business combination is measured at fair value which is calculated as the sum of the acquisition-date fair values of assets transferred by the Group, liabilities incurred by the Group to the former owners of the acquiree and the equity instruments issued by the Group in exchange for control of the acquiree. Acquisition-related costs are recognized in profit or loss as incurred.

At the acquisition date, the identifiable assets acquired, and the liabilities assumed are recognized at their fair value, except that:

- Deferred tax assets or liabilities, and assets or liabilities related to employee benefit arrangements, are recognized and measured in accordance with IAS 12 'Income Taxes' and IAS 19 'Employee Benefits' respectively;
- Liabilities or equity instruments related to share-based payment arrangements of the acquiree, or share-based payment arrangements of the Group entered into to replace share-based payment arrangements of the acquiree are measured in accordance with IFRS 2 'Share-based Payment' at the acquisition date; and
- Assets (or disposal groups) that are classified as held for sale in accordance with IFRS 5 'Non-current Assets Held for Sale and Discontinued Operations' are measured in accordance with that Standard.

Goodwill is measured as the excess of the sum of the consideration transferred, the amount of any non-controlling interests in the acquiree, and the fair value of the acquirer's previously held equity interest in the acquiree (if any) over the net of the acquisition-date amounts of the identifiable assets acquired and the liabilities assumed. If, after reassessment, the net of the acquisition-date amounts of the identifiable assets acquired and liabilities assumed exceeds the sum of the consideration transferred, the amount of any non-controlling interests in the acquiree and the fair value of the acquirer's previously held interest in the acquiree (if any), the excess is recognized immediately in profit or loss as a gain on bargain purchase.

Where the consideration transferred by the Group in a business combination includes assets or liabilities resulting from a contingent consideration arrangement, the contingent consideration is measured at its acquisition-date fair value. Changes in the fair value of the contingent consideration that qualify as measurement period adjustments are adjusted retrospectively, with corresponding adjustments against goodwill. Measurement period adjustments are adjustments that arise from additional information obtained during the 'measurement period' (which cannot exceed one year from the acquisition date) about facts and circumstances that existed at the acquisition date.

The subsequent accounting for changes in the fair value of contingent consideration that do not qualify as measurement period adjustments depends on how the contingent consideration is classified. Contingent consideration that is classified as equity is not remeasured at subsequent reporting dates and its subsequent settlement is accounted for within equity. Contingent consideration that is classified as an asset or liability is remeasured at subsequent reporting dates in accordance with IFRS 9 or IAS 37 'Provisions, Contingent Liabilities and Contingent Assets' respectively, as appropriate, with the corresponding gain or loss being recognized in profit or loss, respectively.

If the initial accounting for a business combination is incomplete by the end of the reporting period in which the combination occurs, the Group reports provisional amounts for the items for which the accounting is incomplete. Those provisional amounts are adjusted during the measurement period (see above), or

additional assets or liabilities are recognized, to reflect new information obtained about facts and circumstances that existed as of the acquisition date that, if known, would have affected the amounts recognized as of that date.

(e) Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, deposits held at call with financial institutions, other short term, highly liquid investments with original maturities of three months or less that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value and bank overdrafts. Bank overdrafts are shown within borrowings in current liabilities on the consolidated statement of financial position.

(f) Earnings/(Loss) per Share

(i) Basic Earnings/(Loss) per Share

Basic earnings/(loss) per share is calculated by dividing the profit/(loss) after income tax attributable to equity holders of the Company, excluding any costs of servicing equity other than ordinary shares, by the weighted average number of ordinary shares outstanding during the year, adjusted for bonus elements in ordinary shares issued during the year.

(ii) Diluted Earnings/(Loss) per Share

Diluted earnings/(loss) per share adjusts the figures used in the determination of basic earnings per share to take into account the after income tax effect of interest and other financing costs associated with dilutive potential ordinary shares and the weighted average number of shares assumed to have been issued for no consideration in relation to options.

(g) Employee Benefits

(i) Short-term and Long-term Employee Benefits

A liability is recognized for benefits accruing to employees in respect of wages and salaries, annual leave and long service leave when it is probable that settlement will be required, and they are capable of being measured reliably. Liabilities recognized in respect of short-term employee benefits, are measured at their nominal values using the remuneration rate expected to apply at the time of settlement. Liabilities recognized in respect of long-term employee benefits are measured as the present value of the estimated future cash outflows to be made by the Group in respect of services provided by employees up to reporting date, discounted using rates applicable to high quality corporate bonds

(ii) Retirement Benefits Costs

Retirement benefits are contributions made to employee superannuation funds and are charged as expenses when incurred. These contributions are made to external superannuation funds and are not defined benefits programs.

(iii) Share-based Payments

Share-based compensation benefits are provided to employees via the Bionomics Employee Equity Plan (“EEP”).

The fair value of shares issued to employees for no cash consideration under the EEP is recognized as an employee benefits expense with a corresponding increase in equity. The fair value is measured at grant date and recognized on a straight-line basis over the vesting period, based on the Group’s estimate of equity instruments that will eventually vest.

The disclosure in the Remuneration Report and Note 21 relates to the EEP and the former Employee Share Option Plan (“ESOP”). The Bionomics EEP was approved by the Board and shareholders in 2017. Staff eligible to participate in the plan are those who have been a full-time or part-time employee of the Group for a period of not less than six months or a Director of the Group. Options are granted under the plan for no consideration and vest equally over five years, or when vesting conditions are achieved, unless they are bonus options which vest immediately. The amounts disclosed as remuneration relating to options are the assessed fair values at grant date of those options allocated equally over the period from grant date to vesting date. See Note 21 for details on how the fair value of options and warrants issued during the year are calculated.

(h) Financial Assets

All regular way purchases or sales of financial assets are recognized and derecognized on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

All recognized financial assets are measured subsequently in their entirety at either amortized cost or fair value, depending on the classification of the financial assets.

Classification of Financial Assets at amortized costs

- The financial asset is held within a business model whose objective is to hold financial assets in order to collect contractual cash flow; and
- The contractual terms of the financial asset give rise on specified dates to cash flows that are solely payment of principal and interest on the principal amount outstanding.

Debt instruments that meet the following conditions are measured subsequently at fair value through other comprehensive income (“FVTOCI”):

- The financial asset is held within a business model whose objective is achieved by both collecting contractual cash flows and selling the financial assets; and
- The contractual terms of the financial asset give rise on specified dates to cash flows that are solely payments of principal and interest on the principal amount outstanding.

By default, all other financial assets are measured subsequently at fair value through profit or loss (“FVTPL”).

Despite the foregoing, the Group may make the following irrevocable election/designation at initial recognition of a financial asset:

- The Group may irrevocably elect to present subsequent changes in fair value of an equity investment in other comprehensive income if certain criteria are met (see (i) below); and
- The Group may irrevocably designate a debt investment that meets the amortized cost or FVTOCI criteria as measured at FVTPL if doing so eliminates or significantly reduces an accounting mismatch (see (ii) below).

(i) Amortized Cost and Effective Interest Method

The effective interest method is a method of calculating the amortized cost of a debt instrument and of allocation interest income over the relevant period.

For financial assets other than purchased or originated credit-impaired financial assets (i.e. assets that are credit-impaired on initial recognition), the effective interest rate is the rate that exactly discounts estimated future cash receipts (including all fees and points paid or received that form an integral part

of the effective interest rate, transaction costs and other premiums or discounts) excluding expected credit losses, through the expected life of the debt instrument, or, where appropriate, a shorter period, to the gross carrying amount of the debt instrument on initial recognition. For purchased or originated credit-impaired financial assets, a credit-adjusted effective interest rate is calculated by discounting the estimated future cash flows, including expected credit losses, to the amortized cost of the debt instrument on initial recognition.

The amortized cost of a financial asset is the amount at which the financial asset is measured at initial recognition minus the principal repayments, plus the cumulative amortization using the effective interest method of any difference between that initial amount and the maturity amount, adjusted for any loss allowance.

The gross carrying amount of a financial asset is the amortized cost of a financial asset before adjusting for any loss allowance.

Interest income is recognized using the effective interest method for debt instruments measured subsequently at amortized cost and at FVTOCI. For financial assets other than purchased or originated credit-impaired financial assets, interest income is calculated by applying the effective interest rate to the gross carrying amount of a financial asset, except for financial assets that have subsequently become credit-impaired, (see below). For financial assets that have subsequently become credit-impaired, interest income is recognized by applying the effective interest rate to the amortized cost of the financial asset. If, in subsequent reporting periods, the credit risk on the credit-impaired financial instrument improves so that the financial asset is no longer credit-impaired, interest income is recognized by applying the effective interest rate to the gross carrying amount of the financial asset.

For purchased or originated credit-impaired financial assets, the Group recognizes interest income by applying the credit-adjusted effective interest rate to the amortized cost of the financial asset from initial recognition. The calculation does not revert to the gross basis even if the credit risk of the financial asset subsequently improves so that the financial asset is no longer credit-impaired.

Interest income is recognized in profit or loss and is include in the “other income” line item.

(ii) *Financial Assets at FVTPL*

Financial assets that do not meet the criteria for being measured at amortized cost or FVTOCI are measured at FVTPL. Specifically:

- Investments in equity instruments are classified as at FVTPL, unless the Group designates an equity investment that is neither held for trading nor a contingent consideration arising from a business combination as at FVTOCI on initial recognition.
- Debt instruments that do not meet the amortized cost criteria or the FVTOCI criteria are classified as at FVTPL. In addition, debt instruments that meet either the amortized cost criteria or the FVTOCI criteria may be designated as at FVTPL upon initial recognition if such designation eliminates or significantly reduces a measurement or recognition inconsistency (so called ‘accounting mismatch’) that would arise from measuring assets or liabilities or recognizing the gains and losses on them on different bases. The Group has not designated any debt instructions as at FVTPL.

Financial assets at FVTPL are measured at fair value at the end of each reporting period, with any fair values gains or losses recognized in profit or loss to the extent they are not part of a designated hedging relationship (see hedge accounting policy). The net gain or loss recognized in profit or loss includes any dividend or interest earned on the financial asset and is included in the ‘other gains and losses’ line item.

(iii) *Impairment of Financial Assets*

The Group recognizes a loss allowance for expected credit losses (“ECL”) on investments in debt instruments that are measured at amortized cost or a FVTOCI, lease receivables, trade receivables and contract assets, as well as on financial guaranteed contracts. The amount of expected credit losses is updated at each reporting date to reflect changes in credit risk since initial recognition of the respective financial instrument.

The Group always recognizes lifetime ECL for trade receivables, contract assets and lease receivables. The expected credit losses on these financial assets are estimated using a provision matrix based on the Group’s historical credit loss experience, adjusted for factors that are specific to the debtors, general economic conditions and an assessment of both the current as well as the forecast direction of conditions at the reporting date, including time value of money where appropriate.

For all other financial instruments, the Group recognizes lifetime ECL when there has been a significant increase in credit risk since initial recognition. However, if the credit risk on the financial instrument has not increased significantly since initial recognition, the Group measures the loss allowance for that financial instrument at an amount equal to 12-month ECL.

Lifetime ECL represents the expected credit losses that will result from all possible default events over the expected life of a financial instrument. In contrast, 12-month ECL represents the portion of lifetime ECL that is expected to result from default events on a financial instrument that are possible within 12 months after the reporting date.

(i) **Foreign Currencies**

The individual financial statements of each group entity are presented in the currency of the primary economic environment in which the entity operates (its functional currency). For the purpose of the consolidated financial statements, the results and financial position of each group entity are expressed in Australian dollars (“A\$”), which is the functional currency of the Company and the presentation currency for the consolidated financial statements.

In preparing the financial statements of each individual group entity, transactions in currencies other than the entity’s functional currency (foreign currencies) are recognized at the rates of exchange prevailing at the dates of the transactions. At the end of each reporting period, monetary items denominated in foreign currencies are retranslated at the rates prevailing at that date. Non-monetary items carried at fair value that are denominated in foreign currencies are retranslated at the rates prevailing at the date when the fair value was determined. Non-monetary items that are measured in terms of historical cost in a foreign currency are not retranslated.

Exchange differences on monetary items are recognized in profit or loss in the period in which they arise except for exchange differences on monetary items receivable from or payable to a foreign operation for which settlement is neither planned nor likely to occur (therefore forming part of the net investment in the net investment in the foreign operation), which are recognized initially in other comprehensive income and reclassified from equity to profit or loss on repayment of the monetary items.

For the purpose of presenting these consolidated financial statements, the assets and liabilities of the Group’s foreign operations are translated into Australian dollars using exchange rates prevailing at the end of the reporting period. Income and expense items are translated at the average exchange rates for the period. Exchange differences arising, if any, are recognized in other comprehensive income and accumulated in equity.

Goodwill and fair value adjustments to identifiable assets acquired and liabilities assumed through acquisition of a foreign operation are treated as assets and liabilities of the foreign operation and translated at the rate of exchange prevailing at the end of each reporting period. Exchange differences arising are recognized in other comprehensive income and accumulated in equity.

(j) Goods and Services Tax (“GST”)

Revenues, expenses and assets are recognized net of the amount of associated GST, unless the GST incurred is not recoverable from the taxation authority. In this case it is recognized as part of the cost of acquisition of the asset or as part of the expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the taxation authority is included with other receivables or payables in the consolidated statement of financial position.

Cash flows are presented on a gross basis. The GST component of cash flow arising from investing or financing activities which are recoverable from, or payable to the taxation authority, are presented as operating cash flow.

(k) Government Research and Development Incentives

Government grants, including Research and Development incentives, are recognized at fair value where there is reasonable assurance that the grant will be received, and all grant conditions will be met.

Grants relating to cost reimbursements are recognized as other income in profit or loss in the period when the costs were incurred or when the incentive meets the recognition requirements (if later).

(l) Impairment of Tangible and Intangible Assets Other than Goodwill

At the end of each reporting period, the Group reviews the carrying amounts of its tangible and intangible assets to determine whether there is any indication that those assets have suffered an impairment loss. If any such indication exists, the recoverable amount of the asset is estimated in order to determine the extent of the impairment loss (if any). When it is not possible to estimate the recoverable amount of an individual asset, the Group estimates the recoverable amount of the cash generating unit (“CGU”) to which the asset belongs. When a reasonable and consistent basis of allocation can be identified, corporate assets are also allocated to individual CGUs, or otherwise they are allocated to the smallest group of CGUs for which a reasonable and consistent allocation basis can be identified.

A CGU is the smallest identifiable group of assets that generates cash flow that are largely independent of cash flows from other assets or group of assets. The CGUs are defined as a research program that has the potential to be commercialized at some point in the future. Achievement of certain milestones within the research program will determine when a CGU comes into existence.

Intangible assets with indefinite useful lives are tested for impairment at least annually, and whenever there is an indication that the asset may be impaired.

Recoverable amount is the higher of fair value less costs to sell and value in use. In assessing value in use, the estimated future cash flows are discounted to their present value using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the asset for which the estimates of future cash flows have not been adjusted.

If the recoverable amount of an asset (or CGU) is estimated to be less than its carrying amount, the carrying amount of the asset (or CGU) is reduced to its recoverable amount. An impairment loss is recognized immediately in profit or loss, unless the relevant asset is carried at a revalued amount, in which case the impairment loss is treated as a revaluation decrease.

Where an impairment loss subsequently reverses, the carrying amount of the asset (or CGU) is increased to the revised estimate of its recoverable amount, but so that the increased carrying amount does not exceed the carrying amount that would have been determined had no impairment loss been recognized for the asset (or CGU) in prior years. A reversal of an impairment loss is recognized immediately in profit or loss, unless the relevant asset is carried at a revalued amount, in which case the reversal of the impairment loss is treated as a revaluation increase.

(m) Income Tax

Income tax expense represents the sum of the tax currently payable and deferred tax.

Current Tax

The tax currently payable is based on taxable profit for the year. Taxable profit differs from profit before tax as reported in the consolidated statement of profit or loss and other comprehensive income because of items of income or expense that are taxable or deductible in other years and items that are never taxable or deductible. The Group's current tax is calculated using tax rates that have been enacted or substantively enacted by the end of the reporting period.

Deferred Tax

Deferred tax is recognized on temporary differences between the carrying amounts of assets and liabilities in the consolidated financial statements and the corresponding tax bases used in the computation of taxable profit. Deferred tax liabilities are generally recognized for all taxable temporary differences. Deferred tax assets are generally recognized for all deductible temporary differences to the extent that it is probable that taxable profits will be available against which those deductible temporary differences can be utilized. Such deferred tax assets and liabilities are not recognized if the temporary difference arises from the initial recognition (other than in a business combination) of assets and liabilities in a transaction that affects neither the taxable profit nor the accounting profit. In addition, deferred tax liabilities are not recognized if the temporary difference arises from the initial recognition of goodwill.

Deferred tax assets and liabilities are measured at the tax rates that are expected to apply in the period in which the liability is settled or the asset realized, based on tax rates (and tax laws) that have been enacted or substantively enacted by the end of the reporting period. The measurement of deferred tax liabilities and assets reflects the tax consequences that would follow from the manner in which the Group expects, at the end of the reporting period, to recover or settle the carrying amount of its assets and liabilities.

Deferred tax liabilities and assets are offset when there is a legally enforceable right to set off current tax assets against current tax liabilities and when they relate to income taxes levied by the same taxation authority and the Group intends to settle its current tax assets and liabilities on a net basis.

Current and Deferred Tax for the Year

Current and deferred tax are recognized in profit or loss, except when they relate to items that are recognized in other comprehensive income or directly in equity, in which case the current and deferred tax are also recognized in other comprehensive income or directly in equity, respectively. Where current tax or deferred tax arises from the initial accounting for a business combination, the tax effect is included in the accounting for the business combination.

(i) Tax Consolidation Legislation

Bionomics and its wholly owned Australian controlled entities have implemented the tax consolidation legislation effective December 31, 2005.

The head entity, Bionomics Limited, and the controlled entities in the tax consolidated group account for their own current and deferred tax amounts. These tax amounts are measured as if each entity in the tax consolidated group continues to be a stand-alone taxpayer in its own right.

In addition to its own current and deferred tax amounts, Bionomics Limited also recognizes the current tax liabilities (or assets) and the deferred tax assets arising from unused tax losses and unused tax credits assumed from controlled entities in the tax consolidated group.

Assets or liabilities arising under tax funding agreements with the tax consolidated entities are recognized as amounts receivable from or payable to other entities in the Group.

Any difference between the amounts assumed and amounts receivable or payable under the tax funding agreement are recognized as a contribution to (or distribution from) wholly owned tax consolidated entities.

(n) Intangible Assets

(i) Intellectual Property

Acquired intellectual property is recognized as an asset at cost and amortized over its useful life. There is currently no internally generated intellectual property that has been capitalized. Intellectual property with a finite life is amortized on a straight-line basis over that life. Intellectual property with an indefinite useful life is subjected to an annual impairment review. There is currently no intellectual property with an indefinite life.

Current useful life of all existing intellectual property is in the range of 15 to 20 years.

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at each balance date.

(ii) Goodwill

Goodwill arising on an acquisition of a business is carried at cost as established at the date of the acquisition of the business (see Note 2(d) above) less accumulated impairment losses, if any.

For the purposes of impairment testing, goodwill is allocated to each of the Group's CGUs (or groups of CGUs) that is expected to benefit from the synergies of the combination.

A CGU to which goodwill has been allocated is tested for impairment annually, or more frequently when there is an indication that the CGU may be impaired. If the recoverable amount of the CGU is less than its carrying amount, the impairment loss is allocated first to reduce the carrying amount of any goodwill allocated to the CGU and then to the other assets of the CGU pro rata based on the carrying amount of each asset in the CGU. Any impairment loss for goodwill is recognized directly in profit or loss. An impairment loss recognized for goodwill is not reversed in subsequent periods.

On disposal of the relevant CGU, the attributable amount of goodwill is included in the determination of the profit or loss on disposal.

(iii) Intangible Assets Acquired in a Business Combination

Intangible assets acquired in a business combination and recognized separately from goodwill are initially recognized at their fair value at the acquisition date (which is regarded as their cost).

Subsequent to initial recognition, intangible assets acquired in a business combination are reported at cost less accumulated amortization and accumulated impairment losses, on the same basis as intangible assets that are acquired separately.

(o) Issued Capital

Ordinary shares are classified as equity.

Incremental costs directly attributable to the issue of new shares or options, or for the acquisition of a business, are deducted directly from equity.

(p) Leases

The Group assesses whether a contract is or contains a lease, at inception of the contract. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

The Group as Lessee

The Group assesses whether a contract is or contains a lease, at inception of the contract. The Group recognizes a right-of-use asset and a corresponding lease liability with respect to all lease arrangements in which it is the lessee, except for short-term leases (defined as leases with a lease term of 12 months or less) and leases of low value assets (such as tablets and personal computers, small items of office furniture and telephones).

For these leases, the Group recognizes the lease payments as an operating expense on a straight-line basis over the term of the lease unless another systematic basis is more representative of the time pattern in which economic benefits from the leased assets are consumed.

The lease liability is initially measured at the present value of the lease payments that are not paid at the commencement date, discounted by using the rate implicit in the lease. If this rate cannot be readily determined, the Group uses its incremental borrowing rate.

Lease payments included in the measurement of the lease liability comprise:

- Fixed lease payments (including in-substance fixed payments), less any lease incentives receivable;
- Variable lease payments that depend on an index or rate, initially measured using the index or rate at the commencement date;
- The amount expected to be payable by the lessee under residual value guarantees;
- The exercise price of purchase options, if the lessee is reasonably certain to exercise the options; and
- Payments of penalties for terminating the lease if the lease term reflects the exercise of an option to terminate the lease.

The lease liability is presented as a separate line in the consolidated statement of financial position.

The lease liability is subsequently measured by increasing the carrying amount to reflect interest on the lease liability (using the effective interest method) and by reducing the carrying amount to reflect the lease payments made.

The Group remeasures the lease liability (and makes a corresponding adjustment to the related right-of-use asset) whenever:

- The lease term has changed or there is a significant event or change in circumstances resulting in a change in the assessment of exercise of a purchase option, in which case the lease liability is remeasured by discounting the revised lease payments using a revised discount rate.
- The lease payments change due to changes in an index or rate or a change in expected payment under a guaranteed residual value, in which cases the lease liability is remeasured by discounting the revised lease payments using an unchanged discount rate (unless the lease payments change is due to a change in a floating interest rate, in which case a revised discount rate is used).
- A lease contract is modified, and the lease modification is not accounted for as a separate lease, in which case the lease liability is remeasured based on the lease term of the modified lease by discounting the revised lease payments using a revised discount rate at the effective date of the modification.

The Group did not make any such adjustments during the periods presented.

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The right-of-use assets comprise the initial measurement of the corresponding lease liability, lease payments made at or before the commencement day, less any lease incentives received and any initial direct costs. They are subsequently measured at cost less accumulated depreciation and impairment losses.

Right-of-use assets are depreciated over the shorter period of lease term and useful life of the underlying asset. Current useful life of right-to-use assets is 5 years.

If a lease transfers ownership of the underlying asset or the cost of the right-of-use asset reflects that the Group expects to exercise a purchase option, the related right-of-use asset is depreciated over the useful life of the underlying asset. The depreciation starts at the commencement date of the lease.

The right-of-use assets are presented as a separate line in the consolidated statement of financial position.

The Group applies IAS 36 to determine whether a right-of-use asset is impaired and accounts for any identified impairment loss as described in Note 2(1) above.

Group as lessor

Leases in which the Group does not transfer substantially all the risks and rewards incidental to ownership of an asset are classified as operating leases. Rental income arising is accounted for on a straight - line basis over the lease term and is included in revenue in the statement of profit or loss due to its operating nature. Initial direct costs incurred in negotiating and arranging an operating lease are added to the carrying amount of the leased asset and recognized over the lease term on the same basis as rental income. Contingent rents are recognized as revenue in the period in which they are earned.

(q) Property, Plant and Equipment

Land is stated at cost less any impairment losses if applicable and is not depreciated.

Building, plant and equipment are stated at cost less accumulated depreciation or accumulated impairment losses, where applicable.

Depreciation is recognized so as to write off the cost of assets less their residual values over their useful lives, using the diminishing value or straight-line methods, depending on the type of asset. The estimated useful lives, residual values and depreciation method are reviewed at the end of each reporting period.

The depreciation rates for plant and equipment are 20 – 40%.

An item of property, plant and equipment is derecognized upon disposal or when no future economic benefits are expected to arise from the continued use of the asset. Any gain or loss arising on the disposal or retirement of an item of property, plant and equipment is determined as the difference between the sales proceeds and the carrying amount of the asset and is recognized in profit or loss.

(r) Research and Development

Expenditure on research activities, undertaken with the prospect of obtaining new scientific or technical knowledge and understanding, is recognized as an expense when it is incurred. Expenditure on development activities are capitalized only when technical feasibility studies identify that the project will deliver future economic benefits and these benefits can be measured reliably. Development costs have a finite life and are amortized on a systematic basis matched to the future economic benefits over the useful life of the project. At year end there are currently no capitalized development costs.

(s) Revenue Recognition

- (i) License revenues in connection with licensing of the Group's intellectual property (including patents) to collaborators are recognized as a right to use the entity's intellectual property as it exists at the point

in time at which the license is granted. This is because the contracts for the license of intellectual property are distinct and do not require, nor does the customer reasonably expect, that the Group will undertake further activities that significantly affect the intellectual property to which the collaborator has rights.

- (ii) Although the Group is entitled to sales-based royalties from any eventual sales of goods and services to third parties using the intellectual property transferred, these royalty arrangements do not of themselves indicate that the collaborator would reasonably expect the Group to undertake such activities, and no such activities are undertaken or contracted in practice. Accordingly, the promise to provide rights to the Group's intellectual property is accounted for as a performance obligation satisfied at a point in time.

The following consideration is received in exchange for licenses of intellectual property:

- (a) Up-front payments - These are fixed amounts and are recognized at the point in time when the Group transfers the intellectual property to the collaborator.
- (b) Milestone payments - These are variable considerations that depends upon the collaborator reaching certain milestones in relation to the intellectual property licensed. Such amounts are only recognized when it is highly probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration (that is, the collaborator meeting the conditions to trigger payment) is subsequently resolved.
- (c) Sales-based royalties - These are variable consideration amounts promised in exchange for the license of intellectual property that occur late in the collaborator's development of the intellectual property and are recognized when the sales to third parties occur (as the performance obligation to transfer the intellectual property to the collaborator is already satisfied).
- (iii) The Group, until March 3, 2020 when its French subsidiaries were sold, performed contracted research and development. For the year ended June 30, 2020 this revenue was disclosed under discontinued operations (see Note 33 for additional information). For this contracted research and development work, the customer controlled all the work in progress as the work was being carried out, as the work is called out to the customer's specification and if a contract was terminated by the customer, then the Group was entitled to reimbursement of the costs incurred to date, including a reasonable margin. Invoices were issued according to contractual terms and invoiced amounts are presented as other receivables.

Any amounts received from customers prior to the performance obligations being completed were recorded as unearned income and held on the balance sheet, until the relevant performance obligations had been completed in line with the policies above.

The Group had no contracts where the period between the transfer of the promised goods or services to the customer and payment by the customer exceeds one year. As a consequence, the Group did not adjust any of the transaction prices for the time value of money.

- (iv) Rental income is recognized on a straight-line basis over the term of the lease (refer to note 2(p) "Group as lessor" for further comments).

NOTE 3: CRITICAL ACCOUNTING ESTIMATES AND JUDGEMENTS

The preparation of the consolidated financial statements requires the Group to make estimates and judgements that can affect the reported amounts of assets, liabilities, revenues and expenses, as well as the disclosure of contingent assets and liabilities at the date of the financial statements. The Group analyses the estimates and judgements and base estimates and judgements on historical experience and various other assumptions that are believed to be reasonable under the circumstances. Actual results may vary from the estimates. The significant accounting policies are detailed in Note 2. Summarized below are the accounting policies of particular importance to the portrayal of the financial position and results of operations and that require the application of significant judgement or estimates by management.

Impairment of Goodwill and Other Intangible Assets

The Group assesses annually, or whenever there is a change in circumstances, whether goodwill or other intangible assets may be impaired.

Determining whether goodwill and other intangible assets are impaired requires an estimation of the value in use of the CGU to which goodwill or other intangible assets have been allocated. The value in use calculation is judgmental in nature and requires the Group to make a number of estimates including the future cash flows expected to arise from the segment based on actual current market deals for drug compounds within the CGU and over a period covering drug discovery, development, approval and marketing as well as, a suitable discount rate in order to calculate present value. The cash flow projections are further weighted based on the observable market comparables probability of realizing projected milestone and royalty payments. When the carrying value of the CGU exceeds its recoverable amount, the CGU is considered impaired and the assets in the CGU are written down to their recoverable amount. Impairment losses are recognized in the consolidated statement of profit or loss and other comprehensive income. A detailed valuation was performed as of June 30, 2021 and each computed recoverable amount (based on a value-in-use model) of the CGU was in excess of the carrying amount, respectively. As a result of this evaluation, it was determined that no impairment of goodwill or other intangible assets existed at June 30, 2021.

Contingent Consideration

As a result of the acquisition of Eclipse Therapeutic, Inc. (“Eclipse”) during the year ended June 30, 2013, the Group determines and recognizes at each reporting date the fair value of the additional consideration that may be payable to Eclipse security holders due to potential royalty payments based on achieving late-stage development success or partnering outcomes based on Eclipse assets. Such potential earn-out payments are recorded at fair value and include a number of significant estimates including adjusted revenue projections and expenses, probability of such projections and a suitable discount rate to calculate fair value. During the year ended June 30, 2021 there has been a change in estimate in the revenue projections to align more closely to the signed contract (see Note 31 for further information).

NOTE 4: SEGMENT INFORMATION

There was a change in the operating segments during year ended June 30, 2020, as a result of the disposal of the two French subsidiaries which carried out the Group’s contract service business (see Note 33).

Accordingly, the Group now operates as one segment being drug development in Australia. This is the basis on which its internal reports are reviewed and used by the Board of Directors (the “chief operating decision maker”) in monitoring, assessing performance and in determining the allocation of resources.

The results, assets and liabilities from this segment are equivalent to the consolidated financial statements.

NOTE 5: REVENUE, OTHER INCOME AND OTHER GAINS AND LOSSES

	2021 A\$	2020 A\$
Revenue from Continuing Operations		
Licenses	—	46,662
	<u>—</u>	<u>46,662</u>
Other Income from Continuing Operations		
Interest income	5,756	58,369
Rent	203,014	200,284
Government Research and Development Incentives (i)	928,073	2,945,600
Government assistance COVID-19 (Cash flow boost)	50,000	50,000
Government assistance COVID-19 (Jobkeeper)	121,500	58,500
	<u>1,308,343</u>	<u>3,312,753</u>

- (i) The Government Research and Development Incentives include cash refunds provided by the Australian Government for 43.5% (2020: 43.5%) of eligible research and development expenditures by Australian entities having a tax loss and less than A\$20 million in revenue. The grants are calculated at the end of the fiscal year to which they relate, based on the expenses incurred in and included in the fiscal year's Australian income tax return after registration of the research and development activities with the relevant authorities. There are no unfulfilled conditions or other contingencies attaching to the Government Research and Development Incentive.

	2021 A\$	2020 A\$
Other gains and losses from Continuing Operations		
Net gain arising on changes in fair value of contingent consideration (Note 31)	3,212,503	4,823,874
Net gain arising on modification of borrowings measured at amortized costs that were not derecognized (Note 18)	—	199,089
Net realized and unrealized foreign currency gain/(loss)	1,081,438	(621,016)
(Loss)/Gain on disposal of plant and equipment	(21,010)	173,934
	<u>4,272,931</u>	<u>4,575,881</u>

NOTE 6: EXPENSES RELATING TO CONTINUING OPERATIONS

	2021 A\$	2020 A\$
Loss before income tax benefit includes the following specific expenses:		
Finance expenses		
- Interest expense on bank and other loans	618,586	1,170,027
- Interest expense on lease liabilities	26,934	79,938
- Amortization of transaction costs (Note 18)	252,019	29,649
- Accrual of final payment (Note 18)	528,819	544,357
- Bank fees	17,527	22,496
	<u>1,443,885</u>	<u>1,846,467</u>
Employment benefit expenses of:		
- Wages and salaries	2,577,954	3,097,949
- Superannuation	148,662	213,769
- Share-based payments	1,308,349	55,355
	<u>4,034,965</u>	<u>3,367,073</u>
Amortization of non-current assets		
- Plant and equipment (Note 13)	45,553	91,860
- Right-of-use assets (rental property) (Note 14)	762,183	748,571
- Intellectual property (Note 16)	892,512	1,328,244
	<u>1,700,248</u>	<u>2,168,675</u>
Rental expense on operating leases (low value assets)		
- Minimum lease payments	7,277	7,506

NOTE 7: INCOME TAXES RELATING TO CONTINUING OPERATIONS

	2021 A\$	2020 A\$
(a) Income Tax Recognized in Profit or Loss		
<u>Current tax</u>		
In respect of the current year		—
In respect of the prior year	—	—
	<u>—</u>	<u>—</u>
<u>Deferred tax</u>		
Recognized in current year	(187,427)	(207,612)
	<u>(187,427)</u>	<u>(207,612)</u>
Total income tax benefit	<u>(187,427)</u>	<u>(207,612)</u>

(b) Reconciliation to Accounting Loss

	2021 A\$	2020 A\$
Loss from continuing operations	(8,884,464)	(6,026,587)
Tax at the Australian tax rate of 30% (2020: 30%)	(2,665,339)	(1,807,976)
Tax effect of non-deductible / non-assessable amounts		
Exempt income from government assistance	(293,422)	(898,680)
Entertainment expenses	727	1,355
Net gain arising on changes in fair value of contingent consideration	(963,751)	(1,447,162)
Share-based payments	392,505	16,607
Research and development expenditure	640,050	2,013,477
Temporary differences not recorded as an asset	(632,779)	(68,181)
Tax losses not recorded	3,253,265	1,981,695
Effect of different tax rates in other jurisdictions	81,317	1,253
	<u>(187,427)</u>	<u>(207,612)</u>

(c) Net Deferred Tax Liability Recognized

Net deferred tax liability is attributable to the following deferred tax asset/(liability) items:		
Intangibles denominated in USD	(2,088,609)	(2,470,947)
Tax losses denominated in USD	246,305	267,607
	<u>(1,842,303)</u>	<u>(2,203,340)</u>
Movement in Net Deferred Tax Liability		
Opening balance	(2,203,340)	(2,938,417)
Recognized in income:		
- Continuing operations	187,427	207,612
- Discontinuing operations	—	40,968
Recognized in equity	173,610	(28,465)
Derecognized on disposal of subsidiaries (Note 33)	—	514,962
Closing balance	<u>(1,842,303)</u>	<u>(2,203,340)</u>

(d) Net Deferred Tax Asset Not Recognized

Revenue tax losses	27,979,311	24,703,928
Net temporary difference	2,458,142	3,090,921
	<u>30,437,453</u>	<u>27,794,849</u>

Deferred tax assets have not been recognized in respect to these items as it is not probable at this time that future taxable profits will be available against which the Group can utilize the benefit.

(f) Tax Consolidation

Relevance of Tax Consolidation to the Group

The Company and all its wholly owned Australian resident entities are part of a tax-consolidated group under Australian taxation law. Bionomics is the head entity in the tax-consolidated group. Tax expense/benefit, deferred tax liabilities and deferred tax assets arising from temporary differences of the members of the tax-consolidated group are recognized in the separate financial statements of the members of the

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tax-consolidated group using the 'separate taxpayer within group' approach by reference to the carrying amounts in the separate financial statements of each entity and the tax values applying under tax consolidation. Current tax liabilities and assets and deferred tax assets arising from unused tax losses and relevant tax credits of the members of the tax-consolidated group are recognized by the Company (as head entity in the tax-consolidated group).

NOTE 8: CASH AND CASH EQUIVALENTS

Cash at the end of the financial year as shown in the statements of cash flows is reconciled to items in the Consolidated Statement of Financial Position as follows:

	2021 A\$	2020 A\$
Current		
Cash at bank and on hand	28,499,449	4,577,747
	<u>28,499,449</u>	<u>4,577,747</u>

The weighted average interest rate on these deposits is 0.1% per annum (2020: 0.5% per annum).

NOTE 9: OTHER FINANCIAL ASSETS

	2021 A\$	2020 A\$
Restricted deposits held as security and not available for use	<u>554,640</u>	<u>436,174</u>
Disclosed in the financial statement as:		
Current assets	435,640	—
Non-current assets	<u>119,000</u>	<u>436,174</u>
	<u>554,640</u>	<u>436,174</u>

The Group holds restricted term deposits of A\$383,883, A\$51,757 and A\$119,000 (2020: A\$384,000 and A\$52,174), with a maturity date of September 11, 2021, September 23, 2021 and June 3, 2022 respectively (2020: September 11, 2020 and September 23, 2020 respectively) as security for a bank guarantee (Note 32 (ii)) that is not available for use. The term deposits will be extended on maturity until the bank guarantee ceases to be required. The effective interest rate on these deposits is 0.71% (2020:1.35%).

NOTE 10: TRADE AND OTHER RECEIVABLES

	2021 A\$	2020 A\$
Current		
Trade receivables and other receivables	192,685	17,553
Loss allowance	—	—
	<u>192,685</u>	<u>17,553</u>
GST receivables	7,327	37,639
Other	200	4,098
	<u>200,212</u>	<u>59,290</u>

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The average credit period is 30 days. No interest is charged on trade receivables. Loss allowances for doubtful debts are recognized against trade receivables based on estimated irrecoverable amounts determined by reference to past default experience of the counterparty and an analysis of the counterparty's current financial position.

Before accepting any new customer, the Group reviews the quality of the customer, and this is reviewed prior to commencing new major work.

In determining the recoverability of a trade receivable, the Group considers any change in the credit quality of the trade receivable from the date credit was initially granted up to the end of the reporting period. Typically, the concentration of credit risk is limited because the customer base is large and unrelated, except as noted above.

NOTE 11: OTHER ASSETS

	2021 A\$	2020 A\$
Current		
Prepayments	860,793	774,545
Accrued income	2,837	1,775
	<u>863,630</u>	<u>776,320</u>

NOTE 12: SUBSIDIARIES

Details of the Group's subsidiaries at the end of the reporting period are as follows:

Entity	Principal activity	Country of incorporation	Percentage owned	
			2021 %	2020 %
Head Entity				
Bionomics Limited	Research and Development	Australia		
Subsidiaries of Bionomics Limited				
Iliad Chemicals Pty Limited	Asset owner	Australia	100	100
Bionomics Inc	Asset owner	United States	100	100

NOTE 13: PROPERTY, PLANT AND EQUIPMENT

	Freehold land at cost A\$	Building at cost A\$	Plant and Equipment at cost A\$	Total A\$
Cost at June 30, 2019	286,018	2,143,603	4,231,953	6,661,574
Additions	—	—	7,704	7,704
Disposals	—	—	(2,064,317)	(2,064,317)
Derecognized on disposal of subsidiaries (Note 33)	(299,896)	(2,247,615)	(840,524)	(3,388,035)
Effect of foreign currency exchange differences	13,878	104,012	38,888	156,778
Cost at June 30, 2020	—	—	1,373,704	1,373,704
Additions	—	—	1,468	1,468
Disposals	—	—	(1,268,419)	(1,268,419)
Cost at June 30, 2021	—	—	106,753	106,753
Accumulated depreciation at June 30, 2019	—	(605,097)	(3,549,008)	(4,154,105)
Depreciation (a)	—	(77,400)	(127,469)	(204,869)
Disposals	—	—	1,956,328	1,956,328
Derecognized on disposal of subsidiaries (Note 33)	—	714,673	666,385	1,381,058
Effect of foreign currency exchange differences	—	(32,176)	(35,984)	(68,160)
Accumulated depreciation at June 30, 2020	—	—	(1,089,748)	(1,089,748)
Depreciation (a)	—	—	(45,553)	(45,553)
Disposals	—	—	1,036,775	1,036,775
Accumulated depreciation at June 30, 2021	—	—	(98,526)	(98,526)
Net Carrying Amounts at June 30, 2020	—	—	283,956	283,956
Net Carrying Amounts at June 30, 2021	—	—	8,227	8,227

(a) Depreciation is disclosed in the Consolidated Statement of Profit or Loss and Other Comprehensive Income as follows:

	2021 A\$	2020 A\$
Continuing operations	45,553	91,860
Discontinued operations	—	113,009
	<u>45,553</u>	<u>204,869</u>

Non-Current Assets Pledged as Security

Refer to Note 18 for information on non-current assets pledged as security for borrowings by the Group.

NOTE 14: RIGHT-OF-USE ASSETS

	2021 A\$	2020 A\$
Cost	2,374,100	1,519,600
Accumulated depreciation	<u>(1,511,384)</u>	<u>(748,571)</u>
	<u>862,716</u>	<u>771,029</u>
	2021 A\$	2020 A\$
Opening balance 1 July	771,029	—
Adoption of new leasing accounting standard)	—	2,993,675
Addition of new property being rented	854,500	—
Depreciation (a)	(762,813)	(864,646)
Derecognized on disposal of subsidiaries (Note 33)	—	(1,424,365)
Effect of foreign currency exchange differences	—	66,365
Closing balance June 30,	<u>862,716</u>	<u>771,029</u>

(a) Amortization is disclosed in the Consolidated Statement of Profit or Loss and Other Comprehensive Income as follows:

	2021 A\$	2020 A\$
Continuing operations	762,813	748,571
Discontinued operations	—	116,075
	<u>762,813</u>	<u>864,646</u>

Non-Current Assets Pledged as Security

Refer to Note 19 for information on non-current assets pledged as security for lease liabilities by the Group.

NOTE 15: GOODWILL

	A\$
Carrying amount at June 30, 2019	12,761,430
Additions	—
Foreign currency exchange differences	<u>110,957</u>
Carrying amount at June 30, 2020	12,872,387
Additions	—
Foreign currency exchange differences	<u>(471,644)</u>
Carrying amount at June 30, 2021	<u>12,400,743</u>

Impairment Tests

As identified in Note 4 the Group now has only one CGU, drug development. Management tests annually whether goodwill or indefinite life intangibles have suffered any impairment, in accordance with the accounting policy stated in Note 2(n)(i) and (ii), and Note 2(l) respectively. For the purpose of impairment testing all goodwill is allocated to the drug development CGU.

The recoverable amount of the drug development segment is determined based on a value in use calculation which uses cash flow projections based on observable market comparables for drug compounds within the CGU over a period of twenty years covering drug discovery, development, approval and marketing, and a post-tax

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discount rate of 15% per annum (2020: 15% per annum). The cash flow projections are weighted based on the observable market comparables probability of realizing projected milestone and royalty payments.

Management believes that the application of discounted cash flows of observable market comparables for one drug compound is reasonable to be applied to other compounds within the CGU at their respective development phases.

Management believes that any reasonably possible change in the key assumptions on which recoverable amount is based would not cause the aggregate carrying amount to exceed the aggregate recoverable amount of the CGU.

No growth rates or terminal values have been included in the forecast, as the full development lifecycle has been taken into account with the cash flows.

NOTE 16: OTHER INTANGIBLE ASSETS

Intellectual Property

The acquired intellectual property relates to Kv1.3 compound, VDA compound, MultiCore technology, French patents and cancer stem cell technology, and is carried at its costs as at its date of acquisition, less accumulated amortization and impairment charges. There is currently no internally generated intellectual property capitalized.

	Kv1.3 compound A\$	VDA compound A\$	MultiCore technology A\$	French patents A\$	Cancer stem cell technology A\$	Total A\$
Gross carrying amount at June 30, 2019	1,546,542	2,282,527	1,265,590	2,045,425	18,850,747	25,990,831
Additions	—	—	—	—	—	—
Derecognized on disposal of subsidiaries (Note 33)	—	—	—	(2,144,673)	—	(2,144,673)
Foreign currency exchange differences	—	—	—	99,248	359,738	458,986
Gross carrying amount at June 30, 2020	1,546,542	2,282,527	1,265,590	—	19,210,485	24,305,144
Additions	—	—	—	—	—	—
Foreign currency exchange differences	—	—	—	—	(1,529,124)	(1,529,124)
Gross carrying amount at June 30, 2021	—	—	—	—	17,681,361	22,776,020
Accumulated amortization amount at June 30, 2019	(1,443,430)	(2,130,403)	(1,181,211)	(1,999,473)	(6,362,137)	(13,116,654)
Amortization (a)	(103,112)	(152,124)	(84,379)	(45,627)	(988,629)	(1,373,871)
Derecognized on disposal of subsidiaries (Note 33)	—	—	—	2,144,099	—	2,144,099
Foreign currency exchange differences	—	—	—	(98,999)	(93,307)	(192,306)
Accumulated amortization amount at June 30, 2020	(1,546,542)	(2,282,527)	(1,265,590)	—	(7,444,073)	(12,538,732)
Amortization (a)	—	—	—	—	(892,512)	(892,512)
Foreign currency exchange differences	—	—	—	—	600,979	600,979
Accumulated amortization amount at June 30, 2021	(1,546,542)	(2,282,527)	(1,265,590)	—	(7,735,606)	(12,830,265)
Net carrying amount June 30, 2020	—	—	—	—	11,766,412	11,766,412
Net carrying amount June 30, 2021	—	—	—	—	9,945,755	9,945,755

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(a) Amortization is disclosed in the Consolidated Statement of Profit or Loss and Other Comprehensive Income as follows:

	2021 A\$	2020 A\$
Continuing operations	892,512	1,328,244
Discontinued operations	—	45,627
	<u>892,512</u>	<u>1,373,871</u>

NOTE 17: TRADE AND OTHER PAYABLES

	2021 A\$	2020 A\$
Current		
Trade payables	1,028,744	1,261,466
Accrued expenses	785,646	668,966
	<u>1,814,390</u>	<u>1,930,432</u>

The average credit period on purchases of goods is 45 days. No interest is paid on the trade payables. The Group has financial risk management policies in place to ensure that all payables are paid within the credit timeframe.

NOTE 18: BORROWINGS

	2021 A\$	2020 A\$
Secured – at Amortized Cost		
Equipment mortgage (i)	—	242,024
Bank loan (ii)	—	11,202,105
	<u>—</u>	<u>11,444,129</u>

Disclosed in the financial statements as:

	2021 A\$	2020 A\$
Current liabilities	—	5,185,136
Non-current liabilities	—	6,258,993
	<u>—</u>	<u>11,444,129</u>

- (i) The equipment mortgage loans were for equipment (which secure the loans) with interest rates of 5.20% to 5.55% (2020: 5.20% to 5.55%) and as at June 30, 2020 had remaining terms of up to 3 years. On April 12, 2021, the equipment mortgage loans were fully repaid. As at June 30, 2020 the written down value of the equipment that secured the mortgage loans was A\$251,952.
- (ii) The bank loan, denominated in U.S. dollars had an interest rate of 8.25% (2020: 8.25%). During the year ended June 30, 2020 an interest only period was negotiated with the banks, for the period May 2020 to October 2020 and the loan was extended to January 1, 2022. The loan was repayable in equal instalments from November 1, 2020. The loan was secured by all the Group's assets except the term deposits shown in Note 9 and the equipment that is security for the equipment loans above. The loan further contained customary conditions of borrowing, events of default and covenants, including covenants that restrict the ability to dispose of assets, merge with or acquire other entities, incur indebtedness and make distributions to shareholders. Should an event of default occur, including the occurrence of a material adverse change, the Group could have been liable for immediate repayment of all obligations under the loan agreement. Also

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included with the bank loan was the accrual of the final payment and transaction costs still to be amortized, see (a) and (c) below for details. The bank loan was fully repaid on April 30, 2021, the principal outstanding prior to the loan being fully repaid on April 30, 2021 was US\$4,090,909 (June 30, 2020 was US\$6,818,182).

	2021 A\$	2020 A\$
Loan Movement Schedule		
Opening Balance – July 1,	11,444,129	18,298,300
Accrual of bank loan final payment (a)	528,819	544,357
Repayments - principal	(9,170,741)	(7,460,180)
- final payment (a)	(1,916,398)	—
Net gain arising on modification of bank loan (due to extension of loan) that was not derecognized (b)	—	(199,089)
Transaction costs associated with obtaining interest only period (c)	—	(281,668)
Amortization of costs (c)	252,019	29,649
Foreign currency exchange differences	(1,137,828)	512,760
Closing Balance – June 30,	<u>—</u>	<u>11,444,129</u>

- (a) In addition to the payment of principal and interest over the term of the bank loan, a final payment was required under the bank loan, calculated at a percentage of the original principal borrowed. This liability was being accrued (using the effective interest method) over the term of the loan and the amount accrued prior to the loan being fully repaid on April 30, 2021 was US\$1,477,500 (June 30, 2020 was US\$1,079,030).
- (b) As a result of the bank loan being extended to January 1, 2022 (that occurred during the year ended June 30, 2020) the accrual of the bank loan final payment was remeasured resulting in a reduction in the liability that had been accrued as the modification to the loan did not qualify for derecognition of the loan.
- (c) The transaction costs related to costs incurred in obtaining the six-month interest only period and extension of the bank loan. These costs were being amortized over the remaining term of the bank loan.

Interest Rate Risk

The Group's exposure to interest rates and the effective weighted average interest rate by maturity period is set out in Note 23.

NOTE 19: LEASE LIABILITIES

	2021 A\$	2020 A\$
Secured – at amortized costs		
Loan Movement Schedule		
Opening Balance – July 1,	793,148	—
Adoption of new leasing accounting standard	—	2,993,675
New lease for new property -being rented	854,500	—
Repayments	(779,807)	(826,942)
Derecognized on disposal of subsidiaries (Note 33)	—	(1,440,322)
Effect of foreign currency exchange differences	—	66,737
Closing Balance – June 30,	<u>867,841</u>	<u>793,148</u>

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	2021 A\$	2020 A\$
Disclosed in the financial statements as:		
Current liabilities	174,218	767,711
Non-current liabilities	693,623	25,437
	<u>867,841</u>	<u>793,148</u>

Lease liabilities relate to building leases and is effectively secured by the building being leased (Note 14).

The total Group cash outflows for leases is set out below:

	2021 A\$	2020 A\$
Principal element of lease payments	779,807	826,942
Interest element of lease payments- continuing operations	26,934	79,938
Interest element of lease payments- discontinuing operations	—	33,176
Total cash outflows for leases	<u>806,741</u>	<u>940,056</u>

The Group has several lease contracts that include extension and termination options. These options are negotiated by management to provide flexibility in managing the leased-asset portfolio and align with the Group's business needs.

Set out below are the undiscounted potential future rental payments relating to periods following the exercise date of extension options that are not included in the lease term:

	Within five years A\$	More than five years A\$	Total A\$
As at June 30, 2021			
Extension options expected not to be exercised	—	1,183,105	1,183,105
As at June 30, 2020			
Extension options expected not to be exercised	<u>3,193,055</u>	<u>4,728,477</u>	<u>7,921,532</u>

NOTE 20: PROVISIONS

	2021 A\$	2020 A\$
Current		
Employee benefits	<u>371,936</u>	<u>388,827</u>
Non-Current		
Employee benefits	<u>6,782</u>	<u>45,814</u>

NOTE 21: ISSUED CAPITAL

(a) Issued capital

Movements in Ordinary Shares and Treasury Stock (restricted shares issued subject to Employee Share Plan Loan Agreements) respectively, of the Company during the current period were as follows:

Date	Details	Number of shares	A\$
Ordinary Shares			
June 30, 2019	Closing balance	544,647,747	144,944,233
	Share issue - share placement	81,500,000	3,260,000
	Transfer from treasury stock	38,125	—
	Share issue costs	—	(48,228)
June 30, 2020	Closing balance	626,185,872	148,156,005
	Share issue - share placements (i)	185,757,511	21,229,874
	Share issue – rights (ii)	195,229,129	22,606,257
	Shares issued to employees	424,232	60,750
	Share issue costs	—	(423,492)
	Warrants issued -underwriting fee (iii)	—	(1,439,247)
June 30, 2021	Closing balance	<u>1,007,596,744</u>	<u>190,190,147</u>
Treasury Stock			
June 30, 2019	Closing balance	38,125	—
	Share issue – Employee Share Plan Loan Agreements	(38,125)	—
June 30, 2020	Closing balance	—	—
	Share issue – Employee Share Plan Loan Agreements	—	—
June 30, 2021	Closing balance	—	—
	Total Issued Capital	<u><u>1,007,596,744</u></u>	<u><u>190,190,147</u></u>

- (i) During the year ended June 30, 2021, the following share placements occurred:
- Issue of 54,333,000 shares at A\$0.04 per share raising A\$2,173,320. The share issue was approved by shareholders at a General Meeting held on August 26, 2020; and
 - Issue of 131,424,511 shares at A\$0.145 per share raising A\$19,056,554
- (ii) During the year ended June 30, 2021, the following rights issues occurred:
- Issue of 54,304,446 at A\$0.04 per share raising A\$2,172,178; and
 - Issue of 140,924,683 shares at A\$0.145 raising A\$20,434,079
- (iii) Shareholders at the General Meeting held on August 26, 2020 approved the issue of 150,000,000 warrants to Apeiron Investment Group Ltd (“Apeiron”) to subscribe for shares at A\$0.06 per share as consideration of underwriting a share issue that would raise at least A\$15,000,000. The warrants vested on March 3, 2021 when with the assistance of Apeiron a share placement was made that raised A\$15,991,634. Note 24 (c) below, shows details of how the value of the warrants was calculated.

Ordinary shares entitle the holder to participate in dividends and the proceeds on winding up of the Company in proportion to the number of and amounts paid on the shares held. On a show of hands every holder of ordinary shares present at a meeting in person or by proxy, is entitled to one vote and upon a poll each share is entitled to one vote.

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(b) Share Options

When exercised, each option is convertible into one ordinary share. The exercise price is based on the weighted average price at which the Company's shares traded on the ASX during the seven trading days immediately before the options are issued.

The Bionomics Employee Equity Plan and Bionomics Employee Share Option Plan

The terms and conditions of the Bionomics Employee Equity Plan and Bionomics Employee Share Option Plan are summarized in Note 2(g)(iii).

Movement in unlisted share options:

	2021		2020	
	Number of options	Weighted average exercise price	Number of options	Weighted average exercise price
Opening balance at beginning of financial year	6,364,550	A\$ 0.40	7,686,550	A\$ 0.41
Granted during the financial year	15,500,000	A\$ 0.04	—	—
Forfeited during the financial year	(5,000)	A\$ 0.41	(582,500)	A\$ 0.44
Exercised during the financial year	—	—	—	—
Expired during the financial year	(874,100)	A\$ 0.45	(739,500)	A\$ 0.45
Closing balance at June 30,	<u>20,985,450</u>	<u>A\$ 0.12</u>	<u>6,364,550</u>	<u>A\$ 0.40</u>

The number of unlisted share options vested and exercisable at June 30, 2021 was 20,056,450 (2020: 5,296,550).

The weighted average remaining contractual life of any unlisted share options outstanding at the end of the year is 3.80 years (2020: 3.08 years).

On August 28, 2020, the Company issued 15 million share options to subscribe for 15 million shares at A\$0.04 per share expiring on August 28, 2025 to key management personnel, details of the issue are set out below:

KMP	Number	Vesting conditions	Fair value at date of issue
Dr. Errol De Souza	6,000,000	Company's share price reaching \$0.14 per share	A\$0.075
Dr. Errol De Souza	6,000,000	Company's share price reaching \$0.24 per share	A\$0.071
Mr. Jack Moschakis	1,000,000	Company's share price reaching \$0.14 per share	A\$0.133
Mr. Jack Moschakis	1,000,000	Company's share price reaching \$0.24 per share	A\$0.118
Ms. Liz Doolin	500,000	Company's share price reaching \$0.14 per share	A\$0.133
Ms. Liz Doolin	500,000	Company's share price reaching \$0.24 per share	A\$0.118

The share options issued to Dr. Errol De Souza were approved by shareholders at the general meeting held on August 26, 2020 and the share options issued to Mr. Jack Moschakis and Ms. Liz Doolin were approved by Directors on August 28, 2020.

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A Monte Carlo model was used to obtain the fair value of all the share options that were issued to Dr. Errol De Souza and the share options issued to Mr. Jack Moschakis and Ms. Liz Doolin that vest when the Company's share price reach A\$0.24. A Black-Scholes model was used to obtain the fair value of the share options issued to Mr. Jack Moschakis and Ms. Liz Doolin that vest when the Company's share price reach A\$0.14, as the share price had reached A\$0.14 when these shares options were approved to be issued. Inputs used are summarized below:

	<u>Dr. Errol De Souza share options</u>	<u>Mr. Jack Moschakis and Ms. Liz Doolin share options</u>
Share price at date of issue	A\$0.11	A\$0.15
Exercise price	A\$0.04	A\$0.04
Bionomics share volatility	105%	105%
Risk free interest rate	0.42%	0.43%

On November 20, 2020, the company issued 500,000 share options to subscribe for 500,000 shares at A\$0.1687 per share to Dr. Jane Ryan (non-executive director). The issue of these options was approved by shareholders at the Annual General Meeting held on November 20, 2020, details of the share options issue are set out below:

<u>Grant date</u>	<u>Vesting date</u>	<u>Expiry date</u>	<u>Exercise price</u>	<u>Number</u>	<u>Fair value at date of issue</u>
November 20, 2020	October 20, 2021	October 20, 2026	A\$0.1687	100,000	A\$0.089
November 20, 2020	October 20, 2022	October 20, 2027	A\$0.1687	100,000	A\$0.095
November 20, 2020	October 20, 2023	October 20, 2028	A\$0.1687	100,000	A\$0.099
November 20, 2020	October 20, 2024	October 20, 2029	A\$0.1687	100,000	A\$0.103
November 20, 2020	October 20, 2025	October 20, 2030	A\$0.1687	100,000	A\$0.107

A Black-Scholes model was used to obtain the fair value of the above share options. Inputs used are summarized below:

Share price at date of issue	A\$0.13
Exercise price	A\$0.1687
Bionomics share volatility	89%
Risk free interest rate	0.30%

As a result of the rights issues that occurred during the year ended June 30, 2021, the exercise price of the option was recalculated in accordance with the rules of the option plans, and the ASX listing rule 6.22.2. The table below lists share options outstanding at June 30, 2021 at their new exercise price.

<u>Grant date</u>	<u>Expiry date</u>	<u>Exercise price</u>	<u>Number of options</u>	<u>Fair value</u>
20-Jul-15	20-Jul-21	A\$0.4077	15,000	A\$0.2213
9-Oct-15	9-Oct-21	A\$0.4311	5,000	A\$0.3036
10-Oct-13	10-Oct-21	A\$0.5750	15,000	A\$0.5030
28-Nov-16	28-Nov-21	A\$0.3479	260,000	A\$0.2080
11-Dec-12	11-Dec-21	A\$0.2912	100,000	A\$0.2070
17-Dec-13	11-Dec-21	A\$0.6960	100,000	A\$0.4105
12-Dec-11	12-Dec-21	A\$0.4892	100,000	A\$0.4025
17-Dec-13	17-Dec-21	A\$0.6611	4,000	A\$0.4177
18-Dec-12	18-Dec-21	A\$0.2912	5,000	A\$0.2445
24-Dec-15	24-Dec-21	A\$0.5125	100,000	A\$0.1502
30-Dec-15	30-Dec-21	A\$0.4838	50,000	A\$0.1617

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Grant date	Expiry date	Exercise price	Number of options	Fair value
26-Mar-12	26-Mar-22	A\$0.4762	5,000	A\$0.3484
27-Apr-15	27-Apr-22	A\$0.4765	4,000	A\$0.2315
1-May-13	1-May-22	A\$0.3481	64,000	A\$0.2595
6-May-16	6-May-22	A\$0.2936	50,000	A\$0.1841
25-May-15	25-May-22	A\$0.3982	260,600	A\$0.2512
12-Jun-12	12-Jun-22	A\$0.3092	8,000	A\$0.1975
20-Jul-15	20-Jul-22	A\$0.4077	15,000	A\$0.2371
5-Sep-17	5-Sep-22	A\$0.4136	368,050	A\$0.2839
9-Oct-15	9-Oct-22	A\$0.4311	5,000	A\$0.3216
10-Oct-13	10-Oct-22	A\$0.5750	15,000	A\$0.5233
28-Nov-16	28-Nov-22	A\$0.2349	200,000	A\$0.2505
28-Nov-16	28-Nov-22	A\$0.2866	105,000	A\$0.2377
11-Dec-12	11-Dec-22	A\$0.2912	100,000	A\$0.2155
17-Dec-13	11-Dec-22	A\$0.6960	100,000	A\$0.4318
17-Dec-13	17-Dec-22	A\$0.6611	4,000	A\$0.4385
18-Dec-12	18-Dec-22	A\$0.2912	5,000	A\$0.2535
24-Dec-15	24-Dec-22	A\$0.5125	100,000	A\$0.1658
30-Dec-15	30-Dec-22	A\$0.4838	50,000	A\$0.1772
27-Apr-15	27-Apr-23	A\$0.4765	4,000	A\$0.2466
1-May-13	1-May-23	A\$0.3481	64,000	A\$0.2697
6-May-16	6-May-23	A\$0.2936	50,000	A\$0.1961
25-May-15	25-May-23	A\$0.3982	260,600	A\$0.2654
20-Jul-15	20-Jul-23	A\$0.4077	15,000	A\$0.2513
5-Sep-17	5-Sep-23	A\$0.4136	10,000	A\$0.3062
9-Oct-15	9-Oct-23	A\$0.4311	5,000	A\$0.3376
10-Oct-13	10-Oct-23	A\$0.5750	15,000	A\$0.5415
4-Nov-16	4-Nov-23	A\$0.2327	4,000	A\$0.2448
28-Nov-16	28-Nov-23	A\$0.2349	200,000	A\$0.2621
28-Nov-16	28-Nov-23	A\$0.2866	200,000	A\$0.2504
28-Nov-16	28-Nov-23	A\$0.3556	5,000	A\$0.2370
17-Dec-13	17-Dec-23	A\$0.6611	4,000	A\$0.4573
24-Dec-15	24-Dec-23	A\$0.5125	100,000	A\$0.1798
30-Dec-15	30-Dec-23	A\$0.4838	50,000	A\$0.1912
27-Apr-15	27-Apr-24	A\$0.4765	4,000	A\$0.2601
6-May-16	6-May-24	A\$0.2936	310,600	A\$0.2068
20-Jul-15	20-Jul-24	A\$0.4077	15,000	A\$0.2640
5-Sep-17	5-Sep-24	A\$0.4136	10,000	A\$0.3236
9-Oct-15	9-Oct-24	A\$0.4311	5,000	A\$0.3521
4-Nov-16	4-Nov-24	A\$0.2327	4,000	A\$0.2546
28-Nov-16	28-Nov-24	A\$0.2349	200,000	A\$0.2721
28-Nov-16	28-Nov-24	A\$0.2866	200,000	A\$0.2616
28-Nov-16	28-Nov-24	A\$0.3556	5,000	A\$0.2495
24-Dec-15	24-Dec-24	A\$0.5125	100,000	A\$0.1925
30-Dec-15	30-Dec-24	A\$0.4838	50,000	A\$0.2038
27-Apr-15	27-Apr-25	A\$0.4765	4,000	A\$0.2722
6-May-16	6-May-25	A\$0.2936	50,000	A\$0.2164
25-May-15	25-May-25	A\$0.3982	260,600	A\$0.2893
20-Jul-15	20-Jul-25	A\$0.4077	15,000	A\$0.2756
26-Aug-20	28-Aug-25	A\$0.0136	6,000,000	A\$0.0750
26-Aug-20	28-Aug-25	A\$0.0136	6,000,000	A\$0.0710

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Grant date	Expiry date	Exercise price	Number of options	Fair value
28-Aug-20	28-Aug-25	A\$0.0136	1,500,000	A\$0.1330
28-Aug-20	28-Aug-25	A\$0.0136	1,500,000	A\$0.1180
5-Sep-17	5-Sep-25	A\$0.4136	10,000	A\$0.3388
9-Oct-15	9-Oct-25	A\$0.4311	5,000	A\$0.3653
4-Nov-16	4-Nov-25	A\$0.2327	4,000	A\$0.2633
28-Nov-16	28-Nov-25	A\$0.2349	200,000	A\$0.2810
28-Nov-16	28-Nov-25	A\$0.2866	200,000	A\$0.2716
28-Nov-16	28-Nov-25	A\$0.3556	5,000	A\$0.2605
24-Dec-15	24-Dec-25	A\$0.5125	100,000	A\$0.2039
30-Dec-15	30-Dec-25	A\$0.4838	50,000	A\$0.2152
6-May-16	6-May-26	A\$0.2936	50,000	A\$0.2251
5-Sep-17	5-Sep-26	A\$0.4136	10,000	A\$0.3520
20-Nov-20	20-Oct-26	A\$0.1519	100,000	A\$0.0890
4-Nov-16	4-Nov-26	A\$0.2327	4,000	A\$0.2710
28-Nov-16	28-Nov-26	A\$0.2349	200,000	A\$0.2890
28-Nov-16	28-Nov-26	A\$0.2866	200,000	A\$0.2804
28-Nov-16	28-Nov-26	A\$0.3556	5,000	A\$0.2703
5-Sep-17	5-Sep-27	A\$0.4136	10,000	A\$0.3636
20-Nov-20	20-Oct-27	A\$0.1519	100,000	A\$0.0950
20-Nov-20	20-Oct-28	A\$0.1519	100,000	A\$0.0990
20-Nov-20	20-Oct-29	A\$0.1519	100,000	A\$0.1030
20-Nov-20	20-Oct-30	A\$0.1519	100,000	A\$0.1070
			20,985,450	

(c) **Warrants**

When exercised, each warrant is convertible into one ordinary share.

Movement in unlisted share warrants:

	2021		2020	
	Number of warrants	Weighted average exercise price	Number of warrants	Weighted average exercise price
Opening balance at beginning of financial year	40,207,472	A\$ 0.59	40,207,472	A\$ 0.59
Granted during the financial year	150,000,000	A\$ 0.06	—	—
Forfeited during the financial year	—	—	—	—
Exercised during the financial year	—	—	—	—
Expired during the financial year	(24,124,484)	A\$ 0.59	—	—
Closing balance at June 30,	166,082,988	A\$ 0.11	40,207,472	A\$ 0.59

The number of unlisted warrants vested and exercisable at June 30, 2021 was 166,082,988 (2020: 40,207,472).

The weighted average remaining contractual life of any unlisted warrants outstanding at the June 30, 2021 is 2.6 years (2020: 1.9 years).

On August 26, 2020, shareholders approved, as consideration for Apeiron underwriting a share issue that would raise at least A\$15 million, that Apeiron would be issued 150 million warrants to subscribe for shares at A\$0.06 per share with an expiry date of August 23, 2023.

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With the assistance of Apeiron a share placement was made that raised A\$15,991,634 and the warrants vested on March 3, 2021. As per IFRS 2 “Share Based Payment”, the warrants have been valued based on the fair value of the services received (underwriting a share issue) which has been calculated using a risk adjusted estimated fee of 9% of the amount that was raised.

As a result of the rights issues that occurred during the year ended June 30, 2021, the exercise price of warrants that had been issued in prior years was recalculated in accordance with the terms of issue of the warrants. The table below lists warrants outstanding at June 30, 2021 at their new exercise price.

Grant Date	Expiry date	Exercise Price	No of options	Fair Value
10-Dec-16	10-Dec-21	A\$0.5674	16,082,988	A\$0.137000
26-Aug-20	26-Aug-23	A\$0.0600	150,000,000	A\$0.009595
			<u>166,082,988</u>	

NOTE 22: RESERVES

	2021 A\$	2020 A\$
Foreign Currency Translation Reserve (a)	5,119,200	6,288,371
Share-based Payments Reserve (b)	<u>6,328,691</u>	<u>7,125,413</u>
Total Reserves	<u>11,447,891</u>	<u>13,413,784</u>

(a) Foreign Currency Translation Reserve

Exchange differences arising on translation of the foreign controlled entities are taken to the foreign currency translation reserve, as described in Note 2(i). The reserve is recognized in profit or loss when the investment is disposed of.

(b) Share-based Payments Reserve

The share-based payments reserve is used to recognize the fair value of options and warrants issued over the vesting period. Further information about share-based payments is set out in Note 21.

NOTE 23: FINANCIAL INSTRUMENTS

(a) Capital Risk Management

The Group manages its capital to ensure that entities in the Group will be able to continue as going concerns whilst maximizing the return to stakeholders through the optimization of the debt and equity balance.

During April 2021, the Group repaid in full its bank loan and equipment mortgage. The capital structure of the Group now consists of lease liabilities for rental property (Note 19) cash and cash equivalents (Note 8) and equity attributable to equity holders of the parent, comprising issued capital (Note 21), reserves (Note 22) and retained earnings.

The Group’s policy is to fund the research and development activities and operations through the issue of equity and the commercialization of intellectual property assets. Project specific borrowings are utilized where appropriate and also minor borrowings for operational assets, as required.

(b) Categories of Financial Instruments

	2021 A\$	2020 A\$
Financial Assets		
Cash and cash equivalents	28,499,449	4,577,747
Receivables	1,128,285	2,978,831
Other financial assets	554,640	436,174
	<u>30,182,374</u>	<u>7,992,752</u>
Financial Liabilities		
Trade and other payables	1,814,390	1,930,432
Borrowings	—	11,444,129
Lease liability – rental property	867,841	793,148
Contingent consideration at fair value	1,762,656	4,975,159
	<u>4,444,887</u>	<u>19,142,868</u>
Reconciliation to Total Assets		
Financial assets (as above)	30,182,374	7,992,752
Non-financial assets	24,081,071	26,470,104
	<u>54,263,445</u>	<u>34,462,856</u>
Reconciliation to Total Liabilities		
Financial liabilities (as above)	4,444,887	19,142,868
Non-financial liabilities	2,221,021	2,637,981
	<u>6,665,908</u>	<u>21,780,849</u>

(c) Financial Risk Management Objectives

The Board, through the Audit and Risk Management (“ARM”) Committee, is responsible for ensuring there are adequate policies in relation to risk management, compliance and internal control systems.

In summary, Group policies are designed to ensure significant strategic, operational, legal, reputational and financial risks are identified, assessed, and effectively monitored and managed in a manner sufficient for a company of Bionomics’ size and stage of development to enable achievement of the Group’s business strategy and objectives.

The Group’s risk management policies are managed by the key management personnel and are reviewed by the ARM Committee according to a timetable of assessment and review proposed by that Committee and approved by the Board.

(d) Market Risk

The Group’s activities expose it primarily to the financial risks of changes in foreign currency exchange rates (see (e) below) and interest rates (see (f) below).

The Group uses derivative financial instruments to manage its exposure to foreign currency risk, if and when appropriate.

The Group has not entered into any interest rate derivatives.

The Group measures market risk exposures using sensitivity analysis. There has been no material change to the Group’s exposure to market risks or the manner in which these risks are managed and measured.

There were no derivative financial instruments outstanding as at June 30, 2021 (2020: nil).

(e) Foreign Currency Risk Management

The Group undertakes certain transactions denominated in foreign currencies; consequently, exposures to exchange rate fluctuations arise. Exchange rate exposures are managed in accordance with established policies. The Group's exposure to foreign currency risk at the end of the reporting period, expressed in Australian dollars is as follows:

	2021 A\$	2020 A\$
Denominated in USD		
Monetary items		
Cash and cash equivalents	624,819	164,255
Trade and other payables	(672,353)	(224,877)
Borrowings	—	(11,445,769)
Contingent consideration liability	(1,762,656)	(4,975,159)
Total monetary items	(1,810,190)	(16,481,550)
Non-monetary items		
Goodwill	5,453,648	5,925,292
Other intangible assets	9,945,755	11,766,412
Deferred tax liability	(1,842,303)	(2,203,340)
Total non-monetary items	13,557,100	15,488,364
Total denominated in USD	11,746,910	(993,186)

Foreign Currency Sensitivity Analysis

The following table details the Group's sensitivity to a 10% increase and decrease in the Australian dollar against the U.S. dollar. 10% is the sensitivity rate used when reporting foreign currency risk internally to key management personnel and represents management's assessment of the reasonably possible change in foreign currency rates. The sensitivity analysis below includes only outstanding foreign currency denominated monetary items and adjusts their translation at the year-end for a 10% change in foreign currency rates. A positive number below indicates an increase in profit or equity where the Australian dollar strengthens 10% against the relevant currency.

For a 10% weakening of the Australian dollar against the relevant currency, there would be a comparable impact on the profit or equity with the balances being the opposite.

	2021 A\$	2020 A\$
Profit or loss (a)	(222,678)	(2,181,987)
Equity (b)	3,135	10,403

(a) This is attributable to the exposure to outstanding USD net monetary assets at the end of the reporting period.

(b) This is attributable to the exposure to outstanding USD net monetary assets at the end of the reporting period in the subsidiaries which is denominated in USD and reflected in the foreign currency translation reserve.

The Group's sensitivity to foreign currency has decreased as at June 30, 2021 mainly due to repayment in full during April 2021 of the U.S. borrowing and decrease in the contingent consideration liability.

The sensitivity analysis may not represent the quantum of foreign exchange risk because the exposure at the end of the reporting period does not reflect the exposure during the year. Requirements change during the financial year depending on research and development activities being undertaken and contract research service financial performance.

Forward Foreign Exchange Contracts

It is the policy of the Group to enter into forward foreign currency contracts to cover specific foreign currency payments and receipts when appropriate (such as when there is a legal commitment to pay or receive foreign currency or the Executive Chairman or Chief Executive Officer has a high degree of confidence (>90%) that a foreign currency exposure will arise).

Under the Group's Treasury Policy, the Chief Financial Officer will manage the foreign exchange transaction risk adopting the following guidelines:

- Generally, hedge foreign exchange exposure identified above by entering into a forward currency contract.
- The duration of any forward currency contract(s) will approximate the period in which the net currency exposure arises.
- Recognizing the uncertainty that exists in projecting forward foreign currency flows, a maximum net foreign currency exposure position may be held at any point in time.

Due to the long-term nature of the net investment in the USD denominated wholly owned subsidiaries, the investments will not be hedged into Australian dollars, with the result that the Australia dollar value of the investments will fluctuate with the market rate through the foreign currency translation reserve.

There were no forward foreign currency contracts outstanding as at June 30, 2021 (2020: nil).

(f) Interest Rate Risk Management

The U.S. bank loan had a variable interest rate with a floor. At June 30, 2020 the effective interest rate was 10.78% and this effective interest rate did not change during the year ended June 30, 2021 (the U.S. borrowing was repaid in full during April 2021). The Group's other borrowing are at fixed interest rates. The Group does not use interest rate swap contracts or forward interest rate contracts.

The Group is exposed to interest rate risk only in relation to the cash and cash equivalent balances, as the interest rate floor on the U.S. borrowing is above the LIBOR rate.

Interest Rate Sensitivity Analysis

The sensitivity analysis below has been determined based on the exposure to interest rates at the end of the reporting period on cash and cash equivalent balances and the stipulated change taking place at the beginning of the financial year and held constant throughout the reporting period.

If interest rates had been 50 basis points higher / (lower) and all other variables were held constant, the Group's loss for the year ended June 30, 2021 would decrease / (increase) by A\$142,497 (2020: decrease / (increase) by A\$22,889).

The Group's sensitivity to interest rates has increased due to the increase in cash and cash equivalent balances compared to the prior year.

(g) Credit Risk Management

Credit risk refers to the risk that a counterparty will default on its contractual obligations resulting in financial loss to the Group. The Group has adopted a policy of only dealing with creditworthy counterparties and obtaining sufficient collateral, where appropriate, as a means of mitigating the risk of financial loss from defaults.

The credit risk on liquid funds is limited because the counterparties are banks with high credit ratings assigned by international credit rating agencies.

The carrying amount of financial assets recorded in the financial statements, net of any allowances for losses, represents the Group's maximum exposure to credit risk.

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(h) Liquidity Risk Management

Ultimate responsibility for liquidity risk management rests with the Board, which has approved an appropriate liquidity risk management framework for management of the Group's short, medium and long term funding. The Group manages liquidity risk by continuously monitoring forecast and actual cash flows and matching maturity profiles of financial assets and liabilities.

(i) Liquidity and Interest Rate Risk

The following tables detail the Group's remaining contractual maturity for its financial liabilities with agreed repayment terms. The tables have been drawn up based on the undiscounted cash flows of financial liabilities based on the earliest date on which the Group can be required to pay.

To the extent that interest flows are at a variable rate, the undiscounted amount is derived from interest rate applicable at the end of the reporting period. The tables include both interest and principal cash flows.

2021	Weighted average effective interest rate %	Less than 1 month A\$	1 – 3 months A\$	3 – 12 months A\$	1 to 5 years A\$	5 + years A\$	Total A\$
Trade and other payables	—	1,814,390	—	—	—	—	1,814,390
Lease liability – rental property (fixed interest rate)	3.56	40,141	43,764	117,184	744,579	—	945,668
		<u>1,854,531</u>	<u>43,764</u>	<u>117,184</u>	<u>744,579</u>	<u>—</u>	<u>2,760,058</u>

2020	Weighted average effective interest rate %	Less than 1 month A\$	1 – 3 months A\$	3 – 12 months A\$	1 to 5 years A\$	5 + years A\$	Total A\$
Trade and other payables	—	1,930,432	—	—	—	—	1,930,432
Bank loan (variable interest rate with a floor)	10.78	67,938	140,405	5,760,396	6,882,030	—	12,850,769
Equipment mortgage (fixed interest rate)	5.26	8,599	25,798	68,796	157,639	—	260,832
Lease liability – rental property (fixed interest rate)	5.50	66,013	132,026	594,115	25,553	—	817,707
		<u>2,072,982</u>	<u>298,229</u>	<u>6,423,307</u>	<u>7,065,222</u>	<u>—</u>	<u>15,859,740</u>

(j) Fair Value of Financial Instruments

The Group has no financial assets that are measured at fair value and the only financial liability that is measured at fair value at the end of each reporting period is contingent consideration (Note 31). The value of financial assets and other financial liabilities approximate their fair value. The following table gives information about how the fair value of the financial liability is determined.

Financial Liabilities	Fair Value as at		Fair value hierarchy	Valuation technique	Significant unobservable inputs	Relationship of unobservable inputs to fair value
	June 30, 2021 A\$	June 30, 2020 A\$				
Contingent consideration in a business combination (Note 31)	1,762,656	4,975,159	Level 3	Discounted cash flow	Discount rate of 25% (pre-tax) and probability adjusted revenue projections.	The higher the discount rate, the lower the value. The higher the possible revenue the higher value.

Reconciliation of Level 3 fair value measurements

	2021 Contingent consideration in a business combination A\$	2020 Contingent consideration in a business combination A\$
Opening balance	4,975,159	9,790,033
Total (gain) or loss:		
- in profit or loss	(3,212,503)	(4,814,874)
Closing balance	<u>1,762,656</u>	<u>4,975,159</u>

The carrying value of all other financial assets and liabilities approximate their fair value.

NOTE 24: KEY MANAGEMENT PERSONNEL COMPENSATION

The aggregate compensation made to Directors and other members of key management personnel of the Group is set out below:

	2021 A\$	2020 A\$
Short-term employee benefits	2,269,030	1,527,499
Post-employment benefits	51,982	52,106
Other long-term benefits	9,480	16,434
Share-based payments	1,298,208	68,518
Total key management personnel compensation	<u>3,628,700</u>	<u>1,664,557</u>

NOTE 25: COMMITMENTS FOR EXPENDITURE

(a) Operating Leases

Operating leases related to photocopiers with lease term of 5 years (2020: 1.5 years). The following table gives information about the lease commitment, which are not included in the lease liability due to the application of the practical expedients to exclude low value leases from lease liabilities.

	2021 A\$	2020 A\$
<u>Non-cancellable Operating Lease Commitments</u>		
Within one year	5,064	7,284
Later than one year but not greater than five	19,412	3,642
Later than five years	—	—
Minimum lease payments	<u>24,476</u>	<u>10,926</u>

(b) Rental Agreements

The Group sub-lets areas of its facility under an agreement that is renewed annually. The current rental arrangement expires on July 12, 2021 (2020: June 30, 2021). Rent received from these agreements is treated according to the accounting policy outlined in Note 2(s)(iii). The following table gives information about future rental income.

	2021 A\$	2020 A\$
Future Rental Income Receivable		
Within one year	6,549	203,014
Later than one year but not greater than five	—	—
	<u>6,549</u>	<u>203,014</u>

NOTE 26: REMUNERATION OF AUDITORS

	2021 A\$	2020 A\$
Audit or Review of Financial Reports		
- Group	86,500	110,000
- French subsidiaries	—	74,972
Other Assurance Services		
Agreed upon procedures in relation to French subsidiaries cash statement and debt statement as at February 28, 2020	—	27,109
	<u>86,500</u>	<u>212,081</u>

The auditor of Bionomics Limited is Ernst & Young (2020: Deloitte Touche Tohmatsu).

NOTE 27: CASH FLOW INFORMATION

(a) Cash and Cash Equivalents

For the purposes of the consolidated statement of cash flows, cash and cash equivalents include cash on hand and in banks, net of outstanding bank overdrafts. Cash and cash equivalents at the end of the reporting period as shown in the consolidated statement of cash flows can be reconciled to the related items in the consolidated statement of financial position as follows:

	2021 A\$	2020 A\$
Cash and cash equivalents (Note 8)	<u>28,499,449</u>	<u>4,577,747</u>

(b) Reconciliation of Operating Loss to Net Cash Outflow from Operating Activities

	2021 A\$	2020 A\$
(Loss) for the year	(8,697,037)	(7,118,288)
Items in loss		
Depreciation and amortization	1,700,878	2,443,386
Share-based payments	1,308,349	55,355
Loss/(Gain) on asset disposals	21,010	(173,934)
Contingent consideration – change in fair value	(3,212,503)	(4,823,874)
Amortization of transaction costs	252,019	29,649
Accrual of final borrowing payment	528,819	544,357
Net gain arising on modification of borrowings measured at amortized costs that were not derecognized	—	(199,089)
Net foreign exchange differences	(1,067,746)	558,645
Loss on disposal of French operations	—	802,502
Interest received	(5,756)	(58,369)

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	2021 A\$	2020 A\$
Changes in Operating Assets and Liabilities		
Decrease/(Increase) in receivables	34,078	(202,257)
Decrease in research and development incentive receivable	1,991,468	4,145,659
(Increase)/Decrease in other assets	(85,648)	348,768
Increase in inventory	—	(28,291)
(Decrease)/Increase in payables	(63,305)	127,451
(Decrease) in provisions	(55,923)	(85,407)
(Decrease) in other liabilities	—	(20,876)
(Decrease) in deferred tax liability	(187,427)	(248,580)
Net cash outflows from operating activities	<u>(7,538,724)</u>	<u>(3,903,193)</u>

NOTE 28: LOSS PER SHARE

	2021	2020
<i>From continuing and discontinuing operations</i>		
Basic loss per share	(A\$0.01) (1 cent)	(A\$0.01) (1 cent)
Diluted loss per share	(A\$0.01) (1 cent)	(A\$0.01) (1 cent)
From continuing operations		
Basic loss per share	(A\$0.01) (1 cent)	(A\$0.01) (1 cent)
Diluted loss per share	(A\$0.01) (1 cent)	(A\$0.01) (1 cent)

The basic and diluted loss per share amounts have been calculated using the 'Loss after income tax' figure in the consolidated statement of profit or and other comprehensive income.

	2021 A\$	2020 A\$
Loss Per Share (Basic and Diluted):		
Loss after tax for the year from continuing and discontinuing operations	(8,697,037)	(7,118,288)
Loss after tax for the year from continuing operations	(8,697,037)	(5,818,975)

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	2021 number	2010 number
Weighted Average Number of Ordinary Shares - Basic		
Weighted average number of ordinary shares used in calculating basic loss per share:	779,941,036	544,871,870
Weighted Average Number of Ordinary Shares – Diluted		
Weighted average number of ordinary shares used in calculating basic loss per share:	779,941,036	544,871,870
Shares deemed to be issued for no consideration in respect of employee options	20,056,450	5,296,550
Potential ordinary shares which are anti-dilutive and excluded	(20,056,450)	(5,296,550)
Shares deemed to be issued for no consideration in respect of warrants	166,082,988	40,207,472
Potential ordinary shares which are anti-dilutive and excluded	(166,082,988)	(40,207,472)
Weighted average number of ordinary shares used in the calculation of diluted loss per share	<u>779,941,036</u>	<u>544,871,870</u>

The following potential ordinary shares are anti-dilutive and are therefore excluded from the weighted average number of ordinary shares for the purposes of diluted loss per share.

	2021 number	2020 number
Employee options	20,056,450	5,296,550
Warrants	166,082,988	40,207,472

NOTE 29: RELATED PARTY TRANSACTIONS

(a) Parent Entity

The immediate parent and ultimate controlling party of the Group is Bionomics Limited. Interests in subsidiaries are set out in Note 12.

(b) Key Management Personnel

Disclosures relating to compensation of key management personnel are set out in Note 24 and the Directors' Report.

(c) Loans to Directors and Other Key Management Personnel

There were no loans to any Directors of the Company or other key management personnel of the Group during the financial year ended June 30, 2021 (2020: Nil).

(d) Memorandum of Understanding (“MOU”) with EmpathBio Inc (“EmpathBio”)

On February 17, 2021, the Company entered into a Memorandum of MOU with EmpathBio Inc, a wholly owned subsidiary of Germany-based CNS clinical development company, atai Life Sciences NV (“atai”), what is a related party of Apeiron (a director related entity), when the MOU was signed. Under the MOU, the Company and EmpathBio propose to collectively explore a combination drug treatment regimen with Bionomics' BNC210 and EmpathBio's 3,4-Methylenedioxyamphetamine (MDMA) derivative EMP-01. The parties will explore whether the different mechanisms of action of EMP-01 and BNC210 may offer the potential for developing an improved treatment regimen for the treatment of PTSD.

(e) Shares issued to Apeiron (a director related entity)

During the year ended June 30, 2021, the following shares were issued to Apeiron:

- 54,333,000 shares at A\$0.04 per share (2020: 81,500,00 shares at A\$0.04 per share) as a result of a share placements: and
- 26,222,424 shares at A\$0.145 per share as a result of the Rights Issue that occurred.

(f) Shares issued to BVF Partners L.P. (a director related entity) (“BVF”)

During the year ended June 30, 2021 10,864,351 shares at A\$0.04 per share and 36,115,866 shares at A\$0.145 per share were issued to BVF, as a result of the rights issued that occurred.

(g) Shares issued to Directors

During the year ended June 30, 2021 shares were issued to the following Directors as a result of the rights issue that occurred:

- 15,949 shares at A\$0.04 per share to Mr. Peter Turner; and
- 15,949 shares at A\$0.04 per share and 35,990 shares at A\$0.145 per share to Mr. David Wilson.

(h) Shares issued to Other Key Management Personnel

On August 28, 2020 314,246 fully paid shares were issued to Mr. Jack Moschakis and 109,986 fully paid shares were issued to Ms. Liz Doolin as part of their bonus for the year ended June 30, 2020, based on the average 5 day VWAP for the period to August 28, 2020.

(i) Share options issued to Directors and Other Key Management Person

During the year ended June 30, 2021 share options were issued to Dr. Errol De Souza, Dr. Jane Ryan, Mr. Jack Moschakis and Ms. Liz Doolin, details about these share options are set out in Note 21(b) to the Financial Statements.

(j) Warrants issued to Apeiron (a director related entity)

On August 26, 2020, shareholders approved, as consideration for Apeiron underwriting a share issue that would raise at least A\$15 million, Apeiron would be issued 150 million warrants to subscribe for shares at A\$0.06 per share with an expiry date of August 23, 2023, details about these warrants are set out in Note 21(c) to the Financial Statements.

NOTE 30: PARENT ENTITY INFORMATION

The accounting policies of the parent entity, which have been applied in determining the financial information for the year ended June 30, shown below, are the same as those applied in the consolidated financial statements. Refer to Note 2 for a summary of the significant accounting policies relating to the Group.

	2021 A\$	2020 A\$
Financial Position		
Assets		
Current assets	31,589,198	9,476,586
Non-current assets	20,830,576	22,330,434
Total assets	<u>52,419,774</u>	<u>31,807,020</u>
Liabilities		
Current liabilities	2,359,177	8,270,605
Non-current liabilities	2,463,060	11,305,403
Total liabilities	<u>4,822,237</u>	<u>19,576,008</u>
Net Assets	<u>47,597,537</u>	<u>12,231,012</u>
Equity		
Issued capital	190,190,147	148,156,005
Reserves	6,328,691	7,125,413
Accumulated losses	(148,921,301)	(143,050,406)
Total equity	<u>47,597,537</u>	<u>12,231,012</u>
	2021 A\$	2020 A\$
Financial Performance		
(Loss) for the year	(9,415,213)	(2,343,333)
Other comprehensive income	—	—
Total comprehensive (loss)	<u>(9,415,213)</u>	<u>(2,343,333)</u>

(a) Property, Plant and Equipment Commitments

There were no contractual commitments for the acquisition of property, plant or equipment as at June 30, 2021 (2020: Nil).

(b) Contingent Liabilities and Guarantees

The contingent liabilities and guarantees of the parent are the same as disclosed in Note 32.

NOTE 31: CONTINGENT CONSIDERATION

During the year ended June 30, 2013, the Company acquired Eclipse Therapeutics, Inc (Eclipse) into its wholly owned subsidiary Bionomics Inc. Part of the consideration are potential cash earn-outs to Eclipse security holders based on achieving late-stage development success or partnering outcomes of the Eclipse asset that was acquired. This liability is recorded at fair value; see Note 23 (j), for information about the calculation of the fair value. As at June 30, 2021, the liability decreased by A\$3,212,503, as the expected cash flows have been modified to reflect the anticipated amounts and timing of potential milestone and royalty payments from the recent signed licensing agreement with Carina Biotech Pty Ltd (“Carina”). Previously the amounts were based on licensing

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agreements for other compounds. International financial reporting standards required that in a “business combination” (the Company acquiring Eclipse) any contingent consideration liability at acquisition date needs to be recorded at the fair value and subsequent changes in the fair value are recognized in profit or loss, but any contingent assets at acquisition date are not allowed to be recorded. The Company has a contingent asset (the expected payments to be received from Carina) at June 30, 2021 which is greater than the contingent consideration liability.

	2021 A\$	2020 A\$
Opening balance	4,975,159	9,799,033
Change in fair value	(3,212,503)	(4,823,874)
Closing balance	<u>1,762,656</u>	<u>4,975,159</u>

NOTE 32: CONTINGENT LIABILITIES

- (i) In January 2012, the Company entered into a research and license agreement with Ironwood Pharmaceuticals, Inc., or Ironwood, pursuant to which Ironwood was granted worldwide development and commercialization rights for BNC210. In November 2014, the parties mutually agreed to terminate this license agreement, reverting all rights to BNC210 back to the Company. The sole obligation to Ironwood is to pay Ironwood low single digit royalties on the net sales of BNC210, if commercialized. It is not practicable to estimate the future payments of any such royalties that may arise due to the stage of development of BNC210.
- (ii) The Group has provided a restricted cash deposit of A\$554,640 (2020: A\$436,174) as security for an unconditional irrevocable bank guarantee as a rent guarantee of A\$554,640 (2020: A\$435,640) to the landlord of the Company’s leased office premises.
- (iii) The Group has entered into employment agreements with several key employees and has a contingent liability of A\$Nil (2020: A\$360,000) in relation to these agreements, where the employee is terminated by the Company without cause.

NOTE 33: DISCONTINUED OPERATIONS

On March 3, 2020, the Company sold its two wholly owned French subsidiaries, Neurofit SAS and PC SAS, which carried out all the Group’s contract service business. The sale price of Euro 1,790,029 is the amount of intercompany debt owed by the Company to the subsidiaries for scientific research conducted by them on the Company’s drug candidates and this debt was assumed by the purchaser upon acquisition of the two companies.

Costs incurred by the Company in relation to this transaction were A\$207,143. The disposal of the contract service operations is consistent with the Group’s long-term policy to focus its activities on the clinical trial of BNC210 for the treatment of PTSD.

[Table of Contents](#)**(a) Analysis Assets and Liabilities Over Which Control Was Lost**

	Year ended June 30, 2020 A\$
Current assets	
Cash and cash equivalents	800,849
Trade and other receivables	1,047,259
Research and development incentives receivable	770,054
Inventories	692,832
Other assets	85,115
Non-current assets	
Property, plant and equipment	2,006,977
Right-to-use asset – rented property	1,424,365
Other intangible assets	574
Current liabilities	
Trade and other payables	(2,312,900)
Lease liability – rented property	(161,723)
Provisions	(446,148)
Other liabilities	(204,860)
Non-current liabilities	
Other payables	(816,663)
Lease liability – rented property	(1,278,599)
Deferred tax liabilities	(514,962)
Net assets disposed of	<u>1,092,170</u>

(b) Loss on Disposal of Subsidiary

	2020 A\$
Net assets disposed of	(1,092,170)
Costs relating to the disposal incurred by the Company	(207,143)
Loss on disposal	<u>(1,299,313)</u>

(c) Net Cash Outflow on Disposal of Subsidiaries

	2020 A\$
Cash and cash equivalent balances disposed of	(800,849)
Costs relating to the disposal incurred by the Company	(207,143)
Net cash outflow	<u>(1,007,992)</u>

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(d) Analysis of (Loss)/Profit for the Year from Discontinued Operations

The combined results of the discontinued operation (contract service business) included in the loss for the year ended June 30, 2020 are set out below.

	2020 A\$
Revenue	3,422,584
Other income	391,505
	<u>3,814,089</u>
Expenses	(4,242,502)
Loss before income tax benefit	(428,413)
Income tax benefit	40,968
	<u>(387,445)</u>
Loss on disposal of operations including a cumulative gain of A\$496,811 recycled from foreign currency translation reserve to profit and loss	(911,868)
Attributable income tax expenses	—
	<u>(911,868)</u>
Loss from discontinued operations	<u>(1,299,313)</u>

(e) Analysis of Cash Flows from Discontinued Operations

The cash flows from discontinued operations for the year ended June 30, 2020 are set out below:

<i>Cash flows for the year from discontinued operations</i>	2020 A\$
Inflows from operating activities	470,767
Outflows from investing activities	(7,704)
Outflows from financing activities	(100,489)
Net cash flow	<u>362,574</u>

NOTE 34: EVENTS OCCURRING AFTER REPORTING DATE

From July 1, 2021 Dr. Errol De Souza is on a new employment contract, details are set out below:

- Fixed Remuneration of US\$43,750 per month (plus reimbursement of health care benefits of up to US\$22,000 per year), plus a short term incentive/bonus potential of 60% of Fixed Remuneration as assessed by the independent Non-Executive directors against agreed financial, strategic and operational targets, for performance exceeding such applicable performance criteria the Annual Bonus may be increased up to 100% of Base Salary and the grant a long term incentive of 47,786,807 options vested over four years, subject to shareholder approval.
- The expiry date of the employment contract is June 30, 2024, however on the expiration of the initial three-year term and on each yearly anniversary thereof, the employment contract shall automatically renew for an additional one-year period unless sooner terminated in accordance with the provisions of the employment contract or by notice of non-renewal at least 120 days prior to the end of the three-year term.

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- For Termination for Cause: the Company will pay earned but unpaid Base Salary and Annual Bonus with 1 month's written notice. For Voluntary Resignation Without Good Reason: the employee will provide 6 months' notice. For Termination Without Cause, Redundancy or Resignation for Good Reason, the Company will:
 - pay severance of twelve (12) months of Base Salary plus a pro rata amount of the target bonus potential to be paid in equal instalments over the following 12-month period, and
 - any outstanding equity compensation awards will fully and immediately vest with respect to any amounts that would have vested as if remaining employed for an additional 24 months.

Any termination benefits in excess of the limits in the Corporations Act are subject to shareholder approval.

On September 2, 2021, the Company issued 2,000,000 fully paid ordinary shares as a result of 2,000,000 share options being exercised at their exercise price of A\$0.0136.

Bionomics announced its plans to conduct an initial public offering (IPO) in the United States. The proposed offering is expected to commence after the U.S. Securities and Exchange Commission completes its review process of a registration statement that the company intends to file.

On November 11, 2021, the Company issued 8,000,000 fully paid ordinary shares as a result of 8,000,000 warrants being exercised at their exercise price of A\$0.06.

There are no other matters or circumstances that have arisen since the end of the financial year which significantly affect or may significantly affect the results of the operations of the Group.

NOTE 35: IMPACT OF COVID-19

The Board and Management have considered the impact of COVID-19 on the Company's operations and financial performance. Overall, operations for the year ended June 30, 2021 have not been materially affected by the COVID-19 pandemic. During the year, the Company received A\$171,500 (2020: A\$108,500) in Australian government assistance through the cash flow boost and Jobkeeper payments, which has been recognized in the Consolidated Statement of Profit or Loss and Other Comprehensive Income as Other Income.

The clinical trial for PTSD started in United States during July 2021 and to date has not been affected by COVID-19 pandemic except for postponing screening and enrolment of one potential participant into the trial. However, there may be disruptions caused by COVID-19 pandemic that may result in increased costs and delays in completing the PTSD clinical trial. The Company is working closely with its clinical partners and has taken the necessary steps to allow for adjustments in the clinical trial protocol should they be required due to restrictions that may be imposed during the COVID-19 pandemic.

The Company cannot predict the scope and severity of any further disruptions as a result of COVID-19 or its impact on the business. Unforeseen disruptions to the business or any of the third parties we use, including the collaborators, contract organizations, manufacturers, suppliers, clinical trial sites, and regulators could materially and negatively impact our ability to conduct business in the manner and on the timelines presently planned. The extent to which COVID-19 pandemic may continue to impact the business and financial performance will depend on future developments, which are highly uncertain and cannot be predicted with confidence. Currently, the Company is unable to determine the extent of the impact of the pandemic on the clinical trials, operations and financial performance going forward. These developments are highly uncertain and unpredictable and may materially adversely affect the Company's future operating results and financial position.

AMERICAN DEPOSITARY SHARES

REPRESENTING

ORDINARY SHARES



**Evercore ISI
Berenberg**

William Blair

**Cantor
H.C. Wainwright & Co.**

Until _____, 2021 (25 days after the commencement of this offering), all dealers that buy, sell or trade our ADSs shares, whether or not participating in this offering, may be required to deliver a prospectus. This delivery requirement is in addition to the obligation of dealers to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

Part II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 6. Indemnification of Directors and Officers.

Australian law. Australian law provides that a company or a related body corporate of the company may provide for indemnification of officers and directors, except to the extent of any of the following liabilities incurred as an officer or director of the company:

- a liability owed to the company or a related body corporate of the company;
- a liability for a pecuniary penalty order made under section 1317G or a compensation order under section 961M, 1317H, 1317HA, 1317HB, 1317HC or 1317HE of the Corporations Act;
- a liability that is owed to someone other than the company or a related body corporate of the company and did not arise out of conduct in good faith; or
- legal costs incurred in defending an action for a liability incurred as an officer or director of the company if the costs are incurred:
- in defending or resisting proceedings in which the officer or director is found to have a liability for which they cannot be indemnified as set out above;
- in defending or resisting criminal proceedings in which the officer or director is found guilty;
- in defending or resisting proceedings brought by the ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established (except costs incurred in responding to actions taken by the ASIC or a liquidator as part of an investigation before commencing proceedings for a court order); or
- in connection with proceedings for relief to the officer or a director under the Corporations Act, in which the court denies the relief.

Constitution. Our Constitution provides, except to the extent prohibited by the law and the Corporations Act and, to the extent that an officer or a director is not indemnified by any director and officer liability insurance maintained by us, for the indemnification of every person who is or has been an officer or a director of the company against liability incurred by that person as an officer or director. This includes any liability incurred by that person in their capacity as an officer or director of a related body corporate of the company.

The indemnification relates to any liability for costs and expenses incurred by the person in his or her capacity as our director or officer (i) in defending any proceedings, whether civil or criminal, in which judgment is given in favor of the person or in which the person is acquitted, and (ii) in connection with an application in which the court grants relief to the person under the Corporations Act. However the indemnity does not apply if the liability arises out of conduct on the part of the director or officer which involves a lack of good faith, or is contrary to our express instructions.

Indemnification Agreements. Pursuant to the terms of the Letter of Appointment between us and our directors, the form of which is filed as Exhibit 10.8 to this registration statement, we indemnify our directors against any liability incurred in connection with claims made by reason of being a director, to the extent our directors' and officers' insurance is inadequate, but subject to the limitations on indemnities outlined above.

SEC Position. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling us pursuant to the foregoing provisions, we have been informed that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

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Pursuant to the underwriting agreement for this offering, the form of which is filed as Exhibit 1.1 to this registration statement, the underwriters will agree to indemnify our directors and officers and persons controlling us, within the meaning of the Securities Act, against certain liabilities that might arise out of or are based upon certain information furnished to us by any such underwriter.

Item 7. Recent Sales of Unregistered Securities.

The following list sets forth information as to all securities we have sold since July 1, 2018, which were not registered under the Securities Act.

1. On November 11, 2021, the Company issued 8,000,000 fully paid ordinary shares as a result of 8,000,000 warrants being exercised at their exercise price of A\$0.06.
2. On September 2, 2021, the Company issued 2,000,000 fully paid ordinary shares as a result of 2,000,000 share options being exercised at their exercise price of A\$0.0136.
3. On June 4, 2021, we issued 3,909,034 ordinary shares at A\$0.145 per share for an aggregate offering price of A\$566,810 to a number of institutional and sophisticated investors following the scaled back allocations as outlined to the ASX on April 6, 2021, pursuant to the Bionomics “Concurrent Placement” announcement to the ASX on March 17, 2021.
4. On April 8, 2021, we issued 17,228,346 ordinary shares at A\$0.145 per share for an aggregate offering price of A\$17,228,346 to a number of institutional and sophisticated investors pursuant to the Bionomics “Concurrent Placement” announced to the ASX on March 17, 2021 and issued 140,924,683 ordinary shares in an entitlement offer to our shareholders with Australian addresses at A\$0.145 per share for an aggregate offering price of A\$20,434,079.
5. On March 2, 2021, we issued 110,287,131 ordinary shares at A\$0.145 per share for an aggregate offering price of A\$15,991,634 under a placement to a number of North American and European institutional and sophisticated investors announced to the ASX on 9 February 2021 and issued warrants to Apeiron Investment Group Ltd to acquire 150,000,000 ordinary shares at A\$0.06 per share.
6. On October 22, 2020, we issued 31,973,571 ordinary shares at A\$0.0400 per share for an aggregate offering price of A\$1,278,943, in a retail entitlement offer to shareholders with Australian addresses.
7. On October 6, 2020, we issued 22,330,875 ordinary shares at A\$0.0400 per share for an aggregate offering price of A\$893,235 in an institutional entitlement offer to institutional and sophisticated investors.
8. On September 24, 2020, we issued 54,333,000 ordinary shares at A\$0.0400 per share for an aggregate offering price of A\$2,173,320 a second placement to Apeiron Investment Group Ltd (“Apeiron”) and four Exempt Investors nominated by Apeiron, pursuant to the Subscription Agreement announced to the ASX on June 2, 2020 and approved at the General Meeting of shareholders held on August 26, 2020.
9. On August 28, 2020, we issued 424,232 ordinary shares at A\$0.1432 per share for an aggregate offering price of A\$60,750 under the Employee Equity Plan as part of year ended June 30, 2020 Short Term Incentive award to Executives.
10. On June 30, 2020, we issued 81,500,00 ordinary shares at A\$0.0400 per share for an aggregate offering price of A\$3,260,000 under a placement to HSBC Custody Nominees (Australia) Limited, a nominee of Apeiron Investment Group Ltd, pursuant to the subscription agreement announced to the ASX on June 2, 2020.
11. On December 12, 2018, we issued 1,612,942 ordinary shares at A\$0.1550 per share for an aggregate offering price of A\$250,000 pursuant to the terms of a Share Purchase Plan pursuant to an offer dated November 22, 2018.

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12. On November 16, 2018, we issued 60,169,738 ordinary shares at A\$0.1637 per share for an aggregate offering price of A\$9,849,787 under a placement to BVF Partners L.P. (and affiliates), as outlined in our announcement to the ASX on November 9, 2018.
13. On August 24, 2018, we issued 111,756 ordinary shares at A\$0.4730 per share for an aggregate offering price of A\$52,860 under the Employee Equity Plan as part of the fiscal year 2018 Short Term Incentive award to key management personnel and executive officers.

The transactions described above were made outside the United States pursuant to Regulation S or to U.S. persons pursuant to Rule 701 promulgated under the Securities Act, in that the securities were offered and sold either pursuant to written compensatory plans or pursuant to a written contract relating to compensation, as provided by Rule 701 or to U.S. persons pursuant to Section 4(a)(2) of the Securities Act in that such sales and issuances did not involve a public offering.

Item 8. Exhibits and Financial Statement Schedules.

(a) Exhibits. The list of exhibits is set forth under “Exhibit Index” at the end of this registration statement and is incorporated by reference herein.

(b) Financial Statement Schedules. Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

Item 9. Undertakings.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

1. For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this Registration Statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this Registration Statement as of the time it was declared effective.
2. For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Exhibit Index

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
1.1*	Form of Underwriting Agreement
3.1	Form of Constitution of Bionomics Limited proposed to be adopted at the 2021 Annual General Meeting
4.1*	Form of Depositary Agreement between Bionomics Limited and Citibank, N.A., as depositary
4.2*	Form of American Depositary Receipt evidencing American Depositary Shares
4.3	Form of Warrant, issued December 12, 2016
4.4	Warrant Deed Poll, dated March 3, 2021
5.1*	Opinion of Johnson Winter & Slattery
10.1†	Research Collaboration and License Agreement, dated June 26, 2014, by and between Bionomics Limited and Merck Sharp & Dohme Corp.
10.2	First Amendment to Research Collaboration and License Agreement, dated October 2, 2015, by and between Bionomics Limited and Merck Sharp & Dohme Corp.
10.3†	Second Amendment to Research Collaboration and License Agreement, dated May 9, 2016, by and between Bionomics Limited and Merck Sharp & Dohme Corp.
10.4†	Third Amendment to Research Collaboration and License Agreement, dated November 8, 2016, by and between Bionomics Limited and Merck Sharp & Dohme Corp.
10.5†	Fourth Amendment to Research Collaboration and License Agreement, dated April 26, 2017, by and between Bionomics Limited and Merck Sharp & Dohme Corp.
10.6†	IP License Agreement, dated November 18, 2020, by and between Bionomics Limited and Carina Biotech Pty Ltd.
10.7	Lease by and between Bionomics Limited and 200 Greenhill Road PTY LTD, dated May 31, 2021
10.8#	Bionomics Limited Employee Share Option Plan
10.9#	Bionomics Limited Employee Share Plan (A\$1,000 Plan) – Terms of the Plan
10.10#	Bionomics Limited Employee Equity Plan – Plan Rules
10.11#	Bionomics Limited Executive Employment Agreement, dated June 30, 2021, between Bionomics Limited and Errol B. De Souza, Ph.D
10.12#	Consultancy Agreement dated March 18, 2019, between Bionomics Limited and Adrian Hinton
10.13#	Letter, dated June 28, 2021, amending the Consultancy Agreement dated March 18, 2019, between Bionomics Limited and Adrian Hinton
10.14#	Letter of Appointment, dated September 3, 2008, between Bionomics Limited and Elizabeth Doolin
10.15#	Letter, dated July 1, 2020, from Bionomics Limited to Elizabeth Doolin
10.16#	Letter, dated July 1, 2021, from Bionomics Limited to Elizabeth Doolin
10.17	Subscription Agreement, dated June 1, 2020, by and between Bionomics Limited and Apeiron Investment Group Ltd
10.18	Placement Agreement, dated November 9, 2018, by and between Bionomics Limited and BVF Partners L.P.

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<u>Exhibit Number</u>	<u>Description of Exhibit</u>
16.1	Letter from Deloitte Touche Tohmatsu to the Securities and Exchange Commission, dated November 19, 2021
21.1	List of subsidiaries of Bionomics Limited
23.1	Consent of Ernst & Young
23.2*	Consent of Johnson Winter & Slattery (included in Exhibit 5.1)
24.1	Powers of Attorney (included on signature page)

* To be filed by amendment.

† Portions of this exhibit have been omitted for confidentiality purposes..

Indicates management contract or compensatory plan.

SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F-1 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereto duly authorized in Boston, Massachusetts, on November 22, 2021.

BIONOMICS LIMITED

By: /s/ Errol De Souza, Ph.D.

Errol De Souza, Ph.D.

Executive Chairman

SIGNATURES AND POWER OF ATTORNEY

We, the undersigned officers and directors of Bionomics Limited, hereby severally constitute and appoint Errol De Souza, Ph.D. and Adrian Hinton, and each of them singly (with full power to each of them to act alone), our true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them for him or her and in his or her name, place and stead, and in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement (or any other registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as full to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities held on the dates indicated.

Signature	Title	Date
<u>/s/ Errol De Souza, Ph.D.</u> Errol De Souza, Ph.D.	Executive Chairman (principal executive officer)	November 22, 2021
<u>/s/ Adrian Hinton</u> Adrian Hinton	Acting Chief Financial Officer (principal financial and accounting officer)	November 22, 2021
<u>/s/ Mitchell Kaye</u> Mitchell Kaye	Director	November 22, 2021
<u>/s/ Jane Ryan, Ph.D.</u> Jane Ryan, Ph.D.	Director	November 22, 2021
<u>/s/ Aaron Weaver</u> Aaron Weaver	Director	November 22, 2021
<u>/s/ David Wilson</u> David Wilson	Director	November 22, 2021

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Signature

Title

Date

/s/ Miles Davies Director
Miles Davies

November 22, 2021

/s/ Alan Fisher Director
Alan Fisher

November 22, 2021

SIGNATURE OF AUTHORIZED U.S. REPRESENTATIVE OF REGISTRANT

Pursuant to the requirements of the Securities Act of 1933, as amended, the undersigned, the duly authorized representative in the United States of Bionomics Limited has signed this registration statement on November 22, 2021.

BIONOMICS LIMITED

By: /s/ Errol De Souza, Ph.D.

Errol De Souza, Ph.D.

Authorized Signatory

Bionomics Ltd ACN 075 582 740

A public company limited by shares

Constitution

JOHNSON WINTER & SLATTERY

Level 25, 20 Bond Street

SYDNEY NSW 2000

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www.jws.com.au

Liability limited by a scheme approved under Professional Standards Legislation

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Constitution

1 Definitions and interpretation

1.1 Definitions

In this Constitution, unless a contrary intention appears:

Act means *Corporations Act 2001* (Cth).

AGM means an annual general meeting of the Company that the Act requires to be held.

ASX means ASX Limited.

ASX Settlement Operating Rules means the operating rules of ASX Settlement Pty Limited and, to the extent that they are applicable, the operating rules of the Exchange and the operating rules of ASX Clear Pty Limited.

Business Day has the meaning given to that term in the Listing Rules.

Company means Bionomics Ltd ACN 075 582 740.

Exchange means the Australian Securities Exchange or such other securities exchange that is declared by the directors to be the Company's primary stock exchange for the purposes of this definition.

Liabilities includes losses, liabilities, costs, charges and expenses of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.

Listing Rules means the Listing Rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the Official List of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

Marketable Parcel has the meaning given to that term in the Listing Rules.

Official List means the official list of entities that ASX has admitted and not removed.

Proper ASTC Transfer has the meaning given to that term in the *Corporations Regulations 2001* (Cth).

Record Time means:

- (a) in the case of a meeting for which the caller of the meeting has decided, under the Act, that shares are to be taken to be held by the persons who held them at a specified time before the meeting, that time; and
- (b) in any other case, 48 hours before the relevant meeting, or if this time would fall on a trading day, 7.00pm (Sydney time) on that day or such other time specified in the ASX Settlement Operating Rules.

Representative means, in relation to a member which is a body corporate and in relation to a meeting, a person authorised in accordance with the Act (or a corresponding previous law) by the body corporate to act as its representative at the meeting.

Seal means any common seal, duplicate seal or certificate seal of the Company.

Takeover has the meaning given to that term in the Listing Rules.

Transmission Event means:

- (a) for a member who is an individual, the member's death, the member's bankruptcy or the member becoming of unsound mind or a person who, or whose estate, is liable to be dealt with in any way under the law relating to mental health; and
- (b) for a member who is a body corporate, the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.

URL means Uniform Resource Locator, the address that specifies the location of a file on the world wide web.

1.2 Interpretation

In this Constitution, any heading, subheading, table of contents or marginal note is for convenience only and does not affect the interpretation of this document. Unless a contrary intention appears, in this Constitution, the following rules of interpretation apply:

- (a) The singular includes the plural and vice versa and a reference to a gender includes all people regardless of gender.
- (b) A reference to:
 - (i) a person includes an individual, body corporate, firm, partnership, joint venture, unincorporated body and government authority;
 - (ii) a person includes their successors and legal personal representatives;
 - (iii) a rule is to a rule of this Constitution;
 - (iv) a document includes that document as amended, varied, supplemented, novated or replaced from time to time and any schedule, attachment, annexure or exhibit to that document;
 - (v) "agreement" includes an undertaking, deed, contract or other legally enforceable arrangement, whether or not in writing, and a reference to "document" includes an agreement (as so defined) in writing or any certificate, notice, instrument or other document of any kind;
 - (vi) law includes the common law, principles of equity and legislation;
 - (vii) legislation or a provision of legislation includes all regulations, orders or instruments issued under that legislation or provision and any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
 - (viii) the Listing Rules or the ASX Settlement Operating Rules includes any variation, consolidation or replacement of those rules and is taken to be subject to any applicable waiver or exemption;
 - (ix) "include", "including" and "for example", and similar expressions, when introducing a list of items, does not limit the meaning of the words to which the list relates to those items or to items of a similar kind; and
 - (x) dollars or \$ is to Australian dollars.
- (c) A reference to a member for the purposes of a meeting of members (or a class of them) is a reference to the registered holder of shares as at the relevant Record Time.

- (d) A reference to a person being “present” at a meeting:
 - (i) at a meeting of members, includes:
 - (A) a member present in person;
 - (B) a member present by proxy, attorney or Representative;
 - (C) to the extent permitted by law, a member participating using technology approved by the directors in accordance with this Constitution; and
 - (D) except in any rule which specifies a quorum, a member who has duly lodged a valid direct vote in relation to the meeting under rule 7.11; and
 - (ii) at a meeting of directors, includes participating using technology approved by the directors in accordance with this Constitution.
- (e) A chair appointed under this Constitution may also be referred to as a chairperson, chairman, chairwoman or like term.
- (f) Where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning.
- (g) This Constitution is to be interpreted subject to the Act and (while the Company is admitted to the Official List,) the Listing Rules and the ASX Settlement Operating Rules. Unless the contrary intention appears:
 - (i) an expression in a rule that deals with a matter dealt with by a provision of the Act, the Listing Rules or the ASX Settlement Operating Rules has the same meaning as in that provision; and
 - (ii) subject to rule 1.2(g)(i), an expression in a rule that is used in the Act has the same meaning in this Constitution as in the Act.
- (h) A reference in this Constitution to:
 - (i) a partly paid share is a reference to a share on which there is an amount unpaid;
 - (ii) an amount unpaid on a share includes a reference to any amount of the issue price which is unpaid;
 - (iii) a call or an amount called on a share includes a reference to a sum that, by the terms of issue of a share, becomes payable on issue or at a fixed date;
 - (iv) to a person holding or occupying a particular office or position is a reference to any person who occupies or performs the duties of that office or position.
- (i) The Company may, but is not obliged to, treat a member as a separate member in respect of each separate HIN or SRN (as those terms are defined in the ASX Settlement Operating Rules) (or such other identifier as may be used by the Company) under which its shares are recorded in the Register.

1.3 *Effect of the Listing Rules*

While the Company is admitted to the Official List, the following provisions apply:

- (a) notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;
- (e) if the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision;
- (f) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

1.4 *Replaceable rules not to apply*

The provisions of the Act that that apply as replaceable rules do not apply to the Company.

1.5 *Exercise of powers*

- (a) The Company may, in any way the Act permits:
 - (i) exercise any power;
 - (ii) take any action; or
 - (iii) engage in any conduct or procedure,
which, under the Act a company limited by shares may exercise, take or engage in.
- (b) Where this Constitution:
 - (i) provides that a person “may” do a particular act or thing, the act or thing may be done at the person’s discretion;
 - (ii) confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the same way and subject to the same conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing;
 - (iii) confers a power to do a particular act or thing, the power may be exercised from time to time and may be exercised subject to conditions; and
 - (iv) confers a power to do a particular act or thing concerning particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing as to only some of those matters or as to a particular class of those matters, and to make different provision concerning different matters or different classes of matters.

- (c) Where this Constitution confers a power to make appointments to any office or position (except the power to appoint a director under rule 8.1(c)), the power is, unless the contrary intention appears, taken to include a power:
 - (i) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (ii) subject to any contract between the Company and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (iii) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (d) Where this Constitution gives power to a person to delegate a function or power:
 - (i) the delegation may be concurrent with, or (except in the case of a delegation by the directors) to the exclusion of, the performance or exercise of that function or power by the person;
 - (ii) the delegation may be either general or limited in any way provided in the terms of delegation;
 - (iii) the delegation need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position;
 - (iv) the delegation may include the power to delegate; and
 - (v) where performing or exercising that function or power depends on that person's opinion, belief or state of mind about a matter, that function or power may be performed or exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.

1.6 Currency

The directors may, at their discretion:

- (a) differentiate between members as to the currency in which any amount payable to a member is paid (whether by way of or on account of dividends, repayment of capital, participation in surplus property of the Company or otherwise);
- (b) determine to pay a distribution or other amount to a member in a currency other than Australian dollars and the amount payable will be converted from Australian dollars in any manner, at any time and at any exchange rate as the directors think fit; and
- (c) in deciding the currency in which a payment is to be made to a member, have regard to the registered address of the member, the register on which a member's shares are registered and any other matters as the directors consider appropriate.

Payment in another currency of an amount converted under this rule 1.6 is as between the Company and a member adequate and proper payment of the amount payable.

1.7 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the Company is taken to be registered for the purposes of the Act, the Federal Court of Australia and the courts which may hear appeals from those courts.

1.8 *Prohibition and enforceability*

- (a) Any provision of, or the application of any provision of, this Constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

2 **Share capital**

2.1 *Issue of shares*

Subject to the Act, the Listing Rules, this Constitution and any special rights conferred on the holders of any shares or class of shares, the directors may issue, allot or grant options for, or otherwise dispose of, shares in the Company and may decide the following:

- (a) the persons to whom shares are issued or options are granted;
- (b) the terms on which shares are issued or options are granted;
- (c) the rights and restrictions attached to those shares or options; and
- (d) the manner in which fractions of a share, however arising, are to be dealt with.

2.2 *Preference shares*

- (a) The Company may issue preference shares, including preference shares which are, or at the option of the Company or holder are, liable to be redeemed or converted into ordinary shares.
- (b) Unless otherwise determined by the members in accordance with the Act, the terms of preference shares are as set out in rules 2.2(c) to (k).
- (c) Each preference share confers on the holder a right to receive a preferential dividend, in priority to the payment of any dividend on the ordinary shares, at the rate and on the basis set out in the terms of issue. The preferential dividend may be cumulative only if and to the extent set out in the terms of issue, and will otherwise be non-cumulative.
- (d) Each preference share confers on its holder the right in a winding up and on redemption to payment in priority to the ordinary shares of:
 - (i) the amount of any dividend accrued but unpaid on the share at the date of winding up or the date of redemption, unless otherwise provided for in the terms of issue; and
 - (ii) any additional amount specified in the terms of issue.
- (e) In addition to the preferential dividend and rights on winding up or redemption, each preference share may participate with the ordinary shares in the profits and assets of the Company, including on a winding up, if and to the extent set out in the terms of issue.
- (f) To the extent set out in the terms of issue, a preference share may confer a right to a bonus issue or capitalisation of profits in favour of holders of those shares only.

- (g) A preference share does not confer on its holder any right to participate in the profits or assets of the Company except as set out above or in the terms of issue.
- (h) A preference share entitles its holder to vote at general meetings in the following circumstances only:
 - (i) during a period in which a dividend or part of a dividend on the share is in arrears;
 - (ii) on a proposal to reduce the share capital of the Company;
 - (iii) on a resolution to approve the terms of a buy back agreement;
 - (iv) on a proposal that affects rights attached to the preference share;
 - (v) on a proposal to wind up the Company;
 - (vi) on a proposal for the disposal of the whole, or substantially the whole, of the property, business and undertaking of the Company;
 - (vii) during the winding up of the Company; or
 - (viii) in any other circumstances in which the Listing Rules require holders of preference shares to be entitled to vote.
- (i) The holder of a preference share who is entitled to vote in respect of that share under rule 2.2(h) is, on a poll, entitled to the greater of one vote per share or such other number of votes specified in, or determined in accordance with, the terms of issue for the share.
- (j) In the case of a redeemable preference share, the Company must redeem the share, pay the amount payable on redemption of the share, or otherwise deal with the redemption, in accordance with the terms of issue.
- (k) A holder of a preference share must not transfer or purport to transfer, and the directors (to the extent permitted by the Listing Rules) must not register a transfer of, the preference share if the transfer would contravene any restrictions on the right to transfer the share set out in its terms of issue.

2.3 Alteration of share capital

Subject to the Act, the directors may do anything required to give effect to any resolution authorising reduction or alteration of the share capital of the Company, including, where a member becomes entitled to a fraction of a share:

- (a) making cash payments;
- (b) ignoring a fractional entitlement;
- (c) appointing a trustee to deal with any fractions on behalf of members; and
- (d) rounding up a fractional entitlement to the nearest whole share.

2.4 Conversion or reclassification of shares

Subject to the Act and this Constitution, the Company may by resolution convert or reclassify shares from one class to another.

2.5 *Variation of class rights*

- (a) The rights attached to any class of shares may, unless the terms of issue state otherwise, be varied:
 - (i) with written consent of the holders of 75% of the shares of the class; or
 - (ii) by a special resolution passed at a meeting of the holders of the shares of the class.
- (b) The provisions of this Constitution relating to general meetings apply, with necessary changes, to separate class meetings except that:
 - (i) if there is one holder of shares in a class, the quorum is that person; and
 - (ii) any holder of shares of the class present or the chair of the meeting may demand a poll.
- (c) Unless otherwise provided by the terms of issue, the issue of new shares ranking equally with existing shares is not a variation of the rights conferred on the holders of the existing shares.

2.6 *Joint holders of shares*

Where 2 or more persons are registered as the holders of any shares, they are considered to hold them as joint tenants with rights of survivorship, subject to the following conditions:

- (a) the Company is not bound to register more than 3 persons as joint holders of the shares, or if a greater number is permitted by the ASX Settlement Operating Rules, that number;
- (b) the joint holders are liable individually as well as jointly for all payments in respect of the shares;
- (c) on the death of any one of the joint holders, the remaining joint holder or holders (as the case may be) is the only person or persons the Company will recognise as having any title to the shares; and
- (d) any one of the joint holders may give a receipt for any dividend, bonus or other distribution or payment in respect of the shares.

2.7 *Recognition of equitable interests*

The Company may treat the registered holder of a share as the absolute owner of that share and need not:

- (a) recognise a person as holding a share on trust, even if the Company has notice of that trust; or
- (b) recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a share by any other person, except an absolute right of ownership in the registered holder, even if the Company has notice of that claim or interest.

2.8 *Restricted securities*

If, at any time, any of the securities of the Company are classified by the Exchange as “restricted securities”, then despite any other provision of this Constitution:

- (a) A holder of restricted securities must not dispose of, or agree or offer to dispose of, the securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the Exchange.
- (b) If the restricted securities are in the same class as quoted securities, the holder will be taken to have agreed in writing that the restricted securities are to be kept on the Company's issuer sponsored subregister and are to have a holding lock applied for the duration of the escrow period applicable to those securities.
- (c) The Company will refuse to acknowledge any disposal (including, without limitation, to register any transfer) of restricted securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the Exchange.
- (d) A holder of restricted securities will not be entitled to participate in any return of capital on those securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the Exchange.
- (e) If a holder of restricted securities breaches a restriction deed or a provision of this Constitution restricting a disposal of those securities, the holder will not be entitled to any dividend or distribution, or to exercise any voting rights, in respect of those securities for so long as the breach continues.

3 Calls on shares

3.1 Power to make calls

- (a) Subject to the terms of issue, the directors may:
 - (i) make calls on the members for any amount unpaid on their shares;
 - (ii) require a call to be paid by instalments;
 - (iii) on the issue of shares, differentiate between members as to the amount of calls to be paid and the time for payment; and
 - (iv) revoke or postpone a call or extend the time for payment.
- (b) A call is made at the time of or as specified in the resolution of the directors authorising the call.

3.2 Notice of calls

- (a) The directors must send members notice of a call at least 14 days (or such longer period required by the Listing Rules) before the amount called is due, specifying the time of payment and the manner in which payment must be made.
- (b) Each member must pay the amount called by the time, and in the manner, specified in the notice.
- (c) A call is not invalidated by the non-receipt of a notice of a call or the accidental omission to give notice of a call to any member.

3.3 Fixed instalments

Subject to any notice requirements under the Listing Rules, if the terms of a share make a sum payable on issue of the share or at a fixed date, this is taken to be a call duly made, notified and payable on the date on which, by the terms of issue, the sum becomes payable. In the case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

3.4 Interest on unpaid amounts

- (a) If an amount called on a share is not paid in full by the time specified for payment, the person who owes the amount must pay:
 - (i) interest on the unpaid part from the date payment is due to the date payment is made, at a rate the directors decide. Interest accrues daily and may be capitalised monthly or at such other intervals as the directors decide; and
 - (ii) any costs, expenses or damages the Company incurs due to the failure to pay or late payment.
- (b) The directors may, to the extent permitted by law, waive payment of some or the entire amount of interest payable under rule 3.4(a).

3.5 Prepayment of calls and interest

The directors may:

- (a) accept from a member the whole or part of the amount unpaid on a share even if no part of that amount has been called;
- (b) authorise payment by the Company of interest on the whole or any part of an amount accepted under rule 3.5(a) until the amount becomes payable, at a rate agreed between the directors and the member paying the amount; and
- (c) repay to a member any amount accepted under rule 3.5(a).

3.6 Proceedings to recover calls

In a proceeding to recover a call, or an amount payable due to the failure to pay or late payment of a call, conclusive evidence of the obligation to pay the call is established by proof that:

- (a) the name of the person is entered in the register of members as the holder or one of the holders of the share on which the call was made;
- (b) the resolution making the call is recorded in the minute book; and
- (c) notice of the call was given or taken to be given to the person in accordance with this Constitution,

and it is not necessary to prove the appointment of the directors who made the call or any other matter.

4 Forfeiture, Liens and Surrender**4.1 Liability to forfeiture**

- (a) If a member fails to pay any sum payable on a call by the time specified for payment, the directors may serve a notice on that member requiring payment of the unpaid part of the call, together with interest accrued and all costs, expenses or damages the Company has incurred due to the failure to pay.

- (b) The notice must:
 - (i) specify a day (at least 14 days after the date of the notice) by which, and the manner by which, the amount payable must be paid; and
 - (ii) state that, if payment is not made by the time and in the manner specified, the shares on which the call was made will be liable to be forfeited.

4.2 Power to forfeit

- (a) If a notice served under rule 4.1 has not been complied with by the date specified in the notice, the directors may by resolution forfeit the relevant shares, at any time before the payment required by the notice is made.
- (b) A forfeiture under rule 4.2(a) includes all dividends, interest and other amounts payable by the Company in respect of the forfeited shares and not paid or distributed before the forfeiture.
- (c) At any time before a forfeited share has been sold, reissued or otherwise disposed of, the directors may cancel the forfeiture on the conditions they decide.

4.3 Notice of forfeiture

- (a) Where a share has been forfeited:
 - (i) notice of the resolution must be given to the member holding the share immediately before the forfeiture; and
 - (ii) an entry of the forfeiture, with the date, must be made in the register of members.
- (b) Any failure to give notice or enter the forfeiture in the register of members does not invalidate the forfeiture.

4.4 Consequences of forfeiture

- (a) A forfeited share becomes the property of the Company and may be sold, reissued or otherwise disposed of on such terms as the directors decide, and with or without crediting as paid up any amount paid on the share by any former holder.
- (b) A person whose shares have been forfeited:
 - (i) ceases to be a member in respect of the forfeited shares;
 - (ii) has no claims, demands or other rights against the Company in respect of or incident to those shares, except as provided by the Act or this Constitution; and
 - (iii) remains liable to pay to the Company all amounts that are owing on the shares at the time of the forfeiture, including calls, instalments, interest, costs and expenses.
- (c) The forfeiture of a share extinguishes all interest in, and all claims and demands against the Company relating to, the forfeited share and, subject to rule 4.7(h), all other rights attached to the share.
- (d) The directors may:
 - (i) exempt a share from all or part of this rule 4.4;

- (ii) waive or compromise all or part of any payment due to the Company under this rule 4.4; and
- (iii) before a forfeited share has been sold, reissued or otherwise disposed of, cancel the forfeiture on the conditions it decides.

4.5 Lien on shares

- (a) Unless the terms of issue provide otherwise, the Company has first lien on a share and on the proceeds of sale and dividends payable on that share for:
 - (i) any due and unpaid calls and instalments in respect of that share;
 - (ii) any amount the Company is required by law to pay and has paid in respect of that share;
 - (iii) any amount which is outstanding under loans made by the Company to acquire a share under an employee incentive scheme; and
 - (iv) all interest and expenses due and payable to the Company in respect of unpaid amounts on that share.
- (b) The Company may sell any share on which the Company has a lien, in any manner the directors think fit, if:
 - (i) an amount in respect of which the lien exists is presently payable; and
 - (ii) the Company has, not less than 14 days before the date of sale, given to the holder of the share a notice setting out, and demanding payment of, the amount which is presently payable in respect of which the lien exists.
- (c) The directors may do anything necessary or desirable to protect a lien or other interest in shares to which the Company is entitled under this Constitution or a law.
- (d) When the Company registers a transfer of shares on which the Company has a lien without giving the transferee notice of its claim, the Company's lien is released so far as it relates to amounts owing by the transferor or any predecessor in title.
- (e) The directors may at any time exempt a share wholly or in part from the provisions of this rule 4.5, and waive or compromise all or any part of any payment due to the Company under this rule 4.5.

4.6 Surrender of shares

- (a) The directors may accept a surrender of shares by way of compromise of a claim.
- (b) Any shares surrendered may be sold, reissued or otherwise disposed of in the same manner as a forfeited share.

4.7 Sale of shares by the Company

- (a) Where the Company sells a share under rules 4.4(a), 4.5(b) or 6.5, the directors may:
 - (i) effect a transfer of the share;
 - (ii) receive the consideration given for the share; and
 - (iii) register as the holder of the share the person to whom the share is sold.

- (b) The validity of the sale of shares may not be questioned by any person after the transfer has been registered.
- (c) The title of the purchaser is not affected by any irregularity in relation to the sale.
- (d) The proceeds of a sale of shares under rules 4.4(a) or 4.5(b) must be applied in paying:
 - (i) first, the expenses of the sale; and
 - (ii) second, all amounts due and unpaid in respect of the shares, and
any balance must be paid to the person listed on the register of members as being entitled to the shares immediately prior to the sale.
- (e) The proceeds of a sale under rule 6.5 must not be applied in payment of the expenses of the sale and must be paid to the person listed on the register of members as being entitled to the shares immediately prior to the sale.
- (f) Until the proceeds of a sale of a share sold by the Company are claimed or otherwise disposed of according to law, the directors may invest or use those proceeds in any other way for the benefit of the Company.
- (g) The Company is not required to pay interest on money payable to a former holder under this rule 4.7.
- (h) On completion of a sale, reissue or other disposal of a share under rule 4.4(a), the rights which attach to the share which were extinguished under rule 4.4(c) revive.
- (i) The only remedy of any person aggrieved by the sale of shares is a claim for damages against the Company.

4.8 Members' indemnity

- (a) A member or, if the member is dead, the member's legal personal representative, must indemnify the Company against any liability which the Company has under any law to make a payment for or on account of that member including in respect of:
 - (i) shares held by that member, solely or jointly;
 - (ii) a transfer or transmission of shares by a member; or
 - (iii) dividends, bonuses or other money or property owed to the member.
- (b) Rule 4.8(a) includes, without limitation, a payment arising from:
 - (i) the death of that member;
 - (ii) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that member or the legal personal representative of that member; or
 - (iii) the non-payment of any estate, probate, succession, death, stamp or other duty by that member or the legal personal representative of that member.
- (c) The member or, if the member is dead, the member's legal personal representative, must pay to the Company immediately on demand:
 - (i) the amount required to reimburse the Company for a payment described in rule 4.8(a); and

- (ii) interest on any part of that amount which is unpaid from the date the Company makes the payment until the date the Company is reimbursed in full for that payment, at a rate determined under rule 3.4(a)(i).
- (d) This rule 4.8 is in addition to any right or remedy the Company may have under the law which requires it to make the payment.
- (e) The directors may:
 - (i) exempt a share from all or any part of this rule 4.8; and
 - (ii) waive or compromise all or any part of any payment due to the Company under this rule 4.8.

5 Distributions

5.1 Dividends

- (a) The directors may declare or determine to pay any dividend that, in their judgment, the financial position of the Company justifies.
- (b) Where they are entitled by law to do so, the directors may rescind a decision to pay a dividend if they decide.
- (c) The directors may pay any dividend required to be paid under the terms of issue of a share.
- (d) Paying a dividend does not require confirmation at a general meeting.
- (e) Subject to any rights or restrictions attached to any shares or class of shares:
 - (i) all dividends must be paid equally on all shares, except that a partly paid share confers an entitlement only to the proportion of the dividend which the amount paid (not credited) on the share is of the total amounts paid and payable (excluding amounts credited);
 - (ii) for the purposes of rule 5.1(e)(i), unless the directors decide otherwise, an amount paid on a share in advance of a call is to be taken as not having been paid until it becomes payable; and
 - (iii) interest is not payable by the Company on any dividend.
- (f) Subject to the ASX Settlement Operating Rules, the directors may fix a record date for a dividend, with or without suspending the registration of transfers from that date under rule 6.3.
- (g) Subject to the ASX Settlement Operating Rules, a dividend in respect of a share must be paid to the person who is registered, or entitled under rule 6.1(c) to be registered, as the holder of the share:
 - (i) where the directors have fixed a record date in respect of the dividend, on that date; or
 - (ii) where the directors have not fixed a record date in respect of that dividend, on the date fixed for payment of the dividend, and a transfer of a share that is not registered, or left with the Company for registration under rule 6.1(b)(iii), on or before that date is not effective, as against the Company, to pass any right to the dividend.

- (h) When resolving to pay a dividend, the directors may direct payment of the dividend from any available source permitted by law, including:
 - (i) wholly or partly by the distribution of specific assets, including paid-up shares or other securities of the Company or of another body corporate, either generally or to specific members; and
 - (ii) unless prevented by the Listing Rules, to particular members wholly or partly out of any particular fund or reserve or out of profits derived from any particular source, and to the other members wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source.
- (i) Subject to the ASX Settlement Operating Rules, where a person is entitled to a share because of a Transmission Event, the directors may, but need not, retain any dividends payable on that share until that person becomes registered as the holder of that share or transfers it.
- (j) The directors may retain from any dividend payable to a member any amount presently payable by the member to the Company and apply the amount retained to the amount owing.
- (k) The directors may decide the method of payment of any dividend or other amount in respect of a share. Different methods of payment may apply to different members or groups of members (such as overseas members). Without limiting any other method of payment which the Company may adopt, payment in respect of a share may be made:
 - (i) by such electronic or other means approved by the directors directly to an account (of a type approved by the directors) nominated in writing by the member or the joint holders; or
 - (ii) by cheque sent to the address of the member shown in the register of members or, in the case of joint holders, to the address shown in the register of members of any of the joint holders, or to such other address as the member or any of the joint holders in writing direct.
- (l) A cheque sent under rule 5.1(k):
 - (i) may be made payable to bearer or to the order of the member to whom it is sent or any other person the member directs; and
 - (ii) is sent at the member's risk.
- (m) If the directors decide that payments will be made by electronic transfer into an account (of a type approved by directors) nominated by a member, but no such account is nominated by the member or an electronic transfer into a nominated account is rejected or refunded, the Company may credit the amount payable to an account of the Company to be held until the member nominates a valid account.
- (n) Where a member does not have a registered address or the Company believes that a member is not known at the member's registered address, the Company may credit an amount payable in respect of the member's shares to an account of the Company to be held until the member claims the amount payable or nominates an account into which a payment may be made.

- (o) An amount credited to an account under rules 5.1(m) or (n) is to be treated as having been paid to the member at the time it is credited to that account. The Company will not be a trustee of the money and no interest will accrue on the money. The money may be used for the benefit of the Company until claimed, reinvested under rule 5.1(p) or disposed of in accordance with the laws relating to unclaimed monies.
- (p) If a cheque for an amount payable under rule 5.1(k) is not presented for payment for at least 11 calendar months after issue or an amount is held in an account under rules 5.1(m) or (n) for at least 11 calendar months, the directors may reinvest the amount, after deducting reasonable expenses, into shares in the Company on behalf of, and in the name of, the member concerned and may stop payment on the cheque. The shares may be acquired on market or by way of new issue at a price the directors accept is market price at the time. Any residual sum which arises from the reinvestment may be carried forward or donated to charity on behalf of the member, as the directors decide. The Company's liability to provide the relevant amount is discharged by an application of the relevant amount under this rule 5.1(p). The directors may do anything necessary or desirable (including executing any document) on behalf of the member to effect the application of an amount under this rule 5.1(p). The directors may determine other rules to regulate the operation of this rule 5.1(p) and may delegate their power under this rule to any person.

5.2 Capitalising profits

- (a) Subject to the Listing Rules, any rights or restrictions attached to any shares or class of shares and any special resolution of the Company, the directors may capitalise and distribute among those members who would be entitled to receive dividends and in the same proportions, any amount:
 - (i) forming part of the undivided profits of the Company;
 - (ii) representing profits arising from an ascertained accretion to capital or a revaluation of the assets of the Company;
 - (iii) arising from the realisation of any assets of the Company; or
 - (iv) otherwise available for distribution as a dividend.
- (b) The directors may resolve that all or any part of the capitalised amount is to be applied:
 - (i) in paying up in full, at an issue price decided by the directors, any unissued shares in or other securities of the Company;
 - (ii) in paying up any amounts unpaid on shares or other securities held by the members; or
 - (iii) partly as specified in rule 5.2(b)(i) and partly as specified in rule 5.2(b)(ii).

The members entitled to share in the distribution must accept that application in full satisfaction of their interest in the capitalised amount.
- (c) Rules 5.1(e), (f) and (g) apply, so far as they can and with any necessary changes, to capitalising an amount under this rule 5.2 as if references in those rules to:
 - (i) a dividend were references to capitalising an amount; and
 - (ii) a record date were references to the date the directors resolve to capitalise the amount under this rule 5.2.

- (d) Where in accordance with the terms and conditions on which options to take up shares are granted (and being options existing at the date of the passing of the resolution referred to in rule 5.2(b)) a holder of those options will be entitled to an issue of bonus shares under this rule 5.2, the directors may in determining the number of unissued shares to be so issued, allow in an appropriate manner for the future issue of bonus shares to option holders.

5.3 Ancillary powers

- (a) To give effect to any resolution to reduce the capital of the Company (by way of share buy-back or otherwise), to satisfy a dividend or to capitalise any amount, the directors may:
- (i) settle as they think expedient any difficulty that arises in making the distribution or capitalisation and, in particular, make cash payments in cases where members are entitled to fractions of shares or other securities and decide that amounts or fractions of less than a particular value decided by the directors may be rounded up or down to adjust the rights of all parties;
 - (ii) fix the value for distribution of any specific assets;
 - (iii) pay cash or issue shares or other securities to any member to adjust the rights of all parties;
 - (iv) vest any of those specific assets, cash, shares or other securities in a trustee on trust for the persons entitled to the distribution or capitalised amount that seem expedient to the directors; and
 - (v) authorise any person to make, on behalf of all the members entitled to any specific assets, cash, shares or other securities as a result of the distribution or capitalisation, an agreement with the Company or another person which provides, as appropriate, for the distribution or issue to them of shares or other securities credited as fully paid up or for payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares or other securities by applying their respective proportions of the amount resolved to be distributed or capitalised.
- (b) Any agreement made under an authority referred to in rule 5.3(a)(v) is effective and binds all members concerned.
- (c) If a distribution, transfer or issue of specific assets, shares or securities to a particular member or members is, in the directors' discretion, considered impracticable or would give rise to parcels of securities which do not constitute a Marketable Parcel, the directors may make a cash payment to those members or allocate the assets, shares or securities to a trustee to be sold on behalf of, and for the benefit of, those members, instead of making the distribution, transfer or issue to those members.
- (d) If the Company distributes to members (either generally or to specific members) securities in the Company or in another body corporate or trust (whether as a dividend, capital return or otherwise and whether or not for value), each of those members appoints the Company as its agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate.

5.4 Reserves

- (a) The directors may set aside out of the Company's profits any reserves or provisions they decide.

- (b) The directors may appropriate to the Company's profits any amount previously set aside as a reserve or provision.
- (c) Setting aside an amount as a reserve or provision does not require the directors to keep the amount separate from the Company's other assets, nor prevent the amount being used in the Company's business or being invested or subsequently distributed to members, as the directors think fit.

5.5 Carrying forward profits

The directors may carry forward any part of the profits remaining that they consider should not be distributed as dividends or capitalised, without transferring those profits to a reserve or provision.

5.6 Dividend reinvestment plan

- (a) The directors may implement a dividend reinvestment plan on the terms they think fit under which the whole or any part of a dividend due to members who participate in the plan on their shares or any class of shares may be applied in subscribing for securities of the Company or of a related body corporate.
- (b) The directors may amend, suspend or terminate a dividend reinvestment plan implemented by them.

5.7 Dividend selection plans

The directors may:

- (a) implement a dividend selection plan on terms they decide, under which participants may choose:
 - (i) to receive a dividend from the Company paid wholly or partly out of any available source, including any particular fund or reserve or out of profits derived from any particular source; or
 - (ii) to forego a dividend from the Company in place of some other form of distribution from the Company or another body corporate or a trust; and
- (b) amend, suspend or terminate a dividend selection plan.

6 Transfer and Transmission

6.1 Transferring shares

- (a) Subject to this Constitution and any rights or restrictions attached to any shares or class of shares, a member may transfer any of the member's shares:
 - (i) by a Proper ASTC Transfer; or
 - (ii) by an instrument in writing in any usual form or in any other form approved by the directors and permitted by law.
- (b) An instrument referred to in rule 6.1(a)(ii) must be:
 - (i) signed by or on behalf of the transferor and, if required by the directors, the transferee;
 - (ii) if required by law, duly stamped; and

- (iii) left for registration at the Company's registered office, or at any other place determined by the directors, with such evidence as the directors require to prove the transferor's title or right to the shares and the transferee's right to be registered as the owner of the shares.
- (c) If the Company receives an instrument in accordance with rules 6.1(a)(ii) and 6.1(b), the Company must, subject to the powers vested in the directors by this Constitution, register the transferee as the holder of the shares.
- (d) A transferor of shares remains the holder of the shares until the transferee's name is entered in the register of members as the holder of the shares.
- (e) The Company may retain a registered instrument of transfer for any period the directors decide.
- (f) The directors may do anything necessary or desirable to facilitate participation by the Company in any clearing and settlement facility for the transfer of financial products.
- (g) The directors may, to the extent permitted by law and the Listing Rules, waive all or any of the requirements of this rule 6.1, whether for the purpose of giving effect to rule 6.1(f) or otherwise.

6.2 Power to refuse to register transfers

- (a) The directors may decline to register, or prevent registration of, a transfer of shares or apply a holding lock to prevent a transfer in accordance with the Act or the Listing Rules:
 - (i) where the transfer is not in registrable form;
 - (ii) where the Company has a lien on any of the shares transferred;
 - (iii) where registration of the transfer may breach a law of Australia;
 - (iv) where the transfer is paper-based and registration of the transfer will result in a holding which, at the time the transfer is lodged, is less than a Marketable Parcel;
 - (v) if the transfer breaches the terms of an employee share plan; or
 - (vi) if the Company is otherwise permitted or required to do so under the Listing Rules or, except for a Proper ASTC Transfer, under the terms of issue of the shares.
- (b) If the directors decline to register a transfer, the Company must give notice of the refusal as required by the Act and the Listing Rules. Failure to give that notice will not invalidate the decision of the directors to decline to register the transfer.
- (c) The directors may delegate their authority under this rule 6.2 to any person.

6.3 Power to suspend registration of transfers

The directors may suspend the registration of transfers at any times, and for any periods, permitted by the ASX Settlement Operating Rules that they decide.

6.4 Transmission of shares

- (a) If a member dies, the only persons the Company will recognise as having any title to the member's shares or any benefits accruing on those shares are:
 - (i) where the member was a sole holder, the member's legal personal representative; and
 - (ii) where the member was a joint holder, the surviving member or members.
- (b) The death of a member does not release their estate from any liability on a share registered in the name of that member, whether that share was held solely or jointly.
- (c) The directors may register a transfer of shares signed by a member before a Transmission Event even though the Company has notice of the Transmission Event.
- (d) A person who establishes to the satisfaction of the directors that they are entitled to a share because of a Transmission Event may:
 - (i) elect to be registered as the holder of the share by giving the Company written notice; or
 - (ii) transfer that share to another person.
- (e) A transfer under rule 6.4(d) is subject to all provisions of this Constitution relating to transfers of shares, so far as they can and with any necessary changes, as if the Transmission Event had not occurred and the notice or transfer were executed or effected by the registered holder of the share.
- (f) Where 2 or more persons are jointly entitled to a share because of a Transmission Event they will, on being registered as the holders of the share, be taken to be joint holders of that share.

6.5 Sale of small holdings

- (a) The Company may sell the shares of a holder who has less than a Marketable Parcel of those shares on the following conditions:
 - (i) The Company may do so only once in any 12 month period.
 - (ii) The Company must notify the holder in writing of its intention in the manner authorised by rule 13.1.
 - (iii) The holder must be given at least six weeks from the date the notice is taken to be served in which to tell the Company that the holder wishes to retain the holding.
 - (iv) If the holder tells the Company under rule 6.5(a)(iii) that the holder wishes to retain the holding, the Company may not sell it.
 - (v) If a takeover bid for the Company is announced after a notice is given but before an agreement is entered into for the sale of shares, this rule ceases to operate for those shares. However, despite rule 6.5(a)(i), a new notice under rule 6.5(a)(ii) may be given after the offer period of the takeover bid closes.
 - (vi) The Company must ensure that it or the purchaser pays the costs of the sale.

- (b) Subject to rule 6.5(a), the Listing Rules and the ASX Settlement Operating Rules, the Company may sell the shares under this rule 6.5 on the terms and in the manner the directors think appropriate.
- (c) Where any shares are sold under this rule 6.5, the directors may:
 - (i) receive the purchase money or consideration given for the shares on the sale;
 - (ii) effect a transfer of the shares and, if necessary, execute, or appoint a person to execute, on behalf of the former holder an instrument of transfer of the shares or any other instrument for the purpose of giving effect to the sale; and
 - (iii) register as the holder of the shares the person to whom the shares have been sold.
- (d) The title of a person to whom shares are sold under this rule 6.5 is not affected by an irregularity or invalidity in connection with that sale.
- (e) The remedy of any person aggrieved by a sale of shares under this rule 6.5 is limited to damages only and is against the Company exclusively.
- (f) The Company may deduct from the proceeds of a sale of shares under this rule 6.5, all sums of money presently payable by the former holder to the Company for calls due and payable and apply the amount deducted in or towards satisfaction of the money owing.
- (g) A statement in writing signed by a director or secretary of the Company to the effect that a share in the Company has been duly sold under this rule 6.5 on a date stated in the statement, is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the share and of the right of the Company to sell the share.

7 General Meetings

7.1 Calling general meetings

A general meeting may only be called:

- (a) by a directors' resolution; or
- (b) as otherwise provided in the Act.

7.2 Cancellation and postponement

The directors may, by notice to the Exchange, change the venue for, postpone or cancel a general meeting, but:

- (a) a meeting that is called in accordance with a members' requisition under the Act; and
- (b) any other meeting that is not called by a directors' resolution,

may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.

7.3 Use of technology at general meetings

- (a) Subject to any applicable law:
 - (i) the Company may hold a meeting of members using any technology approved by the directors that give the members as a whole a reasonable opportunity to participate; and
 - (ii) a meeting conducted using such technology may be held at multiple venues (not all of which need to be specified) or not held at any specified venue,
and participation in such a meeting will constitute presence as if in person at such a meeting.
- (b) If, before or during a meeting of members, any technical difficulty occurs, such that the members as a whole do not have a reasonable opportunity to participate, the chair may:
 - (i) adjourn the meeting until the difficulty is remedied; or
 - (ii) where a quorum remains present (either at the place at which the chair is present or by technology as contemplated by this rule 7.3) and able to participate, subject to the Act, continue the meeting.
- (c) For the avoidance of doubt, and so long as the law permits, a virtual general meeting may be held without there being a physical meeting place by using any technology, including by an instantaneous audio-visual communication device or audio and visual or virtual communication technology, on the basis that:
 - (i) the notice convening the general meeting refers to the main procedures governing how the meeting is to be conducted;
 - (ii) a member participating at the general meeting is entitled to exercise all rights as a member at the meeting including the right to vote; and
 - (iii) the members participating at the meeting should be able to hear the meeting in real time and should be given a reasonable opportunity to participate including being able to ask questions or to make comments, provided that an ability of one or more members to do so will not affect the validity of the general meeting or any business conducted so long as there are sufficient members present to constitute a quorum.

7.4 Notice of general meetings

- (a) Notice of a general meeting must be given to each person who, at the time of giving the notice, is a member, director or auditor of the Company in the form and manner the directors decide.
- (b) The non-receipt of a notice convening a general meeting or the accidental omission to give notice to any person entitled to receive the notice does not invalidate anything done or any resolution passed at the general meeting.
- (c) Unless the Act provides otherwise, no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting.
- (d) A person may waive notice of any general meeting by written notice to the Company.

- (e) Failure to give a member or any other person notice of a general meeting or a proxy form, does not invalidate anything done or any resolution passed at the general meeting if:
 - (i) the failure occurred by accident or inadvertent error; or
 - (ii) before or after the meeting, the person notifies the Company of the person's agreement to that thing or resolution.
- (f) A person's attendance at a general meeting waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting.

7.5 *Quorum at general meetings*

- (a) No business may be transacted at a general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum is 2 members present at the meeting and entitled to vote.
- (c) If there is no quorum within 30 minutes after the time appointed for the meeting:
 - (i) where the meeting was called by a single director, or at the request of members, the meeting is dissolved; or
 - (ii) in any other case, the meeting stands adjourned to the same day, time and place in the next week, or to such other day, time and place as the directors present decide. If no quorum is present at any adjourned meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

7.6 *Chair of general meetings*

- (a) The chair of directors must preside as chair at each general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.
- (b) If at a general meeting:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 15 minutes after the time appointed for the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting,the directors present may elect a person present to chair the meeting.
- (c) If the directors do not choose a chair under rule 7.6(b), the members present must elect as chair of the meeting:
 - (i) another director who is present and willing to act; or
 - (ii) if no other director is present and willing to act, a member who is present and willing to act.
- (d) The chair of a general meeting may, for any item of business or discrete part of the meeting, vacate the chair in favour of another person that the chair nominates (**Acting Chair**). Where an instrument appoints the chair as a member's proxy for part of the proceedings for which an Acting Chair has been nominated, the instrument is taken to appoint the Acting Chair for the relevant part of the proceedings.

7.7 Admission to general meetings

- (a) The chair of a general meeting may refuse admission to a person, or require that person to leave and remain out of the meeting, if that person:
 - (i) has a camera, tape recorder or video camera, or another audio or visual recording device;
 - (ii) has a placard, banner or prop;
 - (iii) has an article which the chair considers to be dangerous, offensive or liable to cause disruption;
 - (iv) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
 - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - (vi) is not:
 - (A) a member or a proxy, attorney or Representative of a member;
 - (B) a director; or
 - (C) an auditor of the Company.
- (b) A person requested by the directors or the chair to attend a general meeting is entitled to be present, whether the person is a member or not.
- (c) Nothing in this rule 7.7 is taken to limit the powers conferred on the chair by law.

7.8 Conduct of general meetings

- (a) Subject to the Act, the chair of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting.
- (b) The chair may, at any time the chair considers it necessary or desirable for the efficient and orderly conduct of the meeting:
 - (i) impose a limit on the time that a person may speak on each motion or other item of business and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the members present;
 - (ii) adopt any procedures for casting or recording votes at the meeting whether on a show of hands or on a poll, including the appointment of scrutineers; and
 - (iii) decide not to put to the meeting any resolution proposed in the notice convening the meeting (other than a resolution proposed by members in accordance with section 249N of the Act or required by the Act to be put to the meeting).

- (c) Any decision by the chair on matters of procedure under rules 7.8(a) or (b) is final. Any challenge to a decision must be made at the meeting and may be determined by the chair whose decision is final.
- (d) Nothing contained in this rule 7.8 limits the powers conferred on a chair by law.

7.9 Suspensions and adjournments

- (a) At any time during the course of the meeting, the chair may, for the purpose of allowing a poll to be taken or determined, suspend the proceedings of the meeting for such period as the chair decides without effecting an adjournment.
- (b) At any time during the course of the meeting, the chair may adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either:
 - (i) to a later time at the same meeting; or
 - (ii) to an adjourned meeting to be held at a time and place determined by the chair.
- (c) The chair's rights under rules 7.9(a) and (b) are exclusive and, unless the chair requires otherwise, no vote may be taken or demanded by the members present in respect of any suspension or adjournment of proceedings.
- (d) Only unfinished business may be transacted at a meeting resumed after an adjournment under this rule 7.9.
- (e) Subject to rule 7.9(g), where a meeting is adjourned under this rule 7.9, notice of the adjourned meeting need only be given to the Exchange.
- (f) Where a meeting is postponed or adjourned, the directors may, by notice to the Exchange, postpone, cancel or change the place of the postponed or adjourned meeting.
- (g) Where a meeting is postponed or adjourned for 60 days or more, notice of the postponed or adjourned meeting must be given as in the case of the original meeting.

7.10 Voting rights

- (a) Subject to the Act, any rights or restrictions attached to any shares and to this Constitution:
 - (i) on a show of hands, each member present has one vote; and
 - (ii) on a poll, each member present has one vote for each share held as at the Record Time, except for partly paid shares, each of which confers on a poll only the fraction of one vote which the amount paid (not credited) on the share bears to the total issue price of that share and excludes amounts paid in advance of a call.
- (b) If a person present at a general meeting represents personally or by proxy, attorney or Representative more than one member, on a show of hands the person is, subject to the Act, entitled to one vote only even though he or she represents more than one member.
- (c) A joint holder may vote at a meeting either personally or by proxy, attorney or Representative as if that person was the sole holder. If more than one joint holder tenders a vote in respect of the relevant shares, the vote of the holder named first in the register of members who tenders a vote, whether in person or by proxy, attorney or Representative, must be accepted to the exclusion of the votes of the other joint holders.

- (d) A person entitled to a share because of a Transmission Event may vote at a meeting in respect of that share as if that person were the registered holder of the share if, at least 48 hours before the meeting, or such shorter time as the directors decide, the directors:
- (i) admitted that person's right to vote in respect of the share; or
 - (ii) were satisfied of that person's right to be registered as the holder of the share.
- Any vote duly tendered by that person must be accepted and any vote tendered by the current registered holder must be excluded.
- (e) If a member holds a share on which a call or other amount payable to the Company has not been duly paid:
- (i) that member is only entitled to be present at a general meeting and vote if that member holds, as at the Record Time, other shares on which no money is then due and payable; and
 - (ii) on a poll, that member is not entitled to vote in respect of that share but may vote in respect of any shares that member holds, as at the Record Time, on which no money is then due and payable.
- (f) A member is not entitled to vote on a resolution to the extent that, under the Act or the Listing Rules:
- (i) the member must not vote or must abstain from voting on the resolution; or
 - (ii) a vote on the resolution by the member must be disregarded for any purpose.
- If the member or a person acting as proxy, attorney or Representative of the member does tender such a vote on that resolution, their vote must not be counted.
- (g) An objection to the validity of a vote tendered at a meeting must be:
- (i) raised before or immediately after the result of the vote is declared; and
 - (ii) referred to the chair of the meeting, whose decision is final, and a vote not disallowed under the objection is valid for all purposes.
- (h) The chair may decide any difficulty or dispute which arises as to the number of votes that may be cast by or on behalf of any member and the decision of the chair is final.

7.11 Direct voting

- (a) The directors may determine that at any general meeting or class meeting, a member who is entitled to attend and vote on a resolution at that meeting (or where approved by the directors, an attorney, proxy or Representative appointed by such a member) is entitled to a direct vote in respect of that resolution. A "direct vote" includes a vote delivered to the Company by post or electronic means approved by the directors. The directors may prescribe rules to govern direct voting including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes.

- (b) Subject to any rules prescribed by the directors under rule 7.11(a), a direct vote on a resolution cast in accordance with rule 7.11(a) is of no effect and will be disregarded:
- (i) if, at the time of the resolution, the person who cast the direct vote:
 - (A) is not entitled to vote on the resolution in respect of the share voted; or
 - (B) would not be entitled to vote on the resolution in respect of the share if the person were present at the meeting at which the resolution is considered;
 - (ii) if, had the vote been cast in person at the meeting at which the resolution is considered, the vote would not be valid or the Company would be obliged to disregard the vote; or
 - (iii) if the direct vote was not cast in accordance with any regulations, rules and procedures prescribed by the directors under rule 7.11(a).
- (c) Subject to any rules prescribed by the directors under rule 7.11(a), where:
- (i) a direct vote is cast on a resolution at a meeting in respect of a share in accordance with rule 7.11(a); and
 - (ii) either:
 - (A) the member who is registered in respect of the share(s) for which the direct vote was cast; or
 - (B) if not that member, the person who cast the direct vote on behalf of that member,
is present in person at the meeting at the time the resolution is considered (including in the case of a body corporate, by Representative),
- then the direct vote will be disregarded unless the member or other person instructs otherwise.

7.12 Decisions at general meetings

- (a) Except where a resolution requires a special majority, a resolution is taken to be passed if a simple majority of the votes cast are in favour of the resolution. A resolution passed in this way is, for all purposes, a resolution of the members.
- (b) If the votes on a proposed resolution are equal, the chair has a casting vote in addition to any deliberative vote.
- (c) Subject to rules 7.12(d) and (f), each resolution submitted to a general meeting must be decided in the first instance by a show of hands.
- (d) A poll may be demanded by a member in accordance with the Act (and not otherwise) or by the chair. The demand for a poll may be withdrawn with the chair's consent.
- (e) Unless the chair or the directors otherwise determine, no poll may be demanded on the election of a chair.

- (f) The chair may determine that a resolution be determined by a poll without first submitting the resolution to the meeting to be decided by a show of hands.
- (g) A demand for a poll does not prevent a meeting continuing to transact any business other than the question on which the poll is demanded.
- (h) Where demanded, a poll must be taken in the manner and at the time the chair decides. The result of the poll as declared by the chair is the resolution of the meeting at which the poll was demanded.
- (i) Unless a poll is demanded, a declaration by the chair following a vote on a show of hands that a resolution has either been passed or lost is conclusive, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

7.13 Representation at general meetings

- (a) Subject to this Constitution, each member entitled to vote at a meeting may, in accordance with the Act:
 - (i) vote in person or, where a member is a body corporate, by its Representative; or
 - (ii) appoint not more than 2 proxies or attorneys to vote for the member.
- (b) A proxy, attorney or Representative may, but need not, be a member of the Company.
- (c) An instrument appointing a proxy is valid if it is in accordance with the Act or in any form (including electronic) approved by the directors.
- (d) A proxy appointment received at an electronic address specified in the notice of meeting for the receipt of proxy appointment or otherwise received by the Company in accordance with the Act is taken to have been received at the registered office and validated by the member if the requirements set out in the notice are satisfied or the appointment is otherwise authenticated in accordance with the Act.
- (e) Unless otherwise provided in the appointment of a proxy, attorney or Representative, an appointment will be taken to confer authority:
 - (i) to do any of the acts specified in rule 7.13(f), even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions; and
 - (ii) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled, adjourned or postponed to another time or changed to another venue, to attend and vote at the rescheduled, adjourned or postponed meeting or at the new venue.
- (f) The acts referred to in rule 7.13(e)(i) are:
 - (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (ii) to vote on any motion before the general meeting, whether or not the motion is referred to in the appointment; and
 - (iii) to act generally at the meeting (including to speak, demand a poll, join in demanding a poll and to move motions).

- (g) A proxy form issued by the Company must allow for the insertion of the name of the person to be appointed as proxy and may provide that, in circumstances and on conditions specified in the form, the chair (or another person specified in the form) is appointed as proxy.
- (h) A proxy or attorney may not vote at a meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, together with the authority under which the instrument is signed, is received by the Company:
 - (i) at least 48 hours (or any shorter period as specified by the Act or as the directors permit) before the commencement of the meeting or adjourned meeting or taking the poll, as applicable; or
 - (ii) where rule 7.13(j)(ii) applies, such shorter period before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable, as the directors determine in their discretion.
- (i) A document is received by the Company under rule 7.13(h) when it is received in accordance with the Act, and to the extent permitted by the Act, if the document is produced or the transmission of the document is otherwise verified to the Company in the way specified in the notice of meeting.
- (j) Where, within the period specified in rule 7.13(h)(i) or as otherwise determined by the directors, the Company receives an instrument recording a direct vote or appointing a proxy or attorney in accordance with this Constitution or the Act, the Company may:
 - (i) clarify with the relevant member any instruction in relation to that instrument by written or verbal communication and make any amendments to the instrument required to reflect any clarification; and
 - (ii) where the Company considers that the instrument has not been duly executed, return the instrument to the appointing member and request that the member duly execute the instrument and return it to the Company within the period determined by the Company under rule 7.13(h)(ii) or otherwise determined by the directors and notified to the member.
- (k) The member is taken to have appointed the Company as its attorney for the purpose of any amendments made to an instrument recording a direct vote or appointing a proxy or attorney in accordance with rule 7.13(j)(i). An instrument appointing a proxy or attorney which is received by the Company in accordance with rule 7.13(j)(ii) is taken to have been validly received by the Company.
- (l) Where a member appoints 2 proxies or attorneys to vote at the same meeting:
 - (i) if the appointment does not specify the proportion or number of the member's votes each proxy or attorney may exercise, each may exercise half of the votes;
 - (ii) if both proxies or attorneys attend, neither may vote on a show of hands; and
 - (iii) on a poll, each proxy or attorney may only exercise votes in respect of those shares or voting rights the proxy or attorney represents.

- (m) A vote exercised in accordance with the terms of an instrument appointing a proxy, a power of attorney or other relevant instrument of appointment is valid despite:
 - (i) the occurrence of a Transmission Event;
 - (ii) the revocation of the instrument or the power (or of the authority under which a third party appointed the proxy or attorney); or
 - (iii) the transfer of the share in respect of which the instrument or power is given,if no notice in writing of the Transmission Event, revocation or transfer (as the case may be) has been received by the Company within the period specified in rules 7.13(h) or (j) (as applicable).
- (n) Unless otherwise determined by the directors:
 - (i) the appointment of a proxy or attorney is not revoked by the appointor attending and taking part in the meeting; but
 - (ii) if the appointor votes on a resolution, the proxy or attorney is not entitled to vote on the resolution as the proxy or attorney of the appointor.
- (o) The chair of a meeting, or their delegate, may require a person acting as a proxy, attorney or Representative to establish to the chair's satisfaction that the person is duly appointed to act and may, if the person fails to do so, exclude the person from attending or voting at the meeting.

8 Directors

8.1 Appointment and retirement of directors

- (a) The number of directors (not including alternate directors) shall:
 - (i) not be less than 3; and
 - (ii) not be more than 12,unless the Company resolves otherwise at a general meeting.
- (b) The directors in office on the date that this Constitution was adopted by the Company continue in office but on the terms and conditions set out in this Constitution.
- (c) The directors may appoint any eligible person to be a director, either as an addition to the existing directors or to fill a casual vacancy, but so that the total number of directors must not exceed the maximum number fixed under rule 8.1(a).
- (d) A director appointed by the directors under rule 8.1(c), who is not a managing director, holds office until the conclusion of the next AGM following their appointment and is eligible for election at that meeting.
- (e) No director who is not a managing director may hold office beyond the third AGM following the meeting at which the director was last elected or re-elected.
- (f) Where required by the Act or Listing Rules to do so, the Company must hold an election of directors at each AGM. If there would otherwise not be a vacancy on the board of directors, and no director is required to retire under rules 8.1(d) or (e), then the director who has been longest in office since their last election or appointment (other than the managing director) must retire. As between directors who were last elected or appointed on the same day, the one to retire must (unless they can agree among themselves) be decided by lot.

- (g) If there is more than one managing director, only one of them, nominated by the directors, is entitled not to be subject to vacation of office under rule 8.1(d) or retirement under rules 8.1(e) or (f).
- (h) The identification of directors to retire under rule 8.1(f) is based on the composition of the board of directors at the date of the notice calling the AGM. A director is not required to retire and is not relieved from retiring because of a change in the number or identity of the directors after the date of the notice but before the meeting closes.
- (i) The members may by resolution at a general meeting appoint any eligible person to be a director, either as an addition to the existing directors or to fill a casual vacancy, but so that the total number of directors must not exceed the maximum number fixed under rule 8.1(a).
- (j) The retirement of a director from office under this Constitution and the re-election of a director or the election of another person to that office (as the case may be) takes effect at the conclusion of the meeting at which the retirement and re-election or election occur.

8.2 Eligibility for election

- (a) A person is eligible for election to the office of a director at a general meeting only if:
 - (i) the person is in office as a director immediately before that meeting;
 - (ii) the person has been recommended by the directors for election at that meeting; or
 - (iii) not less than the number of members specified in the Act as being required to give notice of a proposed resolution at a general meeting have, at least 45 Business Days before the general meeting, given the Company a notice signed by the relevant members stating their intention to nominate the person for election, together with the person's signed consent to act as a director.
- (b) An auditor of the Company, or a partner, employer or employee of an auditor of the Company, may not be appointed or elected as a director.

8.3 Director need not be a member

- (a) A person is not required to hold shares in the Company to qualify for appointment or election as a director.
- (b) A director is entitled to attend and speak at general meetings and at meetings of the holders of a class of shares, even if the director is not a member or a holder of shares in the relevant class.

8.4 Vacating office

In addition to the circumstances prescribed by the Act and this Constitution, the office of a director becomes vacant if the director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

- (b) becomes bankrupt or insolvent or makes any arrangement or composition with their creditors generally;
- (c) fails to attend meetings of the directors for more than 3 consecutive months without leave of absence from the directors and a majority of the other directors have not, within 14 days of having been given a notice by the secretary giving details of the absence, resolved that leave of absence be granted;
- (d) resigns by notice in writing to the Company; or
- (e) being an executive director (including the managing director), ceases to be an employee of the Company or a subsidiary of the Company, unless determined otherwise by the directors.

8.5 Remuneration

- (a) Each director is entitled to such remuneration from the Company as the directors decide, but the total remuneration of non-executive directors (in their capacity as non-executive directors) in any financial year may not exceed an amount fixed by the Company in general meeting.
- (b) For the purposes of rule 8.5(a), the amount fixed by the Company as remuneration for the directors does not include any amount paid by the Company or a related body corporate:
 - (i) under rules 8.5(d) or (e);
 - (ii) in the form of securities issued or granted with the approval of members under the Listing Rules; or
 - (iii) in the form of any insurance premium paid or agreed to be paid for a director under rule 10.3.
- (c) Subject to the Act, the Listing Rules and other applicable laws, remuneration under rule 8.5(a) may be provided in cash or in any other manner that the directors decide, including by way of non cash benefit, such as a contribution to a superannuation fund or the issue or grant of securities.
- (d) The directors are entitled to be paid or reimbursed for all travelling and other expenses properly incurred by them in attending and returning from any general meetings of the Company or of the directors or of committees of the directors.
- (e) If a director, with the approval of the directors, performs extra services or makes any special exertions for the benefit of the Company, the directors may cause that director to receive out of the funds of the Company such additional remuneration as the directors decide having regard to the value to the Company of the extra services or special exertions.
- (f) Any remuneration paid to an executive director must not include a commission on, or percentage of, operating revenue.
- (g) Any person (including an officer of the Company) may be paid a benefit in connection with the retirement from office of any officer of the Company, in accordance with the Act and the Listing Rules.
- (h) The Company may pay contributions to a superannuation, retirement or pension fund for a director.

- (i) Subject to the Act, a director may be engaged by the Company in any other capacity (other than an auditor) and may be appointed on terms as to remuneration, tenure of office and otherwise as may be agreed by the directors.

8.6 Interested directors

- (a) A director who has an interest in a matter that relates to the affairs of the Company shall comply with any applicable provisions of the Act relating to disclosure of that interest or any rules relating to disclosure adopted by the directors.
- (b) No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a person fails to comply with rule 8.6(a).
- (c) A director is not disqualified by reason only of being a director from:
 - (i) holding any office or place of profit in the Company, except that of auditor;
 - (ii) holding any office or place of profit in any other company, body corporate, trust, partnership or entity promoted by or otherwise associated with the Company, including one that acts in a professional capacity for the Company;
 - (iii) contracting or entering into an arrangement with the Company as vendor, purchaser or in another capacity;
 - (iv) being present and being counted in a quorum for any meeting, or voting on a resolution or decision at a meeting, where the director has an interest in a matter that is being considered by the directors, unless that is prohibited by the Act; or
 - (v) signing or participating in the execution of a document by or on behalf of the Company.
- (d) Notwithstanding the fiduciary obligations arising from the director's office, the director may do any of the things referred to in rule 8.6(c):
 - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the director; and
 - (ii) without affecting the validity of any contract, arrangement, instrument, resolution or other thing.
- (e) A director may exercise the voting power conferred by securities in any entity held by the Company, in accordance with the terms of the director's appointment, even in circumstances where the director may be interested in the exercise (such as a resolution appointing a director as an officer of the entity or providing for the payment of remuneration to officers of the entity).
- (f) This rule 8.6 also applies as if each reference to the Company were a reference to a subsidiary of the Company.

8.7 Powers and duties

- (a) The directors are responsible for managing the business of the Company and may exercise all powers of the Company which are not, by the law or this Constitution, required to be exercised by the Company in general meeting.

- (b) Without limiting the generality of rule 8.7(a), the directors may exercise all the powers of the Company to:
 - (i) borrow or raise money in any way;
 - (ii) charge any of the Company's property or business or any of its uncalled capital; and
 - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) Debentures or other securities may be issued on the terms and at prices decided by the directors, including bearing interest or not, with rights to subscribe for, or exchange into, shares or other securities in the Company or a related body corporate or with special privileges as to redemption, participating in share issues, attending and voting at general meetings and appointing directors.
- (d) The directors may decide how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as applicable, by or on behalf of the Company.
- (e) The directors may pay out of the Company's funds all expenses relating to the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.
- (f) The directors may:
 - (i) appoint any person to be an officer, attorney or agent of the Company for any purpose, with the powers, discretions and duties (including those vested in or exercisable by the directors), for any period and on any terms (including as to remuneration) as the directors decide;
 - (ii) authorise an officer, attorney or agent to delegate any of the powers, discretions and duties vested in the attorney or agent; and
 - (iii) revoke or vary any power delegated to the attorney or agent, or remove or dismiss the attorney or agent with or without cause.
- (g) A power of attorney granted under rule 8.7(f) may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors decide.
- (h) Nothing in this rule 8.7 limits the general nature of rule 8.7(a).

8.8 Committees and delegates

- (a) The directors may delegate any of their powers to one director, a committee of directors, or any other person or persons (including a committee composed partly of one or more directors and partly of one or more other persons).
- (b) A committee or delegate must exercise the powers delegated in accordance with any directions of the directors.
- (c) Any power delegated in accordance with this rule 8.8 may be revoked, withdrawn, altered or varied as the directors decide.
- (d) Subject to the terms of appointment or reference of a committee, the provisions of this Constitution applying to meetings and resolutions of directors apply, so far as they can and with the necessary changes, to meetings and resolutions of a committee.

- (e) The acceptance of a delegation of powers by a director may, if the directors so resolve, be treated as an extra service or special exertion performed by the delegate for the purposes of rule 8.5(e).
- (f) Nothing in this rule 8.8 limits the powers of the directors to delegate.

8.9 Meetings of directors

- (a) The directors may meet together to attend to business and adjourn and otherwise regulate their meetings as they decide.
- (b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of directors to constitute a quorum constitutes a meeting of the directors. All the provisions in this Constitution relating to meetings of the directors apply, as far as they can and with any necessary changes, to meetings of the directors by telephone or other electronic means.
- (c) A meeting by telephone or other electronic means is taken to be held at the place where the chair of the meeting is, or at such other place the chair of the meeting decides, as long as at least one of the directors involved was at that place for the duration of the meeting.
- (d) A director taking part in a meeting by telephone or other electronic means is taken to be present in person at the meeting and all directors participating in the meeting will (unless there is a specific statement otherwise) be taken to have consented to the holding of the meeting by the relevant electronic means.
- (e) If, before or during the meeting, any technical difficulty occurs where one or more directors cease to participate, the chair may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

8.10 Calling meetings of directors

- (a) A director may, whenever the director thinks fit, call a meeting of the directors.
- (b) A secretary must, if requested by a director, call a meeting of the directors.

8.11 Notice of meetings of directors

- (a) Notice of a meeting of directors must be given to each person who is at the time the notice is given:
 - (i) a director, except a director on leave of absence approved by the directors; or
 - (ii) an alternate director appointed under rule 8.16(a) by a director on leave of absence approved by the directors.
- (b) A notice of meeting of directors:
 - (i) must specify the time of the meeting and its location (or other method(s) by which the directors may participate under rule 8.9(b));
 - (ii) need not state the nature of the business to be transacted at the meeting;
 - (iii) may, if necessary, be given immediately before the meeting;

- (iv) may be given in person or by post or by telephone, fax or other electronic means, or in any other way consented to by the directors; and
- (v) will be taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (c) A director or alternate director may waive notice of a meeting of the directors by giving notice to that effect in person or by post or by telephone, fax or other electronic means.
- (d) Failure to give a director or alternate director notice of a meeting of the directors does not invalidate anything done or any resolution passed at the meeting if:
 - (i) the failure occurred by accident or inadvertent error; or
 - (ii) the director or alternate director attended the meeting or waived notice of the meeting (whether before or after the meeting).
- (e) A person who attends a meeting of the directors waives any objection that person may have to a failure to give notice of the meeting.

8.12 Quorum at meetings of directors

- (a) Unless the directors decide otherwise, 3 directors constitute a quorum.
- (b) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (c) If there is a vacancy in the office of a director, the remaining directors may act. But, if their number is not sufficient to constitute a quorum, they may only act in an emergency or to increase the number of directors to a number sufficient to constitute a quorum or to call a general meeting of the Company.

8.13 Chair and deputy chair of directors

- (a) The directors may elect one of their number to the office of chair and one or more to the office of deputy chair of directors. The directors may decide the period for which those offices will be held.
- (b) If, at a meeting of directors:
 - (i) there is no chair; or
 - (ii) the chair is either not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,
 - (iii) the deputy chair (if any) is entitled to be chair of the meeting or, if the circumstances described by rules 8.13(b)(i) or (ii) apply to the deputy chair, the directors present must elect one of their number to chair the meeting.

8.14 Decisions of directors

- (a) Subject to this Constitution, questions arising at a meeting of directors are decided by a majority of votes cast by the directors present and voting, and each director has one vote.
- (b) In the case of an equality of votes, the chair of the meeting has a casting vote in addition to the chair's deliberative vote, unless only 2 directors are present and entitled to vote.

8.15 Written resolutions

- (a) If:
- (i) all of the directors (other than any director on leave of absence approved by the directors, any director who disqualifies himself from considering the resolution in question and any director who would be prohibited by the Act from voting on the resolution in question) sign or consent to a written resolution; and
 - (ii) the directors who sign or consent to the resolution would have constituted a quorum at a meeting of directors held to consider that resolution,
- then the resolution is taken to have been passed by a meeting of the directors.
- (b) A director may consent to a resolution by:
- (i) signing the document containing the resolution (or a copy of that document);
 - (ii) giving to the Company at its registered office a written notice (including by fax or other electronic means) addressed to the secretary or to the chair of directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
 - (iii) telephoning the secretary or the chair of directors and signifying assent to the resolution and clearly identifying its terms.

8.16 Alternate directors

- (a) A director may, with the approval of a majority of the other directors, appoint a person to be the director's alternate director for such a period as the director decides.
- (b) The appointment may be terminated or suspended at any time by the appointor or by a majority of the other directors.
- (c) An appointment, or the termination or suspension of an appointment of an alternate director, must be in writing and signed and takes effect only when the Company has received notice in writing of the appointment, termination or suspension.
- (d) The alternate director:
- (i) may, but need not, be a member or a director of the Company;
 - (ii) may act as alternate director to more than one director;
 - (iii) in the absence of the appointor, may exercise any powers of the appointor, except the power under rule 8.16(a);
 - (iv) in the absence of the appointor, is entitled to attend and vote in place of and on behalf of the appointor and is to be counted in the quorum at the meeting of directors;
 - (v) is an officer of the Company and not the agent of the appointor, and is responsible to the Company for their own acts and defaults; and
 - (vi) is not entitled to receive any remuneration or benefit from the Company other than out of the remuneration of the director appointing the alternate director or in accordance with rule 8.5(e).

- (e) An alternate director is not to be taken into account in determining the number of directors or the rotation of directors under this Constitution.
- (f) The office of an alternate director is vacated if and when the appointor vacates office as a director.

8.17 Validity of acts

An act done at a meeting of directors, or of a committee or a person acting as a director is not invalidated by:

- (a) a defect in the appointment of a person as a director or a member of a committee; or
- (b) a person so appointed being disqualified or not being entitled to vote,
if that circumstance was not known by the directors, committee or person when the act was done.

9 Executive officers

9.1 Managing directors and executive directors

- (a) The directors may appoint one or more of the directors to the office of managing director or other executive director. Subject to the terms of any agreement entered into, the directors may at any time revoke the appointment, with or without cause.
- (b) Unless the directors decide otherwise, a managing director's or other executive director's appointment as an employee automatically terminates if the managing director or other executive director ceases to be a director.
- (c) A managing director or other executive director may be referred to by any title chosen by the directors.

9.2 Secretary

The directors must appoint at least one secretary and may appoint additional secretaries.

9.3 Executive officers

- (a) A reference in this rule 9.3 to an executive officer is a reference to a managing director or executive director (however titled) or secretary appointed under this rule 9.
- (b) An executive officer may be appointed on terms as to remuneration, tenure of office and otherwise as the directors decide.
- (c) The directors may:
 - (i) delegate or give to an executive officer any powers, discretion and duties they decide;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties given to an executive officer; and
 - (iii) authorise the executive officer to delegate any of the powers, discretions and duties given to the executive officer.
- (d) An act done by a person acting as an executive officer is not invalidated by a defect in the person's appointment, the person being disqualified from being an executive officer, or having vacated office, if (in each case) the person was not aware of that circumstance when the act was done.

10 Indemnity, insurance and access**10.1 Persons to whom rules 10.2 and 10.3 apply**

For the purposes of rules 10.2 and 10.3, an **Officer** is:

- (a) each person who is or has been a director, alternate director or executive officer (within the meaning of rule 9.3(a)) of the Company or a subsidiary of the Company; and
- (b) such other officers or former officers of the Company or its related bodies corporate as the directors in each case decide.

10.2 Indemnity

- (a) The Company:
 - (i) must, to the extent permitted by law, indemnify each Officer on a full indemnity basis against all Liabilities incurred by the person as an Officer; and
 - (ii) may execute a documentary indemnity in any form in favour of an Officer on such terms as the directors think fit and which are not inconsistent with this rule 10.
- (b) The indemnity in rule 10.2(a):
 - (i) is enforceable without the Officer having to first incur any expense or make any payment;
 - (ii) is a continuing obligation and is enforceable by a person to whom rule 10.2(a) applies even though that person has ceased to be an Officer; and
 - (iii) applies to Liabilities incurred both before and after the adoption of this Constitution.

10.3 Insurance

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance or pay or agree to pay a premium for insurance for each Officer against any Liability incurred by the Officer, including but not limited to a Liability for negligence or for reasonable costs and expenses incurred in defending or responding to proceedings, whether civil or criminal and whatever their outcome; and
- (b) bind itself in any contract or deed with any Officer to make payments on such terms as the directors think fit which are not inconsistent with this rule 10.

10.4 Savings

Nothing in rules 10.2(a) or 10.3:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules;

- (b) limits the capacity of the Company to indemnify or provide or pay for insurance for any person to whom those rules do not apply; or
- (c) limits or diminishes the terms of any indemnity conferred or agreement to indemnify entered into prior to the adoption of this Constitution.

11 Winding up

11.1 Distributing surplus

Subject to this Constitution and any rights or restrictions attached to any shares or class of shares:

- (a) any surplus assets remaining after satisfaction of the debts and liabilities of the Company and the charges and expenses of winding up will be available for distribution among the members, in proportion to the number of shares held by the members, irrespective of the amounts paid or credited as paid on the shares; and
- (b) for the purposes of this rule 11.1 at the time of the winding up, any amount unpaid on a share is to be treated as property of the Company. When such an amount is unpaid, the Company may:
 - (i) reduce the amount of the payment to be made to that member under rule 11.1(a) by the amount owing; or
 - (ii) if the amount owed by a particular member is greater than the distribution to which that member is entitled under rule 11.1(a), retain the full amount of that distribution in partial repayment of that amount owing.

11.2 Dividing property

- (a) If the Company is wound up, the liquidator may, with the sanction of a special resolution:
 - (i) divide among all or any of the members as the liquidator thinks fit any part of the assets of the Company, and decide how the division is to be carried out as between the members or different classes of members; and
 - (ii) vest any part of the assets of the Company in trustees on any trusts for the benefit of all or any of the members at the liquidator thinks fit.
- (b) Any division under rule 11.2(a) need not accord with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part, but if any division is otherwise than in accordance with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the determination were a special resolution passed under section 507 of the Act.
- (c) If any shares to be divided include securities with a liability to call, any person entitled under the division to any of the shares may, by notice in writing within 10 Business Days after passing of the special resolution, direct the liquidator to sell the person's proportion and pay to the person the net proceeds. The liquidator must, if practicable, act accordingly.
- (d) Nothing in this rule 11.2 takes away from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.

- (e) Rule 5.3 applies, so far as it can and with any necessary changes, to a division by a liquidator under rule 11.2(a) as if references in rule 5.3 to:
 - (i) the directors were references to the liquidator; and
 - (ii) a distribution or capitalisation were references to the division under rule 11.2(a).

12 Seals

- (a) If the Company has a common seal:
 - (i) it may be used only by the authority of the directors; and
 - (ii) every document to which it is affixed must be signed by 2 directors, a director and a secretary or a director and another person appointed by the directors to countersign that document or a class of documents in which that document is included.
- (b) The directors must provide for the safe custody of any seal of the Company.

13 Notices

13.1 Notices by the Company to members

- (a) Without limiting any other way in which notice may be given to a member under this Constitution, the Act or the Listing Rules, the Company may give a notice to a member by:
 - (i) delivering it personally to the member;
 - (ii) sending it by prepaid post to the member's address in the register of members or any other address the member supplies to the Company for giving notices; or
 - (iii) sending it by fax or other electronic means (including providing a URL link to any document or attachment) to the fax number or electronic address the member has supplied to the Company for giving notices.
- (b) The Company may give notice to the joint holders of a share by giving it to the joint holder first named in the register of members in respect of the share.
- (c) The fact that a person has supplied a fax number or electronic address for the giving of notices does not require the Company to give any notice to that person by fax or electronic mail.
- (d) The Company may give a notice to a person entitled to a share as a result of a Transmission Event by delivering it or sending it in the manner authorised by rule 13.1(a) addressed to the name or title of the person, to:
 - (i) the address, fax number or electronic address that person has supplied to the Company for giving notices to that person; or
 - (ii) if that person has not supplied an address, fax number or electronic address, to the address, fax number or electronic address to which the notice might have been sent if that Transmission Event had not occurred.

- (e) A notice given to a member under rules 13.1(a) or (b) is, even if a Transmission Event has occurred and whether or not the Company has notice of that occurrence:
 - (i) duly given for any shares registered in that person's name, whether solely or jointly with another person; and
 - (ii) sufficiently served on any person entitled to the shares because of the Transmission Event.
- (f) A notice given to a person who is entitled to a share because of a Transmission Event is sufficiently served on the member in whose name the share is registered.
- (g) Where a member does not have a registered address or where the Company believes a member is not known at the member's registered address, all notices are taken to be:
 - (i) given to the member if they are given to the Exchange or exhibited at the Company's registered office for a period of 48 hours; and
 - (ii) served at the time the notice is given to the Exchange or the commencement of that period (as applicable),
unless and until the member informs the Company of the member's address.
- (h) A person who, because of a transfer of shares, becomes entitled to any shares registered in the name of a member, is taken to have received every notice which, prior to that person's name and address being entered in the register of members for those shares, was properly given to that member.
- (i) A signature to any notice given by the Company to a member under this rule 13.1 may be printed or affixed by some mechanical, electronic or other means.

13.2 Notices by the Company to directors

The Company may give a notice to a director or alternate director by:

- (a) delivering it personally to them;
- (b) sending it by prepaid post to their usual residential or business address, or any other address they have supplied to the Company for giving notices; or
- (c) sending it by fax or other electronic means to the fax number or electronic address they have supplied to the Company for giving notices.

13.3 Notices by directors to the Company

A director or alternate director may give a notice to the Company by:

- (a) delivering it to the Company's registered office;
- (b) sending it by prepaid post to the Company's registered office; or
- (c) sending it by fax or other electronic means to the principal fax number or electronic address at the Company's registered office.

13.4 Time of service by the Company

- (a) A notice from the Company properly addressed and posted is taken to have been served on the day after the date of its posting, regardless of whether the address for service is in or outside Australia.

- (b) A certificate signed by a secretary or other officer of the Company stating that a notice was duly posted on a particular date under this Constitution is conclusive evidence of that fact.
- (c) A notice sent by the Company by fax or electronic transmission is taken to be served when the transmission is sent.
- (d) Where the Company sends a notice by electronic transmission, the notice is taken as served at the time the electronic transmission is properly addressed and transmitted.
- (e) Where the Company gives a notice by any other means permitted by the Act, the notice is taken as served on the day after the date on which the recipient is notified that the notice is available.
- (f) Where a given number of days' notice or other specified period of notice must be given, the day of service is not to be counted in the number of days or other period.

14 Proportional Takeover Bids

14.1 Definitions

In this rule 14:

- (a) **Approving Resolution**, in relation to a Proportional Takeover Bid, means a resolution to approve the Proportional Takeover Bid passed in accordance with rule 14.3;
- (b) **Proportional Takeover Bid** means an off-market bid that is made or purports to be made under section 618(1)(b) of the Corporations Act in respect of a specified proportion of shares included in a class of shares in the Company; and
- (c) **Approving Resolution Deadline**, in relation to a Proportional Takeover Bid, means the day that is 14 days before the last day of the bid period in respect of the Proportional Takeover Bid.

14.2 Transfers not to be registered

Despite rule 6.2, a transfer giving effect to a takeover contract resulting from the acceptance of an offer made under a Proportional Takeover Bid must not be registered unless and until an Approving Resolution to approve the Proportional Takeover Bid has been passed or is taken to have been passed in accordance with rule 14.3.

14.3 Resolution

- (a) Where offers have been made under a Proportional Takeover Bid, the directors must:
 - (i) convene a meeting of the persons entitled to vote on the Approving Resolution for the purpose of considering and, if thought fit, passing an Approving Resolution to approve the Proportional Takeover Bid; and
 - (ii) ensure that such a resolution is voted on in accordance with this rule 14.3, before the Approving Resolution Deadline in relation to that Proportional Takeover Bid.

- (b) The provisions of this Constitution that apply to a general meeting of the Company apply:
 - (i) with any changes that the circumstances require, to a meeting convened under rule 14.3(a); and
 - (ii) as if the meeting convened under rule 14.3(a) were a general meeting of the Company.
- (c) The bidder under a Proportional Takeover Bid and any associates of the bidder are not entitled to vote on the Approving Resolution relating to that Proportional Takeover Bid and, if they do vote, their votes must not be counted.
- (d) Subject to rule 14.3(c), a person who, as at the end of the day on which the first offer under the Proportional Takeover Bid was made, held bid class shares is entitled to vote on the Approving Resolution relating to the Proportional Takeover Bid.
- (e) An Approving Resolution is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than 50%, and otherwise is to be taken to have been rejected.
- (f) If an Approving Resolution to approve a Proportional Takeover Bid has not been voted on in accordance with this rule 14.3 as at the end of the day before the Approving Resolution Deadline, an Approving Resolution to approve the Proportional Takeover Bid will be taken to have been passed in accordance with this rule 14.3.

14.4 Expiry

This rule 14 ceases to have effect, and is automatically omitted from this Constitution, in accordance with section 648G of the Act.

FORM OF WARRANT

THE WARRANTS AND THE ORDINARY SHARES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE US SECURITIES ACT OF 1933, AS AMENDED, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF IN VIOLATION OF THE US SECURITIES ACT OF 1933, AS AMENDED. IF REQUESTED BY THE COMPANY, THE HOLDER SHALL, IN CONNECTION WITH ANY SUCH TRANSFER, FURNISH THE COMPANY (AT THE HOLDER'S EXPENSE) WITH (A) IF SUCH TRANSFER IS BEING MADE TO A TRANSFEREE THAT IS AN "ACCREDITED INVESTOR" (AS DEFINED IN REGULATION D OF THE US SECURITIES ACT OF 1933, AS AMENDED), A WARRANTY TO THAT EFFECT AND A WARRANTY WITH RESPECT TO SUCH TRANSFEREE SUBSTANTIALLY SIMILAR TO THE "INVESTMENT PURPOSE" WARRANTY SET FORTH IN PART 3 TO SCHEDULE 3 OF THE SHARE SUBSCRIPTION AGREEMENT, OR (B) IF THE CONDITIONS SET FORTH IN CLAUSE (A) ABOVE ARE NOT SATISFIED, (I) AN OPINION OF COUNSEL, REASONABLY SATISFACTORY TO THE COMPANY, TO THE EFFECT THAT SUCH DISPOSITION WILL NOT REQUIRE REGISTRATION OF SUCH SECURITIES UNDER THE US SECURITIES ACT OF 1933, AS AMENDED OR (II) A "NO ACTION" LETTER FROM THE SEC TO THE EFFECT THAT THE TRANSFER OF SUCH SECURITIES WITHOUT REGISTRATION WILL NOT RESULT IN A RECOMMENDATION BY THE STAFF OF THE SEC THAT ACTION BE TAKEN WITH RESPECT THERETO.

BIONOMICS LIMITED ACN 075 582 7 4 0

WARRANT TO PURCHASE ORDINARY SHARES

Warrant No.:

Number of Ordinary Shares:

Date of Issuance: *December 12, 2016* ("**Issuance Date**")

Bionomics Limited ACN 075 582 740, a public company incorporated in South Australia under the Australian *Corporations Act 2001* (Cth) (the "**Company**"), hereby certifies that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, _____, the registered holder hereof or its permitted assigns (the "**Holder**"), is entitled, subject to the terms set forth below, to purchase from the Company, at the Exercise Price (as defined below) then in effect, at any time or times on or after the Issuance Date, but not after 11:59 p.m., Sydney time, on the Expiration Date, (as defined below), _____ (_____) fully paid ordinary shares in the capital of the Company ("**Ordinary Shares**") subject to adjustment as provided herein (the "**Warrant Shares**"). Except as otherwise defined herein, capitalized terms in this Warrant to Purchase Ordinary Shares (including any Warrants to Purchase Ordinary Shares issued in exchange, transfer or replacement hereof, this "**Warrant**"), shall have the meanings set forth in Section 16. This Warrant is one of the Warrants to purchase Ordinary Shares (the "**Subscription Warrants**") issued pursuant to Section 4 of that certain Share Subscription Agreement, dated as of **December 4, 2015** (the "**Subscription Date**"), by and among the Company and the investors (the "**Buyers**") referred to therein (the "**Share Subscription Agreement**"). Capitalized terms used herein and not otherwise defined shall have the definitions ascribed to such terms in the Share Subscription Agreement.

1. EXERCISE OF WARRANT.

(a) Mechanics of Exercise. Subject to the terms and conditions here of (including, without limitation, the limitations set forth in Section 1(f), if applicable), this Warrant may be exercised by the Holder at any time or times on or after the Issuance Date and on or prior to the Expiration Date, in whole or in part, by (i) delivery of a written notice, in the form attached hereto as Exhibit A (the “**Exercise Notice**”), of the Holder’s election to exercise this Warrant, and (ii)(A) receipt by the Company of an amount equal to the applicable Exercise Price multiplied by the number of Warrant Shares as to which this Warrant is being exercised (the “**Aggregate Exercise Price**”) in cash by wire transfer of immediately available funds or (B) if the provisions of Section 1(d) are applicable, by notifying the Company that this Warrant is being exercised pursuant to a Cashless Exercise (as defined in Section 1(d)). The Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder. Execution and delivery of the Exercise Notice with respect to less than all of the Warrant Shares shall have the same effect as cancellation of the original Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Warrant Shares. On or before the first (1st) Trading Day following the date on which the Company has received the Exercise Notice, the Company shall transmit by facsimile or email an acknowledgment of confirmation of receipt of the Exercise Notice to the Holder and the Company’s transfer agent (the “**Transfer Agent**”). On or before the third (3rd) Trading Day following the date on which the Company has received the Exercise Notice, so long as the Holder has delivered the Aggregate Exercise Price or, if applicable, notice of a Cashless Exercise) on or prior to the second (2nd) Trading Day following the date on which the Company has received the Exercise Notice (the “**Share Delivery Date**”) (provided that if the Aggregate Exercise Price has not been delivered by such date, the Share Delivery Date shall be one (1) Trading Day after the Aggregate Exercise Price (or, if applicable, notice of a Cashless Exercise) is delivered), the Company shall, subject to the Corporations Act and ASX Listing Rules, issue and allot the Warrant Shares to the Holder, in accordance with the CHES Rules, to the Holder’s custodian’s nominated CHES account and, subject to the below provision for a later prospectus, issue a Cleansing Statement in respect of such Warrant Shares to the ASX Company Announcements Platform. The Company shall be responsible for all fees and expenses of the Transfer Agent and all fees and expenses with respect to the issuance and allotment of the Warrant Shares to the Holder’s custodian’s nominated CHES account, in accordance with the CHES Rules, if any. Upon delivery of the Exercise Notice, if at such time (a) the Ordinary Shares, either directly or through an American depositary receipt program sponsored by the Company, are listed on an Eligible Market that is located in the United States, and (b) the Company has received a valid notice of exercise in respect of some or all of the Warrant Shares; the Holder, directly or through its custodian, shall be deemed, for the purposes of Regulation SHO under the U.S. Securities Exchange Act of 1934, as amended, to have become the holder of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date such Warrant Shares are issued and allotted to the Holder’s custodian’s nominated CHES account. If this Warrant is submitted in connection with any exercise pursuant to this Section 1(a) and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the number of Warrant Shares being acquired upon an exercise, then the Company shall as soon as practicable and in no event later than three (3) Trading Days after any exercise and at its own expense, issue a new Warrant (in accordance with Section 6(d)) representing the right to purchase the number of Warrant Shares issuable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised. No fractional Warrant Shares are to be issued upon the exercise of this Warrant, but rather the number of Warrant Shares to be issued shall be rounded down to the nearest whole number. If required, the Company shall pay any and all stamp, transfer or similar taxes which may be payable with respect to the issuance and delivery

of Warrant Shares upon exercise of this Warrant. Subject to the Corporations Act and ASX Listing Rules, the Company's obligations to issue and deliver Warrant Shares in accordance with the terms and subject to the conditions hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination. If the Company does not issue a Cleansing Statement for the Warrant Shares received on exercise of the Warrant, or that Cleansing Statement for any reason is not effective to ensure that an offer for issue of the Warrant Shares does not require disclosure to investors (as defined in the Corporations Act), the Company must within seven (7) days of the issue of the Warrant Shares lodge with Australian Securities and Investments Commission a prospectus prepared in accordance with the Corporations Act and do all such things necessary to satisfy section 708A(11) of the Corporations Act and the Subscriber will not resell such Warrant Shares until the prospectus is lodged.

(b) **Exercise Price.** For purposes of this Warrant, "**Exercise Price**" means \$0.5938 subject to adjustment as provided herein.

(c) **Company's Failure to Timely Deliver Securities.** If the Company shall fail for any reason or for no reason to issue and allot to the Holder's custodian's nominated CHESS account on or prior to the Share Delivery Date such number of Ordinary Shares to which the Holder is entitled upon the Holder's exercise of this Warrant (an "**Exercise Failure**"), then, in addition to all other remedies available to the Holder, (X) the Company shall pay in cash to the Holder on each day after the Share Delivery Date and during such Exercise Failure an amount equal to 1.5% of the product of (A) the sum of the number of Ordinary Shares not issued to the Holder on or prior to the Share Delivery Date and to which the Holder is entitled, and (B) any trading price of the Ordinary Shares selected by the Holder in writing as in effect at any time during the period beginning on the applicable Exercise Date and ending on the applicable Share Delivery Date, and (Y) the Holder, upon written notice to the Company, may void its Exercise Notice with respect to, and retain or have returned, as the case may be, any portion of this Warrant that has not been exercised pursuant to such Exercise Notice; provided that the voiding of an Exercise Notice shall not affect the Company's obligations to make any payments which have accrued prior to the date of such notice pursuant to this Section 1(c) or otherwise.

(d) **Cashless Exercise.** Notwithstanding anything contained herein to the contrary, if the Ordinary Shares, either directly or through an American depository receipt program sponsored by the Company, become listed on an Eligible Market that is located in the United States (the date of such listing, the "**Listing Date**") and if after the date that is six (6) months after the Listing Date, a registration statement covering the resale of the Warrant Shares that are the subject of the Exercise Notice (the "**Unavailable Shares**") is not available for the resale of such Unavailable Warrant Shares, the Holder may, in its sole discretion, exercise this Warrant in whole or in part and, in lieu of making the cash payment otherwise contemplated to be made to the Company upon such exercise in payment of the Aggregate Exercise Price, elect instead to receive upon such exercise the "Net Number" of Ordinary Shares determined according to the following formula (a "**Cashless Exercise**"):

$$\frac{\text{Net Number} = (A \times B) - (A \times C)}{D}$$

For purposes of the foregoing formula:

- A= the total number of Ordinary Shares with respect to which this Warrant is then being exercised.
- B= the arithmetic average of the Closing Sale Prices of the Ordinary Shares for the five (5) consecutive Trading Days ending on the date immediately preceding the date of the Exercise Notice.
- C= the Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.
- D= the last Closing Sale Price of the Ordinary Shares at the time of delivery of the Exercise Notice.

Solely for purposes of Rule 144(d) promulgated under the Securities Act, as in effect on the date hereof, the Company hereby acknowledges and agrees that the Warrant Shares issued in a Cashless Exercise shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the date this Warrant was originally issued pursuant to the Share Subscription Agreement. The Company agrees not to take any position contrary to this Section 1(d).

(e) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall promptly issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 11.

(f) Beneficial Ownership. Notwithstanding anything to the contrary contained herein, if the Ordinary Shares, either directly or through an American depositary receipt program sponsored by the Company, become registered pursuant to Section 12 of the Exchange Act, then thereafter the Company shall not effect the exercise of any portion of this Warrant, and the Holder shall not have the right to exercise any portion of this Warrant, pursuant to the terms and conditions of this Warrant and any such exercise shall be null and void and treated as if never made, to the extent that after giving effect to such exercise, the Holder together with the other Attribution Parties collectively would beneficially own in excess of 4.99% (the "**Maximum Percentage**") of the number of Ordinary Shares outstanding immediately after giving effect to such exercise. For purposes of the foregoing sentence, the aggregate number of Ordinary Shares beneficially owned by the Holder and the other Attribution Parties shall include the number of Ordinary Shares held by the Holder and all other Attribution Parties plus the number of Ordinary Shares issuable upon exercise of this Warrant with respect to which the determination of such sentence is being made, but shall exclude the number of Ordinary Shares which would be issuable upon (A) exercise of the remaining, unexercised portion of this Warrant beneficially owned by the Holder or any of the other Attribution Parties and (B) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred stock or warrants, including the other Subscription

Warrants) beneficially owned by the Holder or any other Attribution Party subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 1(f). For purposes of this Section 1(f), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. For purposes of determining the number of outstanding Ordinary Shares the Holder may acquire upon the exercise of this Warrant without exceeding the Maximum Percentage, the Holder may rely on the number of outstanding Ordinary Shares as reflected in (x) the Company's most recent Annual Report on Form 20-F, Report of Foreign Private Issuer on Form 6-K or other public filing with the Securities and Exchange Commission (the "SEC"), as the case may be, (y) a more recent public announcement by the Company or (z) any other written notice by the Company or the Transfer Agent setting forth the number of Ordinary Shares outstanding (the "**Reported Outstanding Share Number**"). If the Company receives an Exercise Notice from the Holder at a time when the actual number of outstanding Ordinary Shares is less than the Reported Outstanding Share Number, (i) the Company shall notify the Holder in writing of the number of Ordinary Shares then outstanding, (ii) to the extent that such Exercise Notice would otherwise cause the Holder's beneficial ownership, as determined pursuant to this Section 1(f), to exceed the Maximum Percentage, the Holder must notify the Company of a reduced number of Warrant Shares to be purchased pursuant to such Exercise Notice (the number of shares by which such purchase is reduced, the "**Reduction Shares**") and (iii) as soon as reasonably practicable, the Company shall return to the Holder any exercise price paid by the Holder for the Reduction Shares. For any reason at any time, upon the written or oral request of the Holder, the Company shall within one (1) Trading Day confirm orally and in writing or by electronic mail to the Holder the number of Ordinary Shares then outstanding. In any case, the number of outstanding Ordinary Shares shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of Ordinary Shares to the Holder upon exercise of this Warrant results in the Holder and the other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding Ordinary Shares (as determined under Section 13(d) of the Exchange Act), the number of shares so issued by which the Holder's and the other Attribution Parties' aggregate beneficial ownership exceeds the Maximum Percentage (the "**Excess Shares**") shall be deemed null and void and shall, subject to the Corporations Act and ASX Listing Rules, be cancelled ab initio (and for the avoidance of doubt, the Holder consents to any cancellation or buy-back), and the Holder shall not have the power to vote or to transfer the Excess Shares. As soon as reasonably practicable after the issuance of the Excess Shares has been deemed null and void, the Company shall return to the Holder the exercise price paid by the Holder for the Excess Shares. Upon delivery of a written notice to the Company, the Holder may from time to time increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% as specified in such notice; provided that (i) any such increase in the Maximum Percentage will not be effective until the sixty-first (61st) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to the Holder and the other Attribution Parties and not to any other holder of Subscription Warrants that is not an Attribution Party of the Holder. For purposes of clarity, the Ordinary Shares issuable pursuant to the terms of this Warrant in excess of the Maximum Percentage shall not be deemed to be beneficially owned by the Holder for any purpose including for purposes of Section 13(d) or Rule 16a-1(a)(1) of the Exchange Act. No prior inability to exercise this Warrant pursuant to this paragraph shall have any effect on the applicability of the provisions of this paragraph with respect

to any subsequent determination of exercisability. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 1(f) to the extent necessary to correct this paragraph or any portion of this paragraph which may be defective or inconsistent with the intended beneficial ownership limitation contained in this Section 1(f) or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of this Warrant.

(g) Authorized Shares. The Company hereby covenants and agrees that it will not take any steps or actions to amend its constituent documents to decrease its ability to issue the maximum number of Ordinary Shares contemplated to be issued pursuant to this Warrant.

(h) No Quotation. The Company does not intend to seek quotation of this Warrant on- the Principal Market.

(i) ADSs. Notwithstanding anything herein to the contrary, if the Ordinary Shares are at any time represented by American depository shares pursuant to an American depository receipt program sponsored by the Company (“**ADSs**”), the Holder may, in its sole and absolute discretion, elect to exercise this Warrant for either Ordinary Shares or that number of ADSs representing such number of Ordinary Shares at any time and from time to time when this Warrant is exercisable. One election by the Holder shall not limit the Holder’s election for any subsequent exercises.

(j) Fundamental Transactions. In the event of a Fundamental Transaction, at the request of the Holder delivered before the ninetieth (90th) day after the occurrence or consummation of such Fundamental Transaction, in consideration of the cancellation of the unexercised portion of this Warrant, within five (5) Business Days after such request (or, if later, on the day the consideration is paid to Company ordinary shareholders in respect of the Fundamental Transaction), the Company (or a successor entity in such Fundamental Transaction) shall procure this Warrant from the Holder by paying the Holder cash in an amount equal to the Black Scholes Value of the remaining unexercised portion of this Warrant.

(k) Investment Representation Statement. Unless the rights under this Warrant are exercised pursuant to an effective registration statement under the Securities Act that includes the Ordinary Shares (or ADSs, if applicable) with respect to which the Warrant was exercised or this Warrant is being exercised pursuant to a Cashless Exercise, pursuant to the terms, and subject to the conditions, set forth in Section 1(d) above, it shall be a condition to any exercise of the rights under this Warrant that the Holder shall have made the warranties set forth in the Exercise Notice attached hereto as Exhibit B.

Section 2(a) and (c) apply unless and until both (i) the Company is removed from the Official List of the ASX and (ii) the Ordinary Shares, either directly or through an American depository receipt program sponsored by the Company, become listed on an Eligible Market that is located in the United States; in which case on and from the Listing Date Section 2(a) and (c) shall cease to apply or have any effect and Section 2A(a) in the Annexure shall apply in place of them.

Section 2(b) applies unless and until the Company is removed from the Official List of the ASX; then on and from that date Section 2(b) shall cease to apply or have any effect and Section 2A(b) in the Annexure shall apply in place of it.

2. ADJUSTMENT OF EXERCISE PRICE AND NUMBER OF WARRANT SHARES. The Exercise Price and the number of Warrant Shares shall be adjusted from time to time as follows:

(a) Adjustment. Other than as set out in this Warrant or the ASX Listing Rules (while the Company is on the Official List of ASX), this Warrant does not confer the right to a change in the Exercise Price or a change in the number of underlying securities over which this Warrant can be exercised.

(b) Adjustment Upon Subdivision or Combination of Ordinary Shares. In the event of any re-organisation (including reconstruction, consolidation, subdivision, reduction or return of capital) of issued capital of the Company, this Warrant will be re-organised as required by the ASX Listing Rules, but in all other respects the terms of exercise will remain unchanged.

(c) No Participating Rights or Entitlements. There are no participating rights or entitlements inherent in this Warrant and Holders will not be entitled to participate in new issues of capital offered during the currency of this Warrant, except upon exercise of this Warrant.

3. PRO RATA ISSUES AND BONUS ISSUES.

(a) If there is a pro rata issue (except a bonus issue) to the holders of Ordinary Shares, the Exercise Price of this Warrant may be reduced according to the following formula:

$$O' = \frac{E[P - (S+D)]}{N + 1}$$

O' = the new Exercise Price of this Warrant.

O = the old Exercise Price of this Warrant.

E = the number of Ordinary Shares into which one Warrant is exercisable.

Note: E is one unless the number has changed because of a bonus issue.

P = the volume weighted average market price per security of the Ordinary Shares, calculated over the 5 Trading Days ending on the day before the ex-rights date or ex-entitlements date.

S = the subscription price for a security under the pro rata issue.

D = the dividend due but not yet paid on the existing Ordinary Shares (except those to be issued under the pro rata issue).

N = the number of securities with rights or entitlements that must be held to receive a right to one new security.

(b) If there is a bonus issue to the holders of Ordinary Shares, the number of securities over which this Warrant is exercisable may be increased by the number of securities which the holder of this Warrant would have received if this Warrant had been exercised before the record date for the bonus issue.

4. NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its constitution, or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all of the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid Ordinary Shares upon the exercise of this Warrant.

5. WARRANT HOLDER NOT DEEMED A SHAREHOLDER. Except as otherwise specifically provided herein, the Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or receive dividends or be deemed to be a shareholder of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a shareholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise, prior to the issuance to the Holder of the Warrant Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (other than upon exercise of this Warrant) or as a shareholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 5, the Company shall provide the Holder with copies of the same notices and other information given to the shareholders of the Company generally, contemporaneously with the giving thereof to the shareholders, unless and to the extent such notices and other information are publicly released on ASX.

6. REISSUANCE OF WARRANTS.

(a) Transfer of Warrant. Subject to any restrictions under applicable law arising because of the identity of a particular proposed transferee, if this Warrant is to be transferred, the Holder must assign and novate this agreement to the transferee on the same terms and conditions as this Warrant as if the transferee were the original holder hereunder and shall surrender this Warrant to the Company, whereupon, subject to the transferee confirming to the reasonable satisfaction of the Company that the securities are being acquired in a manner that would enable such transferee to make substantially similar warranties to the warranties set forth in Part 3 to Schedule 3 of the Share Subscription Agreement, the Company will forthwith issue and deliver upon the order of the Holder a new Warrant (in accordance with Section 6(d)), registered

as the Holder may request, representing the right to purchase the number of Warrant Shares being transferred by the Holder and, if less than the total number of Warrant Shares then underlying this Warrant is being transferred, a new Warrant (in accordance with Section 6(d)) to the Holder representing the right to purchase the number of Warrant Shares not being transferred. If requested by the Company, the Holder shall, in connection with any such transfer, furnish the Company (at the Holder's expense) with (A) if such transfer is being made to a transferee that is an "accredited investor" (as defined in Regulation D of the US Securities Act of 1933, as amended), a warranty to that effect, and a warranty with respect to such transferee substantially similar to the "investment purpose" warranty set forth in Part 3 to Schedule 3 of the Share Subscription Agreement, or (B) if the conditions set forth in clause (A) above are not satisfied, (i) an opinion of counsel, reasonably satisfactory to the Company, to the effect that such disposition will not require registration of such securities under the Securities Act or (ii) a "no action" letter from the SEC to the effect that the transfer of such securities without registration will not result in a recommendation by the staff of the SEC that action be taken with respect thereto. Without limiting the foregoing, all transfers of this Warrant must be in compliance with all applicable securities laws.

(b) Lost, Stolen or Mutilated Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant, and, in the case of loss, theft or destruction, of an indemnification agreement by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company shall execute and deliver to the Holder a new Warrant (in accordance with Section 6(d)) representing the right to purchase the Warrant Shares then underlying this Warrant.

(c) Exchangeable for Multiple Warrants. This Warrant is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Warrant or Warrants (in accordance with Section 6(d)) representing in the aggregate the right to purchase the number of Warrant Shares then underlying this Warrant, and each such new Warrant will represent the right to purchase such portion of such Warrant Shares as is designated by the Holder at the time of such surrender; provided, however, that no Warrants for fractional Warrant Shares shall be given.

(d) Issuance of New Warrants. Whenever the Company is required to issue a new Warrant pursuant to the terms of this Warrant, such new Warrant (i) shall be of like tenor with this Warrant, (ii) shall represent, as indicated on the face of such new Warrant, the right to purchase the Warrant Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 6(a) or Section 6(c), the Warrant Shares designated by the Holder which, when added to the number of Ordinary Shares underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Warrant Shares then underlying this Warrant), (iii) shall have an issuance date, as indicated on the face of such new Warrant which is the same as the Issuance Date, and (iv) shall have the same rights and conditions as this Warrant. For the avoidance of doubt, any reference to the issuance of Warrants for the purposes of this Section 6(d) and the rest of this document does not represent an issue of new equity securities but represents an update of the details of the document of title to which the Warrant relates.

7. **NOTICES.** Whenever notice is required to be given under this Warrant, unless otherwise provided herein, such notice shall be given in accordance with Section 9 of the Share Subscription Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Warrant, including in reasonable detail a description of such action and the reason therefor. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) promptly following any adjustment of the Exercise Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at the earlier of what is required under the ASX Listing Rules and fifteen (15) days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Ordinary Shares, (B) with respect to any grants, issuances or sales of any Options, Convertible Securities or rights to purchase stock, warrants, securities or other property to holders of Ordinary Shares or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation; provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder. It is expressly understood and agreed that the time of exercise specified by the Holder in each Exercise Notice shall be definitive and may not be disputed or challenged by the Company.

8. **AMENDMENT AND WAIVER.** Except as otherwise provided herein, the provisions of this Warrant may be amended or waived and the Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Company has obtained the written consent of the Holder.

9. **GOVERNING LAW; JURISDICTION; JURY TRIAL.** This Warrant shall be governed by and construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Warrant shall be governed by, the internal laws of the State of New York without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each of the Company and the Holder hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each of the Company and the Holder hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to the Company or the Holder (as the case may be) at the address set forth in Section 9 of the Share Subscription Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Nothing contained herein shall be deemed or operate to preclude either the Company or the Holder from bringing suit or taking other legal action against the Holder or the Company, as applicable, in any other jurisdiction to collect on the Holder's obligations to the Company or the Company's obligations to the Holder, as applicable, to realize on any collateral or any other security for such obligations, or to enforce a judgment or other court ruling in favor of the Company or the Holder, as applicable.

EACH OF THE COMPANY AND THE HOLDER HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS WARRANT OR ANY TRANSACTION CONTEMPLATED HEREBY.

10. CONSTRUCTION; HEADINGS. This Warrant shall be deemed to be jointly drafted by the Company and all the Buyers and shall not be construed against any Person as the drafter hereof. The headings of this Warrant are for convenience of reference and shall not form part of, or affect the interpretation of, this Warrant.

11. DISPUTE RESOLUTION. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Warrant Shares, the Company shall submit the disputed determinations or arithmetic calculations via facsimile or electronic mail within one (1) Business Day of receipt or deemed receipt of the Exercise Notice giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation of the Exercise Price or the Warrant Shares within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within three (3) Business Days submit via facsimile or electronic mail (a) the disputed determination of the Exercise Price to an independent, reputable investment bank selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed or (b) the disputed arithmetic calculation of the Warrant Shares to an independent, outside accountant, selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed. The Company shall cause at its expense the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than five (5) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

12. REMEDIES, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant and the other Transaction Documents, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Holder to pursue actual damages for any failure by the Company to comply with the terms of this Warrant. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the holder of this Warrant shall be entitled, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required.

13. TRANSFER. Subject to Chapter 6D of the Corporations Act which prevents on sale within 12 months to Australian retail investors where further disclosure would be required, this Warrant and the Warrant Shares may be offered for sale, sold, transferred, pledged or assigned without the consent of the Company.

14. **SEVERABILITY.** If any provision of this Warrant is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Warrant so long as this Warrant as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

15. **DISCLOSURE.** Upon receipt or delivery by the Company of any notice in accordance with the terms of this Warrant, unless the Company has in good faith determined that the matters relating to such notice do not constitute material, nonpublic information the Company shall within one (1) Trading Day after any such receipt or delivery publicly disclose such material, nonpublic information to the ASX Company Announcements Platform, on a Current Report on Form 8-K, if applicable, or otherwise. In the event that the Company believes that a notice contains material, nonpublic information relating to the Company or its Subsidiaries, the Company so shall indicate to such Holder contemporaneously with delivery of such notice, and in the absence of any such indication, the Holder shall be allowed to presume that all matters relating to such notice do not constitute material, nonpublic information relating to the Company or its Subsidiaries.

16. **CERTAIN DEFINITIONS.** For purposes of this Warrant, the following terms shall have the following meanings:

(a) “**Affiliate**” means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person, it being understood for purposes of this definition that “control” of a Person means the power directly or indirectly either to vote 10% or more of the stock having ordinary voting power for the election of directors of such Person or direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(b) “**ASX Listing Rules**” means the listing rules of the Principal Market as waived or modified in respect of the Company.

(c) “**ASX Settlement**” means ASX Settlement Pty Ltd.

(d) “**ASX Settlement Operating Rules**” means the Settlement Operating Rules of ASX Settlement.

(e) “**Attribution Parties**” means, collectively, the following Persons and entities: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the Issuance Date, directly or indirectly managed or advised by the Holder’s investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of the Holder or any of the foregoing, (iii) any Person acting or who could be deemed to

be acting as a Group together with the Holder or any of the foregoing and (iii) any other Persons whose beneficial ownership of the Company's Ordinary Shares would or could be aggregated with the Holder's and the other Attribution Parties for purposes of Section 13(d) of the Exchange Act. For clarity, the purpose of the foregoing is to subject collectively the Holder and all other Attribution Parties to the Maximum Percentage.

(f) "**Black Scholes Value**" means the value of this Warrant based on the Black-Scholes Option Pricing Model obtained from the "OV" function on Bloomberg determined as of the day immediately following the public announcement of the applicable Fundamental Transaction, or, if the Fundamental Transaction is not publicly announced, the date the Fundamental Transaction is consummated, for pricing purposes and reflecting (i) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of this Warrant as of such date of request, (ii) an expected volatility equal to the greater of 100% and the 30 day volatility obtained from the HVT function on Bloomberg as of the day immediately following the public announcement of the applicable Fundamental Transaction, or, if the Fundamental Transaction is not publicly announced, the date the Fundamental Transaction is consummated, (iii) the underlying price per share used in such calculation shall be the greater of (x) the Closing Sale Price of the Ordinary Shares as of the day the applicable Fundamental Transaction is publicly announced, or, if the Fundamental Transaction is not publicly announced, the date immediately preceding the date the Fundamental Transaction is consummated and (y) the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in the Fundamental Transaction, (iv) a zero cost of borrow and (v) a 360 day annualization factor.

(g) "**Bloomberg**" means Bloomberg Financial Markets.

(h) "**Business Day**" means:

(1) for determining when a notice, consent or other communication is given, a day that is not a Saturday, Sunday or public holiday in the place to which the notice, consent or other communication is sent; and

(2) for any other purpose, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, Australia.

(i) "**CHESS**" means Clearing House Electronic Subregister System.

(j) "**CHESS Rules**" means the ASX Settlement Operating Rules and the provisions of the Corporations Act and ASX Listing Rules concerning the electronic share registration and transfer system as and to the extent that they apply to the Company.

(k) "**Cleansing Statement**" means a notice in relation to the Warrant Shares given by the Company in accordance with section 708A (5) of the Corporations Act.

(l) **“Closing Bid Price”** and **“Closing Sale Price”** means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or the last trade price, respectively, of such security prior to 4:00:00 p.m., Sydney time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, [or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the OTC Link or “pink sheets” by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.)]. If the Closing Bid Price or the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 11. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or other similar transaction during the applicable calculation period.

(m) **“Convertible Securities”** means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for Ordinary Shares.

(n) **“Corporations Act”** means the *Corporations Act 2001* (Cth).

(o) **“Designee”** means Empery Asset Management, LP.

(p) **“Eligible Market”** means the Principal Market, The New York Stock Exchange, Inc., the NYSE MKT, The NASDAQ Global Select Market, The NASDAQ Global Market, The NASDAQ Capital Market, the OTCQB or the OTCQX.

(q) **“Exchange Act”** means the U.S. Securities Exchange Act of 1933 as amended.

(r) **“Expiration Date”** means the date five years after the Issuance Date or, if such date falls on a day other than a Business Day or on which trading does not take place on the Principal Market (a **“Holiday”**), the next day that is not a Holiday.

(s) **“Fundamental Transaction”** means (A) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Subject Entity (including, without limitation, by scheme of arrangement), or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company or any of its “significant subsidiaries” (as defined in Rule 1-02 of Regulation S-X) to one or more Subject Entities, or (iii) make, or allow one or more Subject Entities to make, or allow the Company to be subject to or have its Ordinary Shares be subject to or party to one or more Subject Entities making, a purchase, tender or exchange offer that is accepted by the holders of at least either (x) 50% of the outstanding Ordinary Shares, (y) 50% of the outstanding Ordinary Shares calculated as if any Ordinary Shares held by all Subject Entities

making or party to, or Affiliated with any Subject Entities making or party to, such purchase, tender or exchange offer were not outstanding; or (z) such number of Ordinary Shares such that all Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such purchase, tender or exchange offer, become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of at least 50% of the outstanding Ordinary Shares, or (iv) consummate a stock purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with one or more Subject Entities whereby such Subject Entities, individually or in the aggregate, acquire, either (x) at least 50% of the outstanding Ordinary Shares, (y) at least 50% of the outstanding Ordinary Shares calculated as if any Ordinary Shares held by all the Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such stock purchase agreement or other business combination were not outstanding; or (z) such number of Ordinary Shares such that the Subject Entities become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of at least 50% of the outstanding Ordinary Shares, or (v) reorganize, recapitalize or reclassify its Ordinary Shares, (B) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, allow any Subject Entity individually or the Subject Entities in the aggregate to be or become the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, whether through acquisition, purchase, assignment, conveyance, tender, tender offer, exchange, reduction in outstanding Ordinary Shares, merger, consolidation, business combination, reorganization, recapitalization, spin-off, scheme of arrangement, reorganization, recapitalization or reclassification or otherwise in any manner whatsoever, of either (x) at least 50% of the aggregate ordinary voting power represented by issued and outstanding Ordinary Shares, (y) at least 50% of the aggregate ordinary voting power represented by issued and outstanding Ordinary Shares not held by all such Subject Entities as of the date of this Warrant calculated as if any Ordinary Shares held by all such Subject Entities were not outstanding, or (z) a percentage of the aggregate ordinary voting power represented by issued and outstanding Ordinary Shares or other equity securities of the Company sufficient to allow such Subject Entities to effect a statutory short form merger or other transaction requiring other shareholders of the Company to surrender their Ordinary Shares without approval of the shareholders of the Company or (C) directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, the issuance of or the entering into any other instrument or transaction structured in a manner to circumvent, or that circumvents, the intent of this definition in which case this definition shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this definition to the extent necessary to correct this definition or any portion of this definition which may be defective or inconsistent with the intended treatment of such instrument or transaction.

- (t) “**Group**” means a “group” as that term is used in Section 13(d) of the Exchange Act and as defined in Rule 13d-5 thereunder.
- (u) “**Options**” means any rights, warrants or options to subscribe for or purchase Ordinary Shares or Convertible Securities.
- (v) “**Ordinary Share**” means an issued, fully paid, ordinary share in the capital of the Company.

(w) “**Parent Entity**” of a Person means an entity that, directly or indirectly, controls the applicable Person, including such entity whose common capital or equivalent equity security is quoted or listed on an Eligible Market (or, if so elected by the Required Holders, any other market, exchange or quotation system), or, if there is more than one such Person or such entity, the Person or such entity designated by the Required Holders or in the absence of such designation, such Person or entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(x) “**Person**” means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

(y) “**Principal Market**” means ASX Limited (ABN 98 008 624 691) or the Australian Securities Exchange, as appropriate.

(z) “**Required Holders**” means the holders of the Subscription Warrants representing at least a majority of the Ordinary Shares underlying the Subscription Warrants then outstanding and shall include the Designee so long as the Designee or any of its Affiliates holds any Subscription Warrants.

(aa) “**Securities Act**” means the U.S. Securities Act of 1933, as amended.

(bb) “**Subject Entity**” means any Person, Persons or Group or any Affiliate or associate of any such Person, Persons or Group.

(cc) “**Subsidiary**” has the meaning ascribed to such term in the Share Subscription Agreement.

(dd) “**Trading Day**” has the meaning given to it in the ASX Listing Rules unless and until the Company is removed from the Official List of ASX, after which it means any day on which the Ordinary Shares are traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Ordinary Shares on such day, then on the principal securities exchange or securities market on which the Ordinary Shares are then traded; provided that in circumstances where “Trading Day” is used (i) in connection with determining a Closing Bid Price, Closing Sale Price or any other pricing provisions, including, without limitation, the determination of any pricing period and (ii) in any other context provided such day is the last day of a period of time expressed in Trading Days other than share delivery requirements, “Trading Day” shall not include any day on which the Ordinary Shares trade on exchanges and markets for less than 4.5 hours or any day that the Ordinary Shares are suspended from trading during the final hour of trading on such exchanges or markets (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., Sydney time).

(ee) “**Transaction Documents**” means the Share Subscription Agreement.

IN WITNESS WHEREOF, the Company has caused this Warrant to Purchase Ordinary Shares to be duly executed as of the Issuance Date set out above.

Executed by **Bionomics Limited ACN 075 582 740**

Signature of Director

Deborah Rathjen
Name of Director

Signature of Company Secretary

Jack Moschakis
Name of Company Secretary

EXERCISE NOTICE**TO BE EXECUTED BY THE REGISTERED HOLDER TO EXERCISE THIS WARRANT TO PURCHASE ORDINARY SHARES****BIONOMICS LIMITED**

The undersigned holder hereby exercises the right to purchase _____ of the Ordinary Shares (“**Warrant Shares**”) of Bionomics Limited, a public company under the laws of Australia (the “**Company**”), evidenced by the attached Warrant to Purchase Ordinary Shares (the “**Warrant**”). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Form of Exercise Price. The Holder intends that payment of the Exercise Price shall be made as:

_____ a “Cash Exercise” with respect to _____ Warrant Shares; and/or

_____ a “Cashless Exercise” with respect to _____ Warrant Shares (if applicable).

2. Payment of Exercise Price. In the event that the holder has elected a Cash Exercise with respect to some or all of the Warrant Shares to be issued pursuant hereto, the holder shall pay the Aggregate Exercise Price in the sum of \$A_____ to the Company in accordance with the terms of the Warrant.

3. Delivery of Warrant Shares. The Company shall deliver to the holder _____ Warrant Shares in accordance with the terms of the Warrant.

4. The undersigned consents to being a member of the Company and agrees to be bound by the constitution of the Company.

5. Unless the Warrant is being exercised pursuant to an effective registration statement under the Securities Act that includes the Ordinary Shares (or ADSs, if applicable) with respect to which the Warrant was exercised or this Warrant is being exercised pursuant to a Cashless Exercise pursuant to the terms, and subject to the conditions, set forth in Section 1(d) of the Warrant, the undersigned hereby makes the warranties to the Company set forth in Part 3 of Schedule 3 to the Share Subscription Agreement as if such warranties were made in this Exercise Notice.

6. If and only if the Ordinary Shares become represented by ADSs pursuant to an American depositary receipt program sponsored by the Company, indicate whether the Holder elects to exercise this Warrant for Ordinary Shares or for that number of ADSs representing such number of Ordinary Shares:

Ordinary Shares

ADs

Date: _____, _____

Name of Registered Holder

By: _____

Name:

Title:

If no election is made, this Warrant will be exercised for Ordinary Shares

ACKNOWLEDGMENT

The Company hereby acknowledges this Exercise Notice and hereby directs _____ to issue the above indicated number of Ordinary Shares.

Executed by Bionomics Limited ACN 075 582 740

Signature of Director

Deborah Rathjen
Name of Director

Signature of Company Secretary

Jack Moschakis
Name of Company Secretary

Notwithstanding anything herein to the contrary, the following:

Section 2A (a) applies only on and from the Listing Date if both the Company is removed from the Official List of the ASX and the Ordinary Shares, either directly or through an American depositary receipt program sponsored by the Company, become listed on an Eligible Market that is located in the United States; and

Section 2A (b) applies only if, and from the date that, the Company is removed from the Official List of the ASX.

2A ADJUSTMENT OF EXERCISE PRICE AND NUMBER OF WARRANT SHARES.

The Exercise Price and the number of Warrant Shares shall be adjusted from time to time as follows:

- (a) Voluntary Adjustment By Company. The Company may at any time during the term of this Warrant and after the Listing Date, with the prior written consent of the Required Holders, reduce the then current Exercise Price to any amount and for any period of time deemed appropriate by the Board of Directors of the Company.
- (b) Adjustment Upon Subdivision or Combination of Ordinary Shares. If the Company at any time after being removed from the Official List of the ASX subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding Ordinary Shares into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision will be proportionately reduced and the number of Warrant Shares will be proportionately increased. If the Company at any time after being removed from the Official List of the ASX combines (by combination, reverse stock split or otherwise) one or more classes of its outstanding Ordinary Shares into a smaller number of shares, the Exercise Price in effect immediately prior to such combination will be proportionately increased and the number of Warrant Shares will be proportionately decreased. Any adjustment under this Section 2A(b) shall become effective at the close of business on the date the subdivision or combination becomes effect

Warrant Deed Poll

Date 3 March 2021

Party

Bionomics Limited (ABN 53 075 582 740) of 31 Dalglish Street, Thebarton SA 5031 (**Company**)

In favour of:

The Warrantholders from time to time

Recitals

A The Company has determined to create Warrants to subscribe for Ordinary Shares on and subject to this Deed.

B The Company undertakes in favour of the Warrantholders from time to time to comply with this Deed.

Operative part

1 Definitions and interpretation

1.1 Definitions

In this Deed:

Warrant Terms and Conditions means the terms and conditions set out in Schedule 1.

Any reference to this **Deed** includes a reference to the Warrant Terms and Conditions with the intent that those terms and conditions shall have effect as if set out in full in the body of this Deed.

Any other capitalised terms not defined have the meaning given to them in the Warrant Terms and Conditions.

1.2 Interpretation

In this document, unless a contrary intention appears:

- (a) words or expressions importing the singular include the plural and vice versa;
- (b) words or expressions denoting individuals include corporations, firms, unincorporated bodies, government authorities and instrumentalities;
- (c) any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this document;
- (d) a reference to this document or another document includes that document as amended, varied, novated, supplemented or replaced from time to time;
- (e) a reference to legislation or a provision of legislation includes all regulations, orders or instruments issued under the legislation or provision, and any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;

- (f) a reference to dollars or \$ is a reference to Australian dollars;
- (g) a reference to a payment in immediately available funds refers to cash, a bank cheque the drawer of which is an Australian bank, a telegraphic transfer of cleared funds or a direct credit of cleared funds;
- (h) references to include and including are to be construed without limitation.

2 Creation of Warrants

- (a) The obligations of the Company in respect of the Warrants are constituted by, and specified in, this Deed.
- (b) The Warrants will not be listed or quoted on any stock exchange.

3 Effect of this Deed

- (a) This Deed is binding on the Company in favour of each Warrantholder and all persons claiming through or under them respectively. To that end:
 - (i) the Company undertakes to each Warrantholder from time to time to comply with the provisions of this Deed; and
 - (ii) each Warrantholder has the benefit of, and is entitled to enforce, the provisions of this Deed even though it is not a party to, or is not in existence at the time of execution and delivery of, this Deed.
- (b) Each Warrantholder and any person claiming through or under each Warrantholder is bound by the provisions of this Deed. The Warrants are issued subject to and on the basis that each Warrantholder is taken to have notice of, and be bound by, this Deed.

4 Governing law

The laws of South Australia govern this Deed and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of South Australia.

EXECUTED as deed poll

Executed by Bionomics Limited
in accordance with section 127 of the
Corporations Act 2001 (Cth) by:

/s/ Errol De Souza

Director signature

ERROL DE SOUZA

Director full name
(BLOCK LETTERS)

/s/ Jack Moschakis

Director/Secretary signature

JACK MOSCHAKIS

Director/Secretary full name
(BLOCK LETTERS)

1 **Definitions**

In these terms and conditions:

ASX means ASX Limited ABN 98 008 624 691 or, as the context requires, the securities market operated by it.

Board means the board of directors of the Company from time to time.

Business Day means a day which is a “business day” under the Listing Rules.

cleansing statement has the meaning given in clause 6(a).

Company means Bionomics Limited (ABN 53 075 582 740).

Constitution means the constitution of the Company, as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth).

Excluded Information has the meaning ascribed to it by section 708A(7) of the Corporations Act.

Excluded Offer means a Further Offer conducted by the Company.

Exercise Date means the third Business Day after the date a Notice of Exercise is given to the Company, or such other date agreed with the Company.

Exercise Price means \$0.06 per Warrant, subject to any adjustment required by these terms and conditions.

Government Agency means any governmental, semi-governmental, municipal or statutory authority, instrumentality, organisation, body or delegate or administrative, monetary or financial authority, or self-regulatory organisation or stock exchange.

FIRB Condition has the meaning given to that term in the Subscription Agreement.

Further Offer has the meaning given to that term in the Subscription Agreement.

Initial Warrantholder means Apeiron Investment Group Ltd.

A person is **Insolvent** if:

- (a) the person is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) the person is in liquidation, in provisional liquidation, under administration or wound up or has had a controller (as defined in the Corporations Act) appointed to any part of its property;
- (c) the person is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent);

- (d) an application or order has been made (and in the case of any application, it is not stayed withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of paragraph (a), (b) or (c) above;
- (e) the person is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) the person is subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act; or
- (g) the person is otherwise unable to pay its debts when they fall due.

Issue Date means, in relation to a Warrant, the date on which it was issued by the Company.

Listing Rules means the listing rules of ASX.

Maturity Date means, in relation to a Warrant, date that is 36 months after the date on which the Stage 2 Condition (as defined in the Subscription Agreement) is satisfied.

Notice of Exercise means a notice in the form, or substantially in the form, set out in Annexure 2.

Ordinary Share means an ordinary share in the capital of the Company.

Register means the register of entitlement to the Warrants referred to in clause 9(a).

Registered Office means the registered office of the Company from time to time.

Related Body Corporate has the meaning given in the Corporations Act.

Subscription Agreement means the document of that name between the Company and the Initial Warranholder dated on or about 1 June 2020.

Subsequent Warranholder means a Warranholder other than the Initial Warranholder who becomes a registered holder of any Warrants pursuant to the terms of this Deed.

Warrant means a warrant constituted by this Deed.

Warrant Certificate means a certificate in the form, or substantially in the form, set out in Annexure 1.

Warrant Share means one Ordinary Share to be issued upon exercise of a Warrant, subject to any adjustment required by these terms and conditions.

Warranholder means the person or persons in whose name a Warrant is registered from time to time as evidenced by the Register.

2 Nature of Warrants

- (a) Subject to clause 3 and to the provisions of this Deed, each Warrant confers the right (but not the obligation) on the Warranholder to convert the Warrant into a Warrant Share on and subject to these terms and conditions.

- (b) Each Warrant expires and will be of no further force or effect on the Maturity Date.
- (c) Warrants shall be evidenced by a Warrant Certificate.
- (d) The Warrants shall not confer any rights to:
 - (i) vote at any general meetings of the Company;
 - (ii) receive dividends; and
 - (iii) in a winding up, to participate in the distribution of the assets of the Company (both capital and surplus).

3 Condition to exercise of conversion rights

No right of conversion of the Warrants into Warrant Shares exists under clause 4 and clause 4 does not become binding on the parties until such time as the FIRB Condition has been satisfied.

4 Conversion Rights

- (a) Subject to clause 3, a Warrantholder may convert any one or more Warrants into Warrant Shares by exercising them at any time between the Issue Date up to (but not including) the Maturity Date.
- (b) Subject to clause 3, a Warrantholder may exercise its Warrants in whole or in part by lodging:
 - (i) a duly completed and signed Notice of Exercise;
 - (ii) the Exercise Price in respect of each Warrant being exercised by way of either, at the Warrantholder's election:
 - (A) a draft or cheque drawn by a bank as defined in the *Banking Act 1959* (Cth); or
 - (B) a direct transfer of immediately available funds to a bank account previously nominated by the Company; and
 - (iii) the Warrant Certificate in relation to the Warrants being exercised (or evidence reasonably satisfactory to the Company that the Warrant Certificate has been lost, stolen, or destroyed, together with any indemnity in respect of the lost, stolen, or destroyed Warrant Certificate required by the Company on terms reasonably satisfactory to the Company),

at the Registered Office on any Business Day during the period referred to in clause 4(a).

- (c) On exercising any Warrant under clause 4(b), a Warrantholder is taken to have:
 - (i) subscribed for the Warrant Shares that fall to be issued on the exercise of the Warrant;
 - (ii) authorised the Company to enter the Warrantholder's details into the Company's register of members; and

(iii) agreed to be bound by the Constitution.

(d) If a Warrantholder exercises only part of its holding of Warrants, the Company shall issue to it (free of charge) a new Warrant Certificate in respect of the remaining Warrants.

5 Issue of Warrant Shares

(a) In the event a Warrant or Warrants are exercised in accordance with clause 4, the Company must on the Exercise Date:

(i) issue the Ordinary Shares falling to be issued upon the exercise of the Warrant(s) to the relevant Warrantholder;

(ii) procure that the Warrantholder is entered as the holder of those Ordinary Shares in the Company's register of members by the Company's share registry; and

(iii) procure that the Warrantholder is sent a holding statement (issuer sponsored) for those Ordinary Shares.

(b) Ordinary Shares issued pursuant to the exercise of Warrants in accordance with clause 4 must be credited as fully paid and will rank equally in all respects with Ordinary Shares on issue on the date the Warrant Shares are issued.

(c) On or before the issue of any such Ordinary Shares, the Company must take all steps necessary to procure that the Ordinary Shares are granted quotation on the ASX (including making an application for quotation immediately upon issue of the Warrant Shares).

6 Cleansing Notice or Disclosure Document

(a) Subject to clause 6(c), if on an Exercise Date:

(i) any Ordinary Shares fall to be issued upon the exercise of the relevant Warrants;

(ii) the requirements of section 708A(5)(a), (b), (c) and (d) of the Corporations Act are satisfied in relation to the Company and the existing issued Ordinary Shares (as applicable);

(iii) the Company has complied with:

(A) the provisions of Chapter 2M of the Corporations Act as they apply to the Company;

(B) section 674 of the Corporations Act; and

(C) there is no determination in force under section 708A(2) of the Corporations Act,

the Company must, on that Exercise Date, issue a notice in accordance with section 708A(5)(e) of the Corporations Act (**cleansing statement**) in relation to the Ordinary Shares issued on the Exercise Date.

- (b) Subject to clause 6(c), if any of the requirements referred to in clause 6(a) will not be satisfied on a proposed Exercise Date:
 - (i) the Company must so notify the Warrantholder within one Business Day of the Company's receipt of the Notice of Exercise;
 - (ii) if the Company provides notice to the Warrantholder under clause 6(b)(i), the Warrantholder may (but is not obliged to) revoke the Notice of Exercise by notice to the Company within two Business Days of being so notified; and
 - (iii) if the Warrantholder does not give notice under clause 6(b)(ii), the Company must take all necessary steps to ensure that the Warrant Shares are freely tradeable as soon as possible (and in any event, within 30 days after the Exercise Date), including, if necessary, by issuing, subject to clause 6(d), a disclosure document which complies with Part 6D.2 of the Corporations Act (**disclosure document**) so that section 708A(11) of the Corporations Act applies.
- (c) If the Company is in possession of information which is Excluded Information of the Company on the Exercise Date (**Relevant Information**), and in the majority opinion of the Directors (each acting reasonably) disclosure of that Relevant Information in a cleansing statement pursuant to clause 6(a) or a disclosure document pursuant to clause 6(b) would materially disadvantage the Company or its shareholders, the Company will be not required to comply with clauses 6(a) or 6(b) and the following provisions will apply:
 - (i) the Company must take all necessary steps to ensure that the Warrant Shares are freely tradeable in the ordinary course on ASX as soon as possible after the Relevant Information is either:
 - (A) included in a continuous disclosure notice of the Company; or
 - (B) otherwise no longer taken to constitute Excluded Information; and
 - (ii) without limiting the generality of clause 6(c)(i), the Company must:
 - (A) if permitted by the Corporations Act, issue a cleansing statement in relation to the Warrant Shares within 1 Business Day of clause 6(c)(i)(A) or clause 6(c)(i)(B) occurring; and
 - (B) if the Company has not issued a cleansing statement under clause 6(c)(ii)(A) within 60 days of the Exercise Date, issue a disclosure document so that section 708A(11) of the Corporations Act applies to the Warrant Shares.
- (d) The Company's obligation to issue a disclosure document under clause 6(b)(iii) or clause 6(c)(ii)(B) is subject to the Warrantholder and its directors (if applicable) giving the consent required under section 720 of the Corporations Act. The Company must do everything reasonably required by the Warrantholder (in accordance with customary procedures and practice) to facilitate the Warranholders and its directors (if applicable) giving such consent.

7 Adjustments

- (a) The Exercise Price and the Warrant Shares to be issued on exercise of a Warrant shall be subject to adjustment in accordance with the provisions of this clause 7.

- (b) **(Reorganisation adjustment)** If the Company at any time effects a reorganisation (including a subdivision, consolidation, reduction, return or cancellation) of or in respect of its Ordinary Shares, the rights of the Warrantholder and the terms of the Warrants (including Exercise Price and, if applicable, the Warrant Shares to be issued on exercise of a Warrant) must be adjusted in accordance with the Listing Rules (and these terms and conditions must be construed so as to give effect to that adjustment). Any such adjustment shall become effective at the close of business on the date the relevant reorganisation becomes effective.
- (c) **(Pro rata issues)** If the Company makes a “pro rata issue” (as such term is defined in the Listing Rules) to the holders of Ordinary Shares, other than an Excluded Offer, the Exercise Price shall be reduced in accordance with the formula in Listing Rule 6.22.2
- (d) **(Bonus Issues)** If the Company makes a pro rata “bonus issue” (as that term is defined in the Listing Rules) to the holders of Ordinary Shares, other than an Excluded Offer, the number of Warrant Shares per Warrant shall be increased by the number of bonus Ordinary Shares or other securities which the Warrantholder would have received in respect of any Ordinary Share(s) that would have been issued to the Warrantholder had the Warrant been exercised before the record date for the bonus issue.
- (e) **(New Issues)** The holding of a Warrant does not entitle the Warrantholder to participate in any new issues of Ordinary Shares or other securities of the Company.
- (f) The Company must promptly give written notice to Warrantholders of each adjustment made pursuant to this clause 7. The notice must describe the change and show in reasonable detail the basis for the adjustment.

8 Representations and undertakings of the Company

- (a) The Company makes the following representations and warranties as of each Exercise Date:
 - (i) **(incorporation)** it is validly existing under the laws of its place of incorporation;
 - (ii) **(power)** it has full legal capacity and power to perform its obligations under these terms and conditions;
 - (iii) **(authorisations)** it has in full force and effect all shareholder and board authorisations in each case necessary for it to perform its obligations under these terms and conditions;
 - (iv) **(binding obligations)** its obligations under these terms and conditions constitute its legal, valid and binding obligations, enforceable against it in accordance with their terms (except to the extent limited by equitable principles and laws affecting creditors’ rights generally);
 - (v) **(no contravention)** its performance of its obligations under these terms and conditions will not contravene its constitution or any Shareholder Approvals by which it is bound;
 - (vi) **(compliance)** the Company is not in breach of its constitution, the Corporations Act, Listing Rules (except where compliance has been waived, or as modified, by ASX) or other applicable laws or regulations or orders of any government agency that are binding on it, any encumbrance, instrument or agreement which is binding on it or any of its assets, or any legally binding requirement of ASIC or ASX; and
 - (vii) **(not Insolvent)** it is not Insolvent.

- (b) The Company undertakes that, so long as a Warrant is outstanding:
 - (i) it will take all action that is required by these terms and conditions to ensure that the Warrant Shares may be issued without contravention of the Listing Rules and the Corporations Act; and
 - (ii) it will not alter the Constitution in any way that could reasonably be expected to have a material adverse effect on the rights of a Warrantholder.

9 Register and Warrant Certificates

- (a) The Company must create and maintain a register of entitlement to Warrants (**Register**) at the Registered Office and there shall be entered in the Register:
 - (i) the name and address of each Warrantholder;
 - (ii) the number of Warrants held by each Warrantholder;
 - (iii) the date on which the name of each Warrantholder is entered in the Register in respect of the Warrants registered in that Warrantholder's name; and
 - (iv) the date on which each Warrantholder exercises any Warrants and the number of Warrant Shares in respect of which such Warrants are exercised.
- (b) The Warrantholders or any of them or any person authorised by any such Warrantholder may at all reasonable times during office hours upon one Business Days' notice inspect the Register and to take copies of or extracts from the Register.
- (c) The Company shall be entitled to treat the person whose name is shown in the Register as a Warrantholder as the absolute owner of a Warrant and, accordingly, shall not, except as ordered by a court of competent jurisdiction or as required by law, be bound to recognise any equitable or other claim to, or interest in, such Warrant on the part of any other person whether or not it shall have express or other notice thereof. No express or other notice of any such equitable or other claim to, or interest in, a Warrant shall, except as ordered by a court of competent jurisdiction or as required by law, be entered on the Register in respect of any Warrant.
- (d) The Company must, within 5 Business Days of entering the name of a Warrantholder in the Register, issue to that Warrantholder a Warrant Certificate setting out the Warrants to which that Warrantholder is entitled, as recorded in the Register.
- (e) If any Warrant Certificate becomes defaced then, upon its production to the Board, the Board may cancel the same and may issue without charge a new Warrant Certificate in its place. An entry as to the issue of the new Warrant Certificate shall be made in the Register.
- (f) If any Warrant Certificate is lost or destroyed then, upon the Warrantholder providing a statutory declaration that the Warrant Certificate has been lost or destroyed (and not pledged, mortgaged, charged, sold or otherwise disposed of), the Board will issue without charge a new Warrant Certificate in its place. An entry as to the issue of the new Warrant Certificate shall be made in the Register.

10 Transfer of Warrants

- (a) Warrants are transferable in accordance with the provisions of this clause 10.

- (b) Every transfer of a Warrant shall be made by an instrument of transfer in any usual or common form.
- (c) The instrument of transfer of a Warrant shall be signed by or on behalf of the transferor and the transferee. The transferor shall be deemed to remain the holder of the Warrants until the name of the transferee is entered in the Register in respect thereof.
- (d) The Board may decline to recognise any instrument of transfer of a Warrant unless such instrument is deposited at the Registered Office accompanied by the Warrant Certificate to which it relates and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer. The Board may waive production of any Warrant Certificate upon production to it of satisfactory evidence of the loss or destruction of such instrument together with such indemnity as the Board may require.
- (e) The Company shall not be entitled to charge any fee for the registration of a transfer of a Warrant or for the registration of any other documents in connection with such transfer which, in the reasonable opinion of the Board, require registration.
- (f) The registration of a transfer shall be conclusive evidence of the approval by the Board of the transfer.
- (g) All instruments of transfer which are registered by the Company shall be retained by the Company.

11 Amendments and Waiver of Rights

- (a) The Company may not change, alter or abrogate any or all of the rights for the time being attached to the Warrants may (whether or not the Company is being wound up) without the prior consent in writing of any one or more Warranholders holding at least 75 percent of the issued Warrants. Any such change, alteration or abrogation shall be effected by an instrument by way of deed poll executed by the Company and expressed to be supplemental to this Deed.
- (b) A waiver of any or all of the rights for the time being attached to the Warrants may only be given in writing signed by any one or more Warranholders holding at least 75 percent of the issued Warrants. Any alteration, abrogation or waiver made in accordance with clause 11(a) is binding on all Warranholders, whether or not they gave their consent.

12 Notices

12.1 How To Give Notices

A notice in connection with these terms and conditions must be:

- (a) in writing in English;
- (b) signed by the party or its agent; and

- (c) given to the recipient either by hand delivery, pre-paid mail or email, in each case addressed in the manner set out below:

Company

Address: 31 Dalglish Street, Thebarton SA 5031

Email: jmoschakis@bionomics.com.au

Contact: Company Secretary

Warrantholders

The address for the relevant Warrantholder as set out in the Register from time to time.

12.2 Change of Details

- (a) The Company may at any time change any of its address details set out in clause 12.1 by not less than 5 Business Days' notice to each Warrantholder.
- (b) If details are so changed, this clause applies as if those changed details were set out in clause 12.1.

12.3 Proof of Notices

- (a) Any notice given in accordance with clause 12.1 shall, in the absence of earlier receipt, be deemed to have been duly given as follows:
- (i) if delivered by hand delivery, on delivery; and
 - (ii) if sent by pre-paid mail, on the second Business Day after posting, or on the seventh Business Day after the date of posting if posted to or from a place outside Australia.
 - (iii) if sent by email on the date of transmission, if transmitted before 5:00 pm (Brisbane time) on any Business Day, and in any other case on the Business Day following the date of transmission.
- (b) In proving service of a notice or other formal communication, it shall be sufficient to prove that delivery was made or that the envelope containing the communication was properly addressed and posted by prepaid first class airmail and that the email was properly addressed and transmitted.
- (c) This clause 12.3 shall not apply in relation to the service of any claim form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this document.

Annexure 1 – Form of Warrant Certificate

BIONOMICS LIMITED (the Company) (ABN 53 075 582 740)

Warrant Certificate

Certificate No.

Date of Issue:

Name and Address of Warranholder: *[insert]*

Number of Warrants: [#]

Maturity Date: 26 August 2023

THIS IS TO CERTIFY that the Warranholder named above is the Registered Holder of the number of Warrants specified above, governed by the terms and conditions set out in the instrument entered into by the Company by way of deed poll relating to Warrants to subscribe for Ordinary Shares in the Company dated (the **Deed**) and subject to the Constitution. Terms defined in the Deed have the same meanings when used in this Warrant Certificate.

Executed by Bionomics Limited
in accordance with section 127 of the
Corporations Act 2001 (Cth) by:

Director signature

Director/Secretary signature

Director full name
(BLOCK LETTERS)

Director/Secretary full name
(BLOCK LETTERS)

Annexure 2 – Form of Notice of Exercise

To: The Directors
Bionomics Limited (the Company)

[Date]

We hereby exercise [#] Warrants represented by the accompanying Warrant Certificate.

We direct the Company to issue the Warrant Shares to us in accordance with clause 4 of the Warrant Terms and Conditions.

If applicable, we request that a Warrant Certificate for any balance of our Warrants remaining exercisable be sent at our own risk by post to us.

We agree that any Warrant Shares issued to us are issued subject to the Constitution of the Company.

Terms defined in the 'Warrant Deed Poll relating to Warrants dated 3 March 2021 have the same meanings when used in this Notice of Exercise.

Signed

by

for and on behalf of [*insert name*] of Warranholder)

Director/Secretary

[***] Certain information in this document has been excluded pursuant to Regulation S-K, Item 601(b)(10). Such excluded information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

RESEARCH COLLABORATION AND LICENSE AGREEMENT

This Research Collaboration and License Agreement (this “**Agreement**”) is effective as of June , 2014 (the “**Effective Date**”), and is entered into by and between **MERCK SHARP & DOHME CORP.**, a corporation organized and existing under the laws of New Jersey, United States (“**Merck**”), and **BIONOMICS LIMITED**, a corporation organized and existing under the laws of Australia (“**Bionomics**”).

RECITALS:

WHEREAS, Bionomics has rights to certain existing $\alpha 7$ Activators (as hereinafter defined); and

WHEREAS, Bionomics and Merck desire to conduct a research program in accordance with the terms and conditions of this Agreement in order to optimize Bionomics’ existing $\alpha 7$ Activators and to discover and optimize additional $\alpha 7$ Activators, including by using Bionomics’ proprietary technology, tools, compounds and reagents; and

WHEREAS, Merck shall have the exclusive right to develop and commercialize Compounds (as hereinafter defined) and Products (as hereinafter defined), and in connection therewith, Bionomics desires to grant to Merck an exclusive license under the Bionomics Patent Rights (as hereinafter defined) and Bionomics Know-How (as hereinafter defined), upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants herein contained, the receipt and sufficiency which are hereby acknowledged, Merck and Bionomics hereby agree as follows:

ARTICLE 1 DEFINITIONS

Unless specifically set forth to the contrary herein, the following terms, whether used in the singular or plural, shall have the respective meanings set forth below.

- 1.1 “ **$\alpha 7$ Activator**” means [***].
- 1.2 [***]
- 1.3 “**AAA**” shall have the meaning given to such term in Section 9.6.1.
- 1.4 “**Act**” means, as applicable, the United States Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., and/or the Public Health Service Act, 42 U.S.C. §§ 262 et seq., as such may be amended from time to time.
- 1.5 “**Additional Merck Third Party Agreements**” shall have the meaning given such term in Section 5.4.5.
- 1.6 “**Affiliate**” means (i) any corporation or business entity of which fifty percent (50%) or

more of the securities or other ownership interests representing the equity, the voting stock or general partnership interest are owned, controlled or held, directly or indirectly, by Merck or Bionomics, (ii) any corporation or business entity which, directly or indirectly, owns, controls or holds fifty percent (50%) (or the maximum ownership interest permitted by law) or more of the securities or other ownership interests representing the equity, the voting stock or, if applicable, the general partnership interest, of Merck or Bionomics, or (iii) any corporation or business entity of which fifty percent (50%) or more of the securities or other ownership interests representing the equity, the voting stock or general partnership interest are owned, controlled or held, directly or indirectly, by a corporation or business entity described in (i) or (ii).

- 1.7 **“Agreement”** shall have the meaning given such term in the preamble.
- 1.8 **“Agreement Payments”** shall have the meaning given such term in Section 5.8.
- 1.9 **“Applicable Laws”** means any and all applicable laws of any jurisdiction which are applicable to any of the Parties or their respective Affiliates in carrying out activities hereunder or to which any of the Parties or their respective Affiliates in carrying out the activities hereunder is subject, and shall include all statutes, enactments, acts of legislature, laws, ordinances, rules, regulations, notifications, guidelines, policies, directions, directives, judgments and orders of any statutory authority, tribunal, board, or court or any central or state government or local authority or other governmental entity in such jurisdictions, including the Act and GLPs.
- 1.10 **“Bionomics”** shall have the meaning given such term in the preamble.
- 1.11 **“Bionomics Additional Patent Rights”** means any Bionomics Patent Rights other than Bionomics Compound Patent Rights.
- 1.12 **“Bionomics Compound Patent Rights”** shall have the meaning set forth in Section 7.3.1(a).
- 1.13 **“Bionomics Indemnitees”** shall have the meaning given such term in Section 9.13.1.

- 1.14 **“Bionomics Know-How”** means all Know-How which (i) is in the Control of Bionomics or its Affiliates as of the Effective Date or during the Term, (ii) is not in the public domain, and (iii) is necessary or useful (a) in the conduct of the Research Program or (b) in the research, development, manufacture, marketing, use or sale of any Compound and/or Product, which Bionomics Know-How shall include the Bionomics Licensed Compounds, the Bionomics Lead Series and any [***]; provided, however that Bionomics Know-How shall not include any Merck Background Know-How, Program Know-How or Post-Program Know-How.
- 1.15 **“Bionomics Lead Series”** means each of the chemical series set forth on Schedule 1.15; provided that such chemical series is Controlled by Bionomics or its Affiliates and is proprietary.
- 1.16 **“Bionomics Licensed Compounds”** means any proprietary α 7 Activator that is Controlled by Bionomics or its Affiliates as of the Effective Date or during the Term, including the α 7 Activators set forth on Schedule 1.16, as applicable, which is claimed, covered or disclosed, in any Bionomics Patent Rights or otherwise incorporates any Bionomics Know-How; provided, however, that Bionomics Licensed Compounds shall not include any Program Compounds.
- 1.17 **“Bionomics Patent Rights”** means Patent Rights that (i) are in the Control of Bionomics or its Affiliates as of the Effective Date or during the Term, and (ii) (a) claim, cover or disclose any Compound and/or Product (or the research, development, manufacture, use or commercialization thereof) and/or (b) claim, cover or disclose any Bionomics Know- How, including any [***]; provided, however, that Bionomics Patent Rights shall not include any Merck Background Patent Rights, Program Patent Rights or Post- Program Patent Rights. The Bionomics Patent Rights shall include the Patent Rights identified in Schedule 1.17.
- 1.18 **“Calendar Quarter”** means the respective periods of three (3) consecutive calendar months ending on March 31, June 30, September 30 and December 31; provided, however, that (i) the first Calendar Quarter of this Agreement shall commence on the Effective Date and end at the end of the Calendar Quarter in which the Effective Date occurs and (ii) the last Calendar Quarter of this Agreement shall commence at the commencement of such Calendar Quarter and end on the date of expiration or termination of this Agreement.
- 1.19 **“Calendar Year”** means each successive period of twelve (12) months commencing on January 1 and ending on December 31; provided, however, that (i) the first Calendar Year of this Agreement shall commence on the Effective Date and end on December 31 of the same year and (ii) the last Calendar Year of this Agreement shall commence on January 1 of the Calendar Year in which this Agreement terminates or expires and end on the date of expiration or termination of this Agreement.
- 1.20 **“Change of Control”** means, with respect to a Party, a transaction with a Third Party involving, (i) the acquisition, merger or consolidation, directly or indirectly, of such Party

and, immediately following the consummation of such transaction, the shareholders of such Party immediately prior thereto hold, directly or indirectly, as applicable, shares of capital stock of the surviving company representing less than fifty percent (50%) of the outstanding shares of such surviving or continuing company or (ii) the sale of all or substantially all of the assets or business of such Party relating to this Agreement.

- 1.21 “**Clinical Trial**” means a Phase I Clinical Trial, Phase II Clinical Trial, Phase III Clinical Trial, and/or post-approval Clinical Trial.
- 1.22 “**Code**” shall have the meaning given such term in Section 8.3.2(d).
- 1.23 “**Combination Product**” means a Product which includes at least one Compound(s) in combination with one or more active ingredients other than that Compound(s).
- 1.24 “**Commercially Reasonable Efforts**” means with respect to the efforts to be expended by a Party with respect to any objective, [***].
- 1.25 “**Compound**” means a Bionomics Licensed Compound and/or a Program Compound, as applicable.
- 1.26 “**Confidential Information**” means any and all proprietary information and data, including all Merck Know-How, all Bionomics Know-How, and all other scientific, pre-clinical, clinical, regulatory, manufacturing, marketing, financial and commercial information or data, whether communicated in writing or orally or by any other method, which is provided by one Party to the other Party in connection with this Agreement.
- 1.27 “**Control**”, “**Controls**” or “**Controlled by**” means with respect to any Patent Rights or Know-How or other intellectual property assets or rights, as applicable, the possession of (whether by ownership or license, other than pursuant to this Agreement) or the ability of

a Party to grant access to, or a license or sublicense of, such items or right as provided for herein without violating the terms of any agreement or other arrangement with any Third Party existing at the time such Party would be required hereunder to grant the other Party such access or license or sublicense.

- 1.28 **“Dollar”** or **“\$”** means United States dollars.
- 1.29 **“Discover”** or **“Discovery”** means identified, made, developed, created, derived, discovered, characterized, selected or otherwise optimized in the performance of activities hereunder.
- 1.30 **“Effective Date”** shall have the meaning given such term in the preamble.
- 1.31 **“EU Major Market”** means any one of the following countries: [***].
- 1.32 **“Existing Confidentiality Agreement”** shall mean that certain Confidential Disclosure Agreement dated [***], between Merck Sharp & Dohme Corp. and Bionomics.
- 1.33 **“Excluded Claim”** shall have the meaning given such term in Section 9.6.6.
- 1.34 **“Extension Research Term”** shall have the meaning given such term in Section 2.14.1.
- 1.35 **“Field”** means any and all uses in humans and animals, including any prophylactic, therapeutic and/or diagnostic uses.
- 1.36 **“Filing”** of an NDA means the acceptance by the applicable Regulatory Authority of an NDA for filing; provided that such Regulatory Authority has not issued a refusal to file letter or letter identifying deficiencies for which the Regulatory Authority may suspend its review following submission of the filing.
- 1.37 **“First Commercial Sale”** means, with respect to a Product in a given country in the Territory, the first shipment to a Third Party of commercial quantities of such Product sold in such country to such Third Party on arm’s length terms by Merck, its Affiliate or sublicensee for end use in the Field in such country (following, in all cases, the receipt of marketing authorization for such Product in such country). Notwithstanding the foregoing, sales for test marketing, sampling and promotional uses, Clinical Trial purposes or compassionate or similar use shall not be considered to constitute a First Commercial Sale.
- 1.38 **“Full Time Equivalent”** or **“FTE”** means the equivalent of a normal full-time scientist’s work time over a twelve (12) month period (including normal vacation, sick days and holidays) devoted to, and directly related to, conducting activities under the Research Program in accordance with this Agreement. In the event that an individual devotes less than such full time to conducting activities under the Research Program in accordance with this Agreement during such twelve (12) month period, then for purposes of this

Agreement, such individual shall only count as a portion of an FTE which shall be determined by dividing the number of full days during the applicable twelve (12) month period devoted to, and directly related to, conducting activities under the Research Program in accordance with this Agreement by the total number of working days during such twelve (12) month period. No individual may be charged at greater than one (1) FTE in a given Calendar Year.

- 1.39 “**FTE Rate**” means [***] per one (1) full FTE per full twelve (12) month Calendar Year. Notwithstanding the foregoing for any Calendar Year during the Term that is less than a full year, the above referenced rate shall be proportionately reduced to reflect such portion of such full Calendar Year.
- 1.40 “**Good Laboratory Practice**” or “**GLPs**” means the applicable then-current standards for laboratory activities for pharmaceuticals or biologicals, as applicable, as set forth in the Act and any regulations or guidance documents promulgated thereunder, as amended from time to time, together with any similar standards of good laboratory practice as are required by any Regulatory Authority in the Territory, as applicable.
- 1.41 “**Human Materials**” shall have the meaning given such term in Section 2.3.2.
- 1.42 “**IND**” means an Investigational New Drug application, or similar application or submission for approval to conduct human clinical investigations filed with or submitted to a Regulatory Authority in conformance with the requirements of such Regulatory Authority.
- 1.43 “**IND Enabling Study**” means an acute or chronic *in vivo* GLP toxicology study in species that satisfy applicable regulatory requirements, using applicable GLPs, and that meets the standards necessary for submission as part of an IND filing with the applicable Regulatory Authority, as reasonably determined by Merck.
- 1.44 “**Indication**” means a separate and distinct disease or medical condition in humans for which a Product that is in Clinical Trials is intended to treat, prevent and/or diagnose, or for which a Product has received Marketing Authorization as indicated on the approved labeling for such Product, as applicable. For clarity, a single Indication shall include the primary disease and variants or subdivisions or subclassifications within such primary disease. For example, for purposes of the Agreement, [***] is a single Indication; treatment of mild, moderate or severe disease shall be treated as subclassifications within the single Indication of [***] Treatment, modulation and/or prophylaxis of the same disease [***] shall be treated as the same Indication. Treatment as monotherapy or treatment in combination with another product shall all be treated as the same Indication. Treatment, modulation and/or prophylaxis of the same disease [***] shall be treated as the same Indication. However, treatment, modulation and/or prophylaxis of any other type of disease; [***], shall be deemed a different Indication from treatment, modulation and/or prophylaxis of [***].

- 1.45 “Initial Research Program Term” shall have the meaning given such term in Section 2.14.1.
- 1.46 “**Initiation**” means, (i) with respect to a Clinical Trial, the administration of the first dose of a Product to a properly enrolled patient in such Clinical Trial and (ii) with respect to a pre-clinical study (including an IND Enabling Study), the administration of the first dose to an animal in such pre-clinical study following approval of the applicable dosed Compound as a pre-clinical candidate by Merck.
- 1.47 “**Joint Research Committee**” or “**JRC**” means the Joint Research Committee established to facilitate the Research Program as more fully described in Section 2.6.
- 1.48 “**Know-How**” means any and all proprietary information and materials, including discoveries, improvements, processes, methods, protocols, formulas, assays, data, inventions, know-how, trade secrets, compositions of matter (including compounds), formulations, and findings, patentable or otherwise,
- 1.49 “**Liabilities**” shall have the meaning given such term in Section 9.13.1.
- 1.50 “**Marketing Authorization**” means all approvals (including, NDA approval, as applicable) from the relevant Regulatory Authority necessary to market and sell a Product in any country (including all applicable Price Approvals even if not legally required to sell Product in a country).
- 1.51 “**Merck**” shall have the meaning given such term in the preamble.
- 1.52 “**Merck Background Know-How**” means all Know-How, including any Merck Materials, which (i) is in the Control of Merck or its Affiliates as of the Effective Date or during the Term, (ii) is not in the public domain, and (iii) that Merck chooses to make available (in accordance with Section 2.11.2 or otherwise) for the performance of activities under the Research Program.
- 1.53 “**Merck Background Patent Rights**” means Patent Rights that (i) are in the Control of Merck or its Affiliates as of the Effective Date or during the Term, and (ii) claim, cover or disclose Merck Background Know-How.
- 1.54 “**Merck Indemnitees**” shall have the meaning given such term in Section 9.13.2.
- 1.55 “**Merck Know-How**” means (i) all Merck Background Know-How, (ii) all Program Know-How Controlled by Merck or any of its Affiliates and (iii) all Post-Program Know- How Controlled by Merck or any of its Affiliates.
- 1.56 “**Merck Materials**” shall have the meaning given such term in Section 2.11.2.
- 1.57 “**Merck Patent Rights**” means (i) all Merck Background Patent Rights, (ii) all Program Patent Rights Controlled by Merck or any of its Affiliates and (iii) all Post-Program Patent Rights Controlled by Merck or any of its Affiliates.

Marketing Application, Marketing Application Authorization, filing pursuant to Section 510(k) of the Act, or similar application or submission for Marketing Authorization of a Product filed with a Regulatory Authority to obtain marketing approval for a biological, pharmaceutical or diagnostic product in that country or in that group of countries.

1.59 “**Net Sales**” means the gross invoice price (not including value added taxes, sales taxes, or similar taxes) of Product sold by Merck or its Related Parties to the first Third Party after deducting, if not previously deducted, from the amount invoiced or received, the following amounts to the extent they are related to or allocable to a Product:

[***]

With respect to sales of Combination Products, [***]

1.60 “**Party**” means Merck or Bionomics, individually, and “**Parties**” means Merck and Bionomics, collectively.

1.61 “**Payment**” shall have the meaning given such term in Section 2.5.2.

1.62 “**Patent Rights**” means any and all patents and patent applications in the Territory (which for the purpose of this Agreement shall be deemed to include certificates of invention and applications for certificates of invention), including divisionals, continuations, continuations-in-part, reissues, renewals, substitutions, registrations, re-examinations, revalidations, extensions, supplementary protection certificates, and the like of any such patents and patent applications, and foreign equivalents of the foregoing.

1.63 “**Person**” means any individual, partnership, joint venture, limited liability company, corporation, firm, trust, association, unincorporated organization, governmental authority or agency, or any other entity not specifically listed herein.

1.64 “**Phase I Clinical Trial**” means a human clinical trial in any country that would satisfy the requirements of 21 CFR 312.21(a).

1.65 “**Phase II Clinical Trial**” means a human clinical trial in any country that would satisfy the requirements of 21 CFR 312.21(b).

1.66 “**Phase III Clinical Trial**” means a human clinical trial in any country that would satisfy the requirements of 21 CFR 312.21(c).

1.67 “**Post-Program Know-How**” means any Know-How (including any Compounds) that (i) is first conceived, discovered, made and/or reduced to practice (as would be necessary to establish inventorship under United States patent law (regardless of where the applicable activities occurred)) by or on behalf of Merck or its Affiliates (or any of their respective employees, agents or consultants) in performing activities under this Agreement during the Term of this Agreement, but after the Research Program Term and (ii) is not in the public domain; provided however that Post-Program Know-How shall not include any Program Know-How. For clarity, all development data generated hereunder (including reports of pre-clinical and clinical studies, CMC data and registration dossiers) shall constitute Post-Program Know-How.

- 1.68 **“Post-Program Patent Rights”** means any and all Patent Rights that claim, cover or disclose Post-Program Know-How.
- 1.69 **“Price Approvals”** means in countries in the Territory where Regulatory Authorities may approve or determine pricing or pricing reimbursement for pharmaceutical products, such approval or determination.
- 1.70 **“Project Lead”** shall have the meaning given such term in Section 2.10.
- 1.71 **“Product”** means any pharmaceutical composition or preparation (in any and all dosage forms) in final form containing a Compound, including any Combination Product, for sale or use by prescription, over-the-counter or any other method. For clarity, different formulations or dosage strengths of a given Product shall be considered the same Product for the purposes of this Agreement.
- 1.72 **“Program Compound”** means (i) any α 7 Activator that is Discovered by a Party or its Affiliates (or a Third Party acting on its behalf) or jointly by the Parties or their respective Affiliates (or a Third Party acting on its behalf) during the course of performing the Research Program, including any such α 7 Activator that is derived from [***], (ii) any α 7 Activator that is Discovered by Merck or its Affiliates (or a Third Party acting on its behalf) during the course of performing activities hereunder following the end of the Research Program; provided that with respect to this clause (ii), such α 7 Activator is derived from [***], and/or (iii) any modified form or derivative of any of the foregoing, in each case of (i), (ii) and/or (iii), as applicable, which is claimed, covered or disclosed, in any Program Patent Rights or otherwise incorporates any Program Know-How. For clarity, Program Compounds shall not include the α 7 Activators specifically listed on Schedule 1.16.
- 1.73 **“Program Know-How”** means any Know-How (including any Compounds) that is (i) first conceived, discovered, made and/or reduced to practice (as would be necessary to establish inventorship under United States patent law (regardless of where the applicable activities occurred)) by or on behalf of either Party or its Affiliate (or their respective employees, agents or consultants) or jointly by both Parties or their respective Affiliates (or their respective employees, agents or consultants) in performing the Research Program; and (ii) is not in the public domain.
- 1.74 **“Program Patent Rights”** means any and all Patent Rights that claim, cover or disclose Program Know-How. For clarity, Program Patent Rights shall not include any Post- Program Patent Rights.
- 1.75 **“Prosecute”** means in relation to any Patent Rights, (i) to prepare and file patent applications, including re-examinations or re-issues thereof, and represent applicant(s) or assignee(s) before relevant patent offices or other relevant authorities during examination, re-examination and re-issue thereof, in appeal processes and interferences, or any equivalent proceedings, (ii) to secure the grant of any Patent Rights arising from such patent application, (iii) to maintain in force any issued Patent Right (including through payment of any relevant maintenance fees), and (iv) to make all decisions with regard to any of the foregoing activities. **“Prosecution”** has a corresponding meaning.

- 1.76 “**Providers**” shall have the meaning given such term in Section 2.3.2.
- 1.77 “**Regulatory Authority**” means any applicable government regulatory authority involved in granting approvals for the manufacturing, marketing, reimbursement and/or pricing of a pharmaceutical product in the Territory, including, in the United States, the United States Food and Drug Administration and any successor governmental authority having substantially the same function.
- 1.78 “**Related Party**” shall mean each of Merck, its Affiliates, and their respective sublicensees (which term does not include distributors), as applicable.
- 1.79 “**Research Plan**” means the plan for conducting activities under the Research Program as set forth on Schedule 1.79, as such plan may be updated from time to time in accordance with this Agreement.
- 1.80 “**Research Program**” means the activities, including drug discovery activities, undertaken by or on behalf of Bionomics and/or Merck, as applicable, as set forth in Article 2 and in the Research Plan.
- 1.81 “**Research Program Term**” means, collectively, the Initial Research Program Term and any Extension Research Program Terms, if any.
- 1.82 “**Retained α 7 Inhibitor**” means [***].
- 1.83 “**Royalty Period**” shall have the meaning given such term in Section 5.4.1(c).
- 1.84 “**Taxes**” shall have the meaning given such term in Section 5.8.1.
- 1.85 “**Territory**” means all of the countries in the world, and their territories and possessions.
- 1.86 “**Third Party**” means an entity other than Merck and its Affiliates, and Bionomics and its Affiliates.
- 1.87 “**Valid Patent Claim**” means a claim of [***].
- 1.88 “**Violation**” means that Bionomics or any of its officers or directors or any other Bionomics personnel (or other permitted agents of Bionomics performing activities hereunder) has been: (1) convicted of any of the felonies identified among the exclusion authorities listed on the U.S. Department of Health and Human Services, Office of Inspector General (OIG) website, including 42 U.S.C. 1320a-7(a) (<http://oig.hhs.gov/exclusions/authorities.asp>); (2) identified in the OIG List of Excluded Individuals/Entities (LEIE) database (<http://exclusions.oig.hhs.gov/>) or the U.S. General Services Administration’s list of Parties Excluded from Federal Programs (<http://www.epls.gov/>); or (3) listed by any US Federal agency as being suspended, debarred, excluded or otherwise ineligible to participate in Federal procurement or non- procurement programs, including under 21 U.S.C. 335a (http://www.fda.gov/ora/compliance_ref/debar/) (each of (1), (2) and (3) collectively the “**Exclusions Lists**”).

ARTICLE 2 RESEARCH PROGRAM

- 2.1 **General.** Bionomics and Merck shall engage in the Research Program upon the terms and conditions set forth in this Agreement, including to perform all activities to be performed by such Party as set forth in the Research Plan.
- 2.2 **Conduct of Research.** Each Party shall proceed diligently with, and shall use Commercially Reasonable Efforts to perform, the Research Program, including by using its good faith efforts to allocate sufficient time, effort, equipment and facilities to the Research Program and to use personnel with sufficient skills and experience as are required to accomplish the Research Program.
- 2.3 **Compliance.**
- 2.3.1 **General.** Bionomics shall conduct the Research Program in compliance with all Applicable Laws. Bionomics shall notify Merck in writing of any deviations from Applicable Laws. Bionomics hereby certifies that it has not employed or otherwise used in any capacity and will not employ or otherwise use in any capacity, the services of any person debarred under United States law, including Section 21 USC 335a, in performing any portion of the Research Program. Bionomics shall notify Merck in writing immediately if any such debarment occurs or comes to its attention, and shall, with respect to any person or entity so debarred promptly remove such person or entity from performing any Research Program activities, function or capacity related to the Research Program. Without limiting the foregoing provisions of Section 2.3.1, if animals are used in research hereunder, Bionomics will comply with the Animal Welfare Act and any other applicable local, state, national and international laws and regulations relating to the care and use of laboratory animals. Merck encourages Bionomics to use the highest standards, such as those set forth in the Guide for the Care and Use of Laboratory Animals (NRC, 1996), for the humane handling, care and treatment of such research animals. Any animals which are used in the course of the Research Program, or products derived from those animals, such as eggs or milk, will not be used for food purposes, nor will these animals be used for commercial breeding purposes. Merck shall conduct the Research Program in compliance with all Applicable Laws.

- 2.3.2 **Use of Human Materials.** Without limiting the provisions of Section 2.3.1, if any human cell lines, tissue, human clinical isolates or similar human-derived materials (“**Human Materials**”) have been or are to be collected and/or used in the Research Program, Bionomics represents and warrants (i) that it has complied, and shall comply, with all Applicable Laws relating to the collection and/or use of the Human Materials and (ii) that it has obtained, and shall obtain, all necessary approvals and appropriate informed consents, in writing, for the collection and/or use of such Human Materials. Bionomics shall provide documentation of such approvals and consents upon Merck’s request. Bionomics further represents and warrants that such Human Materials may be used as contemplated in this Agreement without any obligations to the individuals or entities (“**Providers**”) who contributed the Human Materials, including any obligations of compensation to such Providers or any other Third Party for the intellectual property associated with, or commercial use of, the Human Materials for any purpose.
- 2.3.3 **Use of Third Party Intellectual Property.** In performing activities under the Research Program, unless otherwise agreed to by Merck in writing, Bionomics shall not (i) incorporate any Know-How or other intellectual property of any Third Party into any Compound, Product or other Program Know-How or (ii) otherwise use any Know-How or other intellectual property of any Third Party in the performance of the Research Program.
- 2.4 **Use of Third Parties.** Bionomics shall be entitled to utilize the services of the Third Parties listed in Schedule 2.4 to perform its Research Program activities [***]. Notwithstanding the foregoing, Bionomics shall remain at all times responsible for the performance of its responsibilities under the Research Program and shall obtain the written agreement of each such Third Party, prior to the time such Third Party initiates work, (a) that such Third Party’s employees involved in the Research Program shall comply with the confidentiality provisions of this Agreement, (b) that each such Third Party (including the employees of such Third Party) shall be obligated to assign any rights they may have in any Know-How resulting from the Research Program in accordance with Section 7.2, and (c) that such Third Party shall comply with the terms of this Agreement applicable to the subcontracted activities, including Sections 2.3, 2.5, 2.12 and 2.11.1. For clarity, Merck shall be entitled to utilize the services of the Third Parties to perform its Research Program activities and any other activities hereunder but shall remain at all times responsible for the performance of its responsibilities under the Research Program.
- 2.5 **Compliance with Ethical Business Practices.**
- 2.5.1 **Compliance with Corporate Policy.** Bionomics acknowledges that Merck’s corporate policies require that business must be conducted within the letter and spirit of the law. By signing this Agreement, Bionomics agrees to conduct the activities contemplated herein in a manner which is consistent with both law and good business ethics.

2.5.2 **Governments and International Public Organizations.**

- (a) Without limitation of the foregoing, Bionomics warrants that none of its employees, agents, officers or other members of its management are officials, officers, agents, representatives of any government or international public organization. Bionomics agrees that it shall not make any payment, either directly or indirectly, of money or other assets, including to the compensation derived from this Agreement (hereinafter collectively referred as a “**Payment**”), to government or political party officials, officials of international public organizations, candidates for public office, or representatives of other businesses or persons acting on behalf of any of the foregoing (hereinafter collectively referred as “**Officials**”) where such Payment would constitute a violation of any law. In addition, regardless of legality, Bionomics shall make no Payment either directly or indirectly to Officials if such Payment is for the purpose of influencing decisions or actions with respect to the subject matter of this Agreement or any other aspect of Merck’s businesses.
- (b) Notwithstanding the first sentence of Section 2.5.2(a), Bionomics represents that Deborah Rathjen is currently the chair of the Pharmaceutical Industry Council and of AusBiotech. In addition, Ms. Rathjen is a current member of the Australian Clinical Trials Advisory Committee and a current advisor to the Chief Scientist of Australia on STEM (science technology engineering and mathematics). In these roles Ms. Rathjen does not receive remuneration. Bionomics covenants and agrees that to avoid the appearance of impropriety that it shall cause Ms. Rathjen, for so long as Ms. Rathjen is an employee of Bionomics, to the extent any Merck business comes before any council or committee for which Ms. Rathjen is a member, to disclose Bionomics’ relationship with Merck and to recuse herself from any decision making or advice regarding such issue.

2.5.3 **No Authority.** Bionomics acknowledges that no employee of Merck or its Affiliates shall have authority to give any direction, either written or oral, relating to the making of any commitment by Bionomics or its agents to any Third Party in violation of terms of this or any other provisions of this Agreement.

2.5.4 **Exclusions Lists.** Bionomics certifies to Merck that as of the Effective Date Bionomics has screened itself, and its officers and directors, against the Exclusions Lists and that it has informed Merck whether Bionomics, or any of its officers or directors has been in Violation. After the execution of this Agreement, Bionomics shall notify Merck in writing immediately if any Violation occurs or comes to its attention, and shall, with respect to any person or entity in Violation, promptly remove such person or entity from performing any Research Program activities, function or capacity related to the Research Program.

- 2.6 **Joint Research Committee.** The Parties will establish a committee to facilitate the Research Program during the Research Program Term as follows:
- 2.6.1 **Composition of the Joint Research Committee.** The Research Program shall be conducted under the direction of a Joint Research Committee. As soon as practicable, but in no event more than [***] days after the Effective Date, the Parties will establish the Joint Research Committee comprised of two (2) representatives of Bionomics (who shall be employees of Bionomics) and two (2) representatives of Merck. These representatives shall have appropriate technical credentials, experience and knowledge, and ongoing familiarity with the Research Program. Each Party may replace its representative(s) at any time upon prior notice to the other Party, and each Party may include additional representative(s) or consultant(s) by mutual consent. The Joint Research Committee will meet in person or by teleconference at least one (1) time per Calendar Quarter. The Joint Research Committee will be chaired on an alternate basis for each meeting by a Merck representative followed by a Bionomics representative. The role of the chairperson shall be to convene and preside in person or telephonically at meetings of the JRC, to prepare and circulate agendas and to ensure the preparation of minutes. The chairperson of the JRC will be responsible for preparing reasonably detailed written minutes of all JRC meetings that reflect, without limitation, material decisions made at such meetings. The JRC chairperson shall send draft meeting minutes to each member of the JRC and the Project Leads for review and approval reasonably promptly after each JRC meeting. Such minutes will be deemed approved unless one or more of the Project Leads objects to the accuracy of such minutes within [***] business days of receipt. Each Party shall bear its own expenses related to the attendance of such meetings by its representative(s).
- 2.6.2 **Responsibilities.** The Joint Research Committee shall oversee and supervise the overall activities and performance of the Research Program and within such scope shall:
- (a) Review and direct the efforts, progress and status of the Research Program, including reviewing and directing the efforts of the Parties in the conduct of the Research Program;
 - (b) Review relevant data, and consider and advise on any technical issues that arise;
 - (c) Review and amend the Research Plan from time to time and record any changes to the Research Plan in the minutes of the JRC;
 - (d) Review the progress of technology transfers and reagent development; and

- (e) Address such other matters relating to the activities of the Research Program designated to be addressed by the JRC under this Agreement or as either Party may otherwise bring before the Joint Research Committee.
- 2.6.3 **Scope of Joint Research Committee Oversight.** [***] provided that, for the avoidance of doubt if the work proposed in the amendment to the Research Plan could be performed by the FTEs then currently being funded by Merck and such work would not impose additional financial obligations on Bionomics beyond the then current Research Plan, then Bionomics shall perform such work at no additional charge and the Research Plan shall automatically be deemed to be amended to include such work as proposed by the Joint Research Committee.
- 2.6.4 **Disbandment of Committee.** Upon completion (or earlier termination) of the Research Program, the Joint Research Committee shall be disbanded and shall have no further authority with respect to the activities hereunder, and all further research and development of the Compound and Products hereunder shall be in accordance with Section 3.7.
- 2.7 **Decision Making Authority.** The goal of all decision making of the Joint Research Committee shall be to achieve consensus. All decisions of the JRC with respect to matters over which it has decision making authority shall be made by unanimous vote of the Joint Research Committee's representatives, with each Party collectively having one (1) vote. If the Joint Research Committee is unable to reach consensus, then Merck's representatives to the Joint Research Committee shall have the deciding vote with respect to such matter. The Joint Research Committee shall not have any decision making authority beyond the work specified in the Research Program.
- 2.8 **Merck Funding of Bionomics FTEs.** During the Research Program Term, Merck will provide Bionomics with research funding pursuant to Section 5.2 for FTEs at the FTE Rate as follows: [***] FTEs during the [***] Research Program [***] Term as set forth in the Research Plan; provided, however, that the foregoing number of FTEs shall be subject to the Joint Research Committee's right to amend the Research Plan to (x) require additional FTEs or (y) reduce the number of

FTEs, in which case of (x) and/or (y) as applicable, the following number of FTEs shall be so adjusted. Each of such FTEs to be provided by Bionomics shall be employed by Bionomics and work solely and exclusively on the activities under the Research Plan for the time that such FTEs are so committed. Notwithstanding the foregoing, Merck shall not be required to fund any FTEs for the Research Program pursuant to Section 5.2 from and after the end of the Research Program Term. Bionomics shall ensure that all FTEs involved in the Research Program are qualified, careful, efficient and skilled personnel for carrying out the activities under the Research Program.

- 2.9 **Use of Research Funding.** Bionomics shall apply the research funding it receives from Merck under this Agreement solely to carry out its Research Program activities in accordance with the Research Plan and the terms and conditions of this Agreement.
- 2.10 **Project Lead.** Merck and Bionomics each shall appoint an employee of such Party (or its Affiliate, as applicable) as its project leader (the “**Project Lead**”) who shall be the primary contact between the Parties with respect to the Research Program and who shall coordinate each Party’s role in the Research Program. Each Party shall notify the other within [***] days of the Effective Date of the appointment of its Project Lead and shall notify the other Party as soon as practicable upon changing this appointment. In addition, each Party may also appoint, at its discretion, an alliance manager to facilitate communications between the Parties hereunder.
- 2.11 **Exchange of Information and Materials.**
- 2.11.1 **Provision by Bionomics.** As soon as reasonably practicable following the Effective Date (but in all cases within [***] days after the Effective Date), and thereafter on an ongoing basis during the Term (to the extent not previously disclosed or provided), Bionomics shall disclose and provide to Merck (in writing and in an electronic format in English, or in other tangible form, as applicable) (i) the Bionomics Know-How (including any updates or additions thereto), including by providing in tangible form the Bionomics Licensed Compounds and Bionomics Lead Series and such other Bionomics Know-How set forth on Schedule 2.11 and (ii) certain other materials as set forth in the Research Plan or as may otherwise be reasonably requested by Merck from time to time to be used by on behalf of Merck in the performance of its activities under this Agreement, [***]. In addition, on an ongoing basis during the Research Program Term, Bionomics shall promptly disclose and provide to Merck (in writing and in an electronic format in English, or in other tangible form, as applicable) any Program Know- How, including the discovery of any Compound (and shall disclose the structure thereof) and all data generated from testing of any Compound.
- 2.11.2 **Provision by Merck.** Merck shall disclose to Bionomics the Merck Background Know-How and Program Know-How which it deems necessary for Bionomics to carry out the activities of the Research Program. In addition, Merck may from time to time, and at its sole discretion or as otherwise expressly set forth in the

Research Plan, provide Bionomics with certain research materials to be used by Bionomics solely to perform its activities under the Research Program during the Research Program Term. Such materials may include [***] (collectively “**Merck Materials**”) and shall remain at all times the property of Merck. No Merck Materials shall be transferred, delivered or disclosed to any Third Party without the prior written approval of Merck. Upon expiration or termination of the Research Program Term, any unused Merck Materials shall be, at Merck’s option, either returned to Merck, or destroyed in accordance with instructions by Merck. BIONOMICS UNDERSTANDS THAT THE MERCK MATERIAL IS SUPPLIED “AS IS” AND IS PROVIDED WITHOUT WARRANTY OF VALIDITY, ENFORCEABILITY, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. BIONOMICS ACKNOWLEDGES THAT THE MERCK MATERIAL IS EXPERIMENTAL IN NATURE, AND MAY HAVE UNKNOWN HAZARDOUS CHARACTERISTICS, THAT IT IS AWARE OF THE RISKS OF WORKING WITH EXPERIMENTAL MATERIAL AND THAT IT WILL STRICTLY ADHERE TO PROPER LABORATORY PROCEDURES FOR HANDLING MATERIAL WITH UNKNOWN HAZARDS. THE MERCK MATERIALS WILL NOT BE USED IN HUMANS.

2.12 **Records and Reports.**

- 2.12.1 **Records.** Bionomics shall maintain records, in sufficient detail and in good scientific manner appropriate for patent and regulatory purposes, which shall fully and properly reflect all work done and results achieved in the performance of the Research Program.
- 2.12.2 **Copies and Inspection of Records; Reports.** Merck shall have the right, during normal business hours and upon reasonable notice, to inspect and copy all such records of Bionomics referred to in Section 2.12.1. Merck shall maintain such records and the information disclosed therein in confidence in accordance with Section 4.1. Merck shall have the right to arrange for its employee(s) and/or consultant(s) involved in the activities contemplated hereunder to visit the offices and laboratories of Bionomics and any of its Third Party contractors as permitted under Section 2.4 during normal business hours and upon reasonable notice, and to discuss work performed for the Research Program and its results in detail with the technical personnel and consultant(s) of Bionomics. Upon request, Bionomics shall provide copies of the records described in Section 2.12.1.
- 2.12.3 **Quarterly Reports.** Within [***] days following the end of each Calendar Quarter during the Research Program Term, Bionomics shall provide to Merck a written progress report in English which shall describe the work performed to date on the Research Program, evaluate the work performed in relation to the goals of the Research Program and provide such other information required by the

Research Program or reasonably requested by a Merck relating to the progress of the goals or performance of the Research Program. For clarity, all such reports shall be considered the Confidential Information of Merck.

2.12.4 **Data Integrity.** Bionomics acknowledges the importance of ensuring that the Research Program is undertaken in accordance with the following good data management practices: (i) data is being generated using sound scientific techniques and processes; (ii) data is being accurately and reasonably contemporaneously recorded in accordance with good scientific practices by Persons conducting research hereunder; (iii) data is being analyzed appropriately without bias in accordance with good scientific practices; and (iv) all data and results are being stored securely and can be easily retrieved. Bionomics agrees that it shall carry out the Research Program so as to collect and record any data generated therefrom in a manner consistent with the foregoing requirements.

2.13 **Exclusive Efforts.**

2.13.1 During the Term, Bionomics (and its Affiliates) will work exclusively with Merck (and with no other Person) on any α 7 Activators, and Bionomics (and its Affiliates) shall not, directly or indirectly, [***].

2.13.2 Notwithstanding the provisions of Section 2.13.1, Neurofit SAS (“**Neurofit**”), an Affiliate of Bionomics, shall be permitted to perform pre-clinical contract research activities for Third Parties on a fee for service basis with respect to α 7 Activators owned by such Third Parties; [***] and (ii) in furtherance of the foregoing, Bionomics shall maintain security practices, which shall include appropriate administrative, physical and technical safeguards, which are reasonably designed to ensure compliance with this Section 2.13.2. [***]. Bionomics shall ensure that the activities of Neurofit do not restrict or limit in any way any rights or licenses granted to Merck hereunder.

2.14 **Research Program Term.**

2.14.1 **Research Program Term.** Unless earlier ceased or terminated pursuant to Section 2.14.2 or Article 8, the Research Program shall have an initial [***] year term from the Effective Date (the “**Initial Research Program Term**”). The Initial Research Program Term may be extended for up to [***] additional [***] periods (each such additional [***] period, an “**Extension Research Program Term**”) upon mutual written agreement by Merck and Bionomics no later than [***] days before the expiration of the then current Research Program Term; provided that, for clarity, the decision to extend the Research Program Term by each additional [***] period shall be made separately (i.e., the Parties must mutually agree each time the Parties desire to extend the Research Program Term by any such additional [***] period). Simultaneously with the Parties’ agreement to any such Extension Research Program Term, the Parties shall also mutually agree in writing on the number of FTEs of Bionomics to be funded by Merck (which shall be at the FTE Rate) during any such Extension Research Program Term, and in connection

therewith, Merck shall have the right to update the Research Plan to account for the activities during any such Extension Research Program Term.

- 2.14.2 **Early Cessation of Research Program.** Notwithstanding the provisions of Section 2.14.1, Merck shall have the right, in its discretion, upon [***] days prior written notice to Bionomics, to cease the activities under the Research Program at any time by providing such written notice thereof to Bionomics. Upon delivery of such Research Program cessation notice by Merck, the Research Program Term shall immediately end with respect to the Research Program in its entirety provided that for clarity, this Agreement shall not terminate. Notwithstanding the foregoing, in the event that Merck so determines to cease the Research Program prior to the end of the Initial Research Program Term and provided that [***]. For clarity, if this Agreement is terminated pursuant to Article 8, such termination shall not be deemed to be a cessation of the Research Program pursuant to this Section 2.14.2 and the provisions of this Section 2.14.2 shall not apply.
- 2.14.3 **Expiration of Research Program.** Upon expiration (or earlier cessation, as applicable) of the Research Program Term, all further Research Program activities under the Research Program shall terminate (including all funding obligations of Merck with respect to the Research Program, other than as set out in Section 2.14.2, if applicable), but the other rights and obligations under this Agreement shall not otherwise be affected and shall remain in full force and effect (including the rights of Merck to further research and develop the Compounds and Products in accordance with this Agreement). Immediately upon the expiration (or earlier cessation, as applicable) of the Research Program, (w) Bionomics shall update the Bionomics Know-How (including materials) to Merck as set forth in Section 2.11, (x) Bionomics shall disclose to Merck all Program Know-How as set forth in Section 7.2.2, (y) Bionomics shall return or cause to be returned to Merck all Merck Confidential Information and all Merck Materials delivered or provided by Merck, as well as any other Merck substances, compositions or materials provided by Merck in any medium in connection with such portions of the Research Program and (z) subject to the provisions of Section 2.14.2, Bionomics shall reimburse Merck for any uncredited fees paid by Merck pursuant to the Research Program (including uncredited amounts for FTEs paid by Merck pursuant to clause (i) of Section 5.2.1).
- 2.15 **Research Program Costs.** Except as otherwise set forth in Section 5.2, each Party shall bear its own costs in connection with performing Research Program activities.

ARTICLE 3 LICENSE, DEVELOPMENT AND COMMERCIALIZATION

3.1 License Grants by Bionomics.

- 3.1.1 **Bionomics Patent Rights and Bionomics Know-How.** Bionomics hereby grants to Merck an exclusive license (even as to Bionomics and its Affiliates) in the Territory under the Bionomics Patent Rights and Bionomics Know-How, with a right to grant and authorize sublicenses, to research, develop, make, have made, use, offer to sell, sell, import and/or otherwise exploit Compounds and Products in the

Field.

- 3.1.2 **Bionomics Retained Rights.** Notwithstanding the scope of the exclusive license granted to Merck under Section 3.1.1, subject to the terms and conditions of this Agreement, Bionomics shall retain rights during the Research Program Term under the Bionomics Patent Rights and the Bionomics Know-How for the sole purpose of performing Bionomics' obligations under the Research Program in accordance with this Agreement and the Research Plan.
- 3.2 **Non-Exclusive License Grant to Merck.** In the event that the research, development, making, having made, use, offer for sale, sale, import and/or other exploitation by Merck, or Merck's Related Parties, of Compound(s) or Product(s) would infringe during the term of this Agreement a claim of an issued letters patent which Bionomics owns or has the rights to license and which patent are not covered by the grant in Section 3.1, Bionomics hereby grants to Merck, to the extent Bionomics is legally able to do so, a non-exclusive, sublicensable, royalty-free license in the Territory under such issued letters patent for Merck and its Related Parties to research, develop, make, have made, use, sell, offer for sale, import and otherwise exploit Compound(s) and Product(s) in the Territory.
- 3.3 **License Grants to Merck for [***].** Bionomics hereby grants to Merck a perpetual, irrevocable, fully-paid exclusive license (even as to Bionomics and its Affiliates) in the Territory under the Bionomics Patent Rights and Bionomics Know- How, with a right to grant and authorize sublicenses, to research, develop, make, have made, use, offer to sell, sell, import and/or otherwise exploit [***] and products containing such [***] in the Field. Notwithstanding anything to the contrary contained herein, Merck shall not owe any royalties, milestones or other payments to Bionomics hereunder as a result of any research, development, making, having made, using, offering to sell, selling, importing and/or otherwise exploiting any [***] or products containing such [***] (and for clarity, any revenues received from such [***] or products containing such [***] shall not be included in Net Sales hereunder). The licenses set forth in this Section 3.3 shall survive the expiration or termination of this Agreement.
- 3.4 **Non-Exclusive License Grants to Bionomics.** If the Joint Research Committee requests Bionomics to perform activities under the Research Program that require a license under any Merck Background Patent Rights or Merck's interest in any Program Patent Rights, as applicable, or under any Merck Background Know-How or Merck's interest in any Program Know-How, as applicable, Merck shall grant, and hereby grants, to Bionomics, a non-exclusive, non-transferable, non-sublicensable, license under such Merck Background Patent Rights, Program Patent Rights, Merck Background Know-How and/or Program Know-How, as applicable, solely to perform such activities under the Research Program in accordance with this Agreement. For clarity, the foregoing licenses set forth in this Section 3.4 shall not limit in any way the exclusive licenses granted to Merck under Section 3.1.
- 3.5 **No Grant of Inconsistent Rights by Bionomics.** Bionomics (and its Affiliates) shall not assign, transfer, convey or otherwise grant to any Person or otherwise encumber (including through lien, charge, security interest, mortgage, encumbrance or otherwise) (i) any rights to any Bionomics Know-How or Bionomics Patent Rights (or any rights to any intellectual

property that would otherwise be included in the Bionomics Know-How or Bionomics Patent Rights), in any manner that is inconsistent with or would interfere with the grant of the rights or licenses to Merck hereunder, or (ii) any rights to any Compounds or Products (provided that Bionomics shall grant to Merck the rights to the Compounds and Products as set forth herein). Without limiting the foregoing, during the Term, (x) Bionomics (and its Affiliates) shall not use (and shall not grant to any Third Party the right to use) any Compounds or Products for any purposes (including the development, manufacturing or commercialization thereof), except for Bionomics' performance of the activities to be performed by Bionomics under the Research Program as set forth in the Research Plan in accordance with this Agreement and (y) Bionomics (and its Affiliates) shall not provide or otherwise transfer to any Third Parties any Bionomics Know-How, for use in connection with any α 7 Activator.

- 3.6 **Covenant Not to Sue.** Bionomics (and its Affiliates and sublicensees) hereby covenants that during the Term, it shall not sue nor otherwise attempt to enforce against Merck (or any of its Affiliates or Related Parties) any Patent Rights, Know-How or other intellectual property rights owned or otherwise controlled by Bionomics (or any of its Affiliates or sublicensees), as such Patent Rights, Know-How or other intellectual property rights relate to the Compounds or Products.
- 3.7 **Development, Manufacturing and Commercialization.** Merck (and its Affiliates), either itself or with Third Party(ies) shall have the sole right (and shall control all aspects of), at its own expense, to develop and commercialize Products, and for clarity, Bionomics (and its Affiliates) shall have no right to do so (except that Bionomics shall perform the activities to be performed by Bionomics under the Research Program in accordance with this Agreement). Merck (and its Affiliates), either itself or with Third Party(ies) shall use its Commercially Reasonable Efforts to develop, file for Marketing Authorization for and, following receipt of all applicable Marketing Authorizations, to commercialize [***], and all other development and commercialization efforts and decisions with respect to the Compounds and Products shall be at the discretion of Merck. Merck (and its Affiliates) either itself or with Third Party(ies) shall have the sole right (and shall control all aspects of), at its own expense, to manufacture Compound and Product, and Bionomics (and its Affiliates) shall have no right to do so (except that Bionomics shall perform the activities to be performed by Bionomics under the Research Program in accordance with this Agreement).
- 3.8 **Regulatory Matters.** In the event that Merck determines that any regulatory filings for any Compounds or Products are required for any activities hereunder (including any activities under the Research Program), including INDs, NDAs and other Marketing Authorizations (as applicable), then as between the Parties, Merck (or its Affiliate or Related Party) shall have the sole right, in its discretion, and at its expense, to obtain such regulatory filings (in its (or its Affiliate's or its Related Party's) name) and as between the Parties, Merck (or its Affiliate or its Related Party) shall be the owner of all such regulatory filings. As between the Parties, Merck (or its Affiliate or Related Party) shall have the sole right to communicate and otherwise interact with Regulatory Authorities with respect to the Compounds and/or Products (including during the Research Program Term). For clarity, Bionomics shall have no right to, and shall not, make any regulatory

- filings related to any Compounds or Products or otherwise interact with any Regulatory Authorities with respect to the Compounds or Products.
- 3.9 **Excused Performance.** The obligation of Merck with respect to any Product under Section 3.7 is expressly conditioned upon the continuing absence of any adverse condition or event relating to the safety or efficacy of the Product, and the obligation of Merck to develop or commercialize any such Product shall be delayed or suspended so long as in Merck's reasonable opinion any such condition or event exists.
- 3.10 **No Implied Licenses.** Except as specifically set forth in this Agreement, neither Party shall acquire any license or other intellectual property interest, by implication or otherwise, in any Confidential Information disclosed to it under this Agreement or under any patents or patent applications owned or Controlled by the other Party or its Affiliates.
- 3.11 **Exploitation of Non- α 7 Activators by Merck.** For clarity, nothing in this Agreement shall prohibit, limit or otherwise restrict in any way Merck's (or any of its Affiliate's) rights to research, develop, make, have made, use, offer to sell, sell, import and/or otherwise exploit, itself and/or together with any Third Party, any compounds or products which are not α 7 Activators (even if such compounds or products are derived from, or otherwise covered by, a Bionomics Licensed Compound or Bionomics Lead Series), and for clarity, Merck (and its Affiliates) shall have no payment obligations (or any other obligations) to Bionomics hereunder with respect to any such compounds or products.

ARTICLE 4 CONFIDENTIALITY AND PUBLICATION

- 4.1 **Non-Disclosure and Non-Use Obligation.** Except as expressly provided herein, the Parties agree that, where any Confidential Information is disclosed by one of the Parties to the other Party pursuant to this Agreement, the receiving Party shall, for a period of [***] from the date of expiration or termination of this Agreement, keep confidential and shall not disclose, or use for any purpose except for the purposes contemplated by this Agreement, such Confidential Information, except that to the extent that it can be established by the receiving Party that such Confidential Information:
- (a) was already known to the receiving Party, other than under an obligation of confidentiality, at the time of disclosure;
 - (b) was generally available to the public or part of the public domain at the time of its disclosure to the receiving Party;
 - (c) became generally available to the public or otherwise becomes part of the public domain after its disclosure and other than through any act or omission of the receiving Party in breach of this Agreement;
 - (d) was independently developed by the receiving Party as demonstrated by documented evidence prepared contemporaneously with such independent development; or

- (e) was subsequently lawfully disclosed to the receiving Party by a person other than a Party hereto.

Any combination of features or disclosures shall not be deemed to fall within the foregoing exclusions merely because individual features are published or available to the general public or in the rightful possession of the receiving Party unless the combination itself and principle of operation are published or available to the general public or in the rightful possession of the receiving Party.

4.1.1 **Permitted Disclosures.**

- (a) Either Party may disclose Confidential Information disclosed to it by the other Party to the extent such disclosure is required (i) by Applicable Law or (ii) for making applications or submissions to or otherwise dealing with regulatory authorities in connection with the development, manufacture or marketing of Compounds and/or Products or obtaining Patent Rights, in each case, in accordance with this Agreement; *provided*, that in the case of (ii) such Confidential Information shall be disclosed only to the extent reasonably necessary to obtain Patent Rights or authorizations.
- (b) In the event that a public disclosure of information about this Agreement is required, in the reasonable opinion of counsel, by the rules of any securities exchange or market on which a Party's securities are listed or traded, and to the extent permitted by the notification timing requirements of such rules, the Party desiring to make such a disclosure shall use its best efforts to provide copies in a timely manner of the proposed disclosure in advance of such disclosure for the non-disclosing Party's prior review and comment and shall give due consideration to any comments by the non-disclosing Party. Subject to the foregoing (and in particular to the extent permitted by the notification timing requirements of such rules), it is understood that a Party may not make any disclosure of the financial terms and other material conditions of this Agreement without the prior written consent of the other Party following the procedure set forth in this Section. It is further understood that any disclosure under this Section shall be limited to factual, non-speculative information that, in the reasonable opinion of counsel, would have a material effect on the price or value of the disclosing Party's securities on such exchange or market and that is not covered by an exception to disclosure by the rules of such exchange or market.
- (c) Either Party may also disclose the terms and conditions of this Agreement under terms of confidentiality and non-use obligations that are substantially no less stringent than the confidentiality and non-use provisions in this Agreement [***].

- (d) If a Party is required, by a written order of a court or administrative body of competent jurisdiction and such order is subject to contempt provisions, to disclose Confidential Information that is subject to the non-disclosure provisions of this Section 4.1, such Party shall promptly inform the other Party of the disclosure that is being sought in order to provide the other Party an opportunity to challenge or limit the disclosure obligations. Confidential Information that is disclosed by judicial or administrative process shall remain otherwise subject to the confidentiality and non-use provisions of this Section 4.1, and the Party disclosing Confidential Information pursuant to such written order shall take all steps reasonably necessary, including obtaining an order of confidentiality, to ensure the continued confidential treatment of such Confidential Information.
- 4.2 **Ownership of Confidential Information.** For the purposes of this Article 4, where pursuant to the terms of this Agreement one Party owns Confidential Information that has been generated by the other Party, then such Confidential Information shall be treated as if it had been generated by such owning Party and disclosed by such owning Party to such other Party.
- 4.3 **Materials.** Neither Party shall use any material provided by the other Party except solely for the purposes of the Research Program and may not analyze or reverse engineer such material, or supply such material (or material derived from or containing such material) to any Third Party without the consent of the Party providing such material. Except as otherwise set forth herein, each Party, at the other Party's option, shall destroy (and certify such destruction) or return material provided by the other Party on the expiry or termination of this Agreement, pursuant to Article 8. Notwithstanding the foregoing, Merck (and its Related Parties) may use (including analyzing and reverse engineering) and supply to Third Parties any materials (including materials derived from or containing such material) provided by Bionomics for the research, development, manufacture and commercialization of Compounds and Products.
- 4.4 **Bionomics Know-How; Program Know-How.** Without limiting the provisions of Section 4.1, Bionomics agrees to keep (i) all Bionomics Know-How that relates to any Compounds and/or Products (and/or other activities hereunder) and (ii) all Program Know-How confidential as set forth in Section 4.1, as if disclosed by Merck to Bionomics.
- 4.5 **Publicity/ Use of Names; Press Releases.** The Parties have mutually agreed on the press release with respect to this Agreement, a copy of which is set forth in Schedule 4.5. Either Party may make subsequent public disclosures that are limited to the specific contents of such press release. No disclosure of the existence, or the terms, of this Agreement may be made by either Party, and no Party shall use the name, trademark,

trade name or logo of the other Party, its Affiliates or their respective employee(s) in any publicity, promotion, news release or disclosure relating to this Agreement or its subject matter, without the prior express written permission of the other Party, except as may be required by law or the rules of any securities exchange or market on which a Party's securities are listed or traded, and if disclosure of the terms of this Agreement is required by law or the rules of any securities exchange or market on which a Party's securities are listed or traded, the Parties shall agree on a redacted version of this Agreement to be so disclosed. Neither party may issue any other press release or public announcement relating to the Research Program without the written approval of the other Party to that press release or public announcement. Notwithstanding the foregoing, following the end of the Research Program Term, Merck shall have the right to issue any press release or public announcement relating to the Research Program and/or any Compound or Product, as well as the collaboration with Bionomics hereunder, without the prior approval of Bionomics; [***].

- 4.6 **Publications.** During the Research Program Term, neither Party shall publish any results of the Research Program without the other Party's prior written consent. Following the end of the Research Program Term, Bionomics shall not publish any information related to the Compounds, Products or the results of the Research Program, without the prior written consent of Merck, and Merck shall have the right to publish information related to the Compounds, Products or the results of the Research Program at its discretion; [***].
- 4.7 **Remedies.** Each Party shall be entitled to seek, in addition to any other right or remedy it may have, at law or in equity, a temporary injunction, without the posting of any bond or other security, enjoining or restraining the other Party from any violation or threatened violation of this Article 4.
- 4.8 **Prior Non-Disclosure Agreements.** As of the Effective Date, the terms of this Article 4 shall supersede the Existing Confidentiality Agreement, and shall apply to any confidential information disclosed by a Party (or its Affiliate) thereunder.

ARTICLE 5 PAYMENTS; ROYALTIES AND REPORTS

- 5.1 **Upfront Payment.** In accordance with the terms and conditions contained herein, Merck shall pay to Bionomics, within [***] days following the Effective Date, an upfront payment in the amount of [***].
- 5.2 **Research Program Funding.** In consideration for Bionomics' performance of its obligations under the Research Program, in accordance with the terms and conditions contained herein, Merck shall pay Bionomics as follows:
- 5.2.1 In consideration for Bionomics' provision of FTEs for the performance of its obligations under the Research Program, upon the terms and conditions contained herein, Merck shall pay to Bionomics the FTE Rate per Calendar Year for each FTE provided by Bionomics in accordance with Section 2.8, as applicable. Such FTE funding shall be payable (i) for the [***] the Research Program, in a [***] within [***] days following the Effective Date, but subject to the provisions of Section 5.2.2 and (ii) thereafter, for the remaining [***] of the Research Program (or such shorter or longer duration of the remainder of the Research Program Term pursuant to this Agreement), in arrears in Calendar Quarterly installments due [***] days after Merck's receipt of the report described in Section 5.2.2.
- 5.2.2 Bionomics shall, within [***] days following the end of each Calendar Quarter (including each Calendar Quarter during the first twelve (12) months of the Research Program) during which Bionomics is providing FTE support, deliver to Merck a written report detailing the number of FTEs actually utilized in such Calendar Quarter for the performance of Research Program activities, including a description of the activities performed (and Merck shall have the right, itself or via an independent certified public accounting firm of nationally recognized standing selected by Merck and reasonably acceptable to Bionomics, to audit Bionomics' records in connection therewith, which audit shall be in accordance with Section 5.6, *mutatis mutandis*). For clarity, unless otherwise mutually agreed in writing by the Parties, (i) in no event shall Bionomics be entitled to receive payment for (and Bionomics shall be solely responsible for) any FTEs in a given Calendar Quarter which are in excess of the number of FTEs authorized to be utilized to conduct the Research Program activities in such Calendar Quarter as set forth in Section 2.8 and (ii) in the event that the actual number of FTEs provided by Bionomics are less than the number of FTEs as set forth in Section 2.8, as applicable, then Merck shall only be responsible for payment for such lesser number of FTEs. Notwithstanding the foregoing, with respect to the first twelve (12) months of the Research Program, in the event that the number of FTEs actually utilized in such twelve (12) months is less than the number of FTEs for which Merck made payment in advance pursuant to clause (i) of Section 5.2.1, then at Merck's option, Bionomics shall either refund or credit Merck for the difference between the payment made by Merck and the actual payment due for

such FTEs (provided that if Merck opts for a refund, such refund shall be made by Bionomics within [***] days following notice by Merck thereof and if Merck opts for a credit, Merck shall be entitled to a credit against any future FTE amounts payable by Merck pursuant to this Section 5.2).

5.2.3 Except as set forth in Sections 5.2.1 or 5.2.2, Bionomics shall be solely responsible for (and shall not be entitled to reimbursement for) any other costs in performing the Research Program.

5.3 **Milestones.**

5.3.1 **Milestone Payments.** Subject to the terms and conditions of this Agreement, Merck shall pay to Bionomics the following milestone payments, for which Merck achieves the following milestone events for the first Product hereunder during the Term of this Agreement:

(a) **Research Milestones:** The following milestone payment shall be payable only one time, if any, if achieved by Merck hereunder and only for the first Product to achieve such milestone (and for clarity, a given milestone payment shall not be payable more than one time even if more than one Product achieves such milestone):

Research Milestone	Payment (in US dollars)
[***]	[***]
Maximum Total	[***]

For clarity, the maximum amount payable pursuant to this Section 5.3.1(a) shall be [***] assuming that the milestone is achieved.

(b) **Development Milestones:** The following milestone payments shall be payable only one time, if any, if achieved by Merck hereunder and only for the first Product to achieve such milestone (and for clarity, a given milestone payment shall not be payable more than one time even if more than one Product achieves such milestone):

Development Milestone [***]	Payment (in US dollars)
[***]	[***]
[***]	[***]
[***]	[***]

***	***
***	***
***	***
***	***
Maximum Total	***

<u>Development Milestones [***]</u>	<u>Payment (in US dollars)</u>
***	***
***	***
***	***
***	***
***	***
***	***
Maximum Total	***

<u>Development Milestones [***]</u>	<u>Payment (in US dollars)</u>
***	***
***	***
***	***
***	***
Maximum Total	***

For clarity, the maximum amount payable pursuant to this Section 5.3.1(b) shall be [***] assuming that each of the [***] milestones are achieved. For clarity, the development milestones shall be payable for [***], as and to the extent set forth in this Section 5.3.1(b), and no additional milestones shall be payable for [***] regardless of the number of Products achieving the milestones (provided that, for further clarity, it shall not be required that all such development milestones be achieved by the same Product (*i.e.*, the development milestones for [***] may be achieved by separate Products, as applicable)).

- (c) **Commercial Milestones:** The following milestone payments shall be payable only one time, if any, if achieved by Merck hereunder and only for the first Product to achieve such milestone (and for clarity, a given milestone payment shall not be payable more than one time even if achieved by more than one Product or if achieved more than one time for the same Product):

Annual Net Sales of a single Product in the Territory in a single Calendar Year.	Payment (in US dollars)
[***]	[***]
[***]	[***]
[***]	[***]
Maximum Total	[***]

For clarity, the maximum amount payable pursuant to this Section 5.3.1(c) shall be [***] assuming that each of the three milestones is achieved.

- (d) **Payment of Milestones:** Merck shall notify Bionomics in writing within [***] following the achievement of each milestone event for a Product, and shall make the appropriate milestone payment within [***] after such notification; provided, however, that with respect to

the commercial milestones set forth in Section 5.3.1(c), Merck shall notify Bionomics in writing within [***] following the end of the Calendar Quarter in which such commercial milestone was achieved, and shall make the appropriate milestone payment simultaneously with the payment of any royalties due for the Calendar Quarter in which such commercial milestone was achieved as set forth in Section 5.5. For clarity, the milestone payments shall be payable only upon the initial achievement of the related milestone event and no additional amounts shall be due hereunder for subsequent or repeated achievement of such milestone event for a Product (or for the subsequent achievement of the milestone event by any back-up or other Products).

5.4 Royalties.

5.4.1 **Royalties Payable By Merck.** Subject to the terms and conditions of this Agreement, Merck shall pay Bionomics royalties, as set forth in this Section 5.4.

(a) **Patent Royalties.**

(i) **Royalty Tiers.** Subject to the other provisions of this Section 5.4.1, Merck shall pay Bionomics royalties in an amount equal to the following percentage of Net Sales of a given Product by Merck or its Related Parties in a given Calendar Year in countries in the Territory; provided that the sale of Product would infringe a Valid Patent Claim in the country of sale:

- (1) [***] of annual Net Sales of such Product in such countries in the Territory in a given Calendar Year for that portion of Net Sales of such Product in such Calendar Year in such countries up to and including [***];
- (2) [***] of annual Net Sales of such Product in such countries in the Territory in a given Calendar Year for the portion of Net Sales of such Product in such Calendar Year in such countries exceeding [***] up to and including [***];
- (3) [***] of annual Net Sales of such Product in such countries in the Territory in a given Calendar Year for the portion of Net Sales of such Product in such Calendar Year in such countries exceeding [***] up to and including [***];

- (4) [***] of annual Net Sales of such Product in such countries in the Territory in a given Calendar Year for the portion of Net Sales of such Product in such Calendar Year in such countries exceeding [***] up to and including [***]; and
- (5) [***] of annual Net Sales of such Product in such countries in the Territory in a given Calendar Year for the portion of Net Sales of such Product in such Calendar Year in such countries exceeding [***].

For clarity, (i) only Net Sales of the applicable Product for which a royalty is payable in a given country in a given Calendar Year under this Section 5.4.1(a) shall be included for determining the foregoing royalty tiers for such Calendar Year, (ii) if no royalty is payable on a given unit of Product under this Section 5.4.1(a), then the Net Sales of such unit of Product shall not be included for determining the foregoing royalty tiers and (iii) Net Sales of a given Product will not be combined with Net Sales of any other Product for purposes of determining the foregoing royalty tiers.

- (b) **Know-How Royalty.** Notwithstanding the provisions of Section 5.4.1(a), in countries where the sale of a given Product by Merck or its Related Parties would not infringe a Valid Patent Claim, but such Product incorporates Bionomics Know-How and/or Program Know-How, Merck shall pay royalty rates that shall be set at [***] of the applicable royalty rate determined according to Section 5.4.1(a). Such royalties shall be calculated after first calculating the royalties under Section 5.4.1(a). For clarity, (i) only Net Sales of the applicable Product for which a royalty is payable in a given country in a given Calendar Year under this Section 5.4.1(b) shall be included for determining the foregoing royalty tiers for such Calendar Year, (ii) if no royalty is payable on a given unit of Product under this Section 5.4.1(b), then the Net Sales of such unit of Product shall not be included for determining the foregoing royalty tiers and (iii) Net Sales of a given Product will not be combined with Net Sales of any other Product for purposes of determining the foregoing royalty tiers.
- (c) Royalties on Product at the rates set forth above shall continue on a Product-by-Product and country-by-country basis [***] (the “**Royalty Period**”).

- (d) All royalties are subject to the following conditions:
- (i) that only one royalty shall be due with respect to the same unit of Product;
 - (ii) that no royalties shall be due upon the sale or other transfer among Merck or its Related Parties, but in such cases the royalty shall be due and calculated upon Merck's or its Related Party's Net Sales to the first independent Third Party;
 - (iii) no royalties shall accrue on the sale or other disposition of Product by Merck or its Related Parties for use in a Clinical Trial;
 - (iv) no royalties shall accrue on the disposition of Product in reasonable quantities by Merck or its Related Parties as samples (promotion or otherwise) or as donations (for example, to non-profit institutions or government agencies for a non-commercial purpose), including donations made at Merck's cost of goods; and
 - (v) the determination of whether a royalty will be calculated under Section 5.4.1(a) and Section 5.4.1(b) shall be determined on a Product-by-Product and country-by-country basis, and for clarity, the royalties (including royalty tiers) payable under Section 5.4.1(a) and Section 5.4.1(b), as applicable, shall be calculated separately.
- 5.4.2 **Change in Sales Practices.** The Parties acknowledge that during the term of this Agreement, Merck's sales practices for the marketing and distribution of Product may change to the extent to which the calculation of the payment for royalties on Net Sales may become impractical or even impossible. In such event the Parties agree to meet and discuss in good faith new ways of compensating Bionomics to the extent currently contemplated under Section 5.4.1.
- 5.4.3 **Royalties for Bulk Compound.** In those cases in which Merck sells bulk Compound rather than Product in packaged form to an independent Third Party, the royalty obligations of this Section 5.4 shall be applicable to the bulk Compound only (but solely to the extent that a royalty would otherwise be payable on the Product incorporating such Compound).
- 5.4.4 **Compulsory Licenses.** If a compulsory license is granted to an independent Third Party with respect to Product in any country in the Territory with a royalty rate lower than the royalty rate provided by Section 5.4.1, then the royalty rate to be paid by Merck on Net Sales in that country under Section 5.4.1 shall be reduced [***].
- 5.4.5 **Third Party Licenses.** In the event that Merck or its Related Parties has obtained (as of the Effective Date) or obtains (after the Effective Date) a license under, or

other rights to, any Patent Rights or Know-How or other intellectual property from any Third Party(ies) which is required or otherwise used by Merck or its Related Parties in order to [***] (hereinafter “**Additional Merck Third Party Agreements**”), then [***] of the consideration actually paid under such Additional Merck Third Party Agreements by Merck or its Related Parties for sale of such Compound or Product in a country for a Calendar Quarter shall be creditable against the royalty payments due to Bionomics by Merck hereunder with respect to the sale of such Compound or Products in such country; *provided, however*, that in no event shall the royalties owed by Merck to Bionomics for a given Calendar Quarter be reduced by more than [***] (provided, however that if Merck is not able to fully recover the amounts paid by Merck or its Related Parties under any Additional Merck Third Party Agreement as a result of the foregoing restriction, then Merck shall be entitled to carry forward such right of off-set to future Calendar Quarters with respect to such excess amount). If the Additional Merck Third Party Agreement also covers compounds or products other than Compounds or Products, and a particular payment thereunder results directly from the sale of both (i) Compounds or Products hereunder and (ii) such other compounds or products, then Merck shall allocate the amount of such payment between the Compound or Product hereunder and such other compounds or products, respectively (as applicable), using an allocation method reasonably determined by Merck. Other than as set out above, Merck shall be responsible for and bear its own costs of negotiation and performance of any Additional Merck Third Party Agreement.

5.5 **Reports; Payment of Royalty.** During the term of this Agreement, following the First Commercial Sale of a Product, Merck shall furnish to Bionomics a [***] written report for the Calendar Quarter showing the Net Sales of all Products subject to royalty payments sold by Merck and its Related Parties in the Territory during the reporting period and the royalties payable for such reporting period. Reports shall be due on the [***] following [***]. Royalties shown to have accrued by each royalty report shall be due and payable on the date such royalty report is due. Merck shall keep (and procure its Affiliates to keep) complete and accurate records in sufficient detail to enable the royalties payable hereunder to be determined.

5.6 **Audits.**

5.6.1 Upon the written request of Bionomics and not more than [***], Merck shall permit (and procure its Affiliates to permit) an independent certified public accounting firm of recognized standing selected by Bionomics and reasonably acceptable to Merck, at Bionomics’ expense, to have access during normal business hours to such of the records of Merck as may be reasonably necessary to verify the accuracy of the royalty reports and commercial milestone payments hereunder for any Calendar Year ending not more than [***] prior to the date of such request. The accounting firm shall disclose to Bionomics only whether the royalty reports are correct or

incorrect and the amount of any discrepancy. No other Confidential Information shall be provided to Bionomics.

- 5.6.2 If such accounting firm correctly identifies a discrepancy made during such period, the appropriate Party shall pay the other Party the amount of the discrepancy within [***] of the date Bionomics delivers to Merck such accounting firm's written report so correctly concluding, or as otherwise agreed upon by the Parties. The fees charged by such accounting firm shall be paid by Bionomics, provided that if the underpayment of royalties by Merck exceeds the greater of [***] of the total royalties owed for the period in question, Merck shall pay the fees.
- 5.6.3 Merck shall include in each sublicense granted by it pursuant to this Agreement a provision requiring the sublicensee to make reports to Merck, to keep and maintain records of sales made pursuant to such sublicense and to grant access to such records by Bionomics' independent accountant to the same extent required of Merck under this Agreement.
- 5.6.4 Upon the expiration of [***] following the end of any Calendar Year, the calculation of royalties payable with respect to such Calendar Year shall be binding and conclusive upon Bionomics, and Merck and its Related Parties shall be released from any liability or accountability with respect to royalties for such Calendar Year.
- 5.6.5 Bionomics shall treat all financial information subject to review under this Section 5.6 or under any sublicense agreement in accordance with the confidentiality and non-use provisions of this Agreement, and shall cause its accounting firm to enter into an acceptable confidentiality agreement with Merck and/or its Related Parties obligating it to retain all such Confidential Information in confidence pursuant to such confidentiality agreement.
- 5.7 **Payment Exchange Rate.** All payments to be made by Merck to Bionomics under this Agreement shall be made in United States Dollars and may be paid by check made to the order of Bionomics or bank wire transfer in immediately available funds to such bank account in the United States as may be designated in writing by Bionomics from time to time. In the case of sales outside the United States, the rate of exchange to be used in computing the monthly amount of currency equivalent in United States Dollars due Bionomics shall be made at the monthly rate of exchange utilized by Merck in its worldwide accounting system.
- 5.8 **Taxes.**
- 5.8.1 **Generally.** Bionomics shall be liable for all income and other taxes (including interest) ("**Taxes**") imposed upon any payments made by Merck to Bionomics under this Section 5.8 ("**Agreement Payments**").

- 5.8.2 **Income Tax Withholding.** If Applicable Laws require the withholding of Taxes, Merck shall make such withholding payments and shall subtract the amount thereof from the Agreement Payments. Merck shall submit to Bionomics appropriate proof of payment of the withheld Taxes as well as the official receipts within a reasonable period of time. Merck shall provide Bionomics reasonable assistance in order to allow Bionomics to obtain the benefit of any present or future treaty against double taxation which may apply to the Agreement Payments.
- 5.9 **Bionomics Third Party Licenses.** Notwithstanding anything to the contrary herein, Bionomics shall be solely responsible for satisfying all costs and payments of any kind (including all upfront fees, annual payments, milestone payments and royalty payments) arising under any license or other grant of rights from a Third Party to Bionomics (or any of its Affiliates) in connection with the research, development, manufacture, commercialization or other exploitation of Compounds and/or Products hereunder.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

- 6.1 **Bionomics Representations and Warranties.** Bionomics represents and warrants to Merck that as of the date of this Agreement:
- 6.1.1 Bionomics has the full right, power and authority to enter into this Agreement, to perform the Research Program and to grant the licenses set forth in Article 3;
- 6.1.2 this Agreement has been duly executed by it and is legally binding upon it, enforceable in accordance with its terms, and does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any material law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it;
- 6.1.3 there are no claims, judgments or settlements against or owed by Bionomics (or any of its Affiliates) and no pending or, to Bionomics' knowledge, threatened claims or litigation relating to the Bionomics Patent Rights and/or Bionomics Know-How and/or Compounds and/or Products;
- 6.1.4 Schedule 1.17 sets forth a true, correct and complete list of Bionomics Patent Rights and such schedule contains all application numbers and filing dates, registration numbers and dates, jurisdictions and owners. The Bionomics Patent Rights and Bionomics Know-How constitute as at the Effective Date all intellectual property owned or otherwise controlled (through license or otherwise) by Bionomics (or any of its Affiliates) in relation to the Compounds and/or Products or the research, development, manufacture, sale and/or use thereof;
- 6.1.5 it (and its Affiliates) has not prior to the Effective Date (i) assigned, transferred, conveyed or otherwise encumbered its right, title and/or interest in Bionomics Patent Rights or Bionomics Know-How, or (ii) otherwise granted any rights to any Third Parties that would, in the case of clauses (i) and/or (ii), conflict with the

rights granted to Merck hereunder, and, to the best of Bionomics' knowledge, there is no unauthorized use, infringement or misappropriation of any Bionomics Patent Rights or Bionomics Know-How;

- 6.1.6 it is the sole and exclusive owner of the Bionomics Patent Rights and Bionomics Know-How, all of which are as at the Effective Date free and clear of any liens, charges and encumbrances, and no other Person has as at the Effective Date any claim of ownership whatsoever with respect to the Bionomics Patent Rights and Bionomics Know-How;
- 6.1.7 [***] the exercise of the license granted to Merck under the Bionomics Patent Rights and Bionomics Know-How, as well as the research, development, manufacture, use, sale and import of Compounds and Products, do not interfere with or infringe or misappropriate any Patent Rights, Know-How or other intellectual property rights owned or possessed by any Third Party;
- 6.1.8 [***] Bionomics has disclosed to Merck all [***] information regarding (i) the Compounds and/or Products and/or (ii) the Bionomics Patent Rights and Bionomics Know-How licensed under this Agreement, including (a) any licenses and material agreements related to the Bionomics Patent Rights, Bionomics Know-How, Compounds and/or Products, and (b) any safety or efficacy information related to the Compounds and/or Products;
- 6.1.9 Bionomics has disclosed to Merck the existence of any patent opinions related to the Bionomics Patent Rights or Bionomics Know-How licensed under this Agreement;
- 6.1.10 Bionomics has disclosed to Merck all [***] information and data and all [***] correspondences to/from any Regulatory Authority existing as at the Effective Date, in each case related to the Research Program and/or any Compounds or Products, regardless of whether such data and information would have a positive, negative or neutral impact on the potential commercial, scientific or strategic value or attractiveness of the Research Programs, any Compounds or Products;
- 6.1.11 neither Bionomics nor any of its Affiliates has obtained, or filed for, any INDs, NDAs or Marketing Authorizations for any Compounds or Products, and, to the best of Bionomics' knowledge, no other Person has obtained, or filed for, any INDs, NDAs or Marketing Authorizations for any Compounds or Products;
- 6.1.12 Bionomics (and its Affiliates) has not employed or otherwise used in any capacity, and will not employ or otherwise use in any capacity, the services of any Person debarred under United States law, including under Section 21 USC 335a or any foreign equivalent thereof, with respect to the Compounds or Products or otherwise in performing any portion of the Research Program;

- 6.1.13 all research and development (including non-clinical studies and Clinical Studies) related to the Compounds and/or Products prior to the Effective Date has been conducted in accordance with all Applicable Laws;
 - 6.1.14 there are no agreements (including any licenses), written or oral, granting any licenses or other rights to (or from) Bionomics (or any of its Affiliates) relating to the Compounds or Products or the Bionomics Know-How or Bionomics Patent Rights;
 - 6.1.15 all information and data provided by or on behalf of Bionomics to Merck on or before the Effective Date in contemplation of this Agreement was and is true and accurate and complete in all material respects, and Bionomics has not disclosed, failed to disclose, or cause to be disclosed, any material information or data that would reasonably be expected to cause the information and data that has been disclosed to be misleading in any material respect; and
 - 6.1.16 it has or ensures that it will have the resources and capabilities to do the work contemplated by the Research Plan.
- 6.2 **Merck Representations and Warranties.** Merck represents and warrants to Bionomics that as of the date of this Agreement:
- 6.2.1 Merck has the full right, power and authority to enter into this Agreement;
 - 6.2.2 this Agreement has been duly executed by it and is legally binding upon it, enforceable in accordance with its terms, and does not conflict with any agreement, instrument or understanding, oral or written, to which it is a Party or by which it may be bound, nor violate any material law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it;
 - 6.2.3 Merck has the right to provide or disclose to Bionomics the Merck Know-How that it provides or discloses to Bionomics under this Agreement and Bionomics has the right to use such Merck Know-How to conduct its activities under the Research Program; and
 - 6.2.4 to [***] Merck's knowledge, the Merck Materials are free and clear of any liens, charges and encumbrances (other than licenses and other rights not conflicting with the rights granted to Bionomics under this Agreement), no other person, corporate or other private entity, or governmental entity or subdivision thereof, has any claim with respect to the Merck Materials as they are used within the terms of this Agreement, Merck has the right to provide the Merck Materials to Bionomics under this Agreement and Bionomics has the right to use the Merck Materials to conduct its activities under the Research Program.
- 6.3 **Warranty Disclaimer.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATION OR EXTENDS ANY WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED,

TO THE OTHER PARTY WITH RESPECT TO ANY TECHNOLOGY, GOODS, SERVICES, RIGHTS OR OTHER SUBJECT MATTER OF THIS AGREEMENT AND HEREBY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT WITH RESPECT TO ANY AND ALL OF THE FOREGOING. EACH PARTY HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE DEVELOPMENT, MANUFACTURE OR COMMERCIALIZATION OF ANY COMPOUND OR PRODUCT PURSUANT TO THIS AGREEMENT WILL BE SUCCESSFUL.

ARTICLE 7 INTELLECTUAL PROPERTY

- 7.1 **Ownership of Background Technology.** As between the Parties, any Bionomics Know- How existing prior to the Effective Date and owned by Bionomics shall, during the term of this Agreement and upon expiration or termination of this Agreement, continue to be owned exclusively by Bionomics. As between the Parties, any Merck Know-How existing prior to the Effective Date and owned by Merck shall, during the term of this Agreement and upon expiration or termination of this Agreement, continue to be owned exclusively by Merck.
- 7.2 **Program Know-How.**
- 7.2.1 **Ownership.** Inventorship of Program Know-How and Post-Program Know-How shall be determined in accordance with United States patent laws (regardless of where the applicable activities occurred); provided, however, that notwithstanding the foregoing, as between the Parties, Merck shall own all right, title and interest in any Program Know-How and Post-Program Know-How, and any Program Patent Rights and Post-Program Patent Rights, in each case, irrespective of inventorship.
- 7.2.2 **Disclosure.** Bionomics shall promptly disclose to Merck in writing the development, making, conception or reduction to practice of any Program Know- How which is conceived, discovered, made and/or reduced to practice by or on behalf of Bionomics (or its employees, agents or consultants).
- 7.2.3 **Assignment of Interests to Effectuate Ownership.** With respect to any Program Know-How and Program Patent Rights, and any Post-Program Know-How and Post-Program Patent Rights, Bionomics shall, and hereby does, on behalf of itself and each of its Affiliates, employees and contractors hereunder, assign to Merck (without payment of additional consideration, and the Parties hereby acknowledge and agree that the consideration as set forth in this Agreement is sufficient), in perpetuity throughout the world, ownership of all rights, title and interest in and to such Program Know-How, Program Patent Rights, Post-Program Know-How and Post-Program Patent Rights to effect the ownership of such Program Know-How, Program Patent Rights, Post-Program Know-How and Post-Program Patent Rights as set forth in Section 7.2.1. In furtherance of the foregoing, Bionomics

shall, upon request by Merck promptly undertake and perform (and/or cause its Affiliates and its and their respect employees and/or agents to promptly undertake and perform) such further actions as are reasonably necessary for Merck to, as between the Parties, perfect its title in any such Program Know-How, Program Patent Rights, Post-Program Know-How and Post-Program Patent Rights as set forth in Section 7.2.1, as applicable, including by causing the execution of any assignments or other legal documentation, and/or providing Merck or its patent counsel with reasonable access to any employees or agents who may be inventors of such Program Know-How, Program Patent Rights, Post-Program Know-How and Post-Program Patent Rights.

7.3 Filing, Prosecution and Maintenance of Patent Rights.

7.3.1 **Bionomics Patent Rights.**

- (a) Bionomics Compound Patent Rights. With respect to any Bionomics Patent Rights that claim, cover or disclose the composition of matter, method of use or method of manufacture of any Compounds or Products (the “**Bionomics Compound Patent Rights**”), Merck shall have the first right (in its discretion), at its cost, to Prosecute such Bionomics Compound Patent Rights in the name of Bionomics. In connection therewith, Bionomics shall execute such documents and perform such ministerial acts as may be [***] necessary for Merck to Prosecute the Bionomics Compound Patent Rights. Merck may elect to use outside counsel of its choice for Prosecution of Bionomics Compound Patent Rights. With respect to a given Bionomics Patent Right, Merck (i) may elect not to Prosecute, (ii) may elect not to Prosecute in a particular country (including electing not to validate in a particular country) and/or (iii) may elect to discontinue Prosecution in a particular country; and in the case that Merck elects not to Prosecute or to discontinue the Prosecution in a particular country, Merck shall provide Bionomics with notice thereof in a timely manner and Bionomics shall have the right (but not the obligation), at its sole expense and upon written notice to Merck, to assume such responsibility for the Prosecution of such Bionomics Compound Patent Rights (in the name of Bionomics) to the extent Merck has elected not to do so.
- (b) Assignment of Bionomics Compound Patent Rights. Notwithstanding the provisions of Section 7.3.1(a), at the written request of Merck to Bionomics from time to time, Bionomics shall assign, and hereby does assign, to Merck (without payment of additional consideration, and the Parties hereby acknowledge and agree that the consideration as set forth in this Agreement is sufficient), in perpetuity throughout the world, ownership of all rights, title and interest in and to any or all such Bionomics Compound Patent Rights (as requested by Merck). In furtherance of the foregoing, Bionomics shall, upon request by Merck,

promptly undertake and perform (and/or cause its Affiliates and its and their respect employees and/or agents to promptly undertake and perform) such further actions as are reasonably necessary for Merck to, as between the Parties, perfect Merck's title in any such Bionomics Compound Patent Rights, including by causing the execution of any assignments or other legal documentation, and/or providing Merck or its patent counsel with reasonable access to any employees or agents who may be inventors of such Bionomics Compound Patent Rights. For purposes of this Agreement, including for purposes of the provisions of this Article 7, such Bionomics Compound Patent Rights assigned to Merck shall thereafter be treated as Merck Patent Rights (other than for purposes of the definition of "Valid Patent Claim", and solely for purposes of such definition, such Bionomics Compound Patent Rights shall still be treated as Bionomics Patent Rights), and Merck and Bionomics, as applicable, shall have the rights and obligations in connection therewith as set forth in this Agreement, including the provisions of this Article 7, as if such Bionomics Compound Patent Rights were Merck Patent Rights (and not Bionomics Patent Rights).

- (c) Bionomics Additional Patent Rights. With respect to Bionomics Additional Patent Rights, [***], to Prosecute such Bionomics Additional Patent Rights in the name of Bionomics. [***] may elect to use outside counsel of its choice for Prosecution of Bionomics Additional Patents. With respect to a given Bionomics Additional Patent Rights, [***] (i) may elect not to Prosecute, (ii) may elect not to Prosecute in a particular country (including electing not to validate in a particular country) and/or (iii) may elect to discontinue Prosecution in a particular country; and in the case that Bionomics elects not to Prosecute or to discontinue the Prosecution in a particular country, [***] with notice thereof in a timely manner and [***] shall have the right (but not the obligation), at its sole expense and upon written notice to [***], to assume such responsibility for the Prosecution of such Bionomics Additional Patent Rights (in the name of [***] or, if requested by [***], in the name of [***] in which case [***] shall assign, and hereby does assign, such Bionomics Additional Patent Rights to [***]) to the extent [***] has elected not to do so. In the event that [***] assumes such responsibility for a given Bionomics Additional Patent Right, then such Bionomics Additional Patent Rights shall no longer be eligible for inclusion in the definition of Valid Patent Claim hereunder.
- (d) Review and Consultation. With respect to the Bionomics Patent Rights, upon the written request of the non-Prosecuting Party, the Prosecuting Party shall give the non-Prosecuting Party an opportunity to review the text of any application before filing, shall consult with the non-filing Party

with respect thereto (and shall consider the non-filing Party's comments thereto in good faith), and shall supply the non-filing Party with a copy of the application as filed, together with notice of its filing date and serial number. Upon request of the non-filing Party, the filing Party shall keep the other Party advised of the status of such actual and prospective patent filings and, upon such other Party's request, shall provide advance copies of any material papers to be filed related to the filing, prosecution and maintenance of such patent filings. Each Party shall promptly give notice to the other Party of the grant, lapse, revocation, surrender, invalidation or abandonment of such Bionomics Patent Rights for which it is responsible for the filing, prosecution and maintenance.

7.3.2 **Merck Patent Rights.** Merck shall have the sole right, in its discretion and at its own expense, to Prosecute the Merck Patent Rights, and Bionomics shall have no rights in connection therewith.

7.3.3 **Cooperation.** As requested by Merck, Bionomics shall provide Merck with [***] assistance in connection with the Prosecution of Patent Rights under this Section 7.3, including (i) giving Merck [***] access to its employees, agents, consultants and subcontractors and those of Bionomics' Affiliates for the purposes of identifying inventors of subject matter in any such Patent Rights, and (ii) obtaining any necessary declarations and assignments from its named inventors or those under obligation to assign inventions hereunder, and providing relevant technical reports (including, if necessary, laboratory notebooks), to Merck concerning the subject invention. Without limiting the foregoing, if a power of attorney from Bionomics is needed to facilitate Merck's Prosecution of Patent Rights in accordance with this Section 7.3, Bionomics shall obtain and provide to Merck such power of attorney.

7.3.4 **Prosecution Matters.** For the avoidance of doubt, all interferences, oppositions, appeals or petitions to any board of appeals in any patent office, appeals to any court for any patent office decisions, reissue proceedings, invalidation proceedings, re-examination proceedings, *inter partes* reviews, post grant reviews, derivation proceedings or other similar administrative proceedings or administrative appeals thereof, with respect to a Patent Rights under this Agreement shall be considered patent Prosecution matters, and shall be handled in accordance with this Section 7.3. With respect thereto, Bionomics shall (i) join (if required to bring such action) such action voluntarily, and (ii) execute and cause its Affiliates to execute all documents necessary for Merck to initiate such action in the event that Merck is unable to initiate or prosecute such action solely in its own name. In all cases, Bionomics shall not enter into any settlement that would oblige Merck to make any payment or would have a detrimental effect on the Compounds or Products, or the rights or licenses of Merck hereunder, without Merck's prior written consent.

7.4 **Enforcement of Patent Rights.**

- 7.4.1 **Bionomics Patent Rights.** Bionomics shall give Merck prompt written notice of either (i) any infringement of Bionomics Patent Rights and/or (ii) any misappropriation or misuse of Bionomics Know-How that may come to Bionomics' attention. Merck and Bionomics shall thereafter consult and cooperate fully to determine a course of action, including the commencement of legal action by either or both Merck and Bionomics, to terminate any infringement of Bionomics Patent Rights or any misappropriation or misuse of Bionomics Know-How. However, [***] shall have the first right to initiate and prosecute such legal action at its own expense (including, in the name of Bionomics, if necessary) or to control the defense of any declaratory judgment action relating to Bionomics Patent Rights or Bionomics Know-How. If [***] is required to join in such action in order for [***] to bring such action, then, at the request of [***] shall join such action. [***] shall promptly inform [***] if it elects not to exercise such first right and [***] shall thereafter have the right (in its discretion) to initiate and prosecute such action (or to control the defense of such declaratory judgment action, as applicable), at its own expense; provided, however, that in all cases, [***] shall not enter into any settlement that would oblige [***] to make any payment or would have a detrimental effect on the Compounds or Products, or the rights or licenses of [***] hereunder, without [***] prior written consent. Each Party shall have the right to be represented by counsel of its own choice. For clarity, [***] shall not bring any action to enforce any Bionomics Patent Rights unless (i) [***] has elected not to exercise its first right as set forth in this Section 7.4.1 or (ii) [***] otherwise consents thereto in writing [***] and in all cases, [***] shall not agree to any settlement in connection therewith without the prior written consent of [***].
- 7.4.2 **Cooperation.** For any action to terminate any infringement of Bionomics Patent Rights or any misappropriation or misuse of Bionomics Know-How, in the event that [***] is unable to initiate or prosecute such action solely in its own name, [***] will join such action voluntarily and execute and cause its Affiliates to execute all documents necessary for [***] to initiate litigation to prosecute and maintain such action. In connection with any action by [***] will cooperate fully with [***] and [***] will provide [***] with any information or assistance that [***] may [***] request.
- 7.4.3 **Information.** In connection with the foregoing, each Party shall keep the other informed of developments in any action or proceeding, including, to the extent permissible by law, consultation on and approval of any settlement, the status of any settlement negotiations and the terms of any offer related thereto.
- 7.4.4 **Recoveries.** Any recovery obtained by either or both Merck and Bionomics in connection with or as a result of any action contemplated by the foregoing provisions of Section 7.4.1, whether by settlement or otherwise, [***].

- 7.4.5 **Paragraph IV Filings.** Bionomics shall inform Merck of any certification regarding any Bionomics Patent Rights it has received pursuant to either 21 U.S.C. §§355(b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) or its successor provisions or any similar provisions in a country in the Territory other than the United States, and shall provide Merck with a copy of such certification within [***] days of receipt. Bionomics' and Merck's rights with respect to the initiation and prosecution of any legal action as a result of such certification or any recovery obtained as a result of such legal action shall be as defined in Sections 7.4.1 through 7.4.4; *provided, however*, that [***] shall exercise its first right to initiate and prosecute any action and shall inform [***] of such decision within [***] days of receipt of the certification, after which time [***] shall have the right to initiate and prosecute such action. Regardless of which Party has the right to initiate and prosecute such action, both Parties shall, as soon as practicable after receiving notice of such certification, convene and consult with each other regarding the appropriate course of conduct for such action. The non- initiating Party shall have the right to be kept fully informed and participate in decisions regarding the appropriate course of conduct for such action, and the right to join and participate in such action, and in all cases, [***] shall not agree to any settlement in connection therewith without the prior written consent of [***].
- 7.4.6 **Merck Patent Rights and Merck Know-How.** Notwithstanding the foregoing provisions of this Section 7.4, Merck shall have the sole right, in its discretion, to handle any action with respect to any infringement of Merck Patent Rights, or misappropriation of Merck Know-How, including that Merck shall have the sole right, in its discretion, to handle any certification matter regarding any Merck Patent Rights pursuant to either 21 U.S.C. §§355(b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) or its successor provisions or any similar provisions in a country in the Territory other than the United States, and Bionomics shall have no rights in connection with any of the foregoing. For any action with respect to any infringement of Merck Patent Rights or misappropriation of Merck Know-How (including any certification matter regarding any Merck Patent Rights pursuant to either 21 U.S.C. §§355(b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) or its successor provisions or any similar provisions in a country in the Territory other than the United States), in the event that Merck is unable to initiate or prosecute such action solely in its own name, Bionomics will join such action voluntarily and

execute and cause its Affiliates to execute all documents necessary for Merck to initiate litigation to prosecute and maintain such action. In connection with any action, at the request of Merck, Bionomics will provide Merck with [***] assistance that Merck may [***] request. As between the Parties, any recovery obtained by Merck in connection with or as a result of any action contemplated by the provisions of this Section 7.4.6, whether by settlement or otherwise, shall be retained solely by Merck. In all cases, Bionomics shall give Merck prompt written notice of any infringement of any Merck Patent Rights that may come to its attention and/or any certification regarding any Merck Patent Rights it has received or otherwise becomes aware pursuant to either 21 U.S.C. §§355(b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) or its successor provisions or any similar provisions in a country in the Territory other than the United States (and Bionomics shall provide Merck with a copy of such certification within [***] days of receipt).

- 7.5 **Patent Term Extension.** Bionomics shall [***] cooperate with Merck, including providing [***] assistance to Merck (including executing any documents as may [***] be required), in efforts to seek and obtain patent term restoration or supplemental protection certificates or their equivalents in any country in the Territory where applicable to Bionomics Patent Rights or Merck Patent Rights, including as may be available to the Parties under the provisions of the Drug Price Competition and Patent Term Restoration Act of 1984 or comparable laws outside the United States of America, in each case, in connection with the Products. In the event that elections with respect to obtaining such patent term restoration or supplemental protection certificates or their equivalents are to be made in relation to Bionomics Patent Rights or Merck Patent Rights, Merck shall have the right to make the election and Bionomics agrees to abide by such election.
- 7.6 **Other Patent Cooperation.** [***] Bionomics shall [***] cooperate with Merck with respect to patent protection with respect to the Program Know-How, including to take reasonable actions under the safe harbor provisions of 35 U.S.C. 103(c) for United States patents and patent applications, in each case, as determined by Merck.
- 7.7 **Infringement or Misappropriation Claims with Respect to Compound or Product.** Bionomics shall give Merck prompt written notice if any Third Party asserts, or if Bionomics otherwise becomes aware, that a Third Party's Patent Rights or Know-How may be infringed or misappropriated by the research, development, making, using, selling, offering for sale, importing or otherwise exploiting any Compounds or Products. Subject to the provisions of Section 9.13.1 (Indemnity-Merck), 9.13.2 (Indemnity- Bionomics), Section 5.4.5 (Third Party Licenses), Merck shall have the sole right (regardless of whether notified by Bionomics pursuant to the foregoing provisions of this Section 7.7), but not the obligation, using counsel of its choice, to control the defense of any infringement or misappropriation action (including any declaratory judgment action) brought by a Third Party relating to the infringement or misappropriation of a Third Party's Patent Rights or Know-How or other intellectual property by the research,

any Compounds or Products hereunder, and Bionomics shall have no rights, and shall not take any actions, in connection therewith. In connection with any such action, Bionomics will cooperate fully with Merck and Bionomics will provide Merck with any information or assistance that Merck may request, and in the event that Merck is unable to bring such action solely in its own name, Bionomics will join such action voluntarily and execute and cause its Affiliates to execute all documents necessary for Merck to bring such action. Notwithstanding anything to the contrary contained herein, Merck shall have the right to deduct from Net Sales hereunder any and all losses, costs, expenses, fees and damages (including reasonable attorneys' fees and expenses) arising in connection with, or as a result of, such action and/or any settlements thereof, for the purposes of calculating any royalties that may be payable by Merck pursuant to Section 5.4 hereof.

ARTICLE 8 TERM AND TERMINATION

- 8.1 **Term and Expiration.** This Agreement shall become effective upon the Effective Date and, if not otherwise terminated earlier pursuant to this Article 8, shall expire upon the expiration of all royalty obligations hereunder for any Products related thereto. Upon expiration of this Agreement under this Section 8.1, Merck's licenses pursuant to Section 3.1 and Section 3.2 shall become fully paid-up, irrevocable, perpetual licenses.
- 8.2 **Termination by Merck.** Merck shall have the right to terminate this Agreement at any time in its sole discretion by giving [***] advance written notice to Bionomics; provided that if Merck desires to terminate this Agreement pursuant to this Section 8.2 during the Research Program Term, then Merck shall give [***] advance written notice to Bionomics. No later than [***] days after the effective date of such termination, each Party shall destroy, and confirm in writing that it has destroyed, all Confidential Information in tangible form received from the other Party and all copies thereof; [***]. In the event of termination under this Section 8.2: (i) each Party shall pay all amounts then due and owing as of the termination date (and without limiting the foregoing, Bionomics shall reimburse Merck for any uncredited fees paid by Merck pursuant to the Research Program, including uncredited amounts for FTEs paid by Merck pursuant to clause (i) of Section 5.2.1); (ii) except for the surviving provisions set forth in Section 8.5, the rights (including licenses) and obligations of the Parties hereunder shall terminate as of the date of such termination; (iii) Merck shall assign back to Bionomics any Bionomics Patent Rights that were previously assigned to Merck; and (iv) Merck shall, if requested by Bionomics within [***] after such termination, [***].

8.3 **Termination for Cause.**

8.3.1 **Cause for Termination.** This Agreement may be terminated at any time during the term of this Agreement:

- (a) upon written notice by a Party if the other Party is in material breach of this Agreement by causes and reasons within its control and has not cured such breach within [***] after written notice requesting cure of the breach; *provided, however*, in the event of a good faith dispute with respect to the existence of a material breach, the [***] cure period shall be tolled until such time as the dispute is resolved pursuant to Section 9.6; *provided further, however*, that notwithstanding the foregoing, it is agreed that termination pursuant to this Section 8.3.1(a) shall be on a Product-by-Product basis to which the breach relates, as applicable, and that the non-breaching Party cannot terminate this Agreement under this Section 8.3.1(a) with respect to the non-affected Products, as applicable (and the effects of termination as set forth in Section 8.3.2 shall only apply with respect to such terminated Product, as applicable); or
- (b) by a Party upon the filing or institution of bankruptcy, reorganization, liquidation or receivership proceedings, or upon an assignment of a substantial portion of the assets for the benefit of creditors by the other Party; *provided, however*, that in the case of any involuntary bankruptcy proceeding such right to terminate shall only become effective if the Party consents to the involuntary bankruptcy or such proceeding is not dismissed within ninety (90) days after the filing thereof.

8.3.2 **Effect of Termination for Cause.**

- (a) If Merck terminates this Agreement under Section 8.3.1, Merck's licenses pursuant to Section 3.1 and Section 3.2 shall become fully paid-up, irrevocable, perpetual licenses and Bionomics shall, within [***] days after the effective date of such termination, [***].

- (b) If Bionomics terminates this Agreement under Section 8.3.1, (i) Merck's licenses pursuant to Section 3.1 and Section 3.2 shall terminate as of such termination date, (ii) Merck shall, within [***] days after the effective date of such termination, assign back to Bionomics any Bionomics Patent Rights that were previously assigned to Merck, (iii) each Party shall [***], and (iv) [***].
- (c) Notwithstanding the provisions of Section 8.3.1(b), upon termination of this Agreement by Bionomics pursuant to Section 8.3.1, the licenses granted to Merck pursuant to Section 3.1 and Section 3.2 shall survive for [***] following the effective date of termination in order for Merck (and its Affiliates, sublicensees and distributors), at its discretion, during the [***] period immediately following the effective date of termination, to (i) finish or otherwise wind-down any ongoing studies or trials with respect to any Compounds or Products hereunder and (ii) finish any work-in-progress and to sell any Products or Compounds remaining in inventory, in accordance with the terms of this Agreement; provided that, for clarity, Merck shall have no obligation to undertake the activities set forth in the foregoing clauses (i) and/or (ii) as applicable.
- (d) If this Agreement is terminated by a Party ("**Terminating Party**") pursuant to Section 8.3.1(b) due to the rejection of this Agreement by or on behalf of the other Party ("**Insolvent Party**") under Section 365 of the United States Bankruptcy Code (the "**Code**") or foreign equivalent thereof, as applicable, all licenses and rights to licenses granted under or pursuant to this Agreement by the Insolvent Party to the Terminating Party, other than those that have been assigned to Merck, are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the Code (or foreign equivalent thereof, as applicable), licenses of rights to "intellectual property" as defined under Section 101(35A) of the Code (or foreign equivalent thereof, as applicable). The Insolvent Party agrees that

Terminating Party, as a licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the Code (or foreign equivalent thereof, as applicable), and that upon commencement of a bankruptcy proceeding by or against the Insolvent Party under the Code (or foreign equivalent thereof, as applicable), the Terminating Party shall be entitled to a complete duplicate of or complete access to (as the Terminating Party deems appropriate), any such intellectual property and all embodiments of such intellectual property. Such intellectual property and all embodiments thereof shall be promptly delivered to the Terminating Party (i) upon any such commencement of a bankruptcy proceeding upon written request therefore by the Terminating Party, unless the Insolvent Party elects to continue to perform all of its obligations under this Agreement or (ii) if not delivered under (i) above, upon the rejection of this Agreement by or on behalf of the Insolvent Party upon written request therefore by the Terminating Party. The foregoing provisions of this Section 8.3.2(d) are without prejudice to any rights the Terminating Party may have arising under the Code or other applicable law.

- (e) If this Agreement is terminated by a Party pursuant to Section 8.3, each Party shall pay all amounts then due and owing as of the termination date (and without limiting the foregoing, Bionomics shall reimburse Merck for any uncredited fees paid by Merck pursuant to the Research Program, including uncredited amounts for FTEs paid by Merck pursuant to clause (i) of Section 5.2.1).

8.4 **Termination of the Research Program as a Result of a Change of Control of Bionomics.** Merck may terminate this Agreement with immediate effect if Bionomics is subject to a Change of Control of Bionomics and Merck exercises such right within [***] after written notice from Bionomics, or otherwise becoming aware, of such Change of Control; provided, that, if such Change of Control does not actually occur, such termination(s) shall not be effective. No later than [***] after the effective date of such termination [***]. In the event of termination under this Section 8.4: (i) each Party shall pay all amounts then due and owing as of the termination date (and without limiting the foregoing, Bionomics shall reimburse Merck for any uncredited fees paid by Merck pursuant to the Research Program, including uncredited amounts for FTEs paid by Merck pursuant to clause (i) of Section 5.2.1); (ii) [***], and (iii) except for the surviving provisions set forth in Section 8.5, [***].

Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination. Any expiration or termination of this Agreement shall be without prejudice to the rights of either Party against the other accrued or accruing under this Agreement prior to expiration or termination, including the obligation to pay royalties for Product(s) or Compound sold prior to such expiration or termination. The provisions of Article 4 shall survive the expiration or termination of this Agreement and shall continue in effect for [***]. In addition, the provisions of [***] shall survive any expiration or termination of this Agreement.

ARTICLE 9 MISCELLANEOUS

- 9.1 **Force Majeure.** Neither Party shall be held liable to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in performing any obligation under this Agreement to the extent such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party, including embargoes, war, acts of war (whether war be declared or not), acts of terrorism, insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, fire, floods, or other acts of God, or acts, omissions or delays in acting by any governmental authority or the other Party. The affected Party shall notify the other Party of such force majeure circumstances as soon as reasonably practical, and shall promptly undertake all reasonable efforts necessary to cure such force majeure circumstances.
- 9.2 **Assignment.** Except as provided in this Section 9.2, this Agreement may not be assigned or otherwise transferred, nor may any right or obligation hereunder be assigned or transferred, by either Party without the consent of the other Party; *provided*, that a Party may, without such consent, assign this Agreement and its rights and obligations hereunder (i) to an Affiliate (provided, however, that a Party assigning to an Affiliate shall remain fully and unconditionally liable and responsible to the non-assigning Party hereto for the performance and observance of all such duties and obligations by such Affiliate), and in the case of Bionomics, it shall promptly notify Merck in writing of any such assignment, or (ii) [***], or (iii) [***]; provided, however, that with respect to a Change of Control of Bionomics, Bionomics must notify Merck at least [***] prior to completion of any such Change of Control, and Merck shall have the right, at any time after receipt of such notice, [***].
- 9.3 **Severability.** If any one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the absence of the invalidated provision(s) adversely affects the substantive rights of the Parties. The Parties shall in such an instance use their best efforts to replace the invalid, illegal or unenforceable provision(s) with valid, legal and enforceable provision(s) which, insofar as practical, implement the purposes of this Agreement.
- 9.4 **Notices.** All notices which are required or permitted hereunder shall be in writing and sufficient if delivered personally, sent by e-mail or facsimile (and promptly confirmed by personal delivery, registered or certified mail or overnight courier), sent by nationally- recognized overnight courier or sent by registered or certified mail, postage prepaid,

return receipt requested, addressed as follows:

if to Bionomics, to: Bionomics Limited
31 Dalglish Street
Thebarton SA 5031
Australia
Attention: Dr. Deborah Rathjen
Facsimile: +61 8 8354 6150

if to Merck, to: [***]

and [***]

or to such other address(es) as the Party to whom notice is to be given may have furnished to the other Party in writing in accordance herewith. Any such notice shall be deemed to have been given (a) when delivered if personally delivered or sent by e-mail or facsimile on a business day (or if delivered or sent on a non-business day, then on the next business day), (b) on the business day after dispatch if sent by nationally-recognized overnight courier, or (c) on the fifth (5th) business day following the date of mailing, if sent by mail.

9.5 **Applicable Law.** This Agreement shall be governed by and construed in accordance with laws of the State of New York (USA) without recourse to any conflict of law rules.

9.6 **Dispute Resolution.**

9.6.1 The Parties shall negotiate in good faith and use reasonable efforts to settle any dispute, controversy or claim arising from or related to this Agreement or the breach thereof. If the Parties do not fully settle, and a Party wishes to pursue the matter, each such dispute, controversy or claim that is not an “**Excluded Claim**” shall be finally resolved by binding arbitration in accordance with the Commercial Arbitration Rules and Supplementary Procedures for Large Complex Disputes of the American Arbitration Association (“**AAA**”), and judgment on the arbitration award may be entered in any court having jurisdiction thereof.

9.6.2 The arbitration shall be conducted by a panel of three persons experienced in the pharmaceutical business: within [***] days after initiation of arbitration, each Party shall select one person to act as arbitrator and the two Party-selected

arbitrators shall select a third arbitrator within [***] days of their appointment. If the arbitrators selected by the Parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be appointed by the AAA. The place of arbitration shall be New York, New York. All proceedings and communications shall be in English.

- 9.6.3 Either Party may apply to the arbitrators for interim injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either Party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any injunctive or provisional relief necessary to protect the rights or property of that Party pending the arbitration award. The arbitrators shall have no authority to award punitive or any other type of damages not measured by a Party's compensatory damages. Each Party shall bear its own costs and expenses and attorneys' fees and an equal share of the arbitrators' fees and any administrative fees of arbitration.
- 9.6.4 Except to the extent necessary to confirm an award or as may be required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of an arbitration without the prior written consent of both Parties. In no event shall an arbitration be initiated after the date when commencement of a legal or equitable proceeding based on the dispute, controversy or claim would be barred by the applicable New York statute of limitations.
- 9.6.5 [***] The Parties further agree that any payments made pursuant to this Agreement pending resolution of the dispute shall be refunded if an arbitrator or court determines that such payments are not due.
- 9.6.6 As used in this Section, the term "**Excluded Claim**" means a dispute, controversy or claim that concerns [***].
- 9.7 **Headings.** The captions to the several Articles, Sections and subsections hereof are not a part of this Agreement, but are merely for convenience to assist in locating and reading the several Articles and Sections hereof.
- 9.8 **Independent Contractors.** It is expressly agreed that Bionomics and Merck shall be independent contractors and that the relationship between the two Parties shall not constitute a partnership, joint venture or agency. Neither Bionomics nor Merck shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other Party, without the prior written consent of the other Party.
- 9.9 **Waiver.** The waiver by either Party hereto of any right hereunder, or of any failure of the other Party to perform, or of any breach by the other Party, shall not be deemed a waiver of any other right hereunder or of any other breach by or failure of such other Party whether of a similar nature or otherwise.
- 9.10 **Cumulative Remedies.** No remedy referred to in this Agreement is intended to be

exclusive, but each shall be cumulative and in addition to any other remedy referred to in this Agreement or otherwise available under law.

- 9.11 **Waiver of Rule of Construction.** Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Agreement. Accordingly, the rule of construction that any ambiguity in this Agreement shall be construed against the drafting Party shall not apply.
- 9.12 **Certain Conventions.** Any reference in this Agreement to an Article, Section, subsection, paragraph, clause, Attachment or Exhibit shall be deemed to be a reference to an Article, Section, subsection, paragraph, clause, Attachment or Exhibit, of or to, as the case may be, this Agreement, unless otherwise indicated. Unless the context of this Agreement otherwise requires, (a) words of any gender include each other gender, (b) words such as “herein”, “hereof”, “hereunder” and derivative or similar words refer to this Agreement, including the Attachments, as a whole and not merely to the particular provision in which such words appear, (c) words using the singular shall include the plural, and vice versa, (d) the words “include” or “including” shall be construed as incorporating, also, “but not limited to” or “without limitation”, and (e) the word “law” or “laws” means any applicable, legally binding statute, ordinance, resolution, regulation, code, guideline, rule, order, decree, judgment, injunction, mandate or other legally binding requirement of a governmental authority (including a court, tribunal, agency, legislative body or other instrumentality of any (i) government or country or territory, (ii) any state, province, county, city or other political subdivision thereof, or (iii) any supranational body). Whenever any matter hereunder requires consent or approval, such consent shall not be unreasonably withheld or delayed.
- 9.13 **Indemnity; Insurance.**
- 9.13.1 **Merck.** Merck shall indemnify, defend and hold Bionomics and its Affiliates and their respective directors, officers, employees, agents and their respective successors, heirs and assigns (the “**Bionomics Indemnitees**”) harmless from and against any losses, costs, claims, damages, liabilities or expense (including reasonable attorneys’ and professional fees and other expenses of litigation) (collectively, “**Liabilities**”) arising, directly or indirectly out of or in connection with Third Party claims, suits, actions, demands or judgments relating to (a) patent infringement or trade secret misappropriation to the extent that such Third Party patent infringement or trade secret claim is caused by Bionomics’ use of Merck Know-How in accordance with this Agreement in the performance of the Research Program during the Research Program Term, (b) [***] or intentional misconduct of Merck, or (c) any breach by Merck of its representations, warranties and covenants made in this Agreement; *except*, in each case, to the extent such Liabilities result from a breach of this Agreement by Bionomics, [***] or intentional misconduct of Bionomics or other Bionomics Indemnitees.
- 9.13.2 **Bionomics.** Bionomics shall indemnify, defend and hold Merck and its Affiliates and their respective directors, officers, employees, agents and their respective successors, heirs and assigns (the “**Merck Indemnitees**”) harmless from and

against any Liabilities arising, directly or indirectly out of or in connection with Third Party claims, suits, actions, demands or judgments relating to (a) any breach by Bionomics of its representations, warranties and covenants made in this Agreement, and (b) [***] or intentional misconduct of Bionomics; *except*, in each case, to the extent such Liabilities result from a breach of this Agreement by Merck, [***] or intentional misconduct of Merck or other Merck Indemnitees.

- 9.13.3 **Procedure.** If either a Merck Indemnitee or a Bionomics Indemnitee (as applicable, an “**Indemnitee**”) intends to claim indemnification under this Section 9.13 it shall promptly notify the other Party in writing of such alleged Liability. The indemnifying Party shall have the right to control the defense thereof with counsel of its choice as long as such counsel is reasonably acceptable to Indemnitee; *provided*, that any Indemnitee shall have the right to retain its own counsel at its own expense, for any reason, including if representation of any Indemnitee by the counsel retained by the indemnifying Party would be inappropriate due to actual or potential differing interests between such Indemnitee and any other Party represented by such counsel in such proceeding. The affected Indemnitee shall cooperate with the indemnifying Party and its legal representatives in the investigation of any action, claim or liability covered by this Article 9.
- 9.13.4 **Settlements.** Neither Party shall be responsible to or bound by any settlement made by the other Party (including any Indemnitee) without its prior written consent; *provided*, however, that the indemnifying Party shall not be required to obtain such consent if [***].
- 9.13.5 **Insurance.** Each Party shall procure and maintain insurance, including product liability insurance (or self-insure), adequate to cover its obligations hereunder and which is consistent with normal business practices of prudent companies similarly situated at all times. It is understood that such insurance shall not be construed to create a limit of either Party’s liability with respect to its indemnification obligations under this Section 9.13 or otherwise. Each Party shall provide the other Party with written evidence of such insurance upon request. Each Party shall provide the other Party with written notice at least thirty (30) days prior to the cancellation, non renewal or material change in such insurance or self insurance which materially adversely affects the rights of the other Party hereunder. Notwithstanding the foregoing, the foregoing provisions shall not apply to Merck if Merck self-insures.
- 9.14 **Limitation of Liability.** NEITHER PARTY WILL BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR THE EXERCISE OF ITS RIGHTS HEREUNDER, INCLUDING LOST PROFITS ARISING FROM OR RELATING TO ANY BREACH

OF THIS AGREEMENT, REGARDLESS OF ANY NOTICE OF SUCH DAMAGES, EXCEPT AS A RESULT OF A PARTY'S WILLFUL MISCONDUCT OR A MATERIAL BREACH OF THE CONFIDENTIALITY AND NON-USE OBLIGATIONS IN Article 4. NOTHING IN THIS SECTION 9.14 IS INTENDED TO LIMIT OR RESTRICT THE INDEMNIFICATION RIGHTS OR OBLIGATIONS OF EITHER PARTY PURSUANT TO SECTION 9.13.

- 9.15 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 9.16 **Entire Agreement; Amendments.** This Agreement, together with the Schedules and other attachments hereto, contains the entire understanding of the Parties with respect to the Research Program and the licenses and rights granted hereunder. Any other express or implied agreements and understandings, negotiations, writings and commitments, either oral or written, in respect to the Research Program and the licenses and rights granted hereunder are superseded by the terms of this Agreement. The Schedules and other attachments to this Agreement are incorporated herein by reference and shall be deemed a part of this Agreement. This Agreement may be amended, or any term hereof modified, only by a written instrument duly executed by authorized representative(s) of both Parties hereto.
- 9.17 **Further Actions.** Each Party will execute, acknowledge and deliver such further instruments, and to do all such other ministerial, administrative or similar acts, as may be necessary or appropriate in order to carry out the purposes and intent of this Agreement.
- 9.18 **No Third Party Rights.** The provisions of this Agreement are for the exclusive benefit of the Parties, and no other person or entity shall have any right or claim against any Party by reason of these provisions or be entitled to enforce any of these provisions against any Party.
- 9.19 **Expenses.** Except as otherwise specifically provided in this Agreement, each Party (and its Affiliates) shall bear its own costs and expenses in connection with entering into this Agreement and the consummation of the transactions and performance of its obligations contemplated hereby.
- 9.20 **Extension to Affiliates.** Merck shall have the right to extend the rights, licenses, immunities and obligations granted in this Agreement to one or more of its Affiliates. All applicable terms and provisions of this Agreement shall apply to any such Affiliate to which this Agreement has been extended to the same extent as such terms and provisions apply to Merck. Merck shall remain fully liable for any acts or omissions of such Affiliates.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

MERCK SHARP & DOHME CORP.

By: [***]
Name: [***]
Title: [***]

BIONOMICS LIMITED

By: /s/ Deborah Rathjen
Name: Deborah Rathjen
Title: CEO & Managing Director

Schedule 1.16

Bionomics Licensed Compounds

Bionomics Lead Series

Bionomics Patent Rights

[***]

Schedule 1.79

Research Plan

(See Attached)

[***]

Schedule 2.4

Permitted Bionomics Third Party Contractors

[***]

Schedule 2.11

Certain Bionomics Know-How

[***]

Schedule 4.5

Form of Press Release

(See Attached)

24 June 2014

DETAILS FOR 10:30AM AEST WEBCAST BELOW

BIONOMICS AND MERCK ENTER NEW RESEARCH COLLABORATION

Agreement to fund development of compounds for cognitive impairment associated with Alzheimer's disease and other conditions of the central nervous system

Bionomics Limited (ASX:BNO, ADR:BMICY) announces that it has entered into an exclusive Research Collaboration and License Agreement with Merck, known as MSD outside the United States and Canada, for its BNC375 research program targeting cognitive dysfunction associated with Alzheimer's disease and other central nervous system conditions.

Under the agreement, Merck will fund all research and development, including clinical development, and will be responsible for worldwide commercialisation of any products from the collaboration. Bionomics will receive upfront payments totalling US\$20 million and is eligible to receive up to US\$506 million for achievement of certain research and clinical development milestones and undisclosed royalties on any product sales.

"We are very excited to work with Merck to progress new therapies for cognitive impairment in conditions such as Alzheimer's disease," said Dr Deborah Rathjen, CEO & Managing Director of Bionomics. "We believe that the combination of Bionomics' innovative approach and technologies, within its ionX platform, has the potential to rapidly advance new treatments."

"Bionomics continues to deliver on its business model that focuses on strategic partnering for the development and commercialisation of selected programs within its pipeline," Dr. Rathjen added. "This significant agreement, our second with Merck, further validates our drug discovery platforms."

“Merck is pleased to add a new scientific collaboration with Bionomics,” said Dr. Rupert Vessey, head of Early Development and Discovery Sciences at Merck Research Laboratories. “Bionomics’ capabilities and overall expertise in discovery and characterization of small molecules for this neuroscience target class is impressive.”

In July 2013, Bionomics announced an option and license agreement with Merck to discover and develop novel small molecule candidates for the treatment of chronic pain, including neuropathic pain. Under the terms of that agreement, Merck has the option to exclusively license a compound from Bionomics for development and commercialisation.

BNC375 is a key compound from the Bionomics research program licensed to Merck under this latest agreement. BNC375 and related compounds have displayed potent efficacy in animal cognitive impairment models.

Alzheimer’s is the most common type of dementia and thought to be caused by damage to nerve cells in the brain. Symptoms are characterised by a decline in memory or other thinking skills; it affects a person’s everyday activities and is fatal. 1 in 9 Americans older than 65 years has Alzheimer’s disease (5 million people). It is the 6th leading cause of death in the United States. By 2025 the number of Americans aged 65 and older with Alzheimer’s is forecast to rise 40% to 7.1 million (*2014 Alzheimer’s disease*, Alzheimer’s Association). More than 332,000 Australians suffer from Alzheimer’s disease.

BIONOMICS: WEBCAST TUESDAY 24 JUNE
10:30AM AEST (VIC/NSW/QLD)
10AM ACST (SA)
8:30AM AWST (WA)

Please login at: http://www.media-server.com/m/go/Bionomics_June2014; and

Dial in on: Australia Toll Free – 1800 558 698
US Toll Free – 1 855 881 1339
Other International Toll – +61 2 9007 3187

Who Bionomics Limited (ASX: BNO) CEO and Managing Director Dr Deborah Rathjen and VP Neuroscience Research Dr Sue O’Connor

What Announcement on license deal with Merck & Co for Bionomics program targeting treatments for Alzheimer’s disease, Schizophrenia, ADHD and Parkinson’s disease with an opportunity for questions

FOR FURTHER INFORMATION PLEASE CONTACT:

Bionomics Limited

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About Bionomics Limited

Bionomics (ASX: BNO) is biopharmaceutical company which discovers and develops innovative therapeutics for cancer and diseases of the central nervous system. Bionomics has small molecule product development programs in the areas of cancer, anxiety, memory loss and pain. Its oncology approach includes cancer stem cell therapeutics as well as vascular disruption in solid tumours. Bionomics partners include Merck & Co and Ironwood Pharmaceuticals.

Bionomics' discovery and development activities are driven by its four proprietary technology platforms: MultiCore®, a diversity orientated chemistry platform for the discovery of small molecule drugs; ionX®, a set of novel technologies for the identification of drugs targeting ion channels for diseases of the central nervous system; Angene®, a drug discovery platform which incorporates a variety of genomics tools to identify and validate novel angiogenesis targets (involved in the formation of new blood vessels); and CSC Rx Discovery™, which identifies antibody and small molecule therapeutics that inhibit the growth of cancer stem cells. These platforms drive Bionomics' pipeline and underpin its established business strategy of securing partners for its key compounds. Bionomics partners include Merck & Co and Ironwood Pharmaceuticals.

www.bionomics.com.au

Factors Affecting Future Performance

This announcement contains “forward-looking” statements within the meaning of the United States’ Private Securities Litigation Reform Act of 1995. Any statements contained in this presentation that relate to prospective events or developments, including, without limitation, statements made regarding Bionomics’ development candidates BNC105, IW- 2143 (BNC210), BNC101 and BNC375, our acquisition of Eclipse Therapeutics and ability to develop products from their platform, its licensing deals with Merck & Co and Ironwood Pharmaceuticals, drug discovery programs and pending patent applications are deemed to be forward-looking statements. Words such as “believes,” “anticipates,” “plans,” “expects,” “projects,” “forecasts,” “will” and similar expressions are intended to identify forward-looking statements.

There are a number of important factors that could cause actual results or events to differ materially from those indicated by these forward-looking statements, including risks related to our available funds or existing funding arrangements, a downturn in our

customers' markets, our failure to introduce new products or technologies in a timely manner, Ironwood's decisions to continue or not continue development of IW-2143, Merck's decisions to continue or not to continue development of partnered compounds, regulatory changes, risks related to our international operations, our inability to integrate acquired businesses and technologies into our existing business and to our competitive advantages, as well as other factors. Results of studies performed on competitors products may vary from those reported when tested in different settings.

Subject to the requirements of any applicable legislation or the listing rules of any stock exchange on which our securities are quoted, we disclaim any intention or obligation to update any forward-looking statements as a result of developments occurring after the date of this presentation.

###

FIRST AMENDMENT - RESEARCH COLLABORATION AND LICENSE AGREEMENT

BIONOMICS LIMITED

MERCK SHARP & DOHME CORP.

Johnson Winter & Slattery
LAWYERS
Level 9, 211 Victoria Square
ADELAIDE SA 5000
T +61 8 8239 7111 | F +61 8 8239 7100

www.jws.com.au

SYDNEY | PERTH | MELBOURNE | BRISBANE | ADELAIDE

Liability limited by a scheme approved under Professional Standards Legislation (Australia-wide except in Tasmania)

DATE October 2, 2015

PARTIES

- 1 **BIONOMICS LIMITED** ABN 53 075 582 740 of 31 Dalgleish Street, Thebarton, South Australia, 5031, Australia, a corporation organised and existing under the laws of Australia (**Bionomics**); and
- 2 **MERCK SHARP & DOHME CORP.**, a corporation organised and existing under the laws of New Jersey, United States (**Merck**).

RECITALS

- A The Parties are parties to the “Research Collaboration and License Agreement” with an effective date of 26 June 2014.
- B The Parties have agreed to vary the terms of the Research Collaboration and License Agreement as set out in this First Amendment.

OPERATIVE PART

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this First Amendment:

Business Day means a day other than a Saturday, Sunday or public holiday in Adelaide, South Australia.

Parties means Merck and Bionomics.

Research Collaboration and License Agreement has the meaning given to it in Recital A.

2 AMENDMENT

2.1 Deletion of clause 5.3.1(a)

The Parties agree that clause 5.3.1(a) of the Research Collaboration and License Agreement is deleted in its entirety and replaced with “Not used”.

3 CONFIRMATION OF TERMS OF THE RESEARCH COLLABORATION AND LICENSE AGREEMENT

The Parties:

- (a) ratify and confirm the Research Collaboration and License Agreement as amended by this First Amendment; and
- (b) acknowledge and agree that in all other respect the terms and conditions of the Research Collaboration and License Agreement are hereby affirmed.

4 COSTS

Each Party will bear its own costs in relation to the negotiation, preparation and execution of this First Amendment and any further document required.

5 MISCELLANEOUS

5.1 About This First Amendment

- (a) This First Amendment, shall be deemed to be incorporated in and made part of the Research Collaboration and License Agreement and this First Amendment shall be read, taken and construed as one and the same agreement (including with respect to the provisions set forth in Article 9 (Miscellaneous) of the Research Collaboration and License Agreement which shall, as applicable, be deemed to apply to this First Amendment (including with respect to the governing law)). Except as expressly amended by this First Amendment the Research Collaboration and License Agreement shall remain in full force and effect according to its terms.
- (b) The Research Collaboration and License Agreement, as amended by this First Amendment, shall constitute the entire agreement, and supersedes all prior contracts, obligations, representations, conduct and understandings. The agreement recorded in this First Amendment is immediately enforceable, subject to its own express terms. The Parties have not relied on any promise, representation or conduct in deciding whether to enter into this First Amendment, other than as expressly set out in this First Amendment.
- (c) This First Amendment may be executed in any number of counterparts, and by the Parties in separate counterparts, but is not effective until each party has executed at least one counterpart.
- (d) Each counterpart of this First Amendment constitutes an original of this First Amendment but the counterparts together constitute one and the same instrument.

(e) This First Amendment may be executed by facsimile, PDF format by e-mail or other electronically transmitted signature and such signatures shall be deemed to bind each Party hereto as if they were original signatures.

5.2 Further Acts

The Parties must do all things reasonably required to facilitate the performance of the transactions contemplated by this First Amendment.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed by their respective duly authorized officers as of the date first written above.

EXECUTED by BIONOMICS)
LIMITED)
)
)

/s/ Deborah Rathjen

Director

Deborah Rathjen
Name
(BLOCK LETTERS)

/s/ Jack Moschakis

Director/Secretary

Jack Moschakis
Name
(BLOCK LETTERS)

EXECUTED by MERCK SHARP &)
DOHME CORP.)
)
)

[***]

Signature of Authorised Person

[***]

Office Held

[***]

Name of Authorised Person
(BLOCK LETTERS)

[***] Certain information in this document has been excluded pursuant to Regulation S-K, Item 601(b)(10). Such excluded information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

**SECOND AMENDMENT TO
RESEARCH COLLABORATION AND LICENSE AGREEMENT**

This Second Amendment To Research Collaboration And License Agreement (“**Second Amendment**”), effective as of the date of last signature below (the “**Second Amendment Effective Date**”), confirms the mutual understanding between Merck Sharp & Dohme Corp. (“**Merck**”) and Bionomics Limited (“**Bionomics**”).

WHEREAS, Merck and Bionomics have entered into that certain Research Collaboration and License Agreement relating to α 7 Activators, effective June 23, 2014, as amended by the First Amendment effective October 2, 2015, (as amended, the “**Agreement**”); and

WHEREAS, the Parties wish to amend the Agreement to extend the Research Program Term, revise the [***] as set forth in Schedule 1.1, update the Research Plan; and confirm the number of FTEs to be utilized by Bionomics in performing its responsibilities under the Research Plan.

NOW, THEREFORE, the Parties hereby amend the Agreement as follows:

1. In accordance with Section 2.14.1 of the Agreement, the Research Program Term is hereby extended to include an initial Extension Research Program Term of [***], commencing on [***] and expiring on [***] (“**First Extension Research Program Term**”).
2. The Parties hereby replace in its entirety the first sentence of Section 2.8 with the following:

“During the Research Program Term, Merck will provide Bionomics with research funding pursuant to Section 5.2 for FTEs at the FTE Rate as follows: [***] FTEs during the [***] Research [***] Program Term as set forth in the Research Plan, and [***] FTEs during [***]; provided, however, that the foregoing number of FTEs shall be subject to the Joint Research Committee’s right to amend the Research Plan to (x) require additional FTEs or (y) reduce the number of FTEs, in which case of (x) and/or (y) as applicable, the following number of FTEs shall be so adjusted.”
3. Effective as of [***] shall be deleted in its entirety and replaced with Annex I attached hereto and made part of this Second Amendment.
4. Schedule 1.79, “Research Plan,” shall be deleted in its entirety and replaced with Annex II attached hereto and made part of this Second Amendment.
5. All other terms and conditions of the Agreement not specifically modified by this Second Amendment shall remain in full force and effect.
6. Capitalized terms used and not otherwise defined herein shall have the respective meanings set forth in the Agreement.
7. On and after the Second Amendment Effective Date, each reference in the Agreement to this “Agreement”, “hereunder”, “herein”, “hereof” or words of like import referring to the

Agreement shall mean and be a reference to the Agreement as amended by this Second Amendment.

8. This Second Amendment may be signed in any number of counterparts (facsimile and electronic transmission included), each of which shall be deemed an original, but all of which shall constitute one and the same instrument. After facsimile or electronic transmission, the parties agree to execute and exchange documents with original signatures.

IN WITNESS WHEREOF, the parties have caused this Second Amendment to the Agreement to be BIONOMICS LIMITED executed by their duly authorized representatives.

MERCK SHARP & DOHME CORP.

BIONOMICS LIMITED

By: [***]
Name: [***]
Title: [***]

By: /s/ Deborah Rathjen
Name: Deborah Rathjen
Title: CEO, Managing Director

Date: May 05, 2016

Date: 09/05/2016

ANNEX I

Schedule 1.1

[***]

ANNEX II

Schedule 1,79

Research Plan

[***] Certain information in this document has been excluded pursuant to Regulation S-K, Item 601(b)(10). Such excluded information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

**THIRD AMENDMENT TO
RESEARCH COLLABORATION AND LICENSE AGREEMENT**

This Third Amendment to Research Collaboration And License Agreement (“**Third Amendment**”), effective as of the date of last signature below (the “**Third Amendment Effective Date**”), confirms the mutual understanding between **Merck Sharp & Dohme Corp. (“Merck”)** and **Bionomics Limited (“Bionomics”)**.

WHEREAS, Merck and Bionomics have entered into that certain Research Collaboration and License Agreement relating to α 7 Activators, effective June 23, 2014, as amended by the First Amendment effective October 2, 2015, and the Second Amendment effective June 23, 2016 (as amended, the “**Agreement**”); and WHEREAS, the Parties wish to amend the Agreement to extend the Research Program Term and confirm the number of FTE’s to be utilized by Bionomics in performing its responsibilities under the Research Plan.

NOW, THEREFORE, the Parties hereby amend the Agreement as follows:

1. In accordance with Section 2.14.1 of the Agreement, the Research Program Term is hereby extended to include a second Extension Research Program Term of [***], commencing on [***] (“**Second Extension Research Program Term**”).
2. The Parties hereby replace in its entirety the first sentence of Section 2.8 with the following:

“During the Research Program Term, Merck will provide Bionomics with research funding pursuant to Section 5.2 for FTEs at the FTE Rate as follows: [***] FTEs during the [***] Research [***] Program Term as set forth in the Research Plan, and [***] FTEs during [***]; provided, however, that the foregoing number of FTEs shall be subject to the Joint Research Committee’s right to amend the Research Plan to (x) require additional FTEs or (y) reduce the number of FTEs, in which case of (x) and/or (y) as applicable, the following number of FTEs shall be so adjusted.”
3. All other terms and conditions of the Agreement not specifically modified by this Third Amendment shall remain in full force and effect.
4. Capitalized terms used and not otherwise defined herein shall have the respective meanings set forth in the Agreement.
5. On and after the Third Amendment Effective Date, each reference in the Agreement to this “Agreement”, “hereunder”, “herein”, “hereof” or words of like import referring to the Agreement shall mean and be a reference to the Agreement as amended by this Third Amendment.
6. This Third Amendment may be signed in any number of counterparts (facsimile and electronic transmission included), each of which shall be deemed an original, but all of which shall constitute one and the same instrument. After facsimile or electronic transmission, the parties agree to execute and exchange documents with original signatures.

IN WITNESS WHEREOF, the parties have caused this Third Amendment to the Agreement to be executed by their duly authorized representatives.

MERCK SHARP & DOHME CORP.

BIONOMICS LIMITED

By: [***]
Name: [***]
Title: [***]

By: Deborah Rathjen
Name: Deborah Rathjen
Title: CEO & Managing Director

Date: November 8, 2016

Date: November 4, 2016

[***] Certain information in this document has been excluded pursuant to Regulation S-K, Item 601(b)(10). Such excluded information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

**FOURTH AMENDMENT TO
RESEARCH COLLABORATION AND LICENSE AGREEMENT**

This Fourth Amendment To Research Collaboration And License Agreement (“**Fourth Amendment**”), effective as of the date of last signature below (the “**Fourth Amendment Effective Date**”), confirms the mutual understanding between **Merck Sharp & Dohme Corp.** (“**Merck**”) and **Bionomics Limited** (“**Bionomics**”).

WHEREAS, Merck and Bionomics have entered into that certain Research Collaboration and License Agreement relating to α 7 Activators, effective June 23, 2014, as amended by the First Amendment effective October 2, 2015, and the Second Amendment effective June 23, 2016 and the Third Amendment effective December 23, 2016 (as amended, the “**Agreement**”); and

WHEREAS, the Parties wish to amend the Agreement to extend the Research Program Term and confirm the number of FTE’s to be utilized by Bionomics in performing its responsibilities under the Research Plan.

NOW, THEREFORE, the Parties hereby amend the Agreement as follows:

1. In accordance with Section 2.14.1 of the Agreement, the Research Program Term is hereby extended to include a Third Extension Research Program Term of [***], commencing on [***] (“**Third Extension Research Program Term**”).
2. The Parties hereby replace in its entirety the first sentence of Section 2.8 with the following:
 “During the Research Program Term, Merck will provide Bionomics with research funding pursuant to Section 5.2 for FTEs at the FTE Rate as follows [***] FTEs during [***] Research [***] Program Term as set forth in the Research Plan, and [***] FTEs during [***]; provided, however, that the foregoing number of FTEs shall be subject to the Joint Research Committee’s right to amend the Research Plan to (x) require additional FTEs or (y) reduce the number of FTEs, in which case of (x) and/or (y) as applicable, the following number of FTEs shall be so adjusted.”
3. All other terms and conditions of the Agreement not specifically modified by this Fourth Amendment shall remain in full force and effect.
4. Capitalized terms used and not otherwise defined herein shall have the respective meanings set forth in the Agreement.
5. On and after the Fourth Amendment Effective Date, each reference in the Agreement to this “Agreement”, “hereunder”, “herein”, “hereof” or words of like import referring to the Agreement shall mean and be a reference to the Agreement as amended by this Fourth Amendment.
6. This Fourth Amendment may be signed in any number of counterparts (facsimile and electronic transmission included), each of which shall be deemed an original, but all of which shall constitute one and the same instrument. After facsimile or electronic transmission, the parties agree to execute and exchange documents with original signatures.

IN WITNESS WHEREOF, the parties have caused this Fourth Amendment to the Agreement to be executed by their duly authorized representatives.

MERCK SHARP & DOHME CORP.

BIONOMICS LIMITED

By: [***]
Name: [***]
Title: [***]

By: /s/ Deborah Rathjen
Name: Deborah Rathjen
Title: CEO and Managing Director

Date: April 4, 2017

Date: April 21, 2017

IP LICENCE AGREEMENT
BIONOMICS LIMITED
CARINA BIOTECH PTY LTD

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[***] Certain information in this document has been excluded pursuant to Regulation S-K, Item 601(b)(10). Such excluded information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

IP LICENCE AGREEMENT

DATED 18 NOVEMBER 2020

PARTIES

- (1) **BIONOMICS LIMITED** ABN 53 075 582 740 and **BIONOMICS, INC** a Delaware corporation both of 31 Dalglish Street, Thebarton SA 5031 (“**Licensor**”); and
- (2) **CARINA BIOTECH PTY LTD** ABN 43 613 276 074 of Level 2, Ian Wark Building, UniSA Mawson Lakes Campus, Mawson Lakes SA 5095 (“**Licensee**”).

BACKGROUND

- (A) Bionomics, Inc is a wholly owned subsidiary of Bionomics Limited and, together, they are the owners of the Licensed Patents and Licensed Technology and Licensor under this Agreement.
- (B) Licensor has agreed to license to Licensee the Licensed Patents and Licensed Technology on the terms set out in this Agreement.

THE PARTIES AGREE

1. DEFINITIONS

In this Agreement:

“**Annual Net Sales**” has the meaning given in clause 5.4(a).

“**BNC101**” means [***]

“**Business Day**” means a day on which banks are open for normal business in Adelaide and excludes Saturdays, Sundays and days that are public holidays in Adelaide.

“**CAR**” means chimeric antigen receptor.

“**Combination Product**” means any product or application that comprises a Licensed Product and at least one additional or co-administered ingredient or component that is not a Licensed Product.

“**Commercially Reasonable Efforts**” means [***]

“**Confidential Information**” means any information which is by its nature confidential or commercially sensitive and includes all technical, proprietary and operational information, drawings, techniques, processes, Know-how, methods of working, data and specifications, trade secrets and other commercially valuable information of any kind, and the terms of this Agreement (and includes Licensor Know-how).

“**Corporations Act**” means *Corporations Act 2001* (Cth).

“**Data Exclusivity**” means the period of protection or exclusivity rights that may be granted under the law of countries in the Territory for clinical and related data provided to a regulatory authority to prove the safety and efficacy of a new pharmaceutical product.

“**EU**” means the member states of the European Union including the United Kingdom.

“**FDA**” means the United States Food and Drug Administration, or any successor thereto, having the administrative authority to regulate the marketing of human pharmaceutical products or biological therapeutic products, delivery systems and devices in the United States.

“**Field**” means [***]

“**Insolvency Event**” means, for a party, being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay or stops or suspends or threatens to stop or suspend payment of its debts, entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.

“**Intellectual Property Rights**” means all Confidential Information, Know-how and industrial and intellectual property rights including, without limitation, any rights in respect of or in connection with any copyright, patents, trademarks, design rights or eligible layout rights (whether registered or not) and any rights to apply for registration of any of the foregoing rights.

“**Know-how**” means scientific, pre-clinical, clinical, regulatory, practical, manufacturing, marketing, financial, technical and commercial information and data (including knowledge, experience, inventions resulting from experience and testing and processes), that is not generally available to the public (even though parts of it may be known), and whether communicated in writing or orally or by any other method (but excluding information disclosed in or claimed by a Licensed Patent).

“**Licence**” means the licence granted to Licensee pursuant to clause 2(a).

“**Licensed IP**” means Licensed Patents and Licensed Technology.

“**Licensed Patents**” means:

[***]

“**Licensed Product**” means any good or application within the Field which applies, or is made according to, the Licensed IP or any part of it.

“**Licensed Technology**” means [***]

“**Marketing Authorisation**” means the required regulatory licence or authority under which a medicinal product may be marketed and sold in a territory, arising from assessment of a party’s application dossier for marketing authorisation (such as, a New Drug Application (NDA) in the United States of America or Marketing Authorisation Application (MAA) in the European Union and other countries).

“Materials and Technical Information” means materials, Know-how and technical information of Licensor that is useful or necessary to fully exercise and exploit **Licensee’s** rights under the Licence (including to utilise any disclosed Materials and Technical Information) including as described in Schedule 1, but only to the extent owned by Licensor and which Licensor has a legal right to transfer.

“Milestone Event” means each event set out in the table in clause 5.3(a).

“Milestone Payment” means each payment set out in the table in clause 5.3(a) in respect of a Milestone Event.

“Net Sales” means the gross amounts received for the sale of Licensed Products by Licensee (or by a Related Body Corporate of Licensee) to a party or customer that is not an Related Body Corporate of Licensee, after deduction (if not previously deducted) of the following amounts to the extent related or allocable to the Licensed Product:

[***]

“New Drug Application” or **“NDA”** means a New Drug Application submitted to the FDA in the United States in accordance with the United States Federal Food, Drug, and Cosmetic Act, as amended, and the rules and regulations promulgated thereunder with respect to a pharmaceutical product or any analogous application or submission with any regulatory authority outside of the United States.

“Phase 1 Clinical Trial” means a human clinical trial to assess drug safety, that would satisfy the requirements of 21 C.F.R. 312.21(a) or the corresponding regulation in jurisdictions other than the United States.

“Phase 2 Clinical Trial” means a human clinical trial of a pharmaceutical product to assess drug safety, tolerability, pharmacokinetics and efficacy to generate sufficient data (if successful) to commence a Phase 3 Clinical Trial (or foreign equivalent) of such product, that would satisfy the requirements of 21 C.F.R. 312.21(b) or the corresponding regulation in jurisdictions other than the United States.

“Phase 3 Clinical Trial” means the third phase of human clinical trials of a pharmaceutical product to assess the efficacy and safety in a number of human patients sufficient to support the submission of an NDA to the FDA for such product, and that would satisfy the requirements of 21 C.F.R. 312.21(c) or the corresponding regulation in jurisdictions other than the United States.

“Regulatory Approvals” means all required permits, licences, approvals and authorisations from all regulatory authority(ies) having jurisdiction in a country necessary to commercially develop and exploit a Licensed Product as permitted under the Licence in that country, including, as applicable, pricing approvals, Marketing Authorisation, Data Exclusivity, and manufacturing and import licences.

“**Related Body Corporate**” has the meaning given to that term in the Corporations Act.

“**Research & Development Plan**” means the plan set out in Schedule 3 setting out the work to be undertaken, and a forecast timeline for that work, by the Licensee under this Agreement.

“**Royalty**” or “**Royalties**” means the payments to Licensor under clause 5.4.

“**Sublicence Revenue**” means all sub-license, partnering and collaboration income received by Licensee from a third party, including Sublicensees, in connection with exploitation of the Licensed IP and Licensed Products, including income relating to the achievement of development milestones and royalty sales milestones and other payments (upfront or option payments, commercial bonuses) but excluding any payments for research and development.

“**Sublicence Fees**” has the meaning set out in clause 5.2(a).

“**Sublicensee**” means any person or entity, including without limitation Related Bodies Corporate of Licensee, to which Licensee grants a sublicense under this Agreement in accordance with clause 2(b) provided that, “Sublicensee” does not include any distributor or customer that is granted an express or implied sublicense to use or resell Licensed Product in connection with the sale of Licensed Product to such distributor or customer.

“**Term**” has the meaning given in clause 12.1.

“**Territory**” means worldwide.

2. LICENCE

- (a) Subject to the terms of this Agreement, Licensor grants to Licensee an exclusive (even as to Licensor and its Related Bodies Corporate) licence to the Licensed IP, to research and develop, make, have made, use, sell, offer for sale, supply, cause to be supplied, import and otherwise exploit Licensed Products in the Field in the Territory during the Term, including the right to grant and authorise sublicenses (“**Licence**”).
- (b) Licensee may sublicense the License provided that:
 - (i) the Licensee satisfies itself on reasonable grounds that each Sublicensee is solvent and has the commercial and technical capability to perform its obligations under the sublicense;
 - (ii) each Sublicensee agrees to be bound by applicable terms and conditions of this Agreement, including an acknowledgement from each Sublicensee that Licensor owns the Licensed IP;
 - (iii) if requested by the Licensor, provide written notice to the Licensor that clauses 2(b)(i) and (b)(ii) have been complied with;
 - (iv) grant of any sublicense does not relieve Licensee from its obligations under this Agreement and Licensee will be liable for acts and omissions of its Sublicensees;

- (v) Licensee will remain liable for Milestone Payments and Royalties based on achievement of Milestone Events for, or Net Sales of, Licensed Products by such Sublicensees; and
- (vi) if this Agreement is terminated, any sublicensee will, from the date of termination, provided it is not in breach of its sublicense, automatically become a direct licensee of Licensor with respect to the rights originally sublicensed to the Sublicensee by Licensee.
- (c) Licensor retains all rights to use and exploit the Licensed IP in its absolute discretion in any field of use other than the Field.
- (d) Each party is solely responsible for obtaining and maintaining all permits, licenses and authorisations (if any) required for performance by the party of its obligations under this Agreement in compliance with all applicable laws.

3. TRANSFER OF LICENSOR MATERIALS AND INFORMATION

- (a) Promptly and by [***] following a written request by Licensee, Licensor will deliver to Licensee, at Licensor's cost, the Materials and Technical Information.
- (b) During the Term, Licensor will notify Licensee in writing of any other, including any new, Materials and Technical Information of Licensor which has not been delivered to Licensee. Promptly and by no later than [***] following a written request by Licensee, Licensor will deliver to Licensee, at Licensor's cost, any such other Materials and Technical Information.
- (c) In addition to the transfer of Materials and Technical Information, Licensor will use reasonable endeavours to promptly disclose to Licensee all data and associated information held by Licensor as at and following the date of this Agreement in respect of or relating to pre-clinical and clinical development of BNC101 ("**BNC101 Data**").
- (d) Licensor will procure appropriate Licensor personnel to meet and/or have discussions with Licensee personnel as reasonably required by Licensee to convey Materials and Technical Information and/or BNC101 Data to Licensee.
- (e) Except for the right to use Materials and Technical Information and BNC101 Data as contemplated by this Agreement, no other right or license is granted by Licensor to Licensee with respect to Materials and Technical Information and/or BNC101 Data.
- (f) Licensee must, in respect of all Materials and Technical Information, and BNC101 Data, disclosed to Licensee:
 - (i) take commercially reasonable steps to preserve the confidentiality of it, and not release or distribute it (other than to Licensee's Related Bodies Corporate, contractors and Sublicensees) without the prior written consent of Licensor;
 - (ii) use it solely for the purpose of exploiting the Licence or in the exercise of Licensee's rights under this Agreement; and
 - (iii) on termination of this Agreement, to the extent remaining in Licensee's possession on termination, as directed by Licensor by notice in writing to Licensee, promptly deliver to Licensor or destroy it.

4. LICENSED PRODUCTS

4.1 Commercially Reasonable Efforts

- (a) Licensee has sole rights (at Licensee's cost) to commercially develop and exploit Licensed Products (directly or through its Related Bodies Corporate, contractors and Sublicensees) in accordance with the terms of this Agreement and all applicable laws, regulations and standards.
- (b) Licensee will use Commercially Reasonable Efforts to commercially develop and exploit Licensed Products in each country in the Territory in which Licensee obtains all required Regulatory Approvals for such Licensed Product.
- (c) Licensor expressly acknowledges and agrees that assessment of Licensee's use of Commercially Reasonable Efforts will take into account that such efforts:
 - (i) may result in ceasing the development or exploitation of a Licensed Product;
 - (ii) may be adversely affected by Licensor's failure to perform its obligations under this Agreement; and
 - (iii) will be impacted by scientific, technical, operational and commercial factors in effect at the time, including, for example, actual and projected development or exploitation costs and timelines, the regulatory environment and requirements, present and future market potential, strength and duration of patent protection and internal priorities.
- (d) Licensee has, at its cost, absolute discretion regarding all trademarks, trade names and branding used in connection with the development and exploitation of Licensed Products ("**Licensee Branding**"). All Licensee Branding will be owned solely by Licensee and Licensor will not use nor register in any Territory any trademarks, trade names or branding that is similar to any Licensee Branding.
- (e) From the date of this Agreement until the date of the first Royalty payment to Licensor, the Licensee shall carry out work under the Research & Development Plan. The Licensee shall review and revise the Research & Development Plan as necessary and promptly (and by no later than the first following [***] report under paragraph (f) below) provide the Licensor with a copy.
- (f) Each [***] between the date of this Agreement and the date of the first Royalty payment to Licensor, Licensee will provide Licensor with a written report detailing Licensee's progress made on, and any material developments with respect to, the Research & Development Plan during the preceding [***]

4.2 Regulatory Approvals

- (a) Licensee will have sole rights to apply for and secure and maintain (at its cost) all Regulatory Approvals for all Licensed Products.
- (b) Licensor will provide such assistance as Licensee may reasonably request from time to time, for the purposes of Licensee obtaining Regulatory Approvals, including disclosing to Licensee information in the possession, or readily available to, Licensor, which Licensee

does not possess or have readily available to it, that is necessary for any Regulatory Approval filing (and Licensee is entitled to use such Information to support any Regulatory Approval filing made in respect of Licensed Products).

- (c) As between the parties, Licensee will be responsible for all communications with regulatory authorities, and for managing all complaints and communications, in relation to the Licensed Products.

5. PAYMENTS

5.1 No upfront fee

The parties acknowledge and agree there is no upfront fee or payment of any nature payable by Licensee for the Licence or for any other rights under this Agreement.

5.2 Sublicence Fee

- (a) Subject to the terms of this Agreement, including clause 5.2(c), in the event of Sub-license Licensee will pay to Licensor [***]% of all Sublicence Revenue (“**Sublicence Fees**”).
- (b) Licensee must pay Sublicence Fees to Licensor not later than [***] after receipt of Sublicence Revenue by Licensee and, together with each payment of Sublicence Fees, provide Licensor with a written statement of the Sublicence Revenue giving rise to the Sublicence Fee.

If Licensee in its discretion accesses after the date of this Agreement Enhancement Technology (as defined below) for the purposes of Licensee fully exercising and exploiting Licensee’s rights under the Licence, then the Sublicence Fee will be reduced by [***]

- (c) % for each Enhancement Technology used in a Licensed Product the subject of Sublicence Revenue, provided that the Sublicence Fee will not be reduced below:
 - (i) [***]% of Sublicence Revenue to [***];
 - (ii) [***]% of Sublicence Revenue to [***]; and
 - (iii) [***]% of Sublicence Revenue for [***].
- (d) In this clause, “**Enhancement Technology**” means [***]

5.3 Milestone Events and Milestone Payments

- (a) Subject to the terms of this Agreement, on achievement by Licensee, Licensee will pay to Licensor the following lump sum milestone payments (“**Milestone Payments**”) on achievement of the following milestone events (**Milestone Events**) by the first Licensed Product only to achieve each Milestone Event:

<u>Milestone Event</u>	<u>Milestone Payment</u>
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

- (b) For each Milestone Event achieved by Licensee, Licensee will within [***] of achieving the Milestone Event, provide to Licensor a written statement of achieving the Milestone Event and, subject to the following, pay to Licensor the corresponding Milestone Payment.
- (c) For the avoidance of doubt, each Milestone Payment is payable once only in respect of the first Licensed Product to first achieve the corresponding Milestone Event. No Milestone Payment is payable in respect of any subsequent achievement of the corresponding Milestone Event by any other Licensed Product, or by the Licensed Product that originally achieved the Milestone Event in respect of any other indication or use.
- (d) [***].

5.4 **Royalties**

- (a) Subject to the terms of this Agreement, including this clause 5.4, Licensee will pay Licensor royalties in the amount of the royalty rates set out below (“**Royalty Rates**”) on the aggregate Net Sales resulting from the sale of each Licensed Product in each country in the Territory during each calendar year of the applicable Term for each Licensed Product in each country in the Territory (each, the **Annual Net Sales**):

<u>Per Licensed Product Annual Net Sales Per Country</u>	<u>Royalty Rate (% of Per Licensed Product Annual Net Sales)</u>
Annual Net Sales above \$[***], up to and including \$[***]	[***]
Annual Net Sales above \$[***]	[***]
Annual Net Sales above \$[***]	[***]

- (b) The following applies to payment of Royalties under this Agreement:
- (i) Each Royalty Rate in the table above applies only to that portion of the Net Sales of a given Licensed Product in a given country in the Territory during a given calendar year that falls within the indicated range (by way of example, if Licensee receives [***] of Annual Net Sales in a given calendar year for a given Licensed Product in a given country in the Territory, then Licensee will pay Licensor a Royalty of [***] for such Licensed Product for such country for such calendar year).
 - (ii) Payment of Royalties must be made by Licensee to Licensor quarterly in arrears following the first disposition for value of a Licensed Product by Licensee (or its Related Bodies Corporate or Sublicensees), calculated on Annual Net Sales for that quarterly period, within [***] of the end of that quarterly period.
 - (iii) With each [***] payment, Licensee must give Licensor a written statement setting out:
 - (A) the Net Sales in the relevant quarterly period on a Licensed Product by Licensed Product and country by country basis, including any applicable deductions applied in the calculation of Net Sales; and
 - (B) the Royalty payable by Licensee to Licensor for that quarterly period.
 - (iv) Only one Royalty is payable with respect to the same unit of Licensed Product.
 - (v) If Licensee receives non-cash consideration in connection with commercial exploitation of Licensed Product, Licensee will advise Licensor of the non-cash consideration and Licensee’s assessment of the fair market value, and the parties will account for the transaction under this Agreement on a cash equivalent basis as mutually agreed in good faith.
 - (vi) If Licensee:
 - (A) reasonably determines that, in order to avoid infringement of existing third party rights in issued patents and pending patent applications in respect of any commercial development or exploitation of Licensed Product in any country (“**FTO Blocking Right**”), it is necessary to obtain a license from such third party in respect of such FTO Blocking Right and pay a royalty or other consideration under such license; or

- (B) is subject to a final binding order or ruling, or binding settlement agreement, requiring the payment of a royalty or other consideration to any third party holder of a FTO Blocking Right in respect of any sales of Licensed Product in any country as a result of infringement of such FTO Blocking Right,

(“**FTO Payments**”) Licensee will be responsible for all FTO Payments, but the amount of Royalty payable with respect to Annual Net Sales of such Licensed Product in such country will be reduced by [***]% of the amount of any FTO Payments in such country, provided that Royalties will not be reduced below:

- (C) [***]% for Annual Net Sales above \$[***], up to and including \$[***];
(D) [***]% for Annual Net Sales above \$[***], up to and including \$[***]; and
(E) [***]% Annual Net Sales above \$[***],

and if there is any amount of FTO Payment not offset against Royalty payments as a result of the limitations set out above, that amount may be carried over and offset against future Royalty payments until the full offset is realised (subject in all respects to the overriding limitations set out above).

5.5 Licensee records and Licensor audit

- (a) Licensee must keep records [***]
- (b) For so long as the Royalty is payable and for [***] thereafter, Licensor will have the right on reasonable prior written notice to Licensee (and during Licensee’s normal business hours), exercisable not more than [***] to cause an independent certified public accountant (“**Auditor**”) to inspect the Royalty Records of Licensee for the purposes of identifying any overpayment or underpayment of Royalties to Licensor.
- (c) The parties will reconcile any underpayment or overpayment within [***] after the results of the audit are determined by Licensor or delivered to Licensor by the Auditor.
- (d) If any audit performed under this clause reveals an underpayment in excess of [***]% in any calendar year for the Royalty, Licensee must reimburse Licensor for all amounts Licensor incurred in connection with procuring such audit to occur. For any audit performed under this clause that reveals no underpayment in excess of [***] percent in any calendar year for the Royalty, all costs of the Auditor will be borne by Licensor.
- (e) The rights of Licensor under this clause 5.5 survive termination to the extent that Royalty payments are or may be payable after termination of this Agreement.
- (f) Any sublicense of the License granted by Licensee pursuant to this Agreement must include a requirement on the Sublicensee to keep records of sales made pursuant to such sublicense and to grant access to such records by Licensee’s independent accountant to the same extent required of Licensee under this Agreement.
- (g) Licensor must keep all information subject to review under this clause 5.5 or under any sublicense granted by Licensee confidential in accordance with clause 9, and must procure the Auditor to enter into a confidentiality agreement with Licensee (or its Sublicensees) obligating the Auditor to keep all such information confidential pursuant to such agreement.

5.6 Payments generally

- (a) Amounts expressed in this Agreement are exclusive of GST. If GST is payable on or in respect any amount payable under this clause, clause 15 applies.
- (b) All payments made by Licensee to Licensor under this Agreement will be in Australian dollars by bank transfer to such bank account as nominated by Licensor in writing from time to time.
- (c) Licensee will make all payments due to Licensor under this Agreement without deduction or withholding for taxes except to the extent that any such deduction or withholding is required by law. Any such tax required to be withheld will be borne by Licensor and Licensee will not be required to gross-up any such payments.

6. IMPROVEMENTS

- (a) In this clause, “**Improvement**” means [***]
- (b) Any Improvement created by or on behalf of Licensor during the Term will be owned by Licensor and will be included under and as part of the Licensed IP, such that the Licence will include a licence to use any such Improvement.
- (c) Licensor will inform Licensee in writing within [***] of an Improvement being created by or on behalf of the Licensor during the Term.
- (d) Any Improvement created by or on behalf of Licensee during the Term will be owned by Licensee.
- (e) Any Improvement created by or on behalf of Licensor and Licensee jointly will be owned by Licensor and Licensee jointly (unless agreed otherwise by the parties in writing), and each party grants the other party a non-exclusive, irrevocable, worldwide, royalty-free licence (which survives termination or expiration of this Agreement) to use any such Improvement.
- (f) Licensee shall have sole discretion whether to file a patent application in any jurisdiction for any Improvement patent and, where the Improvement patent is created by or on behalf of Licensor, or by or on behalf of Licensor and Licensee jointly, will provide the Licensor with written notice if the Licensee elects not to file a patent application sufficiently in advance of any deadline for any filing to permit Licensor to carry out such filing (if it elects to do so).

7. SUBCONTRACTING

- (a) Licensee may subcontract its activities under this Agreement to any third party provided that each subcontract:
 - (i) requires the subcontractor to keep all Licensor Confidential Information confidential in accordance with the confidentiality obligations in clause 9;

- (ii) prohibits any further subcontracting without Licensee's prior consent; and
 - (iii) requires performance of activities in accordance with all relevant provisions of this Agreement (including related to ownership of Intellectual Property Rights).
- (b) To the extent Licensee subcontracts any of its activities under this Agreement, Licensee will be responsible for the performance of such subcontractor and will remain liable to Licensor for the full and proper performance of any subcontracted activities. The subcontracting of work by Licensee will not create any kind of contractual relationship between Licensor and the subcontractor (unless otherwise required by law).

8. MAINTENANCE AND CLAIMS

8.1 Maintenance of Licensed IP

- (a) Subject to clause 8.2:
- (i) Licensor will prosecute, maintain and defend the Licensed Patents at Licensor's expense.
 - (ii) If Licensor elects not to prosecute, maintain or defend any Licensed Patent in any jurisdiction, Licensor must provide Licensee with written notice of such election sufficiently in advance of any deadline for any filing to permit (but not oblige) Licensee to carry out the activity ("**Licensor Election**").
 - (iii) In response to any Licensor Election, Licensee may elect (by written notice to Licensor) to prosecute, maintain or defend any Licensed Patent in any jurisdiction ("**Licensee Election**"), in which case, ownership of the Licensed Patent(s) under the Licensee will be assigned by Licensor to Licensee for nil consideration.
 - (iv) Each party (as applicable) must provide such assistance, including executing documents, as reasonably requested by the other party, at the other party's expense, to permit the other party to prosecute, maintain or defend such Licensed Patents in such jurisdiction.
- (b) Licensor must not assign, transfer, encumber or otherwise deal in any way with, in whole or in part any Licenced IP (other than under this Agreement) without the prior written consent of Licensee. Any such assignment, transfer, encumbrance or dealing by Licensor without Licensee's prior written consent is void and of no effect.

8.2 Infringement by Licensed IP in the Field

- (a) Each party will inform the other party immediately on becoming aware of a claimed, suspected or threatened infringement of any of the Licenced IP, or a claim by a third party that exploitation of any of the Licenced IP infringes the Intellectual Property Rights of a third party ("**Infringement Claim**").
- (b) Licensor will take action in relation to any Infringement Claim. If Licensor takes such action, Licensee will give Licensor reasonable assistance required by Licensor in relation to the action, at Licensee's cost. Licensor will have sole control of the proceedings, but

must not make any admission nor compromise or settle any claim in a manner that would be, or might reasonably be considered to be, adverse to Licensee's rights and interests, without Licensee's prior written consent, not to be unreasonably delayed, withheld or conditioned.

8.3 Action against either party

- (a) If action is taken by any third party against Licensor or Licensee alleging infringement of a third party's Intellectual Property Rights in connection with any of the Licenced IP then:
 - (i) the party against whom the action is taken will be responsible for defending the action; and
 - (ii) the other party will provide all reasonable assistance requested by the defending party, at the defending party's cost, provided however that neither party may admit or acknowledge infringement or otherwise compromise its case without the prior written consent of the other party.

9. CONFIDENTIALITY AND PRIVACY

9.1 Confidentiality

Each party undertakes, except to the extent expressly permitted otherwise by, or required to ensure compliance with the obligations imposed on it pursuant to, this Agreement:

- (a) to maintain the confidentiality of Confidential Information disclosed to it ("**Receiving Party**") and not disclose it or any part of it or use it without written authority of the other party ("**Disclosing Party**");
- (b) not to appropriate, copy or in any way reproduce any of the Confidential Information for itself or any third party; and
- (c) on termination of this Agreement and at the Disclosing Party's written request, to return to the Disclosing Party or destroy (as directed by the Disclosing Party) any or all documents or other material containing Confidential Information, unless otherwise agreed in writing between the parties.

9.2 Exceptions

Clause 9.1 does not apply to information which:

- (a) at the time of disclosure is already in the public domain;
- (b) becomes available to the public by any means other than breach of this Agreement by the Receiving Party;
- (c) is received by a party from an independent third party who is lawfully in possession and has the power and authority to disclose that information; or
- (d) is required to be disclosed by law or by a lawful requirement of any government or governmental body, authority or agency having authority over the Disclosing Party, including the rules of the Australian Stock Exchange, or is required to be disclosed in connection with legal proceedings, in which case the party required to make the disclosure will provide the other party with full details of the required disclosure prior to making the disclosure if legally permitted to do so otherwise at the earliest opportunity.

9.3 Use of names and logos

Neither party may use the name or logo of the other party without the prior written consent of that other party.

9.4 Privacy

Each party must comply with the Privacy Act and all other privacy laws to the extent applicable to the activities of the party under or pursuant to this Agreement.

9.5 Survival

The parties' rights and obligations under this clause 9 survive termination or expiration of this Agreement.

10. WARRANTIES

10.1 Warranties of Licensor

Licensor represents, warrants and undertakes to Licensee that:

- (a) Licensor is duly incorporated and validly existing under the laws of Australia;
- (b) Licensor is permitted by its constitution and all laws and other obligations applicable to it to enter into and perform its obligations under this Agreement;
- (c) as at the date of this Agreement, Licensor is not the subject of an Insolvency Event;
- (d) Licensor will comply with all applicable laws, regulations and standards (including obtaining and maintaining all licenses, authorisations, and permits necessary under all applicable laws), in relation to all activities undertaken by it under this Agreement;
- (e) Licensor is the owner of the Licensed IP and has the right to grant the Licence;
- (f) other than the Licensed Patents, Licensor does not own or have any rights in or to any patent or patent applications relevant to development or exploitation of any LGR5 antibody in the Field;
- (g) to the best of Licensor's knowledge:
 - (i) the Licensed Patents are valid and enforceable patents;
 - (ii) the use or exploitation of the Licence IP or any part of it in the Field, including to research, develop, make, have made, use, sell, offer for sale, supply, cause to be supplied, import and otherwise exploit Licensed Products, does not and will not infringe, or constitute misappropriation of, the Intellectual Property Rights of any third party; and
 - (iii) no third party is infringing or misappropriated, or has challenged the ownership, scope, duration, validity, enforceability, priority or right to use, of any Licensed IP;

- (h) Licensor has, and during the Term will have, a policy requiring all employees, officers, contractors and consultants to execute agreements requiring assignment to Licensor of all inventions made during the course of and as a result of their association with Licensor and keep confidential all Licensor confidential information it receives;
- (i) Licensor has not granted, and during the Term will not grant, any right, option, license or interest in or to any of the Licensed IP that is in conflict with the rights granted to Licensee under this Agreement;
- (j) Licensor has not received any written communications of pending or threatened claims against it relating to infringement of any Intellectual Property Rights of any third party by means of the practice or use of Licensed IP;
- (k) there is no legal claim, judgment or settlement against or owed by, or any order, or decree of any governmental authority against, Licensor relating to any Licensed IP or the transactions contemplated by this Agreement;
- (l) other than Licensee under this Agreement, no person (including any Related Body Corporate of Licensor) has any right, interest or claim in or to use of any Licensed IP in the Field;
- (m) Licensor (and its Related Bodies Corporate) have not entered into any agreement granting any right, interest or claim in or to, use of any Licensed IP in the Field to any third party (other than Licensee); and
- (n) Licensor will not by any act or omission adversely impact the rights of Licensee under this Agreement.

10.2 Warranties of Licensee

Licensee represents, warrants and undertakes to Licensor that:

- (a) [***]
- (b) [***]
- (c) [***]
- (d) [***]
- (e) [***]
- (f) [***]

11. LIMITATION ON LIABILITY

- (a) Despite any other provision of this Agreement, the liability of a party under or pursuant to this Agreement:
 - (i) excludes any liability for any special, indirect, incidental or consequential loss or damage whatsoever and howsoever arising, including any loss of business or production, or loss of actual or anticipated profit or revenue; and

- (ii) is reduced to the extent that the other party caused or contributed to the liability.
- (b) Each party waives any rights to make any claim against the other party to the extent they are inconsistent with this clause 11.
- (c) The limitation of a party's liability under clause 11(a) does not apply to the extent the liability:
 - (i) arises from fraud or wilful misconduct of the party;
 - (ii) arises from a breach of confidentiality by the party; or
 - (iii) relates to personal injury or death.
- (d) The provisions of this clause 11 will survive the termination of this Agreement.

12. TERM AND TERMINATION

12.1 Term

The term of this Agreement commences on the date of this Agreement and, unless terminated earlier in accordance with clause 12.1(b), continues until the last to occur of ("**Expiry**"):

- (a) the expiry of all Licensed Patents having a valid claim covering Licensed Products; and
 - (b) the expiry of all Data Exclusivity relating to Licensed Products,
- ("Term").

12.2 Early termination

- (a) This Agreement may be terminated by agreement in writing between the parties.
- (b) Licensee may terminate this Agreement without cause on [***] written notice to Licensor.
- (c) A party may terminate this Agreement for cause by notice in writing to the other party where:
 - (i) the other party fails to remedy a material breach of this Agreement (including any breach of a warranty set out in clause 10) within [***] of notice in writing requiring the breach to be remedied; or
 - (ii) (to the extent permitted by law) the other party is the subject of an Insolvency Event.

12.3 Consequences of early termination

- (a) On early termination of this Agreement under clause 12.2:
 - (i) the Licence will terminate and Licensee must cease carrying on the activities authorised under the Licence, other than as permitted in paragraph (ii) below; and

- (ii) Licensee will be entitled to sell stocks of Licensed Products in existence at the date of early termination under clause 12.1 for a period of [***] from the date of such early termination (and clauses 5.3 and 5.4 will continue to apply to any Annual Net Sales received from such sales).
- (b) The termination of this Agreement, no matter how arising, will not affect the rights and obligations of the parties accrued as at the date of termination.

12.4 Right of first refusal for Licensee

In the event of a Licensor Insolvency Event or, without Licensee's prior written consent, a change in or to the Control (as defined in section 50AA of the Corporations Act) of Bionomics, Inc or Bionomics, Inc ceasing to operate or to be in good standing under Delaware law, Licensee will have a right of first refusal (but not an obligation) to purchase some or all of the Licensed IP ("**First Right**") as follows:

- (a) Licensor (or its authorised representative) must not offer any other person any rights with respect to any Licensed IP without first completing the following process.
- (b) Licensor (or its authorised representative) must promptly notify Licensee in writing of the event triggering the First Right ("**First Right Notice**").
- (c) Licensee will have [***] from receipt to respond to the First Right Notice to give notice to Licensor exercising the First Right.
- (d) For a period of up to [***] after Licensee gives notice exercising its First Right, the parties will, acting reasonably and in good faith, negotiate a mutually acceptable agreement for purchase of some or all of the Licensed IP by Licensee. The price to be negotiated between the parties will reflect the fair market value of the Licensed IP or relevant part thereof.
- (e) If:
 - (i) Licensee does not respond within the [***];
 - (ii) Licensee responds indicating it elects not to exercise the First Right; or
 - (iii) the parties fail to agree a definitive agreement within the [***],

Licensor may sell the Licensed IP to other parties, provided however that Licensor must not sell or offer to sell any Licensed IP to any third party on terms more favourable than offered by Licensor to Licensee, or offered by Licensee to Licensor, without first offering such more favourable terms to Licensee (and the procedure in this clause will be repeated).

12.5 Expiry of Agreement

On the Expiry as defined in clause 12.1 (but not on termination) of this Agreement, Licensee will have full rights to continue to develop and exploit the Licensed IP and Licensed Products without further obligation to pay a Sublicence Fee, Milestone Payment or Royalty.

13. ANNOUNCEMENTS

A public announcement in connection with this Agreement or a matter contemplated by it must be agreed by the parties before it is made (such agreement not to be unreasonably withheld or delayed), except if the announcement is required to be made by law or by a lawful requirement of any government or governmental body, authority or agency having authority over the party making it, including the rules of the Australian Stock Exchange, or is required to be made in connection with legal proceedings, in which case the party required to make the announcement will provide the other party with full details of the required announcement prior to making it if legally permitted to do so otherwise at the earliest opportunity.

14. INSURANCE

Each party must hold appropriate insurance policies, for prudent levels of insurance cover and with reputable insurance firms, having regard to the activities of the party under or pursuant to this Agreement.

15. GST

15.1 GST Gross-up

If a party (the “**supplier**”) is required to pay GST in respect of a supply made under, or pursuant to, or by reason of a breach of, this Agreement, the recipient of the supply must (in addition to any other payment for, or in connection with, the supply) pay to the supplier an amount equal to such GST (“**GST gross-up**”).

15.2 GST invoice

If a GST gross-up is payable, then the supplier will give the recipient a valid tax invoice for the supply.

15.3 Payment

Provided a valid tax invoice has been given, the GST gross-up must be paid by the recipient:

- (a) if any monetary consideration is payable for the supply, at the same time and in the same manner as such monetary consideration;
- (b) if no monetary consideration is payable for the supply within [***] after the day on which the tax invoice is given.

15.4 Reimbursements

If any payment to be made to a party under or in connection with this Agreement is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that party, then the amount of the payment must be reduced by the amount of any input tax credit to which that party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with clause 15.1.

15.5 Adjustments

If an adjustment event has occurred in respect of a supply made under or in connection with this Agreement, any party that becomes aware of the occurrence of that adjustment event must notify

the other party as soon as practicable, and the parties agree to take whatever steps are necessary (including to issue an adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that supply, or any refund of GST (or part thereof), is paid no later than [***] after the supplier first becomes aware that the adjustment event has occurred.

15.6 Definitions

- (a) Terms used in this clause which are defined in the A New Tax System (*Goods and Services Tax Act 1999* (Cth)) have the meaning given to them in that Act.
- (b) In this clause, a reference to a payment includes any payment of money and any form of consideration other than payment of money.
- (c) In this Agreement, all references to payments and obligations to make payments, including all references to compensation (including by way of reimbursement or indemnity), are, but for the operation of this clause, exclusive of GST.

15.7 Survival

The parties' rights and obligations under this clause survive termination or expiry of this Agreement.

16. DISPUTE RESOLUTION

16.1 Notice of dispute

If any dispute arises in connection with this Agreement, the party requiring it to be resolved must promptly give the other party written notice identifying, and giving details of, the dispute.

16.2 Good faith negotiation

- (a) Within [***] of a party receiving the notice referred to in clause 16.1, or such longer period agreed on by the parties, the chief executive officers (or equivalent) of the parties must meet and, in good faith, attempt to resolve the dispute by negotiation for a period of not less than [***]
- (b) In the event that the parties are unable to reach a resolution of the dispute by negotiation within the period referred to in paragraph (a) above, either party may by notice in writing to the other ("**Dispute Notice**") advise the other party that it seeks to commence legal proceedings to have the dispute resolved.

16.3 Injunctive relief

Nothing contained in this clause 16 will deny any party the right to seek injunctive relief from an appropriate court where failure to obtain such relief would cause irreparable damage to the party concerned.

17. NOTICES

17.1 Giving of notices

A notice, approval, direction, consent, offer, demand or other communication in connection with this Agreement may be:

- (a) in writing;
- (b) signed by an authorised officer of the relevant party; and
- (c) given to the recipient party:
 - (i) by hand delivery to the address of the recipient party set out below;
 - (ii) by pre-paid mail sent to the address of the recipient party set out below; or
 - (iii) by email transmission to the email address of the recipient party set out below,

and in each case must be marked for the attention of the person specified below in relation to the recipient party:

Licensor

Name: Bionomics Limited
Address: 31 Dalgleish Street, Thebarton SA 5031
Attention: Legal Counsel & Company Secretary, [***]
Email: [***]

Licensee

Name: Carina Biotech Pty Ltd
Address: Level 2, Ian Wark Building, UniSA Mawson Lakes Campus, Mawson Lakes SA 5095
Attention: Chief Executive Officer – Dr Deborah Rathjen
Email: [***]

17.2 Change of details

- (a) A party may from time to time change any of the details specified above by not less than five Business Days notice to each other party.
- (b) If details are changed in accordance with this clause, this clause applies as if those changed details were set out above.

17.3 Effective on receipt

Unless proved to the contrary, notice given in accordance with clause 17.1 takes effect when taken to be received (or at a later time as specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by pre-paid mail, on the sixth Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia); and

- (c) if sent by email transmission, when the sender's email system confirms the time of sending of the email (unless the sender receives a delivery failure notification indicating the email has not been delivered to the addressee),

but if the delivery, receipt or transmission is not on a Business Day or is after 5 pm on a Business Day, the notice is taken to be received at 9 am on the next Business Day.

18. ASSIGNMENT

- (a) Each party has the right to extend the rights granted in this Agreement to one or more of its Related Bodies Corporate provided that each party remains solely responsible for the performance of its Related Bodies Corporate and liable to the other party for any acts or omissions of its Related Bodies Corporate.
- (b) Subject to:
 - (i) paragraph (a) above; and
 - (ii) the rights of Licensee under this Agreement to subcontract and sublicense its rights under this Agreement,neither party may assign its rights under this Agreement other than with the prior written consent of the other party. Any such assignment without prior written consent is void and of no effect.
- (c) This Agreement is binding on, and inures to the benefit of, the parties and their permitted successors and assigns.

19. MISCELLANEOUS PROVISIONS

- (a) A party's failure or delay to exercise a power or right is not a waiver of that right, and the exercise of a power or right does not preclude the future exercise of that or any other power or right. A waiver of a power or right must be in writing and signed by the party giving the waiver.
- (b) This Agreement is the entire agreement between the parties as to its subject matter. It supersedes all prior agreements, representations, conduct and understandings.
- (c) No amendment of, nor addition to, this Agreement is binding unless it is in writing and executed by the parties to this Agreement.
- (d) The law of this Agreement is the State of South Australia, and the parties submit to the non-exclusive jurisdiction of the courts of South Australia.
- (e) Each party will bear its own costs in relation to the negotiation and preparation of this Agreement.
- (f) The parties will do all things and execute all documents required to permit or facilitate the performance of the transactions contemplated by this Agreement.
- (g) This Agreement may be executed in counterparts, which when taken together are one instrument.

- (h) If a clause or a part of a clause of this Agreement is found to be invalid or unenforceable (whether in respect of a party or generally), it will be severed from this Agreement and this Agreement will otherwise continue in force.
- (i) A party's rights and obligations do not merge on completion of any transaction under this Agreement.
- (j) Except where this Agreement expressly states otherwise, this Agreement does not create a relationship of employment, trust, agency or partnership between the parties.
- (k) Any obligation of confidentiality under this Agreement is independent from the other obligations of the parties and survives termination or expiration of this Agreement. Any other term in this Agreement which is expressed to, or by its nature is intended to, survive termination or expiration of this Agreement (including this clause 19(k)), survives termination or expiration of this Agreement.

20. INTERPRETATION RULES

In this Agreement, unless a contrary intention appears:

- (a) a reference to this Agreement or any other document is a reference to this Agreement or other document as amended, varied, novated, supplemented or replaced from time to time;
- (b) words or expressions importing the singular include the plural and vice versa or denoting individuals include corporations, firms, unincorporated bodies, authorities and instrumentalities;
- (c) a reference to a party to this Agreement or any other instrument includes that party's executors, administrators, successors and permitted assigns;
- (d) where a word or phrase is defined or given meaning, any other part of speech or grammatical form has a corresponding meaning;
- (e) any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this Agreement;
- (f) a provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement;
- (g) where an act would be required to be done, or a time limit or period would expire, on a day which is not a Business Day, the act must be done, or the limit or period will expire, on the following Business Day;
- (h) the words "**including**", "**for example**" and "**such as**" (and any other forms of those words) are to be construed without limitation;
- (i) a reference to "**dollars**" or "**\$**" is a reference to Australian dollars; and
- (j) if a party to this Agreement is made up of more than one person, or a term is used in this Agreement to refer to more than one party, an obligation of those persons is joint and several, a right of those persons is held by each of them separately, and any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.

SCHEDULE 2 – Licensed Patents

[***]

[***]

[***]

EXECUTED as an agreement.

EXECUTED by **BIONOMICS LIMITED**)
in accordance with section 127 of the Corporations)
Act 2001:)

/s/ Errol de Souza
Director

Dr Errol De Souza
Print Name

EXECUTED by **BIONOMICS INC**)
by its duly authorised representative(s):)

/s/ Jack Moschakis
Authorised representative

Sole Director & Secretary
Position

Mr Jack Moschakis
Print Name

EXECUTED by **CARINA BIOTECH PTY LTD**)
In accordance with section 127 of the Corporations)
Act 2001:)

/s/ Leanna Read
Director

Dr Leanna Read
Print Name

/s/Jack Moschakis
Director/Secretary

Mr Jack Moschakis
Print Name

Authorised representative

Position

Print Name

/s/ Charlie Latham
Director/Secretary

Mr Charlie Latham
Print Name

LANDS TITLES REGISTRATION OFFICE

SOUTH AUSTRALIA

LEASE

FORM APPROVED BY THE REGISTRAR-GENERAL

PRIORITY NOTICE ID	
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**BELOW THIS LINE FOR OFFICE
PURPOSES ONLY**

SERIES NO	PREFIX
	L

AGENT CODE

MEOL61

LODGED BY

Mellor Olsson
Level 6, 89 Pirie Street
ADELAIDE SA 5000

CORRECTION TO

Mellor Olsson

SUPPORTING DOCUMENTATION LODGED WITH INSTRUMENT
(COPIES ONLY)

- 1
- 2
- 3
- 4
- 5

CORRECTION	PASSED
REGISTERED	
REGISTRAR-GENERAL	

LEASE

PRIVACY COLLECTION STATEMENT: The information in this form is collected under statutory authority and is used for maintaining publicly searchable registers and indexes. It may also be used for authorised purposes in accordance with Government legislation and policy requirements.

LAND DESCRIPTION

Portion of the land comprised in Certificate of Title Register Book Volume 5687 Folio 5 being part of the Ground Floor, 200 Greenhill Road, Eastwood SA 5063 marked "Tenancy A" on the attached plan together with the improvements thereon (hereinafter called "the Premises")

ESTATE & INTEREST

In fee simple

LESSOR (Full name and address)

200 GREENHILL ROAD PTY LTD ACN 131 366 535 of 179 Fullarton Road Dulwich SA 5065

LESSEE (Full name, address and mode of holding)

BIONOMICS LIMITED ACN 075 582 740 of 31 Dalglish Street, Thebarton SA 5031

TERM Five (5) years

COMMENCING ON 1 June 2021

AND

EXPIRING ON 31 May 2026

With one right of renewal for the period set out in Item 10 of the Reference Schedule

RENT AND MANNER OF PAYMENT (or other consideration)

ONE HUNDRED AND NINETY TWO THOUSAND TWO HUNDRED AND TWENTY SIX DOLLARS AND FIFTY CENTS (\$192,226.50) (plus GST) per annum payable calendar monthly in advance on the 1st day of each and every calendar month during the term of this Lease.

IT IS COVENANTED BY AND BETWEEN THE LESSOR AND THE LESSEE as listed herein: (Covenants, where not deposited, to be set forth on insert sheet(s) and securely attached)

OPERATIVE CLAUSE **Delete the inapplicable*

The Lessor LEASES TO THE LESSEE the land above described and the LESSEE ACCEPTS THIS LEASE of the land for the term and at the rent stipulated, subject to the covenants and conditions expressed herein and to the powers and covenants implied by the Real Property Act 1886 (except to the extent that the same are modified or negated below).

DEFINE THE LAND BEING LEASED INCORPORATING THE REQUIRED EASEMENT(S) ETC.

N/A

CONSENTS OF MORTGAGEES AND SECTION 32 DEVELOPMENT ACT 1993 CERTIFICATION

The provisions of this Lease do not contravene Section 32 of the Development Act 1993.

DATED 31 May 2021

CERTIFICATION **Delete the inapplicable*

Lessor(s)

*The Certifier has taken reasonable steps to verify the identity of the lessor.

*The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

*The Certifier has retained the evidence to support this Registry Instrument or Document.

*The Certifier has taken reasonable steps to ensure that the Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed By:

.....
Name of certifying party

.....
Capacity of certifying party

for: Mellor Olsson Lawyers
Company name
on behalf of the Lessor

Lessee(s)

*The Certifier has taken reasonable steps to verify the identity of the lessee.

*The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

*The Certifier has retained the evidence to support this Registry Instrument or Document.

*The Certifier has taken reasonable steps to ensure that the Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed By:

.....
Name of certifying party

.....
Capacity of certifying party

for:
Company name
on behalf of the Lessor

REFERENCE SCHEDULE

ITEM 1

Certificates of Title being Leased Portion of the land comprised in Certificate of Title Register Book Volume 5687 Folio 5 being part of the Ground Floor, 200 Greenhill Road, Eastwood SA 5063 as shown on the Floor Plan annexed hereto being the Premises marked "Tenancy A" on the plan

ITEM 2

Estate of Lessor In fee simple

ITEM 3

Encumbrances Subject to Mortgage 11825924

ITEM 4

Lessor **200 GREENHILL ROAD PTY LTD** ACN 131 366 535 of 179 Fullarton Road, Dulwich SA 5065

ITEM 5

Lessee **BIONOMICS LIMITED** ACN 075 582 740 of 31 Dalglish Street, Thebarton SA 5031

ITEM 6

Term of Lease Five (5) years commencing on the 1st day of June 2021 and expiring at midnight on 31 May 2026

ITEM 7

Rent and Manner of Payment (or Other Consideration) (Clause 4.1) **ONE HUNDRED AND NINETY TWO THOUSAND TWO HUNDRED AND TWENTY SIX DOLLARS AND FIFTY CENTS (\$192,226.50)** (plus GST) per annum being **ONE HUNDRED AND SEVENTY ONE THOUSAND SEVEN HUNDRED AND SIX DOLLARS AND FIFTY CENTS (\$171,706.50)** (plus GST) per annum for the office accommodation and **TWENTY THOUSAND FIVE HUNDRED AND TWENTY DOLLARS (\$20,520.00)** (plus GST) per annum for eighteen (18) onsite car parks. The annual rent shall be paid by equal consecutive calendar monthly instalments equivalent to one twelfth of the annual rental always in advance the first such instalment to be paid on the 1st day of June 2021 and thereafter on the 1st day of each and every calendar month.

ITEM 8

Development Act Certification This Lease does not contravene Section 32 of the Development Act 1993

ITEM 9

Description of the Land (Clause 1.1) The whole of the land comprised in Certificate of Title Register Book Volume 5687 Folio 5

ITEM 10

Further Term Five (5) years commencing 1 June 2026 and expiring at midnight on 31 May 2031

ITEM 11

Rent Review Date (Clause 4.4) 1st day of June 2022

1st day of June 2023

1st day of June 2024

1st day of June 2025

ITEM 12

Rent Review Date in respect of further term 1st day of June 2026

1st day of June 2027

1st day of June 2028

1st day of June 2029

1st day of June 2030

ITEM 13

Lessee's Redecoration Date (Clause 6.3) At the expiration of the term of this Lease or upon any earlier determination

ITEM 14

Interest Rate (Clause 4.5) A rate of interest of two (2) per centum per annum greater than the prime lending rate of interest charged from time to time by the Commonwealth Bank of Australia on overdrafts of \$100,000.00 or more

ITEM 15

Public Risk Policy (Clause 7.1) TWENTY MILLION DOLLARS (\$20,000,000.00)

ITEM 16

Permitted Use of Premises (Clause 5.2, 8.1 and 8.5) Office accommodation

ITEM 17

Hours when Occupancy of the Premises Not Permitted Clause 8.5(e) and (g) Refer Clause 3 of the Fourth Schedule

ITEM 18

(a) Lessee's Percentage of Outgoings and Cleaning Costs (Clauses 4.3, 6.5 and Third Schedule) 24.12%

(b) Lessee's Percentage of Ground Floor Air Conditioning Electricity Charges 50.36%

ITEM 19

Schedules Forming Part of this Lease

- First Schedule – Inventory of Lessor's Fixtures and Fittings
- Second Schedule – Part A – Services to be Provided by Lessor
Part B – Operating Procedures and Building Regulations
- Third Schedule – Lessee's Contribution to Outgoings
- Fourth Schedule – Special Covenants and Conditions
- Fifth Schedule – Right of Renewal
- Sixth Schedule – Rent Review

RESERVATIONS

The Lessor being registered as the proprietor of the estate or interest referred to in Item 2 of the Reference Schedule **HEREBY RESERVES** unto the Lessor and persons claiming through or authorised by it the use of the exterior walls the roof and the right to install maintain use repair alter and replace pipes ducts conduits and wires leading through the Premises and to pass and run water air electricity sewerage drainage gas and other services through such pipes ducts and conduits and wires and to enter upon the Premises for such purposes **PROVIDED THAT** in exercising such rights as aforesaid the Lessor shall not interfere with the Lessee in its use and occupation of the Premises more than is reasonably necessary.

INDEX

HEADING

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2. EXCLUSION OF CERTAIN STATUTORY PROVISIONS AND IMPLIED TERMS
3. TERM OF LEASE AND FURTHER TERM
4. RENT, RENT REVIEW AND LESSEE'S CONTRIBUTION TO OUTGOINGS
5. ASSIGNMENT/SUB-LETTING
6. MAINTENANCE, REPAIRS, ALTERATIONS AND ADDITIONS
7. INSURANCE AND INDEMNITY
8. USE OF THE PREMISES AND THE BUILDING
9. RIGHTS RESERVED BY LESSOR
10. COVENANTS BY LESSOR
11. MISCELLANEOUS
12. SPECIAL COVENANTS AND CONDITIONS

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

FOURTH SCHEDULE

FIFTH SCHEDULE

SIXTH SCHEDULE

1. DEFINITIONS AND INTERPRETATIONS

1.1 Meanings

In this Lease unless the contrary intention appears:

- (a) “the Building” means the building erected upon the Land or part thereof of which the Premises forms part including the common areas of the Building and also the fixtures and fittings in the Building together with any extension or alterations subsequently made to the Building.
- (b) “the Building Services” means the services for the time being provided to the building or the premises by the Lessor and without limiting the generality of this expression includes the services listed in Part A of the Second Schedule.
- (c) “clean” means the maintenance of the Premises and the water closets washrooms and lavatories of the Building in a thoroughly clean sanitary and tidy condition including but without limiting the generality thereof the cleaning of the exterior and interior of all windows and glass doors the removal of all waste and garbage from the Premises the Building and the Land and ensuring that at all times there is a good and sufficient supply of paper towels and other toilet requisites in the water closet washrooms and lavatories of the Building and further, includes cleaning of the car parking areas and the watering of the common area landscaping and replacement planting. “Cleaning” shall have a corresponding meaning.
- (d) “the common areas of the Building” means the tearooms toilet and washroom facilities forecourts entrances vestibules passages stairways landings escalators and lifts and other areas if any from time to time permitted by the Lessor to be used in general by the occupants of the Building.
- (e) “the Land” means the Land described in Item 9 of the Reference Schedule.
- (f) “this Lease” includes the Schedules referred to in Item 19 of the Reference Schedule and any plan (if any) herein referred to or annexed hereto.
- (g) “the Lessee” means the Lessee or Lessees named in Item 5 of the Reference Schedule and if a person or persons his or their respective executors administrators successors and permitted assigns or if a company the Lessee and its permitted assigns and where there are two (2) or more Lessees shall mean and include the Lessees and each and every of them and each and every of their executors administrators and permitted assigns.
- (h) “the Lessee and persons under his control” means the Lessee his servants and agents and any other person in or about the Premises at any time at the request or invitation of or under the control or direction of the Lessee.
- (i) “the Lessor” means the Lessor named in Item 4 of the Reference Schedule its successors and assigns or being a person or persons his or their respective executors administrators and assigns and where not repugnant to the context its servants or agents (including for the purpose of giving any notice any managing agent appointed from time to time by the Lessor).

- (j) "Operating Procedures and Building Regulations" means the procedures and regulations contained in Part B of the Second Schedule to this Lease as may from time to time be varied or amended pursuant to clause 9.5.
- (k) "the Premises" means the premises referred to in Item 1 of the Reference Schedule including such floor coverings curtains blinds ceilings light fittings air conditioning and other fixtures fittings plant machinery and equipment (if any) provided by the Lessor from time to time and without limiting the generality of the foregoing the fixtures and fittings (if any) described in the First Schedule hereto.
- (l) "the Reference Schedule" means the schedule headed "Reference Schedule" contained in Pages 4, 5 and 6 of this Lease.
- (m) Any provision of this Lease to be performed by two (2) or more persons shall bind those persons jointly and severally.
- (n) Any reference in this Lease to any statute code or regulation is deemed to include all amendments and revisions made from time to time to that statute code or regulation and any statute code or regulation passed in substitution for the statute or ordinance referred to herein or incorporating any of its provisions.
- (o) Where the context so permits words importing the masculine gender shall include the feminine and neuter genders and vice versa and words importing persons shall include corporations and vice versa and words importing the singular number shall include the plural and vice versa (unless repugnant or inconsistent to the context in which they are used).
- (p) Wherever the initials "N/A" appear in any of the Schedules in this Lease it shall mean that that particular Item or Schedule and the clause or part thereof which refers to that Item or Schedule shall not apply to the terms of this Lease.
- (q) The Index to this Lease and headings and marginal notation in this Lease have been inserted for convenience only and shall not in any way limit or govern the construction of the terms of this Lease.

2. EXCLUSION OF CERTAIN STATUTORY PROVISIONS AND IMPLIED TERMS

2.1 Real Property Act

- (a) The covenants and powers implied in every Memorandum of Lease by virtue of Sections 124 and 125 of the Real Property Act 1886 (as amended) shall not apply or be implied in this Lease except insofar as the same or some part or parts thereof are included in the covenants herein contained.
- (b) To the extent permitted by law the application to this Lease of any moratorium or other Act whether State or Federal having the effect of extending the term reducing or postponing the payment of rent or otherwise affecting the operation of the terms of this Lease is expressly excluded and negatived.

2.2 Severability

The Lessor and the Lessee hereby agree that if any provision of this Lease is in breach of the Competition and Consumer Act 2010 (Cth) or any Act whether State or Federal and in consequence of such breach is void voidable unenforceable or invalid then in any such case such provision shall be severable from this Lease and this Lease shall be read as though such provision did not form part of the same at any time.

2.3 Exclusion of Implied Terms

The covenants provisions terms and agreements contained in this Lease expressly or by statutory implication cover and comprise the whole of the agreement between the parties and the parties expressly agree and declare that no further or other covenants agreements provisions or terms whether in respect of the Premises or otherwise shall be deemed to be implied herein or to arise between the parties by way of collateral or other agreement by reason in this Lease of any promise representation warranty or undertaking given or made by any party or its employee or agent to any other party or its employee or agent on or prior to the execution of this Lease and the existence of any such implication or collateral or other agreement is hereby negated.

3. TERM OF LEASE AND FURTHER TERM

3.1 Term of Lease

The term of this Lease shall commence on and include the commencement date stated in Item 6 of the Reference Schedule and shall continue until the expiration of the period referred to in Item 6 of the Reference Schedule.

3.2 Option to Renew

If a period is specified in Item 10 of the Reference Schedule, the Lessor grants to the Lessee on and subject to the terms and conditions of the Fifth Schedule the option to renew the term hereby granted for the period therein specified.

3.3 Monthly Tenancy

Should the Lessee with the express consent of the Lessor continue to occupy the Premises beyond the expiration of the term of this Lease (otherwise than pursuant to the grant of a further Lease) the Lessee shall do so as a monthly tenant only at a rental payable calendar monthly in advance the first such payment to be made on the day following the expiration of the term of this Lease equal to one-twelfth of the sum of the following amounts:

- (a) the annual amount of the current market rent in respect of the Premises at the time which shall be the then current monthly rental increased by 3%; and
- (b) the annual amount of the Lessee's contribution to the outgoings of the Building referred to in the Third Schedule to this Lease. The monthly tenancy so created shall be determinable by either party by at least one (1) calendar month's notice in writing to the other expiring not earlier than the last day of a month of a tenancy **PROVIDED HOWEVER** that no such holding over shall be implied from the fact that the Lessee failed to give vacant possession of the Premises to the Lessor upon the expiration of the term of this Lease.

3.4 **Reduction of Term**

Should the Lessor become entitled to re-enter or determine this Lease the Lessor may at its option by written notice reduce the unexpired residue of the term of this Lease to a period of one (1) month and thereafter from month to month upon the conditions stated in clause 3.3 hereof.

4. **RENT, RENT REVIEW AND LESSEE'S CONTRIBUTION TO OUTGOINGS**

4.1 **Covenant to Pay Rent**

The Lessee covenants to pay rent to the Lessor during the term of this Lease at the rate stated in Item 7 of the Reference Schedule and when applicable at any higher rate determined pursuant to clause 4.4 hereof.

4.2 **Manner of Payment of Rent**

- (a) The rent reserved by this Lease shall be paid by the Lessee by equal calendar monthly instalments in advance on the first day of each month (and proportionately for any part of a month) the first instalment to be paid on the commencement date.
- (b) All payments of rent or other moneys required to be paid by the Lessee under this Lease shall be paid to the Lessor or as the Lessor may in writing otherwise direct without any abatements or deductions whatsoever.

4.3 **Additional Payments by Lessee**

The Lessee covenants to pay to the Lessor as additional rent reserved under this Lease:

- (a) The Lessee's contribution to the outgoings of the Building in the manner provided in the Third Schedule; and
- (b) The Lessee's proportion of the cost of toilet requisites, waste removal from and cleaning of the Building and the common areas of the Building including window cleaning and electricity charges in respect of the common areas of the Building being the percentage stated in Item 18(a) of the Reference Schedule. Despite the above, the Lessee may in respect of any contract the Lessee enters into with the Lessor's designated cleaner in respect of cleaning the Premises, include a requirement to pay such cleaner the amounts required to be paid by the Lessee under this clause, and if so, payments by the Lessee to the cleaner of such amounts will be deemed to satisfy the Lessee's obligations under this clause 4.3(b).

4.4 **Rent Reviews**

The annual rental shall be reviewed on each of the successive dates stated in Item 11 and Item 12 of the Reference Schedule (each of such dates being called "the review date") in accordance with the method set out in the Sixth Schedule.

4.5 **Interest on Overdue Rent or Other Moneys**

If any rent or other moneys payable by the Lessee under this Lease remain unpaid for fourteen (14) days after their due date then the Lessee shall pay to the Lessor interest on those moneys at the annual percentage rate stated in Item 14 of the Reference Schedule calculated from the due date to the date of payment and the Lessor will be entitled to recover those moneys and such interest as if the same were rent in arrears.

4.6 Goods and Services Tax

- (a) Unless otherwise agreed by the Lessor and the Lessee, any supply under or in accordance with this Lease and/or the premises is exclusive of GST and liability for GST shall be in addition thereto.
- (b) If at any time the Lessor shall be required to pay GST in respect to any supply made by the Lessor under or in accordance with this Lease, the Lessee shall in addition to any other monies due and payable by it under this Lease, pay to or reimburse the Lessor the amount of any such GST provided that the Lessee receives a tax invoice.
- (c) If at any time the Lessee shall be required to pay GST in respect to any supply made by a third party of and incidental to the premises and/or this Lease, the Lessee shall pay to that third party on demand the amount of any such GST provided that the Lessee receives a tax invoice.
- (d) Any non payment or non reimbursement of GST by the Lessee to the Lessor or any non payment of GST by the Lessee to a third party pursuant to this Lease shall be treated as a fundamental breach of this Lease and have the same consequences under this Lease as non payment of any other monies due and owing by the Lessee.
- (e) For the purposes of this Lease:

“GST” means any goods and services or similar tax imposed by and defined in the GST Law;

“GST Law” means the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) or any other Act specified in section 195-1 of that Act or any Act or Regulation pursuant to, associated with, amending or replacing that Act;

“tax invoice” has the same meaning as that given in Section 195 of the GST Law.

5. ASSIGNMENT/SUB-LETTING

5.1 Lessee Not to Sub-let Without Consent

The Lessee covenants not to sub-let mortgage or otherwise deal with its right to possession of the Premises without the prior written consent of the Lessor (which consent shall not be unreasonably or capriciously withheld).

5.2 Conditions of Assignment

- (a) The Lessee covenants not to assign this Lease without the prior written consent of the Lessor. The Lessor will not withhold consent to an application by the Lessee to assign the Lease if prior to any such assignment:
 - (i) the Lessee shall demonstrate to the reasonable satisfaction of the Lessor that the proposed assignee is responsible and of sound financial standing and intending to use the Premises for the use specified in Item 16 of the Reference Schedule;
 - (ii) all rent and other moneys payable by the Lessee to the Lessor up to the date of proposed assignment have been paid;

- (iii) there is not any existing unremedied breach of any of the terms of this Lease;
 - (iv) the Lessee procures the execution by the assignee of a transfer and/or an assignment of this Lease in a form approved by the Lessor;
 - (v) all costs incurred by the Lessor (whether or not the proposed assignment proceeds to completion) have been paid by the Lessee;
 - (vi) where the proposed assignee is a company other than a public company as defined in the Corporations Act 2001 the Lessor may require the directors and/or controlling shareholders of such company to enter into a deed guaranteeing the performance by that company of the terms of this Lease such guarantee to be in a form acceptable to the Lessor and the costs incurred by the Lessor in the preparation and execution of such guarantee are paid by the Lessee; and
 - (vii) if requested by the Lessor a Bank Guarantee is provided by the Assignee on the terms and conditions set out in paragraph 5 of the Fourth Schedule.
- (b) For the purposes of this clause 5.2 an assignment of this Lease shall be deemed to have been effected in any of the following circumstances:
- (i) If the Lessee being a company or any one of the Lessees being a company other than a listed public company as defined in the Corporations Act 2001 has had a change in the beneficial ownership of its shares which change has the effect of altering the person or persons in effective control of the company.
 - (ii) If the Lessee is a partnership any change in the constitution of the partnership except by the death of any partner.

Any such assignments taking effect without the Lessor's prior written consent shall be deemed a default by the Lessee under the provisions of this Lease.

Where the Lessor consents to an assignment under clause 5.2, the Lessor will release the Lessee from and against any claims in respect of the Lease and the assignment of the same on the date being the second anniversary of such assignment of the Lease.

5.3 **Grounds on which consent to assignment can be withheld**

The Lessor is entitled to withhold consent to an assignment of this Lease in any of the circumstances set out in Section 43 of the Retail and Commercial Leases Act 1995.

6. **MAINTENANCE, REPAIRS, ALTERATIONS AND ADDITIONS**

6.1 **Lessee to Keep Premises and Fixtures in Good Repair**

- (a) The Lessee shall keep the interior of the Premises and all fixtures and fittings (including any carpets curtains or blinds) installed or provided by the Lessor (which fixtures and fittings are more particularly described in the inventory of the Lessor's fixtures and fittings in the First Schedule) in good repair and at the expiration or sooner determination of this Lease shall yield up the Premises and the fixtures and fittings of the Lessor in good repair.
- (b) The obligation of the Lessee stated in paragraph (a) of this clause does and clause 6.4 does not include:

- a. responsibility for fair wear and tear; and
- b. any damage or destruction to the Premises or the Building from fire, flood, lightning, storm, tempest, inevitable accident, act of God or war damage whether to the Premises or Building (except where insurance moneys are irrecoverable in consequence of any act, omission or default of the Lessee and persons under his control, in which event the Lessee must rectify the damage).

6.2 **Service of Plant and Equipment Within and Exclusively Servicing the Premises**

In the event that the Lessor installs any plant or machinery within and exclusively servicing the Premises then the Lessee shall keep all such plant or machinery maintained serviced and in good repair and will enter into and keep current at the Lessee's expense such maintenance service and repair contracts as are reasonably required by the Lessor for that purpose with contractors approved by the Lessor.

6.3 **Reinstatement Makegood**

- (a) The Lessee shall at the Lessee's own cost and expense reinstate the Premises throughout to the reasonable satisfaction of the Lessor before each of the dates specified in Item 13 of the Reference Schedule and immediately before the date of expiration of the term of this Lease. In this clause the term "reinstatement" shall include the washing down of the whole of the interior of the Premises including all partitions or additions made to the Premises and the treatment as previously treated of all internal surfaces of the Premises (including the ceiling and T-bars) by repairing and painting (with not less than two (2) coats) staining polishing or otherwise to colours and specifications approved by the Lessor and also the replacing of all carpet/floor tiles/floor coverings which in the opinion of the Lessor's building consultant are worn, damaged or otherwise in need of replacement (fair wear and tear excepted).
- (b) Should the Lessee fail to reinstate the Premises by the dates specified in Item 13 of the Reference Schedule the Lessor may undertake reinstatement at the Lessee's expense and the Lessee shall repay amounts so expended by the Lessor on demand.
- (c) The Lessee shall at the commencement of the term of this Lease fit out and decorate the Premises at the Lessee's own cost and expense subject always to the Lessor's prior written consent as regards quality and type of fixtures and fittings and colour schemes used such consent not to be unreasonably or capriciously withheld.

6.4 **Lessee's Further Maintenance/Repair Obligations**

The Lessee shall at the Lessee's expense:

- (a) ensure that all waste is placed daily in suitable receptacles;
- (b) as soon as practicable make good any damage to any part of the Building (including the common areas) or to the Premises or any part thereof caused by the Lessee and persons under his control;
- (c) as soon as practicable replace all glass broken by the Lessee and persons under his control;
- (d) replace all damaged or non-operative light globes and tubes within the Premises;

- (e) take any steps necessary to control any pest infestation occurring within the Premises and if required by the Lessor engage a pest exterminator approved by the Lessor;
- (f) repair or where appropriate replace heating lighting electrical and plumbing fittings installed in the Premises broken or damaged by the Lessee and persons under his control;
- (g) comply with all statutes ordinances proclamations orders and regulations affecting the Premises or any fixtures or fittings installed by the Lessee therein;
- (h) comply with any notices or orders which may be given by any competent authority in respect of the Premises or their use by the Lessee and will keep the Lessor indemnified in respect of all such matters

PROVIDED THAT the Lessee shall be under no liability in respect of any structural alterations or items involving a capital cost unless that liability arises out of the Lessee's use or occupation of the Premises.

6.5 **Cleaning**

- (a) The Lessee shall keep the Premises clean at the Lessee's expense.
- (b) In the event of the Lessor or the Lessor's appointed contractors providing during the term of this Lease a service for the routine cleaning of the Building the Lessee shall, if so required by the Lessor (and allowed by law), use such service for the cleaning of the Premises and shall permit the Lessor's cleaning contractors to have access to the Premises at all reasonable times for the purpose of carrying out such routine cleaning. The Lessee will be invoiced directly by the Lessor's appointed contractors. The Lessee may negotiate and contract directly with the Lessor's cleaning contractors in respect of the Lessor's requirements for cleaning the Premises.

6.6 **Alterations or Additions to Premises by Lessee**

- (a)
 - (i) The Lessee shall not install or use in the Premises internal partitions curtains or other window treatments or light fittings other than of a standard as to type quality and size as the Lessor shall approve.
 - (ii) The Lessee shall not without the prior written consent of the Lessor, remove or alter any fixture or fitting provided by the Lessor within the Premises. Where such consent is forthcoming, the Lessee acknowledges and agrees to reinstate any such fixtures or fittings at the expiration of the term of this Lease or upon any earlier determination.
- (b) The Lessee shall not install or place any heavy item fixture or fittings which is or is likely in the opinion of the Lessor to overload the structure of any part of the Building.
- (c) The Lessee shall not make alterations or additions to the Premises nor install or alter any partitioning nor install or place any heavy equipment fitting fixture or machinery likely to disturb the efficient operation of the air conditioning or other systems servicing the Building or the Premises without the Lessor's prior written approval (which shall not be unreasonably or capriciously withheld) and:

- (i) in seeking the Lessor's approval to a proposed alteration or addition or installation/alteration the Lessee shall submit plans and specifications of the proposed work;
- (ii) the Lessor may require as a condition of its approval that:
 - (1) any such work shall be supervised by a person nominated by the Lessor;
 - (2) any such work shall be executed by contractors or tradespeople as are approved by the Lessor;
 - (3) the Lessee pays on demand all costs incurred by the Lessor in considering the proposed works and their supervision including the fees of architects or other building consultants employed by the Lessor;
 - (4) the Lessee shall obtain from any competent authority all necessary approvals or permits necessary to enable such proposed work to be lawfully effected and shall on request by the Lessor produce for inspection to the Lessor copies of all such approvals and permits from any such competent authority;
 - (5) upon completion of the works the Lessee shall produce to the Lessor any certificates of compliance issued by any such competent authority;
 - (6) the Lessee shall reimburse the Lessor any cost or expense as may be incurred by the Lessor as a result of the installation operation or removal of any such equipment fixture fitting or machinery;
 - (7) if requested by the Lessor, the Lessee shall reinstate the Premises to their original condition at the expiration of the term of this Lease or upon any earlier determination.
- (d) The Lessee shall not without the written consent of the Lessor which shall not be unreasonably or capriciously withheld, erect nor permit or suffer to be erected blinds, shades, awnings, window ventilators or other similar window treatments in or upon the Premises.
- (e) The Lessee shall not without the written consent of the Lessor, which consent shall not be unreasonably withheld, cause any advertisement notice poster hoarding or sign to be affixed to or placed near any window in the Premises so as to be visible from the outside of the Building.

6.7 **Removal of Fixtures and Fittings by Lessee on Termination**

- (a) The Lessee shall prior to the expiration of the term of this Lease remove all partitions alterations or additions installed or made by the Lessee or on behalf of the Lessee and make good damage to the Premises caused by such removal and where the term of this Lease shall be determined prior to the expiration of the term stated in Item 6 of the Reference Schedule the Lessee shall effect such removal and making good of damage within a reasonable time after such determination. For the avoidance of doubt, all lights, power and telecommunication outlets and air-conditioning registers must be relocated to the building layout position prior to occupation.

- (b) If the Lessee shall not have completed such removal and making good on the expiration of the term of this Lease (or in the case of the determination of the term of this Lease within a reasonable time after such determination) then the Lessor may remove and store such partitions alterations or additions as the Lessee shall have failed to remove and the Lessee undertakes to repay on demand all costs and expenses incurred by the Lessor in so doing and the Lessor may alternatively elect not to effect such removal in which case the Lessor shall by notice in writing given to the Lessee notify the Lessee that unless the Lessee shall have effected such removal within fourteen (14) days of the date on which such notice is given such partitions alterations or additions as have not been removed by the Lessee shall be forfeited to the Lessor and where the Lessee fails to comply with such notice such partitions alterations and additions shall at the expiration of such fourteen (14) day period become the absolute property of the Lessor.

6.8 Notice of Damage and Defects by Lessee

The Lessee shall forthwith give notice to the Lessor (or where appropriate to the Building supervisor or managing agent of the Lessor) of:

- (a) any damage and of any accident to or defects in the Premises or in the Building or in any of the services or other facilities provided by the Lessor in the Premises or the Building;
- (b) any circumstances likely to occasion any damage or injury occurring within the Premises or the Building.

7. INSURANCE AND INDEMNITY

7.1 Public Risk and Glass insurance by Lessee

The Lessee shall keep current at all times during its occupation of the Premises:

- (a) a policy of public risk insurance applicable to the Premises and the business carried on therein for an amount not less than the amount stated in Item 15 of the Reference Schedule (being the amount which may be paid out arising out of any one single accident or event);
- (b) an insurance policy in the name of the Lessee for the full insurable value on a replacement basis against all insurable risks all glass (including plate glass) in or enclosing the Premises;
- (c) an insurance policy in relation to the Lessee's own fixtures plant machinery furniture and goods against the usual insurable risks (including but not limited to damage by accident fire lightning storm tempest and earthquake act of God war or riot force majeure or similar events) in the full insurable value thereof.

Such insurance policies shall be taken out with an insurance company lawfully authorised to provide insurance products in Australia. If so requested by the Lessor, the Lessee must provide the Lessor with copies of certificates of currency for all insurance policies that the Lessee is required to hold under this Lease.

The Lessor will hold and maintain insurance in respect of loss and damage to the Building such that a prudent owner of like buildings in Adelaide would hold.

7.2 Lessee Not to Prejudice Lessor's Insurance or Premium Rate

The Lessee and persons under his control shall not do or permit to be done anything upon the Premises whereby any insurance effected by the Lessor or by the Lessee may be rendered void or voidable or (except with the Lessor's prior written approval) whereby the premium payable on any such insurance shall be liable to increase AND the Lessee shall as and when required by the Lessor pay all extra premiums payable by the Lessor on account of extra risk caused by the use to which the Premises are put by the Lessee.

7.3 Compliance with Insurance Council Requirements

The Lessee covenants at all times and in all respects to comply with the requirements of the Insurance Council of Australia the Fire Protection Division of the South Australian Metropolitan Fire Service or any similar body having like jurisdiction and with the requirements of any relevant statute regulation or other notice issued by any similar authority. Nothing in this clause imposes any obligation on the Lessee to undertake any structural works or incur any costs of a capital nature in respect of compliance with the above mentioned matters.

7.4 Lessee to Occupy Premises at its Risk

The Lessee agrees to occupy and use the Premises at the Lessee's risk and releases to the fullest extent permitted by law the Lessor its servants agents and contractors in the absence of any neglect or default on their part from all claims and demands of any kind and from all liability which may arise in respect of any accident damage or injury occurring to any person or property in or about the Premises or the Building.

7.5 Indemnity by Lessee

The Lessee shall keep the Lessor indemnified against all claims actions losses and expenses of any nature which the Lessor may suffer or incur or for which the Lessor may become liable in respect of or arising out of:

- (a) the negligent or careless use or misuse by the Lessee and persons under its control of the Premises or the Building or arising out of any faulty fixture or fitting of the Lessee;
- (b) any accident or damage to property or injury or death suffered by any person arising from any occurrence in or near the Premises to any person or property to the extent arising from any act or omission by the Lessee and persons under his control.

8. USE OF THE PREMISES AND THE BUILDING

8.1 Use to Which Premises May be Put by Lessee

The Lessee shall not use the Premises otherwise than for the purpose stated in Item 16 of the Reference Schedule.

8.2 No Warranty by Lessor as to Suitability of Premises

The Lessee hereby covenants and agrees with the Lessor that the Lessee has relied on its own judgement expertise and the Lessee's experts in deciding that the premises hereby let are suitable for the Lessee's purposes and that the Lessor has given no warranty as to the use to which the Premises may be put and that the Lessee has satisfied itself thereon and shall be deemed to have accepted this Lease with full knowledge of, and subject to, any prohibitions or restrictions on the

use thereof under or in pursuance of any Act Ordinance Regulation By-law or other statutory enactment or order of Court. Should the use be permissible only with the consent of any authority under or pursuance of any such Statute Ordinance Regulation By-law or other enactment or order of Court the Lessee shall obtain such consent at the Lessee's own cost and expense. To the full extent permitted by law all warranties as to suitability and as to adequacy implied by law are hereby expressly negated.

8.3 **Payment of Utility Charges by Lessee**

- (a) The Lessee hereby covenants and agrees to pay all charges for gas electricity (including light and power and air-conditioning energy) oil and water separately metered and consumed in or on the Premises and also all charges in respect of any telephone services connected to the Premises and all other charges and impositions imposed by any public utility or authority for the supply of any service separately supplied to the Premises. Where there exists no separate meter for recording or measuring in respect of the Premises any of the services or substances referred to in this clause where the Lessee requests the installation of such meters and the Lessor installs the same then the Lessee must reimburse the Lessor for the Lessor's costs in respect of the installation of such meters.
- (b) The Lessee shall pay to the Lessor that percentage stated in Item 18(b) of the Reference Schedule for the Lessee's percentage of ground floor air conditioning electricity charges which will be invoiced quarterly in arrears by the Lessor.
- (c) Should the Lessee make default in payment of any of the charges referred to in paragraph (a) and (b) of this clause 8.3 then the Lessor may pay the same and forthwith recover the amount paid as if the same were rent in arrears payable by the Lessee.

8.4 **Use of Premises by Lessee**

The Lessee shall during its occupation of the Premises:

- (a) advise the Lessor (or where applicable its managing agent) of the private address and telephone number of the Lessee's Representative (for contact with the Lessee in an emergency) and shall keep the Lessor or its managing agent informed of any change of such address or telephone number;
- (b) secure the Premises against unauthorised entry at all times when the Premises are left unoccupied and the Lessor reserves the right by its servants and agents to enter upon the Premises and fasten same if the Premises are left unsecured;
- (c) take such steps as are necessary to prevent infiltration of air into the Premises and not do anything whereby the working or efficiency of the air conditioning plant servicing the Building or the Premises may be affected;
- (d) upon the cessation of the Lessee's right to occupy the Premises the Lessee shall deliver to the Lessor or its managing agent all keys to the Premises;
- (e) observe the operating procedures and regulations of the Building contained in the Second Schedule.

8.5 Restrictions on Use of Premises by Lessee

The Lessee shall not:

- (a) use or permit to be used for other than their designed purposes any of the fixtures or fittings in the Premises or the Building;
- (b) store or use inflammable or dangerous substances upon the Premises (except as may be necessary for the ordinary conduct of the permitted use of the premises specified in Item 16 of the Reference Schedule in which case the Lessee shall notify the Lessor in writing of the maximum quantity of any such inflammable or dangerous substance that the Lessee shall store on the premises);
- (c) do or permit to be done on the Premises or in the Building anything which in the opinion of the Lessor may become a nuisance disturbance obstruction or cause of damage whether to the Lessor or to other tenants or users of the Building nor to use the Premises in any noisy noxious or offensive manner;
- (d) obstruct or interfere with any of the entrances or common areas of the Building;
- (e) occupy or permit the Premises to be occupied or used by the Lessee and persons under its control during the hours stated in Item 17 of the Reference Schedule;
- (f) permit any sign advertisement name or notice (other than on any sign board or directory referred to in clause 8.6 hereof) to be placed on any part of the Premises or Building where such sign advertisement name or notice is of an incongruous or unsightly nature having regard to the character and use of the Building and prior to the installation or placement of any sign advertisement name or notice the Lessee shall:
 - (i) obtain the Lessor's prior written consent such consent not to be capriciously or unreasonably withheld; and
 - (ii) obtain the prior consent of any relevant competent authority;
- (g) use the common areas of the Building during the hours stated in Item 17 of the Reference Schedule;
- (h) use or permit to be used any radio record player tape or video recorder television loudspeaker screen or other equipment likely to be heard or seen from outside the Premises;
- (i) conduct or permit to be conducted on the Premises any auction bankruptcy or fire sale.

8.6 Provision of Directory by Lessor

Where the Lessor at the request of the Lessee provides the Lessee with identification on any sign board or directory installed by the Lessor in or near any of the entrances to the Building the Lessee shall pay to the Lessor on demand the cost of providing such identification.

9. **RIGHTS RESERVED BY LESSOR**

9.1 **Maintenance by Lessor**

The Lessor reserves the right to use maintain and repair all services and/or associated fixtures and fittings passing through the Premises or the Building.

9.2 **Entry by Lessor to View and Effect Repairs and Alterations**

The Lessor shall have the right to enter upon the Premises with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time and without notice in the case of an emergency):

- (a) to enter and view the state of repair of the Premises and to ascertain whether or not there has been any breach of the terms of this Lease;
- (b) to carry out repairs or other works to the Premises or to the Building or to any adjacent Building;
- (c) to execute any work required to remedy a defect which is the Lessee's duty to repair if the Lessee has not within twenty-one (21) days of the date of receipt by the Lessee of the written notice from the Lessor requiring such defect to be repaired taken steps to remedy the defect and without prejudice to other remedies the Lessor may recover the costs of such repairs from the Lessee forthwith on demand;
- (d) for the purpose of complying with the terms of any present or future legislation affecting the Premises or the Building or of any notice served on the Lessor or Lessee by any competent authority for which the Lessee is not responsible under this Lease;
- (e) in the event the Premises of the Building are either destroyed or damaged for the purpose of rebuilding or restoration;
- (f) for the purpose of carrying out any repairs alterations additions or other works to the utility or other services provided to the Lessee and/or other tenants of the Building;

PROVIDED ALWAYS in exercising such rights the Lessor shall use its best endeavours to minimise any disturbance caused to the Lessee in its occupation and use of the Premises.

9.3 **Work by Lessor to Remedy Lessee's Default**

The Lessor may elect to remedy at any time without notice any default by the Lessee under this Lease and whenever the Lessor so elects all costs and expenses incurred by the Lessor (including legal costs and expenses) in remedying such default shall be paid by the Lessee to the Lessor forthwith on demand.

9.4 **Default by Lessee**

- (a) If at any time during the occupation of the Premises by the Lessee:
 - (i) any rent or other moneys payable by the Lessee are in arrears for more than fourteen (14) days although no formal demand therefore has been made; or

- (ii) in case of default by the Lessee in respect of any obligation on the part of the Lessee arising out of any term condition or covenant contained in this Lease and such default is continued for fourteen (14) days or in the case of repairs required to be effected by the Lessee such repairs are not completed within a reasonable time; or
- (iii) execution be levied against any of the assets of the Lessee; or
- (iv) the Lessee (being a natural person) is convicted of any indictable offence; or
- (v) the Lessee (being a company) either:
 - (1) goes into liquidation (other than a voluntary liquidation for the purpose of re-organisation); or
 - (2) is wound up or dissolved; or
 - (3) enters into a scheme of arrangement with its creditors or any class thereof; or
 - (4) is placed under official management; or
 - (5) a receiver or manager of any of its assets is appointed; or
 - (6) an administrator or controller is appointed pursuant to Corporations Act

then notwithstanding any prior waiver or failure to take action by the Lessor or indulgence granted by the Lessor to the Lessee in respect of any such events whether past or continuing it shall be lawful for the Lessor or any other person duly authorised by it (subject to due compliance with Section 10 of the Landlord and Tenant Act 1936 (as amended)(if applicable)) to:

re-enter upon the Premises or any part thereof in the name of the whole and thereby determine the estate of the Lessee; and to remove or otherwise deal with as provided in clause 6.7 all goods fittings fixtures and effects found on the Premises without prejudice to the rights of the Lessor in respect of any action or any remedy for arrears of rent or breach of covenant or damages as the result of any such event.

(b) Essential Terms

- (i) Each of the covenants by the Lessee which are specified in this paragraph are essential terms of this Lease:
 - (1) the covenant to pay rent and additional payments throughout the term of this Lease as provided for in clause 4 hereof;
 - (2) clause 5 hereof relating to Assignment and Sub-letting;
 - (3) clause 8.1 hereof relating to the use of the Premises by the Lessee;
 - (4) clause 6.3 hereof relating to the Reinstatement by the Lessee.
- (ii) In respect of the Lessee's obligations to pay rent the acceptance by the Lessor of arrears or of any late payment of rent shall not constitute a waiver of the essentiality

of the Lessee's obligation to pay interest in respect of those arrears or of the late payments or in respect of the Lessee's continuing obligation to pay rent during the Lease term.

- (iii) The Lessee hereby covenants to compensate the Lessor in respect of any breach of an essential term of this Lease and the Lessor is entitled to recover damages from the Lessee in respect of such breach. The Lessor's entitlement under this clause is in addition to any other right remedy or entitlement to which the Lessor is entitled (including the right to re-enter and determine the estate of the Lessee) and shall not be prejudiced by the exercise of the right of re-entry.

(c) Damages in respect of Repudiation or Breach by Lessee

- (i) In the event that the Lessee's conduct (whether by way of action or omission) constitutes a repudiation of this Lease (or of the Lessee's obligations under this Lease) or constitutes a breach of any covenant contained in this Lease, the Lessee covenants to compensate the Lessor for the loss or damage suffered by reason of the repudiation or breach.
- (ii) The Lessor shall be entitled to recover damages against the Lessee in respect of repudiation or breach of covenant for the damage suffered by the Lessor during the entire term of this Lease.
- (iii) The Lessor's entitlement to recover damages shall not be affected or limited by any of the following:
 - (1) if the Lessee shall abandon or vacate the Premises;
 - (2) if the Lessor shall elect to re-enter or to determine the estate of the Lessee;
 - (3) if the Lessor shall accept the Lessee's repudiation;
 - (4) if the parties' conduct shall constitute a surrender by operation of law.
- (iv) The Lessor shall be entitled to institute legal proceedings claiming damages against the Lessee in respect of the entire Lease term including the periods before and after the Lessee has vacated the Premises and before and after the abandonment termination repudiation acceptance of repudiation or surrender by operation of law referred to in paragraph (c) (iii) (4) of this clause 9.4 whether the proceedings are instituted either before or after such conduct.
- (v) In the event of the Lessee vacating the Premises whether with or without the Lessor's consent the Lessor shall be obliged to take reasonable steps to mitigate its damages and to endeavour to lease the Premises at a reasonable rent and on reasonable terms. The Lessor's entitlement to damages shall be assessed on the basis that the Lessor should have observed the obligation to mitigate damages contained in this paragraph. The Lessor's conduct in pursuance of the duty to mitigate damages shall not by itself constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law.

9.5 Right for Lessor to Vary Operating Procedures and Building Regulations

The Lessor shall have the right to vary or amend from time to time the Operating Procedures and Building Regulations contained in Part B of the Second Schedule by written notice given to the Lessee **PROVIDED THAT** no such variation or amendment shall derogate from the rights of the Lessee under this Lease and in the event of any inconsistency between the provision of this Lease and the Operating Procedures and Building Regulations the provisions of this Lease shall prevail.

9.6 Fire Drills and Evacuation Procedures

The Lessor shall have the right to require the Lessee to perform from time to time fire drills and observe all necessary and proper emergency evacuation procedures and the Lessee and persons under its control shall co-operate fully with the Lessor in performing such drills and procedures **PROVIDED THAT** in requiring the Lessee and persons under its control to carry out such drills and procedures the Lessor shall use its best endeavour to minimise any disturbance thereby caused to the Lessee in its occupation and use of the Premises **AND IT IS FURTHER PROVIDED THAT** the Lessor shall not be liable for any loss or damage to the Lessee's property nor shall it be liable for any death or injury caused to the Lessee its servants agents customers or invitees as a result of any fire drills or other procedures requested by the Lessor under this sub-clause (other than where caused by the negligent acts or omissions of the Lessor or the Lessor's agents) and the Lessee hereby indemnifies and agrees at all times to keep indemnified the Lessor in respect of any cost claim demand suit action or legal proceedings against the Lessor in respect of any loss damage death or injury arising from any request under this clause. Any non-compliance by the Lessee of its obligation under this clause shall be deemed to be a default for the purpose of clause 9.4(b).

9.7 Power of Attorney in Favour of Lessor Upon Lessee's Default

Should the Lessor become entitled to re-enter and take possession of the Premises and determine this Lease after necessary compliance with any relevant statutory provision as to the exercise of rights of forfeiture (of which the statutory declaration of any officer of the Lessor shall be conclusive evidence for the purpose of the Registrar General) the Lessee hereby irrevocably appoints the Lessor to be the attorney of the Lessee for it in its name and as its act and deed from time to time if and when such attorney shall think fit for the purpose of giving full effect to the power of re-entry to execute and to procure the registration of a surrender of this Lease and to record this power of attorney and procure to be done any act matter or thing which may be required to give full effect thereto according to the Real Property Act 1886 (as amended) or to any other law or usage for the time being in force in the State of South Australia and all and whatsoever such attorney shall lawfully do or purport to do or cause to be done by virtue of the said appointment is ratified and confirmed by this Lease.

10. COVENANTS BY LESSOR

10.1 Services to be Provided by Lessor

The Lessor shall provide the Building Services and will use his best endeavours to ensure that subject to subclause 10.2 such services are operable at all times.

10.2 If it shall be necessary for the Lessor to temporarily withdraw the provision of any of the Building Services for the purposes of either maintenance, or repair, or in the course of renovating or refurbishing the building or the premises, then the Lessor shall undertake such maintenance, repairs, renovations or refurbishment promptly in accordance with the requirements of all laws and

regulations for the time being in force in South Australia and at such times and in such manner as having regard to the circumstances of the case will:

- (a) minimise the Lessee's loss of use of such Building Services; and
- (b) cause as little inconvenience as possible to the Lessee and the activities of the Lessee upon the premises.

10.3 Quiet Enjoyment

- (a) The Lessor shall pay all rates taxes and assessments charged upon the land or the Building except those which the Lessee is obliged to pay.
- (b) The Lessee upon paying the rent and other moneys payable to the Lessor and upon performing the Lessee's obligations under this Lease shall and may peaceably possess and enjoy the Premises during the continuance of this Lease without any undue interruption or disturbance from the Lessor or any person rightfully claiming through under or in trust for the Lessor.

11. MISCELLANEOUS

11.1 Damage to the Building and to the Premises

In case any part of the Building shall be damaged or destroyed by fire or any other cause so as to render the same unfit for the occupation and use by the Lessee or any other tenant or occupier of the Building then this Lease and the term hereby granted may (whether or not the Premises have been damaged or destroyed) at the option of the Lessor be absolutely terminated and at an end upon the Lessor giving to the Lessee notice in writing to that effect and thereupon the Lessee shall cease to have any claim for or right to recover any damages by reason of such termination but without prejudice to the rights of either party for an antecedent breach of covenant or in the event that the Lessor shall not elect so to terminate this Lease and as a result of such damage or destruction the Premises are not fit for the occupation of the Lessee then PROVIDED such damage or destruction has not been occasioned by any act or neglect of the Lessee the rent reserved by this Lease or a proportionate part thereof according to the nature and extent of the damage shall abate.

Any dispute arising under this provision as to the amount of rent to be abated shall be determined by an expert valuer selected by mutual agreement between the Lessor and the Lessee **PROVIDED THAT** should the parties be unable to agree on such a valuer then either the Lessor or the Lessee may request the President of the South Australian Division of the Australian Property Institute Limited (or should that Institute then have ceased to exist the President or other principal officer for the time being of such body or association as then serves substantially the same objects as that Institute) to nominate a valuer who shall make a final determination of the amount by which the rent reserved is to be abated and of the duration of such abatement and in making such determination such valuer shall be deemed to be acting as an expert and not as an arbitrator and the costs incurred in having such determination made shall be borne equally by the parties **AND PROVIDED FURTHER** that if the Premises be so damaged or destroyed during the term of this Lease and the Lessor shall not within a reasonable time notify the Lessee of its intention to restore the Premises and thereafter with all reasonable speed proceed to restore the same **THEN** the Lessee shall have the right to terminate this Lease by notice in writing to the Lessor and the term hereby granted shall cease upon the giving of such notice without prejudice to the rights of either party for any antecedent breach of covenant.

11.2 **Termination of Lease on Total Destruction of the Building**

If the Building shall be totally destroyed then:

- (a) this Lease may be determined by written notice by either the Lessor or the Lessee without liability attaching to either party by reason of such determination;
- (b) nothing herein contained or implied shall be deemed to impose any obligation on the Lessor to rebuild or reinstate or make fit for occupation the Premises or the Building.

11.3 **Lessee to Pay Lessor's Costs**

In addition to the rent and other moneys reserved by this Lease the Lessee shall pay:

- (a) one half of the Lessor's legal costs of the preparation of this Lease including mortgagee consent fees and the whole of any stamp duty and registration fees with each party bearing their own costs of the negotiations in respect of this Lease;
- (b) the cost of preparation of any plans (if required) in relation to this Lease;
- (c) all costs charges and expenses for which the Lessor shall become liable in consequence of or in connection with any breach or default by the Lessee in the performance or observance of any of the terms covenants and conditions of this Lease.

11.4 **Lessee to Permit Inspection and Display of Signs**

The Lessee will at all reasonable times permit the Lessor to exhibit the Premises to prospective purchasers and will during the period of six (6) months prior to the termination of this Lease permit the Lessor at all reasonable times to exhibit the premises to prospective tenants.

11.5 **Notice**

Any notice or other document required to be given or served under this Lease may be given or served:

- (a) in any manner mentioned in Section 276 of the Real Property Act 1886 (as amended); or
- (b) by registered post; or
- (c) by means of any document exchange service of which the party to be served is a member and any notice or other document shall when given or served by either of the methods mentioned in subclause (b) or (c) be deemed to have been given or served and received by the other party two (2) days after the date of posting or delivery at the document exchange whether actually received or not AND in the case of any notice or document required to be served or given by the Lessor to the Lessee the same may be signed on behalf of the Lessor by its managing agent manager secretary assistant secretary or solicitor.

11.6 **Necessary Consents**

It is hereby expressly agreed and declared between the parties hereto that insofar as any consent or approval may be required from any Governmental Local Governmental Municipal Semi-Governmental or planning authority to this Lease or the terms hereof this Lease is made expressly subject to the obtaining of any such consent or approval. It is acknowledged by the parties

that should the obtaining of any such consent or approval be overlooked for any reason whatsoever neither party may use any such lack of consent or approval to avoid the terms hereof until such time as either or both parties have had a reasonable opportunity of obtaining any such consent or approval as may be required.

11.7 Yielding Up

Subject to clause 6 hereof the Lessee will forthwith upon the expiration or sooner determination of this Lease peaceably surrender and yield up to the Lessor the Premises clean and free from rubbish and in good and substantial repair and condition fair wear and tear excepted. All keys and access cards must be returned to the Lessor.

12. SPECIAL COVENANTS AND CONDITIONS

It is hereby covenanted agreed and declared that the special conditions contained in the Fourth Schedule shall apply to this Lease to the extent that if there is any inconsistency between the foregoing covenants and conditions and the special covenants and conditions contained in the Fourth Schedule then the latter shall prevail.

FIRST SCHEDULE

Inventory of Lessor's Fixtures and Fittings

Description/Item	Condition of Item at Commencement Date
1. Carpet	New
2. Blinds	Good
3. Light Fittings	Good
4. Partitions	Good
5. Fire Extinguishers	Good

SECOND SCHEDULE

Part A – Services to be Provided by Lessor Under Clause 10.1

Air Conditioning

The Lessor shall make all reasonable endeavours to maintain Air Conditioning flow as follows:

Internal temperature:

22°C + or - 2°C - BB/18 Dec C WB

Outside Ambient:

38°C DB/21°C Wetbulb (Summer)

8°C DB (Winter)

However, the Lessor does not guarantee the constant maintenance of the Air Conditioning flow as set out above.

Part B – Operating Procedures and Building Regulations

Subject to Lessor's Right to Vary Under Clause 9.5

1. The Lessee shall not in any way obstruct or permit the obstruction of the pavements entrances arcades vestibules corridors passages halls elevators stairways fire doors and escape doors relating to the Building or use them or any of them for any other purpose than for ingress or egress.
2. The Lessee shall not inscribe paint display or affix any sign advertisements name flagpole flag or notice on any part of the outside or inside of the Building except with the prior written consent of the Lessor and then only of such colour size and style and in such place or places as shall be first approved by the Lessor. The cost of affixing the Lessee's name and description on the directory boards in main foyer and on the Lessee's floor shall be paid by the Lessee.
3. No window blind window screen awning or floor covering shall be erected or installed without the prior written approval of the Lessor.
4. Except with the prior written consent of the Lessor no musical instruments shall be played in or about the Building but this rule shall not prohibit the Lessee from playing background recorded music provided the volume is kept at a level which does not cause a nuisance or annoyance to other Lessees or users of the Building.
5. Except with the prior written consent of the Lessor there shall be no cooking of food in the Premises or the Building and no animals or birds shall be kept in the Building or be brought into the Building.

6. The Lessee shall not throw anything out of the windows or doors or down any elevator shaft passage or skylight or into any light area of the Building or deposit waste paper or rubbish anywhere except in prior receptacles or place upon any sill ledge or other like part of the Building or the common Areas any articles or substance.
7. The Lessee shall not use any method of lighting cooling or heating other than as prescribed and fixed by the Lessor or under special agreement made with the Lessor for the purpose.
8. The Lessee will use or permit to be used for the receipt delivery or other movement of any goods wares or merchandise or articles of bulk or quantity only such parts of the Premises and the Common Areas and at such times as the Lessor may from time to time permit and the Lessee will generally comply with all reasonable requirements of the Lessor in regard to such matters.
9. The Lessee shall not leave any doors or windows unlocked or unfastened when the Premises are left unoccupied and the Lessor reserves the right for the Lessor caretaker or other duly authorised persons to enter the Premises and fasten the same if left insecurely fastened.
10. The Lessor will provide keys for locks on doors or other openings of the Premises and the Lessee will return to the Lessor on the determination of the Lease all such keys whether the same have been supplied by the Lessor or otherwise acquired by the Lessee and shall not permit the same at any time to come into the possession of any person other than the Lessee or the Lessee's servants and agents.
11. No rubbish or waste shall at any time be burned by the Lessee in the Building.
12. The Lessee shall not conduct or permit to be conducted on the Premises any auction bankrupt or fire sale.
13. The Lessee shall not use or permit to be used the Common Areas or any parking area or any part thereof for any business or commercial purpose or the display or advertisement of any goods or services or generally for any purpose other than a purpose for which the same was intended or provided.
14. No nails screws or hooks shall be driven into any parts of the Building or the partitions therein without the Lessors prior written consent nor shall any explosive power driven method of fixing articles to ceilings walls or floors be used.
15. The Lessee shall not use or cause to be used in the Premises any chairs with castors unless each of the castors of such chairs are fitted with dual wheels of a type and standard approved by the Lessor and the chairs are only used on protective mats.

THIRD SCHEDULE

Lessee's Contribution to Outgoings of the Building

1. The Lessee shall pay to the Lessor that percentage stated in Item 18(a) of the Reference Schedule of the amount by which the outgoings of the Building for each year of the term of this Lease commencing on 1st July and ending 30th June in each such year exceed the total calculated by reference to paragraph 3 of this Schedule (hereinafter called "the base figure"). The Lessor will provide the Lessee within 30 days of the end of each 30th June an invoice for any amount due under this clause together with a statement setting out and detailing the amount by which outgoings exceed the base figure. To avoid doubt, no such amounts are payable by the Lessee in respect of the period from the commencement of the Lease to and including 31 May 2021.
2. For the purpose of this Lease "the outgoings of the Building" shall mean the total sum of all rates taxes costs and expenses of the Lessor properly or reasonably assessed or assessable paid or payable or otherwise properly and reasonably incurred in respect of the Building or the Land and in relation to the control management and maintenance of the Building and without limiting the generality of the foregoing shall include:
 - (a) all rates taxes levies charges assessments duties impositions and fees at any time or from time to time payable to any Government local Government semi-Government or other competent authority in respect of the Land and/or Building irrespective of the ownership thereof;
 - (b) all charges for and costs in relation to the supply of water sewerage and drainage;
 - (c) all amounts payable in respect of insurance relating to the Building including public risk and loss of rents insurance;
 - (d) all reasonable costs (inclusive of wages) of the management control and administration of the Building;
 - (e) the costs of operating supplying maintaining repairing and renovating all services (except repairs of a structural nature) from time to time provided by the Lessor for tenants and occupiers of the Building including public lighting, exhaust systems and lifts (if any) and the plant and equipment required for any such services;
 - (f) the cost of supplying maintaining repairing and renovating the airconditioning plant servicing the Building (except repairs of a structural nature);
 - (g) the cost of general repairs and maintenance of the Building (except repairs of a structural nature); and
 - (h) the cost of fire protection of the Building.

For the purposes of the above the outgoings will not include capital costs in replacing any Building plant and equipment.

3. For the purposes of this lease the base figure for the calculation of increases in the outgoings of the Building shall be deemed to be the sum of the following:
 - (a) Council Rates, Emergency Services Levy and State Land Tax

Rates, levy and tax payable for the year ending 30th June 2021.

(b) Water Sewerage and Drainage Rates

Rates payable for the year ending 30th June 2021

(c) The sum of all outgoings costs and expenses as defined in paragraph 2 (Items (c) to (h)) for the year ending 30th June 2021

FOURTH SCHEDULE

SPECIAL COVENANTS AND CONDITIONS

1. CAR PARKING

- (a) In consideration of the rental payable under this Lease by the Lessee the Lessor **HEREBY FURTHER AGREES** to allow the Lessee and persons under its control to use eighteen (18) car parking spaces for the sole purpose of the parking of passenger motor vehicles to the intent that the rent reserved by this Lease (as reviewed from time to time) shall include the use of the said car parking spaces on the following terms and conditions:
- (i) the rights of use of the said car parking spaces shall not be assigned or sublet to any person or body corporate (including but without limiting the generality thereof any employee servant or agent of the Lessee) without the prior written approval of the Lessor being first had and obtained and shall cease forthwith upon the expiration of the term of this Lease or upon sooner determination hereof;
 - (ii) the right of the Lessee in relation to the car parking space shall rest in contract only and shall not create in or confer upon the Lessee any tenancy or any estate or interest in the said car parking spaces and the rights of the Lessee therein shall be those of a licensee only and the Lessor shall be at liberty upon giving reasonable notice to the Lessee to re-locate the car parking spaces available to the Lessee.

2. LEASING OF PARTITIONS

Notwithstanding anything contained herein but without prejudice to the other covenants of the Lessee herein contained, in the event that the Lessee proposes to lease fixed partitions or any other fixture in the Premises the Lessee hereby covenants that it shall first procure the Lessor as a party to any leasing agreement which such leasing agreement shall include a clause satisfactory to the Lessors' solicitors to the effect that the Lessor of any such fixed partitions or other fixtures shall covenant with the Lessor of this Lease to make good and repair any defacement or damage caused to the Premises and to properly clean the Premises as a result of removal of any such partitions or other fixtures in the exercise of the rights of the Lessor under any such leasing agreement.

3. ACCESS TO PREMISES

Notwithstanding anything contained in the covenants to this Lease or contained in the Operating Procedures and Building Regulations contained in the Second Schedule hereto the Lessor and the Lessee hereby further covenant and agree that the Lessor shall allow the Lessee to have twenty four (24) hour access to the Premises seven (7) days a week PROVIDED THAT the Lessee strictly observes the security procedures for the Building including but without limiting the generality thereof the keeping of all doors and windows and openings used by the Lessee to gain access to the Premises outside normal business hours securely locked and fastened AND FURTHER that the Lessee shall be responsible for the cost and replacement or making good of any loss or damage caused to the Lessor's property or the property of any other tenant in the Building in the event that the Lessee fails to strictly observe such security procedures and any such loss or damage occurs solely or partly due to the failure by the Lessee to strictly observe such security procedures.

4. **CONFIDENTIALITY**

The terms and conditions of this Lease shall remain confidential in all respects between the Lessor and the Lessee and shall not be divulged to any other party or organization without mutual consent unless required by law to do so.

5. **BANK GUARANTEE**

A Bank Guarantee (expiring no earlier than two (2) months after expiry of the Lease) equivalent to six (6) calendar months rental hereunder plus GST on terms and conditions acceptable to the Lessor shall be provided by the Lessee prior to the commencement of the term of this Lease and by any approved assignee prior to the date of assignment of this Lease. The Lessor will be entitled to draw upon the Bank Guarantee in the event of a breach by the Lessee of any of the terms, conditions, agreements on the Lessee's part herein contained and the full amount of that Bank Guarantee shall be able to be used by the Lessor in the event of a breach subject to a subsequent right of the Lessee to a refund of any portion of that Bank Guarantee held by the Lessor after deduction of the Lessor's reasonable damages and costs and expenses of any kind arising out of the breach including the Lessor's loss of rental, costs of re-leasing and all other costs and expenses incurred by it which sum, if any, shall be refunded by the Lessor within a reasonable time after the Lessor has calculated the Lessor's damages and costs and expenses incurred therein.

6. **AIR CONDITIONING MODIFICATIONS**

The Lessee shall pay to the Lessor upon demand all costs and expenses incurred by the Lessor of and incidental to any modifications required to the air-conditioning system as a consequence of the Lessee's fit-out. Three (3) quotations for such modifications shall be obtained and the lowest quotation shall be accepted.

FIFTH SCHEDULE

RIGHT OF RENEWAL

1. RIGHT OF RENEWAL PROCEDURE

If the Lessee desires to take a lease of the Premises for any further term specified in Item 10 of the Reference Schedule (commencing upon the expiration of the then current term) and:

- 1.1 not more than nine (9) months and not less than six (6) months prior to the expiration of the then current term (of which time shall be of the essence) the Lessee gives notice in writing to the Lessor to that effect; and
- 1.2 the Lessee has not breached or been in default of any of the terms covenants conditions and provisions of this Lease; and
- 1.3 the Lessee as at the date of such notice is not in breach or default of this Lease; and
- 1.4 the Lessee is not subsequently in default of this Lease (save such as shall have been remedied to the Lessor's satisfaction).

THEN the Lessor will at the cost and expense in all things (including legal costs and stamp duty) of the Lessee grant a further lease (hereinafter called "the Further Lease") to the Lessee of the Premises for the further term specified at a rent (determined as hereinafter provided) and otherwise subject to the same terms covenants provisions and conditions as are in the Lease contained **except** as provided in clause 2 of this Fifth Schedule **PROVIDED THAT** if the due observance or performance by the Lessee of its duties and obligations hereunder shall have been guaranteed by any Guarantor then the execution by such Guarantor of such documents or assurances as the Lessor may require for the purpose of affirming or renewing such guarantee for such Further Lease shall be a condition precedent to the exercise by the Lessee of the right of renewal contained in this Fifth Schedule.

2. FURTHER RIGHTS OF RENEWAL (IF ANY)

The Further Lease shall not contain any option for renewal if only one further term is specified in Item 10 of the Reference Schedule.

If more than one further term is specified in Item 10 of the Reference Schedule, then Item 10 of the Reference Schedule will be completed by excluding the period covered by the term of the Further Lease.

SIXTH SCHEDULE

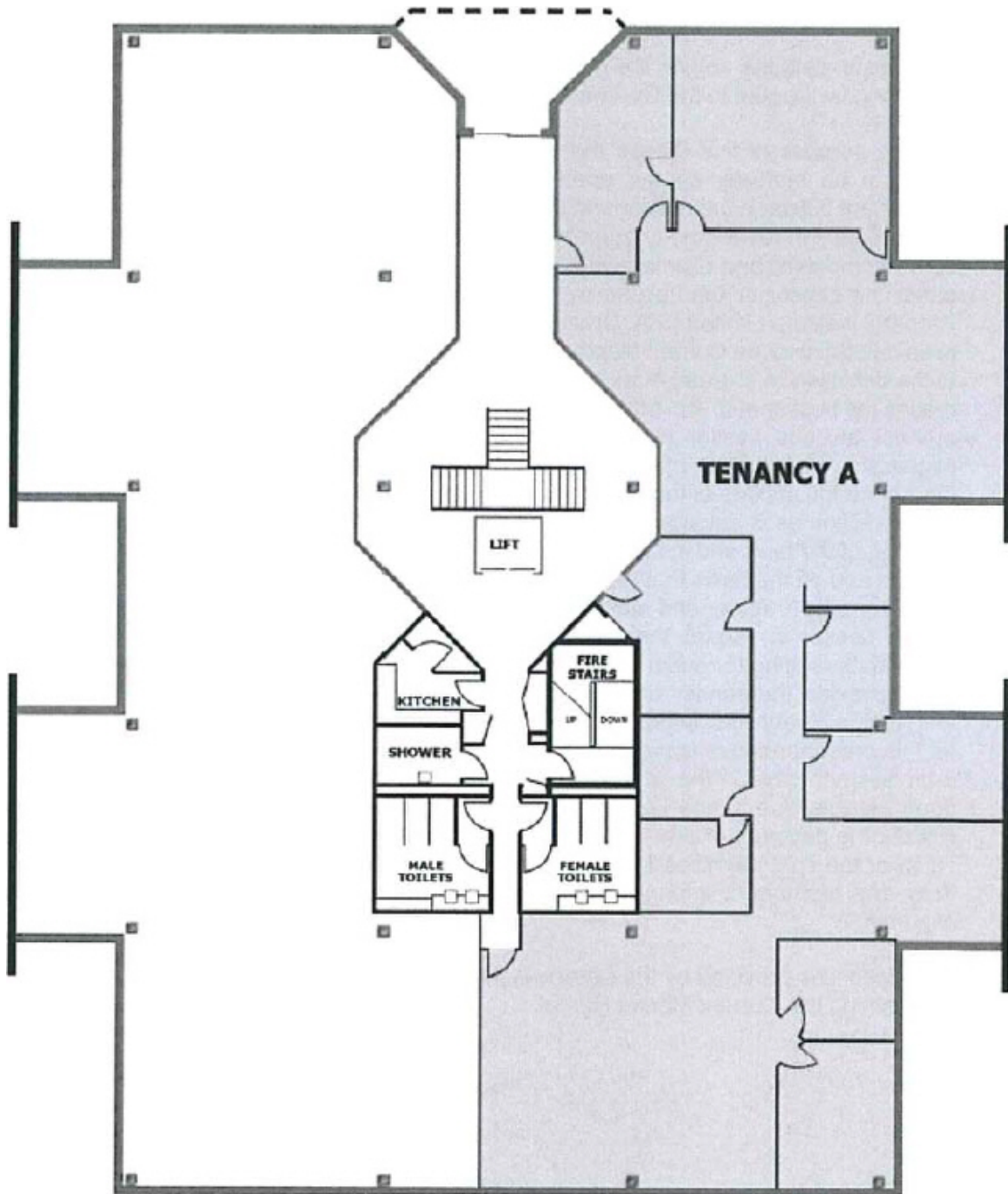
RENT REVIEWS

1. The method of rent review shall be to increase the annual rental payable immediately prior to each of the review dates specified in Item 11 and Item 12 of the Reference Schedule by three percent (3%). The annual rent percentage increase shall be reviewed prior to a further term.
2. Notwithstanding the above, the method of rent review for the 1st day of June 2026 shall be to review the rent to the Current Market Rental of the Premises as hereinafter defined.

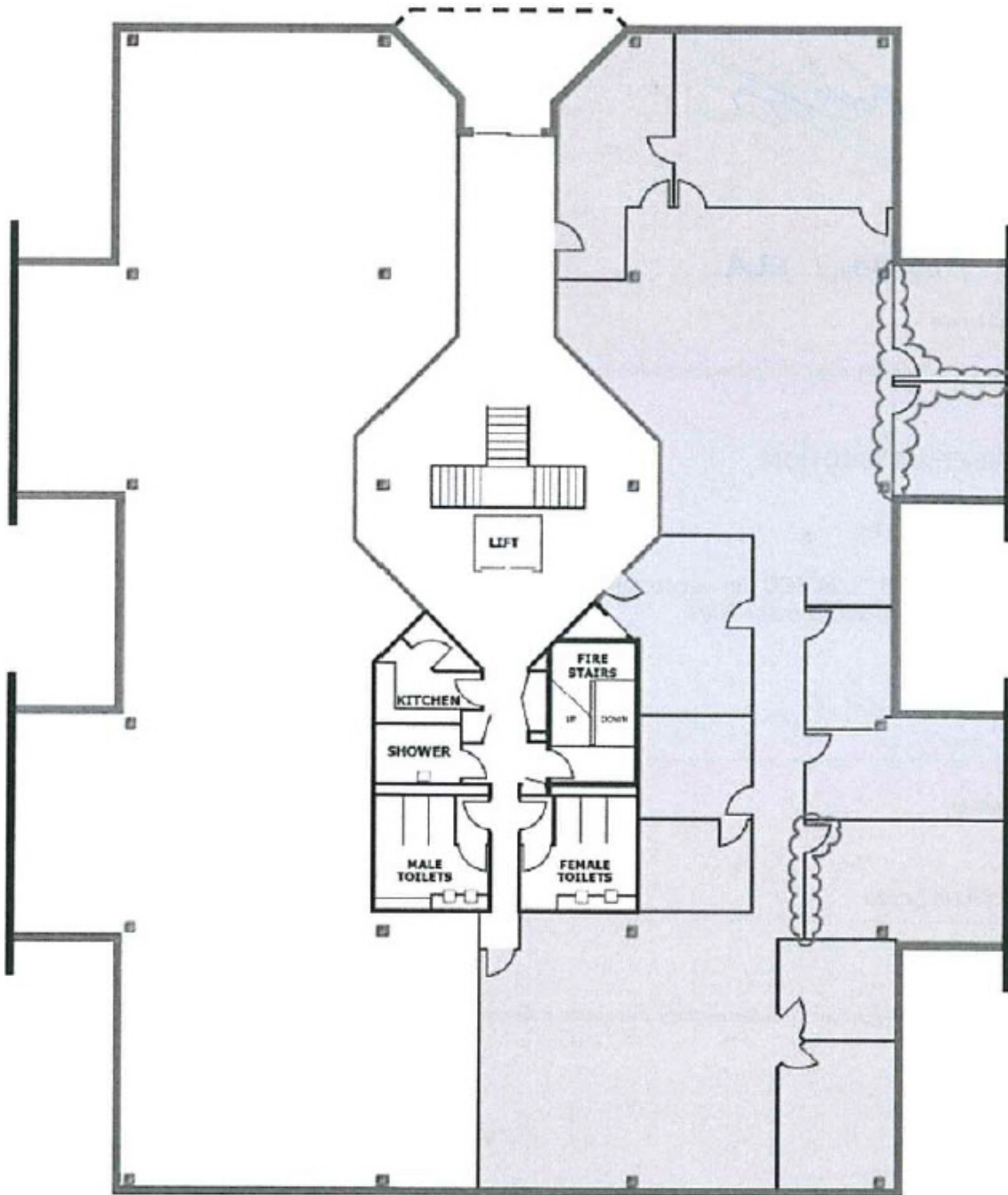
For the purpose of this Clause the "Current Market Rental" of the Premises shall be a rental to be mutually agreed upon between the Lessor and the Lessee and failing agreement between the Lessor and the Lessee prior to one (1) calendar month before the relevant date of review the Current Market Rental of the Premises shall be determined by some competent and disinterested Valuer to be nominated upon the written request of either the Lessor or the Lessee by the President or Acting President of the Australian Property Institute Limited (S.A. Division) at the joint cost of the Lessor and the Lessee and in so determining the Current Market Rental of the Premises such Valuer shall have regard to the definition of "Current Market Rental" hereinafter appearing. "Current Market Rental" means the best annual rent that can reasonably be obtained in the open market by a willing but not anxious Lessor for the whole of the said premises with or without vacant possession on the basis of the highest and best use thereof and on the basis of a Lease thereof for the residue of the current Lease term at the relevant review date on such terms and condition as is considered can procure for the Lessor acting reasonably both in the granting of the term and in fixing the covenants and conditions upon which the terms is to be held and on the basis that the Lessee has complied with all the obligations imposed on the Lessee as to repair and maintenance (but without prejudice to any rights or remedies of the Lessor in regard thereto) and disregarding (as far as is legally permissible) restrictions relating to rent or to security of tenure contained in any statute or orders rules or regulations thereunder and any directions thereby given relating to any method of termination of rent such lease being on the same terms and conditions in all other respects as this present demise (save in respect of any restriction herein on the user of the said premises and save in the case of determination of the Current Market Rent consequent upon the exercise by the Lessee of a covenant for renewal that covenant for renewal) without the payment of any fine or premium and taking into account any increase in the value of the said premises including but without limited to any increase in value arising from any permanent improvements which were erected or installed at the Lessee's expense.

Any incentives provided by the Lessor to the Lessee are to be entirely disregarded when determining the Current Market Rental.

PLAN



LESSOR WORKS PLAN



LESSOR'S EXECUTION

EXECUTED by)

200 GREENHILL ROAD PTY)

LTD in accordance with the)
Corporations Act 2001:

/s/ Andrew Elia

.....

Director

.....

Director/Secretary

Andrew Elia

.....

Full Name

.....

Full Name

**If only 1 person has signed that person states that he/she is the sole director and sole secretary of the company.*

LESSEE'S EXECUTION

EXECUTED by)

BIONOMICS LIMITED in)

accordance with the *Corporations*)
Act 2001:

/s/ Errol De Souza

.....

Director

/s/ Suzanne Irwin

.....

Director/Secretary

Errol De Souza

.....

Full Name

Suzanne Irwin

.....

Full Name

**If only 1 person has signed that person states that he/she is the sole director and sole secretary of the company.*

BIONOMICS LIMITED
ACN 075 582 740
EMPLOYEE SHARE OPTION PLAN

NOVEMBER 2014

PLAN TERMS

BIONOMICS LIMITED
EMPLOYEE SHARE OPTION PLAN
PLAN TERMS

1. NAME OF PLAN

The name of the employee share option plan established by these terms is the “Bionomics Employee Share Option Plan” or such other name as the Board may determine from time to time.

2. DEFINITIONS AND INTERPRETATION

2.1. Definitions

In these terms, unless the context otherwise requires:

“**Acceptance Closing Day**” means the day determined by the Board as being the last day on which an Eligible Participant may accept Options.

“**ASX**” means Australian Securities Exchange Limited ACN 008 624 691.

“**ASX Listing Rules**” means the Official Listing Rules of ASX and any other applicable rules of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

“**Board**” means the board of directors of the Company from time to time.

“**Company**” means Bionomics Limited ACN 075 852 740 and its related body corporates.

“**Eligible Participant**” means:

- (a) a person who is an employee of the Company or a related body corporate of the Company and who has been a full time or part time employee of the Company or a related body corporate for a period (whether continuous or not) of not less than 6 months (or such shorter period as the Board may determine); or
- (b) a director of the Company or a related body corporate of the Company.

“**Exercise Period**,” means the period during which Options may be exercised, as determined in accordance with clause 8.2.

“**Exercise Price**” means the exercise price of an Option, as determined in accordance with clause 8.1.

“**Invitation**” means an invitation to Eligible Participants to take Options.

“**Marketable Parcel**” has the meaning given to it in the ASX Listing Rules.

“**Option**” means a right to subscribe for one Share subject to the terms of this Plan.

“**Plan**” means this Bionomics Employee Share Option Plan.

“**Retirement**” means:

- (a) the termination of an Eligible Participant's employment with the Company by reason of:
 - (i) the attainment of the age of 65 years, or such other age as the Board may from time to time specify as the maximum age for retirement, or an earlier age with the consent in writing of the Company; or
 - (ii) illness or incapacity as certified by a medical practitioner who is approved in writing by the Company; or
- (b) in the case of a non-executive director, the director ceasing to hold office as a director for any reason.

"Retrenchment" means the termination of an Eligible Participant's employment by the Company due to his or her position becoming obsolete or redundant.

"Share" means a fully paid ordinary share in the Company.

2.2. Interpretation Rules

In these terms unless a contrary intention appears:

- (a) a reference to the terms is a reference to these terms as amended, varied, novated, supplemented or replaced from time to time;
- (b) a reference to any legislation or a provision of any legislation includes:
 - (i) all regulations, orders or instruments issued under the legislation or provision; and
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
- (c) words or expressions:
 - (i) importing the singular include the plural and vice versa;
 - (ii) denoting individuals include corporations, firms, unincorporated bodies, authorities, and individuals;
- (d) where a word or phrase is defined or given a meaning, any other part of speech or grammatical form has a corresponding meaning; and
- (e) a reference to a clause number is a reference to a clause of these terms.

3. COMMENCEMENT OF PLAN

The Plan will take effect from such date as the Board may determine.

4. ADMINISTRATION OF PLAN

The Plan will be administered by the Board, which has the power to:

- (a) determine appropriate procedures for administration of the Plan consistent with these terms;

- (b) resolve conclusively all questions of fact or interpretation arising in connection with the Plan;
- (c) subject to any restrictions imposed by the Corporations Act 2001 or the ASX Listing Rules:
 - (i) revoke or amend the terms of this Plan; and
 - (ii) suspend or terminate this Plan;

but no such revocation, amendment, suspension or termination will affect the rights of an Eligible Participant issued Options before the date of the revocation, amendment, suspension or termination, or the terms of those Options.

5. INVITATIONS TO PARTICIPATE

5.1. Board to Determine

The Board will have the sole discretion to determine which Eligible Participants are to be issued Invitations and when those Invitations are to be made.

5.2. Invitation Requirements

Each Invitation must specify:

- (a) the maximum number of Options to which the Eligible Participant is entitled;
- (b) the date of the Acceptance Closing Day;
- (c) the Exercise Price and Exercise Period for those Options;
- (d) the manner in which the Invitation may be accepted; and
- (e) any other terms and conditions to which those Options will be subject or which must exist before any or all of the Options are issued.

An Invitation may contain any other information which the Board sees fit to include.

6. ACCEPTANCE BY AN ELIGIBLE PARTICIPANT

6.1. Acceptance Form

In order to accept Options to which he or she is entitled, an Eligible Participant must:

- (a) comply with the manner of acceptance specified in the Invitation in relation to those Options; and
- (b) ensure that such acceptance is received at the Company's registered office or such other address as the Company may specify by no later than 5.00pm (Adelaide time) on the Acceptance Closing Day.

6.2. Part Acceptance

Where an Eligible Participant elects to accept less than all of the Options offered in an Invitation, his or her election must be in multiples of 100.

7. GRANT OF OPTIONS

Upon receipt of an acceptance pursuant to clause 6, the Company must:

- (a) grant to an Eligible Participant, at no cost, the number of Options accepted by the Eligible Participant (provided that such number must not exceed the number of Options offered to the Eligible Participant in the Invitation to which acceptance relates); and
- (b) issue a certificate or holding statement for those Options.

A certificate or holding statement issued in respect of Options must specify the Exercise Price and Exercise Period of those Options.

8. EXERCISE PRICE AND EXERCISE PERIOD

8.1. Exercise Price

Unless otherwise determined by the Board, the Exercise Price of Options granted under this Plan will be the weighted average closing price of Shares traded on ASX for the 7 days of trading immediately preceding the date of an Invitation.

8.2. Exercise Period

- (a) Subject to paragraph (b) of this clause and clauses 13 and 17 and unless otherwise determined by the Board, Options held by an Eligible Participant will become exercisable during the following periods:

- (A) as to 1/5 of the Options the period commencing on the first anniversary of acceptance of the Invitation relating to those Options;
- (B) as to 1/5 of the Options the period commencing on the second anniversary of acceptance of the Invitation relating to those Options;
- (C) as to 1/5 of the Options the period commencing on the third anniversary of acceptance of the Invitation relating to those Options;
- (D) as to 1/5 of the Options the period commencing on the fourth anniversary of acceptance of the Invitation relating to those Options; and
- (E) as to 1/5 of the Options the period commencing on the fifth anniversary of acceptance of the Invitation relating to those Options,

and ending at 5.00pm (Adelaide time) on the date that is 5 years after the commencement of the period.

- (b) Unless otherwise determined by the Board:

- (i) the Exercise Period of an Option determined under paragraph (a) will terminate 30 days after the date on which the Eligible Participant ceases to be an Eligible Participant other than by reason of death, Retrenchment or Retirement; and
- (ii) Options held by an Eligible Participant will lapse and not become exercisable if the Eligible Participant ceases, other than by reason of death, Retrenchment or Retirement, to be an Eligible Participant before the commencement of the Exercise Period of those Options.

9. EXERCISE OF OPTIONS

9.1. Exercise Notice

An Eligible Participant may exercise an Option which has become exercisable by sending to the Company at its principal place of business or such other address as the Company may specify, at any time during the Exercise Period:

- (a) the notice set out at the end of these terms (or any additional copy of that notice subsequently requested and received from the Company by the Eligible Participant) specifying the number of Options which the Eligible Participant wishes to exercise; and
- (b) a cheque for the amount which represents the aggregate of the Exercise Price for each of the Options to be exercised.

9.2. Marketable Parcel

Where an Eligible Participant elects to exercise less than all of his or her Options, the number exercised must not be less than the number of Options the exercise of which would result in the allotment of a Marketable Parcel of shares.

10. ALLOTMENT OF SHARES

10.1. Company's Obligation

The Company must, as soon as possible after receiving from an Eligible Participant the notice and cheque referred to in clause 9:

- (a) allot to the Eligible Participant the Shares to which the Eligible Participant is entitled pursuant to the Options exercised;
- (b) enter the name of the Eligible Participant in the Company's share register as the holders of those Shares; and
- (c) issue, or cause to be issued, to the Eligible Participant a holding statement in respect of the Shares.

10.2. Ranking

Shares allotted pursuant to this clause 10 ("**Option Shares**") will rank equally with, and have the same rights and entitlements as, the other Shares on issue as at the date the Option Shares are allotted ("**Other Shares**"), other than any right or entitlement applicable to the Other Shares which has accrued prior to the date of allotment of the Option Shares.

11. STOCK EXCHANGE LISTING

The Company must, as soon as possible after allotting any Share pursuant to clause 10.1, apply to ASX for quotation of that Share unless that Share is a restricted security for the purposes of the ASX Listing Rules, in which case the Company must apply for quotation of the Share as soon as practicable after the Share ceases to be a restricted security.

12. DEALING

12.1. Restrictions on Dealing

Subject to clause 12.3, an Eligible Participant must not assign, transfer or otherwise deal with an

Option without the Company's prior written consent.

12.2. Exceptions

Notwithstanding clause 12.1, an Option may be transferred to the legal personal representative of an Eligible Participant who has died or whose estate is liable to be dealt with under laws relating to mental health. Upon the occurrence of such a transfer, the Company must register the legal personal representative as the holder of the relevant Options and issue a certificate or holding statement to that person.

12.3. Registration of Transfer

Upon the occurrence of any transfer in accordance with this clause 12, the Company must register the transferee as the holder of the relevant Options.

13. LAPSE OF OPTIONS

Unless otherwise specified in the Invitation in relation to the relevant Options and in addition to the circumstances described in clause 8.2(b), an Option granted under the Plan will lapse: at the end of the Exercise Period in relation to that Option.

14. CAPITAL REORGANISATIONS, NEW ISSUES AND TAKEOVERS

14.1. Consolidation

If the Company's share capital is consolidated, Options held by an Eligible Participant must be consolidated in the same ratio as Shares are consolidated. The Exercise Price of each Option so consolidated will be amended inversely to the ratio in which Shares are consolidated. In all other respects, the terms of each Option so consolidated will remain the same as each original Option.

14.2. Sub-division

If the Company's share capital is sub-divided, Options held by an Eligible Participant will be sub-divided in the same ratio as Shares are sub-divided. The Exercise Price of each Option so sub-divided must be amended inversely to the ratio in which Shares are sub-divided. In all other respects, the terms of each Option so sub-divided will remain the same as each original Option.

14.3. Return of Capital

If the amount paid up in respect of Shares is reduced by a return of capital, the number of Options held by an Eligible Participant will remain the same, but the Exercise Price of each Option must be reduced by the same amount as the amount returned in relation to each Share. In all other respects, the terms of each Option will remain the same.

14.4. Cancellation in the Event of Lost Capital

If part of the amount paid up in respect of Shares is cancelled because such capital has been lost or is no longer represented by assets, but no Shares are cancelled, the number of Options held by an Eligible Participant and the Exercise Price of an Option will remain unchanged.

14.5. Pro Rata Cancellation of Capital

If Shares are cancelled on a pro rata basis, the number of Options held by an Eligible Participant will be reduced by cancelling Options in the same ratio as Shares are cancelled. The Exercise Price of each remaining Option will be amended inversely to the ratio in which the Shares are cancelled. In all other respects, the terms of each remaining Option will remain the same.

14.6. Other Reorganisations

If the Company's share capital is reorganised in any other way, the number of Options held by an Eligible Participant or the Exercise Price of an Option, or both, will be amended in accordance with the ASX Listing Rules so that the Eligible Participant does not receive a benefit which the holder of Shares does not receive.

14.7. ASX Listing Rules

Despite clauses 14.1 to 14.6, the rights of an Eligible Participant in respect of the Options held by the Eligible Participant are subject to the ASX Listing Rules as they apply to capital reorganisation. In the event of any amendment to the ASX Listing Rules, the rights of an Eligible Participant will be deemed to be amended to the extent necessary to comply with the ASX Listing Rules as amended.

15. NEW ISSUES

15.1. Option must be Exercised

An Eligible Participant cannot, in respect of any Option held under this Plan, participate in a new issue of Shares without first exercising that Option.

15.2. Notice to be Given

If the Company proposes to make a new issue of Shares (other than pursuant to this Plan, the Bionomics Limited Employee Share Plan, a private placement, a dividend reinvestment plan, a share purchase plan, a bonus share plan, a rights issue or any other employee share or option plan designated by the Board, applying from time to time), the Company must give written notice to each Eligible Participant who holds Options of the proposed issue at least 30 days before the record date for that issue.

15.3. Bonus Issue

If a bonus issue is made to the holders of Shares in the Company (other than pursuant to any dividend reinvestment plan or bonus share plan applying from time to time), the number of Shares over which an Option is exercisable will be increased by the number of Shares which the Eligible Participant would have received under the bonus issue if the Eligible Participant had exercised the Option before the record date for that bonus issue.

15.4. Pro Rata Issue

If a pro rata issue (other than a bonus issue) is made to the holders of Shares, the Exercise Price of an Option must be reduced in accordance with the ASX Listing Rules.

16. FRACTIONAL ENTITLEMENTS

Any entitlements to a fraction of a Share resulting from the operation of any provision in clauses 14 and 15 will be disregarded.

17. TAKEOVERS

17.1. If a takeover offer is made for all or any proportion of the Shares, the Company may give written notice of that offer to each Eligible Participant who holds Options.

17.2. If notice is given of a general meeting of the Company's shareholders held pursuant to the Corporations Act 2001 to consider a resolution to agree to any acquisition of Shares,

the Company may give written notice of that meeting to each Eligible Participant who holds Options.

17.3. Where an Eligible Participant holds Options which have not become exercisable pursuant to clause 8.2 of these terms, those Options will be deemed to have become exercisable on the date on which the Eligible Participant receives notice pursuant to clauses 17.1 or 17.2. The date on which those Options lapse will remain unchanged.

18. COMPLIANCE WITH ASX LISTING RULES

If there is an inconsistency between the ASX Listing Rules and these terms, these terms will be deemed to be altered to the extent necessary to comply with the ASX Listing Rules.

19. GOVERNING LAW

These terms are governed by the law of South Australia.

EXERCISE NOTICE

To: Bionomics Limited ACN 075 582 740 (“**the Company**”)

NOTICE OF EXERCISE OF OPTION

NOTICE is hereby given by [*insert name of Eligible Participant*] (“**the Eligible Participant**”) that the Eligible Participant irrevocably exercises [*the number*] option(s) granted to the Eligible Participant by the Company on [*date*] and a cheque in the amount of [*amount of aggregate of Exercise Price*] is enclosed pursuant to clause 9.1 of the Bionomics Employee Share Option Plan.

The Eligible Participant agrees to be bound by the Constitution of the Company.

Dated:

Signed by the Eligible Participant

)
)
)
)

.....
Signature of Witness

.....
Signature of Eligible Participant

.....
Print Name of Witness
(BLOCK LETTERS)

BIONOMICS LIMITED
ABN 53 075 582 740

EMPLOYEE SHARE PLAN

TERMS OF THE PLAN

TERMS OF THE EMPLOYEE SHARE PLAN

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In these Terms, unless the context otherwise requires:

“Acceptance Closing Day” means the day determined by the Board as being the last day on which an Eligible Employee may accept Employee Shares.

“ASX” means Australian Stock Exchange Limited ACN 008 624 691.

“ASX Listing Rules” means the Official Listing Rules of the ASX, any other applicable rules of the ASX each as amended or replaced from time to time, except to the extent of any express written waiver by the ASX.

“Board” means the board of directors of the Company from time to time.

“Business Day” has the meaning given to it in the ASX Listing Rules.

“Company” means Bionomics Limited ABN 53 075 582 740

“Eligible Employee” means:

- (a) a person who is an employee of the Company or a related body corporate of the Company and who has been a full-time or part-time employee of the Company or the related body corporate for a period (whether continuous or not) of not less than 12 months (or such shorter period as the Board may determine); or
- (b) a director of the Company or a related body corporate of the Company;

but does not include persons with a shareholding in the Company of greater than 5% of its issued capital, or who have the capacity to control over 5% of the voting rights attaching to the Company’s issued capital.

“Employee Share” means a Share granted under the ESP.

“ESP” means this Employee Share Plan.

“Offer” means an offer to Eligible Employees to take Employee Shares.

“Share” means a fully paid ordinary share in the Company.

1.2. Interpretation Rules

In these Terms:

- (a) a reference to the Terms is a reference to the Terms as amended, varied or supplemented from time to time;
- (b) a reference to any legislation or a provision of any legislation includes:

- (i) all regulations, orders or instruments issued under the legislation or provision; and
- (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
- (c) words or expressions:
 - (i) importing the singular include the plural and vice versa;
 - (ii) importing a gender include the other genders;
- (d) where a word or phrase is defined or given a meaning, any other part of speech or grammatical form has a corresponding meaning;
- (e) a reference to a clause number is a reference to a clause of the Terms.

2. COMMENCEMENT OF ESP

The ESP will take effect from such date as the Board may determine.

3. ADMINISTRATION OF ESP

The ESP will be administered by the Board through the Compensation Committee, which has the power to:

- (a) determine appropriate procedures for administration of the ESP consistent with these Terms;
- (b) resolve conclusively all questions of fact or interpretation arising in connection with the ESP;
- (c) subject to any restrictions imposed by the Corporations Act or the ASX Listing Rules:
 - (i) revoke or amend the terms of this ESP; and
 - (ii) suspend or terminate this ESP;

but no such revocation, amendment, suspension or termination will affect the rights of an Eligible Employee who accepted Employee Shares before the date of the revocation, amendment, suspension or termination, or the terms of those Employee Shares.

4. INVITATIONS TO PARTICIPATE

4.1. Board to Determine

The Board will have the sole discretion to determine which Eligible Employees are to be issued Offers and when those Offers are to be made.

4.2. Offer Requirements

Each Offer will be accompanied by a form which specifies:

- (a) the date as at which the value of Shares will be used to determine the number of Employee Shares to be issued to each participating Eligible Employee (up to a value of \$1,000);
- (b) the date of the Acceptance Closing Day;
- (c) the manner in which the Offer may be accepted; and
- (d) any conditions which must be satisfied or circumstances which must exist before any or all of the Employee Shares are issued.

5. ACCEPTANCE BY ELIGIBLE EMPLOYEE

In order to accept Employee Shares to which he or she is entitled, an Eligible Employee must:

- (a) comply with the manner of acceptance specified in the Offer in relation to those Employee Shares; and
- (b) ensure that such acceptance is received at the Company's registered office or such other address as the Company may specify by no later than 5.00pm (Adelaide time) on the Acceptance Closing Day.

However, if an Eligible Employee fails to comply with the above requirements the Board has a discretion to treat the acceptance as valid.

6. GRANT OF EMPLOYEE SHARES

Upon an Eligible Employee complying with the requirements of clause 5 but subject to any conditions or circumstances referred to in clause 4.2(d), the Company must issue to that Eligible Employee, at no cost, the number of Employee Shares accepted by the Eligible Employee (but such number must not exceed the number of Employee Shares offered to the Eligible Employee under the terms of the Offer).

7. CONSIDERATION AND RANKING

7.1. Consideration

No consideration is payable by an Eligible Employee to subscribe for Shares offered under the ESP.

7.2. Ranking

Employee Shares will rank equally with, and have the same rights and entitlements as, other ordinary shares in the Company on issue as at the date the Employee Shares are allotted, other than any right or entitlement which has accrued prior to the date of allotment of the Employee Shares.

8. TRANSFER

8.1. Restriction on Transfer

Without the consent of the Board, an Eligible Employee may not assign, transfer or

otherwise deal with Shares issued under the ESP until after the expiry of 3 years from the date the Shares were issued.

8.2. Enforcement of Restriction

Shares issued under the ESP will be held in a locked holding on the share register for 3 years from the date the Shares are issued.

8.3. Exceptions

Despite clauses 8.1 and 8.2, Shares issued under the ESP may be assigned, transferred or otherwise dealt with when an Eligible Employee ceases to be employee of the Company.

9. COMPLIANCE WITH ASX LISTING RULES

If there is an inconsistency between the ASX Listing Rules and these terms and conditions, these terms and conditions will be deemed to be altered to the extent necessary to comply with the ASX Listing Rules.

10. GOVERNING LAW

These terms and conditions are governed by the laws of South Australia.

BIONOMICS LIMITED

ACN 075 582 740

EMPLOYEE EQUITY PLAN

PLAN RULES

**Adopted: November 2017
As Amended 31 October 2021**

Version: 2.0

Bionomics Limited Employee Equity Plan v 2.0

**BIONOMICS LIMITED
EMPLOYEE EQUITY PLAN**

PLAN RULES

1 Purpose

The name of the employee equity plan established by these terms is the “Bionomics Employee Equity Plan Rules” or such other name as the Board may determine from time to time.

The objects of the Plan include:

- (a) to align the interests of Eligible Employees with those of shareholders;
- (b) to provide equity as incentives or other component of remuneration to attract, retain and/or motivate Eligible Employees in the interests of the Company; and
- (c) to provide Eligible Employees with the opportunity to acquire Rights, and ultimately Shares, in accordance with these Rules.

The purpose of the Plan is to enable the Board to issue Rights as part of the Company’s remuneration arrangements.

The Plan is subject to subdivision 83A-C of the Income Tax Assessment Act 1997 to the extent an offer is made to an Eligible Employee with terms and conditions that meet the requirements of that subdivision.

2 Definitions and Interpretation

2.1 Definitions

In this Plan:

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ACN 008 624 691, or the securities exchange that it operates, as the context requires.

ASX Listing Rules means the official listing rules of ASX.

Board means the directors of the Company or a committee of the Board or a delegate appointed by the Board or a committee for the purposes of the Plan.

Certificate means the certificate issued by the Company in respect of a Right held by a Participant.

Company means Bionomics Limited ACN 075 852 740.

Conditions mean one or more conditions contingent on performance, service, or time elapsed since grant that must be satisfied before a Right vests, as determined by the Board.

Corporations Act means the *Corporations Act 2001* (Cth)

Disposal Restriction means such restriction on disposal or dealing in a Share to be delivered upon the exercise of a Right, as determined by the Board in its discretion and notified to a Participant at the time of the grant or offer of the Right.

Eligible Employee means an employee of the Group or a non-executive director of the Group or another person determined by the Board as eligible to participate in the Plan, provided that any such employee, director or other person is eligible to be offered securities registrable on Form S-8 of the US Securities Act of 1933, as amended.¹

Exercise Notice means a notice in the form specified by the Board for the purposes of rule 6 from time to time.

Exercise Period means the period between the time a Right vests/becomes exercisable and the time at which that Right expires/lapses, as specified in the relevant offer.

Exercise Price means the price payable in cash to exercise a Right, being such price determined by the directors in their absolute discretion and set out in the terms of the relevant offer, provided that, under no circumstances shall the Exercise Price of any Right granted to a US Eligible Employee be less than the fair market value as of the date of grant of such Right as determined taking into account, and in compliance with, the requirements of Section 409A of the US Tax Code for purposes of determining “fair market value” as of such date.

Expiry Date means the date a Right lapses and can no longer be exercised, as specified in the terms of the relevant offer, provided that, under no circumstances shall the Expiry Date of any Right granted to a US Eligible Employee be beyond the tenth of anniversary of such Right’s date of grant.

Group means the Company, any Subsidiary and any other entity declared by the Board to be a member of the group for the purposes of the Plan (provided that any other entity must also constitute a “subsidiary”, as such term is defined in Rule 405 of the Securities Act of 1933, of the Company) and **Group Company** means any one of them.

Market Price means an amount equal to the volume weighted average price of Shares traded on the ASX over the 5 trading days immediately preceding the relevant date.

¹ For clarity, non-US persons can be offered securities which are registrable on Form S-8.

(1) For the purposes of Form S-8, the term “employee” is defined as any employee, director, general partner, trustee (where the registrant is a business trust), officer, or consultant or advisor. Form S-8 is available for the issuance of securities to consultants or advisors only if:

- (i) they are natural persons;
- (ii) They provide bona fide services to the registrant; and
- (iii) the services are not in connection with the offeror sale of securities in a capital-raising transaction, and do not directly or indirectly promote or maintain a market for the registrant’s securities.

(2) In addition, the term “employee” includes insurance agents who are exclusive agents of the registrant, its subsidiaries or parents, or derive more than 50% of their annual income from those entities.

(3) The term “employee” also includes former employees as well as executors, administrators or beneficiaries of the estates of deceased employees, guardians or members of a committee for incompetent former employees, or similar persons duly authorized by law to administer the estate or assets of former employees. The inclusion of all individuals described in the preceding sentence in the term “employee” is only to permit registration on Form S-8 of:

(i) the exercise of employee benefit plan stock options and the subsequent sale of the securities, if these exercises and sales are permitted under the terms of the plan; and

(ii) the acquisition of registrant securities pursuant to intra-plan transfers among plan funds, if these transfers are permitted under the terms of the plan.

Option means, subject to the Conditions determined by the Board, a Right to receive a Share and any further amounts specified in the offer following payment of any required Exercise Price specified in the offer.

Participant means an Eligible Employee who is granted a Right under the Plan.

Performance Period means the period or periods over which Conditions are measured as specified by the Board.

Plan means the Bionomics Limited Employee Equity Plan, as constituted by these Rules.

Qualifying Reason means:

- (a) the death, total and permanent disablement, retirement from the workforce or redundancy of the Participant as determined by the Board in its absolute discretion; or
- (b) any other reason with the approval of the Board.

Right means a right to a Share and such additional Shares (including a fraction of a Share) that may be specified in the relevant offer and that is subject to the Conditions determined by the Board, calculated on the basis set out in the terms of an offer, which may include a formula for calculating the relevant number of Shares. For the avoidance of doubt, an Option is a Right for the purpose of these Rules.

Rules mean these rules of the Plan, as amended from time to time.

Share means a fully paid ordinary share in the capital of the Company.

Subsidiary has the meaning given to it in section 9 of the Corporations Act (provided that a Subsidiary must also constitute a “subsidiary”, as such term is defined in Rule 405 of the Securities Act of 1933, of the Company).

Takeover Bid has the meaning given in section 9 of the Corporations Act.

Total and Permanent Disablement means disablement of a person where in the opinion of the Board the person is unlikely to ever be able to be engaged in an occupation for which he or she is qualified by education and training.

Trust means any trust established by the Company for the sole purpose of subscribing for or acquiring and delivering, allocating and holding Shares in the Company for the benefit of the Participants and participants in other employee equity plans established by any member of the Group from time to time.

Trust Deed means any trust deed entered into between the Company and the Trustee.

Trustee means any trustee appointed by the Company for the purposes of these Rules.

US Eligible Employee means any Eligible Employee who is a citizen or resident of the United States of America.

US Tax Code means the United States Internal Revenue Code of 1986, as amended, and Treas. Reg. issued thereunder.

Withdrawal Notice means a written notice given by a Participant to the Trustee and the Company requesting that some or all of the Participant’s Shares held by the Trustee on behalf of the Participant be sold or transferred to the Participant or as that Participant directs, which notice must:

- (i) be signed by the relevant Participant;
- (ii) specify the number of Shares to be sold or transferred; and

be in a form approved by the Board.

2.2 Interpretation

In these Rules:



- (a) headings and type in bold are for convenience only and do not affect the interpretation of these Rules and, unless the context requires otherwise;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) the word 'includes' in any form is not a word of limitation;
- (e) other parts of speech and grammatical forms of a word or phrase defined in these Rules have a corresponding meaning; and
- (f) any reference in the Plan to any enactment or the ASX Listing Rules is a reference to that enactment or those ASX Listing Rules (and to all regulations or instruments issued under them) in force at the time that a grant or offer is made under the Plan unless expressed to the contrary in the Rules, or determined otherwise by the Board pursuant to rule 13.3, or required at law.

3 Commencement of Plan

The Plan will commence on the date determined by the Board.

4 Grant of Rights

4.1 Board to make grant

- (a) The Board may, from time to time, in its discretion make offers to Eligible Employees for a grant of Rights upon the terms of the Plan and such additional terms and conditions (including any Conditions, Disposal Restrictions or terms of expiry) as the Board determines. 
- (b) The Board will determine the procedure for the offering and granting of Rights, including the form and content of any offer, grant or acceptance procedure.
- (c) Notwithstanding rule 4.1(a) the Board may decide to reject an acceptance of an offer for Rights where an Eligible Employee does not satisfy any relevant Conditions determined by the Board at the time of receipt of an Acceptance Form for a grant of Rights.
- (d) Unless the Board determines otherwise, no payment is required for the grant of Rights.
- (e) Rights may be granted to an Eligible Employee by a Group Company as an element of pre-tax remuneration of that Eligible Employee not subject to Conditions.
- (f) Unless the Board determines otherwise, no offer for a grant of Rights may be made if the offer or grant does not comply with ASIC Class Order 14/1000, any subsequent or replacement class order or other relief in respect of employee incentive schemes or any specific relief granted by ASIC to the Company in respect of the Plan. 

4.2 Acceptance of offer

- (a) An Eligible Employee who accepts an offer for a grant of Rights is deemed to have agreed to be bound by these Rules, any additional terms specified in the terms of offer and, upon allocation of a Share, to have agreed to become a member of the Company and to be bound by the constitution of the Company.

- (b) If an offer is issued to an Eligible Employee pursuant to rule 4.1(a), the Board will, upon acceptance of the offer, grant Rights as specified in that offer to that Eligible Employee and provide the Eligible Employee with a Certificate for those Rights.

4.3 Information to be provided

The Board will advise each Eligible Employee of the following minimum information in respect of the Rights at the time of making the offer pursuant to rule 4.1(a):

- (a) the number or maximum value of Rights that are the subject of the offer, or the method for determining the number or maximum value;
- (b) any applicable Conditions;
- (c) the time or times at which Rights may vest and/or become exercisable;
- (d) any amount that will be payable upon exercise of a Right, if any, or the method for calculating that amount;
- (e) the period or periods during which Rights may be exercised and the procedure for exercising the Rights;
- (f) the date, time and/or circumstances when Rights lapse; and
- (g) any other relevant terms and conditions attaching to Rights or Shares held under the Plan, including any Disposal Restrictions.

An offer may contain any other information that the Board sees fit to include.

4.4 Title to Rights

- (a) Unless the Board determines otherwise, Rights may only be registered in the name of a Participant.
- (b) A Participant may at any time exercise a vested Right in accordance with rule 5.3 but is prohibited from disposing of a Right other than in accordance with rule 4.4(c) unless the Board determines otherwise.
- (c) A Right granted under, and subject to, these Rules is only transferable by force of law unless the Board determines otherwise.
- (d) Where a Participant purports to transfer a Right other than in accordance with rule 4.4(d), the Right immediately lapses unless the Board determines otherwise.

4.5 Prohibition against hedging

- (a) A Participant must not enter into any scheme, arrangement or agreement (including options and derivative products) under which the Participant may alter the economic benefit to be derived from a Right that remains subject to these Rules, irrespective of future changes in the market price of Shares.
- (b) Unless the Board determines otherwise, Rights must not be used as security in respect of any borrowing arrangement entered into by a Participant.
- (c) Where a Participant enters, or purports to enter, into any scheme, arrangement or agreement described in rule 4.5(a) or borrowing arrangement described in rule 4.5(b), the Right will immediately lapse.

5 Vesting, exercise and lapse of Rights

5.1 Vesting of Rights

- (a) Subject to rules 5.1(b) (Board discretion), 8 (cessation of employment), 9 (fraud or dishonesty), 10 (reorganisations and divestment), 11 (change of control) and 13.3 (Board powers), a Right granted under the Plan will not vest unless the Conditions relating to that Right advised to the Participant pursuant to rule 4.3 have been satisfied or waived by the Board.
- (b) The Board must advise a Participant when any Condition relating to a Right granted to the Participant is satisfied or waived by the Board in its discretion.
- (c) The Board may, in its discretion, determine that a Right vests prior to the date specified by the Board for the purposes of rule 4.3.
- (d) Granting a Right does not confer any right or interest, whether legal or equitable, in Shares until all Conditions in respect of that Right have been satisfied or waived by the Board in its absolute discretion and the Right has been exercised in accordance with rules 5.3, 5.4 and 6
- (e) The Board's decision as to the satisfaction, achievement or waiver of any Condition may be made in the Board's absolute discretion and a determination as to the interpretation, effect, application, achievement, satisfaction or waiver of a Condition is final, conclusive and binding on the Participant. The Board will only exercise its discretion to waive (in whole or in part) any Condition for a Qualifying Reason.

5.2 Lapse of Rights

Subject to the Board's overriding discretion, an unvested Right of a Participant will lapse upon the earliest to occur of:

- (a) the date specified by the Board for the purposes of rule 4.3;
- (b) an event described in rules 4.4 (title), 9 (fraud or dishonesty), 10 (reorganisations and divestments) or 11 (change of control);
- (c) failure to meet the Conditions; and
- (d) the fifteenth anniversary of the date the Right was granted, other than for US Eligible Employees, which will be the tenth anniversary of the date the Right was granted

5.3 Exercise of vested Rights

- (a) Rights that have vested and that have not expired or lapsed under rule 5.2 may be exercised by a Participant at any time and in any period notified to the Participant by the Board under rule 4.3 and in the manner specified in the relevant offer.
- (b) The Board may determine whether the Company will, upon exercise of vested Rights:
 - (i) issue or procure the transfer to:
 - (A) the Participant (or his or her personal representative); or
 - (B) a trustee who is to hold Shares on behalf of the Participant,
the number of Shares (including fractions of a Share) to which the Participant is entitled in respect of each Right as outlined in the terms of offer pursuant to rule 4.1(a), which may include a formula for calculating the relevant number of Shares (**Equity Settled**);
or
 - (ii) pay a cash amount equivalent to the Market Price of a Share at the exercise date multiplied by the number of Shares contemplated under rule 5.3(b)(i) less the amount of Exercise Price, if applicable, in full satisfaction of the Shares that would otherwise have been allocated on exercise of the Right (**Cash Settled**); or

(iii) issue, procure the transfer or pay a combination of (i) and (ii) above.

- (c) Where Rights are Equity Settled, the parties may agree that the Company will sell on behalf of the Participant the required number of Shares in order to provide the funds required to fund the payment of any applicable tax or other amounts required by law to be withheld.

5.4 Method of exercising vested Rights

- (a) A Participant may exercise a vested Right at any time up to and including the Expiry Date by delivering a properly executed Exercise Notice to the Company and paying the Exercise Price if any as specified in the relevant offer.
- (b) Subject to rule 5.3, the Company must ensure that Shares will be transferred or issued and allocated to a Participant within fifteen (15) business days after the Participant submits a properly executed Exercise Notice to the Company.

6 Exercise Notice

- (a) An Exercise Notice must:
- (i) specify the number and type of Rights being exercised;
 - (ii) be accompanied by payment of the Exercise Price if any specified in the offer (by such means and in such manner as approved by the Board); and
 - (iii) be accompanied by the Certificate.
- (b) The giving of an Exercise Notice for part only of the number of Rights held by a Participant from time to time does not prevent the Participant from exercising all or part of the balance of such Rights at any time thereafter during the term of those Rights, subject to rule 5.4 as applicable.
- (c) If a Participant exercises fewer than the total number of Rights referred to in the Certificate for those Rights then that Participant:
- (i) must surrender the Certificate to the Company; and
 - (ii) the Company will cancel that Certificate and re-issue a Certificate to the Participant for the unexercised balance of the Rights.
- (d) The Company or the Trustee must provide the Participant with a Share certificate for all Shares held by or on behalf of the Participant under the Plan.
- (e) Where Shares are to be held by a Trustee, subject to the Trustee receiving from the Company sufficient funds to subscribe for or acquire the Shares, the Board may, in its absolute discretion, instruct the Trustee to either subscribe for new Shares or acquire Shares on the market, to be held on a Participant's behalf.

7 Allocation of Shares

7.1 Ranking of Shares

All Shares issued under the Plan will rank equally in all respects with other Shares for the time being on issue, except with regard to any rights attaching to such other Shares by reference to a record date prior to the date of allocation of those Shares.

7.2 Listing on ASX

The Company will apply for quotation of Shares issued under the Plan within the period required by ASX.

7.3 Dividends and voting rights on Shares held by a Trustee

Where Shares allocated on exercise of Rights are held by a Trustee on behalf of the Participant:

- (a) the dividends payable on those Shares will be paid by the Company to the Trustee, and the Trustee will pay any such dividends to the Participant as soon as reasonably practicable after those dividends are paid by the Company to the Trustee;
- (b) in relation to resolutions upon which the Participant is entitled to vote, the Participant may direct the Trustee by notice in writing as to how to exercise the voting rights attaching to those Shares held on the Participant's behalf by the Trustee, either generally or in respect of a particular resolution, by way of proxy. In the absence of any such direction, the Trustee must not exercise the voting rights attaching to the Shares held on behalf of the Participant by the Trustee. The Trustee must not vote in respect of any Shares it holds on behalf of a Participant if the vote occurs by show of hands; and
- (c) the Company must, or by direction of the Board the Trustee must, forward to a Participant a copy of any notices of meetings of members of the Company received by the Trustee, unless the Participant has notified the Trustee in writing that the Participant does not wish to receive such notices.

7.4 Disposal Restrictions

- (a) The Board may, in its discretion, impose any Disposal Restrictions in respect of Shares issued or transferred on the exercise of Rights.
- (b) The Board must provide a Participant with details of any such requirements or restrictions at the time of offer pursuant to rule 4.3.
- (c) The Board may implement any procedure it considers appropriate to restrict a Participant from trading in Shares while they remain subject to these Rules including, without limitation, imposing a holding lock (as defined in the ASX Listing Rules) on the Shares or arranging for the Shares to be held on trust.

8 Cessation of employment

8.1 Unvested Rights

- (a) Where a Participant holding an unvested Right ceases to be an employee of the Group, that Right immediately lapses unless the terms of the offer pursuant to rule 4.1(a) prescribe a treatment other than the immediate lapse of unvested Rights. For the avoidance of doubt, the terms of the offer will prevail over this rule 8.1(a).
- (b) Notwithstanding rule 8.1(a), where a Participant holding an unvested Right ceases to be an employee of the Group due to a Qualifying Reason, the Board may, in its discretion, determine the treatment of that unvested Right.
- (c) The Board will give written notice to the Participant of the number of Rights that vest or may vest pursuant to rule 8.1(b).

8.2 Forfeiture of Shares allocated on exercise of Rights

The Board may, at its discretion, determine that a Participant will forfeit his or her interest in any Shares that are allocated to the Participant on exercise of Rights that are subject to Disposal Restrictions if, during the Disposal Restriction period:

- (a) the Participant resigns as an Employee of the Group;
- (b) the Participant is dismissed as an Employee by a Group Company for cause; or
- (c) the Participant's employment with the Group is terminated in circumstances that, in the opinion of the Board, involve a failure by the Participant to meet acceptable performance requirements in connection with his or her employment.

8.3 When employment ceases

For the purposes of this Plan, a Participant will only be treated as ceasing employment when the Participant is no longer an employee or a director within the Group.

9 Fraud, dishonesty or material misstatement

9.1 Action of Participant

Where, in the opinion of the Board, a Participant or former Participant:

- (a) acts fraudulently or dishonestly; or
- (b) is in breach of his or her obligations to the Group; or
- (c) is knowingly involved in a material misstatement of financial statements;

then the Board may determine that:

- (d) the Conditions and/or Performance Period applying to Rights should be altered or reset (as the case may be);
- (e) all or any Rights of the Participant that have not vested shall lapse;
- (f) all or any Rights of the Participant that have vested but not been exercised are forfeited;
- (g) all or any Shares held by the Participant following exercise of Rights are forfeited;
- (h) where Rights have been Cash Settled, the cash amount paid to the Participant must be repaid to the Company; and/or
- (i) where Shares that have been allocated to the Participant following exercise of Rights have been sold, that the Participant must repay all or part of the net proceeds of such a sale to the Company.

9.2 Actions of others

Where, in the opinion of the Board, a Right vests, or may vest, to a Participant as a result of the fraud, dishonesty, breach of obligations or knowing material misstatement of financial statements by an employee of the Group other than the Participant and, in the opinion of the Board, the Right would not otherwise have vested, the Board may determine that the Right has not vested and may, subject to applicable laws, determine any treatment in relation to the Right (including resetting Conditions, deeming Shares to be forfeited and/or new Rights be granted subject to substitute Conditions) to ensure that no unfair benefit is obtained by the Participant as a result of the actions of another person.

10 Participation in future issues, reorganisations and business divestments

10.1 Participation generally

A Participant cannot participate in new issues of Shares or other securities to holders of Shares unless the Shares in respect of the Rights held by the Participant have been issued or transferred, as the case requires, to and registered in the name of the Participant before the record date for determining entitlements to the new issue.

10.2 Bonus issue, rights issue and capital reorganisations

If:

- (a) Shares are issued pro rata to shareholders generally by way of a bonus issue;
- (b) Shares are offered to Shareholders by way of a pro rata rights issue; or
- (c) any reorganisation (including a consolidation, subdivision, reduction or return) of the issued capital of the Company is effected, and a Participant holds Rights at the record date for determining entitlements to the new issue or when the reorganization is effected (as applicable) then:
 - (d) the number of Shares to be delivered to each Participant in respect of each Right (or other terms and conditions applicable to the Rights, including any amount payable for the Shares) will be adjusted or reorganised:
 - (i) in accordance with the requirements of the ASX Listing Rules, the Corporations Act and any other applicable law; and
 - (ii) subject to rule 10.2(d)(i), in the manner determined by the Board in order to minimize or eliminate any material advantage or disadvantage to the Participant.

10.3 Divestment of material business or subsidiary

- (a) Where the Group divests a business or Subsidiary designated by the Board for the purposes of this rule 10.3 as 'material', the Board may determine special rules that apply to Participants in that business in relation to the Rights or Shares held pursuant to the Plan (and any other entitlements that may arise in relation to those Shares). Without limiting the Board's discretion, such rules may include:
 - (i) varying the Conditions and/or Performance Period applying to the Participant's Rights to take into account the divestment of the business or Subsidiary; and
 - (ii) deeming that the Participant remains a Group employee for a specified period.
- (b) In order to bind a Participant, any special rules made under this rule 10.3 must be notified to the Participant in accordance with rule 13.5.

11 Change of control

11.1 Takeover bid or scheme of arrangement

- (a) If an Event as described in rule 11.1(d) occurs before Participants' Rights have vested then the Board may, in its absolute discretion, determine whether:
 - (i) some or all unvested Rights will vest or will lapse (whether subject to Conditions or not); or
 - (ii) some or all of the unvested Rights will remain subject to the applicable Conditions (or substitute Conditions),

having regard for any matter the Board considers relevant, including, without limitation, the circumstances of the Event, the extent to which the applicable Conditions have been satisfied and/or the proportion of the Performance Period that has elapsed at that time and without limiting the extent to which the Board can exercise its discretion the Board may determine that the number of Rights eligible to vest will be prorated according to the portion of the Performance Period completed to the date of the Event and this prorated number of Rights will vest according to the extent to which the applicable Conditions are satisfied to that date.

- (b) If an Event occurs after Rights are exercised, all Shares issued or transferred (as applicable) on exercise of the Rights that remain subject to Disposal Restrictions under the Plan will be released from such Disposal Restrictions.
- (c) If an Event as described in rule 11.1(d) occurs after Participants' Rights have vested and before the Rights have been exercised then the Board may, in its absolute discretion, determine whether:
 - (i) all unexercised Rights will be exercised and Equity Settled; or
 - (ii) all unexercised Rights will be exercised and Cash Settled; or
 - (iii) all unexercised Rights with a Market Price less than the Exercise Price will lapse.
- (d) An **Event** occurs where:
 - (i) in the case of a Takeover Bid, a person who previously had voting power in the Company of less than 50% obtains voting power of more than 50%; or
 - (ii) a Takeover Bid is made for the Company and the bid is declared unconditional at a time prior to the bidder being entitled to 50% of the issued Shares; or
 - (iii) a court convenes a meeting of Shareholders to be held to vote on a proposed scheme of arrangement pursuant to which control of the majority of Shares may change; or
 - (iv) any transaction or event is proposed that, in the opinion of the Board, may result in a person becoming entitled to exercise control over the Company.

11.2 Acquisition of securities in another company

If a company (the **Acquiring Company**) obtains control of the Company and each of the Company, the Acquiring Company and the Participant agree, then a Participant may be provided with securities in the Acquiring Company (or its parent or subsidiary) in substitution for Rights, on substantially the same terms and conditions as the Rights, but with appropriate adjustments to the number and kind of securities the subject of the Rights.

11.3 Notification of vesting

The Board will give written notice to the Participant of the extent to which Rights vest pursuant to this rule 11.

12 Trustee

12.1 Trustee may take advice

The Board and the Trustee may take and rely upon independent professional or expert advice in relation to the exercise of any of their powers under these Rules or the Trust Deed.

12.2 Completion and return of documents

The Trustee and the Company may each require a Participant to complete and return such other documents, as may be required by any applicable law to be completed by the Participant or which

the Trustee or the Company considers should, for legal or taxation reasons, be completed by the Participant.

12.3 Agreements with the Trustee

The Board may determine and conclude agreements with the Trustee, and enforce or prosecute any rights and obligations under such agreements, without reference or recourse to the Participants under this Plan. Subject to the terms of the Trust Deed and without limiting the Company's rights in this regard, the Company may, pursuant to and in accordance with any such agreements:

- (a) provide funds to the Trustee in order to allow the Trustee to subscribe for and/or acquire Shares to be held on behalf of Participants under this Plan;
- (b) pay the Trustee for services provided in connection with this Plan and the Trust;
- (c) remove the Trustee and appoint a new trustee (and make any necessary arrangements or provisions for the transfer of Shares held by the Trustee for Participants to a new trustee); and
- (d) otherwise exercise any rights, responsibilities or powers afforded to it under the Trust Deed.

12.4 Costs of the Trust

The Board may determine the manner in which any costs associated with the Trust and the costs incurred in the course of the performance by the Trustee of its role and duties under this Plan and the Trust Deed are to be borne except that such costs will not be passed on to the Participant.

12.5 Trustee must administer the Trust

The Trustee must administer the Trust and hold Shares under the Plan in accordance with this Plan, the Trust Deed and any procedures determined by the Company and as agreed to between the Board and the Trustee.

12.6 Trustee may acquire Shares

The Trustee may in accordance with the instructions received from the Company acquire Shares on market in advance of exercise of a Right and hold such Shares pending such exercise.

12.7 Registration of Shares

Unless the Board determines otherwise, where Shares are held by the Trustee on behalf of a Participant, those Shares will be registered in the name of the Trustee.

13 Administration of Plan

13.1 Compliance with laws

An offer may only be made in compliance with the Constitution, the ASX Listing Rules, the Corporations Act and any other applicable law.

13.2 Amendment of the Rules

- (a) The Board may at any time, amend, add to, vary, omit from or substitute any of these Rules, provided that any such amendment may not, without the written agreement of a Participant, materially reduce or otherwise prejudicially affect the rights attaching to the Rights granted or the Shares issued or transferred (as applicable) pursuant to, and still subject to, the Plan, other than an amendment introduced primarily:
 - (i) for the purpose of complying with or conforming to present or future State, Commonwealth or relevant foreign jurisdiction legislation, the ASX Listing Rules or any requirement, policy or practice of ASIC or other foreign or Australian regulatory body;

- (ii) for the purpose of regulating the maintenance or operation of the Plan;
 - (iii) to correct any manifest error or mistake; or
 - (iv) to take into consideration possible adverse tax implications for the Company or the Participant arising from, among other things, adverse rulings from the Commissioner of Taxation, changes to tax legislation (including an official announcement by the Commonwealth of Australia) and/or changes in the interpretation of tax legislation by a court or tribunal of competent jurisdiction.
- (b) Any amendment made under this rule 13.2 must be notified as soon as reasonably practicable to any affected Participant in accordance with rule 13.5.

13.3 Board powers

The Board has absolute and unfettered discretion in exercising any power or discretion concerning the Plan and may:

- (a) delegate to any person for the period and on the terms it decides, the exercise of any of its powers or discretions under the Plan;
- (b) determine appropriate procedures for administering the Plan consistent with these Rules, including the application forms and any other forms and notices to be issued under the Plan;
- (c) resolve conclusively all questions of fact or interpretation concerning these Rules and any dispute of any kind that arises under the Plan;
- (d) waive any provision of the Plan, or any term or condition (including a Condition or other restriction) relating to Rights or Shares;
- (e) determine to suspend or cease operation of the Plan at any time and take any actions required to effect the winding up of the Plan;
- (f) act or refrain from acting at its discretion under these Rules or in relation to Rights or Shares held under the Plan; and
- (g) waive any breach of a provision of the Plan.

Notwithstanding the foregoing Board powers, under no circumstances shall the Board take any action that would cause the “modification”, as such term is defined under Section 409A of the Code and regulations promulgated thereunder, of any Right granted to a US Eligible Employee.

13.4 Costs

- (a) The Company will pay all costs and expenses in relation to the establishment and operation of the Plan.
- (b) The Group may make any withholding or payment it is required by law to make in connection with Rights or Shares.
- (c) Any brokerage, commission, stamp duty or other transaction costs in connection with the disposal of a Participant’s Shares acquired under the Plan will be paid for by the Participant.

13.5 Notices

- (a) A notice or other communication under or concerning the Plan is validly given:

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- (i) by the Company to an Eligible Employee or Participant (as the case may be), if delivered physically or electronically to the addressee or sent by prepaid post to his or her last known residential address, or sent to him or her physically or by email at his or her place of work or posted on an internet or intranet site maintained by or for the Company and accessible by the Eligible Employee or Participant; and
 - (ii) by an Eligible Employee or Participant (as the case may be) to the Company if delivered or sent by prepaid post addressed to the company secretary at the Company's registered office (unless the Board specifies another address for a particular purpose).
- (b) A notice or other communication sent:
- (i) to the Company must be actually received by the Company by the date or within the period specified in these Rules or advised to the Participant pursuant to rule 4.3 in order to be effective; and
 - (ii) by the Company to an Eligible Employee or Participant (as the case may be) will be treated as being received immediately following the time it was sent or, if it is sent by post, it will be treated as received two (2) business days after it was posted.

13.6 Terms of engagement not affected

- (a) The rights and obligations of an Eligible Employee under the terms of his or her office, employment or contract with the Group are not affected by his or her participation in the Plan.
- (b) Participation in the Plan will only be offered to an Eligible Employee at the discretion of the Board. There is no guarantee of future offers being made under the Plan. Nothing in these Rules confers on an Eligible Employee the right to be granted Rights.
- (c) These Rules do not form part of, and will not be incorporated into, any contract of an Eligible Employee.

13.7 Non-residents of Australia

- (a) Notwithstanding any rule under the Plan, the Board may at any time, amend, add to, vary, omit from or substitute any of these Rules to ensure compliance with the requirements of, or impact of, any law or regulation in any jurisdiction outside of Australia.
- (b) This rule 13.7 applies in relation to any Participant who holds Rights or Shares under the Plan from time to time and who is resident, or may become resident, in any jurisdiction outside of Australia.
- (c) Any different rules that may apply must be notified to each affected Participant in writing.
- (d) For the purposes of clarification, any different rules that are adopted under rule 13.7(a) may have an adverse impact upon the Participant
- (e) Rights to US Eligible Employees. The Company intends that all Rights granted to US Eligible Employees be structured to comply with, or be exempt from, Section 409A of the US Tax Code, such that no adverse tax consequences, interest, or penalties under Section 409A of the US Tax Code apply, and the Plan and all Rights granted hereunder to US Eligible Employees shall be interpreted and administered in a manner consistent with such intention. In the event any provision of the Plan or any Right granted to a US Eligible Employee would cause a Right granted to a US Eligible Employee to fail to be exempt from, or to comply with, Section 409A of the US Tax Code, the Plan and/or such Right shall be amended to the extent necessary to ensure such Right is so exempt and/or compliant in a manner that no additional tax shall apply to the US Eligible Employee with respect to such Right. Notwithstanding anything in the

Plan or any Invitation to the contrary, the Board may, without an Eligible Employee's consent, amend this Plan or Rights, adopt policies and procedures, or take any other actions (including amendments, policies, procedures and retroactive actions) as are necessary or appropriate to preserve the intended tax treatment of Rights, including any such actions intended to (A) exempt any Right from Section 409A of the US Tax Code, or (B) comply with Section 409A of the US Tax Code, including regulations, guidance, compliance programs and other interpretative authority that may be issued after a Right's date of grant. The Company makes no representations or warranties as to a Right's tax treatment under Section 409A of the US Tax Code or otherwise. The Company will have no obligation under this Plan or any Right to avoid the taxes, penalties or interest under Section 409A of the US Tax Code with respect to any Right and will have no liability to any Eligible Employee or any other person if any Right, compensation or other benefits under the Plan are determined to constitute noncompliant "nonqualified deferred compensation" subject to taxes, penalties or interest under Section 409A of the US Tax Code.

13.8 Personal information

The Participant consents to the Company or its agents (and each of their related parties) collecting, holding and using personal information (including a Participant's tax file number) that the Participant provides in the application to participate in the Plan or otherwise provides to the Company or its agents (and each of their related parties) as part of their employment, in order to carry out the administration and operation of the Plan in accordance with the Plan Rules, including providing relevant information to:

- (a) the Plan manager or another entity that manages or administers the Plan on behalf of the Company;
- (b) any broker or external service provider, including a tax or financial adviser;
- (c) the trustee of any employee trust;
- (d) any Government department or body; and
- (e) any other person or body as required or authorised by law.

13.9 No rights

A Participant does not have any rights under this Plan to compensation or damages in consequence of the exercise by the Company of any right, power or discretion that results in the Participant ceasing to have title to the Rights or Shares held under the Plan.

13.10 Limitation on the Plan

No Shares may be allocated to a Participant under this Plan if, immediately after the allocation of those Shares, the Participant:

- (a) would hold a legal or beneficial interest in more than 10% of all other Shares for the time being on issue; or
- (b) would be in a position to cast, or control the casting of, more than 10% of the maximum number of votes that might be cast at a general meeting of the Company.

13.11 Maximum number of Shares

Unless the Board determines otherwise, no offer may be offered under this Plan if the offer does not comply with ASIC Class Order 14/1000, or any subsequent or replacement ASIC class order in respect of new issues of securities under employee incentive schemes, which provides that, amongst other things, the Company must, at the time of making the offer, have reasonable grounds to believe that the number of Shares that have been or may be issued under the offer, when aggregated with offers made under this Class Order, or an ASIC exempt arrangement of a similar kind to an employee incentive scheme, in the previous three year period, will not exceed 5% of the issued capital of the Company.

13.12 Rounding

Where any calculation or adjustment to be made pursuant to this Plan produces a fraction of a cent, Right or Share, the fraction will be disregarded by rounding down to the nearest whole cent or whole number of Rights or Shares (as applicable).

13.13 ASIC relief

Notwithstanding any other provision of this Plan, every covenant or other provision set out in an exemption or modification granted from time to time by ASIC in respect of the Plan pursuant to its power to exempt and modify the Corporations Act and required to be included in the Plan in order for that exemption or modification to have effect, is deemed to be contained in the Plan.

To the extent that any covenant or other provision deemed by this rule to be contained in the Plan is inconsistent with any other provision in the Plan, the deemed covenant or other provision shall prevail.

13.14 Governing Law

The rules and conditions of this Plan are governed by the laws of South Australia and the Commonwealth of Australia.

14 ADS Addendum

14.1 Background

At the date of adoption of this rule 14, the Company is considering an initial public offering (IPO) in the United States of America (US) and listing on NASDAQ through an offering of American Depositary Shares (ADSs) representing Shares and wishes to be in a position to (i) settle existing Rights in ADSs, (ii) offer and grant Rights to Employees who may be located in the US or other countries and (iii) offer and grant Rights in respect of ADSs.

14.2 Additional provisions

Notwithstanding any other provision of these Rules but subject to ADSs of the Company becoming listed on NASDAQ:

- (a) the Company may offer and grant Rights to be settled in ADSs and all references to Shares in these Rules (unless the context does not permit) will be taken to include references to ADSs;
- (b) the Company may settle any Rights in existence at the date of adoption of this rule 14 by way of a number of ADSs that represents the appropriate number of Shares, with the consent of the relevant Participant;
- (c) for the avoidance of doubt, any monetary amounts may be determined or specified under or pursuant to these Rules or any Invitation in US dollars or any other currency, including without limitation any Exercise Price;
- (d) the Company may accept any payment in respect of the Plan or any Rights in US dollars any currency the Board deems acceptable, with rate of conversion to be determined in a manner specified by the Board by reference to a published exchange rate;

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- (e) the Board may impose any Condition (as referred to in rule 4.3(b)) or other relevant terms and conditions (as referred to in rule 4.3(g)) that may be necessary or desirable for the purpose of compliance with or qualification under any securities laws or taxation laws of the US or other jurisdictions (including applicable administrative or interpretative rulings); and
 - (f) the Board may do all other things necessary or desirable in relation to the Plan or any Rights to enable the offer and grant of Rights to be settled in ADSs, the settlement of any Rights in ADSs and to comply with the securities laws of the US or other jurisdictions or the listing requirements of NASDAQ.

Bionomics Limited Employee Equity Planv 2.0

BIONOMICS LIMITED
EXECUTIVE EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this “**Agreement**”) is made as of June 2021 by and between Bionomics Limited (ABN 53 075 582 740) (the “**Company**”), and **Errol B. De Souza**, an individual (“**you**”) (and, together, “**Parties**”).

NOW THEREFORE, in consideration of your acceptance of employment, the Parties agree to be bound by the terms contained in this Agreement as follows:

1. Engagement. Effective July 1st, 2021 the “**Effective Date**”), the Company will employ you as Executive Chairman of the Company on the Company’s Board of Directors (the “**Board**”). You will report directly to the Board. You will have the responsibilities, duties and authorities the Board specifies from time to time, which will generally be commensurate with those of chief executive officers of entities of similar size and character to the Company. These responsibilities may include serving as an officer and director of subsidiaries of the Company.

2. Commitment. During and throughout the Employment Period (as defined in Section 3 below), you must devote substantially all of your full working time and attention to the Company and you must not engage in any employment, occupation, consulting or other similar activity absent the Board’s prior written consent; *provided, however*, that you may (i) serve in any capacity with any professional, community, industry, civic (including governmental boards), educational or charitable organization, (ii) serve on up to three for-profit entity public boards of directors and up to two advisory/private boards, with the Board’s prior written consent, and (iii) subject to the Company’s conflict of interest policies, make investments in other businesses and manage your and your family’s personal investments and legal affairs; *provided* that any such activities described in clauses (i)-(iii) above do not materially interfere with the performance of your duties for the Company and do not otherwise violate this Agreement. You will perform your services under this Agreement at such place or places as you and the Board may agree. You understand and agree that your employment will require travel from time to time. The Company acknowledges that you currently serve on three for-profit entity public boards of directors (excluding Bionomics) and more than two advisory/private boards, and hereby acknowledges that such service shall not be a breach of this Section 2 provided that (A) such services do not materially interfere with the performance of your duties to the Company and do not otherwise violate this Agreement, and (B) you transition off one or more of such boards of directors and advisory boards such that as of January 1, 2022, you will not be serving on more than three for-profit entity public boards of directors (excluding Bionomics) or more than two other advisory/private boards.

3. Employment Period. The Company hereby agrees to employ you and you hereby accept employment with the Company upon the terms set forth in this Agreement, for the period commencing on the Effective Date and ending at the close of regular business hours on June 30, 2024 unless sooner terminated in accordance with the provisions of Section 6 (such period, as it also may be extended, the “**Employment Period**”). On the expiration of the initial three-year term and on each yearly anniversary thereof, this Agreement shall automatically renew for an

additional one-year period unless sooner terminated in accordance with the provisions of Section 6 or unless either Party notifies the other Party in writing of its intention not to renew this Agreement not less than 120 days prior to such expiration date or anniversary, as the case may be.

4. Cash and Incentive Compensation.

(a) **Base Salary.** During your employment hereunder, you will receive a base salary at a monthly rate of USD \$43,750, annualizing to USD \$525,000 (as revised under this Agreement, the "**Base Salary**"). The Company will pay your Base Salary periodically in arrears not less frequently than monthly in accordance with the Company's regular payroll practices as in effect from time to time. The Board will review your Base Salary for increase (but not for decrease) no less frequently than annually. If increased, the increased Base Salary will become the Base Salary for all purposes of this Agreement and will not thereafter be decreased without your written consent, which may be withheld for any reason or no reason.

(b) **Incentive Bonus.** Upon meeting the applicable performance criteria established by the Remuneration Committee of the Board (the "**Remuneration Committee**") in its sole discretion, you will be eligible to receive an annual incentive bonus (the "**Annual Bonus**") for a given fiscal year of the Company targeted at an amount equal to 60% of your Base Salary in effect at the Effective Date or, for subsequent years, at the beginning of such fiscal year (the "**Target Bonus**"). For performance exceeding such applicable performance criteria in the sole judgment of the Remuneration Committee, the Annual Bonus may be increased up to 100% of your base salary. The Annual Bonus, if any, will be paid when other executives receive their bonuses under comparable arrangements but, in any event, no later than 15 days following the year following the fiscal year with respect to which it is earned. The applicable performance criteria for each fiscal year of the Company shall be determined by the Remuneration Committee no later than 90 days after the commencement of that fiscal year.

(c) **Equity Awards.** You will be eligible for grants of options or other equity compensation at the discretion of the Remuneration Committee (with ratification by the Board). You will be entitled to a grant of 47,786,607 options, to be issued with an exercise price based on a volume weighted average price for the 14 day period prior to the Effective Date, with vesting on a quarterly basis over a 4 year period commencing on the Effective Date, subject to you remaining a director of the Company at the time of each quarterly vesting date, and subject to the acceleration provisions in Section 6(b)(iii) with automatic accelerated vesting in full in the event of a change in control of the Company (which shall be deemed to occur if any person acquires more than 50% of the voting shares of the Company) and otherwise on terms agreed between you and the Company or failing agreement, determined by the Remuneration Committee (with ratification by the Board). The issue of options will be subject to shareholder approval in accordance with the ASX Listing Rules and, if applicable, the Corporations Act, and otherwise subject to applicable law, the constitution of the Company and the ASX Listing Rules. The Remuneration Committee will consider further grants of equity compensation from time to time during the Employment Period.

(d) **Parachute Provisions.** Your compensation under and beyond this Agreement is subject to Exhibit A hereto until the third anniversary of the Effective Date.

5. **Employee Benefits.**

(a) **Employee Welfare and Retirement Plans.** You will, to the extent eligible, be entitled to participate at a level commensurate with your position in all employee welfare benefit and retirement plans and programs the Company provides to its executives in accordance with the terms thereof as in effect from time to time. For the avoidance of doubt, this will include health benefits coverage to the value of USD \$22,000 for the first year of employment and adjustments may be made based on additional documented increases in subsequent years.

(b) **Business Expenses.** Upon submission of appropriate documentation in accordance with Company policies, the Company will promptly pay, or reimburse you for, all reasonable business expenses that you incur in performing your duties under this Agreement, including travel, entertainment, professional dues and subscriptions, as long as such expenses are reimbursable under the Company's policies. Any payments or expenses provided in this Section 5(b) will be paid in accordance with Section 7(c).

(d) **Vacation.** You will be entitled to annual leave equal to four weeks per annum (accrued ratably on a monthly basis or otherwise in accordance with the standard written policies of the Company with regard to executives or applicable law), to be taken at such times as agreed with the Company.

(e) **Other Leave.** You may be entitled to other leave benefits as required under applicable law or the written policies of the Company with regard to executives.

(f) **Attorneys Fees.** The Company will pay up to USD \$12,000 for you to obtain legal services in connection with reviewing this Agreement for execution or for future modification of agreement or consultation thereof. The payment provided in this Section 5(e) will be paid in accordance with Section 7(c).

6. **Termination of Employment.**

(a) **General.** Subject in each case to the provisions of this Section 6 and the other provisions of this Agreement relating to our respective rights and obligations upon termination of your employment, nothing in this Agreement interferes with or limits in any way the Company's right to terminate your employment at any time, for any reason or no reason, with or without notice, and nothing in this Agreement confers on you any right to continue in the Company's employ. If your employment ceases for any or no reason, you (or your estate, as applicable) will be entitled to receive (in addition to any compensation and benefits you are entitled to receive under Section 6(b) below), subject to Section 6(f): (i) any earned but unpaid Base Salary and, to the extent consistent with general Company policy, accrued but unused vacation through and including the date of termination of your employment to be paid in accordance with the Company's regular payroll practices and with applicable law but no later than the next regularly scheduled pay period, (ii) any earned but unpaid Annual Bonus for the fiscal year preceding the fiscal year in which your employment ends, to be paid on the date such Annual Bonus otherwise would have been paid if your employment had continued, (iii) unreimbursed business expenses in accordance with the Company's policies for which expenses you have provided appropriate documentation, and (iv) any amounts or benefits to which you are then entitled under the terms of the benefit plans then sponsored by the Company in accordance with their terms (and not accelerated to the extent acceleration does not satisfy Section 409A of the Internal Revenue Code of 1986, as amended ("**Section 409A**" of the

“Code”)). Notwithstanding any other provision in this Agreement to the contrary, you will be entitled to severance, if any, solely through the terms of this Section 6, unless another written Board-approved agreement between you and the Company, or other Board-approved arrangement, expressly provides otherwise.

(b) **Termination Without Cause or for Redundancy, Resignation for Good Reason.** If, during the Employment Period, the Company terminates your employment without Cause (defined below) including by giving notice of non-extension of this Agreement, or due to Redundancy (defined below), or you resign from the Company for Good Reason (defined below) (provided that you must give not less than 6 month notice of resignation, whether or not for Good Reason), in addition to the amounts covered by Section 6(a), the Company will pay to you the following, subject to compliance with Section 6(b)(iv) and Section 6(f):

(i) **Cash Severance.** The Company will pay to you in cash an amount equal to the sum of (1) your then-current Base Salary, plus (3) the amount of your target Annual Bonus for the fiscal year of the Company in which you are terminated multiplied by a fraction, the numerator of which is twelve minus the number of whole calendar months remaining in the fiscal year of the Company in which you are terminated, and the denominator of which is 12, paid in equal installments over a 12-month period beginning as provided under Section 6(b)(iv) or at such later date as Section 7(a) provides. For the avoidance of doubt, these benefits are inclusive of and fully compensate you for any notice, or payment in lieu of notice, and any redundancy pay entitlement under applicable law.

(ii) **Benefits.** Subject to compliance with Section 6(b)(iv), you will continue to receive healthcare benefits in accordance with Section 5(a) for a period of 12 months after termination of employment. Subject to compliance with Section 6(b)(iv), you will also receive outplacement services, provided that such services may not continue more than 12 months following the termination of your employment.

(iii) **Equity Compensation.** In addition to the compensation and benefits described in Section 6(b)(i) and (ii) above and subject to the release required under Section 6(b)(iv), any outstanding equity compensation awards will fully and immediately vest with respect to any amounts that would have vested if you had remained employed for an additional 24 months and, as applicable, become exercisable, provided that the Board will have the right to suspend exercises or sales with respect to such equity compensation pending satisfaction of the release requirement, and provided further that the vesting will not accelerate the distribution of shares underlying equity awards if such acceleration would trigger taxation under Section 409A(a)(1)(B).

(iv) **Release.** To receive any severance benefits provided for under this Agreement, you must deliver to the Company a general release of claims arising prior to the date of termination and relating to your employment by the Company in a customary form provided by the Company, which must become irrevocable within 60 days following the date of your termination of employment, *provided*, that in no event shall the release purport to release claims to the compensation described in Section 6(a) and (b) and, if applicable, Section 4(d) or other continuing rights under this Agreement. Subject to Section 7, any such severance benefits that (i) are conditioned in any part on such a

release of claims and (ii) would otherwise be paid (assuming the release is given) prior to the last day on which the release could become irrevocable assuming your latest possible execution and delivery of the release (such last day, the “**Release Effective Date**”) shall be paid, if ever, only on the Release Effective Date, even if your release becomes irrevocable before that date. The Company may elect to make such payment up to thirty (30) days prior to the Release Effective Date, however. You must continue to comply with the covenants under Sections 8 and 9 in all material respects to continue to receive severance benefits.

(c) **Termination for Cause, Voluntary Resignation Without Good Reason.**

(i) *General.* If, during the Employment Period, the Company terminates your employment for Cause, or you voluntarily resign from your employment other than for Good Reason, you will be entitled only to the payments described in Section 6(a) (excluding, on a termination for Cause, clause (ii) of Section 6(a)). You will have no further right to receive any other compensation or benefits after such termination or resignation of employment, except as determined in accordance with the terms of the employee benefit plans or programs of the Company or as required by law.

(ii) *Definitions.*

(I) Cause. For purposes of this Agreement, “**Cause**” means termination of your employment because of (i) fraud, (ii) material misrepresentation not including any exercise of business judgment in good faith relating to the performance of your duties to the Company; (iii) material instances of theft or embezzlement of assets of the Company; (iv) your conviction, or plea of guilty or nolo contendere to any felony; (v) material failure to follow the Company’s conduct and ethics policies that have been provided or made available to you; (vi) your material breach of this Agreement; and/or (vii) your continued failure to attempt in good faith to perform your duties as reasonably assigned by the Board. Before terminating your employment for Cause under clauses (ii), (iii), (v), (vi), or (vii) above, the Company will specify in writing to you the nature of the act, omission, refusal, or failure that it deems to constitute Cause and, unless such circumstances are impossible to correct, give you 30 days after you receive such notice to correct the situation (and thus avoid termination for Cause), unless the Board agrees to further extend the time for correction.

(II) Good Reason. For purposes of this Agreement, “**Good Reason**” means, the occurrence, without your prior written consent, of any of the following events: (i) any material diminution in your authority, duties or responsibilities with the Company; (ii) a breach by the Company of any material provision of this Agreement; or (iii) the Company’s requiring you to perform your principal services primarily in a geographic area more than 35 miles from the Individual’s current residence, as that may change from time to time, unless the place of required performance is closer to your then principal residence than was the prior place of required performance. No resignation for Good Reason for which any severance benefits will become payable under Section 6(b) will be effective unless (x) you have given written notice to the Company of your intention to terminate your employment for Good Reason, describing the grounds

for such action, no later than 90 days after the first occurrence of such circumstances, (y) you have provided the Company with at least 30 days in which to cure the circumstances, and (z) if the Company is not successful in curing the circumstance, you end your employment within six months after the initial occurrence.

(III) Redundancy. For purposes of this Agreement, "**Redundancy**" means where your role is no longer required to be performed by anybody.

(d) **Death or Disability**. Your employment hereunder will terminate immediately upon your death or Disability. "**Disability**" shall mean your inability, due to an illness or injury, to perform the inherent requirements of your role under this Agreement at the relevant time of assessment of Disability, or in the reasonably foreseeable future. A determination of Disability shall be made by a physician satisfactory to both you and the Company; provided that if you and the Company do not agree on a physician, you and the Company shall each select a physician and these two together shall select a third physician, whose determination as to Disability shall be binding on all parties. Employment termination under this subsection is not covered by Section 6(b).

(e) **Agreed Change of Role**. You agree that you will negotiate in good faith should the Board seek to appoint a chief executive officer of the Company, to agree to transition to the role of Non-Executive Chairman (provided that the Company provide a period of notice of no less than 6 months), in which case you agree that your employment as Executive Chairman may be terminated by the Company and your compensation adjusted such that you will receive compensation appropriate to the position of Non-Executive Chairman, provided that while you remain a director of the Company, the options issued pursuant to Section 4(c) will vest in accordance with the vesting program while you remain a director of the Company. The termination provisions outlined in Section 6 (b) (iii) of accelerated vesting of outstanding options will apply if there is a change of role with respect to remaining on the Board of Directors of the Company.

(f) **Further Effect of Termination on Board and Officer Positions**. If your employment ends for any reason (except pursuant to Section 6(e)), you agree that you will cease immediately to hold any and all officer or director positions you then have with the Company or any affiliate, absent a contrary direction from the Board (which may include either a request to continue such service or a direction to cease serving upon notice), except to the extent that you reasonably and in good faith determine that ceasing to serve as a director or officer would breach your fiduciary duties to the Company or such affiliate. You hereby irrevocably appoint the Company to be your attorney to execute any documents and do anything in your name to effect your ceasing to serve as a director and officer of the Company and any affiliate, should you fail to resign following a request from the Board to do so. A written notification signed by a director or duly authorized officer of the Company that any instrument, document or act falls within the authority conferred by this subsection will be conclusive evidence that it does so. The Company will prepare any documents, pay any filing fees, and bear any other expenses related to this section.

(g) **Benefits Requiring Shareholder Approval**. Notwithstanding any other provision of this Agreement, on termination of your employment for any reason, the Company is

not required to make any payment or provide any benefit which is not permitted by law in the absence of shareholder approval.

7. **Effect of Section 409A of the Code.**

(a) **Six Month Delay.** If and to the extent any portion of any payment, compensation or other benefit provided to you in connection with your employment termination is determined to constitute “nonqualified deferred compensation” within the meaning of Section 409A and you are a specified employee as defined in Section 409A(a)(2)(B)(i), as determined by the Company in accordance with its procedures, by which determination you hereby agree that you are bound, such portion of the payment, compensation or other benefit shall not be paid before the earlier of (i) the expiration of the six month period measured from the date of your “separation from service” (as determined under Section 409A) or (ii) the tenth day following the date of your death following such separation from service (the “**New Payment Date**”). The aggregate of any payments that otherwise would have been paid to you during the period between the date of separation from service and the New Payment Date shall be paid to you in a lump sum in the first payroll period beginning after such New Payment Date, and any remaining payments will be paid on their original schedule. Payments subject to the foregoing up to six month delay will bear interest for the period they are delayed at the Wall Street Journal prime rate based on the interest rate in effect on the date of employment termination, compounded monthly and paid in the first payroll period beginning after the New Payment Date.

(b) **General 409A Principles.** For the purposes of determining when amounts otherwise payable on account of your termination of employment under this Agreement will be paid, which amounts become due because of your termination of employment, “termination of employment” or words of similar import, as used in this Agreement, shall be construed as the date that you first incur a “separation from service” for purposes of Section 409A on or following termination of employment. For purposes of this Agreement, each amount to be paid or benefit to be provided will be construed as a separate identified payment for purposes of Section 409A, and any payments that are due within the “short term deferral period” as defined in Section 409A or are paid in a manner covered by Treas. Reg. Section 1.409A-1(b)(9)(iii) will not be treated as deferred compensation unless applicable law requires otherwise. Neither the Company nor you will have the right to accelerate or defer the delivery of any such payments or benefits except to the extent specifically permitted or required by Section 409A. This Agreement is intended to comply with the provisions of Section 409A and this Agreement will, to the extent practicable, be construed in accordance therewith. Terms defined in this Agreement will have the meanings given such terms under Section 409A if and to the extent required to comply with Section 409A. ***In any event, the Company makes no representations or warranty and will have no liability to you or any other person, other than with respect to payments made by the Company in violation of the provisions of this Agreement, if any provisions of or payments under this Agreement are determined to constitute deferred compensation subject to Code Section 409A but not to satisfy the conditions of that section.***

(c) **Expense Timing.** Payments with respect to reimbursements of expenses will be made in the ordinary course and, in any case, on or before the last day of the calendar year following the calendar year in which the relevant expense is incurred. The amount of expenses eligible for reimbursement, or in-kind benefits provided, during a calendar year may not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any

other calendar year, and the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit.

8. **Confidentiality, Disclosure, and Assignment**

(a) **Confidentiality.** Except as may be required by law, you will not, during or after the Employment Period, publish, disclose, or utilize in any manner any Confidential Information obtained while employed by the Company other than on behalf of the Company. If your employment with the Company ends, you will not, without the Company's prior written consent, retain or take away any drawing, writing or other record in any form containing any Confidential Information. For purposes of this Agreement, "**Confidential Information**" means information or material of the Company that is not generally available to or used by others unaffiliated with the Company, or the utility or value of which is not generally known, whether or not the underlying details are in the public domain, including:

(i) information or material relating to the Company and its business as conducted or anticipated to be conducted; business plans; operations; past, current or anticipated products, services, or software; customers or prospective customers; strategic partners and/or collaborators, price lists and all other pricing information; licensing arrangements; research, engineering, development, manufacturing, purchasing, accounting, or marketing activities;

(ii) information or material relating to the Company's inventions, improvements, discoveries, "know-how," technological developments, or unpublished writings or other works of authorship, or to the materials, apparatus, processes, formulae, plans or methods used in the development, manufacture or marketing of the Company's products or services;

(iii) information on or material relating to the Company that when received is marked as "proprietary," "private," or "confidential";

(iv) the Company's trade secrets;

(v) information or material relating to the Company and its databases, modules, products, programs, product improvements, product enhancements and/or developments, designs, specifications, processes, methods, techniques, operations, projects, plans, chemical compounds, chemical or biological materials, engineering data, clinical or technological data, research data, financial data, personnel data, and other confidential agreements or documents (including, but not limited to, clinical trial protocols and unpublished patent applications); and

(vi) any similar information of the type described above that the Company obtained from another party and that the Company treats as or designates as being proprietary, private or confidential, whether or not owned or developed by the Company.

Notwithstanding the foregoing, "Confidential Information" does not include any information that is properly published or in the public domain; *provided, however*, that information that is published by or with your aid outside the scope of employment or contrary to the requirements of

this Agreement will not be considered to have been properly published, and therefore will not be in the public domain for purposes of this Agreement.

(b) **Business Conduct and Ethics.** During your employment with the Company, you will not engage in any activity that you are or should have been aware is substantially likely to materially conflict with the Company's best interests, and you will comply in all material respects with the Company's policies and guidelines pertaining to business conduct and ethics.

(c) **Disclosure.** You will disclose promptly in writing to the Company all inventions, discoveries, software, writings and other works of authorship that you created, made, conceived, discovered, reduced to practice or wrote jointly or singly on Company time or on your own time during your employment with the Company ("**Developments**"), provided that the invention, improvement, discovery, software, writing or other work of authorship is capable of being used by the Company in its business, and all such inventions, improvements, discoveries, software, writings and other works of authorship shall belong solely to the Company.

(d) **Current Assignments.** You agree to assign and do hereby assign to the Company (or any person or entity the Company designates) all your right, title and interest in and to all Developments and all related patents, patent applications, copyrights and copyright applications. However, this subsection does not apply to Developments that do not relate to the business or research and development conducted or planned to be conducted by the Company at the time such Development is created, made, conceived or reduced to practice and that are made and conceived by you not during normal working hours, not on the Company's premises and not using the Company's tools, devices, equipment or Confidential Information. You understand that, to the extent this Agreement shall be construed in accordance with the laws of any state that precludes a requirement in an employee agreement to assign certain classes of inventions made by an employee, this subsection shall be interpreted not to apply to any invention that a court rules and/or the Company agrees falls within such classes. You also hereby waive all claims to moral rights in any Developments.

(e) **Instruments of Assignment.** You will sign and execute all instruments of assignment and other papers to evidence vestiture of your entire right, title and interest in such inventions, improvements, discoveries, software, writings or other works of authorship in the Company, at the Company's reasonable request and expense, and you will do all acts and sign all instruments of assignment and other papers the Company may reasonably request relating to applications for patents, patents, copyrights, and the enforcement and protection thereof. You further agree that if the Company is unable, after reasonable effort, to secure your signature on any such papers, any executive officer of the Company will be entitled to execute any such papers as your agent and attorney-in-fact, and you hereby irrevocably designate and appoint each executive officer of the Company as your agent and attorney-in-fact to execute any such papers on your behalf, and to take any and all actions as the Company may reasonably deem necessary or desirable in order to protect its rights and interests in any Development, under the conditions described in this sentence. If you are needed, at any time, to give testimony, evidence, or opinions in any litigation or proceeding involving any patents or copyrights or applications for patents or copyrights, both domestic and foreign, relating to inventions, improvements, discoveries, software, writings or other works of authorship you conceived, developed or reduced to practice, you hereby agree to do so, and if your employment ends, the Company will

pay you at an hourly rate mutually agreeable to the Company and you, plus reasonable traveling or other expenses, subject to Section 7(c).

(f) **Government Obligations.** You acknowledge that the Company from time to time may have agreements with other persons or with the Australian Government or the United States Government, or agencies thereof, that impose obligations or restrictions on the Company regarding inventions made during the course of work under such agreements or regarding the confidential nature of such work. You agree to be bound by all such obligations and restrictions that are made known to you and to take all action reasonably necessary to discharge the obligations of the Company under such agreements.

(g) **Additional Post-Employment Provisions.** When your employment ends, you must (x) cease and not thereafter commence use of any Confidential Information or intellectual property (including any patent, invention, copyright, trade secret, trademark, trade name, logo, domain name or other source indicator) if such property is owned or used by the Company and not otherwise licensed to you; (y) immediately destroy, delete, or return to the Company, at the Company's option, all originals and copies in any form or medium (including memoranda, books, papers, plans, computer files, letters and other data) in your possession or control (including any of the foregoing stored or located in your office, home, laptop or other computer, whether or not Company property) that contain Confidential Information or otherwise relate to the business of the Company, except that you may retain only those portions of any personal notes, notebooks and diaries that do not contain Confidential Information; and (z) notify and fully cooperate with the Company regarding the delivery or destruction of any other Confidential Information of which you are or become aware to the extent such information is in your possession or control. Notwithstanding anything elsewhere to the contrary, you may retain (and not destroy) (x) information showing your compensation or relating to reimbursement of expenses that you reasonably believe are necessary for tax purposes and (y) copies of plans, programs, policies and arrangements of, or other agreements with, the Company addressing your compensation or employment or termination thereof.

(h) **Survival.** The obligations of this Section 8 (other than Section 8(b)) will survive the expiration or termination of this Agreement and your employment.

9. **Noncompetition and Nonsolicitation.**

(a) **General.** The Parties recognize and agree that (a) you are becoming a senior executive of the Company, (b) you have received, and will in the future receive, substantial amounts of the Company's Confidential Information, (c) the Company's business is conducted on a worldwide basis, and (d) provision for noncompetition and nonsolicitation obligations by you is critical to the Company's continued economic well-being and protection of the Company's Confidential Information. In light of these considerations, this Section 9 sets forth the terms and conditions of your obligations of noncompetition and nonsolicitation during and subsequent to the termination of this Agreement and/or the cessation of your employment for any reason.

(b) **Noncompetition.**

(i) Unless the Company waives or limits the obligation in accordance with Section 9(b)(ii), you agree that during employment and for the Extended

Restraint Period (defined below) or the Standard Restraint Period (defined below), as relevant, you will not directly or indirectly, alone or as a partner, equityholder, officer, director, manager, or employee of any other firm or entity, anywhere in the Restraint Area, provide the same or similar services as you provided to the Company to any business that competes with any part of the Company's (or any of its subsidiaries') business as and where conducted as of the date of such termination of employment. For purposes of this clause (i), "equityholder" does not include the passive, beneficial ownership of less than 5% of the combined voting power of all issued and outstanding voting securities of a publicly held corporation whose stock is traded on a major stock exchange. Also for purposes of this clause (i), "the Company's business" includes business conducted by the Company or its affiliates and any partnership or joint venture in which the Company or its affiliates is a partner or joint venturer. The Extended Restraint Period or Standard Restraint Period, as relevant, will be further extended by any period of time during which you are in violation of Section 9(b) or (c).

(ii) At its sole option the Company may, by written notice to you at any time within the Extended Restraint Period or Standard Restraint Period, as relevant, waive or limit the time and/or geographic area in which you cannot engage in competitive activity.

(c) ***Nonsolicitation of Employees and Consultants.*** During your employment and during the Extended Restraint Period or Standard Restraint Period, as relevant, you must not, directly or indirectly, individually or on behalf of any individual or entity, (a) hire or offer to hire as an employee or engage or offer to engage the services of any individual or entity who you are aware is then employed by or who provides services to the Company, including those who ceased to be employed or provide services within six months before the date of proposed hiring or engagement (to the extent, in the case of any consultant, such engagement would require the consultant to materially diminish or otherwise limit his, her, or its services to the Company), or (b) solicit, aid or induce any individual or entity who you are aware is then employed by or who provides services to the Company, including those who ceased to be employed or provide services within six months before the date of proposed hiring or engagement, to reduce or terminate his, her, or its services to the Company and its subsidiaries, to accept employment with, or render services to or with, any individual or entity unaffiliated with the Company (provided that nothing in this Section 9(c) prohibits you from, directly or indirectly, engaging in any general solicitations, so long as your solicitation does not specifically target any of the individuals or entities who were employed by or who provided services to the Company during the period prohibited above).

(d) ***Interpretation.***

(ii) ***Operation of restraints.*** You agree that this Section 9 has effect as separate and severable restraints comprised of a combination of each of Section 9(a), Section 9(b) and Section 9(c) with each tenced Restraint Period or Standard Restraint Period, as relevant, and each Restraint Area. If any such restraint created by such combination is determined to be void, the remaining combinations are severable and will continue to apply with such deletions or modifications as necessary to make them valid, effective and enforceable. If there

is any inconsistency or contradiction between the restraints created by such combination, the combination with the longest duration is the agreed restraint

(ii) *Definitions.*

(I) Extended Restraint Period. For purposes of this Agreement, “**Extended Restraint Period**” means, following your cessation of employment, if you are terminated by the Company without Cause, or you resign for Good Reason (and the Company provides the benefits to which you are entitled under Section 6(b)), the period of: (i) 24 months; (ii) 18 months; (iii) 12 months; (iv) 9 months.

(II) Standard Restraint Period. For purposes of this Agreement, “**Standard Restraint Period**” means, following your cessation of employment if you resign without Good Reason or you are terminated by the Company for Cause, the period of: (i) 24 months; (ii) 18 months; (iii) 12 months; (iv) 9 months.

(III) Restraint Area. For purposes of this Agreement, “**Restraint Area**” means: (i) anywhere in the world where the Company or its subsidiaries conducts its business; (ii) the United States of America and Australia; (iii) the United States of America; (iv) Australia

(e) **Survival**. The obligations of this Section 9 survive the expiration or termination of this Agreement and your employment.

10. Enforcement. The restrictions contained in Sections 8 and 9 are necessary for the protection of the business and goodwill of the Company and you agree that you consider them to be reasonable for such purpose. You agree that any material breach of Sections 8 and 9 is likely to cause the Company substantial and irrevocable damage that is difficult to measure. Therefore, in the event of any such breach or threatened breach, you agree that the Company, in addition to such other remedies as may be available, shall have the right to obtain an injunction from a court restraining such a breach or threatened breach and the right to specific performance of the provisions of this Agreement and you hereby waive the adequacy of a remedy at law as a defense to such relief and any requirement of the Company to post a bond, and you will be deemed to have expressly waived any rights you may have had to payments under Section 6(b).

11. Indemnification. In addition to any indemnification provided by the Company’s organizational documents, the Company will enter into an indemnification agreement with you as a director in the form used for other directors, provided, that such indemnification agreement shall also indemnify you with respect to your service as an officer of the Company. This Section 11 will survive the termination or expiration of this Agreement and your employment.

12. Miscellaneous.

(a) **Notices.** All notices required or permitted under this Agreement shall be in writing and shall be deemed effective upon personal delivery or three business days following deposit in a Post Office, by certified mail, postage prepaid, or one business day after it is sent for next-business day delivery via a reputable nationwide overnight courier service in the case of notice to the Company to its address set forth in the introductory paragraph hereto and in the case of notice to you to the current address on file with the Company. Either Party may change the

address to which notices are to be delivered by giving notice of such change to the other Party in the manner set forth in this Section 12(a).

(b) **No Mitigation.** You are not required to seek other employment or otherwise mitigate the value of any severance benefits contemplated by this Agreement, nor will any such benefits be reduced by any earnings or benefits that you may receive from any other source. Notwithstanding any other provision of this Agreement, any sum or sums paid under this Agreement will be in lieu of any amounts to which you may otherwise be entitled under the terms of any severance plan, policy, program, agreement or other arrangement sponsored by the Company or an affiliate of the Company.

(c) **Waiver of Jury Trial.** TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, THE PARTIES HEREBY WAIVE, AND COVENANT THAT THEY WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR OTHER PROCEEDING ARISING IN WHOLE OR IN PART UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE RELEASE IT CONTEMPLATES, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, THE PARTIES AGREE THAT ANY PARTY MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE THEIR RIGHTS TO TRIAL BY JURY IN ANY PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT, RELATING TO YOUR EMPLOYMENT, OR COVERED BY THE CONTEMPLATED RELEASE.

(d) **Severability.** Each provision of this Agreement must be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Moreover, if a court of competent jurisdiction determines any of the provisions contained in this Agreement to be unenforceable because the provision is excessively broad in scope, whether as to duration, activity, geographic application, subject or otherwise, it will be construed, by limiting or reducing it to the extent legally permitted, so as to be enforceable to the extent compatible with then applicable law to achieve the intent of the Parties.

(e) **Assignment.** This Agreement will be binding upon and will inure to the benefit of (i) your heirs, beneficiaries, executors and legal representatives upon your death and (ii) any successor of the Company. Any such successor of the Company will be treated as substituted for the Company under the terms of this Agreement for all purposes. *You specifically agree that any assignment may include rights under the restrictive covenants of Sections 8 and 9.* As used herein, “**successor**” will mean any person, firm, corporation or other business entity that at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company and its subsidiaries.

None of your rights to receive any form of compensation payable under this Agreement will be assignable or transferable except through a testamentary disposition or by the laws of

descent and distribution upon your death or as provided in Section 10(j). Any attempted assignment, transfer, conveyance or other disposition (other than as aforesaid) of any interest in your rights to receive any form of compensation hereunder will be null and void; *provided, however*, that notwithstanding the foregoing, you will be allowed to transfer vested shares subject to stock options (other than incentive stock options within the meaning of Section 422 of the Code) or the vested portion of other equity awards consistent with the rules for transfers to “family members” as defined in Securities Act Form S-8. Any other attempted assignment, transfer, conveyance or other disposition of any interest in your rights to receive any form of compensation hereunder will be null and void.

(f) **No Oral Modification, Waiver, Cancellation or Discharge.** This Agreement may only be amended, canceled or discharged or any obligations thereunder waived through a writing signed by you and the Chair of the Remuneration Committee or any executive officer of the Company (other than you) duly authorized either by the Board or the Remuneration Committee.

(g) **No Conflict of Interest.** You confirm that you have fully disclosed to the Company, to the best of your knowledge, all circumstances under which you, your immediate family and other persons who reside in your household have or may have a conflict of interest with the Company. You further agree to fully disclose to the Company any such circumstances that might arise during your employment upon your becoming aware of such circumstances.

(h) **Other Agreements.** You hereby represent that your performance of all the terms of this Agreement and the performance of your duties as an employee of the Company does not and will not breach any agreement to keep in confidence proprietary information, knowledge or data acquired by you in confidence or in trust prior to your employment with the Company and that you will not disclose to the Company or induce the Company to use any confidential or proprietary information, knowledge or material belonging to any previous employer or others. You also represent that you are not a party to or subject to any restrictive covenants, legal restrictions, policies, commitments or other agreements in favor of any entity or person that would in any way preclude, inhibit, impair or limit your ability to perform your obligations under this Agreement, including noncompetition agreements or nonsolicitation agreements, and you further represent that your performance of the duties and obligations under this Agreement does not violate the terms of any agreement to which you are a party. You agree that you will not enter into any agreement or commitment or agree to any policy that would prevent or hinder your performance of duties and obligations under this Agreement.

(i) **Disclosure of this Agreement.** You acknowledge that the Company may provide others, including but not limited to customers of the Company and any of your future employers or prospective business associates, with a copy of this Agreement (or portions thereof) to highlight your continuing obligations to the Company hereunder.

(j) **Survivorship.** The respective rights and obligations of the Company and you hereunder will survive any termination of your employment to the extent necessary to the intended preservation of such rights and obligations.

(k) **Beneficiaries.** You will be entitled, to the extent applicable law permits, to select and change the beneficiary or beneficiaries to receive any compensation or benefit payable hereunder upon your death by giving the Company written notice thereof in a manner consistent

with the terms of any applicable plan documents. If you die, severance then due or other amounts due hereunder will be paid to your designated beneficiary or beneficiaries or, if none are designated or none survive you, your estate.

(l) **Withholding.** The Company will be entitled to withhold, or cause to be withheld, any amount of federal, state, city or other withholding taxes or other amounts either required by law or authorized by you with respect to payments made to you in connection with your employment.

(m) **Company Policies.** References in this Agreement to Company policies and procedures are to those policies and procedures in effect at the Effective Date, as the Company may amend them from time to time upon reasonable notice to you. Although you are required to comply with all Company policies, such policies do not impose any obligation, contractual or otherwise, on the Company, and policies may be amended from time to time at the Company's sole discretion.

(n) **Governing Law; Venue; Jurisdiction and Service of Process.** This Agreement must be construed, interpreted, and governed in accordance with the laws of South Australia, without reference to rules relating to conflicts of law. Any action, suit or other legal proceeding arising under or relating to any provision of this Agreement must be commenced only in a court of the State of South Australia (or, if appropriate, a federal court located within the State of South Australia), and the Company and you each consent to the exclusive jurisdiction of such a court. With respect to any such court action, the Parties hereto (a) submit to the personal jurisdiction of such courts; (b) consent to service of process by the means specified under Section 12(a); and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction, inconvenient forum, or service of process.

(o) **Entire Agreement.** This Agreement and any documents referred to herein represent the entire agreement of the Parties and will supersede any and all previous contracts, arrangements or understandings between the Company and you.

Signatures on Page Following

IN WITNESS WHEREOF, the Company has caused this Agreement to be duly executed and you have hereunto set your hand to be effective as of the Effective Date.

BIONOMICS LIMITED.

June 30, 2021
Date

By: /s/ David Wilson
David Wilson

ERROL B. DE SOUZA

June 30, 2021
Date

/s/ Errol De Souza

Exhibit A
Parachute Provisions

CERTAIN ADDITIONAL PAYMENTS BY THE COMPANY.

(a) Anything in this Agreement to the contrary notwithstanding (except section 6(g) and except as set forth below, if any payment or distribution by the Company or its affiliates to or for your benefit (whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, but determined without regard to any additional payments required under this Section) (a **“Payment”**) would be subject to the excise tax imposed by Section 4999 of the Code or you incur any interest or penalties with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the **“Excise Tax”**), then you will be entitled to receive an additional payment (a **“Gross-Up Payment”**) in an amount such that after payment by you of all taxes (including any interest or penalties imposed with respect to such taxes), including, without limitation, any income taxes (and any interest and penalties imposed with respect thereto) and Excise Tax imposed upon the Gross-Up Payment, you retain an amount of the Gross-Up Payment equal to the Excise Tax imposed upon the Payments. *This Exhibit A will only apply to events subject to Section 4999 that occur before the third anniversary of the Effective Date and while you remain employed by the Company.*

(b) Subject to the provisions of Paragraph (c) below, all determinations required to be made under this Exhibit A, including whether and when a Gross-Up Payment is required and the amount of such Gross-Up Payment and the assumptions to be utilized in arriving at such determination, shall be made by such national, certified public accounting firm as you may designate (the **“Accounting Firm”**), which shall provide detailed supporting calculations both to the Company and you as soon as practicable following (but in any event within 30 days after) the receipt of notice from you that there has been a Payment, or such earlier time as is requested by the Company. If the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the event triggering the Excise Tax, you must appoint another nationally recognized accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). The Company shall bear all fees and expenses of the Accounting Firm. Any determination by the Accounting Firm will be binding upon the Company and the Executive. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the initial determination by the Accounting Firm hereunder, it is possible that Gross-Up Payments that the Company will not have made should have been made (**“Underpayment”**), consistent with the calculations required to be made hereunder. If the Company exhausts its remedies pursuant to Paragraph (c) below and you thereafter are required to make a payment of any Excise Tax, the Accounting Firm will determine the amount of the Underpayment that has occurred and the Company must promptly pay any such Underpayment to or for your benefit. Any Gross-Up Payment, as specified under this Agreement, shall be paid in any event not later than the end of your taxable year next following the taxable year in which you remit the applicable taxes to the appropriate taxing authority.

(c) You must notify the Company in writing of any claim by the Internal Revenue Service that, if successful, would require the payment by the Company of the Gross-Up Payment. Such notification must be given as soon as practicable but no later than ten business days after you are informed in writing of such claim and must apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. You may not pay such claim prior to the expiration of the 30-day period following the date on which you give such notice to the Company (or such shorter period ending on the date that any payment of taxes with respect to such claim is due). If the Company notifies you in writing prior to the expiration of such period that it desires to contest such claim, you must:

(i) give the Company any information reasonably requested by the Company relating to such claim,

(ii) take such action in connection with contesting such claim as the Company reasonably requests in writing from time to time, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by the Company,

(iii) cooperate with the Company in good faith in order effectively to contest such claim, and

(iv) permit the Company to participate in any proceedings relating to such claim; provided, however, that the Company shall bear and pay directly all costs and expenses (including additional interest and penalties) incurred in connection with such contest and must indemnify and hold you harmless, on an after-tax basis, for any Excise Tax or income tax (including interest and penalties with respect thereto) imposed as a result of such representation and payment of costs and expenses. Without limitation on the foregoing provisions of this Paragraph (c), the Company will control all proceedings taken in connection with such contest and, at its sole option, may pursue or forgo any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect of such claim and may, at its sole option, either direct you to pay the tax claimed and sue for a refund or contest the claim in any permissible manner, and you agree to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company determines; provided, however, that if the Company directs you to pay such claim and sue for a refund, the Company must advance the amount of such payment to you, on an interest-free basis and must indemnify and hold you harmless, on an after-tax basis, from any Excise Tax or income tax (including interest or penalties with respect thereto) imposed with respect to such advance or with respect to any imputed income with respect to such advance; and further provided that any extension of the statute of limitations relating to payment of taxes for your taxable year with respect to which such contested amount is claimed to be due is limited solely to such contested amount. Furthermore, the Company's control of the contest will be limited to issues with respect to which a Gross-Up Payment would be payable hereunder and you will be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority.

If, after you receive an amount advanced by the Company pursuant to Paragraph (c), you become entitled to receive any refund with respect to such claim, you must (subject to the Company's

complying with the requirements of Paragraph (c)) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after taxes applicable thereto). If, after your receipt of an amount advanced by the Company pursuant to Paragraph (c), a determination is made that you will not be entitled to any refund with respect to such claim and the Company does not notify you in writing of its intent to contest such denial of refund prior to the expiration of 30 days after such determination, then such advance will be forgiven and will not be required to be repaid and the amount of such advance will offset, to the extent thereof, the amount of Gross-Up Payment required to be paid.

BIONOMICS LIMITED

MR ADRIAN HINTON

CONSULTANCY AGREEMENT

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CONSULTANCY AGREEMENT

THIS AGREEMENT is made on 18 March 2019 between:

- 1 **BIONOMICS LIMITED** ABN 53 075 582 740, of 31 Dalglish Street, Thebarton, South Australia, 5031 (“**Bionomics**”); and
- 2 THE CONSULTANT named in item 1 of Schedule 1 (“the **Consultant**”).

RECITALS

- A** Bionomics requires the Consultant to provide professional consultancy services (“**the Services**”) to Bionomics during the term of this Agreement, as required from time to time.
- B** The Consultant has agreed to provide the Services to Bionomics upon the terms and conditions set out in this Agreement.

OPERATIVE PART:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless a contrary intention appears:

“**Business Day**” means a day on which banks are open for normal trading business in Adelaide, South Australia, and excludes all Saturdays, Sundays and public holidays.

“**Commencement Date**” means the date specified in item 2 of Schedule 1.

“**Expiry Date**” means the date specified in item 3 of Schedule 1.

“**Intellectual Property Rights**” means any industrial and intellectual property rights including, without limitation, any rights in respect of or in connection with any confidential information, know-how, copyright, patents, trademarks, design rights, reports, drawings, specifications or eligible layout rights and including any rights to apply for registration of such industrial and intellectual property rights.

“**Services**” means the services specified in Schedule 2.

1.2 Interpretation Rules

In this Agreement, unless a contrary intention appears:

- (a) a reference to this Agreement is a reference to this Agreement as amended, varied, supplemented or replaced from time to time;
- (b) words or expressions:
 - (i) importing the singular include the plural and vice versa;
 - (ii) importing a gender include the other genders;
 - (iii) denoting individuals include corporations, partnerships, unincorporated bodies, authorities and instrumentalities;

- (c) a reference to a party to this Agreement includes that party's executors, administrators, successors and permitted assigns;
- (d) where a word or phrase is defined or given a meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (e) a reference to a clause or schedule is a reference to a clause or schedule of this Agreement;
- (f) a reference to \$ or dollars is a reference to Australian dollars;
- (g) headings are for convenience only and do not affect the interpretation of this Agreement;
- (h) a provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement; and
- (i) the Schedules and Recitals to this Agreement form part of this Agreement and have effect as if set out in full in this Agreement.

2. APPOINTMENT OF CONSULTANT

2.1 Appointment

As and from the Commencement Date, Bionomics appoints the Consultant to provide the Services as required by Bionomics from time to time.

2.2 Term

Subject to clause 2.3, this Agreement has effect from the Commencement Date and, unless terminated earlier in accordance with the provisions of this Agreement, remains in force until the Expiry Date.

2.3 Extension of Term

If, prior to the Expiry Date, the parties agree in writing that this Agreement is to have effect for a mutually agreed period after the Expiry Date, then this Agreement, unless terminated earlier in accordance with the provisions of this Agreement, remains in force until the expiration of that further period.

2.4 Nature of Relationship

The Consultant will provide the Services as an independent contractor and not as an agent, employee, servant or partner of Bionomics. The Consultant has no authority to bind Bionomics in any way and must not hold themselves out as having authority to bind Bionomics or as being an agent, employee, servant or partner of Bionomics, except where approved by the Legal Counsel & Company Secretary.

2.5 Exclusivity

This Agreement does not grant the Consultant an exclusive right to perform any or all of the Services described in Schedule 2 during the term of this Agreement. Bionomics reserves the right to employ or retain any other consultant to perform those Services during the term of this Agreement or to perform the services itself.

3. CONSULTANCY FEE AND EXPENSES

3.1 Fee

The consideration for the Services provided to Bionomics pursuant to this Agreement will be calculated on the basis described in Schedule 3.

3.2 Expenses

The Consultant is entitled to recover from Bionomics all expenses reasonably incurred in the provision of the Services, provided that it has received Bionomics' prior authorisation for the incurring of those expenses.

3.3 Billing

The Consultant will invoice Bionomics at monthly intervals for Services performed over the previous month. Each invoice must set out details of expenses incurred in that period, the date on which the Services were provided, the nature of those Services and the identity of the person who performed them. The invoices must be sent to accountspayable@bionomics.com.au for processing.

3.4 Payment

- (a) Bionomics must pay the Consultant the amount invoiced within 30 days of receipt of the invoice.
- (b) There shall be added to any charges or fees payable by Bionomics under this Agreement amounts equal to any and all applicable taxes, however designated incurred as a result of or otherwise in connection with this Agreement or the Services including but not limited to all taxes, ditties or other imposts, levied by any taxing body, but excluding taxes based upon the net income of the Consultant.
- (c) If the Consultant is required to account for GST in respect of any supply of goods or services or any other supply to Bionomics under this Agreement then the fee in respect of those supplies will be increased by the amount of the GST that the Consultant will be required to account for as a result of the supplies provided that the Consultant provides Bionomics with a tax invoice (within the meaning of the Commonwealth taxation legislation) in respect of any such supply.

3.5 Withholding Payment

In the event of any dispute with regard to a portion of an invoice, the undisputed portion will be paid by Bionomics in accordance with this clause 3.

4. CONSULTANT'S WARRANTIES

4.1 Service Standards

The Consultant warrants that the Services will be:

- (a) performed with all due expedition and at the direction and to the reasonable satisfaction of Bionomics;
- (b) provided with all due care and skill;
- (c) performed to the highest professional standards; and

- (d) performed in compliance in all respects with all laws of the Commonwealth and the State of South Australia as they apply from time to time.

4.2 Intellectual Property Rights

The Consultant warrants that in performing its obligations under this Agreement, including giving effect to the assignment of Intellectual Property Rights pursuant to clause 8, it will not infringe the Intellectual Property Rights of any third party.

4.3 Conflicts of Interest

4.3.1 No Restrictions

The Consultant warrants that it is not, nor will it enter into, any obligation or restriction during the Term that would interfere or conflict with providing the Services.

4.3.2 Freedom to do other work

The Consultant may engage in other work or consultancies during the Term if such work or consultancy does not interfere with the Consultant's ability to provide the Services or result in any actual or potential conflict with the interests of Bionomics or the Consultant's obligations under this Agreement.

4.3.3 Conflicts

The consultant must immediately and fully disclose to Bionomics any agreement to which it is a party or any obligation or interest that the Consultant may have that may conflict with the interests of Bionomics and must comply with any instruction or request of Bionomics about resolving that conflict. Without limiting the obligations of this clause 4.4.3, the Consultant (or the Consultant's personnel), will provide Bionomics with information pertaining to their proprietary or financial interests, such information to be provided in the manner and form requested by Bionomics.

5. CONSULTANT'S OBLIGATIONS

5.1 Records

The Consultant must:

- (a) keep full and proper written records of work performed under and in accordance with this Agreement;
- (b) provide copies of such records to Bionomics, or allow Bionomics to inspect such records, upon request by Bionomics; and
- (c) provide such further information in relation to the provision of Services by the Consultant as Bionomics may, at its cost, from time to time reasonably require.

5.2 Service Specifications and Variations

Bionomics must approve any variations to the Services to be performed under this Agreement.

5.3 Other Obligations

The Consultant will at all times during the term of this Agreement ensure that the Consultant does not purport to act as an agent for Bionomics to pledge the credit of Bionomics or otherwise bind Bionomics except to the extent to which such conduct has been expressly authorised by Bionomics,

6. CONFIDENTIALITY

- (a) The Consultant must keep the contents and subject matter of this Agreement strictly confidential.
- (b) Save for any information or data which is known to or in the possession or control of the Consultant, or public knowledge, or where the Consultant is required by law to disclose any confidential information to a third person (including any government, regulatory body or stock exchange), the Consultant will keep any information or data coming to it by virtue of being a party to this Agreement strictly confidential and must not use or disclose such information or data except for a purpose contemplated by this Agreement.
- (c) The Consultant's obligations under this clause 6 will survive termination of this Agreement.

7. INTELLECTUAL PROPERTY

7.1 Bionomics' Rights

Bionomics will be solely and absolutely entitled to any Intellectual Property Rights derived from any concept, idea, work, process or item created, developed or discovered by, or under the direction or oversight of, the Consultant in the course of performing the Services and the parties agree that any such Intellectual Property Rights will, without the need for any further action, vest in Bionomics upon their creation.

7.2 Assistance to be provided

The Consultant must do all things which Bionomics may reasonably require in order to perfect, protect or exploit Bionomics' title to any of the Intellectual Property Rights referred to in clause 7.1. Bionomics will reimburse the Consultant for all reasonable costs and expenses incurred by the Consultant in taking such action.

7.3 Vesting of intellectual Property Rights

If any Intellectual Property Rights to which Bionomics is entitled pursuant to clause 7.1 do not vest in Bionomics upon their creation, the Consultant will do all things which Bionomics may reasonably require in order to assign those Intellectual Property Rights to Bionomics.

7.4 Maintenance of Integrity

The Consultant will not do anything or aid or assist any other person to do anything which would infringe upon, harm, challenge, deny, question or contest the validity of the Intellectual Property Rights, or their ownership by Bionomics. If the Consultant learns of any actual or threatened infringement or piracy of Bionomics' Intellectual Property Rights, the Consultant must immediately notify Bionomics of such infringement or piracy.

7.5 Unauthorised Use

The Consultant will not use Bionomics' letterhead, Bionomics' name or Bionomics' resources for any purpose other than the performance of the Consultant's duties under this contract without the express authorisation of Bionomics.

7.6 Survival of obligations

The Consultant's obligations under clauses 7.1, 7.2, 7.3 and 7.5 will survive the expiration or termination of this Agreement.

8. TERMINATION

8.1 Termination by Bionomics

- (a) Subject to clause 8.1(b), Bionomics may terminate this Agreement for any reason whatsoever by providing the Consultant with one month's written notice. This right is in addition to, and not exclusive of, rights and remedies provided by law.
- (b) Bionomics may terminate this Agreement with immediate effect if the Consultant has failed to perform or observe any of the obligations and undertakings to be performed under this Agreement and Bionomics has given notice to the Consultant that it requires the default to be remedied within 7 days and the claimed default has not been remedied within that 7 day period.

8.2 Termination by Consultant

The Consultant may terminate this Agreement for any reason whatsoever by giving Bionomics one month's written notice.

8.3 Payments

Where this Agreement is terminated by Bionomics or the Consultant, the Consultant will only be entitled to receive remuneration pursuant to clause 3 in respect of Services properly performed, and expenses properly incurred, up to the date of termination.

8.4 Consequences of termination or expiration

Upon the termination or expiration of this Agreement, each party will deliver to the other:

- (a) all property of the other in its possession or control; and
- (b) all Confidential Information of the other party, howsoever stored.

Upon the termination or expiration of this Agreement the Consultant will cease performing the Services.

9. INDEMNITY

- (a) The Consultant must indemnify and keep indemnified Bionomics, its officers, employees, agents, licensees, successors and assigns from and against all and any damages, liabilities, judgment, losses, costs and expenses, including legal fees, suffered or incurred by Bionomics, its officers, employees, agents, licensees, successors and assigns arising from any claim, suit, action or proceeding by any person as a result, whether directly or indirectly of:
 - (i) any breach of this Agreement by the Consultant;

- (ii) any claim by any person that the rights granted to Bionomics under this Agreement infringe the rights, including the Intellectual Property Rights, of any person.
- (b) The Consultant will at all times indemnify Bionomics, its successors, licensees and assigns from and against any and all damages, liabilities, judgment, losses, costs and expenses, including legal fees, arising out of any breach by the Consultant of any provision of this Agreement, provided that Bionomics will notify the Consultant in writing immediately it becomes aware of any such claim or action, and no such claim or action will be compromised or settled without consultation with the Consultant.

10. NOTICE

10.1 How Notices Must Be Given

A notice, approval, direction, consent, offer, demand or other communication in connection with this Agreement must be:

- (a) in writing;
- (b) signed by an authorised officer of the relevant party; and
- (c) given to the recipient party:
 - (i) by hand delivery;
 - (ii) by pre-paid mail sent to that party;
 - (iii) by facsimile transmission to that party; or
 - (iv) by email.

10.2 Where Such Notices Must Be Sent

For the purposes of clause 10.1:

- (a) deliveries must be delivered to the address of the recipient party set out below;
- (b) mail must be sent to the address of the recipient party set out below;
- (c) email must be sent to the email address of the recipient party set out below;
- (d) facsimile messages must be transmitted to the facsimile number of the recipient party set out below; and in each case must be marked for the attention of the person specified below in relation to the recipient party:

Name: Bionomics Limited
Address: 31 Dalglish Street
THEBARTON SA 5031
Attention: Mr. Jack Moschakis

Facsimile:

Name: Mr. Adrian Hinton

Address:

Email

10.3 Change of Details

- (a) A party may from time to time change any of the details specified above by not less than five (5) Business Days' notice to each other party.
- (b) If details are changed in accordance with this clause, this clause applies as if those changed details were set out above.

10.4 Proof of Notices

- (a) Proof of posting by pre-paid mail of a notice in accordance with clauses 10.1 and 10.2 is proof of receipt of such notice on the second clear Business Day after posting.
- (b) Proof of transmission by facsimile of a notice in accordance with clauses 10.1 and 10.2 is proof of legible receipt on the date of transmission, but if a transmission is not made on a Business Day or not made before 4.00 pm, then it will be deemed to have been received at 10.00 am on the next Business Day after transmission.
- (c) Proof of service by email occurs when the email registered as sent by date and time on the sender's email server.

11. MISCELLANEOUS PROVISIONS

11.1 No Waiver

A party's failure or delay to exercise a power or right is not a waiver of that right, and the exercise of a power or right does not preclude the future exercise of that or any other power or right.

11.2 Entire Agreement

This Agreement is the entire agreement between the parties as to its subject matter and supersedes all prior agreements, representations, conduct and understandings.

11.3 Amendments

No amendment of, nor addition to, this Agreement is binding unless it is in writing and executed by the parties to this Agreement.

11.4 Severance

If any provision of this Agreement is held by a court to be void or unenforceable in whole or in part, the Consultant and Bionomics agree that the relevant provision or part of the provision shall be severed from this Agreement and that the remainder of this Agreement shall continue to be valid and enforceable.

11.5 Law

This Agreement is governed by the law of the State of South Australia and the parties submit to the non-exclusive jurisdiction of the courts of South. Australia.

11.6 No Assignment

The Consultant may not assign or subcontract its rights and obligations under this Agreement without the prior written consent of Bionomics. Bionomics may assign or subcontract its rights and obligations under this Agreement.

SCHEDULE 1

Item 1 Consultant

Name: Mr. Adrian Hinton

Address:

Telephone

Email

Item 2 Commencement Date

The Commencement Date shall be 25 March 2019.

Item 3 Expiry Date

The Expiry Date shall be the first anniversary of the Commencement Date as per Item 2 above

SCHEDULE 2**SERVICES**

The Consultant shall provide the services of Acting Chief Financial Officer for Bionomics Limited, the scope of those services to be determined in consultation with Mr. Stephen Birrell, CFO (Interim) and as may be subsequently varied and approved by both the Consultant and Bionomics Limited.

SCHEDULE 3

FEES

Fees for the Services are to be calculated as follows:

- a daily rate of \$1,500 (plus GST)

EXECUTION

EXECUTED by the parties as an Agreement.

SIGNED for and on behalf of
BIONOMICS LIMITED
in the presence of:

)
)
) /s/ Adrian Hinton
) Signature of Authorised Person

/s/ Stephen Birrell
Signature of Witness

Stephen Birrell
Name of Witness
(BLOCK LETTERS)

SIGNED for and on behalf of
THE CONSULTANT
in the presence of:

)
)
) /s/ Adrian Hinton
) Signature of Authorised Person

/s/ Jack Moschakis
Signature of Witness

Jack Moschakis
Name of Witness
(BLOCK LETTERS)



COMMERCIAL IN CONFIDENCE

28 June 2021

Mr Adrian Hinton

By email:

Dear Adrian

Amendment to your Consultancy Agreement dated 18 March 2019

I write to confirm that Bionomics would like to amend your consultancy services (which was last changed on 24 March 2021) by changing the daily rate of \$1,500 (plus GST) as set out on Schedule 3 of the agreement dated 18 March 2019, to \$20,000 per month and be paid via Bionomics payroll system, for the period 1 July 2021 to 25 March 2022.

All other terms and conditions of your Consultancy Agreement remain unchanged.

Please confirm your agreement to this amendment on the terms outlined in this letter by signing and dating both copies of this letter and returning one copy to me at your earliest convenience.

Yours sincerely

/s/ Errol De Souza
Errol De Souza
Executive Chairman

/s/ Adrian Hinton
Mr Adrian Hinton

29/6/21
Date

3 September 2008

Ms Elizabeth (Liz) Doolin

Dear Liz

LETTER OF APPOINTMENT

We are pleased to offer you the position of Drug Development Manager with Bionomics Limited ("Bionomics") on the following terms and conditions.

1. Definitions

In this letter:

"Confidential Information" means any and all information in or relating to the business of Bionomics which is obtained by you as a result of, or pursuant to, your employment with Bionomics, including (without limitation) information regarding the current or future business interests, methodology or affairs of Bionomics or of any person or entity with which it may deal or be concerned including but not limited to matters of a technical nature, trade secrets, administrative procedures, accounting procedures, financial information, administrative information, terms of agreements with third parties, marketing plans, business strategies, information relating to Intellectual Property and any such other information of a confidential nature which may be notified by Bionomics to you during your employment, but does not include:

- (a) information which is or becomes a matter of public record, otherwise than as a result of a breach of this Agreement or any other similar deed or agreement to which Bionomics is a party.
- (b) information which Bionomics as the case requires, authorises in writing for the time being as not being Confidential Information. Bionomics may at any time withdraw any authorisation given in terms of this paragraph, in which case the information to which it relates will henceforth be Confidential Information, but without affecting any communication made prior to the withdrawal of such authorisation.
- (c) information of which Bionomics becomes aware from a third party, provided the latter was not under an obligation of confidence in relation to that information.

"Intellectual Property" means know-how and intellectual property rights including without limitation patents, copyright, registered designs, trade marks and the right to have Confidential Information kept confidential as well as the exclusive right to do and to authorise others to do any and all acts authorised by Commonwealth and State legislation governing all such rights and all other rights of a like nature acknowledged by the law in force in any other part of the world.

“Works” means any work, matter or thing created by you as a result of your employment or made using the resources, equipment, property (including Intellectual Property) or Confidential Information of Bionomics.

2. Employment

2.1 Bionomics will employ you on a permanent part time basis and subject to the terms contained in this letter, in the position of Drug Development Manager. Your employment will commence on 15 September 2008. We note that you will be taking leave without pay from 22 September to 22 October 2008.

3. Reporting

You will report to the Vice President, Discovery Research in the first instance and/or other Bionomics employees as nominated by the Vice President, Discovery Research. However you should note that your ultimate responsibility is to the Chief Executive Officer.

4. Remuneration

4.1 You will be paid a salary of \$65,000.00 per annum.

4.2 In addition to your salary Bionomics will contribute 9% of your salary to a complying fund (as defined in the Superannuation Guarantee (Administration) Act 1992) on your behalf.

4.3 Your salary is inclusive of all payments to which you may be entitled under an industrial award or agreement including allowances, overtime payments and penalty rates.

5. General Duties

5.1 Duties

The duties which you are responsible to undertake during the course of your employment under this Agreement are those activities which are commensurate with the position of Drug Development Manager. You will perform those duties and such other duties as may be given to you from time to time.

5.2 Work Hours

You will work at the direction of Bionomics for no less than 20 hours per week (“Normal Hours”) spread over 4 days with flexibility, as agreed. You agree to work a reasonable number of hours in addition to your Normal Hours if required by Bionomics.

5.3 Diligence and Faithfulness

You will diligently and faithfully serve Bionomics at all times during your employment and will exercise reasonable skill and care in the performance of your duties.

5.4 Instructions

You will comply with, and conform to, all lawful instructions given to you by Bionomics, or by any authorised officer of Bionomics, in relation to your employment including instructions and obligations contained in any policy documents.

5.5 Conflicts

You will use your best endeavours to promote Bionomics' welfare and interests. You will not place yourself in a position where your own interests conflict with those of Bionomics.

6. Intellectual Property

6.1 Assignment of Intellectual Property

You hereby assign to Bionomics all present and future Intellectual Property in the Works. Such Intellectual Property will vest in Bionomics forthwith upon the creation of the Works.

6.2 Disclosure

You will disclose all Works to Bionomics.

7. Confidentiality

7.1 During Employment

Whilst you are employed by Bionomics you will not use any Confidential Information which comes to your knowledge in the course of your employment, other than for the purposes of your employment with Bionomics, and you will not disclose any Confidential Information to any person other than to a person who needs to know that information for Bionomics' purposes or where disclosure is required by law.

7.2 After Termination

After your employment with Bionomics has terminated, you will not put any Confidential Information to any use which may cause loss or damage, directly or indirectly, to Bionomics and you will not disclose any Confidential Information to any person other than to a person who needs to know that information for Bionomics purposes or where disclosure is required by law or where it is unreasonable to expect that disclosure will or may harm Bionomics or its interests.

8. Leave Entitlements

8.1 Annual Leave

You will accrue pro rata 4 weeks leave with pay per annum, which you will take at such time or times as are agreed with Bionomics. You may accumulate annual leave not taken in the year in which it accrues but Bionomics is entitled to require you to take any significant untaken accrued annual leave at such time or times as the Board of Directors or CEO of Bionomics may specify.

8.2 Sick Leave

You will accrue pro rata 10 days sick leave with pay per annum, which will accumulate if not taken in the year in which it accrues. You may take sick leave whenever you are sick, injured or incapacitated.

8.3 Medical Reports

If Bionomics requires during any period when you take sick leave or are otherwise absent from work due to sickness, injury or incapacity, you will consult a registered

medical practitioner or practitioners nominated by Bionomics and produce a certificate or report from that medical practitioner, as to your state of health.

9. Annual Review

On or before 31 December 2008 and annually thereafter, Bionomics will conduct a review of your performance under this Agreement against agreed performance measures. As a consequence of that review Bionomics may vary your Remuneration.

10. Termination

10.1 Termination with Cause

Bionomics may terminate your employment at any time (without any requirement of notice or pay in lieu of notice) if any of the following events occur:

- (a) Use of Alcohol or Drugs – Your use or abuse of alcohol or drugs (including drugs prescribed for you by a medical practitioner) is such that, in the opinion of Bionomics, you are no longer able to discharge your duties in a proper manner;
- (b) Misconduct or Default – You engage in wilful misconduct, fraud or dishonesty in the course of your employment or fail to perform your duties to Bionomics under this Agreement in a material respect.
- (c) Inadequate Performance – Your performance is inadequate and you have failed to improve to a reasonable extent within a reasonable period after you have been warned of the need for improvement and the consequences of a failure to improve; or
- (d) Extended Absence – You are unable to by reason of injury, sickness or ill-health to carry out your functions in a proper and business-like manner for a period of 3 months.

10.2 Termination without Cause

10.2.1 Bionomics may terminate your employment (without cause) by giving you written notice of not less than one month or payment in lieu, specifying the last day of which you are to report to work.

10.2.2 You may terminate your employment by giving Bionomics written notice of not less than one month or forfeiting the equivalent of 30 days of your Remuneration Package, specifying the last day on which you intend to report to work.

10.3 Return of Property

If your employment terminates for any reason you will return all property including Confidential Information forthwith.

If these terms are agreed, please sign the enclosed copy of this letter and return it to me as soon as possible.

Liz, welcome to Bionomics. We believe you will make a major contribution to our continued success.

Yours sincerely

/s/ Deborah Rathjen
Dr Deborah Rathjen
CEO & Managing Director

/s/ Elizabeth Doolin
Ms Elizabeth Doolin



1 July 2020

Liz Doolin

Dear Liz

After completing a number of reviews at the end of the financial year, including your salary, I am pleased to advise that your Total Remuneration Package will increase, effective from 1 July 2020 from \$210,000.00 per annum to \$220,000.00 per annum. Out of this package, superannuation payments will be made by Bionomics to cover its obligations under the Superannuation Guarantee (Administration) Act 1992.

The Board has also recognised your commitment over the last year and I am pleased to advise that a bonus of \$31,500.00 cash equivalent will be paid, 50% in cash and 50% in Bionomics shares. The cash bonus amount will appear in your July pay and will be taxed accordingly.

In addition, the Board has awarded you a Long Term Bonus under the Employee Equity Plan of 1 million Options on the following terms;

- issue price of A\$0.04 per Option (each Option convertible into one ordinary share);
- 500,00 Options vest at A\$0.14c and 500,000 Options vest at A\$0.24;
- all Options expire 5 years from the date of grant; and
- full vesting upon change of control and share consolidation provisions apply.

Thank you for your loyalty, support and continued contribution to Bionomics.

Yours sincerely

/s/ Jack Moschakis

Jack Moschakis

Legal Counsel & Company Secretary

Bionomics Limited ABN 53 075 582 740

31 Dalglish Street Thebarton SA Australia 5031 **Phone** 61 8 8354 6100 **Fax** 61 8 8354 6199 **Email** info@bionomics.com.au
website www.bionomics.com.au



1 July 2021

Liz Doolin

Dear Liz

After completing a number of reviews at the end of the financial year, including your salary, I am pleased to advise that your Total Remuneration Package will increase, effective from 1 July 2021 from \$220,000.00 per annum to \$230,000.00 per annum. Out of this package, superannuation payments will be made by Bionomics to cover its obligations under the Superannuation Guarantee (Administration) Act 1992.

The Nomination & Remuneration Committee has also recognised your commitment over the last year and I am pleased to advise that a bonus of \$45,000 will be paid to you. The bonus amount will appear in your July pay and will be taxed accordingly.

Thank you for your loyalty, support and continued contribution to Bionomics.

Yours sincerely

/s/ Adrian Hinton

Adrian Hinton
Acting Chief Financial Officer

Bionomics Limited ABN 53 075 582 740
31 Dalgleish Street Thebarton SA Australia 5031 **Phone** 61 8 8354 6100 **Fax** 61 8 8354 6199 **Email** info@bionomics.com.au
website www.bionomics.com.au

26 June 2018

Liz Doolin

Dear Liz

This letter supersedes the letter of 21 June 2010 which is hereby revoked.

After completing a number of reviews at the end of the financial year, including your salary, I am pleased to advise that your Total Remuneration Package will increase, effective from 1 July 2018.

		Current		New
Base Salary		\$ 147,031.96		\$ 164,383.56
Superannuation	9.50%	\$ 13,988.04	9.50%	\$ 15,616.44
Total Remuneration Package		\$ 161,000.00		\$ 180,000.00

Thank you for your loyalty, support and continued contribution to Bionomics and its achievements over the last year.

In recognition of the company's achievements, and your personal goals in the 2017/2018 financial year, you will be paid a bonus of \$9,056,25 which will be paid 50% in cash and 50% in Bionomics shares. The issue of Bionomics shares is subject Board determination of the issue price at the August Board Meeting and will be issued following the meeting,

I would like to congratulate you on your achievements this year and confirm your promotion to **Vice President, Clinical Development**.

As we continue to execute on our business strategy, I look forward to working with you in achieving our goals during this exciting time at Bionomics.

With best wishes

/s/ Deborah Rathjen

Deborah Rathjen
CEO & Managing Director

Bionomics Limited
Apeiron Investment Group Ltd.

Subscription Agreement

JOHNSON WINTER & SLATTERY

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Subscription Agreement

Date 1 June 2020

Parties

1 Bionomics Limited (ABN 53 075 582 740) (**Company**)

Address: 31 Dalgleish Street, Thebarton SA 5031

Email: jmoschakis@bionomics.com.au

Contact: Company Secretary

2 Apeiron Investment Group Ltd. (Apeiron)

Address: Block A, Apt. 12, Il-Piazzetta, Tower Road, Sliema, SLM 1605, Malta

Email: jh@apeiron-investments.com

Contact: Julien Hoefler

Recitals

A The Company is listed on the ASX.

B The Company has agreed to issue, and Apeiron has agreed to subscribe for or procure subscriptions for, the Placement Shares on and subject to the terms in this document.

C Apeiron has agreed to underwrite the issue of a further 250,000,000 Shares at not less than \$0.06 per Share on and subject to the terms in this document.

Operative part

1 Definitions and interpretation

1.1 Definitions

The following definitions apply in this document, unless the context requires otherwise.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691 or, as the context requires, the securities market operated by it.

ASX Listing Rules means the listing rules of ASX.

Board means the board of directors of the Company.

Business Day means a day which is a "business day" under the ASX Listing Rules.

Claim means any claim, cost (including legal costs on a solicitor and client basis), damages, expenses, tax, liability, loss, obligation, allegation, suit, demand, cause of action, proceeding or judgement of any kind however calculated or caused and whether direct or indirect, consequential, incidental or economic.

Concurrent Entitlement Offer has the meaning given in clause 12.1(a).

Confidential Information means any of the business, commercial, financial or technical information of the party which was provided by one party or its Representatives to the other in writing prior to the date of this document, and includes notes, records and copies made by a

party or any of its Representatives of such information, but excludes information which is in the public domain (other than as a result of a breach of this document by the relevant party).

Corporations Act means the *Corporations Act 2001* (Cth), as modified by any applicable ASIC class orders, ASIC legislative instruments or ASIC relief.

Equity Securities has the same meaning as “equity securities” in the ASX Listing Rules.

Exempt Investor means a sophisticated or professional investor (as those terms are defined in Chapter 6D of the Corporations Act) or other person to whom an offer or issue of Shares can be made without a disclosure document under section 708 of the Corporations Act and who is exempt from any additional disclosure, registration or other similar applicable requirements under the law applicable in the place in which the offer, issue or subscription is received or made.

Explanatory Memorandum means the notice of meeting and explanatory memorandum in relation to the Shareholders Meeting.

FATA means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

FIRB Condition means either:

- (a) Apeiron receives a written notice, by or on behalf of the Treasurer (or the Treasurer’s delegate), stating that, or to the effect, that there is no objection to the transactions the subject of the Item 7 Section 611 Resolution, under the FATA, either unconditionally or on terms and conditions satisfactory to Apeiron, acting reasonably;
- (b) the Treasurer becomes precluded from making an order in relation to the transactions the subject of the Item 7 Section 611 Resolution under the FATA; or
- (c) if an interim order is made under the FATA in respect of the transactions the subject of the Item 7 Section 611 Resolution, the subsequent period for making a final order prohibiting those acquisitions elapses without a final order being made.

First Placement means the issue of the First Placement Shares by the Company to Apeiron and the payment of the First Placement Subscription Amount by Apeiron to the Company.

First Placement Completion means completion of the issue of the First Placement Shares in accordance with clause 4.

First Placement Completion Date means the date the First Placement Subscription Amount is received by the Company in immediately available funds, which date must be no later than 10 Business Days following the date of this document or such other date agreed by the Company and Apeiron.

First Placement Shares means 81,500,000 Shares.

First Placement Subscription Amount means \$3,260,000.

FO Allotment Date means, in relation to a Further Offer, the date for the allotment of Shares issued under the Further Offer as specified in the offer documents for that offer.

FO Backstop Date has the meaning given in clause 12.2(a).

FO Backstop Subscription Requirement means the amount calculated in accordance with the following:

$$\frac{(\$15,000,000 - \text{FO Subscription Funds})}{\text{FO Underwritten Price}}$$

FO Closing Date means, in relation to a Further Offer, the closing date for that Further Offer as specified in the offer documents for that offer.

FO Notice Date has the meaning given in clause 12.2(a).

FO Offer Price means, in relation to a Further Offer, a price of not less than \$0.06 per Share as determined by the Company.

FO Shortfall Notice means a notice provided by the Company under clause 13(a).

FO Shortfall Notice Deadline Date means:

- (a) in relation to a FO Shortfall Notice provided under clause 13(a)(i), the date that is two Business Days after the FO Closing Date (or such other date as may be agreed by the parties); or
- (b) in relation to a FO Shortfall Notice provided under clause 13(a)(ii), the date that is 20 Business Days after the FO Backstop Date (or such other date as may be agreed by the parties).

FO Shortfall Shares means the number of Shares specified in a FO Shortfall Notice.

FO Shortfall Subscribed Amount means the amount actually subscribed (whether by Apeiron or by third parties) under clause 13(b) for FO Shortfall Shares.

FO Subscription Funds means the amount of immediately available funds received by the Company under all Further Offers (including any funds received in accordance with clause 13(b)).

FO Underwritten Price means \$0.06 per Share.

Further Offers has the meaning given in clause 12.2(a) and **Further Offer** means any one of them.

Government Agency means any governmental, semi-governmental, municipal or statutory authority, instrumentality, organisation, body or delegate or administrative, monetary or financial authority, or self-regulatory organisation or stock exchange.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it has had a controller (as defined in the Corporations Act) appointed or is in liquidation or provisional liquidation, under administration or wound up or has had a receiver or receiver and manager appointed to any part of its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);
- (d) an application or order has been made, resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to any event or circumstance referred to in subparagraph (a), (b) or (c) above occurring;
- (e) it is taken (under section 459F(1)) to have failed to comply with a statutory demand;

- (f) it is the subject of an event described in section 459C(2)(b) or section 585 (or it makes a statement from which another party to this document reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts as and when they fall due; or
- (h) something having a substantially similar effect to any event or circumstance referred to in subparagraphs (a) to (g) above happens in connection with that person under the law of any jurisdiction.

Independent Expert's Report means the report of a duly qualified independent expert to be prepared in accordance with the Corporations Act and ASIC policy and practice, for inclusion in the Explanatory Statement stating whether or not in its opinion the transactions the subject of the Item 7 Section 611 Resolution are fair and reasonable and setting out reasons for that opinion, and includes any update to that report.

Item 7 Section 611 Resolution means the resolution described in clause 7.1(c). **Nominee Protocol** has the meaning given in clause 6(d).

Placement Shares means First Placement Shares and Second Placement Shares.

Pro Rata Issue has the meaning given in the ASX Listing Rules.

Registry means Company's registry, Computershare Investor Services Pty Ltd.

Related Body Corporate has the meaning given in the Corporations Act.

Representative of a party include an officer, employee, agent, auditor, adviser, financier (including syndicatees), insurance broker, technical expert, partner, associate, consultant, joint venturer or sub-contractor of that party or a Related Body Corporate of that party.

Second Placement means the issue of the Second Placement Shares by the Company to Apeiron and the payment of the Second Subscription Amount by Apeiron to the Company.

Second Placement Completion means completion of the issue of the Second Placement Shares in accordance with clause 9.

Second Placement Completion Date means the date that is five Business Days after the date upon which the Stage 2 Condition has been satisfied or waived or other date agreed by the Company and Apeiron in writing.

Second Placement Shares means 54,333,000 Shares.

Second Placement Subscription Amount means \$2,173,000.

Shares means the fully paid ordinary shares in the capital of the Company.

Shareholders Meeting means the general meeting of the Company's shareholders to be convened to consider, and if thought fit, pass the resolutions referred to in the Stage 2 Condition.

Stage 2 Condition has the meaning given in clause 7.1.

Stage 2 Condition End Date means the date that is 3 months after the First Placement Completion Date.

Subscription Price means, for each First Placement Share and each Second Placement Share, \$0.04.

Syndication has the meaning given in clause 19.9.

Trading Day has the meaning given to that term in the Listing Rules.

US Persons has the meaning given to that term in Rule 902(k) under the US Securities Act.

US Securities Act means the US Securities Act of 1933, as amended.

Warrants means 150,000,000 warrants on the terms set out in Annexure 1 or with such amendments (if any) as ASX notifies the Company that it requires for the purposes of Chapter 6 of the ASX Listing Rules.

1.2 Interpretation

In this document, unless a contrary intention appears:

- (a) words or expressions importing the singular include the plural and vice versa;
- (b) words or expressions importing a gender include the other gender;
- (c) words or expressions denoting individuals include corporations, firms, unincorporated bodies, government authorities and instrumentalities;
- (d) a reference to a party includes that party's successors and permitted assigns;
- (e) where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning;
- (f) any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this document;
- (g) a provision of this document must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this document or the inclusion of the provision in this document;
- (h) a reference to this document or another document includes that document as amended, varied, novated, supplemented or replaced from time to time;
- (i) a reference to legislation or a provision of legislation includes:
 - (i) all regulations, orders or instruments issued under the legislation or provision; and
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
- (j) any recitals, schedule or annexure form part of this document and have effect as if set out in full in the body of this document;
- (k) a reference to dollars or \$ is a reference to Australian dollars;
- (l) a reference to a payment in immediately available funds refers to cash, a bank cheque the drawer of which is an Australian bank, a telegraphic transfer of cleared funds or a direct credit of cleared funds; and
- (m) where an act would be required to be done, or a time limit or period would expire, on a day which is not a Business Day, the act must be done, or the limit or period will expire, on the following Business Day.

2 FIRB Condition

2.1 Application

- (a) Apeiron must use its best endeavours to procure the satisfaction of the FIRB Condition as soon as reasonably practicable after the date of this document and in particular must:
 - (i) make all necessary and appropriate applications and supply all necessary and appropriate information which is within its power to make or supply for the purpose of enabling satisfaction of the FIRB Condition; and
 - (ii) in a timely manner do, or cause to be done, all things and execute, or cause to be executed, all documents which are within its powers to do or execute, or cause to be done or executed (as the case may be), which are reasonably necessary in order to procure, as soon as reasonably practicable after the date of this document, the satisfaction of the FIRB Condition.
- (b) The Company must use reasonable endeavours to assist Apeiron to satisfy the FIRB Condition as soon as reasonably practicable after the date of this document and in particular must supply all reasonable and appropriate information relating to it which is within its power to make or supply for the purpose of assisting to enable satisfaction of the FIRB Condition.
- (c) Without limiting clause 2.1(a), and subject to the Company complying with clause 2.1(f), unless Apeiron has already done so, Apeiron must, by no later than 10 Business Days after the date of this document, submit an application to the Foreign Investment Review Board in connection with the FIRB Condition.
- (d) Apeiron must not take any action that would, or would be likely to, prevent or hinder satisfaction of the FIRB Condition.
- (e) For the avoidance of doubt, and notwithstanding any other provision of this clause 2.1, nothing in this clause 2.1 will require or oblige Apeiron to accept any term or condition relating to any notice of no objection under the FATA other than usual, standard or customary terms or conditions.
- (f) The Company agrees to provide all assistance reasonably requested by Apeiron in respect of the preparation by Apeiron of its application to the Foreign Investment Review Board in connection with the FIRB Condition, such assistance to be provided as soon as reasonably practicable after being requested.

2.2 Waiver

The FIRB Condition cannot be waived.

2.3 Notices

Each party must:

- (a) supply the other party with copies of all applications made and all information supplied for the purpose of enabling satisfaction of the FIRB Condition;
- (b) keep the other parties fully informed in a timely manner (by notices in writing) in relation to progress towards the satisfaction of the FIRB Condition; and

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- (c) promptly notify the other parties in writing as soon as the party becomes aware that the FIRB Condition is satisfied or becomes (or is likely to become) incapable of being satisfied.
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3 Subscription for and issue of First Placement Shares

- (a) On First Placement Completion, Apeiron must subscribe for, or procure the subscription of, the First Placement Shares at the Subscription Price and the Company must issue to Apeiron, or to Apeiron and Exempt Investors nominated by Apeiron and approved by the Company, the First Placement Shares, free from all encumbrances, on the terms and conditions set out in this document. Apeiron must provide such evidence as is reasonably required by the Company to confirm that any person nominated by Apeiron is an Exempt Investor.
- (b) This document serves as an application by Apeiron for the issue of the First Placement Shares to Apeiron on First Placement Completion and accordingly it will not be necessary for Apeiron to provide a separate (additional) application on or before the First Placement Completion Date.
- (c) The consideration for the issue of all of the First Placement Shares will be payment of the First Placement Subscription Amount by Apeiron.
- (d) On or before the date that is three Business Days after the date of this document, Apeiron must give an unconditional instruction to its bank or financial institution for the payment of the First Placement Subscription Amount to the Company to an account nominated by the Company for this purpose and provide evidence of that instruction to the Company.
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4 First Placement Completion

4.1 Time and place

First Placement Completion will take place on the First Placement Completion Date at such time and place as the parties may agree in writing, or failing agreement as reasonably determined by the Company.

4.2 Obligations of Apeiron

Apeiron must do all things reasonably necessary to ensure that the Company receives the payment of the First Placement Subscription Amount to the Company in immediately available funds to an account nominated by the Company for this purpose as soon as reasonably practicable and in any event within 10 Business Days of the date of this document.

4.3 Obligations of Company

On First Placement Completion, the Company must, subject to the performance of Apeiron's obligations in clauses 3(d) and 4.2 and receipt of the First Placement Subscription Amount in immediately available funds:

- (a) allot and issue the First Placement Shares to each subscriber of First Placement Shares;
- (b) procure that the Registry promptly enters each subscriber of First Placement Shares in the Company's register as the holder of the First Placement Shares; and
- (c) deliver an irrevocable instruction to the Registry to send to each subscriber of First Placement Shares a holding statement for the holding of the First Placement Shares.

4.4 *Simultaneous actions at Completion*

- (a) The obligations of the parties under this document are interdependent and all actions required to be performed on or at First Placement Completion will be taken to have occurred simultaneously on the First Placement Completion Date.
 - (b) No delivery or payment will be deemed to have been made at First Placement Completion until all deliveries and payments due to be made at First Placement Completion have been made.
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5 **Obligations following issue of First Placement Shares**

5.1 *Cleansing Notice*

As soon as practicable after the issue of the First Placement Shares, but in any event by 10.00am on the Business Day after the date of First Placement Completion, the Company must give to the ASX a notice which complies with section 708A(6) of the Corporations Act in relation to the First Placement Shares and which confirms that the Company has not withheld any excluded information for the purposes of section 708A(6)(e) of the Corporations Act.

5.2 *ASX Quotation*

As soon as practicable after the issue of the First Placement Shares, but in any event by 10.00am on the Business Day after the date of First Placement, the Company must apply to ASX for official quotation of the First Placement Shares on the ASX and do all things necessary to ensure that the First Placement Shares are quoted as soon as practicable on such terms and conditions as are usual for the quotation of securities.

5.3 *Bound by constitution*

Apeiron agrees (and must procure that each subscriber of First Placement Shares agrees) to be bound by the constitution of the Company in respect of the First Placement Shares.

5.4 *Holding statement*

The Company must ensure that any holding statement described in clause 4.3(c) is delivered to Apeiron within 5 Business Days after the date of First Placement Completion.

6 **Board representation – First Placement Completion**

- (a) Subject to clause 6(d), on and from First Placement Completion occurring, Apeiron may from time to time nominate one person to be appointed as a director of the Company (**First Apeiron Nominee**) by providing the Company with a written nomination, together with a written consent by the First Apeiron Nominee to act as a director of the Company.
- (b) Where Apeiron has exercised its nomination right under clause 6(a) then the Company will procure that the Board resolves to appoint the First Apeiron Nominee as an additional director to the Board so that the appointment takes effect from a date no later than 3 Business Days after Apeiron has exercised its nomination right (subject to First Placement Completion occurring, and subject to the First Apeiron Nominee providing a consent to act and any other disclosures required by the Corporations Act or ASX Listing Rules).
- (c) Subject to clause 6(e), the Company will ensure that the Board will support the nomination and re-election or appointment of the First Apeiron Nominee at the next general meeting of the Company.

- (d) Apeiron undertakes to comply with, and ensure that any First Apeiron Nominee will comply with, the Nominee Protocol agreed with Apeiron prior to the date of this document (**Nominee Protocol**). Apeiron will cause any First Apeiron Nominee to acknowledge their agreement to the terms of the Nominee Protocol by signing the Nominee Protocol as a condition of their nomination.
 - (e) If the First Apeiron Nominee fails to be re-elected or appointed as a director of the Company at the general meeting referred to in clause 6(c) (or any other general meeting of the Company) or is otherwise removed from the Board (at any time), then clauses 6(a), 6(b) and 6(c) will apply from the date of removal of the First Apeiron Nominee from the Board and will continue to apply until there is a First Apeiron Nominee appointed to the Board (provided that, if a resolution to re-elect or appoint a First Apeiron Nominee is put to a general meeting of the Company, but the resolution is not passed, Apeiron must nominate a different individual as the First Apeiron Nominee in order for the Company's obligations under clauses 6(a), 6(b) and 6(c) to continue to apply).
 - (f) Clauses 6(a), 6(b) and 6(c) and 6(e) will apply in respect of successive First Apeiron Nominees, but those clauses cease to apply if Apeiron (together with each subscriber of First Placement Shares, each subscriber of Second Placement Shares and each subscriber of FO Shortfall Shares) ceases to have a beneficial interest in at least 10% of the Shares. If that occurs, Apeiron will procure that the First Apeiron Nominee retires immediately.
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7 General Meeting

7.1 Condition precedent to Second Placement and other offers

Clauses 8 to 13 do not become binding on the parties, and Second Placement Completion must not take place, until the Company's shareholders approve:

- (a) the issue of the First Placement Shares for the purposes of ASX Listing Rule 7.4 (and for all other purposes);
- (b) the issue of the Second Placement Shares for the purposes of ASX Listing Rule 7.1 and ASX Listing Rule 10.11 (and for all other purposes);
- (c) Apeiron increasing its voting power in the Company from a point that is below 20% to a point that is above 20% that would otherwise be in breach of section 606 of the Corporations Act as a result of:
 - (i) the subscription of any Shares under the Concurrent Entitlement Offer;
 - (ii) the subscription of any Shares under any Further Offer or as a result of Apeiron complying with its obligations under clause 13 of this document; and
 - (iii) the issue of the Warrants, and the issue of Shares upon exercise of the Warrants,for the purposes of item 7 of section 611 of the Corporations Act (and for all other purposes);
- (d) if the Company obtains a waiver from ASX of ASX Listing Rule 7.3.4 to permit the FO Shortfall Shares to be issued by the dates contemplated by clause 13, the issue of FO Shortfall Shares for the purpose of ASX Listing Rule 7.1 (and for all other purposes);

- (e) any other approval, in the reasonable opinion of the Company or Apeiron, required under the ASX Listing Rules, the Corporations Act or any other purpose in connection with the transactions the subject of clauses 8 to 13; and
 - (f) the re-election or appointment of the First Apeiron Nominee as a director of the Company,
- being, the **Stage 2 Condition**.

7.2 Reasonable endeavours

Each party must use its reasonable endeavours to procure the due fulfilment of the Stage 2 Condition as soon as practicable after the date of First Placement Completion and in any event before the Stage 2 Condition End Date and in particular:

- (a) the Company must:
 - (i) prepare the Explanatory Memorandum in a timely manner;
 - (ii) engage an appropriately qualified independent expert to prepare, and procure the finalisation of, the Independent Expert's Report in a timely manner;
 - (iii) convene the Shareholders Meeting in a timely manner;
 - (iv) file any necessary notices and applications in relation to the Stage 2 Condition with the relevant Government Agency as soon as possible;
 - (v) provide Apeiron with:
 - (A) material drafts of the Explanatory Memorandum, Independent Expert's Report and any other material documents, notices or applications under clause 7.2(a);
 - (B) an opportunity to review and provide comments in relation to any drafts provided under clause 7.2(a)(v)(A) prior to finalisation or lodgement; and
 - (vi) act reasonably in considering any comments made by Apeiron in relation to the drafts referred to in clause 7.2(a)(v) and integrate such comments accordingly; and
- (b) Apeiron must co-operate with and provide to the Company such information reasonably requested by the Company for the purpose of inclusion in the Explanatory Memorandum or by the independent expert for the purpose of inclusion in the Independent Expert's Report.

7.3 General obligations

Without limiting the generality of clause 7.2 the parties must:

- (a) make all necessary and appropriate applications, and supply all necessary and appropriate information, for the purpose of enabling the Stage 2 Condition to be fulfilled;
- (b) not take any action that will or is reasonably likely to prevent or hinder the fulfilment of the Stage 2 Condition;

- (c) keep each other party informed in a timely manner of the status of any discussions or negotiations with relevant third parties regarding the Stage 2 Condition; and
- (d) promptly notify each other party on becoming aware of the fulfilment of the Stage 2 Condition.

7.4 Company Board recommendations

- (a) Subject to this clause 7.4, the Company must ensure that the Explanatory Memorandum will include a statement to the effect that each director of the Company recommends that the Company's shareholders vote in favour of the resolutions set out in the Explanatory Memorandum.
- (b) The Company will not be required to comply with clause 7.4(a) in respect of the Item 7 Section 611 Resolution to the extent the Independent Expert's Report concludes that the transactions the subject of that resolution are not fair and reasonable and in such circumstances the directors of the Company may provide an alternative recommendation or no recommendation.

7.5 Waiver

The Stage 2 Condition is for the benefit of the Company and Apeiron and may only be waived by the Company and Apeiron jointly in writing.

7.6 Failure to satisfy Conditions

- (a) If the Stage 2 Condition has not been satisfied by, or has become incapable of being satisfied before, the Stage 2 Condition End Date, then either party may (subject to giving two Business Days' written notice to the other) terminate this document, unless if the Stage 2 Condition has not been satisfied, or is incapable of being satisfied, as a direct result of a failure by the Company to comply with its obligations under this document then the Company may not terminate this document under this clause 7.6(a).
- (b) Termination of this document under clause 7.6(a), is without prejudice to a party's accrued rights and obligations under this document and is in addition to, and not limited by, any other rights and remedies that a party may have.

8 Subscription for and issue of Second Placement Shares

- (a) On Second Placement Completion, Apeiron must subscribe for, or procure the subscription of, the Second Placement Shares at the Subscription Price and the Company must issue to Apeiron, or to Apeiron and Exempt Investors nominated by Apeiron and approved by the Company, the Second Placement Shares, free from all encumbrances, on the terms and conditions set out in this document. Apeiron must provide such evidence as is reasonably required by the Company to confirm that any person nominated by Apeiron is an Exempt Investor.
- (b) This document serves as an application by Apeiron for the issue of the Second Placement Shares to Apeiron on Second Placement Completion and accordingly it will not be necessary for Apeiron to provide a separate (additional) application or before the Second Placement Completion Date.
- (c) The consideration for the issue of all of the Second Placement Shares will be payment of the Second Placement Subscription Amount by Apeiron.

9 Second Placement Completion

9.1 Time and place

Second Placement Completion will take place on the Second Placement Completion Date at such time and place as the parties may agree in writing, or failing agreement as reasonably determined by the Company.

9.2 Obligations of Apeiron

On or before Second Placement Completion, Apeiron must pay or procure the payment of the Second Placement Subscription Amount to the Company in immediately available funds to an account nominated by the Company for this purpose.

9.3 Obligations of Company

On Second Placement Completion, the Company must, subject to the performance of Apeiron's obligations in clause 9.2:

- (a) allot and issue the Second Placement Shares to each subscriber of Second Placement Shares;
- (b) procure that the Registry promptly enters each subscriber of Second Placement Shares in the Company's register as the holder of the Second Placement Shares; and
- (c) deliver an irrevocable instruction to the Registry to send to Apeiron a holding statement for the holding of the Second Placement Shares.

9.4 Simultaneous actions at Completion

- (a) The obligations of the parties under this document are interdependent and all actions required to be performed on or at Completion will be taken to have occurred simultaneously on the Second Placement Completion Date.
- (b) No delivery or payment will be deemed to have been made at Second Placement Completion until all deliveries and payments due to be made at Second Placement Completion have been made.

10 Obligations following issue of Second Placement Shares

10.1 Cleansing Notice

As soon as practicable after the issue of the Second Placement Shares, but in any event by 10.00am on the Business Day after the date of Second Placement Completion, the Company must give to the ASX a notice which complies with section 708A(6) of the Corporations Act in relation to the Second Placement Shares and which confirms that the Company has not withheld any excluded information for the purposes of section 708A(6)(e) of the Corporations Act.

10.2 ASX Quotation

As soon as practicable after the issue of the Second Placement Shares, but in any event by 10.00am on the Business Day after the date of Second Placement Completion, the Company must apply to ASX for official quotation of the Second Placement Shares on the ASX and do all things necessary to ensure that the Second Placement Shares are quoted as soon as practicable on such terms and conditions as are usual for the quotation of securities.

10.3 Bound by constitution

Apeiron agrees (and must procure that each subscriber of Second Placement Shares agrees) to be bound by the constitution of the Company in respect of the Second Placement Shares.

10.4 Holding statement

The Company must ensure that the holding statement described in clause 10.3(c) is delivered to Apeiron within 5 Business Days after the date of Second Placement Completion.

11 Board representation – Second Placement Completion

- (a) Subject to clause 11(d), on and from Second Placement Completion occurring, Apeiron may from time to time nominate one person in addition to the First Apeiron Nominee to be appointed as a director of the Company (**Second Apeiron Nominee**) by providing the Company with a written nomination, together with a written consent by the Second Apeiron Nominee to act as a director of the Company.
- (b) Where Apeiron has exercised its nomination right under clause 11(a) then the Company will procure that the Board resolves to appoint the Second Apeiron Nominee as an additional director to the Board so that the appointment takes effect from a date no later than 3 Business Days after Apeiron has exercised its nomination right (subject to Second Placement Completion occurring, and subject to the Second Apeiron Nominee providing a consent to act and any other disclosures required by the Corporations Act or ASX Listing Rules).
- (c) Subject to clause 11(e), the Company will ensure that the Board will support the nomination and re-election or appointment of the Second Apeiron Nominee at the next general meeting of the Company.
- (d) Apeiron undertakes to comply with, and ensure that any Second Apeiron Nominee will comply with, the Nominee Protocol. Apeiron will cause any Second Apeiron Nominee to acknowledge their agreement to the terms of the Nominee Protocol by signing the Nominee Protocol as a condition of their nomination.
- (e) If the Second Apeiron Nominee fails to be re-elected or appointed as a director of the Company at the general meeting referred to in clause 11(c) (or any other general meeting of the Company) or is otherwise removed from the Board (at any time), then clauses 11(a), 11(b) and 11(c) will apply from the date of removal of the Second Apeiron Nominee from the Board and will continue to apply until there is a Second Apeiron Nominee appointed to the Board (provided that, if a resolution to re-elect or appoint a Second Apeiron Nominee is put to a general meeting of the Company, but the resolution is not passed, Apeiron must nominate a different individual as the Second Apeiron Nominee in order for the Company's obligations under clauses 11(a), 11(b) and 11(c) to continue to apply).
- (f) For the avoidance of doubt, clauses 11(a), 11(b) and 11(c) and 11(e) will apply in respect of successive Second Apeiron Nominees, but those clauses cease to apply if Apeiron (together with each subscriber of First Placement Shares, each subscriber of Second Placement Shares and each subscriber of FO Shortfall Shares) ceases to have a beneficial interest in at least:
 - (i) 17.5% of the Shares from the date that Second Placement Completion occurs until the day before the date described in clause 11(f)(ii); and
 - (ii) 20% of the Shares on and from the date that is 40 Business Days after the FO Backstop Date).

- (g) If Apeiron (together each subscriber of First Placement Shares and each subscriber of Second Placement Shares) ceases to have a beneficial interest in at least the percentage of Shares determined in accordance with clause 11(f), Apeiron will procure that the Second Apeiron Nominee retires immediately.

12 Concurrent and follow on capital raising

12.1 Entitlement offer

- (a) Apeiron acknowledges that on or after the Second Placement Completion Date, the Company may issue up to 54,333,000 further Shares to Shareholders pursuant to a Pro Rata Issue at a price per Share which is equal to the Subscription Price (**Concurrent Entitlement Offer**).
- (b) Apeiron agrees that any Shares which are offered to Shareholders for issue under clause 12.1(a), but which are not subscribed for by those Shareholders, may be:
- (i) subscribed for by other Shareholders pursuant to a facility under the offer which permits Shareholders to apply for additional Shares in excess of their entitlement under the offer; or
 - (ii) subscribed for by one or more third parties within three months of the closing date for acceptances under the entitlement offer at a price that is no less than the Subscription Price.
- (c) The Company agrees that Apeiron is under no obligation to subscribe (in part or in full) for its entitlement of the Shares offered under the Concurrent Entitlement Offer in accordance with the terms of that offer.

12.2 Further Offers

- (a) Apeiron acknowledges that within 15 months of the date the Stage 2 Condition is satisfied (**FO Backstop Date**), the Company may offer up to 250,000,000 Shares (in addition to the Second Placement Shares and those described in clause 12.1) pursuant to one or more offers of a nature to be determined by the Company in its discretion (after consultation in good faith with Apeiron), but one of which must include a Pro Rata Issue or Security Purchase Plan (as defined in the ASX Listing Rules) (**Further Offers**).
- (b) If the Company determines to proceed with a Further Offer, the Company must give Apeiron written notice not less than ten Business Days before the announcement of the Further Offer (that date being the **FO Notice Date**).
- (c) If the Company provides Apeiron with a notice in accordance with clause 12.2(b) in respect of a Further Offer and:
- (i) the price at which Shares are offered for subscription under the relevant Further Offer is equal to or greater than the FO Offer Price; and
 - (ii) the total amount of funds raised by the Company through Further Offers (including the relevant Further Offer) will not exceed \$15,000,000, then
- Apeiron agrees to underwrite the relevant Further Offer in accordance with clause 13.
- (d) In respect of any Further Offer in respect of which a notice has been provided by the Company to Apeiron under clause 12.2(b):

- (i) the Company agrees to consult in good faith with Apeiron in respect of the conduct of that Further Offer; and
 - (ii) the parties agree to work together co-operatively and in good faith in furtherance of the success of that Further Offer.
- (e) For the avoidance of doubt this clause 12.2 and clause 13 may apply to more than one Further Offer.
-

13 Further Offer underwriting

- (a) If the Company has not:
 - (i) received valid applications (including immediately available funds) for all of the Shares offered under a Further Offer on or before the FO Closing Date the Company may, by no later than the FO Shortfall Notice Deadline Date, give Apeiron a written notice specifying the number of Shares in respect of which valid applications (as determined by the Company) have not been received under that Further Offer; or
 - (ii) for any reason by the FO Backstop Date received FO Subscription Funds of at least \$15,000,000, then the Company may, by no later than the FO Shortfall Notice Deadline Date, give Apeiron a notice specifying the number of Shares equal to the FO Backstop Subscription Requirement.
- (b) Subject to clause 13(d), if the Company has provided Apeiron with a FO Shortfall Notice in accordance with clause 13(a), then no later than 5.00pm on the date that is five Business Days after the FO Shortfall Notice Deadline Date, Apeiron must:
 - (i) subscribe, or procure subscriptions from Exempt Investors, for the FO Shortfall Shares; and
 - (ii) pay, or procure payment, to the Company of the FO Underwritten Price in respect of the FO Shortfall Shares, in immediately available funds without deduction or set-off.
- (c) Subject to clause 13(b), on:
 - (i) in the case of a FO Shortfall Notice provided under clause 13(a)(i), the FO Allotment Date; or
 - (ii) in the case of a FO Shortfall Notice provided under clause 13(a)(ii), the date that is three Business Days after the date Apeiron has complied with its obligations under clause 13(b),

the Company must allot and issue the FO Shortfall Shares to Apeiron or those Exempt Investors who subscribed for those FO Shortfall Shares under clause 13(b).
- (d) Apeiron's obligation under clause 13(b) does not become binding under this clause 13 until the FIRB Condition and the Stage 2 Condition are satisfied.
- (e) Apeiron acknowledges that its obligations under this clause 13 will only be absolute and unconditional when the FIRB Condition and the Stage 2 Condition are satisfied. Pending satisfaction of the FIRB Condition, or if Apeiron is prohibited (whether by law or the requirements of the ASX Listing Rules) from subscribing for Shares for any reason, Apeiron's obligation under clause 13(b) will only be to use its reasonable endeavours to:

- (i) procure subscriptions from Exempt Investors, for the FO Shortfall Shares; and
 - (ii) procure payment to the Company of the FO Underwritten Price by Exempt Investors in respect of the FO Shortfall Shares subscribed by those Exempt Investors, in immediately available funds without deduction or set-off.
- (f) If any shareholder approval (other than the Stage 2 Condition) is required under the ASX Listing Rules to enable Apeiron to subscribe for Shares under this clause 13, the Company will use reasonable endeavours to obtain shareholder approval for the purpose of the ASX Listing Rules, but if the Company is unable to obtain any such approval, any obligation of Apeiron under clause 13(b) will only be to use its reasonable endeavours to:
- (i) procure subscriptions from Exempt Investors, for the FO Shortfall Shares; and
 - (ii) procure payment to the Company of the FO Underwritten Price by Exempt Investors in respect of the FO Shortfall Shares subscribed by those Exempt Investors, in immediately available funds without deduction or set-off.
- (g) If Apeiron procures any subscription under this clause 13, Apeiron must ensure that the subscription complies with all applicable laws and the ASX Listing Rules, including (without limitation) that any subscriber is an Exempt Investor and is not an associate of Apeiron for the purpose of Division 2 of Part 1.2 and Chapter 6 of the Corporations Act.
- (h) The Company may give more than one FO Shortfall Notice and a failure by the Company to give an FO Shortfall Notice in relation to any Further Offer under clause 13(a)(i) does not prejudice the Company's right to give an FO Shortfall Notice under clause 13(a)(ii). Any failure by the Company to give a notice under clause 12.2(b) does not prejudice the Company's right to give an FO Shortfall Notice under clause 13(a)(ii).
- (i) Apeiron must not do anything or cause anything to be done which would cause the performance of its obligations under this clause 13 to contravene any applicable law or otherwise require approval of the Company's shareholders or a Government Agency.
- (j) Apeiron must provide such evidence as is reasonably required by the Company to confirm that any person nominated by Apeiron to subscribe for FO Shortfall Shares is an Exempt Investor.

14 Obligations following issue of FO Shortfall Shares

14.1 Cleansing Notice

As soon as practicable after the issue of any FO Shortfall Shares, but in any event by 10.00 am on the Business Day after the issue of any FO Shortfall Shares, the Company must give to the ASX a notice which complies with section 708A(6) of the Corporations Act in relation to the those FO Shortfall Shares and which confirms that the Company has not withheld any excluded information for the purposes of section 708A(6)(e) of the Corporations Act, unless a disclosure document under section 709 of the Corporations Act and which complied with the requirements of the Corporations Act for that disclosure document was issued by the Company in connection with the relevant Further Offer or no cleansing statement is required because section 708A(12A) of the Corporations Act is satisfied.

14.2 ASX Quotation

As soon as practicable after the issue of any FO Shortfall Shares, but in any event by 10.00 am on the Business Day after the issue of any FO Shortfall Shares, the Company must apply to ASX for official quotation of the after the issue of those FO Shortfall Shares on the ASX and do all things necessary to ensure that those FO Shortfall Shares are quoted as soon as practicable on such terms and conditions as are usual for the quotation of securities.

14.3 Bound by constitution

Apeiron agrees to be bound by the constitution of the Company in respect of any FO Shortfall Shares, subscribed by it and will procure that any third party that it procures to subscribe for FO Shortfall Shares will agree to be bound by the constitution of the Company.

15 Warrants

Subject to:

- (a) the Company raising not less than \$15,000,000 within 15 months of the date the Stage 2 Condition is satisfied pursuant to one or more Further Offers or pursuant to clause 13(b); and
- (b) Apeiron having performed its obligations under clause 13 (if called upon to do so),

then within 1 Business Day of the date of the Company's receipt of immediately available funds from Further Offers and amounts paid by Apeiron, or procured from Exempt Investors by Apeiron, in accordance with clause 13(b) that resulted in the aggregate amounts raised from such offers and issues reaching \$15,000,000 the Company must issue the Warrants to Apeiron.

16 Warranties

16.1 Company's representations and warranties

The Company represents and warrants to Apeiron that:

- (a) it is a corporation duly incorporated and validly existing under the laws of its place of incorporation;
- (b) it is a company limited by shares and registered under the Corporations Act;
- (c) it has the power and capacity to enter into and perform this document and has obtained all necessary consents and authorisations to enable it to do so;
- (d) it and its directors have taken all necessary action to authorise the issue of the Placement Shares and FO Shortfall Shares (as the case may be) to Apeiron or the relevant subscriber;
- (e) this document constitutes valid and binding obligations upon it enforceable in accordance with its terms;
- (f) the agreement recorded in this document and the transactions contemplated by it do not conflict with or result in a breach or default by it of any obligation (including any statutory, contractual or fiduciary obligation) or constitute or result in any default by it under any provision of its certificate of incorporation, bylaws or any material provision of any agreement, deed, writ, order, injunction or judgment to which it is a party or is subject or by which it is bound;

- (g) it is not Insolvent;
- (h) it is admitted to the official list of the financial market operated by the ASX;
- (i) upon issue, the Placement Shares and FO Shortfall Shares (as the case may be) will be duly and validly authorised and issued, will be fully paid and will rank equally in all respects with the then existing issued Shares;
- (j) upon issue, Apeiron (or the relevant subscriber) will acquire the full legal and beneficial ownership of the Placement Shares and the FO Shortfall shares (as the case may be), free from all competing rights (including pre-emptive rights or rights of first refusal), encumbrances and other third party rights;
- (k) the issue of any Placement Shares or FO Shortfall Shares (as the case may be) will not breach ASX Listing Rule 7.1 or any other ASX Listing Rule;
- (l) as at the times immediately before the First Placement Completion Date and the Second Placement Completion Date all the relevant requirements of section 708A of the Corporations Act (including section 708A(5)(e)) are fulfilled (or will be fulfilled);
- (m) upon issue of the notice referred to in clause 5.1, 10.1 or 14.1 (as applicable), the relevant Placement Shares or FO Shortfall Shares (as the case may be) will be freely tradeable and transferable;
- (n) all written information given with respect to the Company and its Related Bodies Corporate (including their respective businesses and financial positions) by or on behalf of the Company to Apeiron before the date of this document is true, complete and accurate in all material respects and no misleading in any material particular, whether by inclusion of misleading information or omission of material information or both;
- (o) as at the time immediately before the First Placement Completion Date it has complied with its continuous disclosure requirements under the ASX Listing Rules and is not aware of any information that is excluded information which would be required to be disclosed pursuant to section 708A(5), other than market disclosures to be made by the Company in connection with execution of this document, the form and content of which have been provided to Apeiron prior to the date of this document;
- (p) as at the times immediately before the Second Placement Completion Date and each FO Closing Date it has complied with its continuous disclosure requirements under the ASX Listing Rules;
- (q) the issued capital structure of the Company as at the date of this document is as follows:
 - (i) 544,685,872 Shares; and
 - (ii) 6,569,050 options over Shares and 24 warrants over Shares;and there are no other Equity Securities on issue;
- (r) it will not issue any Shares, Shares or rights to acquire Shares or Shares prior to the FO Backstop Date, without the consent of Apeiron other than:
 - (i) as contemplated by this document;
 - (ii) an issue of or an agreement to issue securities pursuant to an employee incentive scheme in place as at the date of this document; or

- (iii) an issue of securities as a result of the conversion of any convertible securities (as that term is defined in the ASX Listing Rules) which are on issue at the date of this document;
- (s) the Company is not in breach of, and neither the entry into nor performance by it of its obligations under this document constitutes or will constitute a breach of its constitution, the Corporations Act, Listing Rules (except where compliance has been waived, or as modified, by ASX) or other applicable laws or regulations or orders of any government agency that are binding on it, any encumbrance, instrument or agreement which is binding on it or any of its assets, or any legally binding requirement of ASIC or ASX; and
- (t) none of the Company's related parties (as that term is defined in the Listing Rules) or associates of those related parties (or other persons referred to in the Listing Rule 10.11) will participate under any Further Offer other than as permitted under applicable laws including the Listing Rules.

16.2 Apeiron's representations and warranties

Apeiron represents and warrants to the Company that:

- (a) Apeiron and each person who subscribes for FO Shortfall Shares (as applicable) is a corporation duly incorporated and validly existing under the laws of its place of incorporation;
- (b) Apeiron has the power to enter into and perform this document and has obtained all necessary consents, licences, permits and authorisations to enable it to do so;
- (c) this document constitutes valid and binding obligations upon it enforceable in accordance with its terms;
- (d) the agreement recorded in this document and the transactions contemplated by it do not conflict with or result in a breach or default by it of any obligation (including any statutory, contractual or fiduciary obligation) or constitute or result in any default by it under any provision of its constitution or any material provision of any agreement, deed, writ, order, injunction or judgment to which it is a party or is subject or by which it is bound;
- (e) it is not Insolvent;
- (f) Apeiron (or any person for whom Apeiron is acquiring Shares) is a "qualified investor" (as defined in Article 2(e) of the Regulation (EU) 2017/1129 of the European Parliament and the Council of the European Union);
- (g) it and each person who subscribes for Placement Shares or FO Shortfall Shares who is a US Person or located in the United States, is an "Accredited Investor" as such term is defined in Rule 501(a) of Regulation D of the Securities and Exchange Commission promulgated pursuant to the US Securities Act;
- (h) it and each person who subscribes for Placement Shares or FO Shortfall Shares is an Exempt Investor;
- (i) the offer to or acquisition of Placement Shares by Apeiron and each person who subscribes for Placement Shares or the FO Shortfall Shares by Apeiron and each person who subscribes for FO Shortfall Shares will not involve a breach of any applicable law (including a law of a jurisdiction other than Australia) by Apeiron or the subscriber, including (without limitation) the laws applicable to the offer, issue or subscription of securities in the place in which the relevant offer, issue or subscription

is made and will not involve a breach of the terms of any consent, licence, permit or authorisation which it holds or by which it is bound, or cause the Company to breach any such applicable law;

- (j) Apeiron and each person who subscribes for Placement Shares and Apeiron and each person who subscribes for FO Shortfall Shares subscribes for them as principal and not for the purposes of selling or transferring them or granting, issuing or transferring interests in or options or warrants over them to any other person;
- (k) Apeiron and each person who subscribes for Placement Shares or FO Shortfall Shares has made and relied upon its own assessment of the Company, the Placement Shares and the FO Shortfall Shares (as applicable);
- (l) Apeiron and each person who subscribes for Placement Shares or FO Shortfall Shares understands that the Placement Shares or the FO Shortfall Shares (as applicable) have not been registered under the US Securities Act and that such securities are being offered and sold pursuant to an exemption from registration under the US Securities Act. Apeiron further acknowledges and understands that such securities may not be resold or transferred except in a transaction registered under the US Securities Act (which Apeiron acknowledges the Company has no obligation to do) or in a transaction exempt from, or not subject to, the registration requirements of the US Securities Act;
- (m) Apeiron and each person who subscribes for Placement Shares or FO Shortfall Shares has substantial experience in evaluating and investing in private placement transactions of securities in companies similar to the Company so that it is capable of evaluating the merits and risks of its investment in the Company and has the capacity to protect its own interests;
- (n) Apeiron and each person who subscribes for Placement Shares or FO Shortfall Shares is acquiring the Placement Shares or FO Shortfall Shares (as applicable) for its own account and not with a view towards their distribution;
- (o) Apeiron and each person who subscribes for Placement Shares or FO Shortfall Shares is acquiring the Placement Shares or FO Shortfall Shares (as applicable) for its own account and not with a view towards, or for resale in connection with, the public sale or distribution thereof, except pursuant to sales registered or exempted under the US Securities Act; and
- (p) each person who is a US Person or located in the United States who subscribes for Placement Shares or FO Shortfall Shares will not offer, sell, pledge, transfer or otherwise dispose of the Placement Shares or FO Shortfall Shares (as applicable) except:
 - (i) in an offshore transaction (as defined in Rule 902(h) under the US Securities Act), including in ordinary transactions on the ASX;
 - (ii) in the United States to a "qualified institutional buyer" (as defined in and in reliance on Rule 144A under the US Securities Act); or
 - (iii) pursuant to Rule 144 under the US Securities Act, if available, in each case in compliance with all applicable laws.

16.3 When warranties given

The representations and warranties in clauses 16.1 and 16.2 are made:

- (a) in respect of each representation and warranty that is expressed to be given on a particular date, on that date; and
- (b) in respect of each other representation and warranty, as at the date of this document and as at the time immediately before the First Placement Completion Date, the Second Placement Completion Date and each FO Closing Date, the.

16.4 Separate warranties and survival

Each representation and warranty in clauses 16.1 and 16.2 is to be treated as a separate representation and warranty and will survive termination of this document. The interpretation of any representations and warranties will not be restricted by reference to or inference from any other representations and warranties.

16.5 No other warranties and no reliance

- (a) Each party acknowledges that the other party is entering into this document in reliance on the representations and warranties in clauses 16.1 and 16.2 (as the case may be).
- (b) Each party acknowledges that no other party (nor any person acting on that other party's behalf) has made any warranty, representation or other inducement to it to enter into this document, except for the warranties in clauses 16.1 and 16.2 (as the case may be).
- (c) Each party acknowledges and confirms that it does not enter into this document in reliance on any warranty, representation or other inducement by or on behalf of any other party, except for the warranties in clauses 16.1 and 16.2 (as the case may be).

16.6 Qualifications

The Company does not make any representations or warranties that any estimates, projections, forecasts or other forward looking information, if any, provided to Apeiron is accurate or complete or will be achieved.

16.7 Time limit

No party:

- (a) may make or bring a Claim for breach of a representation and warranty unless reasonable details of the Claim under this document have been notified to Apeiron (in the case of a Claim by the Company) or the Company (in the case of a Claim by Apeiron) within 12 months of the FO Backstop Date; and
- (b) is liable for breach of a representation and warranty, and a Claim is not enforceable against it and is taken to have been withdrawn, unless legal proceedings in connection with the Claim are commenced within 12 months after written notice of the Claim has been served on another party.

16.8 Cap

The maximum liability of the Company for all breaches of the representations and warranties in this clause 16 is an amount equal to the aggregate of the First Placement Subscription Amount, the Second Placement Subscription Amount and the FO Shortfall Subscribed Amount actually received by the Company.

16.9 Acknowledgments

The Company acknowledges that it is not issuing the Placement Shares or any FO Shortfall Shares for the purpose of Apeiron or any person who subscribes for FO Shortfall Shares selling or transferring all or any of the Placement Shares or FO Shortfall Shares, or granting, issuing or transferring interests in, or options over, the Placement Shares or FO Shortfall Shares.

17 Announcements

17.1 Announcement of the transaction

Immediately after the execution of this document, the Company will issue a public announcement to ASX regarding the transactions the subject of this document in compliance with the ASX Listing Rules and in a form agreed with Apeiron prior to the execution of this document.

17.2 Public announcements

- (a) Except as permitted under clause 17.1, no party may make any announcement concerning this document or the Placement without the other party's prior written approval, except where the announcement is required by law, the ASX Listing Rules or any Government Agency.
 - (b) The parties must use all reasonable endeavours to participate constructively and promptly with respect to the approvals and consultation contemplated by clauses 17.1 and 17.2(a).
-

18 Confidentiality

18.1 Mutual obligations

- (a) Subject to clause 18.2, each party must treat as confidential and not disclose, and must procure that its Representatives treat as confidential and not disclose the Confidential Information of the other party.
- (b) Each party acknowledges and agrees that it will only disclose Confidential Information of the other party to those Representatives of Apeiron who are informed of the first party's obligations under this clause 18 and agree to comply with such obligations as if they were the first party.

18.2 Disclosure

A party may disclose Confidential Information of the other party:

- (a) as agreed between the parties; or
 - (b) if required by law or a Government Agency, the ASX Listing Rules or the rules of or any other applicable stock exchange.
-

19 Miscellaneous

19.1 No waiver

A party waives a right under this document only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

19.2 Severance

If a provision of this document would, but for this clause, be unenforceable:

- (a) the provision will be read down to the extent necessary to avoid that result; and
- (b) if the provision cannot be read down to that extent, it will be severed without affecting the validity and enforceability of the remainder of this document.

19.3 About this document

- (a) This document records the entire agreement between the parties as to its subject matter. It supersedes all prior contracts, obligations, representations, conduct and understandings. The agreement recorded in this document is immediately enforceable, subject to its own express terms.
- (b) This document may be amended only by written agreement of all parties.
- (c) This document may be executed in any number of counterparts, and by the parties in separate counterparts, but is not effective until each party has executed at least one counterpart.
- (d) Each counterpart of this document constitutes an original of this document but the counterparts together constitute one and the same instrument.

19.4 Governing law and jurisdiction

- (a) The laws of South Australia govern this document.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of South Australia.

19.5 Costs

A party will bear its own costs in relation to the negotiation, preparation and execution of this document and any further document required.

19.6 Further acts

The parties must do all things reasonably required to facilitate the performance of the transactions contemplated by this document.

19.7 Assignment

A party may not assign its rights under this document except with the prior written consent of each other party and any purported assignment in contravention of this provision is void.

19.8 No Merger

The rights and obligations of the parties will not merge on completion of any transaction under this document. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

19.9 Reorganisation adjustment

If the Company at any time effects a reorganisation (including a subdivision, consolidation, reduction, return or cancellation) of or in respect of its Shares, any references in this document to a price of Shares or number of Shares that have not been issued at the date of reorganisation must be adjusted in a proportionate manner to the reorganisation.

Example: if the Company consolidates its shares on a 1 for 100 basis then the reference in the definition of FO Offer Price in respect of any Further Offers not yet undertaken is to be increased from \$0.06 per Share to \$6.00 per Share.

19.10 Syndication

- (a) The Company acknowledges that Apeiron may, at any time, seek to transfer or otherwise deal in any way with its Shares as part of the establishment of any syndication or other similar arrangement (**Syndication**).
- (b) Provided that the Company has approved any other parties involved in any Syndication (such approval not to be unreasonably withheld or delayed), the Company and subject to clause 19.10(c):
 - (i) must do all things reasonably requested by Apeiron necessary or convenient for the Syndication; and
 - (ii) agrees to act in good faith and agree any amendments to this document necessary to ensure there is no diminution in Apeiron's rights under this document as a result of a Syndication
- (c) Clause 19.10(b) applies only to to the extent that such things, actions and amendments do not adversely affect the Company's rights under this document or the effectiveness of any:
 - (i) approval, consent, notice or non-objection obtained by a party under, in connection with or for the purposes of this document or the transactions contemplated by it; or
 - (ii) any matter or circumstances constituting satisfaction of the FIRB Condition (including the satisfaction of any relevant condition),

in each case as the relevant approval, consent, notice, non-objection, matter or circumstances apply or applies to any transaction under or contemplated by this document.

20 Notices and other communications

20.1 Service of notices

A notice, demand, consent, approval or communication under this document (**Notice**) must be:

- (a) in writing and in English directed to the recipient's address for notices specified in the Parties section, as varied by any Notice; or
- (b) hand delivered or sent by prepaid post to that address; or
- (c) sent by email, stating the first and last name of the sender.

20.2 Effective on receipt

A Notice given in accordance with clause 20.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;

- (b) if sent by prepaid post, on the fifth Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia);
- (c) if sent by email, at the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

but if the delivery or receipt is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

Execution**EXECUTED** as an agreement**Executed by Bionomics Limited** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:/s/ Errol de Souza

Director signature

Dr Errol De SouzaDirector full name
(BLOCK LETTERS)/s/ Jack Moschakis~~Director~~/Secretary signatureMr Jack MoschakisDirector/Secretary full name
(BLOCK LETTERS)**Signed by Apeiron Investment Group Ltd.**

in the presence of:

/s/ Aaron Weaver

Witness signature

AARON WEAVERWitness full name
(BLOCK LETTERS)/s/ Julien Höfer

Authorised officer signature

Julien Höfer, DirectorAuthorised officer full name and title
(BLOCK LETTERS)**Apeiron Investment Group Ltd.
Block A, Apt. 12, Il-Piazzetta
Tower Road, Sliema SLM 1605
Malta**

Annexure 1 – Terms of Warrants

Warrant Terms and Conditions

1 Definitions

In these terms and conditions:

ASX means ASX Limited ABN 98 008 624 691 or, as the context requires, the securities market operated by it.

Board means the board of directors of the Company from time to time.

cleansing statement has the meaning given in clause 6(a).

Company means Bionomics Limited (ABN 53 075 582 740).

Constitution means the constitution of the Company, as amended from time to time.

Corporations Act means the Corporations Act 2001 (Cth).

Excluded Information has the meaning ascribed to it by section 708A(7) of the Corporations Act.

Excluded Offer means a Further Offer conducted by the Company.

Exercise Date means the third Business Day after the date a Notice of Exercise is given to the Company, or such other date agreed with the Company.

Exercise Price means \$0.06 per Warrant, subject to any adjustment required by these terms and conditions.

Government Agency means any governmental, semi-governmental, municipal or statutory authority, instrumentality, organisation, body or delegate or administrative, monetary or financial authority, or self-regulatory organisation or stock exchange.

FIRB Condition has the meaning given to that term in the Subscription Agreement.

Further Offer has the meaning given to that term in the Subscription Agreement.

Initial Warrantholder means Apeiron Investment Group Ltd.

A person is **Insolvent** if:

- (a) the person is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) the person is in liquidation, in provisional liquidation, under administration or wound up or has had a controller (as defined in the Corporations Act) appointed to any part of its property;
- (c) the person is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent);
- (d) an application or order has been made (and in the case of any application, it is not stayed withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of paragraph (a), (b) or (c) above;
- (e) the person is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;

- (f) the person is subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act; or
- (g) the person is otherwise unable to pay its debts when they fall due.

Issue Date means, in relation to a Warrant, the date on which it was issued by the Company.

Listing Rules means the listing rules of ASX.

Maturity Date means, in relation to a Warrant, date that is 36 months after the date on which the Stage 2 Condition (as defined in the Subscription Agreement) is satisfied.

Notice of Exercise means a notice in the form, or substantially in the form, set out in Annexure 2.

Ordinary Share means an ordinary share in the capital of the Company.

Register means the register of entitlement to the Warrants referred to in clause Schedule 19(a).

Registered Office means the registered office of the Company from time to time.

Related Body Corporate has the meaning given in the Corporations Act.

Subscription Agreement means the document of that name between the Company and the Initial Warranholder dated on or about 2 June 2020.

Subsequent Warranholder means a Warranholder other than the Initial Warranholder who becomes a registered holder of any Warrants pursuant to the terms of this Deed.

Warrant means a warrant constituted by this Deed.

Warrant Certificate means a certificate in the form, or substantially in the form, set out in Annexure 1.

Warrant Share means one Ordinary Share to be issued upon exercise of a Warrant, subject to any adjustment required by these terms and conditions.

Warranholder means the person or persons in whose name a Warrant is registered from time to time as evidenced by the Register.

2 Nature of Warrants

- (a) Subject to clause 3 and to the provisions of this Deed, each Warrant confers the right (but not the obligation) on the Warranholder to convert the Warrant into a Warrant Share on and subject to these terms and conditions.
- (b) Each Warrant expires and will be of no further force or effect on the Maturity Date.
- (c) Warrants shall be evidenced by a Warrant Certificate.
- (d) The Warrants shall not confer any rights to:
 - (i) vote at any general meetings of the Company;
 - (ii) receive dividends; and
 - (iii) in a winding up, to participate in the distribution of the assets of the Company (both capital and surplus).

3 Condition to exercise of conversion rights

No right of conversion of the Warrants into Warrant Shares exists under clause 4 and clause 4 does not become binding on the parties until such time as the FIRB Condition has been satisfied.

4 Conversion Rights

- (a) Subject to clause 3, a Warrantholder may convert any one or more Warrants into Warrant Shares by exercising them at any time between the Issue Date up to (but not including) the Maturity Date.
 - (b) Subject to clause 3, a Warrantholder may exercise its Warrants in whole or in part by lodging:
 - (i) a duly completed and signed Notice of Exercise;
 - (ii) the Exercise Price in respect of each Warrant being exercised by way of either, at the Warrantholder's election:
 - (A) a draft or cheque drawn by a bank as defined in the *Banking Act 1959* (Cth); or
 - (B) a direct transfer of immediately available funds to a bank account previously nominated by the Company; and
 - (iii) the Warrant Certificate in relation to the Warrants being exercised (or evidence reasonably satisfactory to the Company that the Warrant Certificate has been lost, stolen, or destroyed, together with any indemnity in respect of the lost, stolen, or destroyed Warrant Certificate required by the Company on terms reasonably satisfactory to the Company),at the Registered Office on any Business Day during the period referred to in clause 4(a).
 - (c) On exercising any Warrant under clause 4(b), a Warrantholder is taken to have:
 - (i) subscribed for the Warrant Shares that fall to be issued on the exercise of the Warrant;
 - (ii) authorised the Company to enter the Warrantholder's details into the Company's register of members; and
 - (iii) agreed to be bound by the Constitution.
 - (d) If a Warrantholder exercises only part of its holding of Warrants, the Company shall issue to it (free of charge) a new Warrant Certificate in respect of the remaining Warrants.
-

5 Issue of Warrant Shares

- (a) In the event a Warrant or Warrants are exercised in accordance with clause 4, the Company must on the Exercise Date:
 - (i) issue the Ordinary Shares falling to be issued upon the exercise of the Warrant(s) to the relevant Warrantholder;

- (ii) procure that the Warrantholder is entered as the holder of those Ordinary Shares in the Company's register of members by the Company's share registry; and
- (iii) procure that the Warrantholder is sent a holding statement (issuer sponsored) for those Ordinary Shares.
- (b) Ordinary Shares issued pursuant to the exercise of Warrants in accordance with clause 4 must be credited as fully paid and will rank equally in all respects with Ordinary Shares on issue on the date the Warrant Shares are issued.
- (c) On or before the issue of any such Ordinary Shares, the Company must take all steps necessary to procure that the Ordinary Shares are granted quotation on the ASX (including making an application for quotation immediately upon issue of the Warrant Shares).

6 Cleansing Notice or Disclosure Document

- (a) Subject to clause 6(c), if on an Exercise Date:
 - (i) any Ordinary Shares fall to be issued upon the exercise of the relevant Warrants;
 - (ii) the requirements of section 708A(5)(a), (b), (c) and (d) of the Corporations Act are satisfied in relation to the Company and the existing issued Ordinary Shares (as applicable);
 - (iii) the Company has complied with:
 - (A) the provisions of Chapter 2M of the Corporations Act as they apply to the Company;
 - (B) section 674 of the Corporations Act; and
 - (C) there is no determination in force under section 708A(2) of the Corporations Act,the Company must, on that Exercise Date, issue a notice in accordance with section 708A(5)(e) of the Corporations Act (**cleansing statement**) in relation to the Ordinary Shares issued on the Exercise Date.
- (b) Subject to clause 6(c), if any of the requirements referred to in clause 6(a) will not be satisfied on a proposed Exercise Date:
 - (i) the Company must so notify the Warrantholder within one Business Day of the Company's receipt of the Notice of Exercise;
 - (ii) if the Company provides notice to the Warrantholder under clause 6(b)(i), the Warrantholder may (but is not obliged to) revoke the Notice of Exercise by notice to the Company within two Business Days of being so notified; and
 - (iii) if the Warrantholder does not give notice under clause 6(b)(ii), the Company must take all necessary steps to ensure that the Warrant Shares are freely tradeable as soon as possible (and in any event, within 30 days after the Exercise Date), including, if necessary, by issuing, subject to clause 6(d), a disclosure document which complies with Part 6D.2 of the

Corporations Act (**disclosure document**) so that section 708A(11) of the Corporations Act applies.

- (c) If the Company is in possession of information which is Excluded Information of the Company on the Exercise Date (**Relevant Information**), and in the majority opinion of the Directors (each acting reasonably) disclosure of that Relevant Information in a cleansing statement pursuant to clause 6(a) or a disclosure document pursuant to clause 6(b) would materially disadvantage the Company or its shareholders, the Company will be not required to comply with clauses 6(a) or 6(b) and the following provisions will apply:
- (i) the Company must take all necessary steps to ensure that the Warrant Shares are freely tradeable in the ordinary course on ASX as soon as possible after the Relevant Information is either:
 - (A) included in a continuous disclosure notice of the Company; or
 - (B) otherwise no longer taken to constitute Excluded Information; and
 - (ii) without limiting the generality of clause 6(c)(i), the Company must:
 - (A) if permitted by the Corporations Act, issue a cleansing statement in relation to the Warrant Shares within 1 Business Day of clause 6(c)(i)(A) or clause 6(c)(i)(B) occurring; and
 - (B) if the Company has not issued a cleansing statement under clause 6(c)(ii)(A) within 60 days of the Exercise Date, issue a disclosure document so that section 708A(11) of the Corporations Act applies to the Warrant Shares.
- (d) The Company's obligation to issue a disclosure document under clause 6(b)(iii) or clause 6(c)(ii)(B) is subject to the Warranthead and its directors (if applicable) giving the consent required under section 720 of the Corporations Act. The Company must do everything reasonably required by the Warranthead (in accordance with customary procedures and practice) to facilitate the Warrantheads and its directors (if applicable) giving such consent.

7 Adjustments

- (a) The Exercise Price and the Warrant Shares to be issued on exercise of a Warrant shall be subject to adjustment in accordance with the provisions of this clause 7.
- (b) (**Reorganisation adjustment**) If the Company at any time effects a reorganisation (including a subdivision, consolidation, reduction, return or cancellation) of or in respect of its Ordinary Shares, the rights of the Warranthead and the terms of the Warrants (including Exercise Price and, if applicable, the Warrant Shares to be issued on exercise of a Warrant) must be adjusted in accordance with the Listing Rules (and these terms and conditions must be construed so as to give effect to that adjustment). Any such adjustment shall become effective at the close of business on the date the relevant reorganisation becomes effective.
- (c) (**Pro rata issues**) If the Company makes a "pro rata issue" (as such term is defined in the Listing Rules) to the holders of Ordinary Shares, other than an Excluded Offer, the Exercise Price shall be reduced in accordance with the formula in Listing Rule 6.22.2

- (d) **(Bonus Issues)** If the Company makes a pro rata “bonus issue” (as that term is defined in the Listing Rules) to the holders of Ordinary Shares, other than an Excluded Offer, the number of Warrant Shares per Warrant shall be increased by the number of bonus Ordinary Shares or other securities which the Warrantheader would have received in respect of any Ordinary Share(s) that would have been issued to the Warrantheader had the Warrant been exercised before the record date for the bonus issue.
 - (e) **(New Issues)** The holding of a Warrant does not entitle the Warrantheader to participate in any new issues of Ordinary Shares or other securities of the Company.
 - (f) The Company must promptly give written notice to Warrantheaders of each adjustment made pursuant to this clause 7. The notice must describe the change and show in reasonable detail the basis for the adjustment.
-

8 Representations and undertakings of the Company

- (a) The Company makes the following representations and warranties as of each Exercise Date:
 - (i) **(incorporation)** it is validly existing under the laws of its place of incorporation;
 - (ii) **(power)** it has full legal capacity and power to perform its obligations under these terms and conditions;
 - (iii) **(authorisations)** it has in full force and effect all shareholder and board authorisations in each case necessary for it to perform its obligations under these terms and conditions;
 - (iv) **(binding obligations)** its obligations under these terms and conditions constitute its legal, valid and binding obligations, enforceable against it in accordance with their terms (except to the extent limited by equitable principles and laws affecting creditors’ rights generally);
 - (v) **(no contravention)** its performance of its obligations under these terms and conditions will not contravene its constitution or any Shareholder Approvals by which it is bound;
 - (vi) **(compliance)** the Company is not in breach of its constitution, the Corporations Act, Listing Rules (except where compliance has been waived, or as modified, by ASX) or other applicable laws or regulations or orders of any government agency that are binding on it, any encumbrance, instrument or agreement which is binding on it or any of its assets, or any legally binding requirement of ASIC or ASX; and
 - (vii) **(not Insolvent)** it is not Insolvent.
- (b) The Company undertakes that, so long as a Warrant is outstanding:
 - (i) it will take all action that is required by these terms and conditions to ensure that the Warrant Shares may be issued without contravention of the Listing Rules and the Corporations Act; and
 - (ii) it will not alter the Constitution in any way that could reasonably be expected to have a material adverse effect on the rights of a Warrantheader.

9 Register and Warrant Certificates

- (a) The Company must create and maintain a register of entitlement to Warrants (**Register**) at the Registered Office and there shall be entered in the Register:
 - (i) the name and address of each Warrantholder;
 - (ii) the number of Warrants held by each Warrantholder;
 - (iii) the date on which the name of each Warrantholder is entered in the Register in respect of the Warrants registered in that Warrantholder's name; and
 - (iv) the date on which each Warrantholder exercises any Warrants and the number of Warrant Shares in respect of which such Warrants are exercised.
- (b) The Warrantholders or any of them or any person authorised by any such Warrantholder may at all reasonable times during office hours upon one Business Days' notice inspect the Register and to take copies of or extracts from the Register.
- (c) The Company shall be entitled to treat the person whose name is shown in the Register as a Warrantholder as the absolute owner of a Warrant and, accordingly, shall not, except as ordered by a court of competent jurisdiction or as required by law, be bound to recognise any equitable or other claim to, or interest in, such Warrant on the part of any other person whether or not it shall have express or other notice thereof. No express or other notice of any such equitable or other claim to, or interest in, a Warrant shall, except as ordered by a court of competent jurisdiction or as required by law, be entered on the Register in respect of any Warrant.
- (d) The Company must, within 5 Business Days of entering the name of a Warrantholder in the Register, issue to that Warrantholder a Warrant Certificate setting out the Warrants to which that Warrantholder is entitled, as recorded in the Register.
- (e) If any Warrant Certificate becomes defaced then, upon its production to the Board, the Board may cancel the same and may issue without charge a new Warrant Certificate in its place. An entry as to the issue of the new Warrant Certificate shall be made in the Register.
- (f) If any Warrant Certificate is lost or destroyed then, upon the Warrantholder providing a statutory declaration that the Warrant Certificate has been lost or destroyed (and not pledged, mortgaged, charged, sold or otherwise disposed of), the Board will issue without charge a new Warrant Certificate in its place. An entry as to the issue of the new Warrant Certificate shall be made in the Register.

10 Transfer of Warrants

- (a) Warrants are transferable in accordance with the provisions of this clause 10.
- (b) Every transfer of a Warrant shall be made by an instrument of transfer in any usual or common form.
- (c) The instrument of transfer of a Warrant shall be signed by or on behalf of the transferor and the transferee. The transferor shall be deemed to remain the holder of the Warrants until the name of the transferee is entered in the Register in respect thereof.

- (d) The Board may decline to recognise any instrument of transfer of a Warrant unless such instrument is deposited at the Registered Office accompanied by the Warrant Certificate to which it relates and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer. The Board may waive production of any Warrant Certificate upon production to it of satisfactory evidence of the loss or destruction of such instrument together with such indemnity as the Board may require.
 - (e) The Company shall not be entitled to charge any fee for the registration of a transfer of a Warrant or for the registration of any other documents in connection with such transfer which, in the reasonable opinion of the Board, require registration.
 - (f) The registration of a transfer shall be conclusive evidence of the approval by the Board of the transfer.
 - (g) All instruments of transfer which are registered by the Company shall be retained by the Company.
-

11 Amendments and Waiver of Rights

- (a) The Company may not change, alter or abrogate any or all of the rights for the time being attached to the Warrants may (whether or not the Company is being wound up) without the prior consent in writing of any one or more Warranholders holding at least 75 percent of the issued Warrants. and shall be effected by an instrument by way of deed poll executed by the Company and expressed to be supplemental to this Deed.
 - (b) A waiver of any or all of the rights for the time being attached to the Warrants may only be given in writing signed by any one or more Warranholders holding at least 75 percent of the issued Warrants. Any alteration, abrogation or waiver made in accordance with clause 11(a) is binding on all Warranholders, whether or not they gave their consent.
-

12 Notices

12.1 How To Give Notices

A notice in connection with these terms and conditions must be:

- (a) in writing in English;
- (b) signed by the party or its agent; and
- (c) given to the recipient either by hand delivery, pre-paid mail or email, in each case addressed in the manner set out below:

Company

Address: 31Dagleish Street, Thebarton SA 5031

Email: jmoschakis@bionomics.com.au

Contact: CompanySecretary

Warranholders

The address for the relevant Warranholder as set out in the Register from time to time.

12.2 Change of Details

- (a) The Company may at any time change any of its address details set out in clause 12.1 by not less than 5 Business Days' notice to each Warrantholder.
- (b) If details are so changed, this clause applies as if those changed details were set out in clause 12.1.

12.3 Proof of Notices

- (a) Any notice given in accordance with clause 12.1 shall, in the absence of earlier receipt, be deemed to have been duly given as follows:
 - (i) if delivered by hand delivery, on delivery; and
 - (ii) if sent by pre-paid mail, on the second Business Day after posting., or on the seventh Business Day after the date of posting if posted to or from a place outside Australia.
 - (iii) if sent by email on the date of transmission, if transmitted before 5:00 pm (Brisbane time) on any Business Day, and in any other case on the Business Day following the date of transmission.
- (b) In proving service of a notice or other formal communication, it shall be sufficient to prove that delivery was made or that the envelope containing the communication was properly addressed and posted by prepaid first class airmail and that the email was properly addressed and transmitted.
- (c) This clause 12.3 shall not apply in relation to the service of any claim form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this document.

Annexure 1 – Form of Warrant Certificate

BIONOMICS LIMITED (the Company) (ABN 53 075 582 740)

Warrant Certificate

Certificate No.

Date of Issue:

Name and Address of Warrantholder: *[insert]*

Number of Warrants: [#]

Maturity Date: [date that is 36 months after the EGM]

THIS IS TO CERTIFY that the Warrantholder named above is the Registered Holder of the number of Warrants specified above, governed by the terms and conditions set out in the instrument entered into by the Company by way of deed poll relating to Warrants to subscribe for Ordinary Shares in the Company dated (the Deed) and subject to the Constitution. Terms defined in the Deed have the same meanings when used in this Warrant Certificate.

Executed by Bionomics Limited in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Director signature

Director/Secretary signature

Director full name
(BLOCK LETTERS)

Director/Secretary full name
(BLOCK LETTERS)

Annexure 2 – Form of Notice of Exercise

To: The Directors
Bionomics Limited (the Company)

[Date]

We hereby exercise [#] Warrants represented by the accompanying Warrant Certificate.

We direct the Company to issue the Warrant Shares to us in accordance with clause 4 of the Warrant Terms and Conditions.

If applicable, we request that a Warrant Certificate for any balance of our Warrants remaining exercisable be sent at our own risk by post to us.

We agree that any Warrant Shares issued to us are issued subject to the Constitution of the Company.

Terms defined in the [deed poll] relating to Warrants dated **[Insert date]** have the same meanings when used in this Notice of Exercise.

Signed

by

for and on behalf of *[insert name]* of Warrantholder)

Director/Secretary

Bionomics Limited

BVF Partners L.P.

Placement Agreement

JOHNSON WINTER & SLATTERY

Level 9, 211 Victoria Square
ADELAIDE SA 5000

T +61 8 8239 7111 | F +61 8 8239 7100

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Placement Agreement

Date 9 November 2018

Parties

1 **Bionomics Limited** (ABN 53 075 582 740) (**Company**)

Address: 31 Dalgleish Street, Thebarton SA 5031

2 **BVF Partners L.P. (Purchaser)**

Address: 30th Floor, 1 Sansome Street, San Francisco, California 94104 USA

Recitals

A The Company is listed on the ASX.

B The Company has agreed to issue, and BVF has agreed to subscribe for or procure subscriptions for, the Placement Shares on and subject to the terms in this document.

Operative part

1 Definitions and interpretation

1.1 Definitions

The following definitions apply in this document, unless the context requires otherwise.

Application Form means an application form in the form of Annexure 1 of this document, or in such other form agreed between BVF and the Company.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691 or, as the context requires, the securities market operated by it.

Board means the board of directors of the Company.

Business Day means a day which is a "business day" under the Listing Rules.

Claim means any claim, cost (including legal costs on a solicitor and client basis), damages, expenses, tax, liability, loss, obligation, allegation, suit, demand, cause of action, proceeding or judgement of any kind however calculated or caused and whether direct or indirect, consequential, incidental or economic.

Completion means completion of the issue of the Placement Shares in accordance with clause 3.

Completion Date means 16 November 2018 or such other date agreed by the Company and BVF.

Confidential Information means any of the business, commercial, financial or technical information of the party which was provided by one party or its Representatives to the other in writing prior to the date of this document, and includes notes, records and copies made by a party or any of its Representatives of such information, but excludes information which is in the public domain (other than as a result of a breach of this document by the relevant party).

Corporations Act means the *Corporations Act 2001* (Cth), as modified by any applicable ASIC class orders, ASIC legislative instruments or ASIC relief.

Equity Securities has the same meaning as “equity securities” in the Listing Rules.

Government Agency means any governmental, semi-governmental, municipal or statutory authority, instrumentality, organisation, body or delegate or administrative, monetary or financial authority, or self-regulatory organisation or stock exchange.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it has had a controller (as defined in the Corporations Act) appointed or is in liquidation or provisional liquidation, under administration or wound up or has had a receiver or receiver and manager appointed to any part of its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);
- (d) an application or order has been made, resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to any event or circumstance referred to in subparagraph (a), (b) or (c) above occurring;
- (e) it is taken (under section 459F(1)) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 (or it makes a statement from which another party to this document reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts as and when they fall due; or
- (h) something having a substantially similar effect to any event or circumstance referred to in subparagraphs (a) to (g) above happens in connection with that person under the law of any jurisdiction.

Listing Rules means the listing rules of ASX.

Merck Agreement means the agreement between the Company or any of its Related Bodies Corporate (on the one hand) and Merck & Co, Inc. (or any of its Related Bodies Corporate or related entities) (on the other hand) dated 23 June 2014.

Permitted Subscriber means any fund, limited partnership or entity in respect of which BVF, BVF Inc. or any of their respective Related Bodies Corporate or related entities (or any entity which is controlled by the same person or persons who control BVF or BVF Inc.) acts as general partner and/or investment manager.

Placement means the issue of the Placement Shares by the Company to BVF and the payment of the Subscription Amount by BVF to the Company.

Placement Shares means 48,097,158 Shares.

Registry means Company's registry, Computershare Investor Services Pty Ltd.

Related Body Corporate has the meaning given in the Corporations Act.

Relevant Financing Agreement means a financing agreement or arrangement between the Company or any of its Related Bodies Corporate (on the one hand) and Oxford Finance or Silicon Valley Bank (or any of their respective Related Bodies Corporate or related entities) (on the other hand).

Representative of a party include an officer, employee, agent, auditor, adviser, financier (including syndicatees), insurance broker, technical expert, partner, associate, consultant, joint venturer or sub-contractor of that party or a Related Body Corporate of that party.

Shares means the fully paid ordinary shares in the capital of the Company.

Subscription Amount means \$7,873,505.

Subscription Price means, for each Placement Share, \$0.1637.

US Persons has the meaning given to that term in Rule 902(k) under the US Securities Act.

US Securities Act means the US Securities Act of 1933, as amended.

1.2 Interpretation

In this document, unless a contrary intention appears:

- (a) words or expressions importing the singular include the plural and vice versa;
- (b) words or expressions importing a gender include the other gender;
- (c) words or expressions denoting individuals include corporations, firms, unincorporated bodies, government authorities and instrumentalities;
- (d) a reference to a party includes that party's successors and permitted assigns;
- (e) where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning;
- (f) any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this document;
- (g) a provision of this document must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this document or the inclusion of the provision in this document;
- (h) a reference to this document or another document includes that document as amended, varied, novated, supplemented or replaced from time to time;
- (i) a reference to legislation or a provision of legislation includes:
 - (i) all regulations, orders or instruments issued under the legislation or provision; and
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
- (j) any recitals, schedule or annexure form part of this document and have effect as if set out in full in the body of this document;
- (k) a reference to dollars or \$ is a reference to Australian dollars;

- (l) a reference to a payment in immediately available funds refers to cash, a bank cheque the drawer of which is an Australian bank, a telegraphic transfer of cleared funds or a direct credit of cleared funds; and
 - (m) where an act would be required to be done, or a time limit or period would expire, on a day which is not a Business Day, the act must be done, or the limit or period will expire, on the following Business Day.
-

2 Subscription for and issue of Placement Shares

- (a) On Completion, BVF must subscribe for or procure that Permitted Subscribers subscribe for the Placement Shares at the Subscription Price and the Company must issue to each subscriber in clause 2(b) such number of Placement Shares that the subscriber has subscribed for, free from all encumbrances, on the terms and conditions set out in this document.
 - (b) The subscribers for the Placement Shares will be:
 - (i) each person who is a Permitted Subscriber and who is named in an Application Form that has been completed, signed by the Permitted Subscriber and given to the Company prior to the Completion Date; and
 - (ii) BVF, but only in respect of that number of Placement Shares (if any) which are not covered in Application Forms received by the Company pursuant to clause 2(b)(i).
 - (c) If BVF is the subscriber of any or all of the Placement Shares, this document serves as an application by BVF for the issue of the Placement Shares to BVF on Completion and accordingly it will not be necessary for BVF to provide a separate (additional) application or before the Completion Date.
 - (d) The consideration for the issue of all of the Placement Shares will be payment of the Subscription Amount by BVF and/or the Permitted Subscribers.
-

3 Completion

3.1 Time and place

Completion will take place on the Completion Date at such time and place as the parties may agree in writing, or failing agreement as reasonably determined by the Company.

3.2 Obligations of Purchaser

On or before Completion, BVF must pay or procure the payment of the Subscription Amount to the Company in immediately available funds to an account nominated by the Company for this purpose and deliver for itself and each Permitted Subscriber a completed accredited investor questionnaire attached hereto as Annexure 2.

3.3 Obligations of Company

On Completion, the Company must, subject to the performance of BVF's obligations in clause 3.2:

- (a) allot and issue the Placement Shares to each subscriber of Placement Shares;
- (b) procure that the Registry promptly enters each subscriber of Placement Shares in the Company's register as the holder of the Placement Shares; and

- (c) deliver an irrevocable instruction to the Registry to send to each subscriber of Placement Shares at their address set out in clause 12 (in the case of BVF) or in their signed Application Form (in the case of each Permitted Subscriber) a holding statement for the holding of the Placement Shares in the name of the subscriber.

3.4 Simultaneous actions at Completion

- (a) The obligations of the parties under this document are interdependent and all actions required to be performed on or at Completion will be taken to have occurred simultaneously on the Completion Date.
- (b) No delivery or payment will be deemed to have been made at Completion until all deliveries and payments due to be made at Completion have been made.

4 Obligations following issue of Placement Shares

4.1 Cleansing Notice

As soon as practicable after the issue of the Placement Shares, but in any event within five Business Days after the Completion Date, the Company must give to the ASX a notice which complies with section 708A(6) of the Corporations Act in relation to the Placement Shares.

4.2 ASX Quotation

As soon as practicable after the issue of the Placement Shares, but in any event within two Business Days after the Completion Date, the Company must apply to ASX for official quotation of the Placement Shares on the ASX and do all things reasonably necessary to ensure that the Placement Shares are quoted as soon as practicable on such terms and conditions as are usual for the quotation of securities.

4.3 Bound by constitution

BVF agrees to be bound by the constitution of the Company in respect of the Placement Shares that it subscribes for.

4.4 Holding statement

The Company must ensure that the holding statements described in clause 3.3(c) are delivered to the subscribers within 5 Business Days after the Completion Date.

5 Board representation

- (a) Subject to clause 5(d), BVF may from time to time nominate one person to be appointed as a director of the Company (**BVF Nominee**) by providing the Company with a written nomination, together with a written consent to act as a director of the Company.
- (b) Where BVF has exercised its nomination right under clause 5(a) then the Company will procure that the Board resolves to appoint the BVF Nominee as an additional director to the Board so that the appointment takes effect from a date no later than 3 Business Days after BVF has exercised its nomination right (subject to Completion occurring, and subject to the BVF Nominee providing a consent to act and any other disclosures required by the Corporations Act or ASX Listing Rules).
- (c) Subject to clause 5(e), the Company will ensure that the Board will support the nomination and re-election or appointment of the BVF Nominee at the next general meeting of the Company.

- (d) BVF undertakes to comply with, and ensure that any BVF Nominee will comply with, the Nominee Protocol agreed with BVF prior to the date of this document (**Nominee Protocol**). BVF will cause any BVF Nominee to acknowledge their agreement to the terms of the Nominee Protocol by signing the Nominee Protocol as a condition of their nomination.
 - (e) If the BVF Nominee fails to be re-elected or appointed as a director of the Company at the general meeting referred to in clause 5(c) or is otherwise removed from the Board, then clauses 5(a), 5(b) and 5(c) will apply from the date of removal of the BVF Nominee from the Board and will continue to apply until there is a BVF Nominee appointed to the Board (provided that, if a resolution to re-elect or appoint a BVF Nominee is put to a general meeting of the Company, but the resolution is not passed, BVF must nominate a different individual as the BVF Nominee in order for the Company's obligations under clauses 5(a), 5(b) and 5(c) to continue to apply).
 - (f) Clauses 5(a), 5(b) and 5(c) and 5(e) will apply in respect of successive BVF Nominees, but those clauses cease to apply if BVF and persons who come within the definition of Permitted Subscribers (**BVF Parties**) collectively have a beneficial interest in less than 15% of the Shares. If that occurs, BVF will procure that the BVF Nominee retires immediately.
-

6 Concurrent and follow on capital raising

6.1 Additional placement

- (a) BVF acknowledges that on or after the Completion Date, the Company may issue further shares to other Shareholders pursuant to placements of up to 24,338,670 Shares at a price per Share which is equal to the Subscription Price.
- (b) The Company agrees that any Shares which are offered to other Shareholders for issue under clause 6.1(a), but which are not subscribed for by those other Shareholders, may be subscribed for by BVF or a Permitted Subscriber on the same terms and conditions as apply to the subscription of the Placement Shares under this document, subject to any such acquisition complying with the Corporations Act.
- (c) The Company must notify BVF as soon as practicable after the Shares referred to in clause 6.1(b) are not subscribed for by the other Shareholders, so as to enable BVF to exercise its rights under clause 6.1(b).

6.2 Share purchase plan offer

BVF acknowledges that the Company may make a share purchase plan offer for up to 13, 883,466 Shares at a price of \$0.155 cents per Share which complies with the Corporations Act and the Listing Rules and is otherwise on customary terms and conditions.

7 Warranties

7.1 Company's representations and warranties

The Company represents and warrants to BVF and each Permitted Subscriber who subscribes for Placement Shares that:

- (a) it is a corporation duly incorporated and validly existing under the laws of its place of incorporation;

- (b) it has the power to enter into and perform this document and has obtained all necessary consents and authorisations to enable it to do so;
- (c) this document constitutes valid and binding obligations upon it enforceable in accordance with its terms;
- (d) the agreement recorded in this document and the transactions contemplated by it do not conflict with or result in a breach or default by it of any obligation (including any statutory, contractual or fiduciary obligation) or constitute or result in any default by it under any provision of its certificate of incorporation, bylaws or any material provision of any agreement, deed, writ, order, injunction or judgment to which it is a party or is subject or by which it is bound;
- (e) it is not Insolvent;
- (f) it is admitted to the official list of the financial market operated by the ASX;
- (g) upon issue, the Placement Shares will be duly and validly authorised and issued, will rank equally in all respects with the then existing issued Shares and will be free from all competing rights (including pre-emptive rights or rights of first refusal), encumbrances and other third party rights;
- (h) the issue of the Placement Shares will not breach Listing Rule 7.1 or any other Listing Rule;
- (i) all the relevant requirements of section 708A of the Corporations Act (including section 708A(5)(e)) are fulfilled (or will be fulfilled);
- (j) upon issue of the notice referred to in clause 4.1, the Placement Shares will be freely tradeable and transferable;
- (k) all written information given with respect to the Company and its Related Bodies Corporate (including their respective businesses and financial positions) by or on behalf of the Company to BVF before the date of this document is true, complete and accurate in all material respects and no misleading in any material particular, whether by inclusion of misleading information or omission of material information or both;
- (l) as far as the Company and each director of the Company is aware (after having made all reasonable enquiries including with the Company's management team), (i) none of the Company or any of its Related Bodies Corporate is in breach of any covenant or term of, or subject to any event of default under, any Relevant Financing Agreement, and (ii) there are no existing circumstances which a reasonable person would expect will give rise to such a breach or event of default after the date of this document;
- (m) there is (i) no existing or subsisting breach by the Company or any of its Related Bodies Corporate of any term in any Merck Agreement, and (ii) there are no existing circumstances which a reasonable person would expect will give rise to such a breach after the date of this document;
- (n) it has complied with its continuous disclosure requirements under the Listing Rules and is not aware of any information that is excluded information which would be required to be disclosed pursuant to section 708A(5), other than market disclosures to be made by the Company in connection with execution of this document, the form and content of which have been provided to BVF prior to the date of this document;

- (o) the issued capital structure of the Company as at the date of this document is as follows:
- (i) 482,903,192 Shares; and
 - (ii) 10,277,670 options over Shares and 25 warrants over Shares;
- and there are no other Equity Securities on issue;
- (p) it will not issue any Shares, Shares or rights to acquire Shares or Shares prior to the earlier of the Completion Date or termination of this document, without the consent of BVF other than:
- (i) pursuant to clause 6;
 - (ii) an issue of or an agreement to issue securities pursuant to an employee incentive scheme in place as at the date of this document; or
 - (iii) an issue of securities as a result of the conversion of any convertible securities (as that term is defined in the Listing Rules) which are on issue at the date of this document;
- (q) neither the Company, nor any person acting on its behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Placement Shares;
- (r) neither the Company nor any person acting on its behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of the issuance of any of the US Securities under the 1933 Act, whether through integration with prior offerings or otherwise, or cause this offering of the Placement Shares to require approval of stockholders of the Company for purposes of any applicable stockholder approval provisions, including, without limitation, under the rules and regulations of any exchange or automated quotation system on which any of the securities of the Company are listed or designated; and none of the Company nor any person acting on its behalf will take any action or steps referred to in this representation that would require registration of the issuance of any of the Placement Shares under the US Securities Act or cause the offering of the Placement Shares to be integrated with other offerings for purposes of any such applicable stockholder approval provisions;
- (s) with respect to the Placement Shares to be offered and sold hereunder in reliance on Rule 506 under the US Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the US Securities Act) connected with the Company in any capacity at the time of sale (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the subscribers a copy of any disclosures provided thereunder. The Company is not aware of any person (other than any Issuer Covered Person) that has been or

will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with the sale of any Securities. The Company will notify the subscribers in writing, prior to the Completion Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

7.2 *Purchaser's representations and warranties*

BVF represents and warrants to the Company that:

- (a) BVF and each Permitted Subscriber who subscribes for Placement Shares is an entity duly incorporated or established and validly existing under the laws of its place of incorporation or establishment;
- (b) BVF and each Permitted Subscriber has the power to enter into and perform this document and has obtained all necessary consents and authorisations to enable it to do so;
- (c) this document constitutes valid and binding obligations upon it enforceable in accordance with its terms;
- (d) the agreement recorded in this document and the transactions contemplated by it do not conflict with or result in a breach or default by it of any obligation (including any statutory, contractual or fiduciary obligation) or constitute or result in any default by it under any provision of its constitution or any material provision of any agreement, deed, writ, order, injunction or judgment to which it is a party or is subject or by which it is bound;
- (e) it is not Insolvent;
- (f) it and each Permitted Subscriber who subscribes for Placement Shares is a is an "Accredited Investor" as such term is defined in Rule 501(a) of Regulation D of the Securities and Exchange Commission promulgated pursuant to the US Securities Act and on or prior to the Completion Date will have delivered the accredited investor questionnaire attached hereto as Annexure 2;
- (g) it and each Permitted Subscriber who subscribes for Placement Shares is a sophisticated or professional investor (as those terms are defined in Chapter 6D of the Corporations Act) or other person to whom an offer or issue of Shares can be made without a disclosure document under section 708 of the Corporations Act;
- (h) the acquisition of Placement Shares by BVF and each Permitted Subscriber who subscribes for Placement Shares will not involve a breach of any applicable law by BVF or a Permitted Subscriber;
- (i) BVF and each Permitted Subscriber who subscribes for Placement Shares subscribes for them as principal and not for the purposes of selling or transferring them or granting, issuing or transferring interests in or options or warrants over them to any other person;
- (j) BVF and each Permitted Subscriber who subscribes for Placement Shares has made and relied upon its own assessment of the Company and the Placement Shares;
- (k) it and each Permitted Subscriber understands that the Placement Shares have not been registered under the US Securities Act and that such securities are being offered and sold pursuant to an exemption from registration under the US

Securities Act. BVF further acknowledges and understands that such securities may not be resold or transferred except in a transaction registered under the US Securities Act (which BVF acknowledges the Company has no obligation to do) or in a transaction exempt from, or not subject to, the registration requirements of the US Securities Act;

- (l) it and each Permitted Subscriber has substantial experience in evaluating and investing in private placement transactions of securities in companies similar to the Company so that it is capable of evaluating the merits and risks of its investment in the Company and has the capacity to protect its own interests;
- (m) BVF and each Permitted Subscriber who subscribes for Placement Shares is acquiring the Placement Shares for its own account and not with a view towards their distribution;
- (n) it and each Permitted Subscriber is acquiring the Placement Shares for its own account and not with a view towards, or for resale in connection with, the public sale or distribution thereof, except pursuant to sales registered or exempted under the US Securities Act;
- (o) it and each Permitted Subscriber will not offer, sell, pledge, transfer or otherwise dispose of the Placement Shares except:
 - (i) in an offshore transaction (as defined in Rule 902(h) under the US Securities Act), including in ordinary transactions on the ASX;
 - (ii) in the United States to a "qualified institutional buyer" (as defined in and in reliance on Rule 144A under the US Securities Act); or
 - (iii) pursuant to Rule 144 under the US Securities Act, if available, in each case in compliance with all applicable laws.

7.3 When warranties given

The representations and warranties in clauses 7.1 and 7.2 are made as at the date of this document and as at the time immediately before Completion.

7.4 Separate warranties and survival

Each representation and warranty in clauses 7.1 and 7.2 is to be treated as a separate representation and warranty and will survive termination of this document. The interpretation of any representations and warranties will not be restricted by reference to or inference from any other representations and warranties.

7.5 No other warranties and no reliance

- (a) Each party acknowledges that the other party is entering into this document in reliance on the representations and warranties in clauses 7.1 and 7.2 (as the case may be).
- (b) Each party acknowledges that no other party (nor any person acting on that other party's behalf) has made any warranty, representation or other inducement to it to enter into this document, except for the warranties in clauses 7.1 and 7.2 (as the case may be).
- (c) Each party acknowledges and confirms that it does not enter into this document in reliance on any warranty, representation or other inducement by or on behalf of

any other party, except for the warranties in clauses 7.1 and 7.2 (as the case may be).

7.6 **Qualifications**

The Company does not make any representations or warranties that any estimates, projections, forecasts or other forward looking information, if any, provided to BVF or any Permitted Subscriber is accurate or complete or will be achieved.

7.7 **Time limit**

No party:

- (a) may make or bring a Claim for breach of a representation and warranty unless reasonable details of the Claim under this document have been notified to BVF (in the case of a Claim by the Company) or the Company (in the case of a Claim by BVF) within 24 months of the Completion Date; and
- (b) is liable for breach of a representation and warranty, and a Claim is not enforceable against it and is taken to have been withdrawn, unless legal proceedings in connection with the Claim are commenced within 12 months after written notice of the Claim has been served on another party.

7.8 **Caps**

The maximum liability of each of the Company and the Purchaser for all breaches of the representations and warranties in this clause 6 is an amount equal to the Subscription Amount.

7.9 **Acknowledgment**

The Company acknowledges that it is not issuing the Placement Shares for the purpose of BVF or any Permitted Subscriber selling or transferring all or any of the Placement Shares, or granting, issuing or transferring interests in, or options over, the Placement Shares.

7.10 **Benefit and burden**

BVF receives and holds the benefit of this clause 6 to the extent it relates to each Permitted Subscriber as trustee for each of them. BVF will procure that each Permitted Subscriber complies with any provision of this document expressed as an obligation of a Permitted Subscriber.

8 **Disposal restrictions**

8.1 **Restrictions**

Subject to clause 8.2, BVF and each Permitted Subscriber must not and must procure that each of its Representatives and Related Bodies Corporate does not, for a period of 9 months from the date of this document (**No Disposal Period**) dispose of any Placement Shares or any relevant interest (as defined in the Corporations Act) in any Placement Shares.

8.2 **Exceptions to restrictions**

Clause 8.1 shall not apply:

- (a) in any case where the Independent Directors of Bionomics have given their prior written consent. For the purpose of this clause 8, "Independent Directors" means the directors of Bionomics from time to time who are not affiliated or associated with BVF or who has been nominated as a director by BVF or any Permitted

Subscriber under this document or otherwise and includes any relevant independent board committee, that excludes any director affiliated or associated with BVF or who has been nominated as a director by BVF or any Permitted Subscriber under this document or otherwise;

- (b) in relation to a disposal in connection with a control transaction (being a takeover bid or scheme of arrangement under which control of the Company may pass to a person or group of persons) which has been recommended (and continues to be recommended) by the Independent Directors of the Company);
 - (c) where any representation or warranty given by the Company in clause 7.1 is not correct, or where the Company is in breach of any term of this document and the incorrect representation or warranty or breach has or is reasonably likely to have a material adverse effect on the price or value any Placement Shares;
 - (d) where the Company or any of its Related Bodies Corporate is subject to an event of default under any Relevant Financing Agreement; or
 - (e) where the Board has made a decision to commence a process to attempt to monetise Merck 375, or to approve such a monetisation. If the Board makes such a decision, the Company must announce that decision to the market.
-

9 Announcements

9.1 Announcement of the Placement

Immediately after the execution of this document, the Company will issue a public announcement to ASX regarding the Placement in compliance with the Listing Rules and in a form agreed with BVF prior to the execution of this document.

9.2 Public announcements

- (a) Except as permitted under clause 9.1, no party may make any announcement concerning this document or the Placement without the other party's prior written approval, except where the announcement is required by law, the Listing Rules or any Government Agency.
 - (b) The parties must use all reasonable endeavours to participate constructively and promptly with respect to the approvals and consultation contemplated by clauses 9.1 and 9.2(a).
-

10 Confidentiality

10.1 Mutual obligations

- (a) Subject to clause 10.2, each party must treat as confidential and not disclose, and must procure that its Representatives treat as confidential and not disclose the Confidential Information of the other party.
- (b) Each party acknowledges and agrees that it will only disclose Confidential Information of the other party to those Representatives of the Purchaser who are informed of the first party's obligations under this clause 10 and agree to comply with such obligations as if they were the first party.

10.2 Disclosure

A party may disclose Confidential Information of the other party:

- (a) as agreed between the parties; or
 - (b) if required by law or a Government Agency, the Listing Rules or the rules of or any other applicable stock exchange.
-

11 Miscellaneous

11.1 No waiver

A party waives a right under this document only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

11.2 Severance

If a provision of this document would, but for this clause, be unenforceable:

- (a) the provision will be read down to the extent necessary to avoid that result; and
- (b) if the provision cannot be read down to that extent, it will be severed without affecting the validity and enforceability of the remainder of this document.

11.3 About this document

- (a) This document records the entire agreement between the parties as to its subject matter. It supersedes all prior contracts, obligations, representations, conduct and understandings. The agreement recorded in this document is immediately enforceable, subject to its own express terms.
- (b) This document may be amended only by written agreement of all parties.
- (c) This document may be executed in any number of counterparts, and by the parties in separate counterparts, but is not effective until each party has executed at least one counterpart.
- (d) Each counterpart of this document constitutes an original of this document but the counterparts together constitute one and the same instrument.

11.4 Governing law and jurisdiction

- (a) The laws of South Australia govern this document.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of South Australia.

11.5 Costs

A party will bear its own costs in relation to the negotiation, preparation and execution of this document and any further document required.

11.6 Further acts

The parties must do all things reasonably required to facilitate the performance of the transactions contemplated by this document.

11.7 Assignment

A party may not assign its rights under this document except with the prior written consent of each other party and any purported assignment in contravention of this provision is void.

11.8 No Merger

The rights and obligations of the parties will not merge on completion of any transaction under this document. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

12 Notices

- (a) Any notice or other communication to be given under this document must be in writing (which includes email) or may be sent by email in accordance with clause 12(b) and may be delivered or sent by post to the party to be served at, its address as follows:
- (i) to the Company at:
31 Dalgleish Street, Thebarton SA 5031, Australia
Attention: Company Secretary
 - (ii) to BVF at:
30th Floor, 1 Sansome Street, San Francisco, California 94104 USA
Attention: Chief Operating Officer
- or at such other address as it may have notified to the other party in accordance with this clause 12. Any notice or other document sent by post must be sent by prepaid first class airmail.
- (b) Notices under this document may be sent by one party to the other party by use of email. Email notices must be sent:
- (i) for the Company:
Email: jmoschakis@bionomics.com.au
 - (ii) for BVF:
Email: kaye@bvflp.com
With a copy to Guy.Alexander@allens.com.au
- (c) Any notice or other formal communication will be deemed to have been given and will be effective:
- (i) if delivered, at the time of delivery;
 - (ii) if posted, at 9:00 am (Adelaide time) on the fifth Business Day after it was put into post; or
 - (iii) if sent by email, on the date of transmission, if transmitted before 5:00 pm (Adelaide time) on any Business Day, and in any other case on the Business Day following the date of transmission.
- (d) In proving service of a notice or other formal communication, it will be sufficient to prove that delivery was made or that the envelope containing the communication was properly addressed and posted by prepaid first class airmail and that the email was properly addressed and transmitted.

This clause 12 does not apply in relation to the service of any claim form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this document.

**APPLICATION FOR SHARES IN
BIONOMICS LIMITED (ACN 075 582 740) ("BIONOMICS")**

Name of applicant	Biotechnology Value Fund, L.P. (the " Applicant ")
Applicant's address	44 Montgomery Street, 40th Floor, San Francisco, California 94104, United States of America
Number of shares applied for	24,030,599
Class of shares	Ordinary fully paid
Issue price per share	A\$0.1637

1. The Applicant applies for and authorises Bionomics to enter its name in the register of members for the number of shares in Bionomics specified in this application.
2. The Applicant agrees to be bound by the constitution of Bionomics.
3. In consideration for Bionomics accepting this application and issuing the shares to the Applicant, the Applicant agrees to be bound by the provisions of the Placement Agreement between Bionomics and BVF Partners LP dated on or about 9 November 2018 that are expressed to impose obligations on "Permitted Subscribers".

Date: November 9, 2018

Signed by Biotechnology Value Fund, L.P. in the presence of:

/s/ James Kratky
Witness signature

JAMES KRATKY, CCO
Witness full name
(BLOCK LETTERS)

/s/ Mark Lampert
Authorised officer signature

MARK LAMPERT
PRESIDENT BVF INC, GP BVF PARTNERS L.P., ITSELF GP
BIOTECHNOLOGY VALUE FUND, L.P.
Authorised officer full name and title (BLOCK
LETTERS)

**APPLICATION FOR SHARES IN
BIONOMICS LIMITED (ACN 075 582 740) ("BIONOMICS")**

Name of applicant	Biotechnology Value Fund II, L.P. (the " Applicant ")
Applicant's address	44 Montgomery Street, 40th Floor, San Francisco, California 94104, United States of America
Number of shares applied for	18,013,661
Class of shares	Ordinary fully paid
Issue price per share	A\$0.1637

1. The Applicant applies for and authorises Bionomics to enter its name in the register of members for the number of shares in Bionomics specified in this application.
2. The Applicant agrees to be bound by the constitution of Bionomics.
3. In consideration for Bionomics accepting this application and issuing the shares to the Applicant, the Applicant agrees to be bound by the provisions of the Placement Agreement between Bionomics and BVF Partners LP dated on or about 9 November 2018 that are expressed to impose obligations on "Permitted Subscribers".

Date: November 9, 2018

Signed by Biotechnology Value Fund II, L.P. in the presence of:

/s/ James Kratky
Witness signature

JAMES KRATKY, CCO
Witness full name
(BLOCK LETTERS)

/s/ Mark Lampert
Authorised officer signature

MARK LAMPERT
PRESIDENT BVF INC., GP BVF PARTNERS L.P., ITSELF GP
BIOTECHNOLOGY VALUE FUND II, L.P.
Authorised officer full name and title (BLOCK
LETTERS)

**APPLICATION FOR SHARES IN
BIONOMICS LIMITED (ACN 075 582 740) ("BIONOMICS")**

Name of applicant	Biotechnology Value Trading Fund OS, L.P. (the " Applicant ")
Applicant's address	PO Box 309. Ugland House, Grand Cayman, KY1-1104, Cayman Islands
Number of shares applied for	3,149,304
Class of shares	Ordinary fully paid
Issue price per share	A\$0.1637

1. The Applicant applies for and authorises Bionomics to enter its name in the register of members for the number of shares in Bionomics specified in this application.
2. The Applicant agrees to be bound by the constitution of Bionomics.
3. In consideration for Bionomics accepting this application and issuing the shares to the Applicant, the Applicant agrees to be bound by the provisions of the Placement Agreement between Bionomics and BVF Partners LP dated on or about 9 November 2018 that are expressed to impose obligations on "Permitted Subscribers".

Date: November 9, 2018

Signed by Biotechnology Value Trading Fund OS, L.P. in the presence of:

/s/ James Kratky
Witness signature

JAMES KRATKY, CCO
Witness full name
(BLOCK LETTERS)

/s/ Mark Lampert
Authorised officer signature

MARK LAMPERT
PRESIDENT BVF INC., GP BVF PARTNERS L.P., ITSELF
SOLE MEMBER BVF PARTNERS OS LTD., ITSELF GP
BIOTECHNOLOGY VALUE TRADING FUND OS, L.P
Authorised officer full name and title (BLOCK
LETTERS)

**APPLICATION FOR SHARES IN
BIONOMICS LIMITED (ACN 075 582 740) ("BIONOMICS")**

Name of applicant	MSI BVF SPV, LLC (the " Applicant ")
Applicant's address	c/o Magnitude Capital, L.L.C., 200 Park Avenue, 56th Floor, New York, NY 10166, United States of America
Number of shares applied for	2,903,594
Class of shares	Ordinary fully paid
Issue price per share	A\$0.1637

1. The Applicant applies for and authorises Bionomics to enter its name in the register of members for the number of shares in Bionomics specified in this application.
2. The Applicant agrees to be bound by the constitution of Bionomics.
3. In consideration for Bionomics accepting this application and issuing the shares to the Applicant, the Applicant agrees to be bound by the provisions of the Placement Agreement between Bionomics and BVF Partners LP dated on or about 9 November 2018 that are expressed to impose obligations on "Permitted Subscribers".

Date: November 9, 2018

Signed by MSI BVF SPV, LLC in the presence of:

/s/ James Kratky
Witness signature

JAMES KRATKY
Witness full name
(BLOCK LETTERS)

/s/ Mark Lampert
Authorised officer signature

MARK LAMPERT
PRESIDENT BVF INC., GP BVF PARTNERS, L.P., ITSELF
ATTORNEY-IN-FACT MSI BVF SPV, L.L.C.
Authorised officer full name and title (BLOCK LETTERS)

**APPLICATION FOR SHARES IN
BIONOMICS LIMITED (ACN 075 582 740) ("BIONOMICS")**

Name of applicant	Biotechnology Value Fund, L.P. (the " Applicant ")
Applicant's address	44 Montgomery Street, 40th Floor, San Francisco, California 94104, United States of America
Number of shares applied for	6,031,777
Class of shares	Ordinary fully paid
Issue price per share	A\$0.1637

1. The Applicant applies for and authorises Bionomics to enter its name in the register of members for the number of shares in Bionomics specified in this application.
2. The Applicant agrees to be bound by the constitution of Bionomics.
3. In consideration for Bionomics accepting this application and issuing the shares to the Applicant, the Applicant agrees to be bound by the provisions of the Placement Agreement between Bionomics and BVF Partners LP dated on or about 9 November 2018 that are expressed to impose obligations on "Permitted Subscribers".

Date: November 13, 2018

Signed by Biotechnology Value Fund, L.P. in the presence of:

/s/ James Kratky
Witness signature

JAMES KRATKY, CCO
Witness full name
(BLOCK LETTERS)

/s/ Mark Lampert
Authorised officer signature

MARK LAMPERT
PRESIDENT BVF INC, GP BVF PARTNERS L.P., ITSELF GP
BIOTECHNOLOGY VALUE FUND, L.P.
Authorised officer full name and title (BLOCK LETTERS)

**APPLICATION FOR SHARES IN
BIONOMICS LIMITED (ACN 075 582 740) ("BIONOMICS")**

Name of applicant	Biotechnology Value Fund II, L.P. (the " Applicant ")
Applicant's address	44 Montgomery Street, 40th Floor, San Francisco, California 94104, United States of America
Number of shares applied for	4,521,501
Class of shares	Ordinary fully paid
Issue price per share	A\$0.1637

1. The Applicant applies for and authorises Bionomics to enter its name in the register of members for the number of shares in Bionomics specified in this application.
2. The Applicant agrees to be bound by the constitution of Bionomics.
3. In consideration for Bionomics accepting this application and issuing the shares to the Applicant, the Applicant agrees to be bound by the provisions of the Placement Agreement between Bionomics and BVF Partners LP dated on or about 9 November 2018 that are expressed to impose obligations on "Permitted Subscribers".

Date: November 13, 2018

Signed by Biotechnology Value Fund II, L.P. in the presence of:

/s/ James Kratky
Witness signature

JAMES KRATKY, CCO
Witness full name
(BLOCK LETTERS)

/s/ Mark Lampert
Authorised officer signature

MARK LAMPERT
PRESIDENT BVF INC., GP BVF PARTNERS L.P., ITSELF GP
BIOTECHNOLOGY VALUE FUND II, L.P.
Authorised officer full name and title (BLOCK LETTERS)

**APPLICATION FOR SHARES IN
BIONOMICS LIMITED (ACN 075 582 740) ("BIONOMICS")**

Name of applicant	Biotechnology Value Trading Fund OS, L.P. (the " Applicant ")
Applicant's address	PO Box 309. Ugland House, Grand Cayman, KY1-1104, Cayman Islands
Number of shares applied for	790,488
Class of shares	Ordinary fully paid
Issue price per share	A\$0.1637

1. The Applicant applies for and authorises Bionomics to enter its name in the register of members for the number of shares in Bionomics specified in this application.
2. The Applicant agrees to be bound by the constitution of Bionomics.
3. In consideration for Bionomics accepting this application and issuing the shares to the Applicant, the Applicant agrees to be bound by the provisions of the Placement Agreement between Bionomics and BVF Partners LP dated on or about 9 November 2018 that are expressed to impose obligations on "Permitted Subscribers".

Date: November 13, 2018

Signed by Biotechnology Value Trading Fund OS, L.P. in the presence of:

/s/ James Kratky
Witness signature

JAMES KRATKY, CCO
Witness full name
(BLOCK LETTERS)

/s/ Mark Lampert
Authorised officer signature

MARK LAMPERT
PRESIDENT BVF INC., GP BVF PARTNERS L.P., ITSELF
SOLE MEMBER BVF PARTNERS OS LTD., ITSELF GP
BIOTECHNOLOGY VALUE TRADING FUND OS, L.P.
Authorised officer full name and title (BLOCK LETTERS)

**APPLICATION FOR SHARES IN
BIONOMICS LIMITED (ACN 075 582 740) ("BIONOMICS")**

Name of applicant	MSI BVF SPV, LLC (the " Applicant ")
Applicant's address	c/o Magnitude Capital, L.L.C., 200 Park Avenue, 56th Floor, New York, NY 10166, United States of America
Number of shares applied for	728,814
Class of shares	Ordinary fully paid
Issue price per share	A\$0.1637

1. The Applicant applies for and authorises Bionomics to enter its name in the register of members for the number of shares in Bionomics specified in this application.
2. The Applicant agrees to be bound by the constitution of Bionomics.
3. In consideration for Bionomics accepting this application and issuing the shares to the Applicant, the Applicant agrees to be bound by the provisions of the Placement Agreement between Bionomics and BVF Partners LP dated on or about 9 November 2018 that are expressed to impose obligations on "Permitted Subscribers".

Date: November 13, 2018

Signed by MSI BVF SPV, LLC in the presence of:

/s/ James Kratky

Witness signature

JAMES KRATKY

Witness full name
(BLOCK LETTERS)

/s/ Mark Lampert

Authorised officer signature

MARK LAMPERT
PRESIDENT BVF INC., GP BVF PARTNERS, L.P., ITSELF
ATTORNEY-IN-FACT MSI BVF SPV, L.L.C.

Authorised officer full name and title (BLOCK LETTERS)

Execution

EXECUTED as an agreement

Signed by **Bionomics Limited** in the presence of:

/s/ Jack Moschakis
Witness signature

/s/ Errol De Souza
Authorised officer signature

Jack Moschakis
Witness full name
(BLOCK LETTERS)

Errol De Souza
Authorised officer full name and title
(BLOCK LETTERS)

Signed by **BVF Partners, L.P.** in the presence of:

/s/ James Kratky
Witness signature

/s/ Mark Lampert
Authorised officer signature

JAMES KRATKY, CCO
Witness full name
(BLOCK LETTERS)

MARK LAMPERT PRESIDENT BVF INC. GENERAL PARTNER BVF PARTNERS L.P., ITSELF GENERAL PARTNER OF BIOTECHNOLOGY VALUE FUND, L.P. AND BIOTECHNOLOGY VALUE FUND II, L.P., SOLE MEMBER OF BVF PARTNERS OS LTD., ITSELF GENERAL PARTNER OF BIOTECHNOLOGY TRADING FUND OS, L.P. AND ATTORNEY-IN-FACT FOR MSI BVF SPV, L.L.C.
Authorised officer full name and title
(BLOCK LETTERS)



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19 November 2021

Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-7561

Dear Sirs/Madams,

We have read the Item titled "Change in Accountants" of Bionomics Limited's Prospectus and Registration Statement, and we agree with the statements made therein.

Yours sincerely

DELOITTE TOUCHE TOHMATSU

/s/ Deloitte Touche Tohmatsu

Lee Girolamo
Partner
Chartered Accountants
Adelaide, South Australia

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CONFIDENTIAL

Bionomics Limited

Subsidiaries of the Registrant

Name

Bionomics, Inc.
Iliad Chemicals Pty Ltd

Jurisdiction of Incorporation

Delaware, USA
Australia

Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption “Experts” and to the use of our report dated September 10, 2021, (except Note 34, as to which the date is November 22, 2021) in the Registration Statement (Form F-1) and related Prospectus of Bionomics Limited dated November 22, 2021.

/s/ Ernst & Young

Adelaide, Australia
November 22, 2021